

### Lane v. Compass Group USA

(United States District Court, District of Connecticut, 2005 U.S. Dist. LEXIS 25119 (D. Conn. 2005))

Determining when employment terminates after a leave of absence can be challenging. For one Connecticut employer, it will probably prove costly as well.

In this case, a Connecticut District Court refused to grant summary judgment to an employer that communicated two separate termination dates to a former employee, who never elected COBRA coverage. As a result, the case proceeded to trial with the prospects for victory looking dismal for the employer, Compass Group.

How did this happen? After the employee, Ms. Lane, suffered a workers compensation injury in March, she took time off until early May. She last worked on May 22. In early August, Compass Group sent a COBRA election notice with a May 22 qualifying event date. This meant that Compass Group was late in sending the election notice. Compass Group later argued that the real termination date was August 3, thus making the election notice timely. According to Compass Group, the May 22 notation was due to “carelessness having no legal repercussions.”

The Court disagreed. The Court noted that the insurance carrier, CIGNA, had later requested reimbursement for claims it had paid after May 22. Lane did not elect coverage because she was under the impression she was still employed, having never been notified otherwise until she received the election notice.

The bottom line is this: Compass Group’s confusion over the termination date – in communications to both CIGNA and Lane – could result in ERISA daily penalties, attorneys’ fees and payment of all related medical claims for an employee who worked less than nine months and earned \$8 per hour.

Employers sometimes overlook COBRA compliance in managing leaves of absence. While it is not apparent in this case, a leave of absence can sometimes trigger a qualifying event (reduction of hours) if it causes a loss of coverage per the terms of the group health plan. It is imperative that employers communicate timely and accurately when a qualifying event occurs.