

What is Employment Practices Liability Insurance (EPLI)?

Employment Practices liability insurance coverage provides protection for an organization or its employees from claims relating to wrongful employment practices by its executives, partners, principals, employees and if necessary, independent contractors.

Why do I need an Employment Practices Liability Insurance policy?

Keeping up with changes in employment regulations and changing public attitudes have created increased liability for employers. Even the most diligent employer cannot control human behavior. A client may have strict employee guidelines in place, but it's impossible to know how an employee will react to their workplace environment. With EPLI coverage, a client can be better protected to sustain the costly expenses incurred for defending an EPLI claim.

Although only a small part of EPLI is related to claims brought by the U.S. Equal Employment Opportunity Commission (EEOC), these statistics show how frequent these type of issues can occur.

- A total of **99,412** discrimination charges were filed with the EEOC during 2011-12
- Retaliation claims have surpassed race discrimination as the most common type of complaint filed and made up nearly **40%** of all claims filed in 2012

What does an Employment Practices Liability Insurance policy cover?

An EPLI policy typically protects against defense costs, damages and attorney fees for claims relating to a company's employment practices. It can address claims relating to:

- Workplace harassment
- Hostile work environment
- Sexual harassment (employees/third parties, clients, vendors, or independent contractors)
- Discrimination (e.g., age, race, or gender)
- Wrongful demotion or termination
- Failure to employ or promote
- Claims from prospective employees/applicants
- Wage and hours (FLSA)
- Family Medical Leave Act (FMLA)



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Claim Scenarios:

Hostile Work Environment

An airline pilot claimed there were derogatory statements posted by co-workers on the "Crew Members Forum" – an online company bulletin board that was accessible to all pilots and crew members. The airline denied responsibility, arguing that the harassment occurred outside the physical workplace. Employers are not required to monitor all private communications between employees, they do have a duty to stop harassment in settings related to the workplace if they know or have reason to know about it. The pilot sued the airline and other pilots for defamation and emotional distress. The court decided that the employer was liable because this online forum was a setting related to the workplace. Total defense costs and settlement exceeded \$600,000.

Wrongful Termination

An executive of a manufacturing company filed a suit against the company for wrongful termination and intentional infliction of emotional distress. The plaintiff, a former Chief Operating Officer, made statements that the company failed to pay an employee overtime and terminated the employee for filing a complaint. The plaintiff alleged that although the company advised him that his termination was due to performance problems, he was actually terminated in retaliation for the honest statements he made in connection with a fellow employee's termination. Total defense costs and settlement exceeded \$500,000.

Sexual Harassment

A female employee working for a service company alleged that several employees made inappropriate sexual comments towards her, including suggestions that she was having a sexual relationship with another employee. In addition, she also alleged that her boss and co-workers asked her inappropriate questions concerning her personal life. The plaintiff alleged that after she complained, her manager engaged in a practice of retaliation. She contended that she was excluded from certain meetings, taken off certain projects and assignments, treated rudely and received a negative evaluation. Total defense costs and settlement exceeded \$550,000.

Retaliation

The plaintiff alleged she had her employment terminated because she testified on behalf of another co-worker who brought a separate action against the company. Plaintiff alleged that this was a violation of her employment contract which provided that she could only be terminated for good cause. Plaintiff asserted cause of action for wrongful termination, breach of contract, and retaliation. Total defense and settlement exceeded \$120,000.

False Representations

In a cross-complaint, a doctor alleged a breach of his employment agreement. Specifically, he alleged that the company failed to pay his wages, provide him with a decent patient load, adequate office space, and the proper support staff needed to perform his job duties. The doctor sued, claiming breach of contract, misrepresentation, unfair competition and failure to pay wages. Total defense costs and settlement exceeded \$350,000.

These are only claims examples: minor changes from actual suits have been made to protect the confidentiality of all clients.