

Corporate Counsel Premier®

Heightened unemployment rates, new-age media exposures, and environmental concerns place corporate counsel at an increased risk of being personally named in civil or administrative proceedings. Corporate counsel face unprecedented liability exposure from a wide variety of claimants, including shareholders, employees, clients or other third parties. Corporate Counsel Premier® (CCP) protects both the personal assets of a corporate counsel and their employer's balance sheet against claims alleging legal malpractice.

Features & Benefits

Corporate Counsel Premier responds to the critical exposures confronting employed lawyers in an ever-changing environment. Broad definition of claim covers:

- Demands for monetary, non-monetary, or injunctive relief; suits, such as civil proceeding, or binding arbitration; administrative proceedings, such as a judicial, administrative, or bar association licensure; or compliance with the Sarbanes-Oxley Act of 2002, and securities claims
- Shareholder derivative suits arising out of an in-house counsel's legal work
- Claims against past, present and future corporate counsel, contract attorneys, independent contractors, and legal support staff
- Employment-related claims arising out of reliance upon legal services of an in-house counsel
- Moonlighting, *pro bono*, and notary services
- Punitive damages using "most favorable venue" language

Additional Highlights

- Full limits available for defense costs for claims made by the organization
- Full limits available for administrative proceeding & securities claims
- Incorporation of D&O terms and conditions to reduce the risk of gaps in coverage, especially for securities claims, and non-rescindable coverage for both corporate counsel and staff (Side-A coverage)
- Express coverage for both civil proceedings and certain criminal proceedings brought by the Securities and Exchange Commission and the Department of Justice in connection with a securities claim
- Zero deductible and no co-insurance for non-indemnifiable loss
- Severability of conduct amongst insured persons and the organization
- Coverage for libel, slander, or malicious prosecution claims, including alleged emotional distress

Is D&O Enough?

Corporate Counsel Premier offers important benefits beyond a typical D&O policy. Even if the corporate counsel is designated an officer of the company, and therefore an insured under the D&O Policy, some D&O insurers may contend that legal services performed by a corporate counsel are not performed in the insured capacity as an officer. Other D&O forms have an explicit professional services exclusion and would not cover legal services. Corporate Counsel Premier eliminates this potential gap in coverage by expressly insuring legal services rendered by a corporate counsel as an employee, including the general counsel. In addition, Corporate Counsel Premier is generally a duty to defend policy that offers separate limits and often lower retentions, provides coverage for all legal staff, moonlighting and *pro bono* work, and amends exclusionary terms often evident in D&O policies for legal services. These important distinctions promote independent, ethical and socially conscious contributions by the corporate counsel staff.

Corporate Counsel Premier Claim Scenarios

Type of Claim: Defamation

Industry: Manufacturing

Payment Amount: \$500K on the CCP policy, with \$1M for defense

Type of Company: Publicly Held Corporation

Claim State: Texas

Description: This is a defamation case by 2 attorneys against the Named Organization and one of its in-house attorneys. Plaintiffs allege that the in-house attorney wrongfully accused them of conspiring with the court clerk to alter the filing date of a summons and complaint in a patent infringement suit. The suit was mistakenly filed a day early by the plaintiffs, but the clerk allegedly re-stamped the complaint for the next day. The in-house counsel had a blog site, found out about the alteration of the filing date, and stated that plaintiffs attorneys wrongfully influenced the clerk to change the date (tampering with a court document is a felony and accusing an attorney of doing so is defamatory). Plaintiffs demanded in excess of \$2M.

Resolution: After negotiations, the matter was settled for \$700K with \$500K being contributed under the CCP policy on behalf of the Insured in-house counsel. Legal fees in excess of \$1M were also paid under the CCP policy for the defense of the Insured in-house counsel.

Type of Claim: Wrongful Termination/
Negligent Advice

Industry: Finance

Payment Amount: \$450K on the CCP policy

Type of Company: Publicly Held Corporation

Claim State: New York

Description: As a condition of employment as Treasurer of the Named Organization, Plaintiff was required to obtain a certain license from the Office of Thrift Supervision (OTS). Plaintiff, at the alleged advice of the Insured Corporate Counsel, neglected to include in his application information about a prior misdemeanor arrest. The OTS later discovered the omission and denied the application for license. Plaintiff alleges that the Named Organization later admitted to the OTS that the omission was the result of legal advice from Corporate Counsel. One month later, the Named Organization terminated Plaintiff's employment because he could not obtain the requisite licensing. Plaintiff's demand against Named Organization and the Insured Corporate Counsel alleges causes of action for Negligence, Negligent Supervision and Retention, Legal Malpractice, Defamation/Injury to Reputation, Breach of Contract and Costs and Expense. Plaintiff specifically sought damages for personal injury compensatory damages of \$9 million and attorneys' fees and costs.

Resolution: Matter resolved globally at mediation for \$1 million against the Named Organization and the Insured Corporate Counsel. The CCP policy contributed \$450K on behalf of the Insured Corporate Counsel.

Type of Claim: Wrongful Termination

Industry: Oil & Gas

Payment Amount: Unresolved, defense costs will likely exceed \$500K on the CCP policy.

Type of Company: Publicly Held Corporation

Claim State: New Jersey

Description: This claim began as a wrongful termination claim (Named Organization EPLI coverage with another carrier) that was filed by the Named Organization's former General Counsel. In its responsive pleading, the Named Organization filed a counter-claim against the General Counsel. The counterclaim included an allegation of legal malpractice against the General Counsel, which triggered a defense of the General Counsel under the CCP policy. The policy outlines reserved rights regarding any indemnity obligation based on, among other defenses, the insured v. insured exclusion.

Resolution: Defense counsel has advised that the cost to defend the General Counsel action will likely exceed \$500,000. Resolution via negotiation is being pursued in concert with the Named Organization's EPLI carrier before substantial amount of defense fees are incurred.

To learn more about Corporate Counsel Premier, visit www.chartisinsurance.com, e-mail executiveliability@chartisinsurance.com, or contact your insurance broker.

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Chartis is the marketing name for the worldwide property-casualty and general insurance operations of Chartis Inc. For additional information, please visit our website at www.chartisinsurance.com. All products are written by insurance company subsidiaries or affiliates of Chartis Inc. Coverage may not be available in all jurisdictions and is subject to actual policy language. Non-insurance products and services may be provided by independent third parties. Certain coverage may be provided by a surplus lines insurer. Surplus lines insurers do not generally participate in state guaranty funds and insureds are therefore not protected by such funds.