

Employment Practices Liability

We work with our insurance clients as both coverage counsel and monitoring counsel on employment practices matters throughout the country. We counsel clients on the wide range of issues that arise under these policies, including the right to independent counsel, what constitutes an employment practices claim, covered loss, and allocation. We regularly advise clients on coverage and exposure, participate in mediations, and litigate coverage issues.

Representative recent matters include the following:

- *Academy of Country Music v. Continental Casualty Co.*, No. CV 20-3046-PLA (C.D. Cal. 2022). Wiley successfully defended a coverage litigation filed in relation to an underlying employment arbitration. The court held that no indemnity coverage was available for the arbitration award under an EPL policy on the basis that the insured's breach of an employment separation agreement constituted a "breach of written contract of employment" or, alternatively, did not constitute a covered Wrongful Employment Practice. Wiley won on summary judgment.
- *Scottsdale Ins. Co. v. LPM Healthcare, Inc.*, No. 18-cv-3749 (C.D. Cal. June 29, 2018). Wiley successfully represented an insurer, which prevailed in a declaratory judgment action that the insured violated the policy's cooperation clause, which eliminated the duty to defend and indemnify.
- *Scottsdale Indem. Co. v. Convercent, Inc.*, 2017 WL 5446093 (D. Colo. Nov. 14, 2017). We represented an insurer in a declaratory judgment action and obtained a ruling that our client had no duty to defend an EEOC charge and related lawsuit on the basis that a letter predating the charge and lawsuit was a "claim" first made prior to the policy period.
- *Summers v. Scottsdale Indem. Co.*, 2016 WL 1268295 (W.D. Ky. Mar. 31, 2016). Wiley represented an insurer in an action under an EPL policy for rescission and declaratory judgment against an insured that had failed to disclose two prior sexual harassment lawsuits in its application for coverage. We obtained summary judgment.
- *Turbyfill v. Scottsdale Indem. Co.*, 2016 WL 741657 (N.D. Fla. Feb. 24, 2016). We represented an insurer, which prevailed in an action under an EPL policy where the court agreed with the carrier that inappropriate touching of a sedated patient, while likely "sexual misconduct," was not "harassment" within the meaning of the policy and that coverage for such acts likely would violate Florida public policy.