

CASE LAW

Qualifying Events and Coverage Periods

Paris v. F. Korbel & Brothers, Inc.

(United States District Court for the Northern District of California, 751 F. Supp. 834 (N.D. Cal. 1990))

Leigh Paris worked for F. Korbel & Brothers, Inc. (Korbel). She worked in an area where executives of the company met. A condition of her employment was that she was not to divulge the nature of conversations that she overheard. Paris signed a secrecy agreement and was informed that a breach of this confidentiality could result in termination.

Paris overheard a conversation regarding an employee who happened to be her friend. In a later conversation, she told the wife of the employee what she had overheard. When the employee complained of Paris even knowing about the conversation, Paris was fired. Korbel did not offer COBRA to Paris because it considered the termination to be due to gross misconduct.

Paris filed suit for wrongful termination **and** failure to notify of COBRA. In deciding the case, the judge looked to the State of California's definition of gross misconduct for purposes of unemployment compensation and determined that Paris's breach of confidentiality did not constitute gross misconduct. The court ordered Korbel to offer COBRA to Paris and her son (who also was a Qualified Beneficiary). Since the claims were not more than the retroactive premium at that point in time, **Paris did not elect COBRA.**

The judge stated that COBRA requires that notifications be made. The fact that Paris was not harmed in this instance does not mean the employer can disregard its responsibilities under COBRA. Therefore, the judge levied a \$10 per day, per beneficiary, ERISA fine, payable to Paris. The fine amounted to roughly \$5,600.