

PRIVATE CHOICE PREMIERSM – EPL CLAIMS SCENARIOS

Learn what EPL claims your private company can face.



SEE HOW THE RIGHT INSURANCE CAN HELP PROTECT YOU AND YOUR BUSINESS

The following EPL claims scenarios are designed to:

- Illustrate the types of situations and subsequent costs associated with employment practice-related allegations
- Demonstrate that even groundless allegations are costly to defend and can put a financial strain on any organization
- Emphasize the importance of having adequate management liability coverage, specifically The Hartford's Private Choice Premier, that can help address employment practices liability (EPL) exposures

CLAIM 1

Cause of action	Retaliation
Type of insured	Private company - Publisher
Total employees	Approximately 250
Total revenue	Approximately \$75,000,000
Situation	<ul style="list-style-type: none"> • The claimant, a former employee, filed a lawsuit alleging that his full-time employment offer was rescinded in retaliation for his complaints about perceived sexual harassment. • The insured maintained the job offer was withdrawn based upon the former employee overreaching during the hiring processes, including attempting to negotiate for titles and responsibilities outside the job description. • The matter did not settle prior to trial as a result of the employee's unreasonable demands.
Resolution	The jury determined that the insured did not commit retaliation and rendered a full defense verdict. The litigation generated \$254,000 in defense costs.

CLAIM 2

Cause of action	Race discrimination
Type of insured	Private company - Scientific & technical services
Total employees	Approximately 850
Total revenue	Approximately \$18,000,000
Situation	<ul style="list-style-type: none"> • The plaintiff, a former union worker, filed a complaint alleging race discrimination. • After extensive written discovery and multiple depositions, the court's pre-trial Case Evaluation procedure was scheduled. • The plaintiff would not communicate a settlement demand to the insured for their consideration until the Case Evaluation Panel determined what the case was worth.
Resolution	The matter settled for \$48,000. The defense costs totaled approximately \$140,000.

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CLAIM 3

Cause of action	Harassment, age discrimination, retaliation and adverse employment actions
Type of insured	Private company – Wholesale trade
Total employees	Approximately 170
Total revenue	Approximately \$66,000,000
Situation	<ul style="list-style-type: none"> • The plaintiff, a former employee, filed an EEOC charge alleging harassment, age discrimination, retaliation and adverse employment actions and demanded \$615,000. • Pursuant to an agreement, the matter was heard by an arbitrator who noted that neither the former employee nor his witnesses articulated any substantive, credible evidence of age discrimination, harassment or retaliation. There was no credible evidence presented that indicated that other, younger employees, were treated more favorably. • A review of the plaintiff's performance evaluations documented poor sales figures and overall poor performance.
Resolution	The arbitrator denied all the former employee's claims, deciding in favor of the insured, and awarded the defense around \$3,500 in costs. Defense of this matter totaled \$194,000.

CLAIM 4

Cause of action	Age discrimination, tortious interference with a contract, promissory estoppel
Type of insured	Private company – Manufacturer
Total employees	Approximately 150
Total revenue	Approximately \$40,000,000
Situation	<ul style="list-style-type: none"> • A branch manager was demoted to the position of a traveling sales representative and shortly thereafter terminated from employment. • The now former employee filed suit alleging age discrimination, tortious interference with a contract and promissory estoppel. • The insured maintained that the individual was terminated after violating company policy by driving a vehicle on company business with a revoked driver's license. • Claimant made a demand to settle the case for \$75,000.
Resolution	The insured later won the case on summary judgment. Total defense costs were \$119,000.

CLAIM 5

Cause of action	Sexual harassment
Type of insured	Private company – Equipment sales and leasing
Total employees	Approximately 450
Total revenue	Approximately \$250,000,000
Situation	<ul style="list-style-type: none"> • A former employee filed suit alleging her supervisor hinged an adverse job action to her acceptance or rejection to having an extramarital affair with him. • Following the former employee's deposition, at arbitration, the insured moved for summary judgment on the grounds that the alleged harassment did not affect a tangible aspect of her employment.
Resolution	The court found that the harassment claim was based on a one-time incident not severe or pervasive enough to meet the legal definition of a hostile work environment and any alleged harassment cannot be imputed to the insured because the insured promptly and effectively responded to the complaint. Defense costs totaled \$109,000.

CLAIM 6

Cause of action	Wrongful termination, retaliation, failure to pay wages, false promise
Type of insured	Private company – Franchisee
Total employees	Approximately 15
Total revenue	Approximately \$2,000,000
Situation	<ul style="list-style-type: none"> • A former employee alleged wrongful termination, retaliation and failure to pay wages. The individual also alleged false promise, claiming he was promised an equity share of the franchise. • The case proceeded to trial.
Resolution	The litigation incurred total defense costs of \$675,000.

CLAIM 7

Cause of action	Religious discrimination and retaliation
Type of insured	Private company – Manufacturer
Total employees	Approximately 150
Total revenue	Approximately \$26,000,000
Situation	<ul style="list-style-type: none"> • An employee of the insured voluntarily quit his management position and filed a lawsuit in state court alleging religious discrimination and retaliation. • Insured filed a counterclaim for misappropriation of trade secrets and later filed a motion for summary judgment. • The case resolved with a mutual walk-away as both sides dropped their respective claims with prejudice.
Resolution	Total defense costs amounted to approximately \$127,000.

CLAIM 8

Cause of action	Disability discrimination
Type of insured	Private company – Pest control services
Total employees	Approximately 80
Total revenue	Approximately \$5,000,000
Situation	<ul style="list-style-type: none"> • Claimant with multiple sclerosis was terminated for insubordination and failing to appear for work. • Claim of disability discrimination filed with Florida Commission on Human Relations (FCHR). • FCHR issued a reasonable cause finding in favor of the plaintiff. • Plaintiff’s counsel scheduled depositions and had demanded \$350,000 to settle but later conceded on certain issues.
Resolution	Settled at mediation for \$10,000. Defense costs totaled almost \$50,000.

CLAIM 9

Cause of action	National origin discrimination and hostile environment
Type of insured	Private company – Real estate
Total employees	Approximately 175
Total revenue	Approximately \$22,000,000
Situation	<ul style="list-style-type: none"> • Plaintiff was terminated due to economic downturn. • Plaintiff alleges national origin discrimination and hostile environment.
Resolution	The case was dismissed in its entirety on summary judgment. Defense costs totaled over \$270,000.

CLAIM 10

Cause of action	Race discrimination, disability discrimination and retaliation
Type of insured	Private company – Manufacturer
Total employees	Approximately 200
Total revenue	Approximately \$25,000,000
Situation	<ul style="list-style-type: none"> • Claimant filed an EEOC charge alleging race discrimination, disability discrimination due to an ill brother and retaliation. • Claimant contended his termination was based on absences due to visits to his sick brother and because he spoke out on behalf of African American co-workers. • The EEOC found probable cause for his claim and filed suit vs. the insured on the retaliation claim.
Resolution	The insured won summary judgment against the EEOC. Legal fees amounted to over \$200,000.

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The scenarios summarized herein are offered only as examples. Coverage depends on the actual facts of each case and the terms, conditions, and exclusions of the issued policy. Please refer to the issued policy to determine all terms, conditions and exclusions of coverage. Coverage is provided by the property and casualty companies of The Hartford Financial Services Group, Inc. and may not be available to all insureds in all states. All information and representations herein are as of August 2017.

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