

ARE YOU PROTECTING YOUR FRANCHISE AGAINST EMPLOYMENT-RELATED CLAIMS?

In recent years, employers have seen a steady increase in the charges filed against them. In 2016, the EEOC reported 91,648 charges, compared to only 75,768 in 2006¹, which is a **21% increase** in the last decade.

These lawsuits can be costly:

- Accused of paying female employees lower wages than their male counterparts, a burger franchisee spent **\$100,000** to settle a gender pay equity/discrimination lawsuit.
- A North Carolina fried chicken franchisee paid **\$40,000** to settle a religious discrimination lawsuit after firing a Pentecostal employee for refusing to wear pants to work.
- A franchisee of a grocery chain in Mississippi paid a former employee **\$125,000** to settle a sexual harassment lawsuit.
- An auto repair franchisee paid **\$185,000** in punitive damages for pregnancy discrimination and retaliation.
- A burger franchisee in Wisconsin paid **\$1,000,000** to three former female employees to resolve a sexual harassment lawsuit.
- A burger franchise operator in San Francisco paid **\$3,750,000** to settle a class action lawsuit alleging various wage violations.

Litigation defense fees and expenses can easily exceed \$100,000 per claim and are in addition to any settlement or judgment.

WHY ARE FRANCHISE BUSINESSES A TARGET?

A well-known franchise name is a magnet for litigation. Aggrieved employees and their lawyers have a misconception that they can sue and recover from the deeper pocket franchisor. Also, there is an assumption that franchise operators will settle lawsuits at any cost to avoid bad press and to protect their brand.



¹ Source: <https://www.eeoc.gov/eeoc/statistics/enforcement/charges.cfm> (Last Visited September 11, 2017)

HOW CAN FRANCHISE BUSINESSES PROTECT THEMSELVES?

EDUCATION & RISK MANAGEMENT: By understanding the nuances of employment law and by implementing adequate HR policies, franchisees minimize their risk of employment-related lawsuits. To this end, all Tokio Marine HCC – Professional Lines Group policy holders have free, unlimited access to **HR Pilot®**. This service includes:

- Unlimited telephone and email support
- State-specific online content
- Posters, handbooks, and training in English and Spanish
- Sample employee handbooks
- Online training courses for managers and employees
- Toll-free employee complaint hotline



INSURANCE: Employment Practices Liability Insurance (EPLI) protects employers against claims from current and former employees as well as applicants. It can also protect against claims for discrimination and harassment by third-parties, i.e. customers and vendors.

Potential Coverage Can Include:

- Discrimination based on race, age, gender, disability, religion and other protected classes
- Third Party Discrimination and Harassment, including ADA access claims
- Harassment – both sexual and non-sexual, including electronic and workplace bullying
- Wrongful termination or demotion
- Retaliation claims for protected classes and activities

WHY CHOOSE TOKIO MARINE HCC?

Tokio Marine HCC – Professional Lines Group has been protecting and defending franchise business owners against Employment Practices Liability claims since 2001 – we were one of the first to enter the market and remain a leading insurer of franchise risks. We understand the franchise business model and have tailored our products within various franchise programs to meet the unique needs of franchisees. Beyond providing EPLI insurance, Tokio Marine HCC advocates education and risk management and will actively guide you through the litigation process if you ever experience a claim.

Chris Murphy

SVP, Underwriting - EPL

Direct: 415.277.2475

cmurphy@tmhcc.com

Not all coverages of products may be available in all jurisdictions. The description of coverage in these pages is for information purposes only. Actual coverages will vary based on local law requirements and the terms and conditions of the policy issued. The information described herein does not amend, or otherwise affect, the terms and conditions of any insurance policy issued by Tokio Marine HCC.