



EPLI-CHROs and Other Employment Claims

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2026 WEBINAR SERIES



This Webinar's Deliverables:



UNDERSTAND THE
IMPORTANCE OF
EMPLOYMENT
PRACTICE LIABILITY
INSURANCE (EPLI) AND
ITS COVERAGE



IDENTIFY THE KEY
BENEFITS OF EPLI
INSURANCE



CLARIFY TYPES OF
ISSUES YOUR EPLI
POLICY MAY COVER



LEARN HOW TO
RESPOND TO CLAIMS
FILED WITH
REGULATORY AGENCIES



DEVELOP BEST
PRACTICE STRATEGIES
FOR CLAIMS SUCCESS

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The information contained within this presentation is not intended to constitute legal or other professional advice and should not be relied upon in lieu of consultation with your own legal advisors.

The advice of a professional insurance broker and counsel should always be obtained before purchasing any insurance product or service.

Parts to Your Insurance Policy Include

1. Declarations
2. Insuring Agreement
3. Exclusions
4. Conditions
5. Endorsements

“The devil is in the details of your insurance coverage....”

Employment Practice Liability Insurance Coverage (EPLI) is a type of insurance that protects an entity from claims arising from employment relationships including:

Alleged employment violations of EEOC; DOL; ADA; and FMLA regulations

Alleged unfair employment claims including wrongful termination, demotion, promotion or discipline

Deprivation of a potential career opportunity

Workplace harassment including quid pro quo, bullying, hostility or violence

Discrimination

Retaliation

Breach of Contract

Third Party Wrongful Acts

EPLI Key Features:

- Provides separate limits to avoid erosion of Public Entity Management Liability Insurance Limits
- Coverage pays on behalf of the Insured
- Coverage may include Crisis Management Services
- Third Party Harassment Coverage (if purchased)
- Defense Costs:
 - Defense Outside the Limits (DOL): Defense costs not subtracted from the available limit of coverage
 - Defense Within the Limits (DWL): Defense costs erode available coverage limit

Dollar One Defense Coverage aka First Dollar Defense...

is an insurance provision that waives the deductible for defense costs, so the insurer pays from the very first dollar of legal expenses, even if no indemnity (damages) is paid.

Federal employment practice laws and regulations triggering EPLI claims and litigation include:

- Wage and Hour Standards
- Anti Discrimination and Equal Opportunity Claims
- Employment Leave and Benefits Framed as an Employment Practice Violation

Wage and Hour Standards:

- **Fair Labor Standards Act (FLSA) (Usually limited coverage via endorsement – defense only)**
 - Established federal minimum wage (currently \$7.25/hr.)
 - Mandates overtime pay for hours worked past forty per work week
 - Places restrictions on youth employment
- **Equal Pay Act of 1963**
 - Require equal pay and benefits for men and women for equal job-related work responsibilities

Anti Discrimination and Equal Opportunity Standards:

Prohibit workplace discrimination, harassment and retaliation based upon:

- **Race**
- **Color**
- **Religion**
- **Sex**
- **National origin**
- **Age (40 or older)**
- **Disability**
- **GINA - Genetic Information Nondiscrimination Act**

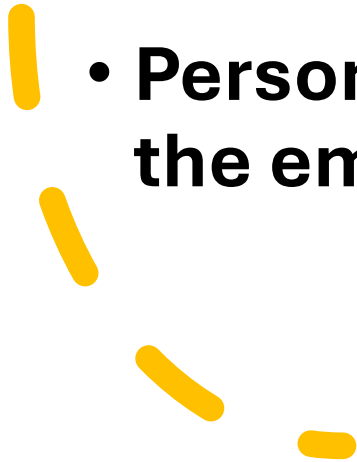


Covered EPL Leave and Benefit Claims Framed as Employment Practice Disputes:

- Family and Medical Leave (FMLA)
- Health Insurance Coverage
- Retirement Contributions
- Paid Time Off



EPLI coverage does not exist for:

- **Intentional or fraudulent acts in violation of laws and regulations**
 - **Regulatory fines associated with noncompliance**
 - **Willful misconduct**
 - **Personal conduct outside of the scope of the employee's employment**
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EPL Claim Drivers

- Generational Miscommunication
- Promotion of Harassing or Retaliatory Behavior Against Protected Employee Class Categories
- Remote Work Disparities
- Workplace Favoritism
- Disparity of Treatment Within the Workforce
- Drug Use Within the Workplace
- Management Who Refuse to Follow Policy and the Law Because They Know Better Than You Do



The Golden Ticket:

A **Right to Sue letter**, also called a **Notice of Right to Sue**, is issued by the U.S. Equal Employment Opportunity Commission (EEOC) after it has completed its investigation of an employee's discrimination charge or if requested before the investigation concludes.

Receiving this letter means the EEOC will no longer pursue the case on the employee's behalf.

It gives the employee the authority to file a lawsuit in court against their employer and named defendants.

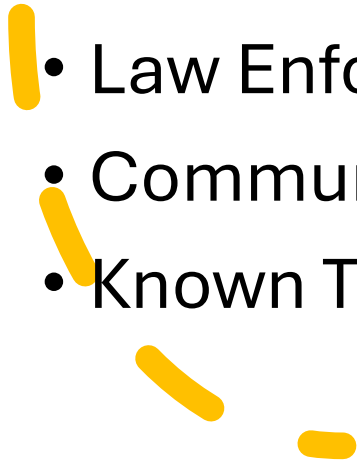
EPL Investigation Best Practices:

1. Require the complaint be filed on the standardized form adopted by your public entity.
2. Date, time stamp, and identify the person receiving the employee complaint in Human Resources. Provide a copy of the date and time stamped complaint to the employee in question.
3. Request HR as a best practice immediately send a copy of a filed EPL complaint to risk management and the legal counsel of record for your organization.
4. Develop a best practice partnership strategy with Human Resources and Risk Management working together to investigate the complaint.
5. Formal interviews should begin with the Complainant first and then the other parties involved. Confidentiality of the process should be mandated with consequences if violations occur. Collective bargaining interview requirements should be followed as pertinent.
6. Each interview should be documented and a report generated in anticipation of potential litigation.
7. A comprehensive final report to your executive staff should be prepared marked privileged and confidential” to determine the outcome of what may need to be done to address the complaint.
8. The severity of the complaint determines whether to report the complaint to your insurance carrier for coverage.



When to Punt an EPL Investigation:

EPL Internal Investigations should be referred to external legal counsel when the parties involved are:

- Elected Officials
 - Appointed Officials
 - Law Enforcement Personnel
 - Community Members Filing a 3rd Party Claim
 - Known Troublemakers
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Partnerships
with
regulatory
agencies
have the
ability to
proactively
manage EPL
issues...

- Proactively provide an opportunity for guidance and assistance in formulating policy
- Shine a light on communication barriers
- Can be the tip of the sword for change management
- The impetus for management to correct deficiencies
- Document deficiencies needing funding for EPL opportunities for improvement



EPL Claim Considerations:

- Relationships between HR and Risk Management
 - Support of executive management
- EPL experience of assigned legal counsel
- Relationships with regulatory agencies
 - Labor union partnerships
 - Policy platforms
- Capacity to maintain confidentiality of the process
 - Obscure inter-related information

Claims are akin to peeling an onion...



Thorough investigations assist in mitigating the claim's life span and its potential cost to your organization



One piece of information has the capacity to take you to a new avenue of exposure



Documentation and report writing assist with preparing a claim for potential litigation



Preservation of evidence early in the life of the claim assists with the potential of a successful outcome



Why Report to Your Insurance:

Messy EPL complaints are best reported to your insurance carrier for handling to:

- Ensure coverage and minimize costs
 - Remove any accusations of bias
 - Provide an external framework for investigative compliance and cooperation
 - Protect your job and your sanity
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Proactive risk initiatives assist in reducing:





EPL Prevention Initiatives Include:

- Comprehensive Policies and Handbooks
 - Regular Training Targeted to Job Responsibilities
 - Use of Technology for Employee Workplace Enhancement
 - Standardized Employment Practices For Hiring, Discipline, Firing and Promotion
 - Promotion of a Positive Work Environment
 - Successful Employee Engagement
 - Parity in Employee Relationships
 - Documentation of Employee Workplace Issues, Investigations, and Outcomes
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Questions?

Thank You for your
participation in today's
webinar!

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