



D&O COVERAGE ISSUES
D&O CLAIMS

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INTRODUCTION

- Hot Coverage Issues
- Side A Exposures
- Claims Trends

HOT COVERAGE ISSUES

- Push Back Letters
 - Role of the Parties
 - Strategy for Responding

HOT COVERAGE ISSUES

- Controlling the Defense Under Duty to Defend Policy
 - Panel Counsel
 - Rights to Personal Counsel
 - Conflict Issues
 - Lack of Cooperation

HOT COVERAGE ISSUES

- Covered v. Non-Covered Defense Costs
 - What is “Reasonable and Necessary?”
 - Rates
 - Defense Arrangements
 - Redacted Invoices/Summary Statements
 - Investigative/Derivative Costs

HOT COVERAGE ISSUES

- Allocation Issues
 - Reasonable Relationship Test
 - Civil v. Criminal Matters
 - Burden of Proof

HOT COVERAGE ISSUES

- Advancement of Defense Costs
 - When can D&O Carrier Refuse Advancement?
 - Coverage Issues
 - Application/Warranty Issues
 - Recent Decisions of Interest
 - New Policy Language

HOT COVERAGE ISSUES

- Economic Impact on Claim Handling
 - Retention (v. Deductible)
 - Defense Counsel
 - Policy and Policy Proceeds

HOT COVERAGE ISSUES

- Drop Down/Exhaustion Issue
 - Policy Language
 - (“Actual Payment of Loss Thereunder”)
 - Review of Case Law
 - Impact on Settlements

SIDE A EXPOSURES

- Derivative Suits
- Bankruptcy
- Increase in Severity?

TRENDS

- What hot areas do you see developing in 2010-2011?
- Where do you see the next surge in claims coming from? The FDIC?
- What is our industry going to do about the limited number of qualified mediators to resolve our large D&O claims?
- Do you think softening policy terms and conditions will come back to haunt the D&O carriers? (i.e., here we go again)

Questions and Answers