



## Private D&O Claims Examples

Private companies are exposed to a wide spectrum of claims that can prove extremely costly and possibly expose the personal assets of their officers and directors. Employment related litigation is a huge exposure, but it's not the only one. Suits against private companies can arise out of many facets of conducting business. Consider a couple of examples....

### Shareholder Suit

**Claim:** Shareholders sue the directors and officers of a private company alleging fraud and misrepresentation. The complaint states that the shareholders were told that the money raised as a result of investment in the company would be used to infuse capital into cash strapped companies with solid business plans to conduct business via the internet returning double the original investment. When several of these companies failed, it is further alleged the directors and officer conducted insufficient due diligence on the target companies before investing in them.

**Defense:** The directors and officers answered that despite their reasonable and best efforts to screen the target companies, this was a high risk/high reward investment and that all statements made to shareholders were accurate at the time that they were made.

**Beazley Policy Response:** The BeazleyOne policy defended the matter subject to its right to assert the fraud exclusion in the policy in event of a final adjudication proving fraud. The entire policy limit of \$2,000,000 was eroded in defending the matter which was still pending as of the exhaustion of the insurance policy.

### ODL Sexual Harassment

**Claim:** A female employee of a non-profit organization sues her employer and an outside board member alleging sexual harassment. The board member participated on the nonprofit board as a volunteer at the request of his employer. The complaint alleges that the board member could "make things happen for her" if she were to agree to see him outside the office. The non-profit organization does not carry insurance that would respond to the claim.

**Defense:** The board member states that he and the female employee had a flirtatious relationship until he rejected her advances at which time she became angry with him and brought the groundless claim.

**Beazley Policy Response:** The board member's employer had a BeazleyOne policy that included ODL coverage which responded to the claim. At mediation, the claimant settled for a payment of \$50,000 and an apology from the alleged harasser and dropped the suit. Defense expenses amounted to \$50,000.

This information is intended to be illustrative only and does not guarantee coverage under an individual policy. Coverage for actual claims depends on a number of factors including the terms and wording of the policy involved including endorsements as well as compliance with reporting requirements. These claims examples are hypothetical and are based on possible scenarios, not actual cases.