

Employment Practices Liability (EPLI) Claims Trends, Stats & Examples

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What Does EPLI Cover?

Available as a policy endorsement or stand-alone coverage, a few EPLI claims examples include:

- **Sexual harassment.** The harassers can be senior managers, supervisors, co-workers or even non-employees.
- **Discrimination.** This includes unfair treatment based on religion, age, ethnicity, gender, disability, skin color, sexual orientation or race.
- **Wrongful termination.** According to the Equal Employment Opportunity Commission (EEOC), this is the most common claim brought against employers.

Other EPLI claims examples covered are breach of an employment contract, negligent evaluation, failure to employ or promote, wrongful discipline, deprivation of a career opportunity, wrongful infliction of emotional distress and mismanagement of employee benefit plans.

While an essential coverage tool, EPLI policies are not all-encompassing. They commonly exclude criminal or civil fines, penalties or punitive damages, bodily injury and property damage claims, state unemployment insurance claims, workers' compensation claims, and claims filed under the Fair Labor Standards and Occupational Safety and Health Acts.

Most EPLI policies will reimburse a company for the costs of defending a lawsuit in court, as well as for judgments and settlements. The policy usually covers legal fees, regardless of the suit's outcome.



Trending Employment Practices Liability Claims

According to industry experts, retaliation and sexual harassment claims, gig worker classification, the gender pay gap and medical marijuana usage are among the top trending employment practices litigation cases in 2020. Moreover, the average cost of employment-related claims is rising, along with the length of time it takes to resolve a claim.

Let's take a closer look at the above trending EPLI claims and the actions employers can take to reduce them.

EPLI Trend #1: Retaliation Claims on the Rise

One of the more startling employment practices liability insurance statistics is that [more than half of EEOC claims filed in 2018](#) involved claims of retaliation.

Action plan for employers:

- Establish a policy against retaliation and educate teams
- Implement a confidential process for managing complaints and communicating the anti-retaliation policy to complaining employees
- Document everything



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EPLI Trend #2: #MeToo Movement Results in Spike of Sexual Harassment Claims

Sexual harassment claims represented roughly one-third of all EEOC claims filed. This includes LGBT-based sexual harassment charges, which have risen steadily for the past five years.

Action plan for employers:

- Develop clear policies against sexual harassment
- Provide training to prevent sexual harassment
- Create a company culture that does not support sexual harassment

EPLI Trend #3: Gig Economy Leads to Increased Wage and Hour Litigation Threat

Fair Labor Standards Act (FLSA) lawsuits [increased dramatically](#) over the last decade. Many of these lawsuits involve [worker classification](#) disputes.

Action plan for employers:

- Be ready to prove that your workers are classified correctly
- Keep up with new laws, such as [AB5 in California](#)
- Use the [FSLA Handy Reference Guide](#)

EPLI Trend #4: The Gender Pay Gap Remains

Full-time salaried women earned 81% of what men earned in 2018, according to the U.S. Bureau of Labor Statistics.

Action plan for employers:

- Create policies that help women succeed, such as flexible hours and parental leave
- Develop mentorship opportunities for women
- Provide equal pay

EPLI Trend #5: Marijuana Legalization Impacts the Workplace

As of January 2020, at least 11 states allow recreational marijuana usage and more allow [medical marijuana](#).

Action plan for employers:

- Keep up with new legislation on marijuana usage in your state
- Review relevant laws before firing or not hiring workers over marijuana usage
- Create drug policies that focus on maintaining a safe workplace

The Repercussions of an EPL Insurance Claim

The costs of an employee lawsuit can be emotionally and financially devastating. Beyond damaging a company's reputation, an employment claim can lead to lower morale, diminished productivity, lost trust and thousands in legal expenses. In fact, the [average cost for defending and settling employment law cases](#) is \$160,000 – enough to stagger any small business.

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