

DIRECTORS AND OFFICERS LIABILITY INSURANCE

OVERVIEW

David M. Gische and Vicki Fishman¹

I. INTRODUCTION

In recent years, directors and officers liability insurance has become a core component of corporate insurance. As many as 95% of Fortune 500 companies maintain directors and officers (“D&O”) liability insurance today. Furthermore, it has become a commonplace of the financial world that disappointed investors will charge corporations and their officers and directors with securities fraud whenever a company’s stock drops significantly in price. Studies indicate that the average settlement of securities fraud litigation in 1999 was greater than \$8 million, with average defense costs exceeding \$1 million. In light of these numbers, it should not be surprising that such litigation has become almost routine, and D&O liability insurance plays a large role in handling it. At the same time, the D&O insurance industry has become highly specialized and new products are constantly emerging to meet the needs of specific markets. This article will discuss the historic and current trends in the industry. In addition, this article will address some of the primary legal and coverage concerns that must be considered by underwriters, claims handlers, corporations and their executives, and the attorneys who represent them.

¹ David Gische is a partner and Vicki Fishman is an associate at Ross, Dixon & Bell in Washington, D.C. Mr. Gische has practiced for more than twenty years in the area of professional liability insurance, specializing in D&O Insurance. He has handled hundreds of significant D&O claims for insurers, including litigating coverage issues for insurers in state and federal courts nationwide. The views expressed in this article are not necessarily the views of Ross, Dixon & Bell or any of its clients.

A. History of D&O Insurance

In the 1930s, in the wake of the depression, Lloyd's of London introduced coverage for corporate directors and officers. At the time, corporations were not permitted to indemnify their directors and officers. Joseph P. Monteleone & Nicholas J. Conca, *Directors and Officers Indemnification and Liability Insurance: An Overview of Legal and Practical Issues*, 51 Bus. Law 573, 574 (1996). However, directors and officers did not perceive a great risk, and the insurance did not sell. Well into the 1960s, the market for D&O coverage was negligible. In the 1940s and 1950s, courts, corporations and directors and officers began to see benefits to corporate indemnification and prompted state legislatures to enact laws permitting it. Then, during the 1960s changes in the interpretation of the securities laws created the realistic possibility that directors and officers themselves, and not only corporations, could face significant liability. See Roberta Romano, What Went Wrong with Directors' and Officers' Liability Insurance, 14 Del. J. Corp. L. 1, 21 & nn. 74-77 (1989). Insurers responded to these changes by reviving specialty coverage for the "personal financial protection" of directors and officers.

The historic focus on "personal financial protection" distinguished D&O insurance from other kinds of commercial insurance that cover identified areas of corporate risk. Insurers had defined corporate risks they would insure. General liability insurance provided corporate insurance for bodily injury or property damage claims; fidelity bonds afforded specified first-party coverage for losses corporations incur due to certain acts of their officers, directors, or employees. D&O coverage, on the other hand, was not intended to be corporate insurance, much less an attempt at general corporate insurance for liability caused the corporation by virtue of the acts of its directors and officers. In recent years, however, D&O coverage has undergone a number of changes.

B. Current Importance

The D&O industry matured and evolved during the 1970s through the 1990s, and continues to do so today. From its modest beginnings in the 1930s, D&O insurance has become a fixture in today's corporate world. Starting with basic D&O coverage, the industry has spawned a large number of new and related products. The original focus on "personal financial protection" is no longer the single driving force behind the industry, and D&O insurance is often coupled with coverages designed to protect the corporation, in addition to its directors and officers, from various liabilities.

During the 1980s, the first litigated disputes between D&O insurers and federal regulators (or the former bank officials whom the regulators sued) brought D&O coverage into the forefront in many significant and often highly publicized matters. In recent years, corporations of all kinds and their directors and officers have seen an increasing number of claims and increasingly large settlements. Watson Wyatt Worldwide, D&O Liability Survey Report (1997). Thus, D&O insurance remains an important protection for directors and officers. In addition to the traditional protections, the industry has set a trend toward expanding D&O coverage – both in terms of who is protected and against what they are protected. Many underwriters now write coverages that offer protection to the company for its own liability and for specific corporate concerns.

II. CLAIMS AGAINST DIRECTORS AND OFFICERS

As noted above, claims against directors and officers generally have been increasing over time. As of the most recent Wyatt survey, 31% of all companies – an all time high – could expect to have at least one claim made against its directors or officers, and each company averaged 0.87 claims – also an all time high. Watson Wyatt Worldwide, D&O Liability Survey Report, at pp. 42-44 (1997) (the "1997 Wyatt Report"). The frequency of

claims against directors and officers, and the susceptibility of officers and directors to claims corresponds to a number of factors, including the size of the company, the company's type of business, whether the company is publicly or privately owned, and its number of shareholders. For example, companies with greater assets are more likely to have claims made against their directors and officers and on average experience more claims per company than smaller companies. Publicly held companies have two to three times as many claims made against their directors and officers than privately or closely held companies. However, companies with greater than 500 shareholders have a higher claim frequency than smaller companies, regardless of private or public status. Id.

Specifically, according to the 1997 Wyatt Report, companies with assets less than \$100 million had a 12% susceptibility to claims, but companies with assets greater than \$10 billion had a 63% chance of having a claim made against its directors or officers, and companies with assets greater than \$1 billion averaged 1.64 claims per company in 1997. Large banking companies are the most likely type of business to have claims made against their directors and officers and average the most claims per company. Forty-two percent of large banks will have at least one claim made, while the large banking industry as a whole can expect an average of 6.69 claims per company. With the explosion of technology companies in the last ten years, and the corresponding fluctuations in their stock prices, claims against technology companies have also increased dramatically.

III. BASIC COVERAGES

At its most basic, D&O insurance protects directors and officers from liability arising from actions connected to their corporate positions. Due to general expansion in the industry, market pressures and the industry's responses to the development of case law, D&O insurance has expanded beyond its original and basic coverage. Thus, a single policy

now may provide multiple and varied options by standard form or endorsement. The individual coverages discussed below typically are subject to distinct terms, conditions and deductibles, and even may be subject to distinct policy limits or sublimits.

However, some common threads run through each coverage offered in a D&O policy. For example, D&O insuring agreements generally specify that coverage is limited to claims first made during the policy period. In addition, the insurer typically does not have a duty to defend but is required to cover the costs of the insured's defense.

A. Insuring Agreement A (D&O)

Although each policy will employ its own language, Insuring Agreement A, often referred to as "A-Side Coverage," typically provides coverage directly to the directors and officers for loss – including defense costs – resulting from claims made against them for their wrongful acts. A-Side Coverage applies where the corporation does not indemnify its directors and officers. A corporation may not indemnify its directors or officers because it either (1) is prohibited by law from doing so, (2) is permitted to do so by law and the company's bylaws but chooses not to do so, or (3) is financially incapable of doing so, due to bankruptcy, liquidation, or lack of funds. The laws regarding indemnification differ from jurisdiction to jurisdiction.

Insuring Agreement A additionally may specify that coverage is limited to those claims connected to an insured's capacity as an insured director or officer of the company. This issue of capacity recurs throughout D&O coverage analysis. The limiting language may appear in the insuring clause, in the definitions of "wrongful act" or "insured" found elsewhere in the policy, or in all three clauses. Although a claim sometimes implicates an insured in a single and clear capacity, a claim may well arise out of an individual's multiple capacities. For example, an individual may be sued as a director and a shareholder of a

company (perhaps as a purchaser or seller of company stock), or an officer of a homeowner's association may also be a homeowner and it may not be clear whether his or her actions were taken as one or the other – or both. Similarly, a corporation's lawyer may also sit on the board of directors.

B. Insuring Agreement B (Corporate Reimbursement)

A typical Insuring Agreement B, or “B-side coverage,” reimburses a corporation for its loss where the corporation indemnifies its directors and officers for claims against them. B-side coverage does not provide coverage for the corporation for its own liability. The language and conditions of Insuring Clause B typically mirror Insuring Clause A.

C. Entity Securities Coverage

Many D&O policies offer an optional coverage to protect the corporation against securities claims. Such coverage provides protection for the corporation for its own liability. Many policies today provide such coverage to the corporation whether or not its directors and officers are also sued; other policies, however, provide such coverage only where the corporation is a co-defendant with its directors and officers. Entity coverage may be part of the policy form as “Insuring Agreement C” or may be added as an endorsement. The addition of entity coverage for securities claims is a relatively new development, and addresses concerns and confusion raised by court rulings regarding allocation. See e.g. Nordstrom, Inc. v. Chubb & Son, Inc., 54 F.3d 1425 (9th Cir. 1995).

D. EPL Coverage

Employment Practices Liability (“EPL”) coverage also has become a common addition to corporate coverage – often by endorsement to the D&O policy or as a stand-alone policy issued to the company. This coverage typically protects directors, officers, employees and/or the company against employment-related claims brought by employees

and, in certain circumstances, specified third-parties. For example, it provides coverage for wrongful dismissals or failures to promote, sexual harassment, and other violations of federal, state or local employment and discrimination laws brought by the company's employees. EPL claims have also seen a dramatic increase in frequency and severity over the past decade.

IV. DEFENSE ISSUES

Most D&O policies do not impose a duty to defend on the insurer. They do, however, provide coverage for defense costs and give the insurer the right to associate with the defense and approve defense strategies, expenditures, and settlements.

A. Right to Select Counsel

A D&O insurer cannot impose its choice of counsel on an insured – the insured generally has the right to select counsel, subject to the insurer's consent. D&O policies typically provide that an insurer may not unreasonably withhold approval of an insured's choice of counsel. This feature is important to the insured corporation, which typically has developed ongoing relations with corporate and litigation counsel that it would want to use in high-stakes litigation against the company.

B. Reimbursement and Advancement of Defense Costs

Although D&O insurers generally do not have a duty to defend, D&O policies do cover defense costs. The primary questions that arise in connection with the payment of defense costs regard (1) control over the costs incurred and (2) when the insurer must make defense payments. In connection with the first question, although insurers do not control an insured's defense, under D&O policies they are required to reimburse only reasonable defense costs arising out of covered claims. Thus, an insured or his chosen counsel does not get a blank check.

Whether a D&O insurer must, or should, advance defense costs – that is, pay them as they are incurred – is a common question. Many of the issues affecting coverage cannot be resolved until the claim has been resolved. Specifically, certain exclusions only apply after a finding of fact has been made. For example, as discussed below, policies generally exclude coverage for losses arising out of fraud. The exclusion only applies, however, where there is a final judgment finding fraud. Thus, where fraud is alleged, coverage is uncertain until the completion of the claim. In such situations, insurers may have an interest in not advancing defense costs until coverage is certain. However, insurers have an interest in seeing their insureds vigorously defend claims against them. A vigorous defense can be a costly endeavor that may be well beyond the means of an insured. Thus, many policies provide that insurers advance defense costs under the condition that, should the facts ultimately demonstrate a lack of coverage, the insured will reimburse the advanced monies.

V. KEY PROVISIONS AND EXCLUSIONS

Twenty years ago, underwriters offered D&O policies based on two basic forms, and courts had seen very few cases in which they were asked to interpret those policies. Today, the number of D&O policy forms and cases interpreting them has multiplied. Although there are trends and standards within the industry, the specific language found in these policies differs from insurer to insurer and from policy to policy. Any coverage analysis must take into account the specific language found in the policy at issue. As a general matter, clear policy language will govern the application of coverage to a particular claim.

A. Definition of Claim

Common to all coverages in a D&O policy is that each insuring clause generally provides coverage on a “claims-made” basis. In other words, it provides the coverage described for claims made during the period for which the coverage is purchased.

Additionally, the insured typically must report the claim to the insurer during the policy period or within a reasonable time.

D&O policies generally define claim as any (1) civil, criminal or administrative proceeding, or (2) written demand for damages against an insured. Who is included as an insured will depend on which coverages are implicated and how the term is defined in the policy. That is, if it is a securities claim, and the policy so provides, a claim may be made against the company or against a director or officer. If it is an employment claim, and the policy so provides, a claim may be made against the company, a director or officer, or an employee.

Some policies offer more detailed definitions of claim. For example, a policy may state that a civil proceeding includes arbitration, mediation or other alternative dispute resolution. A policy may also explain that an administrative proceedings includes a formal investigation.

Many policies also include limiting a claim to those proceedings or demands made against an insured *in his or her capacity as an insured*. The capacity issue may be stated directly in the definition of claim, or may be stated in the definitions of “insured” or “wrongful act,” either of which may be part of the definition of claim.

B. Definition of Loss

Loss generally includes damages, judgments, awards, settlements and defense costs. Loss usually excludes fines or penalties, taxes, treble (or other multiplied) damages, and matters uninsurable under law. Where treble or multiplied damages are assessed, a D&O policy generally will cover the base amount, but not the multiplied portion of the loss. Some policies include punitive and exemplary damages in the definition of loss. Where

included, coverage of punitive and exemplary damages explicitly is effective only where permitted by applicable law.

1. Punitive or exemplary damages

Some states do not permit punitive or exemplary damages to be assessed at all. See e.g. Distinctive Printing and Packaging Co. v. Cox, 443 N.W.2d 566 (Neb. 1989). Those states that do permit punitive damages to be assessed may not permit insurance against them. See e.g. City Products Corp. v. Globe Indem. Co., 151 Cal. Rptr. 494 (Cal. Ct. App. 1979). Those states prohibiting coverage of punitive damages generally base the prohibition on public policy concerns. The longstanding reasoning is that the assessment of punitive damages is intended to set an example or punish the wrongdoer, and permitting insurance against such punishment would render such punishment ineffective. Id.

2. Matters uninsurable under applicable law

Matters deemed uninsurable under law also may be the basis of explicit exclusions elsewhere in a policy. For example, coverage for liability for fraud may be barred by law, as well as by a dishonesty exclusion. As discussed above, coverage for punitive damages also may be barred by law.

C. Exclusions

1. Dishonesty Exclusion

Dishonesty exclusions bar coverage for claims made in connection with an insured's dishonesty, fraud, or willful violation of laws or statutes. The dishonesty exclusion also may be coupled with a personal profit exclusion, barring coverage in connection with an insured's illicit gain. These exclusions typically are followed by a severability clause – that is, a caveat providing that the acts or knowledge of one insured will not be imputed to any

other insured for the purposes of applying the exclusion. In other words, the exclusion only bars coverage for the insured(s) whose acts or knowledge are the basis of the claim at issue.

In the securities context, the Private Securities Litigation Reform Act of 1995 permits a defendant to request a special verdict from the jury, identifying its judgment of each defendant's state of mind. PSLRA, 15 U.S.C. 77z-1(d). Although a special verdict would assist in the proper application of the dishonesty exclusion, most securities lawsuits do not reach a verdict at all – they are either settled or decided on motions.

As mentioned above, many dishonesty exclusions include an adjudication clause, which provides that the exclusion only applies if the fraud or dishonesty is established by a judgment or other final adjudication. In connection with this clause, the question arises whether the judgment or other final adjudication must be in the underlying litigation. For the most part, the case law on this subject supports the position that most adjudication clauses, as they currently are written, require a final adjudication in the underlying litigation, rather than in a parallel coverage action or other lawsuit. Courts have held either that (1) the adjudication clause is ambiguous, so must be interpreted in favor of coverage, see e.g., Atlantic Permanent Fed. Sav. & Loan Ass'n v. American Cas. Co., 839 F.2d 212, 216-17 (4th Cir. 1988) (finding the phrase “a judgment or other final adjudication thereof” to be ambiguous, and therefore upholding the district court's decision against the insurer that the provision requires a finding of deliberate dishonesty “in the underlying action itself, rather than a subsequent coverage suit”), or (2) the clause explicitly requires a finding of fraud or dishonesty in the underlying litigation. See National Union Fire Ins. Co. v. Continental Illinois Corp., 666 F. Supp. 1180, 1197 (N.D. Ill. 1987) (finding that where an adjudication clause requires “a judgment or other final adjudication thereof,” that “[t]he

word ‘thereof’ refers to the suit against the directors and officers and unless there is a judgment adverse to them in the underlying suit, then the exclusion does not apply”). This issue has a significant impact on the effect of settlements. Essentially, if an underlying lawsuit is settled without a specific admission of liability, a dishonesty exclusion is unlikely to apply.

2. **Insured v. Insured Exclusion**

As the name implies, an insured versus insured (“IvI”) exclusion bars coverage for claims made by an insured (e.g., a director, officer or corporate insured) against another insured. In addition, the exclusion may bar coverage for claims brought (1) by anyone directly or indirectly affiliated with an insured, (2) by a shareholder unless the shareholder is acting independently and without input from any insured, or (3) at the behest of an insured. The exclusion essentially prevents a company from suing or orchestrating a suit against its directors and officers in order to collect insurance proceeds. Questions regarding the application of the exclusion arise in the context of derivative lawsuits, bankruptcies and receiverships.

Specifically, it is clear that where a lawsuit is brought with the “active assistance” of an insured, the exclusion bars coverage. See e.g. Voluntary Hospitals of America, Inc. v. National Union Fire Ins. Co., 859 F. Supp. 260 (N.D. Tex. 1993), aff’d 24 F.3d 239 (5th Cir. 1994). It is not always clear, however, when a lawsuit is brought with the indirect involvement of, or at the behest of the insured, and there is very little case law expounding on the issue.

Where the policy only provides coverage for insureds when acting in their capacities as insureds – such as through a restrictive insuring agreement or definition of insured – the IvI exclusion likewise may be interpreted so as to apply only where the insured is bringing

suit in an insured capacity. See Howard Savings Bank v. Northland Ins. Co., 1997 U.S. Dist. LEXIS 11857 (N.D. Ill. 1997). Where coverage does not depend explicitly on whether an insured was acting in an insured capacity, however, the IvI exclusion does not turn on the capacity issue either. See Kiewit Diversified Group Inc. v. Federal Ins. Co., 999 F. Supp. 1169 (N.D. Ill 1998).

Courts have held that where suit is brought by the receiver of a failed bank, an IvI exclusion bars coverage. Mount Hawley Ins. Co. v. FSLIC, 695 F. Supp. 469 (C.D. Cal. 1987); but see FDIC v. American Casualty Co., 814 F. Supp. 1021 (D. Wyo. 1991). Depending on the particular wording of the exclusion, some courts have held that an IvI exclusion does not bar coverage for a suit brought by a bankruptcy trustee. In re Pintlar, 205 B.R. 945 (Bankr. D. Idaho 1997); but see Reliance Ins. Co. v. Weiss, 148 B.R. 575 (E.D. Mo. 1992).

3. Professional Liability Exclusion

As a general matter, D&O policies do not provide coverage for liability associated with the provision of professional services. Thus, where a bank officer is liable for acts as a banker rather than an officer of the bank, a D&O policy with a professional liability exclusion would not provide coverage. Similarly, where a doctor is the president of a professional corporation, the D&O policy would only protect him or her against liability from acts as president of the corporation, and would not provide coverage for professional malpractice claims. The line between professional services and acts outside the scope of this exclusion can be a fine one. Courts often draw a distinction between those acts that require special training or are at the heart of the profession and those acts that are administrative in nature. See e.g. Harad v. Aetna Cas. and Sur. Co., 839 F.2d 979 (3d Cir. 1988).

4. Prior Acts Exclusion

Prior acts exclusions bar coverage for claims arising out of an insured's wrongful acts prior to a specified date. The date may coincide with the termination of coverage under a previous policy. The date may also coincide with a change in corporate status – such as a merger or acquisition. For example, where a subsidiary is acquired, the prior acts exclusion may exclude coverage for the subsidiary prior to the time it became a subsidiary. In such situations, the subsidiary may have run-off coverage from a previous policy to protect against liability arising from those excluded acts.

5. Prior and Pending Litigation Exclusion

Prior and pending litigation exclusions generally exclude coverage for (1) claims pending prior to the inception of the policy, or another agreed upon date, and (2) subsequent claims based on the same facts or circumstances. Conflicts primarily arise regarding the second component of this exclusion. Specifically, the question arises as to when a subsequent claim is based on sufficiently overlapping facts and circumstances to fall within the scope of the exclusion. Courts have held that the two claims need not be brought by the same plaintiffs to trigger the exclusion. See e.g., Unified School Dist. No. 501 v. Continental Cas. Co., 723 F. Supp. 564 (D. Kansas 1989) (finding exclusion applied where new plaintiffs brought new claims). Furthermore, the claims can allege different harms, and still be excluded from coverage by this provision. See, e.g., Ameriwood Indus. Int'l Corp. v. Am. Cas. Co. of Reading, Pennsylvania, 840 F. Supp. 1143 (W.D. Mich. 1993) (rejecting argument that allegation of different legal claims prevented operation of exclusion). The exclusion additionally may apply even if the two claims allege different legal violations, or are brought in different courts and pursuant to the authority of different jurisdictions. See, e.g., Bensalem Township v. Int'l Surplus Lines Ins. Co., 91-5315, 1992

U.S. Dist. LEXIS 8243 (E.D. Pa. June 15, 1992) (applying exclusion where prior claims sought relief for violations of Pennsylvania law and later claims sought relief for violations of federal law), rev'd on other grounds, 38 F.3d 1303 (3d Cir. 1994).

VI. OTHER KEY ISSUES

A. Specialized Coverages

In addition to the three insuring agreements discussed in Part III, the D&O industry has expanded to include many sub-industries offering specialized coverages. Underwriters offer specialized policies addressing the specific issues of various industries. Directors and officers of non-profit organizations or condominium associations require different protections than directors and officers of banking and financial institutions or health care systems. The terms and conditions in these policies reflect the specific needs of these insureds.

B. Allocation

Allocation is, and has been, basic to D&O coverage. D&O insurance is widespread. Lawsuits naming directors and officers along with other parties are common. For some 30 years, insurers, insureds and other parties have routinely agreed upon how to divide up responsibility for defense costs and settlement between those whose losses are insured and those whose losses are not. Allocation is required where a policy does not provide entity coverage and a lawsuit – often a securities or antitrust action – is brought both against directors and officers and also against the corporate entity. Under such circumstances, a policy would cover the defense and settlement expenses attributable to the directors and officers, but not those attributable to the entity. Where allocation is indicated, the parties attempt to reach an agreement as early as possible.

In 1995, the Ninth Circuit affirmed a 100 percent allocation of liability to the directors and officers for the settlement of an underlying 10b-5 securities action. Nordstrom, Inc. v. Chubb & Son, Inc., 54 F.3d 1425 (9th Cir. 1995). Ostensibly in the name of expanding directors' and officers' insurance protection, the decision finds the D&O insurer liable for the corporation's exposure.

The D&O industry has responded to the Nordstrom decision in two primary ways. First, as discussed above, many D&O policies now include entity securities coverage. Entity coverage essentially renders allocation unnecessary for securities claims. Second, D&O policies now include extensive allocation clauses that require the parties to negotiate an allocation agreement. If the parties are unable to agree, many policies provide a default or may require the parties to submit to arbitration on the allocation issue.

C. Bankruptcy Claims

A corporation's bankruptcy may have a great impact on its directors and officers insurance coverage. First, in dividing up the bankrupt estate, "some courts have held that insurance policies are part of the estate, although the proceeds may not be." Reliance Ins. Co. v. Weis, 148 B.R. 575 (E.D. Mo. 1992), (citing In re Daisy Systems Securities Litigation, 132 B.R. 752 (N.D. Cal. 1991); In re Louisiana World Exposition, 832 F.2d 1391 (5th Cir. 1987); In re Minoco Group of Companies, Ltd., 799 F.2d 517 (9th Cir. 1986)). If the policy and its proceeds are property of the estate, the insureds may need bankruptcy court approval to obtain proceeds from the insurer.

Second, where a claim is brought against a corporation's directors and officers and the entity is bankrupt, it will be unable to indemnify them. Thus, A-Side Coverage may be available.

Finally, claims by debtors in possession or trustees against directors or officers for the benefit of creditors may implicate the IvI exclusion. The analytical question is whether a trustee or debtor in possession stands in the shoes of the corporation. The case law addressing this question is growing but no consensus has emerged. There is case law finding both that a claim brought by a trustee is not barred by an IvI exclusion; In re Pintlar Corp., 205 B.R. 945; and that a claim brought pursuant to a liquidation plan is barred by an IvI exclusion. Weis, 148 B.R. 575.

D. Combined Risk Policies

In the last few years, many insurers have offered multi-year, multi-line insurance policies that have combined several different types of coverages under one policy (and often subject to a single aggregate limit of liability). Insureds have used this approach to build “towers” of coverage that may often provide hundreds of millions of dollars for this combined risk. The combined policies often include D&O coverage (A-Side, B-Side and Entity Securities coverage), EPL coverage, fiduciary liability coverage, professional liability errors and omissions coverage (for financial institutions), and fidelity or crime bonds (for employee dishonesty and related losses). Combining these risks presents challenging issues for both insurers and insureds, since the risks insured are quite varied, often subject to different terms, and involve significant limits of liability and premium dollars.