

Employment Practices Liability

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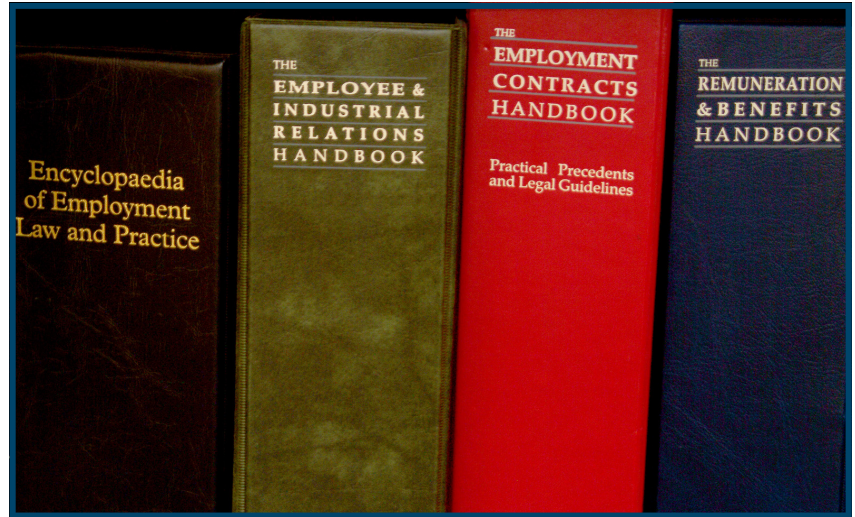
EVERY COMPANY THAT HAS employees needs Employment Practices Liability (EPL) coverage.

Employment Practices Liability provides protection to employers against claims by their employees that they were treated unfairly in a variety of scenarios: hiring, firing, sexual harassment and discrimination to name a few. In addition to the company itself, the coverage applies to directors and officers of the company. EPL claims can be made by current and former employees, as well as those who were never hired. Understanding the need for, and the protection provided by, Employment Practices Liability coverage is another value-added service of the true insurance professional.

According to the Equal Employment Opportunity Commission (EEOC), nearly 75% of all litigation against corporations is employment-related. The most common types of claims are discrimination, sexual harassment and wrongful termination. The most common types of discrimination charges in 2012 were retaliation, race, and sex discrimination, including pregnancy. EEOC statistics for New York show that, in 2012, there were 3,914 total discrimination charges filed. This represents 3.9% of the total charges in the United States for the same period. In New Jersey, the number was 1,797, or 1.8 %.

Not all EPL policies are alike. Although there are standardized EPL policies available, most insurers have their own wording. It is important for the insurance agent to understand the program differences in order to properly advise and obtain coverage for their clients.

Employment Practices Liability coverage is intended to address requirements in federal and state employment regulations such as Americans With Disabilities Act (ADA), Family and Medical Leave Act (FMLA), Age Discrimination in Employment Act (ADEA), and



The Civil Rights Acts of 1964 and 1991. For companies with operations in multiple states, the EPL coverage will need to be tailored to address the state-specific requirements.

EPL provides defense for the company for claims made as well as paying judgments to settle claims.

It is important to note that, in many states, defense is included within the main liability limit. Money available to pay claims will be reduced by defense costs. EPL coverage will not provide coverage for intentional disregard of the law by the company, but it may provide protection to the company for such acts done by employees without the knowledge or approval of the company.

Most EPL policies are written on a claims-made basis. This may be a problem since EPL claims may be based on a series of incidents. Claims-made policies require that the act or acts in question occur after a set Retroactive Date,

and during the policy period. The insured's knowledge of an allegation triggers the claim date, but the claim must also be reported to the insurance company within the policy period. If there is a string of events going back over multiple policy periods, there may be a problem determining when the claim was actually made. When did the employer know about the allegation?

In order to obtain higher limits of EPL coverage, a company may be required to show that it has proper loss prevention practices in place. An important added benefit of EPL coverage is that some insurers offer resources outlining suggested practices and procedures to reduce the likelihood of employment-related claims.

Employment practices liability is an insurance coverage that is growing in popularity. Helping clients understand the exposure, reduce the possibility of loss, and procure the proper coverage is the sign of a true insurance professional.

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