



Butwin Insurance Group

Founded 1925

Understanding Employment Practices Liability

(Sexual Harassment is Probably NOT Your Biggest Exposure)

While lawsuits against employers by present and former employees for sexual harassment is what makes the news, allegations for a broad range of employment-related actions are equally if not more prevalent. These charges include:

- Failure to hire
- Failure to promote
- Wrongful termination
- Discrimination
- Breach of employment contract or promise (written or oral)
- Misrepresentation of employment or career opportunity
- Negligent evaluation
- Defamation or affliction of emotional distress
- Wrongful discipline
- Sexual harassment
(including discomfort from improper e-mails and office jokes)

It is estimated that 80% of these allegations are groundless. However, frivolous lawsuits can easily cost you tens of thousands of dollars in defense costs alone, not to mention if you lose. For some companies, employment related suits can be catastrophic. Not only has the number of claims increased but the severity of these cases has also increased. Passage of statutes such as:

The Americans with Disabilities Act in 1990 (ADA), The Age Discrimination Act of 1967 (ADEA), The Equal Pay Act in 1963 (EPA), The Rehabilitation Act of 1973, the Civil Rights Acts of 1964 & 1991

and others have significantly expanded the number of plaintiffs who can sue and the remedies available to them. Companies both large and small are affected. The Civil Rights Act of 1991 made employment suits eligible for jury trials, which tend to be more favorable and sympathetic towards individual employees.

Employment Practices Liability insurance used to be a specialty or niche coverage. Today it is be a standard component of every comprehensive insurance program.

Frequently Asked Questions

How Do I Know if I Need This Coverage?

Unfortunately if you ever interview, have employees or fire employees, you are at risk. Every employer is exposed and should strongly consider this coverage.

What is the Likelihood of Having a Claim?

We cannot give you an exact percent chance of having a claim, however we have more Employment Practices allegation issues than fires in our office each year. Think of it this way; every time you don't hire a candidate or terminate an employee you become an automatic candidate for a claim.

Does My General Liability Policy Provide This Coverage?

General Liability policies do not cover these employment practices exposures. Likewise, Umbrella policies usually contain the same exclusions.

What Types of Damages Does an EPL Policy Cover?

It covers judgments, settlements and defense costs. It does not cover fines or penalties imposed by law or matters uninsurable under the law.

Who Assumes the Defense Obligation?

This is a duty-to-defend policy. Defense costs are included within or in addition to the limit of liability.

What Does the Coverage Cost?

The premium is based on the exposures of the individual account. Factors considered include the number of employees and the litigation history of the industry. Deductibles and limits are the other major factors. In general this coverage is significantly less expensive than when it originally was obtainable. Most clients find the premium very reasonable compared to expectations.

"2 A.M. is a lousy time to find out you chose the wrong insurance broker"