

# **Employment Practices Liability Insurance**

## **SOME IMPORTANT TIPS FOR ALL POLICYHOLDERS**

*The Policy is your insurance contract with Underwriters. To ensure you receive the full benefits of the insurance contract you have purchased, you should read the Policy carefully. What follows is intended to be advisory in nature only. If you have any questions about any of the Policy's terms, conditions, provisions and/or exclusions, or if you have any questions about how the Policy operates, please contact your broker immediately.*

### **Q. WHAT IS A CLAIM?**

- ➔ **A.** Please take some time to review the definition of “Claim” found in the Definitions Section of your Policy. As you will see, a “Claim” can be many things and is more than just a lawsuit. A “Claim” can be:
- a)** the filing of a civil lawsuit or arbitration proceeding;
  - b)** the filing of a criminal lawsuit or the institution of criminal proceedings;
  - c)** an EEOC or DFEH proceeding or other similar federal, state or local administrative proceeding;
  - d)** a written demand for monetary damages or non-monetary relief including injunctive relief, or for mediation, arbitration or the tolling or waiver of a statute of limitations;
  - e)** a written notice that one of your employees intends to hold you responsible for a Wrongful Employment Practice; or
  - f)** a written notice that a non-employee, such as a customer or client, intends to hold you responsible for Third-Party Discrimination;

### **Q. WHAT SHOULD WE DO IF WE RECEIVE A CLAIM?**

- ➔ **A.** In the event you receive a Claim, you must immediately notify Underwriters' Authorized Representatives. The contact details for Underwriters' Authorized Representatives appear on the Declarations Page of your Policy and are noted below as well. You should make certain that those individuals in your company who are responsible for receiving notifications of Claims are aware of the procedures to follow in the event of a Claim. These procedures are set forth in detail in the notice provisions of your Policy. Please take some time and review these provisions. Failure to comply with the Policy's provisions as respects proper and timely notice of Claims may jeopardize your rights to coverage.

Please also note that you are encouraged to report claims as soon as possible and if reported within 30 days of the claim being made Underwriters will reduce the Self Insured Retention by 10%.

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**Q. CAN WE APPOINT DEFENSE COUNSEL OURSELVES IF WE RECEIVE NOTICE OF A CLAIM?**

- ➔ **A.** No. Please do not appoint defense counsel yourselves. Pursuant to the terms of the Policy, Underwriters have the right to either appoint counsel or, in some instances, approve your choice of counsel. Under no circumstances, however, should you assign the Claim to counsel without first speaking to Underwriters' Authorized Representatives. Underwriters will not pay for any costs incurred by counsel: 1) prior to receipt of Claim notification by Underwriters' Authorized Representatives; and 2) unless that counsel has been appointed or pre-approved by Underwriters.

**Q. ARE WE ALSO REQUIRED TO NOTIFY UNDERWRITERS ABOUT INCIDENTS/POTENTIAL CLAIMS?**

- ➔ **A.** You have the option of notifying Underwriters of incidents that do not rise to the level of Claims. Perhaps your employee has made just a verbal complaint and is threatening to file a lawsuit. Or perhaps someone in your company tells you they have witnessed discrimination and/or harassment. While these are not technically "Claims," Underwriters may consider them notice of potential Claims. You do not have to give Underwriters notice of these potential Claims, although it is usually prudent to do so. Any Claims arising from potential Claims will be deemed first made on the date notice is given. Notices of potential Claims are given to Underwriters' Authorized Representatives in the same way notices of Claims are provided.

**Q. CAN WE SETTLE CASES WITHOUT OBTAINING UNDERWRITERS' CONSENT?**

- ➔ **A.** No. Underwriters will not pay any settlement amounts in connection with settlements to which they have not expressly consented.

## **Other Responsibilities**

**Q. WHAT SHOULD WE DO IF OUR COMPANY MERGES WITH OR ACQUIRES ANOTHER COMPANY?**

- **A.** There is a “Changes in Exposure” clause in your Policy that addresses these situations. You have automatic “free” coverage for newly acquired companies during the policy period if the number of employees you acquire does not exceed 50% of the total employee number at the beginning of the policy period (as noted on the application or renewal application). Should the employee count exceed 50%, you will need to inform Underwriters via your broker and your premium may be adjusted accordingly.

**Q. WHAT SHOULD WE DO IF WE NEED TO CANCEL THE POLICY?**

- **A.** While the Policy is non-cancelable by Underwriters except for non-payment of premium, you may cancel the Policy at any time by giving Underwriters written notice via your broker.

**Q. WHAT SHOULD WE DO IF WE WANT TO INVOKE THE EXTENDED REPORTING PERIOD?**

- **A.** In the event of non-renewal or cancellation, you have the right to purchase an Extended Reporting Period upon payment of additional premium as outlined in your Policy. Underwriters will require a written request for the Extended Reporting Period within 45 days from the effective date of the non-renewal or cancellation. That request should be made via your broker. The additional premium is payable to Underwriters within 60 days. Any Extended Reporting Period additional premium is deemed fully earned upon payment.

**Q. WHAT SHOULD WE DO IF WE ARE PLANNING TO HAVE A REDUCTION IN FORCE?**

- **A.** A reduction in force is obviously a very stressful time for your company and an event that may affect EPL insurers as well. Underwriters will provide coverage for the usual types of Claims that arise in connection with and/or are associated with a reduction in force *but* Underwriters ask that you exercise caution before laying off any employee by consulting with a lawyer who specializes in labor and employment law. Please let your broker know if you need a recommendation for a labor and employment firm in your area. You may also consult with your in-house counsel if he/she has experience in labor and employment law.

**Q. WE NEED/WANT LOSS CONTROL SERVICES. WHAT SHOULD WE DO?**

- **A.** In order to assist Insureds who strive to be fully compliant with federal, state and local employment laws, Underwriters will, at their own expense, provide you with the services of a top quality employment consultant. The free services provided are explained below.

**YourHR™** is a premier provider of HR services. One size does not fit all employers. Accordingly, **YourHR™** offers a broad range of services; employers implement those services that work best for their unique environment. The full suite of pre-paid HR services include (1) unlimited support from qualified HR experts who provide real answers to tough HR questions; (2) practical, state-specific HR advice, forms, and handbooks on-line; (3) on-line training (including California's mandatory sexual harassment training AB1825); (4) monthly training bulletins; (5) podcast training programs; (6) audio seminars; (7) an employee complaint hotline; and more. For more information please see: [www.yourhrdepartment.com/ArchIntermediaries](http://www.yourhrdepartment.com/ArchIntermediaries) to learn more about the scope of services provided.

Underwriters will provide this assistance upon request to both new and renewal clients. If you are interested in these loss control services, please let your broker know so that appropriate arrangements may be made and the loss control may be scheduled.

**Q,     HOW CAN OUR RETENTION BE REDUCED WHEN WE HAVE CLAIMS FOR WRONGFUL TERMINATION CLAIMS?**

- ➔     **A.**     Underwriters agree to reduce your Retention by 50% if you obtain and adopt the written advice of a labor and employment law firm recommended or approved by Underwriters prior to the termination of an employee. In the unfortunate event your company is notified of wrongful termination Claim as respects events arising from that employee's termination, the Retention that applies to that Claim will be reduced by 50%. Please let your broker know if you need a recommendation for a labor and employment firm in your area. If you already have a firm that you wish to consult with, please let your broker know the name of that firm. Please do not seek advice from any firm without first obtaining Underwriters' consent.

***The above noted tips do not change or replace your Policy in any way and you should read your entire Policy, not just these tips. If you have any questions or concerns with regard to your Policy please contact your broker immediately.***