



Recently we sent the first of our “new and improved” communications called *Management and Professional Liability News*. That email described how we plan to communicate with you, provided a short example on EPL, and asked for some feedback in the form of a brief questionnaire.

The questionnaire focused on product sales, topics for additional information and frequency of future messages. In addition to thanking the nearly 2000 people who replied, we would like to share the results with you:

- On average people sold policies in over 4 product lines within the last 12 months.
- The products sold most often are D&O followed by Crime, EPL, E&O and ERISA Bonds.
- When asked for the products sold least often the result was Miscellaneous Professional Liability (MPL) and Fiduciary, followed by Crime.
- The type of information most requested for future messages was Product Related with Industry and CNA Related information next.
- The products that information was requested for most often were EPL followed by D&O, E&O and MPL.
- Respondents want additional messages reasonably often as indicated by their preference of “Monthly” with “As Available” a close second.

Since EPL was the most popular, here is a second message on the topic, which provides you with additional insights that can be shared with prospects and insureds.

Every employer and supervisor knows that they can be sued for sexually harassing an employee, wrongfully terminating someone, or purging the firm of elderly employees. Most employers and managers think, “My company doesn’t do things like that, so getting sued could never happen to me.” But, the odds say it will. Here are some statistics:

- 80% of those sued feel that the suit is baseless and unfair;¹
- There are 550 new employment suits a day;¹
- 41% of jury verdicts are against firms with only 15 to 100 employees.²

With respect to costs, here are some other statistics:

- Defense costs average over \$300,000, and cases typically last over two years;³
- 67% of tried cases result in a victory for the plaintiff;⁴
- At least 15% of all verdicts are in excess of \$1 million.⁴

Given these realities, it becomes important to ask: “What are the telltale signs of employment liability exposure? What are the signs of a division or company at risk?”

The following are all indicators of employment practices liability, and should be managed carefully:

- *Organizational change?* Mergers, acquisitions, divestitures, spin-offs, consolidation, downsizing, high growth, or reengineering. These activities can cause layoffs, dramatic changes in career opportunities, demotions or more selective promotions. These are all fodder for employment claims, and must be carefully managed;
- *Significant use of a contingent work force?* Overuse or misuse of a contingent workforce can cause the court to deem the workforce “employees”, with concomitant rights to monetary and non-monetary benefits;
- *Aging baby boomers?* Age 40 starts the protected age class under Federal law. Changes in their employment status and benefits must be carefully managed;
- *Employees working from home (telecommuting, home workers)?* Employers pick up the duties to ensure a safe work area (for example, proper lighting, chairs, and desks) and privacy (for example, accessibility to online materials).

To help manage these and other related issues, CNA insureds have access to an employer toll free hotline and a website devoted to managing these growing employment exposures. For more information, please click on <http://www.cnapro.com/html/riskmanagement.html>

And if you would like to learn more about our EPL product offering, please click on http://www.cnapro.com/html/Our_Products/OurProducts_EPL.html

In this message we responded to your feedback, by providing additional information on a product that many of you said was important. We look forward to continuing these periodic communications, and may ask for your input in future messages.

¹ Baker and McKenzie, 1999 survey by the U.S. Chamber of Commerce (“Chamber of Commerce Survey”), and USA Today, all cited in presentation by Gina M. Higgins, Managing Director, Marsh, at 5/9/02 Directors’ Roundtable conference on Employment Liability “Marsh Presentation”.

² Jury Verdict Research report, Employment Practices Liability: Jury Award Trends and Statistics – 2001 Edition, cited in Marsh Presentation.

³ Chamber of Commerce Survey cited in Marsh Presentation.

⁴ Jury Study cited in Marsh Presentation.



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