



Errors and Omissions, Media and Privacy (EMP)

Claims Examples



Errors and Omissions

A management consulting firm specializing in efficiency consulting was hired to reduce the cost of distribution for a large chain of retail bakeries. They advised the company to concentrate on baking and packaging and to contract out delivery to a trucking company. The consulting firm worked closely with the bakery to complete the changes by the end of their fiscal year. Delays in contract negotiation with the trucking company caused distribution setbacks for the company's flagship product, Independence Day-themed cupcakes. The cupcakes did not arrive in time for the holiday, causing the bakery a significant loss in revenue. The management consultant was sued for negligence and defense costs exceeded \$200,000.

Technology Errors and Omissions

A software company was hired by a transportation company to design a software program that would route freight more efficiently. After six months, the developer failed to deliver the program as promised in their contract, and the company was forced to hire a replacement firm to complete the project. The transportation company sued for damages of \$3,000,000, which included the additional cost to complete the program and recover lost profits. The software company argued damages sustained by the plaintiff were limited to \$650,000 in fees paid for the software program. However, due to the negligence of the software design firm, the jury rendered a verdict of over \$1,000,000 in favor of the plaintiff.

Intellectual Property

During a televised sporting event, a car company aired a commercial that showed a ball with a trademark symbol bearing a striking resemblance to a logo of a luxury fashion designer. The fashion designer filed suit against the car company alleging trademark violations. It turned out that neither the car company nor their ad agency had permission to use the trademark. The fashion designer won summary judgment in the case and was ultimately awarded damages of \$3,200,000.

Personal Injury:

A manager of a well-known hotel heard a rumor that a competing hotel had bedbugs and published a tweet based on that rumor. The competing hotel became aware of the tweet and sued for libel. During discovery, it became apparent that the allegations in the tweet were not factual, and the tweet was timed to inflict maximum harm to the competing hotel. The jury ruled in favor of the competing hotel for a total of \$1.25 million in damages.

Network Security and Privacy Liability

An employee of a manufacturing company inadvertently downloaded a destructive virus that quickly spread throughout their network. As a result, approximately 25 percent of the company's customers were infected with the same virus. Consequently, their customers suffered a widespread loss of data and a complete shutdown of their networks. The customers filed a class action suit against the company, claiming they should have prevented the transmission of the virus. The customers sought damages for the cost to restore lost data and their economic loss. Total damages awarded were over \$3,000,000.

Regulatory Defense

A national network support company has field employees who frequently used company-issued laptops at customer locations. The laptops contained sensitive data from their customers' networks, including social security numbers and medical records. One day, an employee of the support company had his laptop stolen from his car. Although the data on his laptop was encrypted, the employee had his password taped to the laptop. Due to embarrassment, the employee did not notify the employer until two months later. Although the network support company immediately set about notifying affected parties of the breach, they were ultimately fined by the Attorney General for not notifying their customers in the time frame allotted by the state. The total amount of loss and claim expense was over \$700,000.

Payment Card Industry (PCI) Fines and Penalties

A multi-location retailer was notified by its payment card-processing bank of a possible data breach to their point-of-sale (POS) system. A forensic investigation found that the retailer unknowingly transmitted unencrypted credit card numbers. The payment card processor demanded indemnification for fines assessed by the credit card companies who alleged a data breach. The payment card processor withdrew \$100,000 from the retailer's bank account and sued them for the balance of \$500,000.

Privacy Breach Expense

A restaurant with 15 locations was hit with a data breach that exposed the credit and debit card numbers and expiration dates of approximately 480,000 customers. The company spent over \$890,000 to hire a firm to conduct forensics to determine all those affected, re-secure its network and send out notification letters across multiple states. They also set up credit monitoring for its customers and spent an additional \$90,000 on hiring a public relations firm to manage the publicity surrounding the event. The costs associated with the breach were over \$1,000,000.

Cyber Extortion Threat Expense

The owner of a marketing agency arrived at the office to discover he and his employees were locked out of their computer system. A hacker notified him that the agency had 48 hours to pay \$50,000 or all files on their server would be deleted. As the deadline approached, the owner realized that he couldn't thwart the attack and was forced to pay the amount demanded.



Email submissions to professional@devonparkspecialty.com

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Errors and Omissions, Media and Privacy (EMP)

This product is designed for risks with annual revenue between \$15 million and \$50 million.

For Errors and Omissions, Media and Privacy coverage parts, eligible classes include, but are not limited to:

Technology Services:

- Application service providers/Software as a service (Saas)
- Business intelligence
- Cloud service providers
- Data or records storage
- Graphic designers
- Hardware evaluation
- IT consulting
- IT staffing
- Manage service providers/Help desk services
- Project management
- Search engine optimization
- Social media consultants
- Software development
- Systems or network evaluations
- Telecom consultants
- Training specialists
- Training and education
- Web design
- Web hosting

Non-Technology Services:

- Advertising agencies
- Coaching services
- Compliance consultants
- Document storage/Destruction services
- Educational consultants
- Forensic investigators
- Fulfillment services
- Human resource consultants
- Insurance inspectors
- Insurance risk managers
- Interpreters/Translators
- Lobbyists
- Management consultants
- Marketing consultants
- Public relations consultants
- Real estate consultants
- Referral services
- Staffing firms (temporary and permanent)

For Media and Privacy coverage parts ONLY, eligible classes include, but are not limited to:

Auto repair	Clinical research organizations	Manufacturers
Accountants	Contractors/Construction managers	Medical professionals
Allied healthcare	Environmental consultants	Nonprofits
Ambulance services	Freight forwarders	Retail/E-commerce
Ambulatory surgery centers	Hotels/Motels	
Architects/Engineers	Insurance agencies/brokers	
Bars/Taverns/Restaurants	Janitorial services	

Most Common Ineligible Risk Characteristics:

Located in AL, LA, MS or WV

Technology professionals or specialists involved in the following operations:

- 911 or other emergency response and/or dispatch
- Aircraft, air-ground equipment, military defense and/or weaponry of any kind, including classified information
- Energy, power plant, utility or pollution monitoring, supply or distribution
- Equity trading
- Financial transactions
- Firmware or embedded software
- Fund transfers
- Global Positioning Systems (GPS), Geographic Information Systems (GIS), navigation systems development, maintenance or support
- Loan fulfillment
- Lottery/Sweepstakes/Gaming or other games of chance
- Mechanical, electrical, chemical, civil or architectural design or engineering
- Medical, dental or health care diagnosis, monitoring or treatment
- Pharmaceutical formulation, production or Prescription, including clinical data
- Physical security system installation or monitoring (burglar/fire alarms and camera systems)
- Point of sale systems
- Robotics or process control of industrial equipment including HVAC systems

Non-technology professionals or specialists involved in the following operations:

- Adoption agencies
- Adult content providers
- Attorneys/Law firms
- Claim adjustors
- Collection agencies
- Financial advisors
- Financial institutions including banks, investment bankers and stockbrokers
- Franchisors
- Government agencies
- Hospitals
- Medical laboratories
- Mortgage brokers
- Municipalities
- Nursing homes
- Payment card processors
- Payroll processors
- Third party administrators
- Title/Escrow agents



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Specialty Lines Product Highlight Sheet

Devon Park Specialty's goal is to bring you clear solutions through well-designed products. Our team of experienced industry professionals from diverse carrier backgrounds has developed products that meet the needs of the insured. We pride ourselves on superior customer service; every interaction gives us an opportunity to share the Devon Park experience with you. Let us demonstrate our commitment to you for the accounts you see every day.

The Specialty Lines team at Devon Park Specialty is proud to provide the following products.

Errors and Omissions, Media and Privacy (EMP)

EMP is our specialty product targeting a broad range of businesses including miscellaneous professionals, technology companies, and a wide variety of businesses (for cyber coverage), all with \$15 million to \$50 million in annual revenue. Our form was developed to meet the needs of the current marketplace, offer a competitive rate structure and provide unique coverage advantages.

Our product is a modular form with the following coverage parts:

Errors and Omissions Liability: Provides coverage for claims arising from the insured's professional services for a broad range of companies including miscellaneous professionals and technology firms.

Media Liability: Provides coverage for claims alleging personal and intellectual property injury including libel, slander, copyright and trademark infringement. It also includes coverage for negligence in content.

Network Security and Privacy Liability: Covers claims against insureds arising from a failure of network security, breach of private data, violation of a privacy law or disclosure of third party corporate information.

Privacy Breach and Extortion Threat Expense: Covers expenses incurred by the insured company arising from a privacy breach, including forensics, notification (including call center services), credit monitoring, public relations and computer system restoration. Also includes coverages for expenses arising from a cyber-extortion threat.

Executive ViewPoint (EVP)

Executive ViewPoint (EVP) is our management liability product targeting private companies with 201 to 1,500 employees. EVP was specifically designed to provide market-leading coverage.

Our product is a modular form with the following coverage parts:

Directors and Officers Liability: Protects the directors, officers, other executives, employees and the entity itself from lawsuits by third parties. Plaintiffs for such suits include shareholders, competitors, creditors, investors, customers, vendors and the government. Common allegations for directors' and officers' claims are breach of duty, misrepresentation, negligence, tortious interference, breach of contract, mismanagement and misappropriation of funds. The directors and officers coverage part offers a unique Lifetime Occurrence Reporting Provision (LORP) for former directors and officers.

Employment Practices Liability: Provides coverage for claims brought by or on behalf of employees arising from the employment relationship. Examples of claims include allegations of discrimination, harassment, wrongful termination, hostile work environment and retaliation. A Fair Labor Standards Act (FLSA) sublimit is available for defense and indemnity.

Fiduciary Liability: Protects plan fiduciaries as defined by The Employee Retirement Income Security Act of 1974 (ERISA) for their roles in administering employee benefit plans including 401k, pension, health and welfare. Violations could lead to personal liability for plan fiduciaries. Allegations may include errors, omissions and negligence in plan administration, breaches of the fiduciary duties imposed by ERISA and mismanagement of plan assets.

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Errors and Omissions, Media, and Privacy (EMP)

Our product provides broad coverage for evolving exposures faced by all businesses. The policy can be purchased with one or more coverage parts for companies with revenues between \$15 million and \$50 million.

Highlights Applicable to All Coverage Parts

- Limits available up to \$5,000,000
- Full severability for innocent parties
- Softened hammer clause of 75/25 in favor of insured
- Three year extended reporting period
- Single deductible applies to interrelated acts
- Duty to defend policy with 100 percent allocation

Highlights Applicable to Cyber Coverages (Parts C and D)

- Full prior acts coverage available for first-time buyers
- Full limits available for all coverages (no sublimits)

Professional and Technology Errors and Omissions (Coverage Part A)

Covers claims arising from the insured's professional services for a broad range of companies including miscellaneous professionals and technology firms. This includes coverage for:

- Unintentional breach of contract
- Independent contractors coverage
- Broad coverage for use of the Internet and technology in delivery of professional services, for most miscellaneous professionals and technology firms
- Technology products coverage available for qualifying accounts

Media Liability (Coverage Part B)

Covers claims alleging personal and intellectual property injury including libel, slander, copyright and trademark infringement. This includes coverage for:

- Negligence in content
- Content displayed on products (logos, images, etc.)
- Broadly-defined "covered content" or option to customize schedule of "covered media activity"
- Full limits of intellectual property
- Media liabilities assumed under contract

Network Security and Privacy (Coverage Part C)

Covers claims against insureds arising from a failure of network security, breach of private data, violation of a privacy law or disclosure of third party corporate information. This includes coverage for:

- Regulatory actions arising from violation of HIPAA or any other privacy law, including claims expense, fines, penalties and consumer redress funds
- Payment Card Industry (PCI) fines and penalties
- Payment Card Industry (PCI) assessments which includes reimbursement for fraudulent bank charges and costs to reissue debit and credit cards
- Full limits available for regulatory actions, PCI assessments, fines and penalties

Privacy Breach and Extortion Threat Expense (Coverage Part D)

Covers expenses arising from a privacy breach, including forensics, notification (including call center services), credit monitoring, public relations and computer system restoration, as well as expenses arising from a cyber extortion threat. This includes coverage for:

- Breach of Personally Identifiable Information (PII) in any form (including both digital and paper files)
- PII stored by the insured's third party vendors
- Privacy breach caused by a rogue employee
- Breach of employees' private data
- Voluntary notifications
- No "failure to maintain safeguards" clause
- Business interruption arising from a privacy breach available for qualifying accounts
- Privacy breach expense in addition to limits of liability available
- Full limits available for data restoration, cyber extortion threat expense and business interruption

Additional Advantages:

- Competitive pricing with superior service
- World class legal services and breach vendors
- Access to our Business Resource Center, including eRisk Hub
- A Berkshire Hathaway Company

What Is the Benefit of the EMP Policy?

Businesses face increasingly complex legal exposures in their day-to-day operations. Litigation can arise from the professional services they provide, their marketing and advertising efforts and data they collect or store.

Our EMP product provides a solution for these various exposures all in one policy form. We provide the flexibility to purchase one or more coverage parts, enabling our policy to be tailored to the policyholder's needs. When an incident occurs, our world-class experts will respond by providing guidance, helping to reduce expenses and protecting the policyholder's reputation.

What Is the Benefit of Privacy Coverage?

Most businesses store and transmit many types of sensitive data, including customer data, credit card numbers and employee information. Addressing a breach involving this data is complex and expensive. State and federal laws require businesses to go through an expensive process of notifying customers and employees that their sensitive data is missing (known as a "data breach"). No evidence of malicious use of missing data is needed to constitute a breach; simply misplacing data in paper or digital format qualifies the incident as a breach. In addition to being an extensive and expensive process, a data breach also damages the reputation of a business, leading to loss in revenue.



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