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Will Your Employment Practices Liability Insurance Protect You When You Need It? *Have you read the fine print?*

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Employee Law Suits

You understand the risks associated with employing people. You've read the horror stories about employee suits and huge judgments awarded. Your personnel manuals are up to date. You train your people how to hire and fire according to the law. You maintain good records. And, and you purchased insurance in case there is a crack in your armor. Let's look at what you bought:

1. Does the insurance company have a "duty to defend" you or "no duty to defend?" If you have legal counsel on staff, you might prefer "no duty to defend. Now most businesses don't have legal staffs, so in case of a loss can you select defense counsel? If not, is there approved local counsel that is acceptable to you. Meet your counsel before you have a loss!
2. If your policy has intentional acts exclusion, you may have trouble getting the insurance company to defend you when there is a claim. Try to get this wording deleted.
3. Does the policy definition of "loss" exclude punitive damages? Try to get punitive included, even in states where coverage is restricted for punitive.
4. If you policy excludes coverage for mental anguish, humiliation and emotional distress, try to get them removed, even if you must pay an additional premium.
5. If your policy has a prior acts exclusion or retroactive date, ask for it to be removed after one year of coverage with the same company.
6. If independent contractors, vendors or even customers sue you for an employee-related claim, do you have coverage?
7. What is the definition of a covered claim? The wording should, at the minimum, cover you for sexual harassment, discrimination, wrongful termination, breach of contract, retaliation, failure to promote, wrongful demotion, deprivation of career opportunities, and similar employment-related perils.
8. Coverage should apply for your costs in administrative hearings, not just lawsuits filed. Many situations trigger EEOC hearings, which require an attorney.
9. Does your coverage apply to "past, present and future" employees?
10. Make sure "back pay" is included in your coverage. When terminated employees are reinstated, the courts will often award "back pay."
11. How is claim defined? By filing a suit or a written or oral demand? You may encounter legal fees answering a barrage of letters and have no coverage because an actual lawsuit wasn't filed.
12. Have you negotiated at least a 90-day cancellation or non-renewal provision?
13. If your employment practices coverage is integrated with your Director and Officers Insurance, is there a separate limit of insurance for both? You don't want a claim for one to erode all your coverage for the other.
14. Make sure all your business names are listed on your policy and covered for employment related claims, especially if integrated with Directors and Officers insurance.

Insurance protection against employee claims is as much a necessity today as your regular business liability policy. The only problem is that it contains more fine print. And your agent's most important job is to know and understand the fine print!