

Questions Clients Frequently Ask About Management Liability Insurance

What is Management Liability (ML)?

This product is specifically designed for privately held companies in various industry segments to provide coverage for management and employment practice liability claims made against them. Management Liability coverage combines Directors, Officers and Corporate Liability Insurance and Employment Practices Liability Insurance with optional Fiduciary Liability coverage.

What is Directors, Officers and Corporate Liability Insurance (D&O)?

D&O insurance protects the directors and officers and your company against lawsuits brought against them. A company's directors and officers can be sued over management decisions, alleging breach of duty, neglect, misstatement, error or omission. Lawsuits can come from various sources:

- Customers
- Shareholders
- Suppliers
- Competitors
- Government and regulatory agencies.

A D&O policy provides coverage for damages and defense costs resulting from allegations of wrongful acts committed while serving as a director or officer of a company.

What is Employment Practices Liability Insurance (EPL or EPLI)?

Employment Practices Liability Insurance provides companies and employees coverage for claims made against them that happen as a result of wrongful employment practices such as:

- Discrimination
- Harassment
- Retaliation
- Termination
- Constructive discharge
- Failure to hire, negligent supervision and wrongful demotion
- Personal injury: infliction of emotional distress and humiliation, defamation and invasion of privacy.

What is Fiduciary Liability Insurance?

Fiduciary Liability Insurance provides privately held companies and the fiduciaries of their employee benefit plans — including pension, savings, profit sharing and health plans — with coverage for claims made against them for alleged errors or omissions or breach of fiduciary duties. These claims can include:

- Administrative error
- Failure to adequately fund a plan
- Improper advice or counsel
- Conflict of interest
- Wrongful termination of a plan
- Imprudent investment of assets
- Denial or change of benefits
- Lack of investment diversity.

Who is covered under the Management Liability policy?

Monitor Liability Managers, Inc. offers you protection that covers:

- The insured entity and any past, present or future directors and officers of the corporation
- Full-time, part-time, leased, seasonal and temporary employees.

Why do I need Management Liability coverage?

Management liability lawsuits brought against companies range from employment issues — such as harassment, discrimination and wrongful termination — to corporate practices issues, including antitrust, breach of duty, deceptive trade practices, unjust enrichment, fraud, misrepresentation and securities violations. With Monitor's Management Liability policy you receive full EPL and D&O coverage.

EPL Coverage

Your business needs Employment Practices Liability Insurance coverage because various independent studies show that an employer is more likely to have an EPL claim than a General Liability or Property loss claim. If you have even one employee, you are at risk for an employment-related claim. Consider the following:

- Claims for harassment, wrongful termination and discrimination are on the rise, which means you face a greater chance of your business being the target of legal action.
- The Equal Employment Opportunity Commission (EEOC) recorded nearly 76,000 charges in 2006 alone.
- Private companies with 100 or less employees are the most often sued for federal discrimination claims.
- In 2006, the average cost of an EEOC lawsuit exceeded \$105,000.
- Total EEOC payouts to claimants in 2006 equaled more than \$274 million.¹

¹Source: Statistics provided by the U.S. Equal Employment Opportunity Commission (www.eeoc.gov).

D&O Coverage

As your company grows and changes, so does your risk for a directors and officers liability claim. In today's complex and litigious business environment, you can't risk your company's good name, reputation and fiscal health if faced with a management liability lawsuit. The average D&O claim defense cost is approximately \$800,000.² Private company clients insured by Monitor have average defense costs around \$168,000, which are covered by the Monitor policy.

Lawsuits brought against your directors and officers can have a sizeable financial impact on your company's bottom line. Monitor Liability Managers, Inc. has a solution designed to suit your company's unique structure and needs.

Does my General Liability (GL) policy address my D&O and EPL exposure?

Many business owners believe their General Liability (GL) or Commercial Umbrella policies cover their D&O and EPL exposures; however, this is not the case.

D&O coverage is never included under GL policies. And in most cases, if EPL is included, it is limited in scope. General Liability policies usually have a standard exclusion for employment practices liability exposures. A few business package policies offer limited coverage and very low limits, but they are probably inadequate to meet the needs of your business.

What limits should I have?

Appropriate policy limits for your company depend on the nature of your business, finances and employee size. Consult with your agent.

What are the costs if I choose to self-insure this type of exposure?

Based upon the allegations of the claim and the evidence, D&O and EPL claims can cost your organization from the hundreds to the millions of dollars. Defense costs can be substantial and financially crippling.

A Monitor ML policy can help you manage the risks and avoid the burdens of D&O and EPL claims including:

- Litigation expenses
- Time spent away from your business
- Stress and emotional toll on management and employees
- Negative publicity
- Damage to the reputation of the business and its owner
- Potentially devastating financial settlements.

²Source: Towers Perrin 2006 Directors and Officers Liability Survey.

What happens if a claim occurs?

Monitor maintains a full-time, dedicated, in-house team of claims management and legal professionals to ensure that if a claim arises, you get the personalized, detailed attention you expect. Monitor has long-standing relationships with experts in all aspects of management liability claims and draws on the specific knowledge and experience of industry professionals to help deliver highly specialized services. We pride ourselves not only on managing claims to optimal resolution, but also on helping to prevent claims from arising in the first place.

What other precautionary steps can I take to avoid a D&O or EPL claim after I purchase coverage?

An important initial step to take to help avoid a D&O claim is to educate directors and officers about their duties and responsibilities. In addition, an internal audit committee should meet regularly and establish comprehensive corporate policies and bylaws. Another sound tactic is to put an ethics policy in place and have it reviewed, signed and adhered to by all directors and officers. Since privately held companies are under increasing public and government scrutiny and can be affected by Sarbanes-Oxley, adopting a formal code of ethics makes good business sense. Let your insurer and broker serve as risk management partners by helping them get to know your company. This way they can offer you effective long-term risk management solutions.

To help avoid an EPL claim, all businesses should create a work environment that is free of discrimination and harassment. The first step is to develop and follow employment practices policies and procedures. Because most business owners are too busy to design proactive and preventative employment practices policies and procedures on their own, Monitor supplies all new policyholders with complimentary risk management tools. These tools include an interactive CD titled, "Guidelines for Reducing Exposure to Employment Lawsuits." This CD provides a sample handbook with policies and procedures and in-depth information about reducing exposure to employment practices liability. In addition, we provide unlimited access to a toll-free employment practices liability hotline. This hotline is administered by Jackson Lewis, a prominent national employment law firm, and provides expert advice about specific EPL questions, issues or concerns.

