

EPLI - MORE THAN SEXUAL HARRASSMENT, GET A BIG "I" PROFESSIONAL LIABILITY E&O PREMIUM ESTIMATE TODAY, & LIFE INSURANCE MADE SIMPLE

EPLI - More Than Sexual Harrassment

Sexual harassment has been in the forefront of the news for some time, and is also probably the first thing that comes to mind regarding **Employment Practices Liability Insurance**. But EPLI covers a lot more ground, and that ground is expanding. The past several decades have brought new challenges and exposures to what falls under EPLI.

Discrimination

In 2014 the Equal Employment Opportunity Commission filed the first lawsuit in its history challenging transgender discrimination under the 1964 Civil Rights Act. EPLI policies usually cover claims of employment-related discrimination based on the violation of any federal, state or local law that prohibits discrimination on the basis of race, sexual orientation, color, marital status, creed, national origin, religion, gender, age, military service, disability or pregnancy. Newer EPLI policies explicitly cover discrimination based on sexual preference or orientation. Many EPLI policies also contain provisions that more generally extend coverage to "other protected classes." For example, a policy may afford coverage for claims based on nondescript "discrimination." [D&O policies also may apply when the discrimination comes from a corporate dictate.]

Social Media

Employees can use social media to defame, disparage or harass organizations as well as co-workers. What this means for employers is that a negative online comment about an employee could go viral. EPLI does not cover negative comments made by employees against one another, but it may protect employers when the co-worker sues the employer for failing to prevent such harassment. When a manager makes the inappropriate comments EPLI does cover the employer.

Family Medical Leave Act Violations

As the workforce gets older and employees defer retirement, more requests for medical leave and the reasons for those requests are on the rise. Some are clearly justifiable grounds but others are questionable. Unfortunately a denial of leave is a potential for a claim against the employer and/or the individual manager or HR professional. In fact, many courts have ruled that individual liability attaches to those involved with Family and Medical Leave Act (FMLA) decisions that affected aggrieved employees based on the FMLA definition of "employer," which allows for personal liability of managers and company officials. Insureds, therefore, should look to their EPLI and D&O coverages to respond to such claims.

Data Breaches

Corporate data breaches are becoming more common or perhaps just reported more often. As the employer and/or executives shoulder the responsibility more often they also incur the liability. Claims against the board or executives should be covered under most D&O policies, which typically do not contain data-breach or cyber exclusions, whereas claims against negligent employers or supervisors may trigger EPLI coverages.

Alternative Work Arrangements

Alternative working arrangements - Shorter workweeks (longer hours over fewer days), telecommuting, and staggered schedules, continue to increase in popularity, especially in urban areas - mean increased potential employer liabilities. Examples include - discrimination in which of employees are allowed alternative work arrangements, missed opportunities at promotion, Fair Labor Standards Act (FLSA) violations of nonexempt employees working longer days, among others. If the claim falls under "wrongful acts" the employer is provided coverage under EPLI.

Then of course there are the exposures that one generally associates with EPLI.

Wage and Hour Claims

Such claims may arise out of a variety of scenarios, such as when employers alter time records to avoid paying overtime, misclassify exempt and nonexempt employees and independent contractors, or fail to provide due rest and meal periods. Defense costs for these lawsuits can be substantial, especially when they become class actions. Most employment practices liability insurers now specifically exclude coverage for wage and hour claims, among other types of FLSA violations.

However, as with whistle-blower and retaliation claims, wage and hour claims may still be entitled to the cost of their defense under many EPLI policies' broad "duty to defend" language. Likewise, the wage and hour claim may implicate coverage where the claim is itself based on a generally unfair business practice that is otherwise covered under the policy.

Sexual Harassment

Claims of sexual harassment are usually covered under EPLI. As these claims often alleged failures at the corporate level as well (e.g. failing to put in place workplace safeguards and policies), such claims may involve D&O coverage as well.

Retaliation

The number of whistle-blowers and claimant retaliation claims continue to rise as workplace regulations and whistle-blower protections increase. Coverage for these claims, and their high cost of defense, is usually available under EPLI.

Employment Practices Liability - Wrap+ from Travelers is modular coverage offered as a stand-alone product on Big "I" Markets and also as part of the Wrap+ Executive Liability for Private Companies. EPLI - Wrap+ is currently available to insureds in all states with the exception of: CA, LA, NE, NV, VT and WV.

SPECIAL FEATURE**Get a Big "I" Professional Liability E&O Premium Estimate Today**

By Elif Wisecup, Director of Marketing and Big I Advantage® Publications

We realize that protecting the future of your agency is a major priority. You trust us to represent your interests at the highest political level and as your association we also want to provide you with the security of knowing you are getting the best overall E&O value in the marketplace-not just a policy, but a comprehensive program.

The Big "I" Professional Liability program offers just that, with comprehensive risk management resources and coverage from industry leader Swiss Re Corporate Solutions. Visit our contact page today to locate your state program manager and click the green "Get E&O Premium Estimate" button to begin a quick and easy process to connect with your state association and learn more about how to join our program.

Learn more about the Big "I" Professional Liability program at www.iiaba.net/EO.

Already a policyholder? Take advantage of exclusive information and resources available from our at risk management web site E&O Happens.

Life Insurance Made Simple

Did you know you can offer life to your members through Crump and Big "I" Markets?

Crump Life Insurance Services is brought to you by Crump Group. With the Big "I" and Crump you have access to Crump's relationships with multiple insurance carriers to provide you with a competitive advantage in the marketplace. With access to over two hundred insurance carriers, they closely partner with a subset of these carriers to offer a product suite with the depth necessary to meet almost any client need. With Crump you will have access to a full range of Life, Disability, Annuity and Critical Care products and a dedicated sales and case management team to assist you during the sale.

How to get considered:

- Go to Big "I" Markets and go to "Offline Products" and select "Crump." Click on "Request a Quote" to begin the electronic record. This starts the Crump Registration process (Please note you are not actually requesting a quote)
- Complete the information as requested on the Quote Request Wizard screen. ENTER YOUR AGENCY NAME & ADDRESS AS THE CLIENT, as you are actually the client in this case. Click Next.
- Continue through the Quote Request Wizard Screen. On Underwriting Information: Step 4, print the Producer agreement.
- On Confirmation: Step 5, click submit to confirm the quote request which will alert Crump of your interest.
- Complete the Producer Agreement downloaded in the quote request process. Fax the producer agreement, proof of E&O coverage and your life accident and health license(s) to 717-703-4821.

What happens next?

Crump will review your Producer Agreement and contact you if additional clarification or information is needed. Once you have provided everything they require, you will be contacted via email with your Crump agent ID and password. Crump will also obtain all information necessary for your appointment to the appropriate carrier.

Once you are in receipt of your log in information from Crump, you will be directed to complete an Anti-Money Laundering training program - which is available at no cost and online. Once you're set up, you will have access to all forms of individual life insurance, individual disability insurance, individual long-term care insurance and fixed annuities, as well as the planning expertise that accompany these product solutions.

Questions? Contact Christine Muñoz.

WEBINARS

March Lightning Learning

Big "I" Virtual University

Date: Wednesday, March 7, 20, 28

Time: 11:30 - 11:50am EST

Cost: \$9.99 for all three sessions

Summary:

The Big "I" Virtual University's March Lightning Learning series features three 20-minute sessions dedicated to "property pimping". Even if you can't participate in the live sessions, you will receive a link to the on-demand recordings and can listen at your leisure. Register once to attend the following:

- **March 7 - Reviewing the Ridesharing Endorsements**
Ridesharing was the insurance industry's first major introduction to the sharing economy. This session reviews ridesharing endorsements and how coverage changes with each.
- **March 20 - Reviewing the Home Sharing Endorsements**
Airbnb, and other home sharing opportunities, hit the insurance industry about the same time as ridesharing. This session reviews home sharing endorsements.
- **March 28 - Understanding the Other "Property Pimping" Exposures**
Beyond cars and homes, your insureds are sharing more than you know; this among both personal lines and commercial lines clients? This session illuminates what is being shared and how underwriting might change.

When looking for quick strikes of information on focused topics the VU's monthly Lightning Learning series is there to help. The next extended webinar will focus on Pollution Exclusions and includes a 'seat' to attend live, a link to the on-demand recording, and a written transcript. Consider presenting conference style for the entire agency to benefit. Please send any questions to VU staff.

Registration:

[CLICK HERE TO REGISTER](#)

NEW Condo Cases of Crime and D&O Defects

Big "I" Virtual University

Date: Wednesday, April 11

Time: 1:00 - 1:30pm EST

Cost: \$49 (includes live presentation, recording and written transcript)

Summary:

Crime cases of embezzlement in community associations are undeniable and range in boldness and severity. Consider a true-tale of long-time Board of Director's member that decided to fund his gambling habit with subdivision assessments. Or a condo manager that transferred condo money into a fake maintenance company (herself). Attend the Condo Cases of Crime and D&O Defects webinar to learn how to build better fidelity and D&O policies for community associations, the type of claims covered under a broad policy and what you can do to protect your condo clients by building a better fidelity policy.

If you are looking for quick strikes of information check out the VU's 20-minute Lightning Learning series set to focus on good business and goal setting for the month of April. Please send any questions to VU staff.

Registration:

[CLICK HERE TO REGISTER](#)

TWO FOR TUESDAY TRIVIA

Be one of the first five with the correct answers and win a \$5 gift card (Starbucks, Dunkin' Donuts, Baskin Robbins, or Krispy Kreme).

Congratulations to this week's winners - Megan Yochum (OK), Carol Weisman (NJ), & Darrin Wade (AL).

1. What is Barbie's full name? - **BARBARA MILLICENT ROBERTS**
2. On January 15th, 2018 it became illegal in New Jersey to operate what while drunk? - **DRONES**

3. What is oxymoronic about the third stanza of the *Gilligan's Island* theme song? - **COURAGE IS OVERCOMING FEAR, THUS YOU CAN'T BE *COURAGEOUS* AND *FEARLESS* AT THE SAME TIME.**

TIE BREAKER

TB - In what year did Airstream officially start production of their famous trailers starting with the Torpedo Car Cruiser? - **1931**

LAST WEEK'S MOST CLICKED LINKS

Here are the top three items that got BIM agents clicking from our last edition... see what you missed!

1. "Gilligan's Island" Theme Song
 2. Big "I" Markets 2018 Product Guide
 3. MiddleOak Habitational
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BIG "I" MARKETS SALE OF THE WEEK

Congratulations to our agent in Nebraska on an Affluent Homeowners New Business sale of **\$12,615** in premium!