

# Employment Practices Liability Insurance for Restaurants



## The Risk is Real

Many restaurant owners and managers don't really understand what employment practices liability (EPL) is and the broad range of exposures it encompasses. Gender, race and age discrimination. Harassment of all sorts. Wrongful termination. Disability rights. Retaliation. The list goes on.

## The Consequences Can Be Catastrophic

Unfortunately, those who suffer the most are the very ones who can't afford the debilitating financial devastation that can result from even a single employment practices liability lawsuit. Consider the facts:

- ▶ The Equal Employment Opportunity Commission (EEOC) recorded nearly 100,000 charges in 2010 — a record high and a 7% increase from 2009
- ▶ The EEOC reported significant increases in Americans with Disabilities Act (ADA) and Genetic Information Nondiscrimination Act (GINA) charges
- ▶ For the first time ever, retaliation charges were the most frequently filed charge in 2010 with charges increasing 68% between 2000 and 2010
- ▶ The average cost of an EEOC lawsuit in 2010 exceeded \$270,000

Some restaurants may consider going without EPL coverage to save money. Others mistakenly assume they are covered under their general liability policies, which most often have a standard exclusion for employment practices liability exposures. Going without EPL insurance can be a costly decision. Even if you only have a few employees, you need EPL coverage.

## The Solution is Here

The risk for your restaurant is real and significant. So is the protection you can have with insurance offered by Monitor Liability Managers, LLC. Our Employment Practices Liability Restaurant Program helps manage the risks and avoid the burdens of employment-related claims.



## Restaurant Program Eligibility

Monitor's EPL insurance is available for a wide variety of restaurants including full-service and fast food restaurants, cafeterias, food service contractors and vendors. We insure small to midsize clients — those with five or more employees.

### EPL Policy Enhancements for Restaurants<sup>1</sup>

- ▶ \$100,000 sublimit for defamation, libel and invasion of privacy against a third party resulting from the use of social media; workplace bullying and social media defined; expanded definition of wrongful act to include workplace bullying
- ▶ Third party liability coverage for claims brought by customers for discrimination (including costs of defense for Americans with Disabilities Act (ADA) and public accommodation claims) and/or harassment
- ▶ \$100,000 costs of defense for claims alleging violation(s) of the Fair Labor Standards Act (FLSA)
- ▶ Optional \$100,000 sublimit for franchisor if named in a claim along with the named insured (franchisee)
- ▶ Modified settlement clause (80%/20% coinsurance) and a 10% reduction in the deductible upon consent to settle
- ▶ Optional \$25,000 costs of defense for criminal investigations brought by any government agency for alleged hiring or harboring of illegal aliens
- ▶ Valuable risk management services offered (see reverse side)

<sup>1</sup>This coverage overview is not a part of an insurance contract and does not supersede the policy. Please read the policy form for complete terms, conditions and exclusions.

### Contact Us

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### Submissions

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## Claims Examples

### Sexual Harassment

A cashier at a local fast food restaurant claimed her manager sexually assaulted her. The restaurant owners admitted that the assault occurred, but denied that they knew or could have known of the manager's propensity to assault employees. The restaurant owners claimed that the incident occurred after hours, so the restaurant should not be involved. Defense costs exceeded \$90,000. The case settled for \$220,000.

### Wage and Hour

A chef worked catered events for a restaurant chain. She brought suit against her employer for failing to pay wages at the overtime rate. The chef alleged that she regularly worked in excess of 40 hours per week due to her work at summer festivals. The restaurant alleged that it was not a covered enterprise according to the Fair Labor Standards Act (FLSA) nor was the chef individually covered. Sloppy record-keeping by the restaurant hindered full disclosure of the revenue generated by the summer festivals. The case could not be resolved by negotiations or summary judgment. The restaurant incurred \$75,000 in legal fees and the case eventually settled for \$55,000.

### Retaliation

An event planner filed a complaint against her former employer, a well-known restaurant. She alleged that she was subject to sexual harassment by her direct supervisor because of her pregnancy. Shortly after, she was terminated. She then sued the restaurant and claimed that her termination was in retaliation for complaining of unlawful pregnancy discrimination. The case settled for \$75,000.

### Sexual Harassment

A fast food restaurant chain paid \$225,000 to settle a sexual harassment claim by a male cashier who alleged that his female supervisor groped him and made unwanted sexual advances towards him. He complained to other managers, but no action was immediately taken. Defense costs exceeded \$50,000.

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## About Monitor Liability Managers, LLC

For nearly two decades, Monitor has provided comprehensive executive and professional liability insurance at competitive prices. Our consistency of leadership, outstanding customer service and industry expertise enable us to provide insurance products unsurpassed in the marketplace.

Monitor is a member company of the W. R. Berkley Corporation with full underwriting and claims settlement authority for its insurance products.

### A+ Rated Insurance Carriers

Admiral Insurance Company (Nonadmitted)  
Berkley Insurance Company (Admitted)  
Carolina Casualty Insurance Company (Admitted)

- A.M. Best Company rated: A+ (Superior)

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## Risk Management Services

Monitor provides a suite of risk management services to its insureds at no cost. These services are offered by Gordon & Rees, LLP and give our insureds access to:

- Unlimited calls to a toll-free, confidential human resources helpline that provides expert advice about employment-related workplace concerns
  - (877) 503-4595
- A risk management Web site, MyHRHelp, that provides resources covering all areas of workplace law and includes templates of employment applications, policies, procedures and an employee handbook
  - [www.myhrhelpweb.com](http://www.myhrhelpweb.com)
- A subscription to the newsletter, *Employment Law Updates*, that highlights important workplace law news and trends

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## Claims Expertise

With more than 100 years of combined experience, Monitor's claim professionals and attorneys respond to and manage claims effectively. Our experts handle a wide range of claims that occur with the most sophisticated risks in the market.