

Amin v. Flagstone Hospitality Management

(United States District Court, District of Minnesota, 2005 U.S. Dist. LEXIS 29022 (D. Minn. 2005))

Proving that election notices have been mailed is critical to COBRA compliance. A former employee's COBRA claim recently survived summary judgment because his employer omitted a single word from the mailing address.

In this case, a Minnesota District Court denied the employer's summary judgment motion because it could not prove that it sent an election notice to its former employee, Ayman Amin. Amin sued his former employer on many grounds based on his termination, including whistleblowing, discrimination and retaliation. All were dismissed, except the COBRA violation. Here's why.

Flagstone offered two primary pieces of evidence that it had sent Amin the election notice:

- a copy of the election notice that was sent, and
- a Mailing Book that confirmed the notice was mailed.

Two things were wrong. First, the Mailing Book did not contain a zip code (although the notice did). Second, and more significantly, neither the notice nor the Mailing Book contained the "North" indicator for the street on which Amin lived. Thus, Amin's claim could go to trial.

This case underscores the importance of maintaining accurate addresses. COBRA law requires that notices must be sent to the last known address. Failure to provide such notice can result in ERISA penalties of up to \$110 per day.