

## **INSURANCE COVERAGE FOR EMPLOYMENT CLAIMS**

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### **I. THE BASICS OF EPLI.**

- A. Wrongful Acts Coverage.
1. Not a general liability policy.
  2. Covers specifically delineated employment claims.
    - Violation of State and Federal Discrimination Laws.
    - Wrongful Discharge.
    - Breach of Employment Agreement.
    - Retaliation.
  3. Excludes:
    - Wage and Hour Claims (some policies cover).
    - Employee Benefit Claims.
    - Workers' Compensation Claims.
    - Personal Injury Claims.
    - Violation of Labor Agreements and Laws.
    - OSHA Violations.

- Third-Party Claims (some policies cover).

B. Claims.

1. Charge of discrimination or similar administrative action.
2. Written demand from an employee (some include oral demands).
3. Lawsuits.

C. Claims Made Basis.

D. Defense Costs Apply to Limits.

E. Selection of Counsel.

1. Most carriers select from approved list.
2. Large insureds are more likely to be able to select counsel.
3. Early claim reporting helps employers select.
4. Employment law experience helps employers select.
5. Some carriers offer indemnity only policies.

F. Who is Insured?

1. Directors and officers.
2. Employees.
3. The company.
4. Temporary, leased, and seasonal employees (some policies).

## II. MARKETING EPLI.

- A. Package vs. Stand-Alone.
  - 1. EPLI is often packaged with D & O, malpractice and other specialty coverages.
  - 2. More carriers are offering stand-alone policies (CNA).
- B. Large vs. Small Employers.
  - 1. Clear delineation of carriers.
  - 2. Mass suits targeting high profile employers has limited carriers in large employer market.
- C. High Risk Insureds:
  - 1. Employee leasing firms.
  - 2. Educational Institutions.
  - 3. Law firms.
  - 4. Entertainment industry.
  - 5. Real estate/property management companies.
  - 6. Auto dealers.
  - 7. Technology companies.
- D. Growth in Specialty Carriers and Risk Pools.
  - 1. Ohio School Boards Association.
  - 2. AICPA.
  - 3. Higher education market.

### III. OTHER SOURCES OF COVERAGE.

- A. General Liability Policies.
  - 1. Personal injury coverage for defamation, invasion of privacy.
  - 2. May cover third-party claims excluded by EPLI.
- B. D & O Policies.
  - 1. Generally covers individuals, not the company.
  - 2. Often excludes claims among insureds.
- C. Homeowners Policies.
  - 1. Often excludes business-related claims.
  - 2. May cover claims beyond scope of employment.