



Employment Practices Liability Insurance Lawsuits on the Rise

Daily news reports continue to highlight the need for Employment Practices Liability Insurance (EPLI). The recent high profile case of Ellen Pao v. Kleiner Perkins received daily media attention. Greg Bauman, the editor in chief of the Silicon Valley Business Journal, reported on April 2, 2015 that "Even though the verdict rejected Pao's claims...the damage had been done in the court of public opinion. Kleiner Perkins suffered public shaming, burdensome legal bills and a future handicap in recruiting talented women..."

California leads the nation in employment practices claims. The threshold for bringing a claim in California is very low, and the impact of these claims is very high, reflected in defense costs and settlement amounts. This is especially true in Alameda and Los Angeles Counties. Nationally, the statistics show that companies can expect to receive an EPLI claim once every three years!

There are over 20 insurers providing EPLI coverage in California, however retentions (i.e., deductibles) are increasing, as are premiums.

What is Covered:

EPLI covers wrongful acts arising from the employment process including:

- ◆ Wrongful termination
- ◆ Discrimination
- ◆ Sexual harassment
- ◆ Retaliation
- ◆ Inappropriate workplace conduct (defamation, invasion of privacy, failure to promote, etc.)
- ◆ Immigration claims (for defense costs only)
- ◆ Wage and hour claims (for defense costs only)

Common Exclusions are:

- ◆ Contract disputes
- ◆ Intentional/dishonest acts
- ◆ Unpaid wages/rest and meal times
- ◆ Punitive damages

Sample Premiums and Retentions:

No. of Employees	Deductible	Premium
0-25	\$20,000	\$4,500-7,500
25-50	\$25,000	\$7,500-12,500
50-100	\$25,000	\$12,500-17,500
100+	\$50,000+	\$17,500+

Why Purchase Coverage?

Average Range of Defense Costs	\$200,000-300,000
Average Defense Costs for a Plaintiff	\$100,000+
Average Settlement Timeframe if Litigated	18-24 Months
Average Settlement Timeframe for Alternative Dispute Resolution	12 Months
Median Award for an EPLI Claim as of 2011	\$325,000

Source: 2012-2013 Edition of Jury Award Trends and Statistics, published by Westlaw

Coverage Options:

Most of our clients purchase a packaged management liability policy, which combines several coverage parts under a shared limit of coverage:

- ◆ Directors and officers liability
- ◆ Fiduciary liability
- ◆ Fidelity/crime
- ◆ Employed lawyers
- ◆ Cyber liability
- ◆ Employment practices liability

In order to obtain a quote, the following documents are needed:

- ◆ Employee handbook
- ◆ Financial statement
- ◆ Application for coverage

Contact **Jim Untiedt at 408.418.2734, juntiedt@pentarisk.com**, or your PentaRisk broker or account executive for more information on *Employment Practices Liability Insurance*. Visit our website at <http://pentarisk.com/>.

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