

# Employment-related risks faced by service companies

Employee lawsuits alleging sexual harassment, discrimination, wrongful termination, retaliation and other employment-related issues are at an all-time high. The Hanover's employment practices liability solution helps protect service companies against the financial damage of employment-related claims or lawsuits brought by their employees. These scenarios show you how.

## Gender discrimination

**Gender discrimination is a common risk faced by service companies, as the Equal Employment Opportunity Commission (EEOC) reports 30% of all EEOC complaints include a gender discrimination component.**

A company found itself in a precarious position after a former sales manager sued the company for gender discrimination, retaliation and wrongful termination. While education on discrimination training, documentation and pathways to report abuse was delivered, the instruction was not followed. With her annual compensation in the mid six figures, the former sales manager sought a seven figure settlement.

### INSURANCE IN ACTION

It was determined that the company's stated reasons for termination would not be acceptable in a court of law and could lead the former sales manager to make other costly claims. Therefore, The Hanover, working closely with the company and skilled defense panel attorneys, negotiated a settlement of all claims arising out of the former sales manager's employment for only a portion of the demand. This also shielded the company from the possibility of future claims being made by the former sales manager.

## Sexual orientation discrimination

**LGBTQ issues have taken on increasing prominence in the field of employment law as legislatures, administrative agencies, and courts have shown an increasing willingness to extend civil rights protections to LGBTQ issues.**

A small financial services company was sued for allegedly discriminating against one of its transsexual employees. According to the complaint, the company objected when the employee requested time off to undergo sex reassignment surgery. While the company eventually approved the request for leave, it replaced the employee with another individual during her leave, demoted her after she returned to work and ultimately fired her.

### INSURANCE IN ACTION

Due to multiple factual disputes over the company's actions relative to the employee's request for leave, the projected defense costs were very high while the possibility of a defense verdict was not. As a result, The Hanover, the company and defense counsel agreed the best course of action was to explore an early settlement. After mediation, the parties reached a fair and equitable settlement well below the projected costs of engaging in discovery, motion practice and a potential trial.

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These hypothetical examples are provided for discussion purposes only, although some parts are based on actual claims experiences, names and facts have been changed to protect confidentiality. Insurance policy coverage depends on the facts of each case and the terms, exclusions, and limitations of the policy issued.

## Defamation

**Service companies should take great care when ending an employee relationship, as feelings of lack of fairness can be exacerbated by an employer's statements which could be interpreted by the employee as damaging their reputation.**

A medical group was sued by a former doctor alleging claims of disability discrimination, invasion of privacy and defamation. After the doctor self-reported an auto accident, the group reviewed his medical records and learned that alcohol was a factor in the crash. For some time prior to the accident, members of the group suspected the doctor had a substance abuse problem, citing occasions of slurred speech and shaking hands at work. This was brought before the group's board of directors, which opted to terminate the doctor's employment based on the information. The doctor argued the statements were untrue and made without sufficient factual investigation.

### INSURANCE IN ACTION

Potential damages were significant, as the doctor routinely earned more than \$400,000 per year and could not find suitable replacement employment. Faced with significant financial exposure in both damages and attorneys' fees, The Hanover and the group elected to settle the doctor's claims for a payment in the mid-six figures.

## Sexual harassment and assault

**Despite thoughtful sexual misconduct risk management and prevention efforts, service companies can still find their reputations and assets on the line.**

A national restaurant chain was sued by one of its employees who claimed her manager had drugged and raped her while the two were on a business trip. The manager was arrested and pleaded "no contest" to criminal charges arising out of the incident. Under the law of the state in which the case was filed, employers are strictly liable for acts of sexual harassment committed by managers against lower-level employees. The employee presented credible evidence of severe emotional distress and sought a seven figure settlement demand.

### INSURANCE IN ACTION

Recognizing the exposure, The Hanover worked with the restaurant chain to drive early settlement discussions, saving money on defense costs and avoiding unwanted publicity that could have adversely impacted business. After extensive negotiations and a full day of mediation, the parties reached a settlement for a six figure amount.

## Help ensure you're protected

**You don't have to be in the wrong to be the target of a claim or suit. Talk to your Hanover representative to learn more about how our employment practice liability insurance can provide the protection you need.**



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