



CASE STUDY

NEW YORK RESTAURANT AVOIDS AN EPLI POLICY LAPSE AFTER BEING NON-RENEWED

When COVID-related shutdowns and layoffs made obtaining EPLI policies near-impossible, Jencap beat the odds to find coverage for a New York restaurant.

BAILING OUT A NEW YORK RESTAURANT

One of Jencap's largest New York restaurant clients — a fine dining establishment with multiple locations and over a thousand employees — was one of the many that took a hit during the COVID-19 pandemic. Their once exclusive dining rooms closed and their employees were collecting unemployment.

Like countless other restaurants across the country, they received notice from their longstanding insurance carrier that their Employment Practices Liability Insurance (EPLI) policy would not be renewed. This left them scrambling to find new coverage before their policy lapsed.

THE COVID CLIMATE IN THE HOSPITALITY INDUSTRY

EPLI protects businesses from employee lawsuits ranging from wrongful termination, breach of employment contracts, and

mismanagement of employee benefits due to sexual harassment and discrimination. This type of insurance is essential to any business — and was even more so during the pandemic, when emotions ran understandably high and business viability remained uncertain.

At the height of the pandemic, many businesses paused or limited operations. In response, EPLI carriers panicked, fearing the inevitable lawsuits that the pandemic-related layoffs and business challenges would bring. Many EPLI carriers refused to renew existing policies, and if they did, they introduced new, restrictive terms, coupled with soaring deductibles and premiums.

Restaurants, in particular, were hit hard, and an estimated 90,000 were forced to close their doors — either temporarily or permanently — by spring of 2021. Deborah Dioguardi, senior vice president of Jencap Specialty Insurance Services and EPLI specialist, saw countless restaurants struggle to find necessary EPLI coverage.

“When COVID hit, EPLI carriers said, ‘we’re non-renewing all our restaurants,’ because they were scared of the potential claims that could come,” said Dioguardi.

BUYING THE RESTAURANT CLIENT TIME TO EXPLORE OPTIONS

When Dioguardi’s large New York restaurant client came to her for help, she and the Jencap team sprang into action. Dioguardi worked with the client’s retail agent to negotiate a 30-day policy extension with the incumbent carrier. This gave them precious time to source and evaluate alternatives.

“The policy was written on non-admitted paper, so the carrier could have just walked away — without any extension,” Dioguardi explained. “But because of our relationship with the carrier, they agreed to 30 days. And if I needed more, I would have battled for more.”

Leveraging the network and relationships she had built from over twenty years at Jencap, Dioguardi found the “needle in a haystack” EPLI carrier willing to offer a reasonable quote to a New York restaurant that had closed its doors and already laid off much of its staff.

But the fight wasn’t over.

SOLVING TOUGH COVERAGE GAPS WITH CREATIVITY AND PERSISTENCE

While reviewing her restaurant client’s quote, Dioguardi discovered a significant coverage gap. During the pandemic, many insurance carriers began adding exclusions for situations related to COVID. In this case, the quote had a downsizing and layoff exclusion.

Given that this was the height of the pandemic, the restaurant was already experiencing significant downsizing and organization-wide layoffs. With this policy, none of those risks were covered. Even after persistent negotiation, the new carrier refused to remove the layoff exclusion.

Determined to find a solution, Dioguardi got creative. Her first step was to make sure the restaurant had coverage to protect

them against possible future risks. “We put pressure on the new carrier that quoted the risk, and we were able to get them to offer downsizing and layoff coverage going forward.”

From there, Dioguardi and the restaurant’s retail agent worked with the restaurant’s previous carrier to purchase a one-year extended reporting period (ERP), which would protect the restaurant from any past acts related to COVID downsizing and layoffs.

Dioguardi explained that coming up with creative solutions is just as important as refusing to take “no” as a final answer.

“Carriers will compromise, but you have to bring options to the table. Sometimes it’s not your first attempt, and sometimes it’s not your second attempt. And sometimes you’re not successful with the first person you speak with. With experience, you learn when to move on to the next person and get creative.”

THE BENEFITS OF FOLLOWING UP

A year later, when the new carrier renewed the restaurant’s policy, they agreed to remove the downsizing and layoff exclusion and provide full coverage for prior acts. This meant the restaurant no longer needed to pay for the ERP coverage, which amounted to substantial cost savings.

The COVID-19 pandemic tested the EPLI marketplace. Some carriers stepped up and supported their insureds during this crisis, while other carriers fell short. Due to Jencap’s expertise combined with strong carrier relationships and deep marketplace knowledge, professional lines brokers like Dioguardi provided solutions for our retail agent partners and their insureds during an unprecedented time in history.



Deborah Dioguardi

Senior Vice President of Jencap Specialty Insurance Services

Deborah Dioguardi began her career in insurance in 1998, and has spent the last 23 years at Jencap. She has strong experience across all professional lines, with a special focus on employment practices. Insurance Business America recognized Deborah as a 2020 Top Specialty Broker.