

Employment Practices Liability Coverage



Employment practices liability coverage is available by endorsement to a businessowners, commercial general liability or garage liability policy.

Who Needs Employment Practices Liability Coverage?

Every business faces the risk of an employment practices liability charge or lawsuit that can cost thousands of dollars in damages and legal defense, but small businesses often have inadequate protection—that's where employment practices liability insurance (EPLI) comes in.

Typically, small businesses lack the resources to protect themselves from employment practice lawsuits. They often do not have attorneys or human resource professionals on staff or formal procedures to guide them in making employment decisions such as hiring and terminating employees. As a result, small businesses are more vulnerable to employment discrimination, wrongful termination or sexual harassment charges.

EPLI coverage from EMC pays for the liability damages and defense costs due to these charges brought by full-time, part-time, temporary and seasonal employees. Optional coverage for third-party claims is available for claims brought by customers or vendors.

The Impact of Employment Practices Charges and Claims

The workplace is a minefield for small business clients. Hundreds of thousands of charges are filed each year, with employers ordered to pay tens of millions of dollars. More than 50 percent of those charges are made against small businesses. Although 75 percent of all claims are found to be groundless, they still require significant expenditures to defend. Eighty-one percent settle with damages paid between \$27,800 and \$50,200.

Comprehensive general liability coverage under a businessowners, commercial general liability or garage liability policy does not cover the types of injuries typically alleged in employment related claims, which means your clients need additional EPLI coverage.

EPLI Coverage Options for Small Business

EPLI coverage through EMC is now available at an affordable price for small business owners. EMC offers flexibility to provide more than one limit of liability and deductible at reduced premiums.

The following EPLI options are available:

Portfolio EPLI*—No application or additional underwriting consideration needed:

- \$50,000, \$100,000 or \$250,000 limits of liability
- \$2,500, \$5,000, \$10,000 or \$25,000 deductible†

Transactional EPLI*—Employment practices liability supplemental application (IL8585) and underwriting referral required:

- \$100,000, \$250,000, \$500,000 and \$1,000,000 limits of liability
- \$2,500, \$5,000, \$10,000 or \$25,000 deductible

Claim and Loss Control Services

Claim service is provided by EPLI claims specialists. Insureds needing legal defense are represented by experienced employment law firms whose services would normally be cost prohibitive for a small business owner. In addition, EMC provides loss control information through emcins.com that can help employers reduce the likelihood of employment-related claims and respond in the event of an EPLI claim.

Refer to the back of this brochure for EPLI coverage categories and examples.

* Options, limits of liability and/or deductibles are not available in all territories. Contact your EMC underwriter for additional information.

† Under Portfolio EPLI, the \$25,000 deductible option is only available for \$250,000 limit of liability.

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EPLI Coverage Categories and Examples

The categories of discrimination covered by EPLI coverage are discrimination, harassment and wrongful termination. The following wrongful employment acts are examples of actions that have created the need for EPLI coverage:

- Wrongful termination, discharge or dismissal
- Harassment, including sexual harassment
- Discrimination (based on age, gender, race, color, national origin, religion, sexual orientation or preference, disability or pregnancy)
- Retaliation
- Wrongful failure to employ or promote
- Violation of an individual's civil rights relating to a wrongful employment act

Take a Look at Sample Case Files

DISCRIMINATION

Business: Restaurant

Allegation: Race discrimination alleged by customer

Damages: Settlement of \$12,000, and legal fees of \$4,000

A small downtown restaurant offered take-out lunch service. One of the lunchtime customers, a business person of Middle Eastern decent, alleged that the counter server made repeated derogatory remarks about his ethnic clothing and accent. Upon investigation, the manager of the restaurant found that the employee had, in fact, made the derogatory comments to not only this customer, but several others who often came in. The restaurant settled with the customer for \$12,000. Legal fees were \$4,000.

Business: Florist/Retail store

Allegation: Pregnancy and gender discrimination alleged by employee

Damages: Settlement of \$30,000 and legal fees of \$12,000

A small gift and flower shop owner was sued for pregnancy and gender discrimination when the claimant alleged that the

employer had repeatedly treated her differently as a result of her gender and condition. The claimant provided several fellow employees who attested to the treatment by the employer. The claim settled for \$30,000 with legal fees of \$12,000.

HARASSMENT

Business: Professional office

Allegation: Sexual harassment alleged by client

Damages: Settlement of \$20,000 and legal fees of \$8,500

A female client of a small accounting firm alleged that during her frequent visits to the office the male receptionist would often make sexually suggestive remarks about her physical appearance. Although the client and the receptionist often exchanged playful banter, on several occasions the female client alleged that the discussions went over the line. In addition to the settlement with the client of \$20,000, the firm also instituted a new third-party harassment policy for all staff members to follow.

WRONGFUL TERMINATION

Business: Tool shop

Allegation: Wrongful termination alleged by employee

Damages: Legal fees of \$25,000

A tool shop owner was sued by a long-time elderly employee for wrongful termination. This employee had been like part of the family and was originally hired by the owner's father. Due to the employee's arthritis, the employer moved him to other positions in order to accommodate the employee's failing dexterity. The employee continued to have performance problems and was let go after several warnings. The suit was dismissed nine months later, but cost the employer \$25,000 in defense costs in addition to lost time and productivity.

Disclaimer: The contents of this brochure, including the sample case files, are provided for informational purposes only and are not intended to be all inclusive. Refer to the issued policy for specific details regarding coverages, conditions and exclusions. In the event of a conflict between the terms contained herein and the policy, the policy terms and conditions will prevail.

