

## Employment Practices Liability Insurance

If ever there was a time to actively manage your employment practices liability exposure, the time is now. Charges filed with the U.S. Equal Employment Opportunity Commission (EEOC) rose 23 percent from 82,792 in 2007 to 95,402 charge filings in 2008.<sup>1</sup> Ongoing developments at the EEOC, in court, and in Congress are steadily broadening exposure for employers coast to coast. Some things to consider when evaluating employment practices liability exposure include:

- The EEOC is increasing enforcement of retaliation claims (which already represent more than one-third of all claims filed with the agency). Numerous U.S. Supreme Court decisions have made it easier for plaintiffs to prevail in these cases.
- The Ledbetter Act vastly expanded employee rights to file a charge of compensation discrimination.
- The Americans with Disability Act Amendments Act (ADAAA) now extends greater protection to more classes of employees.
- Age discrimination claims increased 29 percent from 19,103 in 2007 to 24,582 in fiscal year 2008,<sup>2</sup> and are an area of declared EEOC focus in the year ahead.
- The difficult economy and ensuing reductions-in-force, job eliminations and other cost saving measures will further escalate claims.

### Jury Award Trends and Statistics

- Total overall range of plaintiff's jury verdicts between 2002 and 2008 was from \$1 to \$53,885,000 with an overall award median of \$654,339
  - Approximately 46% of the verdicts were over \$250,000, while about 29% of the verdicts were over \$500,000
  - 17% of the verdicts were between \$250,000 and \$499,999
  - 21% of verdicts obtained by prevailing plaintiffs were between \$100,000 and \$249,999
- Between 2002 and 2008, the overall jury award median in Discrimination cases rose from \$224,103 to \$241,119
- Retaliation cases are among the most costly and employers tend to fare poorly
  - 32% of retaliation verdicts between 2002 and 2008 were over \$500,000<sup>3</sup>
  - 18% of retaliation verdicts were between \$250,000 and \$499,999
  - 17% of retaliation verdicts were between \$100,000 and \$249,999

<sup>1</sup> For the year ending September 30, 2008 ([www.eeoc.gov](http://www.eeoc.gov)).

<sup>2</sup> For the year ending September 30, 2008 ([www.eeoc.gov](http://www.eeoc.gov)).

<sup>3</sup> According to Jury Verdict Research.

Employers are not favored to prevail at trial. *Jury Verdict Research* reports that between 2002 and 2008, plaintiffs won about 58% of employment cases tried before juries. Among settled cases for the same time period, 23% resulted in payments of \$100,000 to \$249,999 and approximately 19% of settlements were over \$250,000. *The foregoing dollars reported above are compensatory only and do not include amounts paid in prevailing plaintiff attorney fee awards or defense costs. These costs would significantly increase the total payments made on a claim.*

## Features & Benefits

Our EPL policy provides far-reaching protection to companies and individuals alike.

- Coverage applies to your company, directors, officers and employees -- including full-time, part time, temporary and seasonal workers; past and present employees; and employment applicants. *Even leased employees and independent contractors are covered under certain circumstances.*
- Insurance encompasses the wide spectrum of employment claims common today, including lawsuits alleging wrongful termination, discrimination, harassment, retaliation and other employment practices violations. *Even coverage for discrimination and sexual harassment claims brought by third parties, e.g., customers and clients, is available.*
- Chartis' EPL Policy includes the following coverages:<sup>4</sup>
  - Punitive damages<sup>5</sup>
  - Front-and back-pay claims
  - EEOC and Administrative proceedings and investigations
  - All with flexible claims reporting provision, allowing claims to be reported up to 90 days post policy expiration<sup>6</sup>

## Protection for You and Your Business

As a Chartis Employment Practices Liability insured you will receive our value added loss prevention services, EPL Pak<sup>®</sup> Premier. EPL Pak Premier has recently been enhanced to give you more robust support in managing EPL exposures and mitigating claims. You and your company can benefit from free online employment training and legal consultation on HR and employment law issues plus invitations to webinars and local seminars nationwide including California-mandated sexual harassment training compliant with CA AB 1825.

<sup>4</sup> Subject to the other terms, conditions and limitations of the policy.

<sup>5</sup> Where insurable by law.

<sup>6</sup> Provided they are reported as soon as practicable.

To learn more about Employment Practices Liability Insurance, visit [www.chartisinsurance.com](http://www.chartisinsurance.com), email [executiveliability@chartisinsurance.com](mailto:executiveliability@chartisinsurance.com) or contact your insurance broker.

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