

Pregnant? You're Fired!



Employment practices liability insurance (EPL) protects businesses from claims made by employees regarding discrimination (age, sex, race, disability, etc.), wrongful termination of employment, sexual harassment, and other employment-related allegations. If a judgment or settlement is reached, disbursements and attorneys fees could reach hundreds of thousands of dollars. Without proper EPL coverage, you could be responsible for these costs.

the facts

XYZ Realty specializes in the sale of residential properties. Mrs. Black and Mrs. Vasquez, brand management specialists, were hired by XYZ Realty to act as marketing directors. After one year of employment Mrs. Black advised Mr. Brown, the principal of the firm, that she was pregnant. Mrs. Black said she would be taking three-months of maternity leave and that it was her intent to return to her position. However, Mrs. Black never came back to work. Mr. Brown announced Mrs. Black's decision to not return to work after her maternity leave and several employees joked about her being let go because she was pregnant. Several months after Mrs. Black's departure, Mrs. Vasquez advised Mr. Brown that she was expecting and intended to take leave as well.

Two months after Mrs. Vasquez's announcement, XYZ Realty lost several key agents to a local competitor which lead Mr. Brown to decide a reduction in force was needed. Mr. Brown decided he was going to take over Mrs. Vasquez's role as marketing director. He contacted Mrs. Vasquez and advised her that she would be let go. Mrs. Vasquez was terminated one month prior to her scheduled maternity leave. Mrs. Vasquez quickly filed suit and alleged that she had been wrongfully terminated.

the result

The case proceeded to trial and the jury sympathized with Mrs. Vasquez who delivered a very emotional speech on the stand. Due to Mr. Brown's statements concerning previous employees and the close proximity in the timing of Mrs. Vasquez's termination to her scheduled leave, the jury rendered an award to Mrs. Vasquez in the amount of \$250,000. XYZ Realty also paid an additional \$125,000 to cover Mrs. Vasquez's attorney fees in addition to the \$150,000 owed to its own attorneys for defending the case. The total out of pocket cost for this employment practices liability claim was \$525,000.

Any examples in this article are for illustrative purposes only and any similarity to actual individuals, entities, places or situations is unintentional and purely coincidental. This material is not intended to establish any standards of care or to serve as legal advice appropriate for any particular factual situations. Please remember that only the relevant insurance policy can provide the actual terms, coverages, amounts, conditions and exclusions for an insured. Copyright © 2011 Victor O. Schinnerer & Co. Inc. . All rights reserved.

Risk Factor #1

Mr. Brown should have used outside counsel to evaluate employment practice and severance policies. He should have refrained from self-diagnosis.

Risk Factor #2

Mr. Brown should have known that proper notification is very important. There are many cases where employees are filing claims because they were not properly notified of potential termination of employment.

Risk Factor #3

During times of economic down turn, the frequency of EPL claims rises and employees are seeking higher damage awards.



Victor O. Schinnerer & Co., Inc.
Two Wisconsin Circle
Chevy Chase, MD 20815-7022
Phone: 301-961-9800
Fax: 301-951-5444



Proud Partner