

CLIENT ALERT

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The best defense against a COBRA lawsuit is not having to defend yourself in the first place.

The COBRA law is complex and penalties can be stiff. COBRA regulations dictate among other things much of the content of the various notices and the timing. Notices that are not up to date with the latest regulated wording or that are not sent on a timely basis can end you up in court.

Two recent lawsuits highlight the dangers of administering COBRA incorrectly:

- In the lawsuit, *Evans v. Books-A-Million, 2014 WL 3882506 (11th Cir. 2014)*], the employer was fined over \$83,000 for not providing a terminated employee with a Dental COBRA election notice.
- In the lawsuit, *Slipchenko v. Brunel Energy, Inc., Case 4:11-cv-10465 (S.D. Tex., Sept. 30, 2014)*, Brunel was fined over \$1,000,000 in a class action lawsuit for multiple violations, including not providing the Initial Notice of COBRA rights and not providing timely notification to terminated employees of their COBRA Election Notice.

These two lawsuits emphasize the importance of not only the actual notices, but also the timing. Retroactive terminations become an issue if the COBRA Notice cannot be sent out within the required time. Employers should emphasize to branch managers and offsite HR personnel how important it is to provide timely notice of employee terminations.

While most employers that are subject to COBRA do remember to send the Election Notice, many forget to send the very important Initial Notice of COBRA Rights. This required notice must be provided when a person enrolls in your COBRA subjected plan(s), including FSA, HRA, Medical, Dental, Vision etc...












Review our quick checklist to see if you are complying with the Initial Notice of COBRA Rights. If you are not complying we urge you to address this as soon as possible.

DISCLAIMER - This Client Alert is provided as an informational service only and is not considered insurance, legal or tax advice.



YOU MUST PROVIDE PARTICIPANTS WITH INFORMATION WHEN THEY ENROLL IN A COBRA QUALIFYING PLAN – NOT JUST WHEN THEY LEAVE

CHECK TO SEE IF YOU ARE COMPLIANT

Are you providing the Initial Notice of COBRA Rights to participants when they enroll?	YES 	NO 	You are not compliant with the law and are subject to penalties
Does your letter include in the address all covered individuals?	YES 	NO 	You are not compliant with the law and are subject to penalties
Do you mail the COBRA Notice with some way to prove you have sent it?	YES 	NO – do you provide the Notice to only the employee in an enrollment packet – 	You are most likely not compliant and penalties could apply
If a covered member does not live with the employee do you send a separate Notice to that person's address?	YES 	NO 	You are not compliant with the law and are subject to penalties
Do you provide the letter within the allotted time frame	YES 	NO 	You are not compliant with the law and are subject to penalties
CONGRATULATIONS - CHANCES ARE YOU ARE ADMINISTERING THIS PIECE OF THE COBRA LAW CORRECTLY			 PLEASE CONTACT US TO FIND OUT HOW WE CAN HELP YOU.

This is just one small piece of the COBRA legislation, we make no guarantee or warranty that following this flow chart will result in accurate COBRA administration . We have provided this as a quick COBRA checkup on only one small piece of the COBRA Law