This extended look into employment practices liability insurance and the coverage needs of small to mid-sized businesses is part of an ongoing series of white papers from Total HR Management. The goal of these white papers is to show company owners, by providing them with quality information, how much easier their business lives could be if they chose to work either with a professional employer organization or tailor a specific package of HR outsourcing services.

Although only one facet of what can be achieved through a co-employment relationship, EPLI coverage is unquestionably one of the most important parts of a package to safeguard and optimize the productivity and profitability of your company.

**Part 1 – What is Employment Practices Liability Insurance (EPLI)?**

Commonly referred to as EPLI insurance, Employment Practices Liability Insurance is additional insurance coverage you can purchase to protect your company from lawsuits brought by a former, current or even future employee. In other words, Employment Practices Liability Insurance can help to ensure business continuity in an increasingly litigious business environment.

**Why Does My Company Need EPLI?**

The question often asked is: “Why does my company need EPLI insurance? I have never had such a problem in the past and I don’t think it will happen in the future.”

Hopefully, you are right and your company won’t ever need Employment Practices Liability Insurance to help settle a claim with an employee. If you do need it, however, and you don’t have EPLI insurance in place, your company could be in big trouble.
The Dangers Of Doing Business Without EPLI Coverage

Total HR Management has seen several successful businesses damaged beyond repair when employee lawsuits hit and no EPLI insurance was in place. The goal of effective human resources management is to avoid such unnecessary problems by allowing you to do what you do best; work on your business as opposed to being caught in the vise of internal problems that go hand-in-hand with any business in a complicated world.

The type of claims that could be brought or alleged against you include all of the following:

1. Discrimination
2. Wrongful termination
3. Sexual harassment
4. Whistleblower retaliation
5. Employee claims of libel or slander

Employment Practices Liability Insurance Means Coverage

Most employers don’t realize that Employment Practices Liability Insurance can be extended to cover claims made by third parties such as customers and vendors. All EPLI policies cover the defense costs associated with a claim, however, there are exclusions in most policies in terms of insurance limits that need to be highlighted. Although EPLI insurance seems intimidating and confusing, Total HR Management has the experience needed to guide our clients through the intricacies of what they need to know.

In a very litigious society, EPLI claims are becoming a growing trend. According to Liabilityinsurance.org, the average out-of-court settlement for an EPLI claim is about $40,000. If the case actually goes to trial, the average award amount is $218,000, and nearly 10% of these cases can result in an award of more than $1,000,000. In addition, the average cost to defend a wrongful termination or employment case is about $45,000.

Essential For Small To Mid-Sized Companies

If your small to mid-sized company does not have an EPLI policy and you are not independently wealthy, how could your company afford to stay in business after paying for the defense and the award?

Part 2 – The Necessity of EPLI Coverage in the 21st Century

21st century employment practices liability insurance (EPLI) is as essential today for small to mid-sized businesses as it was in the 20th century. EPLI provides essential support for your company. Many business owners claim the world has changed, and people are less litigious today. The reality
Employee Lawsuits & Claims A Real Threat

The threat of your company being sued by an employee is an everyday reality. The dangers are greater if your company lacks HR expertise and a solid background to deal with the myriad of laws, rules and regulations that exist to protect employee rights. This is why working with a PEO in the 21st century makes so much sense.

21st Century Employment Practices Liability Insurance

What is frightening is that lawsuits against companies even increased in the first decade of this century. The reason was obvious: recessions always result in more lawsuits. Today, a disgruntled worker can put your company at risk if they bring a lawsuit or a discrimination charge against you — whether valid or not — and you are not prepared by having 21st-century employment practices liability insurance in your company’s holster.

EPLI Helps Mitigate Your Company’s Risks

To help mitigate your risks, EPLI has become a necessity for small to mid-sized businesses. 21st-century employment practices liability insurance can protect your company as much as fire alarms or security systems. Like fire alarms and security systems, you hope it will never need to be used. If you do have to use it, however, you will be very happy to have it.

This is why EPLI in the 21st century is no longer a choice for any smart and capable small to mid-sized company.

7 Reasons Why EPLI In The 21st Century Is A Necessity:

1. Employees file over 90,000 charges per year with the U.S. Equal Employment Opportunity Commission
2. Employee lawsuits and discrimination charges are excluded under standard general liability policies
3. Every employer can be the target of legal action from past, present, and prospective employees
4. Employees can file lawsuits at no cost, with no direct risk
5. Employees win 70% of jury trials
6. Employer defense costs can easily exceed $200,000
7. Midsize businesses with 15 to 250 employees are sued more frequently than larger businesses, often due to:
   • Inadequate human resources management
• Ineffective loss prevention programs
• Valuable unprotected assets targeted

When it comes to the company you run as an executive or if you have built the business up from the ground floor, allowing your profitable ship to be sunk by an employee lawsuit is just crazy. You need to be protected by employment practices liability insurance. EPLI in the 21st century is no longer a choice. It is a necessity.

**Part 3 – How A Document Checklist Can Protect Your Company**

In today’s litigious society, disgruntled employees do not seem to ever just disappear into the proverbial woodwork. Many employees throw fuel on a fire by going right to an administrative agency like the EEOC or decide to become plaintiffs in a lawsuit in state or federal court. If your company finds itself in such a lawsuit, it is essential to have EPLI insurance in place.

**EPLI Document Checklist**

Beyond EPLI insurance, you also could need to have a number of electronic and paper documents gathered and compiled in short order. The document checklist below will help your company get organized to handle a difficult situation. By gathering these documents at the beginning of the process, you can save your company both time and money.

**Total HR Management offers this document list as a resource:**

1. Copies of all Employee Handbooks in place when employee hired, during employee’s employment and when employee was terminated.

2. Copies of all acknowledgment forms signed by the employee related to the handbook or any policies as well as copies of all training acknowledgement forms signed by the employee.

3. Copies of all job descriptions for the employee, the employee’s personnel file(s), performance evaluations, disciplinary report(s), and medical file(s).

4. Copies of the employee’s payroll history, including all records of tax withholding as well as copies of benefits the employee would be entitled to had they continued to be employed.

5. Copies of any and all documents regarding employee’s termination, including the decision to not hire him/her for another position.

The above list is not exhaustive. A company’s legal counsel should be contacted so the above list can be augmented to apply to specific cases. By compiling the above list when a situation arises,
however, the majority of the documentation needed will be in place. By compiling this list, Total HR Management seeks to provide a resource for any company facing such challenges.

**Part 4 – Avoiding Personality Conflicts & Harassment In Your Office**

When it comes to EPLI office harassment claims, Total HR Management often has heard about cases where employers complain about personality conflicts between employees that are beyond their control. The human resources managers and professionals at Total HR have found, however, that most harassment claims are not solely about personality conflicts. In truth, most harassment complaints arise due to a combination of personality conflicts and organizational problems.

**Office Harassment, Personality Conflicts, and EPLI**

It is true that sometimes a personality conflict between two employees or between an employee and a manager can spiral so out of control that they lead to a harassment complaint on their own. In addition to these pure personality conflict scenarios, Total HR Management has found that office harassment is often a product of a workplace that is improperly regulated. If an office lacks proper guidelines and manuals, bad behavior and poor treatment can quickly become an acceptable form of interaction. This is why Total HR Management recommends the institution of policies and procedures that avoid such problems from taking root.

Office harassment, once perceived as an issue, can have a negative economic impact on a company, and this is bad for both employees and employers. For individuals, the adverse impacts include an increase in mental health problems and physical health complaints as well as greater overall burnout rates. If your company faces an office harassment complaint, you could face costly compensation costs, higher turnover, and lower job satisfaction and commitment to work. If you do not have EPLI coverage in place, the financial disaster could spell the end for your small business.

**EPLI-Informed Policies Can Prevent Office Problems**

What the human resources managers and professionals at Total HR Management have found is that office harassment complaints generally are a reflection of a whole organizational system. Although personality conflicts sometimes simply cannot be avoided, a workplace with strongly instituted policies, procedures, guidelines, and manuals often can prevent such problems. Organizations should have a clear discrimination and harassment policy that includes neatly laid out channels for resolving conflict before it escalates.

**Employee Manuals, Guidelines, Policies & Procedures**

Senior management should foster a company culture that reinforces respectful behavior and gives workers a voice to quickly resolve threats to mental health and personal well-being. Such policies and procedures need to be instituted in employee manuals and guidelines. The greater the awareness of such rules, the more likely they are to be followed. Although personality conflict problems
can still arise, at the very least, there will be an effective system in place to address them.

**Part 5 – Did You Know California Is One Of The Riskiest States?**

When the top 5 riskiest states for Employee Lawsuits were listed, Total HR Management was not surprised to find California near the top. As a PEO providing human resources outsourcing services to our clients, we highly recommend EPLI to be one of the options chosen. In fact, given the risk involved, every company should have EPLI insurance to protect them from employee lawsuits.

**California & Employment Practices Liability Insurance**

The article explains in detail that, “According to the study, on average, a U.S.-based business with at least 10 employees has a 12.5 percent chance of having an employment liability charge filed against it. However, businesses in several states face a much higher level of exposure to litigation” and one of those states is California.

With our main office located in Southern California, Total HR Management has seen too many valuable companies hurt by claims and lawsuits that EPLI coverage could have managed. Our goal as a professional employer organization and a human resources outsourcing firm is to help our clients do what they do best: focus on growing their business as opposed to the bureaucracy of their business. When it comes to fostering such peace of mind and productivity, EPLI coverage is a necessity in the 21st century.