**Episode Title:**

Managing EPL (Employment Practices Liability) Risk

**Episode Notes:**

In this podcast, you’ll hear from Laura Lapidus, an employment attorney and the Management Liability (EPL) Risk Control Director at CNA, Timothy Domanick, Principle at Jackson Lewis P.C., one of the country’s preeminent workplace law firms, and “Modernizing Your Practice” lead Steven Menges as they discuss a topic that is especially important to growing firms, employment practices liability (EPL) risk.  Laura, Tim and Steve will discuss EPL and share both data and experience-based insights, including unique factors impacting growing CPA firms, challenges regarding compliance with new and updated employment regulations and discrimination laws, and how firms can set a “tone at the top” regarding maintenance of a non-discriminatory and safe workplace as the firm and modern workplace grows and changes.

Whether your firm is rapidly growing organically, adding new practice areas, or is involved with a merger or acquisition of another firm, you don’t want EPL risks to negatively impact your growth plan and future success.

OUR GUESTS

· Laura Lapidus\*, Management Liability (EPL) Risk Control Director, CNA

· Timothy Domanick, Principle, Jackson Lewis P.C.

INTERVIEWER

Steven A. Menges, Product Team – Assurance, CPA.com

\*“Ms. Lapidus’ opinions are her own:  they should not be construed as legal advice; they are not solicitations to buy insurance; and they do not necessarily reflect those of the positions of the CNA insurance companies.  Please remember that only the relevant insurance policy can provide the actual terms, coverages, amounts, conditions, and exclusions for an insured in the context of a specific claim situation.”

HIGHLIGHTS INCLUDE:

• EPL and employment law issues for growing firms in the remote working era

• Good firms gone bad: Discrimination, Harassment, and still often charting at #1: Retaliation

• Tips to both stay true to your firm’s roots and avoid EPL risk as you grow

Managing EPL (Employment Practices Liability) Risk

**SUMMARY KEYWORDS**

firm, claims, employers, damages, cpa firms, issues, EPL, employees, employment practices liability, harassment, retaliation, employment, workplace, litigation

**SPEAKERS**

Steven Menges, Timothy Domanick, Laura Lapidus, Disclaimer

**Steven Menges**

Hello, and welcome to the Modernizing Your Practice podcast series brought to you by CPA.COM. CPA.COM is the technology subsidiary of the AICPA and is tasked with helping bring the profession forward into the digital age through relevant learning opportunities and technology solutions. I'm your host, Steven Menges, and I lead the Modernizing Your Practice part of the Assurance Services team at CPA.COM. Our goal with this podcast series is to bring relevant and actionable insight to accounting firms around ways that you can modernize your firm in the context of today's most common areas of liability and risk. With me today is Laura Lapidus, an employment attorney and the Management Liability (EPL) Risk Control Director at CNA insurance, and Timothy Domanick, Principle at Jackson Lewis P.C, which is one of the country's preeminent workplace law firms. Laura and Tim, before we get into employment practices liability risk, tell us a little bit about your background and experience working with employment law and risk.

**Laura Lapidus**

Thanks, Steve. I'm an employment attorney. I've worked in an employment litigation firm. I've actually been in-house counsel both on the government side and also for a private company, a restaurant company. After that, I went into the insurance business, and I spent about 10 years handling employment practices liability claims, and other types of management liability claims for various carriers and I've been in this position at CNA for about 10 years now, where my responsibility is really to assist our policyholders in managing employment risk.

**Steven Menges**

Okay, and, actually Laura, tell us a little bit more about your company, for folks that aren't familiar with the company.

**Laura Lapidus**

CNA provides insurance, all types of insurance. I focus on management liability, in particular employment practices liability insurance and we provide that to all types of industries, particularly to accountants. We have a special program for accountants with the AICPA.

**Steven Menges**

Okay, great. Thanks for that. So how about you, Tim, tell us a little bit about yourself.

**Timothy Domanick**

Very well, I spent my entire professional career working in labor employment law firms. Initially straight out of law school, I worked at a firm where I did both sides of the coin, I did plaintiffs work and defense work. So you know, representing employees that had problems against their employers, and then of course, representing employers when they had issues that they needed to be addressed. At this point now, I’m a principle at one of the nation's largest labor and employment law firms. All we do is management-side labor and employment law, and we help employers of all sizes, from those small mom and pop shops to the Fortune 100 companies, who you know, address any of their employment needs, whether it be standard advice and counsel work, God forbid if you get there, straight through to litigation.

**Steven Menges**

Okay, great. Thanks for that, Tim. So, Laura, tell us a little bit about EPL (or employment practices liability) and EPL risks in general today, kind of across all companies.

**Laura Lapidus**

Well, employment practices liability insurance is a type of insurance that provides coverage, not only for your damages, which would include settlement, or damages through a lawsuit or otherwise, but it also covers your defense costs for covered claims. And typically, it relates to employment related claims such as wrongful termination, discrimination, harassment in the workplace, and of course, retaliation is covered as well, under most of these policies.

**Laura Lapidus**

As far as the type of risks that we're seeing today, there's so much, the laws are changing so rapidly. But some of the top risks that we see, obviously, sexual harassment has really been in the forefront over the past few years, in light of the “me too” movement, so there's been a real spotlight on that. We're also seeing issues relating to pay equity. So, there have been a lot of complaints about equal pay; disability accommodation and discrimination and leave laws also. There's a lot of issues that employers have to deal with relating to those topics and those are the areas that a lot of employers get tripped up in, because the laws are so complex. And then you've seen issues lately, in the past year or two, with marijuana in the workplace, as it's been legalized and decriminalized in various states. However, it's still illegal under federal law. And then last, but certainly not least, is retaliation. And it's relatively easier to prove a retaliation claim, and I'll let Tim take it from there. But we see a lot of issues with respect to retaliation under various employment laws.

**Timothy Domanick**

Yeah, and just to bridge off of what Laura said, I mean a lot of the claims that I wind up dealing with, and the firm in general winds up dealing with, are retaliation claims. You know, when you have these types of employment-based situations where you have a problem with an employee, or there's an issue that gets brought up, a lot of times an employer will handle the situation. Okay. Not great, but okay. And then it also can lead to a potential retaliation risk, you know, as Laura says, its own standalone claim, which is can be very, very easy to prove, at times, or at least easy enough to get to a jury. It's causation. It’s story. It's cause and effect. Somebody did something to me, so as a result, the employer reacted poorly and retaliated against me as a result.

**Steven Menges**

That's interesting, and I had heard that before. I've studied EPL a little bit, and it's something I've been interested in because it really is a factor for every company, employment practices liability and kind of the things you guys talked about, discrimination in the workplace, sexual harassment. But that's one thing I did constantly hear that, that retaliation is pretty much always on the leaderboard, so to speak. And that's not a good leaderboard. That's a bad leaderboard. But that retaliation is always up there as something that, unfortunately, there are a lot of claims in that area. And it's interesting for you to say that it's actually fairly easy to prove retaliation, as opposed to maybe some of the other areas.

**Timothy Domanick**

Oh yeah, as far as how often that they get filed. Even in 2019, the EEOC released their statistics in 2019, and in more than half of the cases that are filed, there's a retaliation component. And when I say that they're easier to prove, they're often times they're easier to prove than a standard discrimination case, because what can be considered discrimination, or what could be considered harassment sometimes is in the eye of the beholder. But for retaliation, the name of the game, if you're a plaintiff's attorney, is just get it past a judge to the point where you're going to get a jury trial. And then maybe you can convince eight or six people that are sitting in a box that, hey, if you went to your employer, and you had a problem, and they did to you what they did to me, how would you feel? And it's an emotional component.

**Steven Menges**

That is interesting if you think about that, taking it forward to getting it in front of a jury, because I think most people have probably experienced, or know someone that's experienced an issue at work, where they reported something and didn't necessarily get what they felt was an appropriate response from management. I also thought it was interesting earlier, Laura, when you mentioned that leave, that basically with the changes in leave policies that companies have, that you're seeing EPL activity around leave. Is it that you're talking about like family leave, or what type of leave are you talking about?

**Laura Lapidus**

Usually I mean family medical leave, and there are some state statutes as well, now that those that are being enacted so they tend to be complicated issues, especially, for smaller firms that may not have the expertise on the Human Resources side to deal with some of the issues that are presented in that context.

**Laura Lapidus**

Obviously, for family medical leave under the federal law, you're talking about larger employers, new leave laws being passed it's something that employers need to keep an eye on.

**Steven Menges**

That makes sense and I think it is, it's one of those things where if a firm is smaller, maybe they've never really had any one attempt to use these leave policies. Some of these policies are newer, and in some cases, a smaller firm, even if their state had a family leave policy, their firm may be small enough that no one ever tried to use it before, so it's kind of a new thing for them so I can definitely see that. So now, thinking about CPA firms, what are some unique factors around EPL that are impacting CPA firms?

**Laura Lapidus**

Well, I think when you look at CPA firms, some of the issues that come up are that there are high wage earners involved. So, if you have a high wage earner, that's going to impact your damage calculation and the potential for damages. The other thing we see with respect to CPA firms, and to some extent other firms, like law firms, are in the harassment arena if someone's being harassed by a “rainmaker.” If you have any type of issue, whether it's harassment or otherwise, where the person who's the alleged bad actor is a “rainmaker,” it's difficult for a firm to deal with it, because that's the person bringing in their money. Unfortunately, a lot of times firms may be more lenient because the rainmaker is responsible for drumming up business, and there would be a loss of business if they disciplined or terminated that rainmaker. But if they don't, then they have employment risks to worry about. We see that come up. I mentioned the pay equity issues, and one of the things that we see in claims, which is understandable, is that when you have a claim, whether there's a performance issue involved or some type of employment dispute, as you can imagine, most firms don't want to get their clients involved. They want to keep it in-house, which makes a lot of sense, but what that leads to is you really have to have strong documentation. And I'm sure as Tim will tell you, that goes for all companies, but especially where you don't want to have your clients testifying about an issue with a particular employee. It makes it even more important to make sure that you're documenting these types of issues, that you're able to back up, provide backup documentation for the reasons for terminating or disciplining an employee.

**Steven Menges**

How about you, Tim, anything specific you're seeing with regard to CPA firms in this area?

**Timothy Domanick**

Yes, absolutely. I think part of the issue is that small to midsize firms wind up dealing with when they have these types of problems is something that Laura mentioned, which is documentation. A lot of firms spend a lot of their time on helping their customers, helping our clients addressing problems, but perhaps losing sight of the back of the office type of HR component. So, if they have a problem. it's typically lack of experience on how to address it and how to deal with it. So maybe, if an employee comes to you and they happen to have an issue, you feel like you're addressing it by just talking to them, that's great and that's all well and good, but where is the documentation? The reason why that's key is because in certain instances, if you have adequate documentation, and you unfortunately wind up in litigation, there's a chance that you can get, or potentially get, the claim dismissed without getting to that jury. Without having people making emotional decisions just based upon their own life experiences. Absolutely, documentation is key.

**Steven Menges**

That's good to know that there are things that firms can do to prevent getting to a litigation resolution there. I'd imagine that that these type of things are especially relevant for CPA firms that are growing quickly, both organically and through mergers or acquiring other firms. Some examples like that , that I see in my work with CPA.COM, is firms adding a new practice, adding client accounting services, or “CAS Practice.” or adding a SOC audit or cybersecurity audit practice, where they're basically bringing in many new staff, often times nontraditional hires, people that are hiring technologists into a firm to do cybersecurity offerings, to do cybersecurity audits or SOC audits and what not. So, I guess firms that are growing really fast, Laura, this would be even more applicable to them, correct?

**Laura Lapidus**

Yes, and I think when you're adding different types of practices and bringing in more employees who are experts in cyber or other non-accounting type employees, you're dealing with different cultural backgrounds, different issues, different expectations of where they've worked in the past. And I think that all makes it more difficult for a smaller firm, because what used to be done casually. When you're a small firm, your culture, it’s all relatively casual, things have to become more formalized as you grow, especially as you start bringing in different types of employees, like those who are aren't accountants.

**Steven Menges**

Anything to add there, Tim?

**Timothy Domanick**

Well certainly when you are doing nontraditional hires, and you're getting different types of people, it's like any type of business right? The more personalities in a room, the more likely there's a chance that there's going to be a problem down the road, which is why legal compliance, adequate training, the HR type of component in the company should always be addressed whenever a company grows.

**Steven Menges**

Staffing up HR is typically not something that at the top of the list for any organization that is looking to grow, so the burden on the HR staff continues to increase, especially if you're doing a lot of hiring and now you have a lot of these types said potential things that the firm isn't used to, and that the HR department isn't used to.

**Steven Menges**

A personal story, my wife has worked as a social worker, she has worked with persons with developmental disabilities for much of her career and part of that is getting them placed in the workplace and ensuring that they are kind of set up to succeed in the workplace. For a lot of smaller companies, and smaller law firms and accounting firms, and other small businesses it may be the first time they've had someone with a disability, or is just basically different than what they're used to there.

**Steven Menges**

Laura, I know you have access to liability claim data, both anonymized and actual. What can you tell us from the data? What is that telling us about EPL risk for CPA firms?

**Laura Lapidus**

Looking just at the past three years, and this would be all different sizes of firms, but what we're seeing is that most of the claims involve termination, so the claim is filed when someone is fired. Obviously, they're upset, they've lost their job. So, it's usually "I've been discriminated against when I was terminated", or that's when you'll get a sexual harassment claim, or you'll see allegations of disability discrimination. So, for the most part, most of the cases that we have in the accountant’s book do involve terminations, which just underlines the importance of making sure your documentation is accurate, and that there is documentation to support your decisions, particularly when you're terminating someone. The types of claims that we're seeing are typical, sexual harassment is one of the top ones. But interestingly, we also see disability discrimination, or failure to accommodate a disability as one of the top allegations. And I think while everyone has spent a lot of time and effort trying to prevent harassment in the workplace, which is very important, I think some firms may have forgotten that there's other issues that have to be dealt with too, like disability discrimination, like accommodating someone with a disability. And I think this just illustrates that while sexual harassment is very important to focus on, that there's other areas in employment law that firms need to pay attention to. And the third one that we see a lot, like we mentioned before, is retaliation. So, I think that's pretty consistent Tim, with what you see overall, with respect to employers.

**Timothy Domanick**

Absolutely. And I honestly, I couldn't agree with you more when you talk about how sometimes employers forget that there are other types of claims that are out there. I mean that certain jurisdictions have pushed, over the past year and a half or so, as a result of the Me Too movement, to have mandatory sexual harassment training. And a lot of employers, even if they don't necessarily have a designated HR function within their business at least know enough to say, all right, we need to do this type of training. And they'll do the training and they check the box, and hopefully somebody gets something out of it as a result. But what we like to always tell our clients, sexual harassment is absolutely important, but that type of training, use that as an opportunity to train your staff on other issues. Talk to them about issues like disability discrimination, reasonable accommodation, the interactive process, that type of stuff. And at that point, it also sends a message to the to the staff that we treat all these issues the same. We treat them all seriously enough.

**Steven Menges**

Now that's a really good point. Does this, what you guys were just talking about, does that also apply to the interview process? I’m thinking about with the increase in remote workers, for example, and growing firms doing a lot of interviewing now, perhaps doing a lot of interviewing and a lot of interaction electronically or remote with remote workers, does this also apply to the interview process? And is there a remote element?

**Timothy Domanick**

Generally speaking, the EEO laws, the anti-harassment and anti-discrimination, those types of laws, those apply in every single aspect of the employment relationship, whether it be interviewing, onboarding, certainly during the course of your employment, and God forbid you get there, termination. The laws apply at every single aspect.

**Steven Menges**

Are you seeing any claims in that area Laura? Are we seeing that claims being made regarding the interview process?

**Laura Lapidus**

I mean, we have seen that here and there. Not so much on this book, but in general. Again, as things change, we're looking forward, I’m sure we can anticipate seeing a little bit more of that as well.

**Steven Menges**

What do you see as things are changing with more and more remote workers? Anything specific to that, that you can think of Laura?

**Laura Lapidus**

I think just in general, it's more difficult for employers, especially if they haven't had a lot of teleworkers. It's more difficult just for managers to be running a team, to keep people engaged, to be able to review their work, and to document deficiencies. I think that's just more of a challenge, at least initially. So, I think, there's going to be a little bit of a time for people to ramp things up and there's going to be a learning curve. But this is one of the areas where managers need some training. I think as we move to more teleworking, managers need to be trained in different ways to interact with their staff. And also I think we have to be very cognizant of the fact that there could still be harassment and other types of employment issues, and those employees who are teleworking need to be trained with respect to anti-harassment, anti-discrimination laws, and make sure they also understand how to file complaints should they need to. It's one thing when everyone's in the office, it's a little bit easier. So, you have to make sure if they're teleworking that they understand how to do all that.

**Timothy Domanick**

With telework, I mean, that can be, it can lead to a whole host of claims, right? And then you'd have potential wage and hour violations. You could have claims of sexual harassment, or even just telework in general, because apparently, that's now the new norm. There are going to be issues when it comes to disability discrimination. Even if and when, the sudden influx of teleworkers eventually will be able to go back to their brick and mortar buildings. You'll have instances of employees coming forward saying "Hey, I need an accommodation for disability issues,” or otherwise. “I'd like to opportunity to work from home occasionally." And employers are going to have to be prepared to address those issues.

**Steven Menges**

That makes sense, I’m thinking of myself, for me to be able to work from home, I had to have certain software installed, I had to set up a different kind of workstation. All that was provided for me at my office, but having to work remotely, there were things that I needed in order to be successful at my job, so I can see that multiplied, especially for people with disabilities, so that makes sense.

**Steven Menges**

Laura, the numbers, are you seeing any numbers that stand out, that you can talk about? How big do claims get? Anything on the numbers that sort of jumps out, that you think would be of interest to the listeners?

**Laura Lapidus**

I think the important thing to remember with claims when you're talking about damages or settlements is that it really is isn't reflective of the size of the firm or company. A lot of these claims have an emotional distress component. A lot of smaller employers feel that they're a small company and that they couldn't get hit with a large verdict or have a large settlement. But that's not necessarily the case, particularly when you're looking at sexual harassment and other types of claims like that. So, I think that's really an important piece of all of this.

**Steven Menges**

In a recent interview I did with Rebecca Toffolon, one of the things we talked about was this concept of a “pain period,” which is from the time a claim is made until it's ultimately resolved, the firm has to deal with it. Basically, the firm has to apply resources to it in a number of different ways, and I could see especially if it were a claim around sexual harassment that would really be magnified with an emotional element as well. So, it's really not just about the damages, is it?

**Laura Lapidus**

No, not at all. And keep in mind too, when you're talking about harassment, one of the things that an employer has to do when they become aware of allegations of harassment is to conduct a prompt and thorough investigation. You really need to have someone trained in that area. So, you're either going to have to have someone in-house who's highly trained, or you're going to have to go out and retain an attorney or someone else who is trained in investigations. And unfortunately, a lot of firms, especially on the smaller side, may not understand that, or may not even be aware of that. And they may try to either brush it off, or hope it goes away, or tell people they got to figure out a way to work with each other. And that can be one of the most dangerous things to do. And I'm sure Tim, I'm sure you see this all the time.

**Timothy Domanick**

Oh, absolutely. Look, when an internal complaint comes in, I don't care what size employer you are, when an internal complaint comes in. that should be the thing that comes to the top of your pile. Because if you address it adequately at the onset, you can nip it in the bud, and prevent the potential claim from growing. Maybe we can avoid going to litigation. Maybe we can avoid having that employee go out of house, file an administrative complaint, seek a plaintiff's attorney. Maybe we can avoid all of that. Because if you don't, and sometimes litigation can be unavoidable, but if you get there, the cost of litigation is not just the dollars and cents that you're going to wind up to paying to your defense counsel. There's an emotional component on an employer, there's morale problems, there's a sweat equity problem. Because it's not as if your lawyer will just handle everything by him or herself. You will have to be involved as well, you'll have to assign resources to address the problem on an ongoing basis.

**Steven Menges**

That makes sense and I like the term you pointed out, a "potential" claim. Ideally, you address something before it becomes a claim, and definitely before it becomes a lawsuit. Anything that is a potential claim needs to be treated carefully. It needs to go to the top of the pile, because you can basically, like you said, nip it in the bud. So, I think that's really good advice is to treat potential claims as extremely urgent and important, because you can prevent a lot of ramifications later on. So, when things do progress though, and they do become a claim or they do end up in litigation, are we talking relatively big damage awards? Tim, what have you seen out there? For firms that haven't had any real exposure to this, we're telling them they need to protect themselves. How bad can it get? What do claims, and what do payouts look like?

**Timothy Domanick**

They certainly can get very, very bad. When we talk about payouts, that could be anything from a jury verdict to a private settlement. And for a lot of these types of claims it's almost essentially a mathematical computation. Under statute, you look at what the plaintiff could be entitled to. And there's an economic damages component, things like lost wages. So, we look at a standard termination claim, an allegation of "Oh, I got fired because of my fill-in-the -blank", whatever the category is. "I've been out work for a year, a year and a half." Okay, well, what was the person's salary? Times that by one, one and a half. But the biggest problem there is the emotional damages component. Because emotional damages awards can be done on a sliding scale. There's anything from what people in the business call garden variety emotional damages. Those are the things like the stereotypical, "Oh, you know, I couldn't sleep I couldn't eat. I was so upset." The thing that any one of us would deal with if we were to end up losing our jobs.

**Timothy Domanick**

And the garden variety emotional distress damages can be high. I'm a practitioner here in New York, and there's a couple of cases out there that indicate that a six-figure garden variety emotional distress damages award is feasible. But that number gets increased even higher if that plaintiff seeks help. If they treat with a physician, or treat with a mental health professional, suddenly that number increases overall. And the other piece of the overall component that we look at when you look at these claims is attorney's fees. And now I'm not just talking about the fees that an employer would spend to defend. In a lot of these laws and statutes that are in place regarding employment discrimination and harassment, there's “fee shifting,” meaning that either in a settlement, or in a verdict, the employer would also be paying the plaintiff's attorney’s fees. And I'm sure you can imagine how a plaintiff's attorney will say that they worked many, many hours on a case no matter what level you're at.

**Steven Menges**

Sure. You're talking about if it does end up going to a trial, like you said, six figures, then if you add in attorney's fees and emotional damage where they've consulted with physicians, even into seven figures, So, that's some "big numbers" - you definitely don't want to ever play in that space, if there's a way to get ahead of it.

**Timothy Domanick**

Absolutely, and then, in certain cases, even punitive damages can be provided. Punitive damages are punishment damages and I would imagine Laura would be able to comment on that from an insurance component, but those are the types of damages, and those are the type of numbers, that keep me up at night.

**Steven Menges**

OK, I think you're right. Tim, I had a little bit of a hard time hearing you there, so I'll recap. You're talking about punitive or punishment damages, which can really take the number up. That’s where the court is attempting to set an example, to basically say we don't want to see this kind of behavior again from your company. There's one way to really get someone’s attention, a company's attention, and that is to punish them over and above just the garden variety damages that you were talking about. Would you say you group things into potential claims, that you as the insurance firm see, there’s claims, then there's when it goes to litigation. Are those the three categories that you work with?

**Laura Lapidus**

Well, it's really different, you really have to look at the definitions that are in the particular policy. So, there is a definition for potential claims. What I deal with primarily, though, are helping our policy holders even before that, trying to give them the resources so that they understand what the issues are so that they understand why documentation is important, so that they understand how to handle all these things when they come up. That's really where my focus is primarily,

**Steven Menges**

This whole idea of prevention, and the fact that there are resources available is good news for the listeners that are in growing firms. That makes me think about how of easy and natural it is for a successful small to medium sized company to maintain their great culture and have effective internal communication, but then how those two things can really become a challenge when there's rapid growth at the firm. Things that were once kind of easy and taken for granted now need to be part of the plan to maintain their culture and the way things work, and to ensure healthy sustainable growth going forward.

**Laura Lapidus**

Absolutely, and that's where training really comes in. And Tim mentioned it before, there are some state laws now that require anti-harassment training, but that's just the beginning. I think, unfortunately, a lot of companies, including CPA firms, look at it as this is what I have to do, and that's it. It's really just the beginning and then training on all types of discrimination prevention, and all types of harassment prevention.

**Laura Lapidus**

Remember, we talked about sexual harassment a lot, that's what's been in the news with the “me too” movement, but there's racial harassment. There's harassment, on other types of protected bases. So, it's really important that employees and managers are trained in the prevention of all these types of discrimination and harassment. And then you really have to also provide training to your managers, so they know how to handle issues as they arise. So, all of this is really very important.

**Steven Menges**

Knowing the potential risks with EPL liability for growing firms, what would you suggest firm leaders do to decrease the risk and keep their growth and success on track? You mentioned a few things but anything else, in general advice, you would give to the leaders of the of these firms?

**Laura Lapidus**

Well, you know, one of the things to consider is the purchase of employment practices liability insurance. In addition to the coverage that you get through an EPL policy, many carriers, particularly CNA, provide resources that can help you manage the risk. So, if a firm purchases EPL from CNA, we offer complimentary access to our online web platform, “Beyond HR.” We provide online anti-harassment and anti-discrimination training free of charge. But there's also a lot of articles, podcasts, and information there. Employment law is changing so rapidly, and it's very difficult for someone who's not in human resources to really understand all of the different ramifications of the changes in the laws. By having this online platform, it helps our policyholders to stay abreast of all the different changes. We also provide a hotline for our policyholders, where they can speak directly with an employment practices liability attorney, to get advice on certain issues. We provide a full consultation of up to 30 minutes per month or six hours per year. In addition to the purchase of the policy itself, there are a lot of risk management type of resources that are provided, and that are available.

**Steven Menges**

That makes perfect sense and I think that's good news for companies and firms that are just hitting that threshold to where maybe it's time that they consider their first EPL policy for the firm, or perhaps they have something, and they need to enhance it and that it can come with a variety of resources that they really should have anyway at the firm, in order to do these kind of trainings. Anything you can add Tim about a way a firm can set the set the tone at the top, to prevent litigation down the road?

**Timothy Domanick**

In my experience, the most successful firms, the ones that are really able to avoid claims, they're the ones that take these issues seriously. It starts at the top. If you as a principal in an organization, take these issues seriously, and do what you're supposed to do, do your due diligence, do your training, properly relay messages to your managers. Make sure that they're taking it seriously, there's a trickle-down effect. On top of overall adequate training that you're going to need, when issues arise in the workplace, and they will because, we're social creatures by nature and sometimes things go awry, any organization, if they address it appropriately, they do their proper investigations, they address any and all issues they face, and they follow up with their employees to make sure that everything is fine, that's a perfect situation, because at that point, the principal of the company is not just pitching to that one employee who's having the issue, because employees talk. They're pitching to everybody. So, if you handle a problem adequately, from the onset, it's a message to the rest of your staff. "Hey, look, this place takes these issues seriously, this is the type of place that I want to work. This is the type of place that's going to be successful." That pays off in dividends.

**Steven Menges**

Now that really does make sense, setting that tone at the top, regarding maintenance of a non-discriminatory and safe workplace. I can see how staff and even the partners will absorb, and they'll emulate what they see and hear from their boss, from the managing partner or the partner heading a particular practice. I think that is really important.

**Steven Menges**

One item that we didn't really talk about too much or directly here is “reputation risk.” The fact that if there are issues, and if things are not handled in a professional way, that's going to get out. One way or another it's going to get out to industry. It's going to get out to clients, and to potential clients and for companies that are growing, that's going to get out to potential employees when you're trying to hire and execute on your growth plan. If there are issues like this, that were talked about here, that were not prevented, that were not addressed when they did happen, that's really going to hurt your reputation, and it's going to make the execution of that growth plan even harder.

**Steven Menges**

While we wrap up here, any particular resources you would recommend for firms? I'll start with you, Laura.

**Laura Lapidus**

I think it's important to have a connection with an employment law firm like Tim's firm. There are a lot of resources online that can be really helpful. In addition, if you do purchase an EPL, take advantage of the resources that are provided. The EEOC on their website, EEOC.GOV, has some information for small businesses, that small firms can take advantage of that can be helpful as well.

**Steven Menges**

Okay. Tim, any resources that that you would recommend for firms?

**Timothy Domanick**

Whichever counsel you end up working with, they're going to be able to provide you information and keep you up on current trends. And just by way of example, I can tell you that on our website jacksonlewis.com, we have entire sections of articles and blog posts that get pushed out immediately once there's a change in the law, or there's a new case, or new guidance from one of these agencies like the EEOC or the DoL [Department of Labor]. Staying abreast of these topics and getting out ahead of them is the most important thing that you can do.

**Steven Menges**

Great stuff, great advice everyone. And the numbers we talked about back up the importance of what we talked about. I'll also add that setting the tone at the top, in this important area, will likely bolster the efforts to maintain a great firm culture as a firm grows.

**Steven Menges**

I'd like to thank our guests for joining us today and for helping firms as they innovate and transform to better serve their clients. Thank you very, very much for joining us today Laura and Tim.

**Timothy Domanick**

Thank you.

**Laura Lapidus**

Thank you.

**Steven Menges**

We hope you gleaned some useful, actionable insights from today's podcast. I'm Steven Menges with CPA.COM and I want to thank you all for listening today. Quick reminder, the show notes provide links to great additional content related to today's topic, so check them out, along with all of the Modernizing Your Practice content, which can be found at CPA.COM/myp. Until next time, I encourage you all to also check out the “Go Beyond Disruption Podcast” for a unique global insight-type look for accounting firms on emerging technology, human intelligence and digital transformation. Again, thank you to our guests and take care.

**Disclaimer**

This podcast is designed to provide illustrative information with respect to the subject matter covered and does not represent an official opinion or position of CPA.com. It is provided with the understanding that CPA com is not engaged in rendering legal, accounting or other professional services. If such advice or expert assistance is required, the services of a competent professional person should be sought. CPA.com makes no representations, warranties or guarantees as to, and assume no responsibility for, the content and application of the material contained herein, and expressly disclaim all liability for such damages arising out of the use of, reference to, or reliance on, such material.