ABA Insurance Services

EMPLOYMENT PRACTICES LIABILITY INSURANCE CLAIMS EXAMPLES

The following examples demonstrate how an employment claim can damage a small business or nonprofit organization.

CLAIM	SCENARIO
Harassment	A female employee at a construction company alleged that her male coworkers sexually harassed her by making derogatory comments about women in her presence. After complaining to her supervisors, the harassment increased. $20,000 in compensatory damages and $80,000 in punitive damages were awarded to the plaintiff.
Discrimination	A former employee at a private school in Florida with 52 employees alleged pregnancy discrimination after she was terminated upon returning from maternity leave. When she returned to work, she was advised that she now needed a master's degree and was demoted. She filed a discrimination charge with the state. The matter settled for $23,000 with another $10,000 in defense costs.
Wrongful Dismissal or Termination	A manufacturer with 70 employees claimed an employee suffered from a mental disability that prevented him from safely operating a fork lift on the factory floor. The employee claimed he was wrongfully terminated and sued his former employer. A jury agreed and awarded the plaintiff over $250,000.
Third-Party Discrimination	A lawsuit alleging discrimination against a restaurant was brought by an African American patron in New Jersey. The plaintiff claimed he was given inferior service as compared to Caucasian customers. While the matter did not reach trial, defense costs exceeded $25,000.
Wrongful Failure to Employ or Promote	A job candidate with a physical disability was not hired by a popular fashion boutique. The candidate had solid experience and claimed she was not hired because her disability conflicted with the store's trendy image. The matter settled for well over $75,000.
Age Discrimination	A former employee of a landscaping contractor in Ohio filed suit alleging age discrimination. He alleged that he was terminated and replaced by a younger employee after working for over 10 years for the company. He also alleged no younger employees were terminated at the time he was let go. The employer claimed his position was eliminated. The matter settled for $18,000 with another $40,000 in defense costs.
Third Party Sexual Harassment	A pool cleaning company in Texas was sued for sexual harassment after a family alleged a technician sexually harassed their teenage daughter. After asking the technician to stop talking to their daughter, he left a note in their mailbox asking the young woman for a date. The policy covered the claim under the third-party extension, paying a $45,000 settlement with another $10,000 in defense costs.
Wrongful Retaliation	A waiter at an upscale, locally-owned restaurant in California was terminated. He sued, claiming he was fired in retaliation for filing a workers' compensation claim resulting from a slip and fall in the kitchen. The plaintiff was awarded a judgment of more than 3x his annual income of $65,000. Defense costs exceeded $30,000.
Immigration Practices Wrongful Act	A manufacturing company was audited by US Immigration and Customs Enforcement (ICE) for I-9 compliance. The audit revealed several current employees who were no longer eligible to work in the US, along with additional violations. ICE fined the company and one employee sued for wrongful termination after being fired for ineligibility. The company's EPL policy covered $10,000 in audit costs and $15,000 in legal fees.

Employment Practices Liability Claims Examples, continued

CLAIM	SCENARIO
Workplace Violence	A disgruntled former employee entered a manufacturing company's facility and started randomly shooting until a security guard disarmed him. Fortunately, no one was injured; however, the incident forced the company to close for two days. Additionally, the company hired an independent security consultant and a PR firm to let the public know it was a safe place to work. The company's EPL policy covered the company's business interruption expenses and the costs of both the security and PR consultants.
Biometric	A manufacturing company updated its security to replace key cards with a fingerprint pad for employees to use to enter the facility. After a recent security breach, the company's investigation revealed that the security system was hacked by an outsider. Employees were upset that a third party, likely a criminal enterprise, now had their fingerprints. Two employees filed a lawsuit alleging invasion of privacy. The company reported the suit to its EPL and cyber carriers. The case ultimately settled for $25,000. Legal fees totaled $40,000.
FLSA (aka Wage & Hour)	Former employees filed a class action for unpaid overtime and minimum wage. The cost to defend the suit until settlement was $75,000.

Coverage not available in all states. These claims examples are provided for informational purposes only. No representation is made as to the truthfulness or accuracy of any fact, circumstance, allegation, or legal conclusion contained in or inferred from the examples presented above, nor is any representation made as to whether any claims example would constitute a "claim" or satisfy any other requirements for coverage under the applicable policy. Coverage for any claim is determined upon the specific facts presented, the terms and conditions of the policy and applicable law. For details on the coverage provided by your specific contract of insurance, please refer to your policy. Policies are underwritten by Great American Insurance Company, an authorized insurer in all 50 states and the D.C. ABA Insurance Services Inc. is an OH domiciled agency with its principal place of business at 3401 Tuttle Rd., Suite 300, Shaker Heights, OH 44122. CA license # 0G63200. © 2021 ABA Insurance Services Inc., dba Cabins Insurance Services in CA, ABA Insurance Services of Kentucky Inc. in KY, and ABA Insurance Agency Inc. in MI. 072021.SBM22