

# Professional Insurance



## E-mail Trails

Transferring hundreds (or thousands) of e-mails daily, your firm's server may become the most potent piece of evidence in a lawsuit alleging discrimination, negligence or other wrongdoing against your firm.

How can you protect your firm from liabilities created by this pervasive form of communication? According to Business and Legal Resource's *HR Daily Advisor*, there are steps a firm can take when turning an employee loose in cyber space. A few suggestions are:

- Require a signed statement from employees that they understand set permissions. This means acknowledging that manage-



ment has the ability to override personal passwords to ensure access to all e-mails sent by the employee. This helps to eliminate

employees' expectation of privacy in their company e-mail and other stored information.

- Require a signed statement confirming the employee's consent to allow management to review e-mails.

- Require a confirming statement from the employee that e-mail must not be used to solicit information for personal reasons, other

employment, political and religious messages, fundraising efforts or any other matter that is not directly connected to company business.

## Bankruptcy and D&O Insurance

According to a study by a global insurer, more than 150,000 companies in the U.S. (one out of every 200 businesses) filed for bankruptcy protection during 2008 and 2009. That is more than double the traditional rate. The study identifies bankruptcy as the number one cause of litigation against corporate directors and officers and poses the greatest risk for their personal finances. Additionally, it is one of the most complicated insurance coverage issues.

There is no standard D&O policy; each addresses bankruptcy differently. These policies often include provisions that can significantly limit or remove covered individuals from accessing coverage limits at the time those limits may be most needed.

We can help. Our service team can help you understand what your policy will do in the event your firm files for bankruptcy and provide alternatives for your directors to enhance their protections.

## Data Breach Notification



Forty-six states, as well as Washington, D.C., and Puerto Rico, have laws mandating that companies notify clients in those locales if the company experiences a data breach.

The expense of this potentially widespread effort may be substantial. Making it worse is the fact that standard liability insurance will not contribute dollars to help pay the cost. Fortunately, there are professional liability insurance policies—often called “cyber liability” insurance—designed to cover this as well as other exposures prevalent in the information age.

Cyber liability insurance may cover the cost to defend claims alleging breach of privacy, unauthorized access, and other information technology exposures. The policy may also cover liability claims stemming from electronic theft and “hacking” of personal information, as well as theft of data resulting from stolen or misplaced hardware.

Don't let the name fool you. Cyber liability insurance is not reserved for highly technical firms. This insurance is designed to protect everyday businesses from common exposures.

## Non-Profits and Volunteers

Your non-profit might rely on volunteers to make up the brunt of your workforce. Some volunteers are there to lend physical support—an additional set of hands on a project, for example. In other cases, a non-profit's most influential decision makers may be volunteers.

Failing to protect them if their actions result in allegations of mismanagement or wrongdoing is common. The truth is that many non-profits don't know the risks. Those that do often operate under the belief that they are protected from liability, or they incorrectly assume that no one would

sue a non-profit or its individual volunteers.

Fortunately, the professional liability insurance marketplace includes many insurance companies willing to provide professional liability, directors and officers, and other important liability insurance coverage designed for exposures common to non-profits. Policies may protect the organization as well as the personal assets of individual volunteers if brought into a costly liability claim. For more information on this important insurance for your non-profit, call our service team today.

## Dress Codes

If safety is an issue, employers have the right to exhibit a degree of control over how employees dress at work.

For example, employers can prohibit certain footwear, such as open-toed shoes for workers facing health or foot-injury risks. Employers in the food service industry may prohibit employees from having long fingernails or unsecured hair, due to hygiene concerns. Employers may also require employees to wear the proper personal protective equipment (PPE), such as goggles or hard hats.

But what other rights does an employer have to enforce a dress code? How far can an employer go in dictating how certain employees appear at work? This subject generates controversy in workplaces all over the U.S. Cases of workers claiming sexual, racial and religious discrimination and rights to freedom of expression are frequent in the national media.

The truth is that employers must exercise extreme caution when instilling or enforcing a dress code at work. Costs associated with such a lawsuit are not covered by standard liability insurance, although some employment practices policies address the issue. Seeking legal counsel is a necessity; failure to do so could land the employer in a costly discrimination lawsuit.



# Americans with Disabilities Claims

The Equal Employment Opportunity Commission reported that it received almost 21,500 charges related to the Americans with Disability Act (ADA) in 2009, making it the busiest year in the ADA's 20-year history.

Experts believe there are two primary reasons for the sharp increase in discrimination lawsuits under the ADA. First, the act was amended in 2008 to expand benefits to individuals not previously protected. The other reason cited is widespread layoffs relating to adverse economic conditions.

While there are steps employers can take to minimize the threat of a discrimination, wrongful termination or harassment lawsuit, the risk remains substantial. This is why employers large and small should



consider employment practices liability (EPL) insurance. This insurance is designed to help protect your firm against these and other employment-related claims by those who believe their legal rights as an employee have been violated.

You may have the option to add EPL coverage to an existing policy, such as a business owners policy or a directors and officers liability policy. Stand-alone EPL policies are also available. For more information, call our service team today.

## Employment Claims Growing

There was a time when only a small percentage of small-business owners believed that a trusted employee would bring an employment-related claim against them.

Oh, how the times have changed. According to a recent survey, two out of three small-business owners are now concerned that their employees would bring an employment-related claim against them. Over 40% of them said their concerns were based on the poor economy, while others cited new laws that make it easier for

employees to file a charge.

Although awareness of such claims is growing, a majority of

**Employer concerns are based on the poor economy and new laws that make it easier for employees to file a charge.**

small-business owners do not realize how much these claims cost. The survey reports that

60% of small-business owners believe it would cost less than \$20,000 to defend against an employee's claim.

According to the Equal Employment Opportunity Commission, 81% of claims settle between \$22,400 and \$40,500.

The frequency and expense of employment-related claims is growing. Is your firm prepared? The good news is that employment practices liability insurance is readily available and can be customized to cover a variety of employment-related claims.

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## Medicare and Medicaid Billing Audits

Thank you for  
your referral.

If you're pleased with us,  
spread the word! We'll be  
happy to give the same great  
service to all of your friends  
and business associates

There's no question the healthcare industry will be facing significant changes in the next few years. Organizations trying to adapt face the added challenge of increased audits involving Medicare and Medicaid billings.

Even if your organization's billing practices are without error, these audits are usually time consuming and costly. Due to the expected increase in government audits, several insurance companies have created specialized errors and omissions coverage designed to protect healthcare organizations from the costs associated with Medicare and Medicaid billing audits and investigations.

For more information on how this important coverage could protect your organization, call our service team today.