



Coverage:

D&O Liability

Segment:

Private Companies

Claims Scenarios

Many private companies are now realizing the value and importance of having a comprehensive directors and officers (D&O) liability insurance policy in place to protect their organization. D&O liability insurance is an important element in an enterprise risk management program. Consider the following claims examples:

Deceptive Trade Practices

A private technology company, *Company A*, offered a suite of software solutions to small businesses. A competitor, *Company B*, began offering similar products at a lower cost causing *Company A* to lose significant market share. When *Company A* became aware of a web site on which *Company B* customers aired grievances with *B*'s product, *A* began directing buyers to the web site in its marketing materials. In the process of *Company B*'s suit under a state deceptive trade practices act, it was discovered that two of the web site posts were not from customers of *Company B*, but rather from employees of *Company A*.

Loss

Although the company disclaimed any knowledge that its own employees were posting on the site, the case was settled for \$350,000. An additional \$92,000 was spent on defense.

Retaliation

An insurance agency had an aggressive, hardworking staff, many of whom worked well in excess of 40 hours per week. One employee, dissatisfied with the hours, complained to the Department of Labor and state equivalent agency that the employer was misclassifying exempt and non-exempt employees, and was not paying overtime as required. A regulatory investigation led to a fine and the agency was required to pay a substantial sum of back overtime. The agency discovered which employee made the complaint. That employee's evaluations became increasingly negative, and within the year, she was terminated. The employee sued, calling herself a "whistleblower."

Loss

The case settled for \$100,000 after defense expenses of \$18,000.

Darwin's Claims Handling Philosophy

A policyholder buys insurance to protect themselves. They buy insurance to pay a covered claim when they have one. An insurance partner shouldn't hassle them when they have one that is legitimate. And Darwin will pay claims fairly – that's what we agreed to do, that's what policyholders expect us to do, and that's simply the right thing to do.

Claim examples are based on hypothetical situations or composites of actual cases. It is our policy not to release claim case numbers or any specific claim details. Coverage for particular claims is subject to policy language as issued. (i-bind)sm is a trademark and service of Darwin Professional Underwriters, Inc. Coverage is provided by Darwin member companies which include Darwin National Assurance Company and Darwin Select Insurance Company. For more information about Darwin, visit www.darwinpro.com.