



Employment Practices Liability

REVOLUTIONARY

Presented by: Jesse Walls
2/13/2009

BEECHER  CARLSON

What You're Telling Your Broker

Below are the three most common responses that are given when discussing employment practices liability insurance:

- **No need** -EPL lawsuits are common. More than 1 in 3 private companies (35%) have experienced an EPL related event (a charge filed with the EEOC or a lawsuit) within the past five years.

- **Covered Elsewhere** - General liability policy covers “occurrences” and may not respond to claims made requiring an intent or act (such as common EPL claims like discrimination and wrongful termination). General Liability form will commonly exclude EPL
Workers Compensation will cover an injury event, but not retaliation against an employee who files a workers' compensation claim.

*GL policy references are based on the commercial ISO policy.

- **Company Policy** -We address that within our employee handbook all of our employees abide by this policy. You're half way there with, but the next step is put a policy in place to help protect the company.

Concerns Vs Action

Are executive concerned? Yes. Many private company executives(43%) are concerned about the potential financial impact to their company of an EPL lawsuit. Concern increases with the size of the company.

<u>Company Size</u>	<u>Concerned about financial impact</u>
25-48 employees	31%
50-249 employees	51%
250 or more employees	57%

Does the concern influence buying decision?

Not usually, especially among smaller companies, In fact despite the risk, most private companies do not purchase EPL.

<u>Company Size</u>	<u>Choose not to purchase</u>
25-49 employees	81%
50-249 employees	54%
250 or more employees	51%

Could This Happen To You?

Terminated employee sues for harassment, wrongful termination, retaliation, and sex discrimination.

- A female employee alleged that a supervisor made abusive and sexually explicit comments to her, as well as sexual advances.
- She was terminated soon after.
- She sued the company and two managers-alleging sexual harassment, intentional infliction of emotional distress, wrongful termination among other allegations. Suit was for 275,000 plus recovery of legal fees.
- In defense, Company stated she was a problem employee (tardy for work, conflict with managers, talked about her sex life, made vulgar comments) and her termination was part of a broad reduction in force.
- During discovery, it came to light that management tolerated sexual jokes around the office but assumed no one was offended.

Result: Court panel ordered the company to pay the plaintiff approximately \$100,000 plus legal fees. The company also accrued more than \$30,000 in defense costs.

Why is it important to take EPL seriously?

- Each year the Equal Opportunity Commission handles approximately 80,000 complaints alleging discrimination, harassment, wrongful termination, retaliation, and other workplace wrongdoing. Federal employment laws include:

- Age Discrimination in Employment Act

- American with Disabilities Act

- Section 1981 of the Civil Rights Act of 1866

- Title VII of the Civil Rights Act of 1964

- Equal Pay Act

- Fair Labor Standards Act

- Family and Medical Leave Act

- National Labor Relations Act

- Rehabilitation Act

- Uniformed Services Employment and Reemployment Rights Act