



Directors & Officers Liability (a.k.a. D & O Liability)

D & O Liability is sometimes confused with Errors and Omissions Liability. While Errors and Omissions Liability is a coverage providing protection against performance failures and negligence with respect to your products and services, Directors and Officers Liability is a coverage providing protection in the event you are sued due to the performance of your duties as they relate to the company.

Employment Practices Liability and Fiduciary Liability can sometimes be included with D & O. Employment Practices protects a business owner with claims involving harassment and discrimination, while Fiduciary Liability provides protection for fraudulent acts of an employee and/or director/officer.

Whenever a claim is made by a stockholder, employee or a client, it will be made against the company and the directors of the company. Directors can be held personally responsible for acts of the company and most directors and officers will require protection from these types of claims that could put their personal assets in jeopardy. Most claims involve decisions, acts, errors or omissions that have affected the value of an organization's stock, wasted corporate assets, or the competitive edge of an organization.

Employment law changes over the past 10-15 years have provided a relatively new category of potential Directors and Officers claims. The American With Disabilities Act of 1990, the civil Rights Act of 1991 and the family and Medical Leave Act of 1993 have contributed to a substantial increase in claims involving wrongful termination, sexual harassment and discrimination. While they are vaguely written laws that are susceptible to court interpretation, they are generating expensive defense costs.

Should you purchase a D & O policy? If you consider that employment practice suits constitute the single largest area of claim activity under D & O policies and over 50% of D & O claims are employment practices related, you will want to give much consideration and research to determining an answer that best suits the needs of your organization.