

CASE LAW

Election Periods And Time Frames

Branch v. G. Bernd Company

(United States District Court for the Middle District of Georgia, Macon Division, 955 F. 2nd 1574 (11th Cir. 1992))

Dwayne Bell worked for G. Bernd Company and terminated his employment on less than friendly terms. Ms. Pratt of G. Bernd Company attempted unsuccessfully to advise Bell of his COBRA rights over the telephone. Bell was scheduled to come into the G. Bernd Company office to complete paperwork on COBRA. When Bell came in, Pratt was unavailable, and someone else handled the paperwork. Bell signed a waiver of COBRA coverage for dependents, when no dependents were covered under the plan.

Ten days later, Bell was shot several times and admitted to the Medical Center of Central Georgia. He incurred approximately \$98,000 in claims and then died as a result of his injuries. When no family could be located, the hospital administrator, Lynn Branch, was appointed as administrator of Bell's estate. Branch attempted to elect COBRA coverage on behalf of Bell's estate. The G. Bernd Company denied the request because it was made outside the 60-day election period. Branch filed suit to recover the \$98,000 in claims.

The court found in favor of Branch, stating Bell was never properly notified of his 60-day election period. The court found no reference to the 60-day election period in either the COBRA notice or the company's Summary Plan Description. Since the election period was never listed, the court ruled that a COBRA election would be valid if made before the end of the 18-month continuation period.

The court went on to note, even if a 60-day election **had** been specified in the notice, the **"election period would have been suspended from the time Bell became incapacitated until Branch was appointed administrator of the estate."** Due to a provision in the G. Bernd Company insurance contract, the carrier was ordered to pay the \$98,000.