

Employment Practices Liability

Law Firm Claims Examples

Berkley Select offers employment practices liability insurance for law firms in private practice. This coverage is critical for all law firms. Below are examples of claims that can occur.

Sexual Harassment

Legal assistant at insured law firm sued the firm, alleging that at a holiday party, an insured partner became drunk and tried to touch her inappropriately. The involved partner was unable to remember the specifics of the incident and denied any intent to be inappropriate, but admitted that he was drunk at the party. In discovery, the claimant produced video of the partner at a different gathering at the partner's home, with firm members and employees in and around his hot tub, and the partner obviously drunk and stumbling. The overall results of fact discovery in the case indicated that although the partner may or may not have acted with a predatory or sexual intent, he was an alcoholic with a history of problematic incidents. As it was clear that the claim was very risky to defend further, mediation was held at which the case resolved for \$290,000. Defense fees and expenses totaled approximately \$95,000.

Age and Disability Discrimination

Claimants were two senior attorneys at the insured law firm which was merging its practice into a large, national firm. Claimants were offered severance of \$50,000 each but were not invited to join the larger firm, and claimed that this was due to age and disability discrimination. They further alleged that seven non-partners were invited to join, and none faced the health issues of Claimants. Initial demands were approximately \$550,000 per claimant. The first claimant settled quickly despite the insured's position of no liability. The second claimant refused to settle, believing his claim to be worth a sum in the seven figures. Lengthy and contentious litigation has ensued; even after the claimant's counsel withdrew, the claimant proceeded pro se. Many years of litigation at the federal court level resulted in a dismissal of the claimant's federal law claims; claimant is now litigating his state law claims in state court. Liability is viewed as very tenuous, but almost \$500k to date has been paid on defense. The claim has been pending for over seven years.



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The Berkley Select claims department is staffed with experienced employment practices liability specialists. This dedicated team delivers the best possible outcome for the policyholder.

Wrongful Termination

An associate at a midsize law firm was dismissed after the firm decided to reorganize due to a downturn in business. After her dismissal, the former associate alleged that the letter of employment she had received outlining her salary, benefits, and start date was a contract and that she could only be terminated for a “cause”. Denying a motion for summary judgment, the court found that because the letter of employment did not mention “at will” employment, a jury would need to decide if a contract was created. This claim cost more than \$270,000 to resolve.

Sexual Harassment

Claimant was an associate with the insured firm. She was terminated for cause, the ‘last straw’ being when she became drunk at a client outing at a baseball game, and used an incendiary racial epithet in front of the client, who was African-American. The client complained about the incident and stopped sending work to the firm. Claimant filed suit against the firm, alleging sexual harassment by one of the partners for whom she did work. She made no complaints of harassment before her termination. Despite the existence of an arbitration agreement, the claimant filed suit. Significant motion practice and discovery were allowed before the court finally granted the insured’s motion to compel arbitration. Some settlement discussions occurred but the claimant would not reduce her demand below mid six figures. After completing discovery and getting a portion of the claim dismissed on summary judgment before proceeding to hearing on the balance of the claim, the arbitrator found in the insured’s favor. However, defense fees and expenses to finally conclude the matter exceeded \$400,000.

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