

Employment Practices Liability



The risk. The consequences.
The solution.



Employment Practices Liability

The Risk Is Real



“I never thought it could happen to me” is an all too familiar phrase heard among small to mid-sized business owners and managers who are faced with the full consequences of an employment practices liability lawsuit.

Gender, race and age discrimination. Harassment of all sorts. Wrongful termination. Disability rights. Retaliation for workers’ compensation claims. The list goes on. And the further it goes, the deeper it cuts into the bottom line of far too many businesses like yours.

What is Employment Practices Liability Insurance?

Employment Practices Liability (EPL) Insurance provides companies and employees coverage for claims made against them that happen as a result of wrongful employment practices such as:

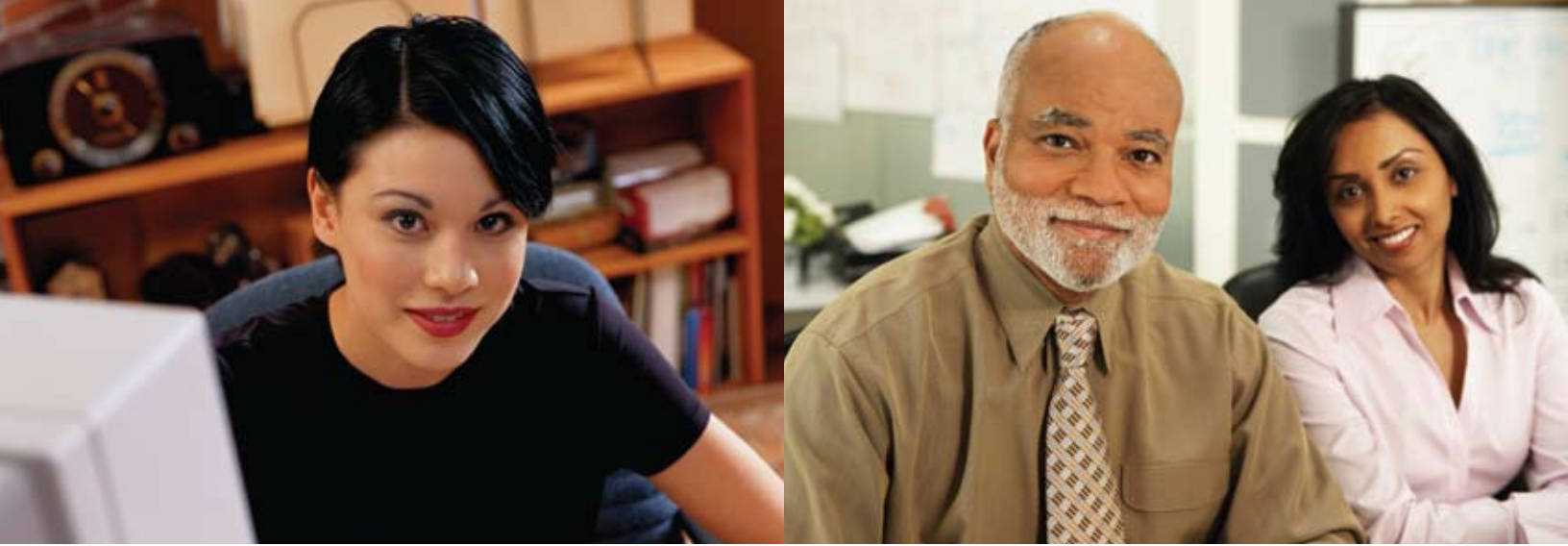
- **Discrimination**
- **Harassment**
- **Retaliation**
- **Termination**
- **Constructive discharge**
- **Failure to hire, negligent supervision and wrongful demotion**
- **Failure to accommodate an employee with a disability**
- **Personal injury: infliction of emotional distress and humiliation, defamation and invasion of privacy.**

The Consequences Can Be Catastrophic

Unfortunately, those who suffer the most are the very ones who can't afford the debilitating financial devastation that even a single employment practices liability lawsuit can wreak. Consider the facts:

- ▶ Employment practices liability cases are on the rise.
- ▶ The Equal Employment Opportunity Commission (EEOC) recorded nearly 83,000 charges in 2007.
- ▶ The average cost of an EEOC lawsuit in 2007 exceeded \$140,000.
- ▶ In 2007, the EEOC obtained \$345 million in settlements for claimants.
- ▶ According to the EEOC, over a one-year period, pregnancy-related discrimination charges increased more than 14 percent and sexual harassment charges increased by 4 percent, with a record 16 percent of those sexual harassment charges filed by men.

Some companies may consider going without EPL coverage to save money. Others mistakenly assume they are covered under their general liability policies, which most often have a standard exclusion for employment practices liability exposures. Going without EPL insurance protection can be a costly decision.



The Solution Is Here

Small Business EPL

The risk for your business is real and significant. So is the protection you can have with insurance offered from Monitor Liability Managers, Inc. Our Small Business EPL product can help you manage the risks and avoid the burdens of employment-related claims including:

- ▶ Litigation expenses
- ▶ Time spent away from your business
- ▶ Stress and emotional toll on you and your employees
- ▶ Negative publicity
- ▶ Damage to your personal and business reputation
- ▶ Potentially devastating financial settlements.

A Trusted Source

Monitor has a proven track record of delivering high-quality, affordable and flexible EPL coverage that addresses the very special needs of small to mid-sized businesses.

When you choose an EPL policy from Monitor, you get:

- ▶ Coverage tailored to your business environment
- ▶ Affordable pricing
- ▶ Our full-time, dedicated in-house team of claim management professionals
- ▶ Unlimited access to our employment practices liability hotline for expert advice
- ▶ Low deductibles
- ▶ Access to elite defense attorneys specializing in employment claims.

We pride ourselves not only on managing claims to optimal resolution, but also on helping to prevent claims from arising in the first place. Most important, employment practices liability coverage from Monitor gives you peace of mind that your corporate and personal assets are protected and that should a claim arise, it will be handled discretely and quickly with your best interests at heart.



Strength and Stability

Monitor Liability Managers, Inc. underwrites professional liability insurance on behalf of W. R. Berkley Corporation member companies. Berkley has more than \$3.5 billion in policyholders' surplus; \$16.8 billion in total assets; and in 2007 wrote \$5.1 billion in premium.

Monitor places coverage with two Berkley member companies: Admiral Insurance Company (A.M. Best Rating: "A+" Superior) and Carolina Casualty Insurance Company (A.M. Best Rating: "A" Excellent). Backed by the strength of the Berkley Corporation, this unique structure provides Monitor's insureds with access to the resources of a large corporation combined with the outstanding customer service of a smaller company.

Manage Your Risk. Learn More Today.

Everyone understands the importance of managing risks. Make sure that employment practices liability is high on your risk management list and that you have the protection you need to ensure the stability of your company in the event of an unforeseen EPL issue.

For more information about Monitor's employment practices liability product for small to mid-sized businesses, contact your insurance agent and ask for a Monitor Small Business EPL quote.

What is Small Business EPL?

Monitor's Small Business EPL product is specifically designed for small to mid-sized businesses in a wide range of industries. It provides coverage for claims made against companies as a result of wrongful employment practices.

Policy Coverage Highlights

The comprehensive policy provides broad coverage for "wrongful employment acts" for the company and its employees. It includes coverage for discrimination, harassment, retaliation, termination and constructive discharge. It also includes coverage for allegations of failure to hire, negligent supervision and wrongful demotion. Coverage is included for personal injury such as infliction of emotional distress and humiliation, defamation and invasion of privacy.

Covered claims include demands for monetary and non-monetary relief, regulatory investigation and proceedings such as Equal Employment Opportunity Commission (EEOC) charges.

Protection extends not only to the company but also to management, employees and directors. Coverage includes part-time, temporary, leased and seasonal employees.

Sub-limits are available for wage and hour and third party claims.

Employment Practices Liability Claims

Here are some examples of the damage an EPL lawsuit can cause.

Security Company Pays \$400,000 to Settle Sexual Harassment Lawsuit

Sexual Harassment

A male security officer sued a local security company claiming sexual harassment. The claimant alleged that a male manager would regularly and repeatedly sexually harass him by touching him on the chest and stomach while stating different sexual phrases to him. He further alleged that his employer failed to investigate or take any corrective action concerning his allegations. The employer did in fact investigate the claim, and the manager was eventually terminated. In some states, strict liability can apply to certain situations such as this, meaning the employer is liable for the actions of its managers, even if no one was aware that improper behavior was taking place. This matter cost the security company \$400,000 to resolve.

\$3.4 Million Awarded in Suit Against Consumer Retail Products Company

Gender Discrimination

A class action lawsuit was filed against a consumer retail products company. The claimants, all women, alleged that the corporation discriminated against them by requiring a strength test at its meat packing plant. According to the Equal Employment Opportunity Commission (EEOC), which filed the suit on behalf of the women, roughly 60 percent of women failed the test while nearly all men passed it. A jury found intentional discrimination and a U.S. district judge upheld the decision and awarded \$3.4 million in damages to the 52 plaintiffs.

Fired Transsexual Worker Settles Suit Against Tractor Dealership

Gender Identity Discrimination

A transsexual worker at a tractor dealership sued her former employer claiming she was fired solely because she was changing her gender identity from male to female. The claimant stated in the lawsuit that the company and its president violated the 1964 Civil Rights Act, which prohibits discrimination on the basis of sex. Courts historically have ruled that transsexuals aren't a protected class under federal and states' civil rights laws. But a recent federal court ruling in Ohio was the first to extend the Civil Rights Act to protect people who change their sex against workplace discrimination. Legal experts expected this case to reach the U.S. Supreme Court, but the claim was settled for an undisclosed amount.

Oil Change Franchise Pays \$299,000 to Settle Sexual Harassment Lawsuit

Sexual Harassment

An oil change franchise owner has agreed to pay \$299,000 to settle a sexual harassment lawsuit brought by three female employees through the EEOC. The lawsuit claimed supervisors and other employees at the franchise created a hostile work environment by making explicit sexual remarks and other egregious comments to female employees, two of whom were teenagers. One female employee also claimed that she was fired when she filed a complaint with the company.

Restaurant Settles Sexual Harassment Lawsuit

Sexual Harassment

A family restaurant paid two former waitresses \$43,000 to settle a federal lawsuit in which they accused the eatery's owner of sexual harassment. The owner denied the accusations saying he agreed to a mediated resolution for economic reasons. "A small person like me cannot fight a federal agency," he said. The EEOC brought the suit in 2002 on behalf of two teenage girls who were employed as waitresses at the popular restaurant.

Investment Firm Sued for Allegedly Firing Pregnant Receptionist

Pregnancy Discrimination

The EEOC sued an investment firm for allegedly firing a receptionist because of her pregnancy. The EEOC accused the securities company of terminating the receptionist because it sought to protect her from working during her pregnancy. When the company found out she was pregnant, it put her on several weeks of unpaid leave, said the EEOC lawyer in charge of the case. And after seeing her physician for a couple of visits in a short period, the receptionist was required by the securities company to bring a note from her doctor showing that she had been released to perform her duties. But each time she brought a note indicating she could work without restrictions, her boss said it wasn't good enough.

Housewares Manufacturer Settles Sexual Harassment Lawsuit

Sexual Harassment

Two former female employees who alleged they had been sexually harassed sued a manufacturer of housewares and assorted products. The former employees claimed they were offended by the comments contained in a radio broadcast played in the office by co-workers. According to the claimants, the co-workers continued to listen to the particular radio station despite repeated requests to turn it off or change the station. Although employers often allow personal radios to be played in the workplace, they might not expect claims of sexual harassment to arise from such a seemingly innocuous circumstance. Monitor paid more than \$325,000 to resolve this matter.

Mortgage Company Hit with \$3 Million Lawsuit

Gender and Race Discrimination/Retaliation

Nine ex-employees of a mortgage company (working at three different locations) filed a lawsuit claiming gender discrimination, race discrimination and retaliation. The claimants alleged that throughout the course of their employment managers continually harassed them by calling them derogatory names and subjecting them to a hostile work environment. The claimants have demanded \$3 million to settle despite being unable to show any tangible damages.

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