The Perils of Employment Liability Claims
High Stakes, Strategies & Prevention

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MICHAEL WROBLEWSKI, GALLAGHER BASSETT SERVICES
DENNIS O’HARA, ARTHUR J. GALLAGHER
KEVIN LOOS, ARCHDIOCESE OF ST. LOUIS
STEVE HENNE, TNCRRG

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Dennis O’Hara

Arthur J. Gallagher & Co. San Francisco
Underwriting Manager, Western Catholic Insurance Company

• 1999-2011 Underwriting Manager, The Ordinary Mutual Client Owned Risk Retention Group (10-12 Catholic Dioceses in the West)
• 2011-2016 Underwriting Manager, Western Catholic Insurance Company Client Owned Risk Retention Group (3-5 Catholic Dioceses in the West)
Michael Wroblewski
Gallagher Bassett Services, Inc.

- Director of Religious and Nonprofit Practice, Gallagher Bassett
- Celebrated 30th Anniversary At Gallagher Bassett in April 2016
- Experience Handling Liability, Property, Workers Compensation, and Professional Liability Claims For Over 35 Years
- Ph.D From Indiana University & Taught At Ohio State University
Kevin Loos
Human Resources Director
Archdiocese of St. Louis

• Human Resources Director – Archdiocese of St. Louis (10 years)
• Professional Certifications:
  SPHR - Senior Professional in Human Resources
  CBP - Certified Benefits Professional
  CCP - Certified Compensation Professional
• Human Resource Generalist for 30 Years
• Experience working with a Catholic hospital, a Fortune 500 Company, and various entrepreneurial start-ups
Steve Henne

The National Catholic Risk Retention Group (TNCRRG)

- The National Catholic Risk Retention Group  -- Director of Claims Management (2005 to the present)
- Arthur J Gallagher & Company  -- Corporate Risk Manager
- Gallagher Bassett  -  Director of Liability
- Corporate Claims Manager
- Senior Corporate Claims Supervisor
- Crum & Forster  -  Claims Specialist
Carrier Perspective

- Over the past 5 years we continue to see losses arising from allegations of age discrimination due to staff reduction.
- Over the past 2 – 3 years we are experiencing more activity related to lifestyle discrimination.
- Our belief is this trend will continue into the foreseeable future and this could be attributable to the 2015 Supreme Court Decision on same sex marriage.
- We have found that the LGBT community is behind some of these Actions via their funding of the litigation against the church.
• As a result of this involvement, these cases are becoming more costly to defend and to bring to an ultimate conclusion.

• There must be a very strong hiring protocol. A clear definition of the job requirements, a concise outline of who they will be working for, that you will be following Catholic Doctrine as it relates to same sex marriage, premarital sex, etc.

• In regard to staff reduction, please make sure that there is also a very stringent protocol as to how this occurs and that all the activity related to it is documented and then documented again.
Underwriting Insurance for Employment Practices Liability Coverage

Key Factors:

• Past Claims History/Regional Employment Law Environment
• Management/Leadership/Decision Making from the Pastoral Center
• Attorneys Defending Claims
• Coverage and Pricing Options
• Reinsurance Issues
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Past Claims History/Regional Employment Law Environment:

• The types of losses (claims) are important to see patterns
• The locations of losses are important to see patterns
• The state of jurisdiction is important for awards, settlements and case law
• Cost of defense totals per claim are important
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Management/Leadership/Decision Making from the Pastoral Center

• What support does HR lend to locations, management and the Curia?
• Who has the authority to terminate employees?
• Who counsels/disciplines clergy and staff when guidelines are not followed?
• What use is being made of Hosanna-Tabor?
• What unions/CBA/employee handbooks are involved or being used?
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Attorneys Defending Claims:

• Understanding the role of defense attorneys in employment cases
• Who selects the attorneys? How were they selected?
• Rates don’t mean everything but effective representation does
• Is the diocese willing to invite discussion on the selection of attorneys?
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Coverage & Pricing Options:

• Claims Made Coverage. Defense Inside the Limit
• Retro Dates: What do they mean?
• Experience Rating the Risk
• Exposure Rating the Risk
• The Risk of History Repeating Itself
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Reinsurance Issues:

- Reinsurance: The lifeblood and check/balance of insurance companies
- Transparency to reinsurers in underwriting and claims practices
- Partnering with reinsurers on claims
- Obtaining the best result on claims for insurers and reinsurers
- Renewing the reinsurance treaty
Liability and Litigation Management
Areas Where Human Resources Management Can Have An Impact

• Separation Agreements
• Promissory Notes
• Reviewing Handbooks
• Proper Utilization of Performance Reviews and Employment Applications
• Difficult Terminations
Areas Where Human Resources Management Can Have An Impact

• Eliminate employment contracts where they are not needed
• Utilize teacher contracts for contracted teachers only
• Review Personnel Handbooks
• Difficult Terminations
Areas Where Human Resources Management Can Have An Impact

- Manage the fees of your welfare/church plan retirement
- Policy/Practice on Handling Medical Premiums for Insured Employees Who Don’t Work in the Summer
- Reviewing Health and Welfare SPD’s
How To Create That Impact……

• Get to the field
• New Pastor Orientation
• Be available for difficult terminations
• Training
How To Create That Impact……

• Involve yourself in force reductions/restructurings to strengthen your selection/litigation positions

• Utilize internal third party medical plan review vendor

• Implement a misconduct hotline
When All Else Fails Don’t Be Afraid To……

• Third party undercover agency to gather information related to an unsafe employee relations situation which may lead to litigation
• Video Camera Evidence
• Forensic IT vendor who performed a deep dive of ‘it’s been deleted’
• Manage the ‘horse out of the barn’
• Remind the pastor he is their employer not their confessor
… and just when you thought it couldn’t get any better, let’s go to the video tape!!!
Thank You

Michael Wroblewski: Michael_Woblewski@gbtpa.com
Dennis H. O’Hara: Dennis_OHara@ajg.com
Kevin Loos: kevinloos@archstl.org
Steve Henne: shenne@tnccrg.org