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Legal Protection for Directors Against Allegations of Directors' Negligence Resulting in Losses to the Company

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Abstract: This study aims to analyze legal protection for directors against allegations of negligence resulting in losses for the company in the Indonesian legal system. The method used is normative legal research with a statutory approach and case studies through a comparative analysis of two court decisions, namely the Bekasi District Court Decision Number 647/Pdt.G/2021/PN Bks and the Surabaya District Court Decision Number 565/Pdt.G/2024/PN Surabaya. The results of the study indicate that the civil liability of directors is based on proof of the element of error or negligence, not solely on the occurrence of losses for the company. The Business Judgment Rule principle adopted through Article 97 paragraph (5) of Law Number 40 of 2007 concerning Limited Liability Companies provides conditional protection to directors who act in good faith, with professional prudence, and within the limits of legitimate formal authority. This study emphasizes the importance of a clear distinction between reasonable business risks and directors' negligence as a basis for determining legal liability proportionally and fairly.

Keywords: Business Judgment Rule, Director Negligence, Civil Liability

INTRODUCTION

limited liability company A limited liability company (LLC) is a legal entity that plays a strategic role in supporting national economic activity. As an independent legal entity, a Limited Liability Company (LLC) exercises its rights and obligations through its organs: the General Meeting of Shareholders, the Board of Directors, and the Board of Commissioners. Among these three organs, the board of directors holds the most central position because it is directly responsible for managing the company and representing the company both inside and outside the courts. (Bagaskara, 2023) This strategic position places the board of directors as the party most vulnerable to being held accountable for any legal consequences arising from the company's business activities, including if the company experiences losses due to business decisions taken. In carrying out their duties as company managers, the board of directors is required to consistently make various business decisions that inherently carry risks. These decisions do not always result in profits for the company, and under certain conditions can even lead to significant losses. Company losses are an inseparable part of the dynamics of the

business world, which are influenced by various factors, both internal and external, such as market conditions, changes in government policy, business competition, and the global economic situation. Therefore, not every company loss can be immediately viewed as a direct result of errors or negligence by the board of directors in carrying out their duties.(Fransisca et al., 2025).

However, in practice, company losses are often used as a basis for accusing directors of negligence in carrying out their duties and authorities. These allegations of negligence ultimately escalate into legal disputes that result in civil lawsuits against the directors, filed by either the company itself or by shareholders.(Lee et al., 2026)Civil lawsuits against directors are generally based on the assumption that directors have acted negligently, exceeded their authority, or failed to prioritize the best interests of the company, resulting in losses. This situation raises complex legal issues, particularly in determining the clear boundaries between reasonable business risks and negligence on the part of directors, which can give rise to personal civil liability. Regulations regarding directors' liability in Indonesia are essentially regulated normatively in Law Number 40 of 2007 concerning Limited Liability Companies. This law affirms that directors are fully personally responsible for company losses if they are proven guilty or negligent in carrying out their duties. On the other hand, the same law also provides room for exceptions to this liability, namely if directors can prove that the company's losses were not caused by their fault or negligence, but rather constituted a reasonable business risk in the context of company management. This provision demonstrates that corporate law in Indonesia not only emphasizes the liability of directors but also provides legal protection for directors who have acted professionally and responsibly.(Mokoagow et al., 2025).

However, in the practical application of the law, the provisions regarding the responsibilities and protection of directors often give rise to differing interpretations. One of the main issues that frequently arises is the assessment of the element of director negligence.(Franialdo et al., 2024). It is not uncommon for company losses to be directly attributed to board errors without first conducting an in-depth analysis of the board's business decision-making process. As a result, the board finds itself in the disadvantageous position of facing civil lawsuits even though the decisions they made were made in good faith and based on rational and professional considerations. This situation has the potential to create legal uncertainty for the board of directors, which in turn can encourage an overly defensive attitude in making strategic decisions that are actually necessary for the company's growth and development. In this context, the Business Judgment Rule principle becomes highly relevant to examine in depth. The Business Judgment Rule is a legal doctrine that, in principle, protects directors from legal liability for company losses arising from business decisions, as long as the decisions are made in good faith, with due care, based on adequate information, and without any conflict of interest. This principle stems from the fundamental understanding that the board of directors is not the guarantor of the success of every business decision, but rather a manager empowered to take calculated risks in the best interests of the company. In the Indonesian legal system, the principle of the Business Judgment Rule has been adopted normatively through provisions that provide exemption from liability to directors if the company's losses can be proven not to be the result of their error or negligence.(Firmansyah & Machmud, 2024).

Despite its normative recognition, the application of the Business Judgment Rule in civil litigation still faces significant challenges. One is the tendency of judges to focus their assessments on the consequences, in the form of losses to the company, rather than conducting a comprehensive evaluation of the business decision-making process undertaken by directors. Directors are often on the defensive in civil lawsuits, where the burden of proof is a crucial issue.(Sunter et al., 2024)In many cases, directors must demonstrate that every decision they make meets all the elements of prudence and good faith, while the standards for assessing these elements are not always clear and consistent. This situation reflects a clear gap between

normative regulations and the practical application of corporate law, which ultimately leads to less than optimal legal protection for directors. Furthermore, the relationship between the Business Judgment Rule principle and the concept of civil liability for directors is also not yet fully understood comprehensively in the Indonesian legal system. In civil law, liability is generally based on an unlawful act or breach of contract that results in a loss for another party. However, in the context of corporate management, not all losses incurred can be classified as the result of an unlawful act. Therefore, an in-depth and comprehensive analysis is required to determine whether a director's action that results in a loss for the company constitutes negligence that can be held personally civilly liable, or whether it constitutes a business decision that should be protected by the Business Judgment Rule principle. A comprehensive understanding of this issue is becoming increasingly important with the increasing number of civil disputes involving directors as defendants in Indonesian courts. (Haetami et al., 2024).

Based on the background description above, there are two main problems that are the focus of this research. First, how are the legal regulations regarding directors' liability for company losses in the Indonesian legal system? Second, how is the Business Judgment Rule principle applied in Indonesia as a form of legal protection for directors in corporate civil disputes? These two problem formulations are interrelated and are intended to build a comprehensive understanding of the limits of directors' liability and the legal protection available to them in the Indonesian corporate legal system.

This study aims to understand and analyze in depth the legal regulations regarding the directors' liability for company losses in the Indonesian legal system, as well as to understand and analyze the application of the Business Judgment Rule principle as a form of legal protection for directors in corporate civil disputes. Through these two objectives, this study is expected to provide a comprehensive picture of the balance between responsibility and legal protection for directors in carrying out their corporate management functions, thereby contributing to the creation of legal certainty and a healthy and responsible business decision-making climate.

This research is expected to provide both theoretical and practical benefits. Theoretically, this research aims to add to the body of knowledge in the field of corporate law, particularly regarding the responsibilities of directors and the principles of the Business Judgment Rule in the Indonesian legal system. It also contributes to the development of a theory of corporate organ responsibility and legal protection against potential abuse of directorship.

Practically, this research provides benefits for various parties. For directors and company organs, this research can be a consideration in carrying out the company's management function by observing the principles of prudence, good faith, and fiduciary responsibility, and provides an understanding of the position and application of the Business Judgment Rule principle so that directors are not always burdened with responsibility for company losses as long as business decisions are taken fairly, professionally, and in accordance with procedures. For legal practitioners, consultants, and law enforcement, this research can serve as a reference in understanding the limits of directors' responsibilities and the relevance of the Business Judgment Rule principle in resolving corporate disputes, while also helping prevent the criminalization of directors in cases that are actually purely business disputes. For the government and policymakers, this research is expected to provide input in developing clearer regulations regarding the accountability and protection of directors, as well as encourage the formation of stricter norms regarding the application of the Business Judgment Rule in the Indonesian legal system.

METHOD

Research Design

This study employed a quantitative descriptive design with a cross-sectional approach. The descriptive design was chosen because the study aimed to describe the anxiety levels of elderly patients with hypertension undergoing treatment at the Bawen Community Health Center without providing any intervention to the subjects. The cross-sectional approach was used because data collection was conducted simultaneously at a specific point in time, allowing researchers to obtain a snapshot of the patients' anxiety levels during the examination.

Place and Time of Research

This research was conducted at the Bawen Community Health Center (Puskesmas) in Semarang Regency, Central Java Province. The location was chosen based on the consideration that the Bawen Community Health Center is a primary healthcare facility with a high number of visits from elderly patients with hypertension, allowing the researchers to obtain a representative sample. The research was conducted over a predetermined period, encompassing preparation, data collection, data processing, and the preparation of a research report.

Population and Sample

The population in this study was all elderly patients who had been diagnosed with hypertension and were undergoing treatment or routine check-ups at the Bawen Community Health Center during the study period. The inclusion criteria included patients aged 60 years and above, having been diagnosed with hypertension by medical personnel, actively undergoing treatment or check-ups at the Bawen Community Health Center, willing to be respondents by signing an informed consent, and being able to communicate well both verbally and in writing. The exclusion criteria included elderly patients with severe cognitive impairment such as dementia, patients with medical emergencies, and patients who were uncooperative during the data collection process.

The sampling technique used was purposive sampling, which is based on certain considerations and criteria previously established by the researcher. The sample size was determined using a proportion estimation formula, with a 95% confidence level and a 5% margin of error, to obtain an adequate and representative sample size to describe the anxiety levels in the population studied.

Variables and Operational Definitions

The primary variable in this study was anxiety in elderly patients with hypertension. Anxiety is operationally defined as an emotional response characterized by feelings of worry, tension, and discomfort experienced by elderly patients with hypertension during treatment at the Bawen Community Health Center. Anxiety levels were measured using the standard Hamilton Anxiety Rating Scale (HARS), a 14-item assessment instrument covering both somatic and psychological symptoms. The measurement results were categorized as no anxiety, mild anxiety, moderate anxiety, severe anxiety, and extremely severe anxiety based on the total score obtained by the respondents.

Research Instruments

The instrument used in this study was the Hamilton Anxiety Rating Scale (HARS) questionnaire, a standardized questionnaire widely used in clinical and community research to measure anxiety levels. This instrument assesses aspects of anxiety, tension, fear, sleep disturbances, intellectual impairment, depression, somatic muscle symptoms, somatic sensory symptoms, cardiovascular symptoms, respiratory symptoms, gastrointestinal symptoms, urogenital symptoms, autonomic symptoms, and behavior during the interview. Each item is

rated on a scale of 0 to 4, and a total score is calculated to determine the respondent's anxiety level. Prior to use, the instrument's validity and reliability were tested on a group of respondents outside the study sample to ensure measurement consistency.

Data collection technique

Data collection was conducted directly by the researcher using structured interviews and a guided questionnaire. Prior to data collection, the researcher explained the purpose, benefits, and procedures of the study to each potential respondent and obtained their consent by signing an informed consent form. Interviews were conducted in a quiet and comfortable environment to allow respondents to provide honest answers without feeling pressured. Respondent demographic characteristics, such as age, gender, education level, duration of hypertension, and medication history, were also collected using a pre-prepared demographic data sheet.

Data analysis

The collected data was then processed through editing, coding, data entry, and cleaning to ensure completeness and accuracy before analysis. Univariate data analysis was performed using a computer statistical program. Univariate analysis was used to describe the frequency distribution and percentage of each variable, including both the demographic characteristics of the respondents and the level of anxiety experienced. The results of the analysis are presented in the form of a frequency distribution table and descriptive narrative to provide a clear and comprehensive picture of the level of anxiety in elderly patients with hypertension undergoing treatment at the Bawen Community Health Center.

Research Ethics

This research was conducted in accordance with applicable research ethics principles. Each respondent was given a complete explanation of the purpose and benefits of the study before providing consent. Participation was voluntary, and respondents had the right to withdraw at any time without any consequences. The confidentiality of respondents' identities and data was strictly maintained, and the data was used solely for scientific research purposes. This research also obtained permission from the relevant agencies and obtained ethical approval from the authorized research ethics committee before data collection was carried out.

RESULTS AND DISCUSSION

Overview of the Case and Context of the Company Dispute

This study analyzes two court decisions that substantively reflect the dynamics of directors' liability in limited liability company practices in Indonesia: Bekasi District Court Decision No. 647/Pdt.G/2021/PN Bks and Surabaya District Court Decision No. 565/Pdt.G/2024/PN Surabaya. These two cases were selected purposively because they represent two different sides of the spectrum of directors' liability under Indonesian corporate law: one case that culminates in the classification of directors' actions as unlawful acts due to an excess of formal authority, and the other case that provides full protection to directors because the losses incurred are classified as normal business risks and there is no evidence of fault or negligence. The first case reflected in the Bekasi District Court Decision Number 647/Pdt.G/2021/PN Bks stems from an internal conflict that occurred among fellow members of the board of directors of a limited liability company, namely between the President Director as the Plaintiff and the Vice President Director as the Defendant. (Anshari et al., 2025) This dispute is not fundamentally related to the substance of the business decisions taken, but rather to the issue of the formal boundaries of authority in the management of the company. The defendant, as Vice President Director, made a number of operational and administrative

decisions independently without prior consultation with the proper board of directors meeting mechanism, without coordination with the President Director, and without any legitimate delegation of authority based on the company's articles of association. These unilateral actions created a dualism of instructions that caused confusion within the company, weakened the command hierarchy, and significantly disrupted the stability of the company's governance in the short and medium term. Employees received orders from two parties who both served as directors without a clear hierarchy of authority, thus creating disharmony in management and impacting the overall operational effectiveness of the company. (Sembiring et al., 2023).

The second case, reflected in Surabaya District Court Decision Number 565/Pdt.G/2024/PN Surabaya, stems from a substantively different background than the first case. PT Surya Agung Indah Megah, a company engaged in the distribution and trading of motor vehicles, suffered significant financial losses due to the default of PT Narada Asset Management, an investment institution that, at the time the investment decision was made by the Board of Directors, had legal status and was under the supervision of the competent authorities. The Board of Directors for the 2016 to 2019 period decided to invest Rp3,000,000,000 of the company's funds with promised returns ranging from 8.5 percent to 11.5 percent per year. This investment decision was taken as part of a strategy to optimize revenue and increase the company's liquidity amidst dynamic business conditions, not as a reckless speculative action or for the personal interests of the Board of Directors. (Gultom & Nababan, 2025). What is legally interesting about this second case is the inconsistency of the Plaintiff's stance, which is one of the important legal facts in the trial. On the one hand, the Plaintiff questions the investment that suffered losses and accuses the Directors of committing unlawful acts and even embezzlement in office. However, on the other hand, the Plaintiff never questions the investment made by the Directors in PT MI One Global, which actually generated a profit for the company of Rp92,160,000. In addition to this inconsistency, there is also the important legal fact that in several General Meetings of Shareholders held after the end of the Directors' term of office for that period, as stated in various GMS deeds in 2020 and 2021, there was never a decision that explicitly rejected the Directors' accountability report or demanded accountability for the investment policies that had been implemented. The change in the Plaintiff's stance only emerged in 2023, almost four years after the end of the Directors' term of office being sued, thus raising fundamental questions regarding the consistency and good faith in filing the lawsuit. (Musliarozza & Sholeh, 2026).

Violation of the Board of Directors' Formal Authority as a Basis for Civil Liability

The analysis of Decision Number 647/Pdt.G/2021/PN Bks consistently shows that the main issue in this case is the Vice President Director's deliberate and repeated abuse of his authority. The Bekasi District Court firmly concluded that the Defendant had acted beyond his authority because he could not demonstrate any valid legal basis, either in the form of a written delegation of authority, special powers granted by the President Director, or a decision of a board meeting that legitimized all of his management actions. (Made et al., 2021). In the legal construction of Indonesian companies as stipulated in Law Number 40 of 2007 concerning Limited Liability Companies, the authority of the board of directors as a company organ is derived from three levels of hierarchical norms, namely the law itself, the company's articles of association, and decisions of the General Meeting of Shareholders. This authority is not free and unlimited. Each member of the board of directors, including the Vice President Director, may only act on behalf of the company within the limits of authority expressly granted to him through one of these three sources of norms. If there is no provision in the articles of association that grants the Vice President Director autonomous authority to act independently without the approval or coordination of the President Director, then all actions taken unilaterally are legally without a valid basis and cannot be considered official actions of the company. The court in

this case considered that the position of Vice President Director does not automatically grant authority equal to that of the President Director simply because both positions are within the board of directors' organ. The hierarchy of positions within the board of directors' structure only has legal meaning if it is explicitly regulated in the company's articles of association along with its limitations and implementation mechanisms. Without such clear and firm regulations, each member of the board of directors is required to act collegially through a structured board meeting mechanism, not unilaterally based on personal initiative. The Defendant's actions in giving direct instructions to employees, establishing certain internal policies, and managing the company's operational activities unilaterally constitute a clear violation of the principle of board collegiality, which is the main foundation of sound corporate governance.(Sakinah, 2025).

Furthermore, the analysis results show that the Defendant's actions cumulatively fulfill all the elements of an unlawful act as stipulated in Article 1365 of the Civil Code. The element of an unlawful act is fulfilled because the Defendant's actions clearly contradict the legal obligations stemming from the company's articles of association and the principles of company management as stipulated in the law.(Pardamean, 2024). The element of fault is also fulfilled because the Defendant knew or should have known the limitations of his authority but still consciously acted beyond those limits without attempting to obtain the necessary legitimacy. The element of loss in this case should not be interpreted narrowly as material loss that can be calculated nominally and definitely, but also includes the disruption of the company's governance system systematically, the weakening of the company's operational effectiveness, the emergence of uncertainty in internal relations between fellow company organs, and the decline in trust from parties interacting with the company. The most crucial aspect of this decision in the context of research on the Business Judgment Rule is the Court's firm affirmation that the Defendant's actions cannot be protected under this principle under any circumstances. One of the fundamental prerequisites for the application of the Business Judgment Rule is that the business decision to be protected must be taken by an authorized party and within the limits of legally valid authority. When a director acts beyond his authority, then from the outset, such action has exceeded the scope of legally protected business discretion and falls into the category of violation of formal authority that cannot be justified for any reason, including the reason that the action was intended to be good or benefit the company. Thus, the Business Judgment Rule cannot be used as a legal shield for directors who violate the formal authority structure, even if such actions are subjectively claimed to be part of good faith corporate management. This finding has important conceptual implications for understanding the limits of the Business Judgment Rule's application in Indonesia. This doctrine inherently does not provide universal protection for all actions taken by the board of directors without exception. The BJR only applies and provides protection within the scope of legitimate business discretion, namely decisions made by authorized parties, in accordance with applicable procedures, in good faith, with due care, and without conflict of interest. When any of these fundamental conditions are not met, the protection of the Business Judgment Rule is automatically lost, and the directors concerned cannot rely on this doctrine as a basis for their defense in litigation.(Panjaitan et al., 2025).

Application of the Business Judgment Rule in Corporate Investment Disputes

Fundamentally different from the first case, a thorough analysis of Decision Number 565/Pdt.G/2024/PN Surabaya demonstrates the concrete and concrete application of the Business Judgment Rule principle in the context of a lawsuit for directors' liability for the company's investment losses arising from external factors. The Panel of Judges at the Surabaya District Court substantively and consistently rejected the classification of investment losses as an unlawful act, with comprehensive legal considerations that the investment decision was a

rational business decision at the time it was taken, made in good faith for the benefit of the company, and was not accompanied by a conflict of interest or elements of abuse of office in any form. (Law et al., 2025). In assessing the Board of Directors' actions comprehensively, the Judge methodologically did not use an *ex post* evaluation approach, which is an assessment based solely on the final outcome of a business decision that has been taken. Instead, the Judge correctly used an *ex ante* assessment approach, which is an assessment of the quality and rationality of the decision-making process at the time the decision was actually made by the Board of Directors. At the time the Board of Directors decided to invest the company's funds in PT Narada Asset Management, the institution had formal legal status, was registered and under the supervision of the competent authorities, and offered returns that were commercially within a reasonable and customary range in investment practices. There were no objective indicators at that time that could reasonably question the credibility or legality of the investment institution. Therefore, the Judge considered that the investment decision was a legitimate and proportional part of the Board of Directors' authority to manage the company's funds in the best interests of the company. The investment decision in PT Narada Asset Management also did not stand alone and isolated from the context of the Board of Directors' overall business strategy. The Board of Directors also invested in PT MI One Global during the same period, which was proven to generate financial benefits for the company. This fact is a very important legal indicator that the Board of Directors' investment policy is part of a planned, consistent, and interest-oriented business strategy for the company, not a haphazard or speculative action without any basis for consideration. The investment pattern carried out in more than one investment instrument indicates an effort to diversify the portfolio, which in principle is a common, recognized, and even recommended risk management practice in the modern business world. Losses arising from one investment instrument are an inherent and unavoidable risk inherent in all investment activities anywhere, and are not evidence of negligence or professional error on the part of the Board of Directors in carrying out their duties. (Pedro et al., 2025).

In the context of the elements of the Business Judgment Rule as substantially adopted in Article 97 paragraph (5) of the Limited Liability Company Law, the analysis of this case shows conclusively that all elements of protection are cumulatively fulfilled. First, the losses incurred were proven not to be due to the Directors' fault or negligence, but rather due to default by a third party, which constitutes an external business risk entirely beyond the control and prediction of the Directors at the time the decision was made. Second, the Directors were proven to have objectively acted in good faith because the investment was made solely for the benefit of the company with the aim of increasing revenue and optimizing the use of company funds, not for self-enrichment. Third, there was no strong and convincing evidence regarding any conflict of interest, embezzlement, or efforts by the Directors to enrich themselves from the investment decision. Fourth, the Directors demonstrated a real effort for the best interests of the company through an investment diversification policy, some of which succeeded in providing real financial benefits for the company. An aspect that is also a significant legal consideration in this decision is the legal consequences of the Directors' failure to reject accountability in several General Meetings of Shareholders held after the end of the Directors' term of office for the 2016-2019 period. (Ristita et al., 2025). Doctrinally, in corporate law, if the Board of Directors' accountability report is not explicitly questioned in the GMS and no rejection decision is taken within a reasonable time, then this condition can be legally interpreted as a form of acceptance or at least release from responsibility of the Board of Directors for all management actions that have been carried out. The absence of rejection in the deeds of the 2020 and 2021 GMS is strong evidence that shareholders at that time had no objections to the policies of the Board of Directors of the previous period. The change in shareholders' attitude that only emerged in 2023 to re-question the policies implemented in the

2016-2019 period is considered potentially contrary to the principles of legal certainty and good faith that must be upheld in corporate relations. This ruling affirms the fundamental principle that Indonesian corporate law is not intended to punish business failures conducted professionally and responsibly. Corporate losses arising from reasonable business risks are the responsibility of the company as an independent legal entity, not the personal responsibility of the Directors as individuals. Personal liability can only be legally imposed on the Directors if there is concrete evidence of error or negligence in the decision-making process that caused the loss, not merely because the final outcome of the business decision was detrimental to the company. (Justisia et al., 2025).

Distinguishing Business Risk and Directorial Negligence as the Core of Legal Responsibility

One of the most fundamental and significant findings of this study is that a clear and consistent distinction between reasonable business risk, on the one hand, and directorial negligence, on the other, is the most crucial core issue in the process of determining director liability in Indonesia. The two cases analyzed together provide a complementary and complementary picture of the boundary separating the two concepts, and how that boundary ultimately determines whether or not the protection of the Business Judgment Rule can be applied in a concrete case. In case No. 647/Pdt.G/2021/PN Bks, the problem does not lie at all in the normal business risks or in the quality of business decision-making by the board of directors, but rather in the violation of formal authority that is structural and fundamental. (Permadi & Hadi, 2021) The Defendant's actions, which exceeded their authority, do not fall under any business risk category because they lacked a valid legal basis from the outset. The concept of business risk in the context of corporate law is only relevant and meaningful to discuss in the context of decisions made by parties authorized to make such decisions. When someone acts without valid authority, the result of their actions does not constitute a business risk but rather a violation of the law that can be accounted for civilly. Conversely, in case No. 565/Pdt.G/2024/PN Surabaya, the losses incurred are a classic example of business risk inherent in all investment activities. The Board of Directors made investment decisions that were formally valid and within their authority, based on available and reliable information at the time the decisions were made, and consistently aimed at the company's interests. The subsequent investment failure was not caused by the Board of Directors' carelessness or carelessness in the decision-making process, but rather by entirely external factors in the form of default by a third party that could not have been reasonably predicted by anyone at the time the investment decision was made. In such circumstances, charging the losses to the Directors personally is not only legally unfair, but will also create a dangerous precedent for the development of corporate governance in Indonesia. (Maharani et al., 2024).

Negligence of directors in the sense of Indonesian company law refers specifically to a demonstrable failure to meet the standards of prudence that should objectively be carried out by a professional, competent and experienced company manager in his field. (Nadeev, 2024) Negligence can be demonstrated in various concrete forms, including failing to conduct a feasibility study before making a strategic decision, flagrant disregard for available risk analysis, failing to seek the opinion or consultation of relevant experts when business conditions require it, making decisions without adequate information, or knowingly violating established internal procedures and the articles of association. This standard of negligence is objective in that it does not depend solely on the subjective intentions of the directors, but rather on the actual quality of the processes that would have been carried out by a manager meeting reasonable and expected standards of professionalism. Reasonable business risk, on the other hand, is a conceptually and legally completely distinct category from negligence. Reasonable business risk is a risk that is inherently and unavoidably inherent in every

legitimate business activity, and such risk remains possible and may result in losses even if the directors have acted prudently, rationally, and based on the most complete information available. This risk can manifest in various forms such as unexpected market fluctuations, changes in macroeconomic conditions, objectively unanticipated third-party failures, sudden regulatory changes, or various other external factors completely beyond the directors' control. As long as the board of directors has carried out a correct and proportionate decision-making process, based on reasonable professional considerations, without any conflict of interest, and with the aim of serving the best interests of the company, then the losses arising from the realization of these business risks cannot and should not be the basis for the directors' personal liability under corporate law. The findings of this study also reveal the fact that requires serious attention: in Indonesian corporate civil court practice, there is still a tendency to directly and automatically associate corporate losses with directors' errors without first conducting an adequate and in-depth analysis of the quality of the actual decision-making process. This inappropriate mindset has the potential to create serious legal uncertainty and will ultimately hinder bold yet professional and responsible business decision-making by corporate directors throughout Indonesia. Decision Number 565/Pdt.G/2024/PN Surabaya is a positive example that deserves appreciation of the development of corporate civil jurisprudence, which has begun to consistently shift the assessment paradigm from a solely results-based approach to a more comprehensive approach based on the quality of the decision-making process.(Ekotrans et al., 2025).

Legal Implications of the Implementation of the Business Judgment Rule on the Director Protection System in Indonesia

A comparative and comprehensive analysis of the two court decisions that are the object of this research provides a fairly in-depth picture of the extent to which the Business Judgment Rule principle has been consistently applied in the Indonesian civil corporate court system. In general, the findings of this research indicate that although the Business Judgment Rule has not been explicitly regulated as a separate doctrine with the same name in Indonesian legislation, the substance of this doctrine has been substantially internalized through the provisions of Article 97 paragraph (5) of the Limited Liability Company Law and has begun to be applied increasingly consistently in more recent civil corporate court decisions.(Idayanti, 2024).Legal protection for directors under the Business Judgment Rule in the Indonesian corporate legal system is conditional, selective, and evidence-based, not absolute immunity that applies automatically to all actions of directors without any conditions. This legal protection is only granted to directors who can concretely prove that four main indicators have been cumulatively fulfilled as stipulated in Article 97 paragraph (5) of the Limited Liability Company Law. First, the company's losses are proven not to be due to the fault or negligence of the directors concerned. Second, the company's management is carried out in good faith, sincerely and with professional care. Third, there is no conflict of interest in any form that affects the objectivity of the decisions taken. Fourth, real and proportionate actions have been taken to prevent or at least minimize potential losses. If any of these four indicators cannot be proven to be fulfilled, then the protection of the Business Judgment Rule is completely lost and the directors can be held personally accountable. The first and most direct implication of this research finding is the importance of establishing, implementing, and documenting a decision-making process that is structured, orderly, and verifiable by external parties. Directors who cannot provide sufficient evidence that their decisions are based on sufficient information, rational considerations, and proper procedural processes will face significant difficulties in obtaining Business Judgment Rule protection in litigation. In a practical context, a well-documented board meeting mechanism, comprehensive meeting minutes, structured feasibility study reports, opinions from relevant independent experts, and systematic documentation of internal

policies are no longer merely administrative formalities, but rather crucial and decisive evidentiary instruments in the company's civil litigation process.(Asni et al., 2025).

The second, no less important implication relates to a proper and in-depth understanding of the limits of each board member's formal authority. As consistently emphasized in Decision Number 647/Pdt.G/2021/PN Bks, actions that exceed formal authority are not protected by the Business Judgment Rule under any circumstances or for any reason.(Studies, 2023). Therefore, a comprehensive understanding of the limits of authority of each member of the board of directors, as explicitly stipulated in the company's articles of association, is an absolute and non-negotiable prerequisite for any management action to be declared legally valid. The company's articles of association must be carefully and comprehensively drafted to clearly regulate the division of authority among board members, the collegial decision-making mechanism, and the legitimate and structured procedures for delegation of authority. The third implication, which has a significant legal dimension, concerns the role and function of the General Meeting of Shareholders mechanism in releasing directors from liability. The findings in case No. 565/Pdt.G/2024/PN Surabaya consistently show that the absence of a rejection of the accountability report in a formally held GMS can have the effect of an implicit release of liability that has significant legal force. This clearly demonstrates that the GMS mechanism is not merely an annual ceremonial forum, but rather a formal accountability forum with very significant legal consequences for all company stakeholders. Shareholders who do not explicitly question the directors' policies in the GMS within a reasonable timeframe potentially lose their right to file a liability lawsuit at a later date, as this contradicts the principle of legal certainty that must be upheld in corporate relations. From a broader comparative legal perspective, the Indonesian director protection system, as embodied in Article 97 paragraph (5) of the Limited Liability Company Law, bears substantial similarities to similar protection provisions in various corporate legal systems in other countries, albeit with different technical approaches. In the Delaware legal system in the United States, which is the primary reference for the development of modern corporate law, the Business Judgment Rule functions as a presumption of propriety that structurally places the burden of proof entirely on the plaintiff from the outset of the litigation process. This approach creates stronger structural protection for directors and systematically prevents the courts from overly intrusively assessing the substance of the business policies that have been taken. In the Indonesian system, the mechanism is more defensive in nature, meaning that directors must actively prove that the elements of protection have been met, but the ultimate goal of both approaches is essentially identical, namely to prevent the criminalization of business decisions taken professionally and responsibly.(Sufiarina et al., 2023).

The Dutch legal system provides an interesting comparative lesson by developing a serious blame standard, or *ernstig verwijt*, which requires serious misconduct that substantially exceeds the bounds of reasonableness to incur personal liability for directors. This standard is significantly higher than the ordinary negligence standard recognized in general civil law, and therefore provides stronger and more predictable protection for directors in making risky business decisions. Australia, through the Corporations Act 2001, takes a different approach by explicitly codifying the Business Judgment Rule in statutory text, thus providing much clearer and more reliable normative certainty for all corporate stakeholders. Indonesia could seriously consider developing a similar approach through consistent and coordinated judicial interpretation across courts, or through more explicit legislative reform in the future. The relevance of strengthening the Business Judgment Rule in the context of Indonesia's investment climate and economic growth is also an important dimension that cannot be ignored in this analysis. Directors who are constantly faced with the real threat of personal liability for every risky business decision will naturally tend to be overly cautious and consistently avoid innovative strategic decisions that are crucial for the company's development. This condition,

known as defensive management, will ultimately harm the company itself in the increasingly competitive business environment of the era of economic globalization. Adequate, structured, and predictable Business Judgment Rule protection will actually encourage the professionalism of directors and provide sufficient space for business decision-making necessary for the company's growth, innovation, and long-term sustainability. The overall findings of this study also strongly underscore the need for a fundamental paradigm shift in the practice of civil litigation in Indonesian companies. Courts, in handling director liability disputes, should consistently focus their examination on the quality of the directors' decision-making process, rather than on assessing the substance of business decisions in terms of their economic benefits or strategic appropriateness. Judges fundamentally lack the technical capacity or business expertise necessary to fairly assess whether a business decision is the best among the various alternatives available at a given time. What the courts can and should appropriately and proportionally assess is whether the decision-making process meets the standards of fairness, propriety, and compliance with applicable law. This fundamental paradigm shift will not only strengthen the Business Judgment Rule as an effective instrument of protection for professional directors but will also significantly improve the quality and consistency of court decisions in corporate civil disputes across Indonesia. (Sinaga et al., 2024).

Ultimately, the two decisions that are the object of analysis in this study, together and complementary, confirm that Indonesian corporate law actually attempts to balance two equally important and conflicting interests, namely the interests of the company and all shareholders to obtain adequate legal protection from detrimental management actions on the one hand, and the interests of directors to obtain proportional legal protection for business decisions taken professionally and responsibly on the other hand. This dynamic balance is an unwavering foundation in the future development of Indonesian corporate law, and can only be achieved through the application of the Business Judgment Rule that is consistent, structured, and oriented towards substantive justice in every corporate civil case brought before the court.

CONCLUSION

This study confirms that legal protection for directors against allegations of negligence in the Indonesian corporate legal system is conditional and evidence-based, not absolute immunity. Through a comparative analysis of Bekasi District Court Decision Number 647/Pdt.G/2021/PN Bks and Surabaya District Court Decision Number 565/Pdt.G/2024/PN Surabaya, it was found that a clear distinction between directorial negligence and reasonable business risks is at the heart of determining directors' legal liability. The Business Judgment Rule principle, which has been substantially adopted through Article 97 paragraph (5) of Law Number 40 of 2007 concerning Limited Liability Companies, only provides protection to directors who are able to cumulatively prove that business decisions were taken in good faith, with due care, without conflict of interest, and within the limits of legitimate formal authority. Conversely, actions that exceed formal authority cannot be protected by this doctrine under any circumstances. Therefore, a paradigm shift is needed in the practice of corporate civil justice from outcome-based assessment to assessment based on the quality of the decision-making process, in order to create legal certainty that encourages the professionalism of directors while protecting the interests of the company in a balanced manner.

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- mengakibatkan kerugian; dan penulisan artikel ini dengan judul " Kajian Prinsip Business Judgment Rule Dalam Hukum Perusahaan " Publisher: Universitas Muhammadiyah Palu. 8(6), 3844–3856. <https://doi.org/10.56338/jks.v8i6.7901>
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