

## Indemnification (Civil Claims)

	Statutorily permitted indemnification	Statutorily required indemnification	Statutorily permitted advances	Permitted changes from statute
3 <sup>rd</sup> party claims	<ul style="list-style-type: none"> <li>• Good faith +</li> <li>• Best interests of corp +</li> <li>• By reason of service</li> </ul> <p>Expenses, judgments, fines, &amp; settlements</p> <p>DGCL 145(a)</p>	<ul style="list-style-type: none"> <li>• Successful on merits or otherwise +</li> <li>• By reason of service</li> </ul> <p>Good faith irrelevant (<u>Waltuch</u>)</p> <p>Expenses from a win; not amounts related to settlement (<u>Waltuch</u> is oddball case)</p> <p>DGCL 145(c)</p>	<ul style="list-style-type: none"> <li>• Reasonable +</li> <li>• Agreement to pay back if not entitled to indemnification</li> </ul> <p>DGCL 145(e) &amp; (<u>Citadel</u>)</p>	<p>Pre-commit to indemnifying and advancing expenses when permissive</p> <p>DGCL 145(f) &amp; (<u>Waltuch</u>)</p>
Deriv. claims	<ul style="list-style-type: none"> <li>• Good faith +</li> <li>• Best interests of corp +</li> <li>• By reason of service +</li> <li>• Not adjudged liable*</li> </ul> <p>Expenses only:</p> <ul style="list-style-type: none"> <li>• Litigation expenses from a win</li> <li>• Expenses in reaching settlement (but not settlement amount)</li> <li>• Litigation expenses of a loss with court approval *</li> </ul> <p>DGCL 145(b)</p>	<p>Same as above</p>	<p>Same as above</p>	<p>Same as above</p>