

## Directors And Officers Coverage-Part 1

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If your business is incorporated, does it have a board of directors and corporate officers? Do you serve on a board of directors? If the answer is yes to either question, you could be exposed to lawsuits from shareholders. They may sue you, alleging that you committed acts that reduced the corporation's value. Lawsuits may also arise out of employee practices, allegations of conflicting interests and from providing information to the investing public.

Decisions made by directors and officers impact the viability and value of a corporation. The current issues of accounting practices, financial reporting and the use of corporate assets have resulted in an increase of lawsuits being filed against executive boards. Directors and Officers (D&O) coverage should be considered a necessity for corporate entities. D&O coverage supplements the protection provided by General Liability policies since the former responds to legal actions filed by shareholders, customers, scorned merger partners, and creditors.

Corporate directors must take steps to determine whether D&O coverage exists. If D&O coverage is in place, boards should also determine the amount of coverage available for handling defense costs. Any amounts paid for legal costs are subtracted from the overall policy limits and are not a separate coverage. Criminal acts are not covered by D&O Insurance. However, the cost of providing a legal defense until criminality is determined may be covered. In the past it was common for a director facing a lawsuit to have any related expenses handled by a corporation's operating funds. Today such agreements have little value, especially for operations facing bankruptcy or those that cease operation.

The increase in shareholder lawsuits has created a much tighter market for this coverage. Today, corporations needing the protection must be willing to provide detailed financial and operating information to D&O insurers. This information is mandatory and businesses should not let their concern over protecting such data be a barrier to securing this coverage. The stakes are too high. However, sharing information with D&O carriers creates a different situation. See part two for more information.

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