



EMPLOYEE PRACTICES LIABILITY INSURANCE

Will the Limit Be Enough When an Employee Sues?

You know that a business needs insurance protection from employee lawsuits, but how much coverage should it buy?

Typical EPLI limits purchased in the small business market are \$50,000 and \$100,000. That may not be appropriate for some businesses depending on their size, salaries, location and other characteristics. The exposures could warrant moving from a \$50,000 to \$100,000 limit, or even up to \$250,000, \$500,000 or \$1 million. There is no rule of thumb, but there are factors every agent should consider when answering: *What limit is the most appropriate limit for this customer?*

Before evaluating the risk factors, remember that **defense costs** typically reduce the policy limit, depending on the state and policy language. If that is the case for your customers, you should build in room for legal fees of at least \$10,000. *(See more on page 2.)*

6 Reasons Your Insureds Need a Higher EPLI Limit

1. Salaries of Staff – A claim settlement or award is heavily influenced by the employee's salary or pay, as it reflects how much the employee lost from a termination or inability to work. If executives, managers or marketers are paid more than \$100,000, for example, it would likely cost more to resolve the claim and a \$250,000 or higher limit may be in order.

Keep in mind that when the job market is tight, pay levels rise and more workers will exceed these thresholds.

2. Size of Business – More employees mean more exposure to multi-employee lawsuits, at any salary level. This is particularly true where several individuals perform similar tasks, such as restaurant waitstaff or retail salespeople, and may have similar grievances. The size factor is also relevant for the business itself.

Plaintiff firms often target larger "deep pocket" employers where the potential recovery is greater, just as it would be for general commercial coverages.

3. Location of Business – Some states have stricter employment laws and more active regulators, while some have more aggressive plaintiff attorneys. Also, salaries and legal fees tend to run higher in urban than rural areas. Settlements, verdicts and costs are higher in California,

Illinois (Chicago), Texas, New York, Florida and the District of Columbia than, say, North Dakota and Maine.

Where an insured does business will have a substantial impact on claims and costs.

4. Unique Culture, History and HR Support –

A business with high-stress jobs may be more vulnerable to lawsuits seeking damages for emotional distress; a history of employee claims, even in a low-stress environment, can prompt punishment for continued bad behavior.

If the business has little to no Human Resource staff, there is less guidance for moderating the culture.

5. Hot Issues – When certain employment issues make the news and get more public attention, claims grow in number and size.

The recent focus on sexual harassment is one timely example. More disability-related claims is another such trend.

6. Inflationary Trends – Inflation will impact salaries, legal fees, court costs and other elements of loss. While still historically low, inflation is picking up and will ultimately influence employment loss dollars.

Specific industries and professions may have higher than average inflationary rates depending on economic trends.

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Also Consider EPLI Defense Costs

In most states, EPLI policies provide a defense where costs erode the limit. When thinking about limit adequacy, the cost of defending a claim should also be factored in. For some very general parameters, defense costs for settled (unlitigated) claims fall typically within the range of \$10,000 - \$20,000. When claims enter litigation, legal costs rise as the case progresses toward trial, often exceeding \$100,000.

The vast majority of EPLI claims settle before a trial, but that should not stop businesses and agents from considering potential legal costs in the limit decision.

Reducing Claims and Costs – Risk Management Tools With Our EPLI Policy

Buying adequate EPLI limits is important, but businesses can also take steps to reduce EPLI claims and costs. Several basic “best practices” can go a long way to help business owners and managers keep their workplace free from claims.

Most EPLI policies, including ours, provide tools and guidance on implementing best practices through:

- Employee Handbook Policies
- Online Training
- Legal Hotline
- Compliance Website and Tips

Can we help you evaluate the EPLI needs of your customers? For more about accessing these valuable resources for your insureds, or if you have any questions about our coverage options, just ask us.

Large Losses Can Happen to Small Businesses¹

Defense Costs are not included in these settlements and verdicts.



Restaurant

Sexual Harassment:
\$170,000



Contractor

Retaliation and Wrongful Termination:
\$253,000



Auto Services

Religious Discrimination:
\$288,000



Property Manager

Disability Discrimination:
\$385,000



Manufacturer

Age Discrimination:
\$438,000



Retail

Sex Discrimination:
\$520,000

¹ All loss examples are publicly reported on www.eeoc.com, LexisNexis, or in law firm newsletters.