

CLAIMS EXAMPLES

The claims examples below illustrate the types of exposures placement companies can face.¹

Errors & Omissions Claims Examples

Negligent Placement:

An agency's client discharged a temporary employee because he was using his Internet connection at work to download sexually explicit material. The disgruntled employee then deleted work-related computer files. The employment agency's carrier defended allegations of negligence in placing this individual, and settled the resulting claim.

Breach of Staffing Contract:

A headhunter for high-dollar management positions for corporate clients placed a woman with management background as a senior officer in a prominent company. The agency discovered subsequently that it had neglected to check her credentials, and when it did so, it learned that contrary to her representations, she did not possess the requisite college degrees. The employer demanded and received significant damages.

Misrepresentation:

An employment agency recruited a California resident to move to England to take a position with a British company. Once there, however, she couldn't get a work permit and eventually the British company terminated the contract with her and hired a British subject. She sued the employment agency for damages resulting from the unsuccessful placement.

Employment Practices Liability Claims Examples

Religious Discrimination:

A former employee of a temporary agency sued her former employer, alleging that she was denied a promotion to manager because she was not a member of a particular religious group that predominated at the company. She claimed that a member of the religious group received the promotion even though the plaintiff had six years more experience and an MBA (unlike the woman who received the position). A jury awarded \$647,174 in pain and suffering and \$5,900,000 in punitive damages.

National Origin Discrimination and Retaliation:

The EEOC sued the temporary agency and its client because the client directed the agency to fire 13 employees because of their national origin and five other employees as retaliation for being friends with an employee who had threatened to file a complaint with the EEOC. The parties settled, with the client paying \$456,000 and the temporary agency paying \$144,000.

Gender/Race Discrimination:

The EEOC sued a temporary staffing agency for unlawfully coding applicants by race and gender in compliance with its clients' requests that only employees of a certain race or gender be submitted for consideration. The parties settled, with the defendant agreeing to pay \$285,000, and three of its clients paying \$50,000 in administrative costs.

Age/Disability/National Origin/Race/Sex Discrimination:

The EEOC sued a temporary employment agency for allegedly engaging in the following discriminatory actions. First, the agency allegedly complied with its clients' requests not to refer applicants who were racial minorities or women. Second, the agency allegedly screened out applicants with disabilities by forcing them to fill out a "medical questionnaire" requesting disclosure of such disabilities. Third, the agency allegedly terminated an employee because of her pregnancy. Fourth, the agency allegedly retaliated against an employee who questioned the company's discriminatory policy against people with disabilities. Fifth, the agency allegedly failed to refer older workers to its clients. After the EEOC sued the clients for making the discriminatory requests, the temporary agency settled for \$500,000, and two of the clients of the temporary agency agreed to pay \$80,000.

¹ Some of the above are claims AXIS PRO® has handled. In others, AXIS PRO was not directly involved. Coverage for these claims is not to be inferred from this list but must always be determined in reference to a particular insurance policy, which is the controlling document, as well as the facts and circumstances of each claim and applicable law.