

Top 10 Reasons Why a Private Company Needs D&O Insurance

1. Because directors and officers of private companies are involved in day-to-day operations, they are very often named in claims brought by employees for wrongful termination, discrimination and harassment, as well as claims due to negligent supervision and/or failure to investigate or respond to said employment-related claims.
2. Broader coverage for directors and officers is needed today in our increasingly litigious society for third party non-employment discrimination claims, which are brought by consumers and clients for discrimination, sexual harassment or violation of an individual's civil rights.
3. Because an initial public offering is an important goal for a privately held company, it is imperative that the private company establishes a relationship with a quality D&O insurer, so that insurance for the public company is in place.
4. Defense and settlement costs of competitors claims against directors and officers can be particularly costly, since they involve complex allegations, such as anti-trust violations, unfair competition resulting in lost business by the competitor and infringement of patents, trademarks and trade secrets.
5. Directors, officers and private companies are subject to the scrutiny of regulatory government agencies, such as the Internal Revenue Service, Federal Drug Administration, Environmental Protection Agency and Federal Trade Commission. The investigations/claims brought by these agencies can result in enormous defense costs being incurred by the directors and officers, even if ultimately it is established that no wrongdoing occurred. Since a correlation exists: between the financial strength of a closely held private company and the wealth of its directors and officers, coverage for claims made solely against the company provides an important financial benefit to the directors and officers.



- 6. Although it is anticipated that the company will indemnify many D&O claims, there are several situations, when the company cannot provide indemnification:
 - (1) company insolvency;
 - (2) public policy prohibition; and
 - (3) lack of adequate indemnification provisions in the corporate charter or by-laws.
- 7. D&O Insurance may provide coverage for these types of non-indemnifiable loss, as well as provide reimbursement to the company when it is permitted to indemnify its directors or officers.
- 8. Directors and officers are subject to claims, brought by private shareholders for inadequate or inaccurate disclosure, including financial reporting and statements made in private placement materials.
- 9. The broad protection afforded by D&O insurance extends to the personal assets of the director or officer, his or her spouse's personal assets, as well as the assets of the director's or officer's estate.
- 10. D&O Insurance allows the directors and officers to remain focused on managing the company and its earnings, rather than diverting attention to protracted and costly litigation.

For further information about Private Company D&O please go to: http://www.costelloandsons.com/technology_managementliability.html

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