

ESI-EPL EMPLOYMENT PRACTICES LIABILITY INSURANCE

This is an application for a claims-made and reported policy.



Van Wagoner Companies
1134 Commerce
Richardson, TX 75081
Phone: 972-331-6566
Fax: 972-331-6599
Email: amber@vwcos.com
Website: www.vwcos.com



SECTION A. – Company Information

- Name of Company: _____
- Contact Person: _____ Title: _____
Phone: _____ Fax: _____ E-Mail: _____
- Street Address: _____ City/State/Zip: _____
- Sole Proprietor Corporation Partnership Joint Venture Individual Franchise Other: _____
- Describe Nature of Business: _____
- How long have you been in business? _____ How long under current management? _____
- Total number of employees (including Partners, Directors and Officers of all locations):

	Regular	Temp/Leased	Contract	Seasonal	Union	Non-Union
Full Time:	_____	_____	_____	_____	_____	_____
Part Time:	_____	_____	_____	_____	_____	_____
- Salary ranges (including bonuses & commissions):

	No. of F/T	No. of P/T	No. of F/T	No. of P/T
\$20,000 or less	_____	_____	\$20,001 to \$50,000	_____
\$50,001 to \$100,000	_____	_____	\$100,001 and over	_____
- How many employees, officers or partners have been terminated in the past year?
Terminated by employer: Employees _____ Officers _____ Partners _____
Resigned voluntarily: Employees _____ Officers _____ Partners _____
- What has been your annual percentage turnover rate of employees for the past one (1) year? _____
- Current insurance history (whether specifically or as a sub-section or addition to other coverage)

Year	Renewal Date	Carrier	Limit	Deductible	Premium
_____	_____	_____	_____	_____	_____
- Has any insurer ever canceled or non-renewed this type of coverage? YES NO
- Do you currently have an Affirmative Action Program? YES NO
If YES, indicate if it is a result of: government contracts EEOC compliance
 voluntary union agreement other: _____

SECTION B. – Employment Procedures

- Do you have a Human Resources or Personnel Department? YES NO
- Do you require all terminations to be reviewed by a central source (HR, Outside Risk Mgt or Legal Counsel)? YES NO
- Do you publish an Employment Handbook? YES NO
- Please indicate the policies contained in the Employment Handbook:

A. Equal Opportunity Statement..... YES <input type="checkbox"/> NO <input type="checkbox"/>	D. Open Door/Grievance Policy YES <input type="checkbox"/> NO <input type="checkbox"/>
B. "At Will" language YES <input type="checkbox"/> NO <input type="checkbox"/>	E. "Not an employment contract" lang... YES <input type="checkbox"/> NO <input type="checkbox"/>
C. Sexual Discrimination/Harassment Policy..... YES <input type="checkbox"/> NO <input type="checkbox"/>	F. Family Medical Leave Act Policy YES <input type="checkbox"/> NO <input type="checkbox"/>
- Are employee signatures and/or acknowledgments obtained on handbook and/or policies? YES NO
- Is an Employment Application used? (If yes, please answer the 6A. and 6B.) YES NO
A. At-Will Statement..... YES NO
B. Equal Opportunity Statement..... YES NO
- Do you have written employment contracts or agreements in place (outside of the handbook)? YES NO
If yes, please provide a copy
- Do you post/publish required Dept. Of Labor FMLA notifications to employees using FMLA leave? YES NO
- Do you require managers/supervisors to attend training, educational programs/seminars or staff meetings covering employer/employee relations within a 12 month period? YES NO
 Hiring/Firing Basic Supervisory Skills ADA FMLA Harassment Discrimination)

SECTION C. – Loss History – Coverage A (Employee)

For example, but not by way of limitation, we consider it reasonable for you to foresee that a claim and/or allegation may be brought against you if a current or former employee or an applicant for employment has expressed dissatisfaction with the employment relationship or the employment application process by:

- Making a formal complaint to a supervisory employee of discrimination, harassment or unfair employment practices;
- Threatening to hire an attorney or submission of a demand letter;

- iii) Asking for a severance package in excess of what is being offered;
- iv) Complaining of discrimination, harassment, or unfair treatment and threatening to do something about it; or
- v) Frequent complaining of discrimination, harassment or unfair treatment.

IF YOU ANSWER YES TO QUESTIONS #10, 11, 12, PLEASE PROVIDE DETAILS ON ATTACHED CLAIMS SUPPLEMENT.

10. Have you had any claims and/or allegations of Discrimination, Harrassment or Inappropriate Employment Conduct to include Wrongful Termination (including both employee-related and third party actions) in the last 5 years? YES NO

If YES, what was the total number of claims _____ & provide details

It is agreed that if there is knowledge of any such Claim(s), fact(s), circumstance(s), situation(s), transaction(s) or event(s), any claim subsequently emanating there from shall be excluded from coverage under the insurance being applied for.

11. Does any Director, Officer, Manager, Supervisor, Employee or Partner have knowledge of any Claim(s), fact(s), circumstance(s), situation(s), transaction(s) or event(s) as of the date this Application is signed, which could reasonably give rise to a claim and/or allegation or any reasonable way to foresee that one may be brought?..... YES NO

12. Please indicate below whether or not you have had any dealings or been involved with any of the following agencies and/or under any of the following Acts:

	YES	NO		YES	NO
A. Title VII Civil Rights Act of 1964/1991 (EEOC)	<input type="checkbox"/>	<input type="checkbox"/>	G. National Labor Relations Board	<input type="checkbox"/>	<input type="checkbox"/>
B. Harassment Claims (EEOC)	<input type="checkbox"/>	<input type="checkbox"/>	H. IRCA - Immigration Reform & Control Act	<input type="checkbox"/>	<input type="checkbox"/>
C. Americans with Disabilities Act	<input type="checkbox"/>	<input type="checkbox"/>	I. U.S. Department of Labor (including FMLA)	<input type="checkbox"/>	<input type="checkbox"/>
D. Age Discrimination in Employment Act	<input type="checkbox"/>	<input type="checkbox"/>	J. Fair Labor Standards Enforcement Act	<input type="checkbox"/>	<input type="checkbox"/>
E. Any state or local government agency such as the Labor Department or State Fair Employment Agency?	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
F. Any employment related retaliation or tort claim or hearing?	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>

SECTION D. – Employment Procedures & Loss History – Coverage B (Third Party)

13. Please indicate if the following third party procedures are in place:
- A. Do you provide customer/client relations training to employees? YES NO
If YES, is the training conducted as a part of a formalized course?..... YES NO
 - B. Do you have documented guidelines for accepting/rejecting clients or client relationships? YES NO
 - C. Do you have written procedures for handling complaints made by third parties of discrimination and/or sexual harassment? YES NO
 - D. Do you record all complaints of discrimination and/or sexual harassment? YES NO
 - E. Do you record or monitor telephone calls? YES NO
 - F. Do you have a written business use technology ownership policy? (i.e. fax, email, internet) YES NO

LOSS HISTORY

For example, but not by way of limitation, we consider it reasonable for you to foresee that a claim and/or allegation may be brought against you if a current or former client/customer has expressed dissatisfaction by:

- i) Making a formal complaint of discrimination or harassment;
- ii) Threatening to hire an attorney or submission of a demand letter;
- iii) Complaining of discrimination or harassment and threatening to do something about it; or
- iv) Frequent complaining of discrimination or harassment

A. Have you had any claims and/or allegations of discrimination and/or harassment from a third-party in the last five years? YES NO

If YES, what was the total number _____ & provide details on a separate sheet.

B. Does any Director, Officer, Manager, Supervisor, Employee or Partner have knowledge of any Claim(s), fact(s), circumstance(s), situation(s), transaction(s) or event(s) as of the date this Application is signed, which could reasonably give rise to a third-party claim or have any reasonable way to foresee that a third-party claim may be brought? YES NO

If yes, please provide details on separate sheet.

It is agreed that if there is knowledge of any such Claim(s), fact(s), circumstance(s), situation(s), transaction(s) or event(s), any claim subsequently emanating there from shall be excluded from coverage under the insurance being applied for.

Please be advised that third-party coverage for disability discrimination is NOT available for any location that is NOT compliant with the Americans with Disabilities Act and all amendments thereof.

As a condition of purchase, it is hereby understood and agreed that the Applicant will implement or has implemented the program subjectivities. It is understood and agreed that should the Applicant not fulfill the subjectivity(ies) as defined within 30 days after the effective date, beginning with the first insuring agreement, or any reasonable extension agreed to in writing by Underwriters, that coverage may be jeopardized for any Claim which arises out of the failure to fulfill such subjectivity(ies). It is also understood that failure to complete the subjectivities as defined

within the time period may subject the Policy and its coverage terms to retroactive cancellation. The Applicant agrees to work with the designated risk management company assigned to this insurance product.

The Applicant warrants to the best of its knowledge and belief that the statements set forth herein are true and include all material information, and that there has been no attempt at suppression or misstatement of any material facts known, or which should be known. The Applicant further warrants that if the information supplied on this Application changes between the date of this Application and the inception date of the Policy, the Applicant will immediately notify Underwriters of such change prior to inception of the Policy. Signing of this Application does not bind the Insurer to an offer nor the Applicant to accept insurance. The Applicant understands and agrees that this Application and any other previous Applications, along with any attachments and supplied information thereto shall be a material and integral part of the Policy and any part of any Policy that may be issued by the Insurer. The statements made herein shall be construed as representations and warranties of the Applicant.

Applicant further understands and agrees that no person or entity other than Insurer or Applicant has the right to waive or change any part of the Policy. Furthermore, notice to any agent or knowledge possessed by any agent or other persons acting on behalf of the Applicant shall not effect a waiver or a change in any part of the Policy nor estop Insurer from asserting any right under the terms of the Policy.

This Application is for a **"CLAIMS MADE & REPORTED" BASIS POLICY** which limits liability to Claims first made against an Insured during the Policy Period. Coverage, if completed, may not apply to any known Discrimination, Harassment and Inappropriate Employment Conduct that occurred before the inception of the Policy Period. The Applicant agrees that in the event of covered Claims, the Applicant will be required to be defended by the Insurance Company's appointed Attorneys and that the deductible under the Policy shall apply to Claims and including (whether or not Loss is made) investigations costs, and defense fees. If however, the Applicant elects to handle a Claim without in any way involving the Insurance Company's Attorneys, then no coverage for such a Claim is afforded the Applicant under the Policy.

By signing this Application form, the Applicant confirms that they have been provided with and inspected a specimen of the ESI-EPL Employment Practice Insurance wording. It is recommended that the Applicant take time to review the Policy to ensure that they fully understand the coverages provided. The Applicant should feel free to consult with any source, including legal advisors, regarding coverage.

In addition to all other terms and conditions:

Applicable in Kentucky. Any person who knowingly and with intent to defraud any insurance company or other person files an Application for insurance containing any materially false information or conceals for the purpose of misleading, information concerning any fact material thereto commits a fraudulent insurance act, which is a crime.

Date

Applicant's authorized signature of a Principal Partner or Officer

Printed Name of Applicant's authorized signature of a Principal Partner or Officer

ESI-EPL Claim Supplement

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1. Name of Company: _____
2. Full name and title of individual(s) involved in the claim/incident: _____

3. Full name and title of claimant: _____
4.
 - a. Is/was the claimant an employee of the applicant? YES NO
 - b. Was there an employment relationship? YES NO
 - c. Is the employee still employed by applicant? YES NO
 - d. Are other witnesses / involved parties still employed? YES NO
 - e. Was there a breach of any employment relationship?..... YES NO
5.
 - a. Indicate the current status: Claim / Suit Incident Open Closed
 - b. What is the current status of the claim? _____

6.
 - a. Date of act giving rise to the claim / incident: _____
 - b. Date claim / incident made against the applicant: _____
 - c. Date claim/incident was reported to insurer: _____
 - d. Name of the insurer the claim / incident was reported to: _____
 - e. Was there an attorney involved? _____
 - f. Was the attorney appointed by the insurer? YES NO
7. The claim involves / involved the following laws or issues (please check all that apply)

<input type="checkbox"/> Sexual Harassment <input type="checkbox"/> Discrimination (Type) _____ <input type="checkbox"/> Wrongful Termination <input type="checkbox"/> Equal Pay Act (EPA) <input type="checkbox"/> FLSA (Fair Labor Standards) Wage and Hour <input type="checkbox"/> FMLA <input type="checkbox"/> Emotional Distress	<input type="checkbox"/> False Imprisonment <input type="checkbox"/> Retaliation <input type="checkbox"/> Bodily Injury <input type="checkbox"/> Affirmative Action <input type="checkbox"/> Whistle Blower Retaliation <input type="checkbox"/> Implied Contract <input type="checkbox"/> Breach of written contract <input type="checkbox"/> Invasion of Privacy <input type="checkbox"/> Libel / Defamation <input type="checkbox"/> Slander	<input type="checkbox"/> Good Faith and Fair Dealing <input type="checkbox"/> Retaliation (Type) _____ <input type="checkbox"/> Other Issues _____ _____ _____ _____ _____
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8. If the claim / incident is still open, answer the following:
 - a. Claimant's settlement demand: _____
 - b. Insurer's defense and / or loss reserves: _____
 - c. Current defense costs incurred to date: _____
 - d. Applicant's offer for settlement / estimate of settlement amount: _____
 - e. Do you have a signed settlement/separation agreement _____ YES NO
9. If the claim / incident is closed, please answer the following:
 - a. Total Defense Costs Paid: _____
 - b. Total Deductible Applied: _____
 - e. Out of court settlement? YES NO
 - f. Court Judgement?..... YES NO
 - b. Total Indemnity Paid: _____
 - d. Total paid in excess of deductible: _____
 - Date of Settlement: _____
 - Date of Judgement: _____
10. Description of the alleged act upon which the claimant bases the claim / incident. Include events leading to the claim / incident. Use additional space on back if the space below is insufficient: _____

11. Explain what action(s) have been taken to prevent a recurrence or to mitigate damages of a similar claim/incident: _____

12. Was an impartial investigation conducted?YES NO
If yes, please provide who conducted the investigation: _____

13. Name(s) of Supervisor(s) of the alleged violator involved in the claim/incident:

It is agreed that if there is knowledge of any such Claim(s), fact(s), circumstance(s), situation(s), transaction(s) or event(s), any claim subsequently emanating there from shall be excluded from coverage under the insurance being applied for.

The undersigned warrants and represents that the statements set forth are true, complete and accurate and that there has been no attempt at suppression or misstatement of any material facts known and agree that this supplement shall become the basis of any coverage and a part of any policy that may be issued by the Company.

In addition to all other terms and conditions:

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Date

Applicant's authorized signature of a Principal Partner or Officer

Printed Name of Applicant's authorized signature of a Principal Partner or Officer

ESI-EPL

Additional Insured(s) / Location(s) Supplemental Questionnaire

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Please complete the form on Page Two, indicating each Additional Insured/Location to be covered by this Policy:

1. Is each Additional Insured(s) / Location(s) owned 51%+ by the Applicant Company? YES NO
 2. Do all employees follow the Applicant Company's handbook, policies/procedures? YES NO
- OR**
- Does each Additional Insured/Location have its own separate employment handbook, employment application, policies/procedures? YES NO

If Yes, Please Attach a Copy of Each

3. Does any Director, Officer, Manager, Supervisor, Employee or Partner at the Additional Insured and/or Additional Location have knowledge of any Claim(s), fact(s), circumstance(s), situation(s), transaction(s) or event(s), as of the date of this signed application, which could reasonably give rise to a Claim and/or allegations or have any reasonable way to foresee that a claim may be brought? YES NO
- If yes, please provide details on separate sheet.***

For example, but not by way of limitation, we consider it reasonable for you to foresee that a claim and/or allegation may be brought against you if a current or former employee or an applicant for employment has expressed dissatisfaction with the employment relationship or the employment application process by:

- i) *Making a formal complaint to a supervisory employee of discrimination, harassment or unfair employment practices;*
- ii) *Threatening to hire an attorney or submission of a demand letter;*
- iii) *Asking for a severance package in excess of what is being offered;*
- iv) *Complaining of discrimination, harassment, or unfair treatment and threatening to do something about it; or*
- v) *Frequent complaining of discrimination, harassment or unfair treatment.*

If the New Additional Insured(s) and/or New Additional Location(s) was the result of a Merger or Acquisition, then the Merger & Acquisition Supplemental Questionnaire will need to be completed as well.

It is agreed that if there is knowledge of any such Claim(s), fact(s), circumstance(s), situation(s), transaction(s) or event(s), any claim subsequently emanating there from shall be excluded from coverage under the insurance being applied for.

Please be aware that newly formed or acquired organization(s) are not covered for Loss that results from an Insured Event that happened or first commenced before the Insured acquired or formed it; nor for Loss covered under any other insurance. Also, once the information requested on this Supplement has been received and reviewed by Underwriters, terms may change and/or additional subjectivities may be required to secure coverage.

Applicant understands that all of the above information and any attachments becomes part of and subject to all the terms and conditions of the completed ESI-EPL Application.

The Applicant agrees to complete the program subjectivities for any and all Additional Insured's and/or Additional Locations and notify Underwriters within 30 days after the effective date of any additions. If any Additional Insured(s) and/or Additional Location(s) are requested to be covered by this Policy, the Supplemental Questionnaire Additional Insured(s) / Location(s) must be completed for confirmation of the implementation of these subjectivities. It is understood and agreed that should the Applicant or any Additional Insured(s) and/or Additional Location(s) not fulfill the subjectivity(ies) as defined within 30 days after the effective date, beginning with the first insuring agreement, or any reasonable extension agreed to in writing by Underwriters, that coverage may be jeopardized for any Claim which arises out of the failure to fulfill such subjectivity(ies). It is also understood that failure to complete the subjectivities as defined within the time period may subject the Policy and its coverage terms to retroactive cancellation. The Applicant agrees to work with the designated risk management company assigned to this insurance product.

In addition to all other terms and conditions:

Applicable in Kentucky. Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance containing any materially false information or conceals for the purpose of misleading, information concerning any fact material thereto commits a fraudulent insurance act, which is a crime.

Date

Applicant's authorized signature of a Principal Partner or Officer

Printed Name of Applicant's authorized signature of a Principal Partner or Officer

Please provide name of Additional Insured and/or Address of Additional Location	For Additional Insureds: Corp. or Partnership?	Requested Effective Date of Addition	Full Time	Part Time	Seasonal	Leased/Temp	Contract	Union
TOTAL EMPLOYEES:								

ESI-EPL Mergers & Acquisitions Supplemental Questionnaire

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1. Was this a merger or acquisition? _____ Date occurred: _____
2. What is/are the name(s) of the company(ies) that was/were merged or acquired? _____
3. Was the merger/acquisition unfriendly or hostile?YES NO
4. Was this a purchase of assets and liabilities or just assets? _____
5. How many employees were acquired?
Full Time _____ Part Time _____ Seasonal _____ Temp/Leased _____ Contract _____ Union: _____
6. Were any employees/officers/managers/administrators terminated within 24 months of the date of merger/acquisition? .YES NO
If yes, how many? Employees: _____ Directors / Officers: _____ Employees/officers of Merged/Acquired Company? _____
7. How many severance packages were: Offered? _____ Accepted? _____ Were releases obtained?YES NO
FOR QUESTIONS 8 THROUGH 17, PLEASE PROVIDE INFORMATION OR DETAILS AS ATTACHMENT WHERE NEEDED
8. Did any of the terminated person(s) file a complaint or suit against the past or present company?YES NO
9. Any pending EEOC charges of the company acquired / merged? (If so, provide claim supplement for each).....YES NO
10. Has the acquired / merged company had any reports of OSHA violations (fines / penalties)?YES NO
11. Has the acquiring / merging company had any government contract violations ("whistleblowing")?YES NO
12. Has the acquired / merged company made ADA accommodations for any employees (schedules or requirements)?YES NO
13. Are any acquired / merged employees on FMLA leave?YES NO
If yes, provide names of individuals and if established records are maintained for a 24-month period.
14. How were acquired/merged employees transitioned to current company (terminations / rehires)? _____
15. Has the acquired / merged company had any Worker's Compensation injuries? If so, provide the below on separate sheet:
a. Name of employee _____ b. The nature of the injury _____ c. Date returning to work _____
16. Has the acquired / merged company had any Federal False Claims Acts claims?YES NO
17. Were any administrators or senior managers terminated during acquisition / merger?.....YES NO
If yes, provide names of individuals. _____
18. Do all acquired/merged employees follow the current company's handbook, policies/procedures?YES NO
If yes, provide date implemented: _____ If no, provide explanation _____
19. Does any Director, Officer, Manager, Supervisor, Employee or Partner have knowledge of any Claim(s), fact(s), circumstance(s), situation(s), transaction(s) or event(s) as of the date this Application is signed, which could reasonably give rise to a claim and/or allegations or have any reasonable way to foresee that a claim may be brought?.....YES NO
If yes, please provide details on separate sheet.

It is agreed that if there is knowledge of any such Claim(s), fact(s), circumstance(s), situation(s), transaction(s) or event(s), any claim subsequently emanating there from shall be excluded from coverage under the insurance being applied for.

Please be aware of that an acquired or formed organization is not covered for Loss that results from an Insured Event that happened or first commenced before the Insured acquired or formed it; nor for Loss covered under any other insurance. Applicant understands that all of the above becomes part of and subject to all the terms & conditions of the completed ESI-EPL Application.

In addition to all other terms and conditions: Applicable in Kentucky. Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance containing any materially false information or conceals for the purpose of misleading, information concerning any fact material thereto commits a fraudulent insurance act, which is a crime.

Date

Applicant's authorized signature of a Principal Partner or Officer

Printed Name of Applicant's authorized signature of a Principal Partner or Officer

ESI-EPL Downsizing Supplemental Questionnaire

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1. Of the following, which best describes the Applicant's anticipated activity (hereinafter referred to as "Activity") being contemplated in the next twelve months:

- Acquisition Consolidation Merger Dissolution Reformation
 Other (please describe): _____

2. What is the anticipated date of the above Activity? _____

3. How many employees will be affected by this Activity, and at what location? _____

4. Will the affected employees remain employed by the Applicant in some capacity; or, will their employment be terminated?
Please explain: _____

5. Will legal counsel be consulted with prior to implementing this activity, and will his/her recommendations be followed by the Applicant? YES NO

If yes, please provide the name of the law firm that is to be consulted: _____

6. Any additional information with respect to this Activity:

- a. Type of law firm? _____
- b. Criteria of selection on lay off (expertise, tenure, etc.)? Time window? _____
- c. Number of people laid off? _____
- d. Copy of plan? _____
- e. Other? _____

Applicant understands that all of the above information becomes part of the completed ESI/EPL Application.

In addition to all other terms and conditions:

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Date

Applicant's authorized signature of a Principal Partner or Officer

Printed Name of Applicant's authorized signature of a Principal Partner or Officer