



# YOUR PROTECTION

Morris & Reynolds Insurance Presents:

October 2013

## EMPLOYMENT PRACTICE CLAIMS IMPACT EVERY BUSINESS

RECENT DATA SHOWS WIDE RANGE OF CLAIMS & LARGE DOLLAR SETTLEMENTS



Society is changing rapidly and the laws that guide how businesses interact with employees create exposures that often require insurance protection. Simply stated, if you employ people you need Employment Practice's Liability Insurance (EPLI).

The passage of laws over time such as **The Civil Rights Act of 1991**, **The Americans with Disability Act**, **The Family Medical Leave Act**, and **The Age Discrimination in Employment Act** have created new exposures and new claimants. These, in addition to well established laws such as the **Civil Rights Act of 1964** and the **Equal Pay Act of 1963**, and our ever evolving society, create exposures that you need to consider and cover. Exposures that traditional general liability insurance does not cover.

### EPLI COVERAGE BASICS

**Employment Practices Liability Insurance (EPLI)** helps protect a business by typically insuring its directors, officers, and employees from employment exposures such as;

- **Discrimination** (race, age or gender)
- Failure to **hire**
- Failure to **promote**
- Sexual **harassment** (harassment)
- Wrongful **termination** (actual and constructive)

Properly structured EPLI coverage can include a broad definition of employment-related acts including **mental anguish and emotional distress**, **class action coverage**, **retaliatory treatment**, **back pay and front pay**, as well as **punitive damages** (where allowed by law).

EPLI coverage is not standardized within the insurance industry and every insurer offers their own unique contract policy wording. The agents and underwriters at Morris & Reynolds can help you navigate through the coverage options insurers offer and work to negotiate the protection you desire to best meet your goals.

### EPLI RISK MANAGEMENT

**Over the last 15 years the average employment practices claim has increased from \$35,000.00 to nearly \$250,000.00.** Understanding and complying with employment law helps managers best run your business and can minimize an organization's exposure to employment related claims.

Preventing discrimination in the workplace means understanding what is expected as an employer and providing employees with resources to work in a professional environment. Maintaining a professional work environment means having policies and procedures in place that managers and employees understand and can follow.

EPLI Risk Management and the type of loss control services that an insurer offers is an important part of a quality, well structured, EPLI Insurance Protection Plan and your coverage.

In fact, many leading EPLI insurers provide a robust range of web based training, topical information about emerging trends and best practices to reduce or eliminate claims in your workplace.

### EPLI CLAIM EXAMPLES



Even an organization with good human resources policies and procedures in place can be sued, and the cost of defending a claim can be enormous. **It is not uncommon for legal fees associated with winning an employment lawsuit to exceed \$250,000.00.** When you've spent that much on legal fees, it's certainly hard to feel like you've *won*.

### NATIONAL ORIGIN DISCRIMINATION

An employee sued a company for national origin discrimination in violation of Title VII, which prohibits employment discrimination based on race, color, religion, sex and national origin. The employee alleged that he was wrongfully terminated when he complained to his supervisors that co-workers had made disparaging remarks relating to his ethnic background. The plaintiff was awarded **\$250,000.00** in damages.



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**EPLI CLAIM EXAMPLES (CONTINUED)**



**ALLEGED SEXUAL HARASSMENT**

The plaintiff allegedly patronized the insured's restaurant and completed an application for employment. She claims that, after completing her application, she was sexually harassed by employees and managers. Further investigation of the matter showed that after drinking for several hours, the plaintiff decided to apply for a position and that she was the instigator of the sexual activity that occurred.

The matter was tried in front of a jury, which came back with a verdict in favor of the insured. Although the insured won the suit, defense costs alone exceeded **\$350,000.00**.

**THIRD PARTY SEXUAL HARASSMENT**

Two employees of the company made inappropriate comments about the physical appearance of a female freelance contractor working on the premises.

The contractor filed a claim against the company for third party sexual harassment; the suit was settled for **\$100,000.00**.

**DISCRIMINATION AND RETALIATION**

A plaintiff alleged that the insured discriminated against him on the basis of his age and disability. The plaintiff further alleged that he was terminated in retaliation for filing a workers compensation claim and for complaining about discrimination.

The defendant contended that the plaintiff was not able to perform the essential functions of the job and that he was discharged for legitimate, non-discriminatory reasons. The insurer spent more than \$ 175,000 defending the case and paid another \$ 142,000 in settlement costs, for a total of **\$ 317,500.00**.

**2012 CLAIM TYPES**



Based on recent statistics, the number and cost of claims are growing rapidly. In **2012** the United States Equal Employment Opportunity Commission processed;

- 33,512 **race** based claims
- 21,088 **harassment** claims
- 22,857 **age discrimination** claims
- 3,745 **pregnancy** discrimination claims

- 3,811 **religion** based claims
- 37,836 **retaliation** based claims
- 7,571 **sexual harassment** and 30,356 sex based claims
- 280 **genetic information** claims
- 1,082 **equal pay** claims
- 26,379 **American with Disabilities Act (ADA)** claims
- 71,578 Title VII **Civil Rights Act of 1964** claims

**MORRIS & REYNOLDS INSURANCE**



The Reynolds family has been in the insurance profession since 1910 and has operated its Independent Agency, Morris & Reynolds Insurance Agency, since 1950.

Now in its third generation of family ownership, Morris & Reynolds offers trusted choices from the world's leading insurers for all forms of coverage, as well as innovative care and service from a passionate, award-winning TEAM of professional people, the finest people in insurance.

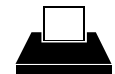
Please contact us at **305.238.1000** or at [www.morrisandreynolds.com](http://www.morrisandreynolds.com) with any questions you have about flood insurance or any other topic.



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