

# Management and Professional Liability

## Employment Practices Liability

- Crime Pack<sup>SM</sup>
- Directors & Officers Liability
- **Employment Practices Liability**
- ERISA Bonds
- Fiduciary Liability
- Miscellaneous Professional Liability

CNA  
Management and  
Professional Liability

(800) 695-4262

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### Employment-related lawsuits pose significant business risks.

- Employment Practice Liability should be of concern to all U.S. companies, even those with ten or fewer employees.
- The number of employee-related lawsuits is rising each year, and employees are more savvy than ever about pursuing legal action.
- In 2000, the average suit cost a company \$350,000 including \$104,000 in legal defense expenses.<sup>1</sup>
- Even an employer with up-to-date compliance procedures can be sued, and employee unrest and public relations damage can take years to undo.

### What Federal Laws Affect Employment Liability?

- Title VII of the Civil Rights Act of 1964 prohibits discrimination by employers based on color, race, religion, sex, or national origin. The law applies to all employers with 15 or more employees.
- The Civil Rights Act of 1991 amends Title VII of the Civil Rights Act of 1964 to include additional recoveries for a claimant and also allows a claimant the right to demand a jury trial.
- The Family Medical Leave Act requires that all employers with 50 or more employees provide up to 12 weeks of unpaid leave in any 12-month period to care for a newborn, adopted or fostered child, or to take care for oneself, a child, spouse, or parent with a serious illness.
- The Age Discrimination in Employment Act (ADEA) prohibits discrimination against individuals age 40 or older based solely on their age. ADEA applies to employers with 20 or more employees.
- The Americans with Disabilities Act (ADA) prohibits discrimination against disabled persons and requires an employer to make reasonable accommodations in the workplace for disabled employees. This law currently applies to employers with 15 or more employees.

### EPL insurance from CNA offers coverage for a volatile marketplace.

- CNA offers EPL policies for businesses of various sizes, with specialized expertise in manufacturing, technology, communications, chemical, transportation, wholesale, personal, and business service firms and not-for-profit organizations.
- CNA's dedicated EPL underwriting experts are available to answer coverage questions.
- Your agent or broker can work with you to customize coverages and limits.

### CNA provides coverages for a wide range of potential wrongful employment practices:

- Failure to promote
- Discrimination
- Invasions of privacy
- Wrongful dismissal, including retaliation
- Negligent evaluation
- Emotional distress
- Misrepresentation
- Defamation
- Harassment
- Wrongful discipline

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## Things to Look for in an Employment Practices Liability Policy:

- Broad Insured Definition
- Broad Claim Definition
- Broad Loss Definition
- Broad Definition of Covered Wrongful Employment Practices
- No Prior Acts Exclusion
- Emotional Distress and Mental Anguish Carve out of BI/PD Exclusion
- Retaliation Carve out of Pollution Exclusion, ERISA, COBRA, Fair Labor Standards Act, OSHA, NLRA
- Mediation Provision

## Other Things to Look for in an EPL Program include:

- An excellent risk management program
- An option to provide a third party extension
- A “softened” hammer clause
- Flexibility in limits and retentions
- In addition, eligible CNA insureds have access to a toll-free hotline and website devoted to managing these employment exposures. For more information, please visit: [www.cnapro.com/html/riskmanagement.html](http://www.cnapro.com/html/riskmanagement.html)
- Excellent claims handling ability
- The ability to provide related coverages such as D&O, E&O, and Fiduciary Liability in a combined policy

## EPL Claims Scenarios<sup>2</sup>

Employment practices lawsuits affect all businesses – public, private or family-owned. For every suit you read about in the media, there are thousands more you don’t hear about.

### Sexual Harassment

A food service employee complains to management that co-workers are making sexually suggestive statements to her. She is terminated because the company feels she is not qualified for the job. The employee sues the company and the officer who requested her dismissal, alleging sexual harassment, discrimination and retaliation.

### Employee Misrepresentation

A company president promises an employee a promotion to vice president. The employee is encouraged to prepare plans for expansion and turns down an opportunity to work elsewhere, based on the president’s promises. The employee is later terminated in a company restructuring. The employee sues the company and its president for fraud and misrepresentation.

### Discrimination

A wheelchair-bound employee of a supermarket is dismissed in a reduction in force. She sues her employer, alleging that the supermarket discriminated against her on the basis of her disability in violation of the Americans with Disabilities Act.

**To learn more about CNA’s Management and Professional Liability offerings, contact your agent or broker.**

CNA EPL policies are underwritten by one of the CNA member property and casualty companies. This flyer is for illustrative purposes only and is not a contract. It is intended to provide a general overview of the policy described. Only the policy can give actual terms, coverages, amounts, conditions, and exclusions. Not all coverages available in all states. CNA is a service mark and trade name registered with the U.S. Patent Office ©2004. All rights reserved. <sup>1</sup>Data excerpted from Tillinghast D&O Liability Survey Report, 2000. <sup>2</sup>Claims examples are fictional and do not describe actual client claims. NYProEPLPrdSum 07/06

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