

Today's employers - big, small & everything inbetween - are facing an every increasing likelihood that they will have to deal with some form of employment related claim. Workplace conduct that was considered acceptable - or at least tolerated - just a few years ago, can now land a company in court!

As is often the case with any evolving area of liability, some say that it's just another "payday" at the expense of hard-working businesspeople, while others say that too many folks are still getting away with outrageous - and illegal - conduct.

Who's right or who's wrong is not the subject of our discussion here at eplinsurance.com. Our aim is simply to provide you with important information on this issue, with suggestions on how to manage the risk; and to do so in terms that are clear and understandable - without scare tactics or a bunch of technical mumbo-jumbo.

Ultimately, the decisions are up to you - the business owner, corporate executive, HR manager, etc. You know your situation better than anyone else (or at least you should!), and you know best how much of this risk you can handle on your own, and how much you might wish to consider transferring through the use of insurance.

One thing is for sure, though: You should *not* make the mistake of ignoring this risk or, worse yet, assuming that, "it can't happen to me; to my business." Just for the record, let's review some of the most common excuses for not dealing with the issue of Employment Practices Liability:

- ***"My business is like a family. My employees would never sue me!"*** (You may be right - your business might be like a family - and it may very well be a dysfunctional family!)
- ***"If there is a problem, my H.R. department will deal with it."*** (Again, you may be right. But, what if your H.R. department is NOT dealing with the problem, or worse yet, your H.R. department IS the problem?)
- ***"We have written policies in place to prevent these problems."*** (No doubt about it, having set forth written policies, and even an employee handbook, is an excellent step. However, if those policies are not consistently enforced, you could still be in trouble.)

Recent events on the national level have brought the issue of workplace conduct to the forefront. It would probably be fair to say that the "watershed" event in this area was the confirmation hearings



on Justice Clarence Thomas' nomination to the Supreme Court. Anita Hill's allegations of misconduct on Justice Thomas' part - and the manner in which the members of the Senate Judiciary Committee handled the situation - changed the landscape of how we view conduct in the workplace.

More recently, of course, we watched as President Clinton's workplace misconduct landed him in court - a court of law with Paula Jones and others; a court of impeachment in the U.S. Senate with Monica Lewinsky - not to mention the "court" of public opinion!

Whatever your political stripes, no one can afford to ignore the issue of workplace conduct anymore! High profile defendants in EPL lawsuits over the past decade have included Texaco, Denny's, Baker & McKenzie, Montel Williams, State Farm, Microsoft . . . indeed, the "battlefield" is littered with big names. Keep in mind, however, that these are only the headline cases. The vast majority of EPL claims involve small-to-medium sized businesses.

In fact, did you know that approximately 60% of all litigation in federal courts throughout the U.S. is employment related?

Did you know that in 2001, the Equal Employment Opportunity Commission ("EEOC") received over 80,000 claims?

Did you know that in 2001, the total payments to EPL claimants came to nearly \$300,000,000? In fact, the average cost of each claim is over \$250,000?

Legal fees and related defense costs are now close to 50% of the overall loss experience in this category - and a key consideration is the

fact that the cost of defending these increasingly complex cases applies even when there is an ultimate finding of no liability! This means that even if you, the employer, have done nothing wrong, you could still be faced with tens of thousands or even a hundred thousand dollars - or more - of payments to lawyers, investigators, etc., *regardless of the outcome of the case!*

No employer, large or small, public or private, for-profit or not-for-profit, can afford to ignore this disturbing trend. Potentially disastrous consequences face those who assume that, "it can't happen to me." *It can happen to you! In fact, it could be happening to you right this minute, but you don't know it YET!*

Fortunately, solid protection from this type of lawsuit is available - and it's probably more affordable than you might think!

A well-designed Employment Practices Liability ("EPL") Insurance policy can cover you and your company against allegations of wrongful termination, sexual harassment, and discrimination, based upon:

- ▣ **Protected Status ("Americans with Disabilities Act")**
- ▣ **Gender Bias**
- ▣ **Retaliation (including "whistleblower")**
- ▣ **Wrongful Denial of Training**
- ▣ **Wrongful Deprivation of Career Opportunity**
- ▣ **Wrongful Discharge (including "constructive discharge")**
- ▣ **Employment Related Defamation**
- ▣ **Wrongful Failure to Hire or Promote**
- ▣ **Misrepresentation**
- ▣ **Wrongful Discipline**
- ▣ **Age Discrimination**
- ▣ **Hostile Workplace**
- ▣ **Quid Pro Quo**
- ▣ **Failure to Supervise**
- ▣ **And more**

Of course, as the saying goes, "an ounce of prevention is worth a pound of cure", and this is so very, very true when it comes to workplace liability issues.



In fact, a number of insurance companies offer their employment practices liability ("EPL") policyholders loss control programs, designed to help recognize, identify and correct issues which might lead to a claim. Depending upon the carrier, and the terms of the policy, these services are often offered at greatly reduced rates, or are sometimes provided at no additional charge.

We work with a number of different insurance carriers, actively writing this specialized type of coverage. There is no such thing as a "standard" EPL policy. Each insurer has its own "appetite" for different types of clients.

Whether your business is large, medium-size, or small; high-tech or low-tech; professional firm, manufacturer, retailer, wholesaler, telecommunications, etc. We can provide you with a comprehensive review of your situation - including a review of your current EPL policy, if you have one already. We will then work with you to design an effective, affordable EPL insurance program.

Give us a call today, toll free at, **877-320-4061**, or click here



and fill out a quick and simple form, which will get the ball rolling right now.

Bruce R. Swicker

