



Technology

Client Alert: Artificial Intelligence Bias and Insurance Implications

Key Takeaways from Mobley v. Workday

The *Mobley v. Workday* litigation marks a pivotal moment in the intersection of artificial intelligence, employment practices, and insurance coverage. The case centers on allegations that Workday's AI-powered hiring tools discriminated against applicants based on race, age, and disability — highlighting a rapidly evolving area of risk for both employers and technology providers.

EPL Insurance Implications

For employers leveraging AI in their hiring processes, claims of bias and discrimination — such as those in *Workday* — typically fall under Employment Practices Liability (EPL) insurance. We expect EPL policies to respond to these types of claims; however, the outcome of this case may influence future underwriting decisions, potentially leading to tighter terms or new exclusions related to AI-based employment decisions.

Cyber & Technology E&O Insurance Implications

Technology providers face a different set of coverage challenges. Cyber and Technology Errors & Omissions (E&O) policies are designed to cover claims arising from an error, omission, or unintentional failure in services or software. In the *Workday* case, however, the complaint does not allege a malfunction or failure — only that the software, as designed, produced discriminatory outcomes. As such, E&O coverage is unlikely to be triggered. Even in cases involving an actual programming error, most Tech E&O policies include broad discrimination or employment-related exclusions that would likely preclude coverage.

Looking Ahead

With the EEOC reinforcing that AI bias falls under federal anti-discrimination laws, and with potential for class action litigation growing, insurers are becoming increasingly cautious. Many are tightening policy language and adding AI-specific exclusions, particularly for discrimination-related exposures.

Custom insurance solutions for AI-related risks are achievable but typically require premium investment and may not be viable for early-stage or growth companies.

CAC Specialty has deep experience crafting bespoke programs for emerging risks and is available to advise companies navigating this evolving landscape. Please reach out to CAC to discuss how this case may impact your insurance coverage.



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