

CASE LAW

COBRA Notifications

Phillips v. Riverside, Inc.

(United States District Court for the Eastern District of Arkansas, Eastern Division, 796 F. Supp. 403 (E.D. Ark. 1992))

Riverside, Inc. provided a three month severance package that included salary and health insurance benefits when it fired Jerry Phillips, its president, on October 6, 1989. Thirteen months later, Phillips had a heart attack and incurred approximately \$38,000 in medical expenses. Phillips did not have insurance. Four months later, he attempted to elect COBRA through Riverside and its parent company, Apartment House Builders (AHB). His election was denied, and Phillips filed suit.

The court determined that the question to decide was *“whether Jerry Phillips received proper notice of his rights under COBRA. The defendants say they provided notice; Mr. Phillips claims they did not. The Court’s analysis will proceed in two steps. The Court first must determine whether the defendants actually gave notice to Mr. Phillips. If so, the Court then must determine whether that notice adequately informed him of his COBRA rights.”*

Testimony revealed that Riverside *“made no notations and kept no files, records, copies, or any other information showing that COBRA letters were sent out.”* The court ruled that without documentation of a notice having been mailed, the court would have to rely on Phillips’s claim that he did not receive the notice. The court ruled that Phillips’ COBRA knowledge and awareness did not relieve Riverside from its duty to provide notice.

The court proceeded with the second phase of the question, dealing with the language contained in the notice. The judge looked first at the Summary Plan Description and found the portion on COBRA to be *“confusing at best.”* Next, looking at the actual COBRA notice that Phillips would have received, the court ruled that Phillips *“would still prevail After careful examination of the ‘COBRA letter’ used by AHB ... the Court finds that it would not adequately have informed Mr. Phillips of his rights.”* The judge wrote, *“This letter, assuming it was received, did not contain adequate information about the coverage Mr. Phillips was entitled to receive, and therefore he could not have made an informed and intelligent decision whether to elect continuation of coverage.”*

The court ordered Riverside and AHB to pay \$38,597.08 in claims, minus applicable deductibles and premium fees. It also assessed an ERISA penalty against Riverside in the amount of \$3,210 and ordered Riverside to pay Phillips’s attorney fees.