LOSSPREVENTION
LESSONS

March 2014

Provided by CalSurance® exclusively for Farmers Agents

Keeping You
Informed & Protected

EPLI Basics

Small to mid-sized enterprises comprise fifty-two percent (52%) of the workforce in the United States. If you ask a small business owner what their most likely risk of loss is, they will typically point to a property or liability concern. However, for many businesses, the most frequent cause of loss is an employment practices related claim. Statistics show that over sixty percent (60%) of employers have dealt with an employment related matter in the last five (5) years and the majority of those claims have resulted in settlements or verdicts in favor of the employee. Furthermore, the average settlement of an employment related claim is roughly $35,000, not including defense and/or claim costs.

What is EPLI?

Employment Practices Liability Insurance (EPLI) is used to protect employers from employment practice related claims. It can be tailored to provide protection for actual or alleged Wrongful Termination, Discrimination, Harassment or other claims. These can be made by an employee or applicant for employment related circumstances as well as discrimination or harassment to non-employees such as customers or tenants.

If you are engaging in the sale and/or servicing of commercial insurance, a discussion regarding the availability and need for EPLI coverage should be part of your presentation to each customer. It should be included on a coverage checklist for commercial clients and the quote you prepare for these clients should provide customers with the option for EPLI.

EPLI coverage has quickly developed into an integral component of ever evolving risk management programs for small, mid-sized and large entities. Yet, it remains a mystery to many business owners, besides those who have dealt with an employment practices related claim. While those business owners shoulder the risk of neglecting to carry EPLI coverage, there is a risk to the insurance agent as well. Customers who are caught bare when EPLI coverage is needed naturally seek legal advice. The first thing they hear from their attorney is "Why didn't your insurance agent get EPLI coverage for you?" An agent who neglected to offer EPLI to a commercial risk will likely get brought into the case. A few examples of EPLI related claims are below:

A business was facing the loss of an important and lucrative contract. Layoffs were imminent so the owners met to decide which employees would be let go. A few weeks later, all female employees were laid off. In reality, the decision was entirely economic in that the sales volumes and revenue generated by the retained employees exceeded that of the laid off employees. However, that did not prevent the filing of a complaint with EEOC and a subsequent lawsuit for gender bias.

A workplace romance developed between a senior executive and a subordinate, which violated the company's prohibition against fraternization. It became widely known throughout the company and was brought to the attention of HR, which elected not to take action as the executive was powerful and well connected within the organization. When the subordinate was promoted over more experienced and qualified peers a lawsuit was filed for third party sexual harassment.

A new employee joined a table of colleagues in the lunchroom only to be openly ridiculed with racially offensive jokes and comments. When the employee informed his superior, the superior told him that she was sure that they were just playing around and having fun. This behavior continued for months, eventually driving the employee to quit. After seeking legal advice, he pursued a claim against the company for race based discrimination.

LOSS PREVENTION TIPS

What happens if you do not discuss and offer EPLI to your customers? You risk an E&O claim. You also miss out on the opportunity to make a sale. Bringing this important exposure to a business owner's attention is a vital conversation that should be conducted with all commercial risks.

Note, Farmer's BOPs include optional EPLI coverage. When you discuss with the client, make sure to accurately describe all features for the Automatic or higher limit Standard and Preferred options. It is important that you also follow all underwriting guidelines when placing the business, including submitting for underwriter approval and disclosure of any known situations that could give rise to a claim when necessary.

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