



D&O MAPS

- Suggest a Policy for Analysis
- D&O Coverage Tips
- D&O Defense Provisions
 - Understanding D&O Policy Defense Provisions
 - "All Allegations" Defense: A Key Advantage of Duty to Defend Forms
 - Analyze Variations between Counsel Selection Provisions
 - Provisions Addressing Reimbursement for Noncovered Defense Costs
 - Watch Out for Presumptive Indemnification Clauses
 - Soften the "Hammer" Clause
 - Evaluate the Definition of "Defense Costs"
- Include "Final and Non-appealable Adjudication" Wording
- D&O/EPL Coverage Coordination
 - Coordinate D&O and Stand-Alone EPL Policy Coverages
 - Cover the Entity's EPL Exposure
 - Variations in EPL Exceptions to Insured v. Insured Exclusion
 - Understand EPL Coverage Alternatives under D&O Policies
 - Carefully Analyze EPL-Related Exclusions
 - Look to EPL Policy To Cover Wage and Hour Claims
 - Coordinate Cyber and EPLI Policies To Cover Employee Privacy Claims
 - Does Your EPLI Policy Cover Severance Payments?
 - Reduce Deductible Amounts under EPLI Policies
 - Professional Firms Require Cyber-Coverage Too
 - Does Your Fiduciary Policy Include Managed Care Liability Coverage?
- D&O Exclusions
 - The Importance of Severability Wording in Conduct Exclusions
 - The Insured v. Insured Exclusion: Origins, Pitfalls, Solutions
 - Negotiate To Remove Prior & Pending Litigation Exclusion in Renewal
 - Beware of the Bodily Injury and Property Damage Exclusion
 - Watch for Exclusions Relating to Certain Corporate Activities
 - Navigate D&O Exclusions Using the "Value of Information" Theory
 - Read "Insured v. Insured" Exclusions Closely
 - Curtail Overbroad Prior/Pending Litigation Exclusions
 - Evaluate the Scope of Regulatory Exclusions
 - Clarify Who May Make "Determinations" of Fraud
 - Avoid Overbroad "Bump Up" Exclusions
 - Understand BI/PD Exclusions
 - Review Exclusions To Avoid Agent E&O Claims

- Coordinate Other Exclusions with the "Personal Profit" Exclusion
- Negotiate More Favorable Conduct Exclusions
- Improve Bankruptcy Carve-Back of Insured versus Insured Exclusion
- Protect Against Manipulative Corporate Restructurings
- For Nonprofits, Clarify the Scope of the BI/PD Exclusion
- Watch Out for Nonrecourse Settlement Exclusions
- Clarify Severability of Insured vs. Insured Exclusion
- Beware the ERISA Exclusion in Cyber and Privacy Policies
- Restrict the Scope of "Known Circumstances" Exclusions
- Clarify Breach of Contract Exclusions
- Address Constructive Fraud
- Modify "Laptop Exclusion" Under Cyber and Privacy Insurance Policies
- Differentiate between Contractual Liability and Breach of Contract
- Carefully Review Professional Services Exclusions
- Assure Coverage for Employment-Related Derivative Claims
- The Major Shareholder Exclusion in Private Company D&O Policies
- Avoid "Any Willful Violation of Law" Wording in the D&O Dishonesty Exclusion
- Understanding and Modifying the Wage and Hour Exclusion
- Avoid One-of-a-Kind Exclusions in Condominium Policies
- Excess D&O
 - Negotiate Changes in Maintenance of Underlying Insurance Condition
 - Avoid Strict Exhaustion Requirements in Excess D&O Policies
 - Obtain "Follow Form" and Primary Insurers' before Claim Settlement
 - Beware of "False Follow Form" Excess Coverage
 - Watch Choice-of-Law Clauses in Upper-Level Excess Policies
 - Insure the Insolvency Risk
 - Clarify Prior Knowledge Exclusions
- D&O Policy Management, Marketing and Claim Handling
 - Watch Renewal Dates When Reporting Claims
 - Treat Your D&O Insurer as a Business Partner in Claim Settlements
 - Determine Appropriate D&O Policy Limits by Asking Your Broker
 - Controlling D&O Defense Costs
 - Underwriters Should Address "Laundry Lists" before Claims Are Made
 - Educate Directors and Officers about Their Policy
 - Coordinate Multinational Coverage
 - Before Claim Denial, Understand Policy Intent
 - Protect Against Specific Address Requirements for Claim Notices
- D&O Coverage Guide
 - D&O Coverage Guide Introduction
 - Application Forms
 - Initial Application Information Requested
 - General Information

- Requested Coverage
- Stock Ownership
- Subsidiary Information for each sub
- Information on Directors and Officers
- Changes or Intentions
- Previous and Current Insurance
- Corporate Policies
- Regulatory Information
- Claim Related Questions Original Applications
- Documents To Be Attached to Initial Application
- Update in Event of Changes
- Warranty Provisions Original Applications
- Severability Provisions
- Required Signatures
- Renewal Applications
- Claim Related Questions Renewal Applications
- Documents To Be Attached to Renewal Application
- Update in Event of Changes Renewals
- Warranty Provisions Renewal Applications
- Imputation of Information and Severability
- Claim Notice Disclaimer
- Introduction Information Requested Financial Institutions
- Operations Financial Institutions
- Corporate Policies Financial Institutions
- Loans to D&Os, Principal Shareholders, Owned/Controlled Entities
- Previous and Current Insurance Financial Institutions
- Claim Related Questions Financial Institutions
- Documents To Be Attached to the Initial Application
- Introduction Information Requested Health Care Organizations
- Ownership and Control Health Care Organizations
- Subsidiary or Affiliate Information
- Information on Directors Trustees and Officers
- Operations and Corporate Policies Health Care Organizations
- Affiliation and Accreditation
- Previous and Current Insurance Health Care Organizations
- Introduction Information Requested Not for Profit Organizations
- Ownership and Control Not for Profit Organizations
- Operations and Funding Not for Profit Organizations
- Corporate Policies Not for Profit Organizations
- Declarations Page
 - Notice of Claims Made Nature of Policy
 - Notice of Absence of Duty To Defend

- Notice of Defense Costs Included in Policy Limit
- Standard Information
- Addresses for Notice
- Statement of Documents Constituting the Policy
- Coverage Agreements
 - Key Coverage Statements
 - Inclusion of Related Coverages
 - Side A Coverage of Individuals
 - Who Is Insured
 - In What Capacity
 - What about Successor Parties
 - What about Outside Directorships
 - Side B Coverage of the Corporate Entity
 - Distinguishing Which Coverage Is Applicable
 - Side C Direct Actions Against the Corporate Entity
 - Treatment of Subsidiaries
 - Effect of Changes in the Insured Company
 - Deductibles
 - Policy Limits
 - Defense Coverage
 - Non Duty To Defend Policy Forms
 - Advancement of Defense Costs
 - Duty To Defend Policy Forms
 - Allocation of Defense Costs
 - Recoupment of Uncovered Defense Costs
- Claim Provisions
 - Definition of Wrongful Act
 - Definition of Loss
 - Notice of Claim
 - Notice of Potential Claim
 - Related Claims
 - Indemnity Qualifications
 - Action Against Insurer
 - Cooperation with Insurer
 - Subrogation
 - Allocation of Indemnity Costs
- Coverage Limitations
 - Uninsurable Loss
 - Knowledge of Potential Claim/Circumstance Prior to Policy Inception
 - Retroactive Dates
 - Other Insurance Available

- Prior Acts as Respects Acquired Subsidiaries
 - Coinsurance or Uninsured Participation
- Exclusions
 - Uninsurable Elements of Loss
 - Dishonesty
 - Personal Profit or Advantage
 - Illegal Remuneration
 - Short Swing Profits
 - Illegal Payments Gratuities Etc
 - Other Public Policy Exclusions
 - Existence of Other Insurance
 - Notice under Prior D&O Policy
 - Other Insurance Available
 - ERISA Liability
 - Bodily Injury and Property Damage Liability
 - Intentional Torts
 - Pollution and Contamination
 - Nuclear Energy Liability Exclusion Endorsement
 - Professional Liability Exclusions
 - Exclusions Based on the Nature of Claimant
 - Insured v Insured Exclusion
 - Claims by Government Agencies or Regulators
 - Other Exclusions Based on Claimant Identity
 - Exclusions Based on Nature of Corporate Activity
 - Captive Insurance Company Operations
 - Antitakeover Activities
 - Activities after a Change in Control
 - Other Exclusions Relating to Corporate Activity
 - Exclusions Based on Nature of Claim
 - Failure To Effect or Maintain Insurance
 - Pending and or Prior Litigation
 - Claims from Presubsidiary Status Wrongful Acts
 - Claims from Outside Directorships
 - Other Exclusions Relating to Types of Claims
- Definitions
 - Terms Always Defined
 - Claim
 - Company
 - Defense Costs
 - Directors Officers
 - Loss
 - Policy Period

- Subsidiary
- Wrongful Act
- Terms Usually Defined
- Parent Corporation
- Policy Year
- Interrelated Wrongful Acts
- Insureds
- Wrongful Employment Practices Act
- Terms Sometimes Defined
- Affiliate
- Application
- Corporate Takeover
- Discovery Period or Extended Reporting Period
- Policy Inception Date
- Policy Termination Date
- Pollutants
- Other Miscellaneous Defined Terms
- Other Conditions
 - Cancellation
 - Nonrenewal Notice
 - Extended Reporting Period Option
 - Dispute Resolution
 - Effect of Insolvency
 - Authorization
 - Optional Coverage Enhancements
 - Exclusions That May Be Deleted by Endorsement
 - Exclusions That May Be Modified
 - Subsidiary Endorsements
 - Runoff Endorsements
 - Spousal or Marital Estate Extensions
 - Entity Coverage
 - Extended Term Programs or Guaranteed Renewal
 - Optional Additional Coverages
 - Assessability
- Excess Forms
 - Initial Applications
 - Documents To Accompany Initial Application
 - Warranties and Signatures Initial Applications
 - Renewal Applications
 - Documents To Accompany Renewal Application
 - Warranties and Signatures Renewal Applications
 - Declarations Page Standard Information

- Declarations Page Statements
- Excess Policy Forms
- Insuring Clause
- Exclusions
- Definitions
- Limit of Liability General
- Underlying Insurance General
- Maintenance of Underlying Policies
- Depletion of Underlying Limits
- Notices
- Loss Provisions
- Subrogation Recoveries
- Cancellation
- Extended Reporting Provision
- Warranty Clause
- Defense
- Action Against the Insurer
- Assignment
- Authorization
- Premium
- Market Directory
 - Audit Committee Liability
 - Companies in Bankruptcy
 - DIC and Excess D&O
 - Educational Institutions
 - EPL
 - Excess D&O
 - Fiduciary Liability
 - Financial Institution D&O
 - For-Profit Healthcare D&O
 - General Partnership D&O
 - Global Entity Investigation D&O
 - Global Risk
 - Health Care D&O
 - Independent Directors
 - IPO
 - Insurance Companies
 - Investment Advisers
 - Investment Company and Management D&O
 - Mutual Fund D&O
 - Nonprofit Company D&O
 - Nonprofit Health Care

- Partnership Liability
- Private Company D&O
- Private Company Health Care
- Private Equity/Venture Capital D&O
- Public Company/Corporate D&O
- Religious Institutions D&O
- Retired Directors Only
- 'Side A' Only
- Utilities D&O
- Specialty D&O
- D&O Policy Specimens and Analysis
- D&O Policy Explorer
- D&O Commentary
 - Ron Miller, Ph.D., NERA Shareholder Class Action
 - Future Director-Financed Securities Settlements
 - S.C. Decision on Loss Causation May Increase D&O Exposure
 - Enron 'Director-Funded' Settlement: Why It Won't Start a Trend
 - Covering Past Directors and Officers
 - Reducing D&O Criminal Liability: Corporate Compliance Program
 - The Business Judgment Rule: Cracks in the Armor?
 - D&O Policies--Negotiating To Maximize Coverage
 - D&O Liability under the Sarbanes-Oxley Act of 2002
 - Excess/DIC Side A and Independent Directors Liability (IDL)
 - The Hard Market D&O Guide
 - D&O Failure To Maintain Insurance Exclusion: Buyers Risk
 - Duties of D&O Insurers: Actions Brought by Public Authorities
 - Determination of Appropriate D&O Liability Policy Limits
 - Outside Directorship Liability: The D&O Policy's 'Free Lunch'
 - Bankruptcy and D&O Insurance: A Bumpy Road Ahead?
 - D&O Insurance Developments in the Enron Case