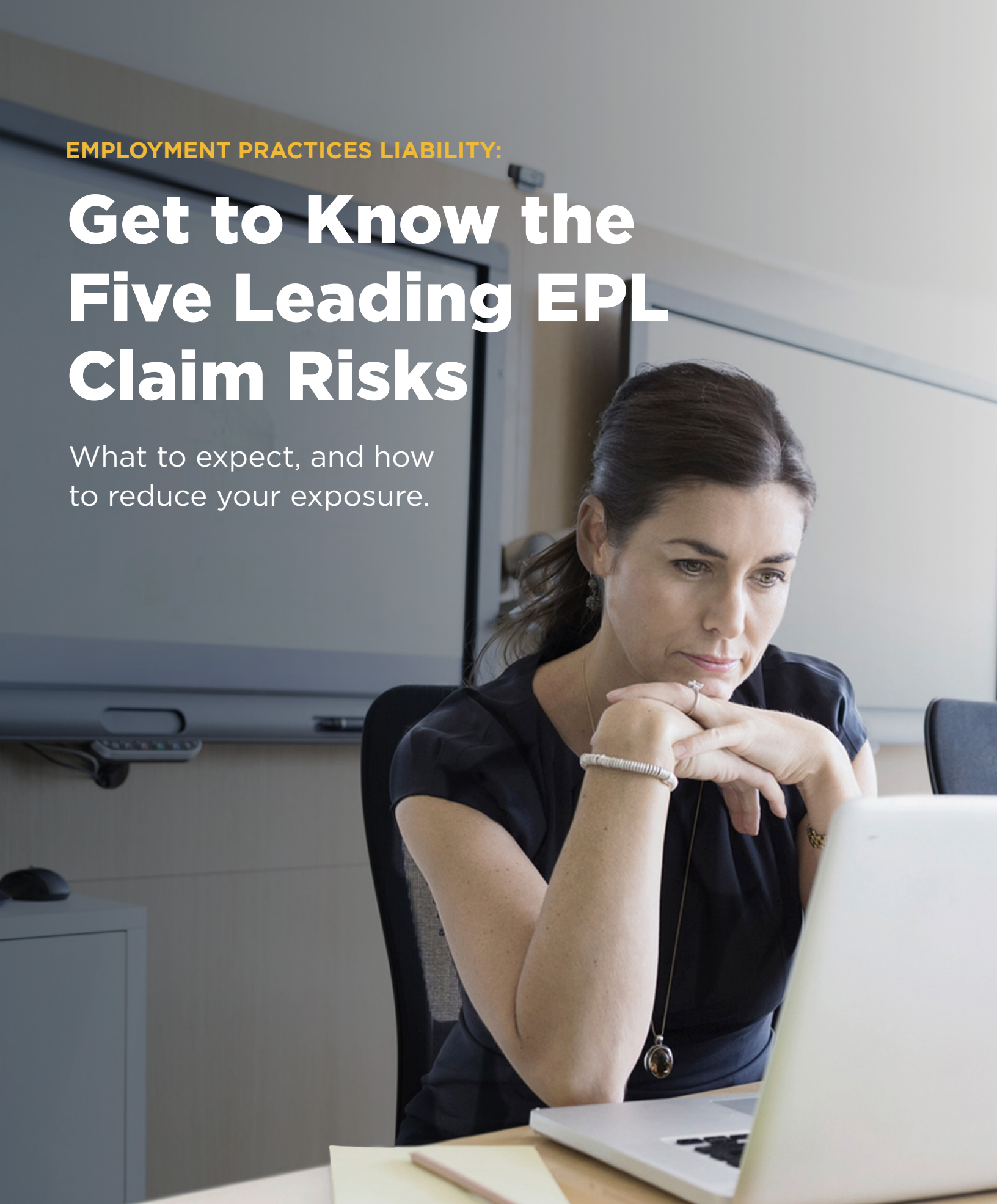


EMPLOYMENT PRACTICES LIABILITY:

Get to Know the Five Leading EPL Claim Risks

What to expect, and how
to reduce your exposure.





If you have employees, you have employment practices liability (EPL) risk. Allegations of sexual harassment, race and gender discrimination, and retaliation are all on the rise — and can have devastating consequences for businesses.



Employment claims are time-consuming.

The average EPL lawsuit takes just under a year to resolve.¹



Employment claims jeopardize your reputation and erode staff productivity and morale. Many employment lawsuits are settled out of court, but when they go to trial, employees and other plaintiffs win 67% of the time.²



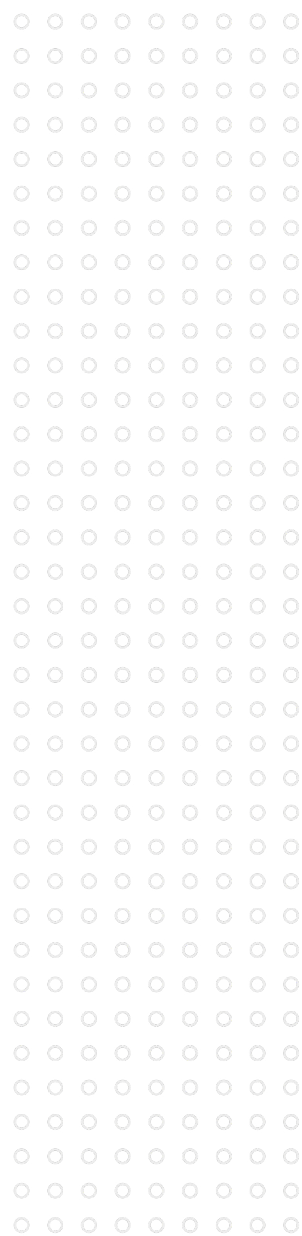
Employment claims are expensive.

The median EPL judgment is \$200K, not including defense costs.



Without EPL insurance, you could end up paying even more.

As many as 25% of EPL lawsuits result in judgments of \$500K or more,³ and general liability and other business insurance policies specifically exclude employment-related claims.



ALL BUSINESSES ARE AT RISK.

You can face an EPL claim even if:

You have a great relationship with a small or mid-sized team. Up to 41% of EPL lawsuits are brought against private companies with fewer than 100 employees.

You didn't necessarily do anything wrong. Even bogus claims must be defended. In the last two decades, the frequency of EPL lawsuits has risen an astounding 400%.

¹ The 2017 Hiscox Guide to Employee Lawsuits. <https://www.hiscox.com/documents/2017-Hiscox-Guide-to-Employee-Lawsuits.pdf>

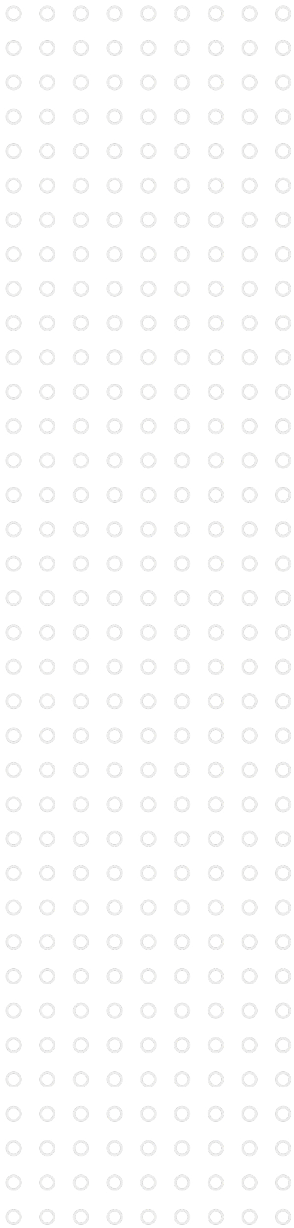
² Insurance Journal. <https://www.insurancejournal.com/magazines/features/2014/01/13/316347.htm>

³ The 2015 Hiscox Guide to Employee Lawsuits. <https://www.hiscox.com/documents/The-2015-Hiscox-Guide-to-Employee-Lawsuits-Employee-charge-trends-across-the-United-States.pdf>



5 LEADING EPL CLAIMS

How you classify and compensate workers can also put you at risk of EPL claims. Here are five of the leading EPL claims, and key steps to reduce your exposure to each.



CLAIM 1: FAIR PAY

Avoid liability by ensuring equal pay for men and women, regardless of race, age or disability. Be proactive and self-audit to make sure your organization:

- Has up-to-date job descriptions that include criteria for skills, education, seniority and responsibility
- Assigns consistent compensation to similar jobs performed by individuals with similar skills, education, seniority and responsibility
- Offers both men and women projects or clients with commission/bonus potential on a consistent basis



CLAIM 2: GENDER IDENTITY AND RESTROOM ACCESS

Don't restrict employees from using restrooms because of their gender identity. The Occupational Safety Health Administration (OSHA) suggests that you:

- Permit employees to use the restroom associated with their gender identity
- Don't ask employees to provide medical or legal documentation of their gender identity to access gender-appropriate restrooms
- Provide additional single- and multi-occupancy gender-neutral restrooms with lockable stalls



CLAIM 3: WAGE THEFT

Denial of wages or employee benefits that are rightfully owed to employees costs U.S. workers as much as \$15B annually.⁴ Avoid wage theft by writing clear and consistent policies and by training managers on the most common wage theft violations:

- Forcing employees to work “off the books”
- Not providing consistent meal and rest breaks
- Failure to pay overtime and earned tips



CLAIM 4: WORKER CLASSIFICATION

Avoid EPL claims resulting from the misclassification of contract workers by better defining their independent contractor status:

- Review federal economic reality and state labor tests, as well as IRS guidelines for classifying workers
- Determine if you are being consistent in your classification of contractors and employees who perform similar tasks
- Perform misclassification audits monthly or quarterly



CLAIM 5: EFFECTIVE COMPENSATION

Millennials currently make up 50% of the U.S. workforce. As that number rises — it will reach 75% by 2025 — this segment will drive a dynamic shift in pay practices, from a merit-driven system to a value-based approach.

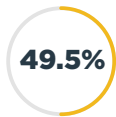
Employers can avoid potential EPL claims by building a results-driven culture and offering a performance management program that integrates compensation and rewards.



⁴ EPLI. <https://www.epi.org/publication/employers-steal-billions-from-workers-paychecks-each-year-survey-data-show-millions-of-workers-are-paid-less-than-the-minimum-wage-at-significant-cost-to-taxpayers-and-state-economies/>

2016-2017 U.S. Employment Practices Liability Claims

In 2017, the Equal Employment Opportunity Commission (EEOC) reported more than 99,000 retaliation and discrimination claims. During the same period, the EEOC obtained \$484M in awards for employees.⁵

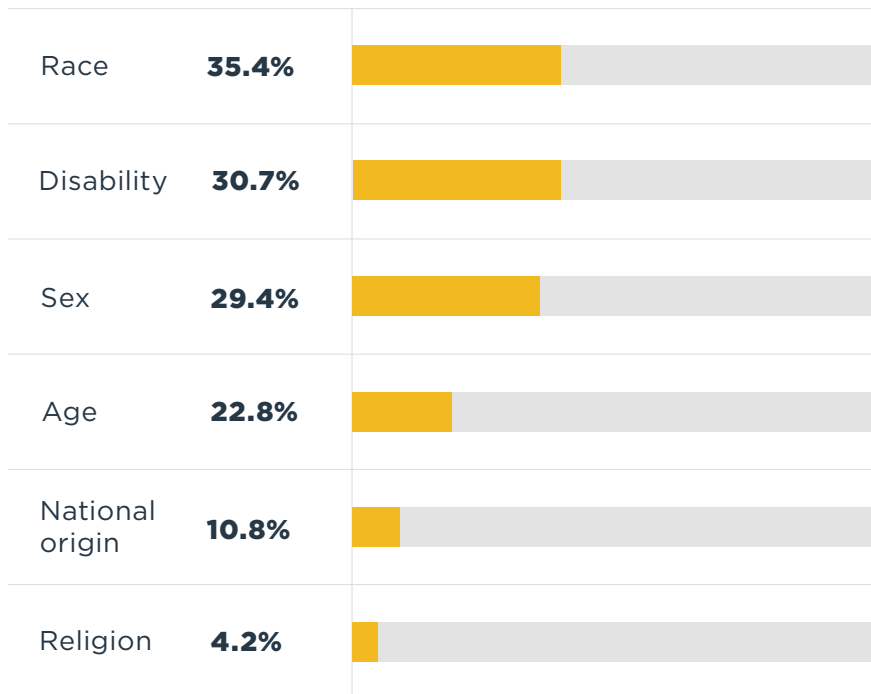


RETALIATION

A component of 49.5% of claims, retaliation is the most prevalent Equal Employment Opportunity Commission (EEOC) charge, as many employees who face discrimination also experience retaliation. Common retaliation claims were from employees who:

- Filed, or were witness to, an EEOC charge
- Communicated with a manager about their discrimination
- Answered questions during a discrimination investigation
- Refused to follow orders that would result in discrimination
- Resisted sexual advances or intervened to protect others

The other most common claims included:



(Note that in many cases, more than one claim category was cited.)⁶

⁵ EEOC. <https://www.eeoc.gov/eeoc/newsroom/release/11-15-17a.cfm>

⁶ EEOC, 2016 Charge Statistics. <https://www.eeoc.gov/eeoc/statistics/enforcement/charges.cfm>

Protect what matters most

We can advise you on how to manage confidently in a changing business landscape, and help tailor a plan to protect your organization, brand and assets from EPL claims.

Contact a HUB employment practices liability expert today at:

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