

Workers' Compensation is one of the most common coverages retail agents place. Limits are standardized, policies are routinely renewed, and Employers Liability is often seen by employers as a supporting detail rather than a core concern, quietly riding along.

WHAT IS EMPLOYERS LIABILITY UNDER A WORKERS' COMPENSATION POLICY?

Every Workers' Compensation policy is structured into two key parts that work together to protect both employees and employers when workplace injuries occur.

Part One – Workers' Compensation

Provides statutory benefits, including medical expenses and lost wages, for employees injured on the job.

Part Two – Employers Liability

Responds if an employer is sued by an employee or an employee's family for a work-related injury.

Employers Liability, commonly referred to as **Part Two** of a Workers' Compensation policy, comes into play when employee injury claims move beyond statutory benefits and into litigation. These claims may involve allegations such as negligence, family members seeking damages, related injury claims, or lawsuits tied to third-party actions, including situations involving subcontractors.

While Employers Liability claims are not frequent, they can be severe, especially when losses exceed the limits built into most Work Comp policies. Although this coverage is included in a standard WC policy, it is subject to stated limits, most commonly \$100,000, \$500,000, or \$1,000,000, which are often misunderstood or assumed to be sufficient.

Excess Employers Liability responds when standard limits are exhausted offering additional protection not only for routine claims, but also for higher severity scenarios that can strain financial stability and contractual obligations.

WHY ARE EMPLOYERS LIABILITY LIMITS A CONCERN?

Employers Liability claims are not frequency-based. They are severity-driven. A single catastrophic accident can trigger litigation that quickly exhausts Part Two limits.

In today's legal environment, it is not uncommon for settlements or verdicts tied to workplace injury lawsuits to reach several million dollars, well beyond the limits embedded in a standard WC policy. Once those limits are exhausted, the employer is responsible for the remainder of the claim.

WHAT IS EXCESS EMPLOYERS LIABILITY COVERAGE?

Excess Employers Liability is a monoline coverage designed to sit excess of Workers' Compensation Part Two. It does not replace Workers' Compensation and does not respond to statutory benefits. Instead, it provides additional limits once the Employers Liability portion of the WC policy has been exhausted. In simple terms, it extends the employer's protection against catastrophic lawsuits arising from workplace injuries.

CONTACT

For more information, please contact your local RT Specialty WC broker or underwriter.

WHAT DOES EXCESS EMPLOYERS LIABILITY COVERAGE DO?

This coverage is designed to protect against the claims that can truly threaten the survival of a business. Excess Employers Liability helps address high severity exposures by:

- Extending Employers Liability limits above those provided in WC Part Two
- Protecting employers from catastrophic employee or family lawsuits
- Helping satisfy contractual requirements that mandate higher liability limits
- Preserving balance sheets and business continuity when losses exceed standard limits

WHO SHOULD BE CONSIDERING EXCESS EMPLOYERS LIABILITY?

Any employer with a Workers' Compensation policy can be impacted by Employers Liability claims, but Excess Employers Liability is particularly relevant for:

- High-risk industries such as construction, manufacturing, energy, transportation, and logistics
- Employers with large or dispersed workforces, where staffing changes and payroll reporting accuracy play a larger role
- Businesses with severe injury potential, even if overall loss frequency is low and current experience modification appears favorable
- Organizations subject to contractual requirements that mandate Employers Liability limits above \$1M

These employers often face exposures where a single event can create multimillion-dollar liability.

WHAT HAPPENS WHEN EXCESS EMPLOYERS LIABILITY IS NOT IN PLACE?

When Employers Liability limits are exhausted, the remaining portion of the claim becomes the employer's responsibility, often on top of any [deductibles](#) or retained loss obligations under the Workers' Compensation program. The following scenarios illustrate how quickly this exposure can emerge in real-world situations.

Construction Negligence Claim

A contractor is sued following a severe on-site injury involving allegations of unsafe work conditions. The WC Employers Liability limit of \$1 million is exhausted through defense costs and settlement negotiations. The total settlement reaches \$3 million, leaving the employer responsible for \$2 million out-of-pocket.

Transportation Wrongful Death

A trucking company faces a wrongful death lawsuit after a fatal employee accident. The \$500,000 Employers Liability limit is reached quickly, while the claim continues to escalate. Without excess coverage, the uncovered amount can jeopardize liquidity and ongoing operations, particularly if the employer has experienced a prior lapse in WC coverage or inconsistent program structure.

Contractual Limit Compliance

A manufacturer bids on a project requiring \$3 million in Employers Liability limits. The standard WC policy only provides \$1 million. Without Excess Employers Liability, the employer may be unable to meet contract terms, or may proceed with less coverage than anticipated.

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HOW DOES EXCESS EMPLOYERS LIABILITY DIFFER FROM OTHER LIABILITY COVERAGE?

Excess Employers Liability is distinct from General Liability and Umbrella policies. Many umbrellas exclude Employers Liability entirely or provide limited support when WC Part Two limits are breached. This coverage is specifically designed to respond where other liability programs often stop.

Key considerations to be aware of:

- Excess Employers Liability is typically written as monoline coverage
- It complements, but does not replace, Workers' Compensation
- It is generally offered in the surplus lines market
- Availability is limited to insureds with an active WC policy
- It is not available in monopolistic states (OH, ND, WA & WY) or New York

Understanding these parameters helps set realistic expectations and identify when this coverage may be appropriate.

QUESTIONS TO BE ASKING WHEN REVIEWING WORKERS' COMP PROGRAMS

These conversations can help determine whether this coverage can serve as a beneficial supplement.

- What are the Employers Liability limits under the WC policy?
- Could a severe injury realistically exceed those limits?
- Are there contracts requiring higher Employers Liability limits?
- Would an uncovered multi-million-dollar claim materially impact this business?
- Does the client understand where Workers' Comp protection stops?

RECOMMENDATIONS:

Workers' Compensation is often viewed as a "set it and forget it" coverage, but Employers Liability introduces real severity risk. Agents can add value by educating clients on:

- The difference between statutory benefits and liability lawsuits
- The limitations of WC Part Two limits
- The financial implications of catastrophic Employers Liability claims

Excess Employers Liability may not be appropriate for every account, but for certain employers, it can provide additional protection against losses that would otherwise threaten operations, assets, or long-term viability.

Please reach out to RT Specialty's knowledgeable workers' compensation team for additional information regarding Excess Employers Liability, as well as other work comp-related topics. RT Specialty is always ready to assist!

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