

Giddens v. University Yacht Club

(United States District Court, Northern District of Georgia, Civil No. 2:05-CV-19-WCO (N.D. Ga. 2006))

Twenty is a magic number for COBRA. The general rule of COBRA applicability is that COBRA does not apply if an employer normally employed fewer than 20 employees on a typical business day during the preceding calendar year. This case tested the parameters of this seemingly straightforward rule.

Jeffrey Giddens worked as general manager for University Yacht Club (“UYC”). He reported directly to the president, also known as the “commodore” of this non-profit organization. Giddens and his family were covered by UYC’s health plan. He suffered some medical setbacks, including spinal fusion surgery. When his employment terminated in September, he received no medical continuation.

UYC’s reasons were simple: Giddens was fired for gross misconduct, and even if he wasn’t, UYC was subject to the small-employer exception to COBRA. The Court disagreed with the first argument, but agreed with the second argument.

Regarding the gross misconduct allegation, UYC stated that Giddens was derelict in his financial dealings, used UYC property for personal use, and paid for personal items with a company credit card. Giddens, on the other hand, said the termination had to do with a personal conflict with the commodore. The Court saw this as a factual dispute; thus, summary judgment was inappropriate on this issue.

The Court’s handling of the small-employer exception is instructive to employers who are on the cusp of 20 employees from one year to the next. Despite reviewing the same payroll records, both parties came up with different employee counts. As expected, Giddens’ count was more than 20; UYC’s count was less than 20. The Court laid down the following rules in resolving the conflicts:

- Averaging 30 hours per week (not 32) was enough for full-time employment status, based on UYC’s personnel policy.
- Count only actual hours worked and exclude vacation, holiday and sick time hours.
- Even if an employee works in more than one capacity (in this case, 30 hours in administration, 10 hours in the clubhouse), it was inappropriate to double-count the employee (i.e., a 1.3 full-time equivalents).
- UYC’s five officers were unpaid and elected, serving on a voluntary basis. Therefore, they were not employees, even though under Georgia law they were considered employees and they received some perks from their position (e.g., special parking, preferred seating at events and free maintenance services). The Court looked to common-law principles of agency instead, focusing on the officers’ lack of payment and the absence of employee benefits.

As a result, UYC qualified for the small-employer exception. The Court granted UYC’s motion for summary judgment. This case highlights some of the issues for determining employer eligibility for the small-employer exception.