

ALLEGIANCE UNDERWRITING GROUP

**APPLICATION FOR
EMPLOYMENT PRACTICES LIABILITY INSURANCE
WITH THIRD-PARTY DISCRIMINATION COVERAGE**

THIS IS AN APPLICATION FORM FOR A CLAIMS MADE POLICY

INSTRUCTIONS:

1. Answer all questions (if not applicable, show N/A) and attach all additional information/explanations as required.
2. Applications must be dated and have two signatures.
3. "Applicant" refers to the company, its predecessors, and all proposed Insureds, including Subsidiaries.
4. PLEASE READ STATEMENT AT END OF APPLICATION CAREFULLY.

I. General Information

A. Name and address of Applicant: _____

B. Person to contact: _____
(name, title, telephone)

C. Corporation Professional Corporation Partnership Other
(Please specify)

N.A.I.C Code or SIC Code (If N.A.I.C Code is Unknown) _____

D. Describe nature of the Applicant's business: _____

E. Number of other locations (indicate states/countries): _____

F. Does the Applicant seek coverage for Subsidiaries (50% or more owned and wholly controlled by the entity identified in "A" above)? Yes No
(If Yes, please identify Subsidiaries on a separate sheet and all Application information should include information for each Subsidiary)

G. How long has the Applicant been in business? _____ Years

H. How long has the Applicant been under current management? _____ Years

I. In the past twelve (12) months, has your total number of employees decreased by more than ten percent (10%) or five (5) employees, whichever is **greater**, through any reduction in force, systematic lay-off or by closure of any division, office or facility that you own or operate? Yes No
(If Yes, please complete the Reduction In Force supplement (I))

J. In the next twelve (12) months, do you anticipate the total number of your employees to decrease by more than ten percent (10%) or five (5) employees, whichever is **greater**, through any reduction in force, systematic lay-off or by closure of any division, office or facility that you own or operate? Yes No
(If Yes, please complete the Reduction In Force supplement (J))

K. If, during the next 12 months, circumstances of which you are currently unaware make it necessary for you to decrease the number of your Employees by ten percent (10%) or five (5) Employees, whichever is greater, through the implementation of any reduction in force, systematic lay-off or by closure of any division, office or facility that you own or operate (with any such reduction, lay-off or closure not known, anticipated or planned by you as of the date of this Application), do you agree that you will consult with, and adopt the advice of, a lawyer who specializes in labor and employment law (may include in-house counsel, but only if that counsel is qualified and experienced in the practice of labor and employment law) as respects the implementation of such reduction, lay-off or closure? Yes No

L. Does the Applicant anticipate any merger, acquisition, or addition of any operations that would comprise a twenty five percent (25%) or ten (10) employees, whichever is **greater**, increase over the current number of employees? Yes No
(If Yes, please provide full details on a separate sheet)

M. Has the proposed coverage ever been purchased before, whether specifically or as a part of or addition to another coverage? Yes No

<u>Year</u>	<u>Type of Coverage</u>	<u>Carrier</u>	<u>Limit</u>	<u>Deductible</u>	<u>Premium</u>
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

N. Has any insurer ever canceled or non-renewed the Applicant or its predecessor for this type of coverage? Yes No
(If Yes, please provide details on a separate sheet)

II. Financial Information

A. Please answer the following four (4) questions for the Insured Company, including its subsidiaries, for the most recent fiscal year end:

i) What are the Applicant's total assets? \$ _____

ii) What are the Applicant's total gross revenues? \$ _____

- iii) Does the Applicant currently have: Net Income or
 Net Loss
 Amount \$ _____
- iv) Does the Applicant currently have: Positive Cashflow or
 Negative Cashflow
 Amount \$ _____

- B. Has an auditor in the previous two (2) fiscal years recommended a “going concern” opinion of the financial information for the Applicant? Yes No
(If Yes, please provide details on a separate sheet)

III. Loss History

- A. Furnish details of all Wrongful Employment Practice Claims (as those terms are defined in the Policy) against the Applicant within the last 5 years. None See attached
(Please include all demands and lawsuits, as well as all charges, inquiries, investigations, grievance or other proceedings before the Equal Employment Opportunity Commission, or any other governmental agency with responsibility for employment practices.)

Total number of Claims in the last 5 years _____

PLEASE PROVIDE A FULL DESCRIPTION OF EACH CLAIM ON A SEPARATE SHEET.

- B. Does any director, officer, shareholder, principal, or employee with personnel responsibility have knowledge of any circumstances that could give rise to a Claim or in any other way suspect that a Claim may be brought? Yes No

PLEASE PROVIDE A FULL DESCRIPTION OF EACH CIRCUMSTANCE ON A SEPARATE SHEET.

For example, but not by way of limitation, it would be reasonable for you to foresee that a Claim may be brought against you if a current or former employee, including officers, or an applicant for employment, has expressed dissatisfaction with the employment relationship or the employment application process by:

- i) *making a formal complaint to an officer, principal, or supervisory employee of unfair employment practices;*
- ii) *otherwise complaining of discrimination, harassment, or unfair treatment;*
- iii) *threatening to hire an attorney; or*
- iv) *asking for a severance package in excess of what was offered.*

The Applicant acknowledges that any Claims, or Claims later arising from circumstances reported, or that should have been reported, in this Section II will be excluded from coverage.

IV. Employees (including Subsidiary employee information on a separate sheet)

- A. Number of employees: Full Time: _____ Part Time: _____
- B. Salary ranges (*including bonuses, dividends and commissions*) Number of full time employees Number of part time employees
- | | | | |
|------------------------|---|-------|-------|
| \$ 50,000 or less | : | _____ | _____ |
| \$ 50,001 to \$100,000 | : | _____ | _____ |
| \$100,001 and over | : | _____ | _____ |
- C. Does the Applicant use seasonal or temporary employees? Yes No
If so, when and how many? _____
Are these employees included in A and B above? Yes No
- D. Does the Applicant use leased workers? Yes No
If yes, how many have been retained by the Applicant in the past 12 months? _____
Are these employees included in A and B above? Yes No
- E. Does the Applicant use independent contractors? Yes No
If Yes, how many work solely for the Applicant? _____
- F. How many employees are covered by collective bargaining or other union agreements? _____
- G. In the past 12 months, how many officers have left your employ? _____
Of the above, how many were terminated? _____
- H. In the past 12 months, how many other employees have left your employ? _____
Of the above, how many were terminated? _____

V. Human Resources

- A. Does the Applicant have written employment agreements with all officers? Yes No
- B. Have the Applicant's managers and/or supervisors attended training and education programs/seminars on sexual harassment and other types of discrimination within the last 12 months? Yes No
If Yes, who has attended? _____
If Yes, who conducts the sessions? _____
- C. Does the Applicant have its employment policies/procedures reviewed by labor or employment counsel? Yes No
If Yes, identify the firm and date of last review: _____

- D. Does the Applicant have a Human Resources or Personnel Department? Yes No
If No, who handles this function _____
- E. Does the Applicant have an employee handbook? Yes No
If Yes, does the Applicant distribute it to all employees? Yes No
If Yes, do all employees sign for its receipt? Yes No
If Yes, does it expressly state that it is not a contract and that employment is “at will”? Yes No
- F. Does the Applicant have written procedures for handling employee complaints of discrimination and/or sexual harassment? Yes No
- G. Does the Applicant require all terminations to be reviewed by:
The person in charge of human resources? Yes No
Outside counsel? Yes No
- H. Does the Applicant maintain a personnel file for each employee? Yes No

VI. Third-Party Information

- A. Estimated number of employees with customer/client contact: _____
- B. Has the Applicant or its predecessors ever received a complaint, formal or informal, from a non-employee, such as a customer, client, or prospective customer or client complaining about discrimination or harassment by the Applicant or any employee of the Applicant?
(If Yes, please provide details on a separate sheet) Yes No
- C. Does the Applicant conduct staff training on client and customer relations issues such as avoiding discriminatory behavior? Yes No
- D. Are there procedures for reporting and dealing with complaints by customers/clients? Yes No
- E. Is the Applicant in compliance with Title III of the Americans with Disabilities Act (building and premises requirements)? Yes No

VII. Other Material Facts

- A. Please declare any other Material Facts on a separate sheet. None See attached
(If there are no other Material Facts, please check “None”)

A Material Fact is one likely to influence assessment of this risk, the premium charged or the terms and conditions imposed by Underwriters. If you are in any doubt as to whether a fact would be considered material, you should disclose it. All the information requested in this proposal is material.

Please also ensure that any additional information is attached where applicable.

The Applicant warrants after full investigation and inquiry that the statements set forth herein are true and include all material information.

The Applicant on behalf of all proposed Insureds further warrants that if the information supplied on this application changes between the date of this application and the inception date of the Policy, it will immediately notify Underwriters of such change. Signing of this application does not bind Underwriters to offer, nor the Applicant to accept, insurance, but it is agreed that this application shall be the basis of the insurance and will be attached and made a part of the Policy should a policy be issued.

Date	Signature of Applicant's Authorized Principal or Officer	Title

Date	Signature of Applicant's Authorized Human Resources Representative	Title

**(PLEASE NOTE THAT BOTH DATED SIGNATURES ARE
REQUIRED)**

Reduction In Force Supplement (I)

A. How many employees were laid off? _____

B. What date(s) did the lay-off's take place? _____

C. Did you consult with and follow the recommendations of a lawyer who specializes in labor and employment law as respects the implementation of such reduction, lay-off or closure? Yes No

D. Were severance packages offered to all laid-off employees? Yes No

E. Were signed releases gained from all laid-off employees? Yes No

F. Were exit interviews completed with all laid-off employees? Yes No

G. Did any of the laid off employees express that they were considering bringing any sort of complaint or claim? Yes No

H. Please provide available details on the above.

Reduction In Force Supplement (J)

A. How many employees will be laid off? _____

B. What date(s) will the lay-off be effective? _____

C. Do you agree to consult with and follow the recommendations of a lawyer who specializes in labor and employment law as respects the implementation of such reduction, lay-off or closure? Yes No

D. Will severance packages be offered to all laid-off employees? Yes No

E. Will signed releases be gained from all laid-off employees? Yes No

F. Will exit interviews be completed with all laid-off employees? Yes No

G. Please provide available details on the above.

Allegiance Underwriting Group

WAGE AND HOUR COVERAGE ENHANCEMENT SUPPLEMENTAL APPLICATION

- | | Yes | No |
|---|--|--|
| 1. Do you regularly consult with an employment attorney with respect to wage and hour issues, including job descriptions, hourly rates, overtime, meal and rest breaks, and conduct audits with respect to the classification of employees as salaried, hourly, and/or independent contractors? If yes, please provide the name of the attorney, law firm and frequency:
Atty: _____ Law Firm: _____ Frequency: _____
If no, describe how your company ensures compliance with federal, state and local wage and hour laws. | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. Please list all exempt "job titles" and a brief description of the responsibilities (if this is not self explanatory within the title)

_____ | | |
| 3. Do you employ any sales personnel that make sales calls outside of your premises?
If yes, do they get paid on a commission or partial commission basis? | <input type="checkbox"/>
<input type="checkbox"/> | <input type="checkbox"/>
<input type="checkbox"/> |
| 4. Do all salaried employees:
a) receive at least 2x your state's prevailing minimum wage per week?
b) as part of their primary duties, exercise some discretion and independent judgment, including providing weighted input into hiring, promotion and firing decisions?
c) that are supervisors manage 2 or more employees and spend at least 50% of their time supervising said employees? | <input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/> | <input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/> |
| 5. Do all non-salaried employees receive at least the prevailing minimum wage as well as meal and rest breaks (where the employee is relieved of all duties during such breaks)? | <input type="checkbox"/> | <input type="checkbox"/> |
| 6. Are all non-salaried employees compensated for on-call time and travel time and reimbursed for business-related expenses (i.e., uniforms, tools, gas, etc.) and time spent putting on or removing uniforms? | <input type="checkbox"/> | <input type="checkbox"/> |
| 7. Are all non-salaried employees paid overtime for any hours worked in excess of 40 hours per week, or where applicable, 8 hours per day? | <input type="checkbox"/> | <input type="checkbox"/> |
| 8. Do you utilize a time-keeping system that tracks in-time, out-time, meal and rest breaks? | <input type="checkbox"/> | <input type="checkbox"/> |
| 9. Do you utilize independent contractors?
If yes, is there a written indemnity agreement holding Applicant harmless for any wage and hour violations? | <input type="checkbox"/>
<input type="checkbox"/> | <input type="checkbox"/>
<input type="checkbox"/> |
| 10. Do you provide itemized wage statements to all of your employees, including wages paid, deductions, tips & commissions where applicable, and, for hourly employees, regular and overtime hours? | <input type="checkbox"/> | <input type="checkbox"/> |
| 11. Do you maintain payroll records, including time-keeping records and wage statements, for a period of at least 4 years? | <input type="checkbox"/> | <input type="checkbox"/> |
| 12. Do all tip sharing / tip pooling arrangements exclude all management (including assistant managers) employees? | <input type="checkbox"/> | <input type="checkbox"/> |

UNDERSTANDING YOUR WAGE AND HOUR DEFENSE
SUPPLEMENTAL APPLICATION

To be read in conjunction with the Wage and Hour Defense Supplemental Application

1. If the answer is “No” and there is not a satisfactory explanation as to how these issues are handled then this will result in Underwriters declining to offer the coverage. Underwriters are attempting to ensure that the applicants are adopting a professional approach to Wage and Hour issues
2. Underwriters are looking for exempt positions that may be classified incorrectly. If a job description is self explanatory (for example Company owner, Director of Finance etc) this is sufficient. If the exempt job title is a little more ambiguous then a short description of the responsibilities is needed to check if the correct classification has been made
3. If “No” then Underwriters would decline. Sales personnel are difficult to classify. If a member of the sales team spends more than 50% of their time outside of their office (i.e. on the road), then they can be classified as an exempt employee, but only on the basis that they are partly or wholly compensated by commissions. If the sales employee is not entitled to commission on their own sales, then they should be considered as non-exempt. Office based sales employees should be treated as non-exempt, unless qualifying as such through another exemption, i.e. management etc.
4. If “No” then Underwriters would decline. The answer to all questions should be “yes”. Clearly each question is designed to determine the level of management responsibility of salaried employees and ensure that they are consistent with the requirements of the FLSA as such.
5. If “No” then Underwriters would decline. Minimum Wage should be paid to all non-exempt employees. Meal and rest breaks should be provided without exception, regardless of whether an employee is willing to work through such breaks.
6. If “No” then Underwriters would decline. The answer should be “yes”. The FLSA requires that all on-call time, preparation for work etc. be accounted for in remuneration to non-exempt employees.
7. If “No” then Underwriters would decline. The answer should clearly be “yes”. Under no circumstances should non-exempt employees be offered reduced hours in any workday or workweek to offset overtime hours accrued in previous workdays or workweeks.

8. If “No” then Underwriters would decline. The answer should be “yes” and if it is not then a short narrative would be useful to understand how rest and meal breaks are “enforced”. The reality is that not all firms will have an electronic time keeping system, meaning that a short narrative on how this provision is enforced will be required from the majority of the applicants.
9.
 - i) If “No” move on to Question 10.
 - ii) If “No” add Independent Contractor Exclusion

In the absence of a written hold harmless agreement then independent contractors should be excluded from the Wage & Hour extension.

10. If “No” then Underwriters would decline. Failure to provide itemized wage statements is a breach of the FLSA, and although its difficult to understand how this could materially affect an individual employee, as a breach of statute this needs to be appropriately administered. We have seen an increase in plaintiffs alleging this type of violation and would accordingly expect any successful applicant to be managing the provision of itemized wage statements appropriately.
11. If “No” then Underwriters would decline. This is a requirement in California, however, as best practice it would be our recommendation that this is adopted by all insureds regardless of their domicile.
12. If “No” then Underwriters would decline as this is a DOL requirement.
13. If “No” then Underwriters would decline as this is a DOL requirement.
14. If “Yes” refer with full details.

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EPL Immigration Practices Defense Coverage

Applicant: _____

1. Have any losses, lawsuits, administrative proceedings, governmental investigations, hearings or demands been made against the Applicant or any entity or person proposed for this insurance during the past five (5) years alleging violations of the Immigration Reform Control Act of 1986 or any other similar federal, state or local laws or regulations?

Yes

No

THE APPLICANT WARRANTS AFTER FULL INVESTIGATION THAT THE STATEMENTS SET FORTH HEREIN ARE TRUE AND THE APPLICANT BELIEVES IN GOOD FAITH THAT ALL EMPLOYEES ARE AUTHORISED TO WORK IN THE USA.

Date

Signature of Applicant's Authorized Principal or Officer

Allegiance

EPL Immigration Practices Defense Coverage – Application Supplement

Applicant: _____

- A. Please confirm that all new Employees complete an I-9 Form on their first day of Employment?
 Yes No
- B. Please confirm that you complete Section Two of the I-9 form within three days of the commencement of employment?
 Yes No
- C. Please confirm that the employees original eligibility documents are inspected and copies kept with the I-9 form?
 Yes No
- D. Confirm that the completed I-9 form is kept for 3 years from date of hire and 1 year after date employment ends, whichever is latest?
 Yes No
- E. Please give details of your procedure for handling a “no match” situation?
- F. Have any losses, lawsuits, administrative proceedings, governmental investigations, hearings or demands been made against the Applicant or any entity or person proposed for this insurance during the past five (5) years alleging violations of the Immigration Reform Control Act of 1986 or any other similar federal, state or local laws or regulations?

THE APPLICANT WARRANTS AFTER FULL INVESTIGATION THAT THE STATEMENTS SET FORTH HEREIN ARE TRUE AND THE APPLICANT BELIEVES IN GOOD FAITH THAT ALL EMPLOYEES ARE AUTHORISED TO WORK IN THE USA.

Date

Signature of Applicant’s Authorized Principal or Officer