

**UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION**

JEREMY CONKLIN, individually and on ) behalf of all others similarly situated, ) ) Plaintiff, ) ) v. )		CASE NO. 8:19-cv-02137
COCA-COLA BEVERAGES FLORIDA, ) LLC, ) ) Defendant. )		

**NOTICE OF REMOVAL**

Defendant Coca-Cola Beverages Florida, LLC, pursuant to 28 U.S.C. § 1441, hereby gives Notice of Removal of an action pending in the Circuit Court of the Thirteenth Judicial Circuit in and for Hillsborough County, Florida, which is in the district and division within which this action is presently pending. Defendant provides the following statement as grounds for removal:

1. The Complaint. On August 1, 2019, Plaintiff Jeremy Conklin (“Plaintiff”) filed a Complaint against Defendant in the Circuit Court of the Thirteenth Judicial Circuit in and for Hillsborough County, Florida, entitled Jeremy Conklin, individually and on behalf of all others similarly situated v. Coca-Cola Beverages Florida, LLC, Case No. 19-CA-008006.

2. Federal Question Jurisdiction. This Notice of Removal is based upon 28 U.S.C. § 1441(a), which states that “. . . any civil action brought in a state court of which the district courts of the United States have original jurisdiction, may be removed by the

defendant or defendants, to the district court of the United States for the district and division embracing the place where such action is pending.” This Court possesses original jurisdiction over this civil action pursuant to 28 U.S.C. § 1331 because it involves a federal question for claims asserted under the federal COBRA statute—the Consolidated Omnibus Budget Conciliation Act of 1985, 29 U.S.C. § 1161 *et seq.*<sup>1</sup> Therefore, this Court has federal question jurisdiction over the lawsuit.<sup>2</sup>

3. Venue. Venue is proper in this district and division pursuant to 28 U.S.C. § 1441(a) because this district and division embrace the place in which the removed action has been pending (*i.e.*, Hillsborough County, Florida).

4. Timely Removal. Defendant was served with a copy of the Complaint and a Certificate of Service on or about August 6, 2019. Pursuant to 28 U.S.C. § 1446(b), this Notice of Removal has been timely filed. Plaintiff’s Complaint was the first paper from which Defendant could ascertain that Plaintiff’s case was removable, and this Notice of Removal has been filed within thirty (30) days of service of the Complaint on Defendant. Pursuant to 28 U.S.C. § 1446(a) and M.D. Fla. L.R. 4.02(b), a copy of the Complaint, Summons, as well as all other “process, pleadings, orders, and other papers or exhibits of every kind, including depositions then on file in the state court” to date<sup>3</sup> are attached hereto as exhibits.

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<sup>1</sup> “There is no dispute that COBRA creates a private cause of action, grounded in federal law, sufficient to create federal question jurisdiction . . . .” *Palmer v. Hosp. Auth. of Randolph Cty.*, 22 F.3d 1559, 1563 (11th Cir. 1994); *see also Harris v. Blue Cross/Blue Shield of Alabama, Inc.*, 951 F.2d 325, 327 (11th Cir. 1992) (in which defendants removed a case to federal court based on federal question jurisdiction resting upon the plaintiff’s COBRA claim, but the district court remanded the case after the plaintiff amended the complaint to drop the COBRA claim, and the 11th Circuit ultimately found remand to be proper); *see also Bender v. Mazda Motor Corp.*, 657 F.3d 1200, 1202 (11th Cir. 2011) (citing *Harris*).

<sup>2</sup> Plaintiff agreed to arbitration for claims of this nature.

<sup>3</sup> The Complaint as filed and served on Defendant references exhibits but fails to attach any exhibits.

5. Notice to State Court. Defendant is simultaneously filing a copy of this Notice of Removal with the Circuit Court of the Thirteenth Judicial Circuit in and for Hillsborough County, Florida, and Defendant is giving notice of the same to Plaintiff as required by 28 U.S.C. § 1446(d).

6. All Rights and Defenses Reserved. In removing this action, Defendant specifically reserves all rights and all defenses including, without limitation, all defenses specified in Federal Rule of Civil Procedure 12(b) and the right to compel arbitration.

**WHEREFORE**, Defendant requests that this case be removed from the Circuit Court of the Thirteenth Judicial Circuit in and for Hillsborough County, Florida and proceed in the United States District Court for the Middle District of Florida, Tampa Division, as an action properly removed thereto.

Respectfully submitted,

**MILLER & MARTIN PLLC**

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*Attorneys for Defendant Coca-Cola  
Beverages Florida, LLC*

**CERTIFICATE OF SERVICE**

I hereby certify that on August 26, 2019, the foregoing **NOTICE OF REMOVAL** was filed and served electronically by the Court's CM/ECF system upon all registered users and by U.S. Mail with adequate postage affixed thereto in order to secure delivery to:

Brandon J. Hill, Esq.  
Luis A. Cabassa, Esq.  
Wenzel Fenton Cabassa, P.A.  
1110 North Florida Avenue, Suite 300  
Tampa, Florida 33602

/s/ Jessica Malloy-Thorpe  
Jessica Malloy-Thorpe

**IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT  
IN AND FOR HILLSBOROUGH COUNTY, FLORIDA  
CIRCUIT CIVIL DIVISION**

**JEREMY CONKLIN, individually  
and on behalf of all others  
similarly situated,**

**Plaintiff,**

**CASE NO.:**

**v.**

**DIVISION:**

**COCA COLA BEVERAGES FLORIDA,  
LLC,**

**Defendant.**

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**CLASS ACTION COMPLAINT**

1. The Plaintiff, Jeremy Conklin (“Plaintiff”), files this Class Action Complaint against Defendant, Coca Cola Beverages Florida, LLC (“Defendant”), on behalf of himself and similarly situated present and former employees, seeking alleging that Defendant failed to provide required notices of their right to continued health care coverage under the Consolidated Omnibus Budget Reconciliation Act of 1985 (“COBRA”).

2. Defendant, the plan sponsor of the “Coca Cola Beverages Florida Employee Benefit Plan” (“Plan”), has repeatedly violated ERISA by failing to provide participants and beneficiaries in the Plan with adequate notice, as prescribed by COBRA, of their right to continue their health coverage upon the occurrence of a “qualifying event” as defined by the statute.

3. Defendant’s COBRA notice, attached as Exhibit A, violates 29 C.F.R. § 2590.606–4(b)(4)(viii) because it fails to include a termination date for COBRA coverage if elected. Additionally, Defendant’s COBRA notice violates 29 C.F.R. § 2590.606-4(b)(4)(i) because it fails to sufficiently identify the Plan Administrator. It also violates 29 C.F.R. § 2590.606-4(b)(4)(i)

because it fails to identify the name of the Plan.

4. Notably, this form is similar to the COBRA notice Chief Middle District Judge Steven D. Merryday analyzed in *Valdivieso v. Cushman & Wakefield, Inc.*, No. 8:17-CV-118-T-23JSS, 2017 WL 2191053, at \*1 (M.D. Fla. May 18, 2017), when he held that the plaintiff had stated a plausible claim for violation of 29 C.F.R. § 2590.606–4(b)(4)(viii) because the form failed to include a termination date for COBRA coverage if elected.

5. Additionally, because Defendant’s COBRA notice omits the above critical pieces of information, it collectively violates 29 C.F.R. § 2590.606–4(b)(4), which requires the plan administrator of a group-health plan to provide a COBRA notice “written in a manner calculated to be understood by the average plan participant.” Without information on *when* COBRA coverage ends or *who* is the Plan Administrator, or even the name of the Plan itself, a notice simply is not written in a manner calculated to be understood by the average plan participant.

6. Finally, in violation of 29 U.S.C. §1166(a)(2), (a)(4), (c) the Notice was due on November 23, 2018 (44 days after Plaintiff’s qualifying event) but was not mailed until months later on February 26, 2019.

7. As a result of these violations, which threaten Class Members’ ability to maintain their health coverage, Plaintiff seeks all benefits available to him under the Plan and ERISA.

**JURISDICTION AND VENUE**

8. This is an action for damages in excess of \$15,000.00, exclusive of interest, fees, and costs.

9. This Court has personal jurisdiction over Defendant under the Florida Long Arm Jurisdiction Act, Fla. Stat. § 48.193.

10. Furthermore, this Court’s exercise of personal jurisdiction over Defendant is

constitutionally sound. Through its operations in Hillsborough County, Florida, Defendant has sufficient minimum contacts with the State of Florida to make it reasonably foreseeable that Defendant could be sued in Florida. Defendant will suffer no unfair prejudice from the exercise of this Court's personal jurisdiction, which serves the interests of justice in this case.

11. Venue is proper in Hillsborough County, because all of the events giving rise to these claims arose in this County.

12. Plaintiff is a Florida resident and a former employee of Defendant. Plaintiff was thus a participant/beneficiary in the Plan before his employment ended in October of 2019, which was a qualifying event within the meaning of 29 U.S.C. § 1163(2), rendering him a qualified beneficiary of the Plan pursuant to 29 U.S.C. § 1167(3). Importantly, Plaintiff was not terminated for gross misconduct.

13. Defendant is a foreign corporation with its headquarters in Atlanta, Georgia, and employed more than 20 employees who were members of the Plan in each year from 2014 to 2018. Defendant is the Plan sponsor within the meaning of 29 U.S.C. §1002(16)(B), and the administrator of the Plan within the meaning of 29 U.S.C. § 1002(16)(A). The Plan provides medical benefits to employees and their beneficiaries, and is an employee welfare benefit plan within the meaning of 29 U.S.C. § 1002(1) and a group health plan within the meaning of 29 U.S.C. § 1167(1).

### **FACTUAL ALLEGATIONS**

#### ***COBRA Notice Requirements***

14. The COBRA amendments to ERISA included certain provisions relating to continuation of health coverage upon termination of employment or another "qualifying event" as defined by the statute.

15. Among other things, COBRA requires the plan sponsor of each group health plan normally employing more than 20 employees on a typical business day during the preceding year to provide “each qualified beneficiary who would lose coverage under the plan as a result of a qualifying event ... to elect, within the election period, continuation coverage under the plan.” 29 U.S.C. § 1161.

16. Notice is of enormous importance. The COBRA notification requirement exists because employees are not expected to know instinctively of their right to continue their healthcare coverage.

17. Moreover, existing case law makes it ostensibly clear that notice is not only required to be delivered to covered employees but to qualifying beneficiaries, as well. This by definition includes Plaintiff, who is a spouse of one of Defendant’s former employees and a beneficiary under the Plan.

18. COBRA further requires the administrator of such a group health plan to provide notice to any qualified beneficiary of their continuation of coverage rights under COBRA upon the occurrence of a qualifying event. 29 U.S.C. § 1166(a)(4). This notice must be “[i]n accordance with the regulations prescribed by the Secretary” of Labor. 29 U.S.C. § 1166(a).

19. The relevant regulations prescribed by the Secretary of Labor concerning notice of continuation of coverage rights are set forth in 29 C.F.R. § 2590.606-4 as follows:

(4) The notice required by this paragraph (b) shall be written in a manner calculated to be understood by the average plan participant and shall contain the following information:

(i) The name of the plan under which continuation coverage is available; and the name, address and telephone number of the party responsible under the plan for the administration of continuation coverage benefits;

(ii) Identification of the qualifying event;



(iii) Identification, by status or name, of the qualified beneficiaries who are recognized by the plan as being entitled to elect continuation coverage with respect to the qualifying event, and the date on which coverage under the plan will terminate (or has terminated) unless continuation coverage is elected;

(iv) A statement that each individual who is a qualified beneficiary with respect to the qualifying event has an independent right to elect continuation coverage, that a covered employee or a qualified beneficiary who is the spouse of the covered employee (or was the spouse of the covered employee on the day before the qualifying event occurred) may elect continuation coverage on behalf of all other qualified beneficiaries with respect to the qualifying event, and that a parent or legal guardian may elect continuation coverage on behalf of a minor child;

(v) An explanation of the plan's procedures for electing continuation coverage, including an explanation of the time period during which the election must be made, and the date by which the election must be made;

(vi) An explanation of the consequences of failing to elect or waiving continuation coverage, including an explanation that a qualified beneficiary's decision whether to elect continuation coverage will affect the future rights of qualified beneficiaries to portability of group health coverage, guaranteed access to individual health coverage, and special enrollment under part 7 of title I of the Act, with a reference to where a qualified beneficiary may obtain additional information about such rights; and a description of the plan's procedures for revoking a waiver of the right to continuation coverage before the date by which the election must be made;

(vii) A description of the continuation coverage that will be made available under the plan, if elected, including the date on which such coverage will commence, either by providing a description of the coverage or by reference to the plan's summary plan description;

(viii) An explanation of the maximum period for which continuation coverage will be available under the plan, if elected; an explanation of the continuation coverage termination date; and an explanation of any events that might cause continuation coverage to be terminated earlier than the end of the maximum period;

(ix) A description of the circumstances (if any) under which the maximum period of continuation coverage may be extended due

either to the occurrence of a second qualifying event or a determination by the Social Security Administration, under title II or XVI of the Social Security Act (42 U.S.C. 401 et seq. or 1381 et seq.) (SSA), that the qualified beneficiary is disabled, and the length of any such extension;

(x) In the case of a notice that offers continuation coverage with a maximum duration of less than 36 months, a description of the plan's requirements regarding the responsibility of qualified beneficiaries to provide notice of a second qualifying event and notice of a disability determination under the SSA, along with a description of the plan's procedures for providing such notices, including the times within which such notices must be provided and the consequences of failing to provide such notices. The notice shall also explain the responsibility of qualified beneficiaries to provide notice that a disabled qualified beneficiary has subsequently been determined to no longer be disabled;

(xi) A description of the amount, if any, that each qualified beneficiary will be required to pay for continuation coverage;

(xii) A description of the due dates for payments, the qualified beneficiaries' right to pay on a monthly basis, the grace periods for payment, the address to which payments should be sent, and the consequences of delayed payment and non-payment;

(xiii) An explanation of the importance of keeping the administrator informed of the current addresses of all participants or beneficiaries under the plan who are or may become qualified beneficiaries; and

(xiv) A statement that the notice does not fully describe continuation coverage or other rights under the plan, and that more complete information regarding such rights is available in the plan's summary plan description or from the plan administrator.

20. To facilitate compliance with these notice obligations, the United States Department of Labor (“DOL”) has issued a Model COBRA Continuation Coverage Election Notice (“Model Notice”), which is included in the Appendix to 29 C.F.R. § 2590.606-4. A copy of this Model Notice is attached hereto as Exhibit B. The DOL website states that the DOL “will consider use of the model election notice, appropriately completed, good faith

compliance with the election notice content requirements of COBRA.”

21. In the event that a plan administrator declines to use the Model Notice and fails to meet the notice requirements of 29 U.S.C. § 1166 and 29 C.F.R. § 2590.606-4, the administrator is subject to statutory penalties of up to \$110 per participant or beneficiary per day from the date of such failure. 29 U.S.C. § 1132(c)(1). In addition, the Court may order such other relief as it deems proper, including but not limited to injunctive relief pursuant to 29 U.S.C. § 1132(a)(3) and payment of attorneys’ fees and expenses pursuant to 29 U.S.C. § 1132(g)(1). Such is the case here. Defendant failed to use the Model Notice and failed to meet the notice requirements of 29 U.S.C. § 1166 and 29 C.F.R. § 2590.606-4, as set forth below.

***Defendant’s Notice Is Inadequate and Fails to Comply with COBRA, and Was Late.***

22. Defendant partially adhered to the Model Notice provided by the Secretary of Labor, but only to the extent that served Defendant’s best interests, as critical parts are omitted or altered in violation of 29 C.F.R. § 2590.606-4. Defendant authored and disseminated a notice deviating from the model form in violation of COBRA’s requirements which failed to provide Plaintiff notice of all required coverage information, as explained further below. A copy of Defendant’s notice is attached hereto as Exhibit A. Among other things:

- a. **The Notice violates 29 C.F.R. § 2590.606-4(b)(4)(viii) because it fails to provide an explanation of the continuation coverage termination date;**
- b. **The Notice violates 29 C.F.R. § 2590.606-4(b)(4)(i) because it fails to provide the name, address and telephone number of the party responsible under the plan for administration of continuation coverage benefits;**
- c. **The Notice violates 29 C.F.R. § 2590.606-4(b)(4) because Defendant has failed to provide a notice written in a manner calculated to be understood by the average plan participant; and, finally,**
- d. **The Notice was provided late in violation of 29 U.S.C. §1166(a)(2),**

(a)(4), (c).

23. Defendant's COBRA notice confused Plaintiff, and resulted in his inability to make an informed decision as to electing COBRA continuation coverage.

24. Furthermore, Defendant's deficient COBRA notice caused Plaintiff an informational injury when Defendant failed to provide her with information to which he was entitled to by statute, namely a compliant COBRA election notice containing all information required by 29 C.F.R. § 2590.606-4(b)(4) and 29 U.S.C. § 1166(a). Through ERISA and then COBRA, Congress created a right—the right to receive the required COBRA election notice—and an injury—not receiving a proper election notice with information required by 29 C.F.R. § 2590.606-4(b)(4) and 29 U.S.C. § 1166(a). Defendant injured Plaintiff and the class members he seeks to represent by failing to provide all information in its notice required by COBRA.

25. Besides the informational injury suffered, Plaintiff also suffered a tangible injury in the form of economic loss, specifically the loss of his primacy health insurance coverage. Besides a paycheck, insurance is one of the most valuable things employees get in exchange for working for an employer like Defendant. Insurance coverage has a monetary value, the loss of which is a tangible and an economic injury.

26. And, not only did Plaintiff lose his health insurance coverage for an extended period of time, during that time he incurred medical bills resulting in further economic injury.

***Plaintiff Jeremy Conklin***

27. Plaintiff is a former employee of Defendant.

28. Plaintiff's employment with Defendant ended on October 10, 2018 after he was questioned about an accident that he was not involved in at work. Subsequent to Defendant questioning Plaintiff about this accident, Defendant stopped scheduling Plaintiff for work.

29. Thus, Plaintiff experienced a qualifying event (termination of employment) on

October 10, 2018.

30. Following this qualifying event, Defendant mailed Plaintiff the deficient COBRA notice attached hereto as Exhibit A on February 26, 2019, long past the 44 day deadline in violation of 29 U.S.C. §1166(a)(2), (a)(4), (c).

31. The deficient COBRA notice that Plaintiff received was violative of COBRA's mandates for the reasons set forth in Paragraph 20 above. Specifically, it failed to provide a notice written in a manner calculated to be understood by the average plan participant. It also violates 29 C.F.R. § 2590.606-4(b)(4)(viii) because it fails to provide an explanation of the continuation coverage termination date. In fact, one just isn't included at all within the notice, making calculating continuation coverage termination date by anyone, much less the "average plan participant."

32. Defendant has in place no administrative remedies Plaintiff was required to exhaust prior to bringing suit.

33. Additionally, because no such administrative remedies exist, any attempt to exhaust the same would have been futile.

***Violation of 29 C.F.R. § 2590.606-4(b)(4)(viii) – Failure to provide an explanation of the continuation coverage termination date***

34. The governing statute clearly requires Defendant to provide a Cobra election notice that discloses "an explanation of the maximum period for which continuation coverage will be available under the plan" in addition to "an explanation of the continuation coverage termination date." 29 C.F.R. § 2590.606-4(b)(4)(viii).

35. This information not only informs Plaintiff of the length of his coverage, if elected, but also the specific date on which such coverage will terminate which is crucial to deciding whether to elect coverage.

36. Continuation coverage is not designed to be permanent and electing it assumes that at some point in the future Plaintiff will enroll in a new plan or go uninsured. Election notices must be sufficient to permit the discharged employee to make an informed decision whether to elect coverage.

37. Plaintiff cannot truly make an informed decision regarding continuation coverage without knowing the specific date coverage will end and they will be uninsured.

38. Here Plaintiff has only been provided with the length of continuation coverage, but is left ignorant as to when coverage will actually terminate if elected.

39. Even if Plaintiff were to refer to a calendar to decipher the termination date using an 18-month window, she would not be able to determine whether this monthly coverage would end at the beginning or end of the 18<sup>th</sup> month or whether it would end on whichever day was exactly 18 months in the future.

40. The relevant statute requires these disclosures specifically to avoid this type of confusion surrounding a matter as important as electing health insurance. Furthermore, a fiduciary breaches its duties by materially misleading plan participants, regardless of whether the fiduciary's statements or omissions were made negligently or intentionally. Without the required disclosures, Defendant's notice does not permit Plaintiff to make an informed decision and is therefore deficient.

***Violation of 29 C.F.R. § 2590.606-4(b)(4)(i) – Failure to Identify Plan Administrator***

41. Plaintiff was unable -- based on the Notice -- to ascertain the name, address and telephone number of the party responsible under the plan for the administration of continuation coverage benefits. Instead, the third-party administrator Web Benefits Design is identified.

42. Defendant was required to provide “in a manner calculated to be understood by

the average plan participant ... the name, address and telephone number of the party responsible under the plan for administration of continuation coverage benefits.” 29 C.F.R. § 2590.606-4(b)(4)(i). Defendant’s Notice fails to comply with this straightforward requirement.

43. Instead, Defendant’s notice merely identifies a third-party administrator, Conexis, which is very different from the Plan Administrator. Identifying **who** acted is the Plan Administrator is absolutely critical to know because “the plan administrator bears the burden of proving that adequate COBRA notification was given to the employee.” *Griffin v. Neptune Tech. Group*, 2015 U.S. Dist. LEXIS 48000, 2015 WL 1635939, \*9 (M.D. Ala. Apr. 13, 2015); (*citing to Hoffman v. R.F. Group*, 2015 U.S. Dist. LEXIS 88598, \*12, 2015 WL 4139084 (M.D. Fla. May 20, 2015)).

***Second Violation of 29 C.F.R. § 2590.606-4(b)(4)(i) – Failure to Identify Plan Name***

44. Similarly, 29 C.F.R. § 2590.606-4(b)(4)(i) requires the include “the name of the plan under which continuation coverage is available.” According to the Form 5500 Defendant filed with the Department of Labor, the actual name of the Plan is “Coca Cola Beverages Florida Employee Benefit Plan” but that information is not included in the notice.

45. Obviously, just as the Plan Administrator must be identified, so too must the name of the actual Plan itself.

***Violation of 29 C.F.R. § 2590.606-4(b)(4) – Failure to Provide COBRA Notice Written in a Manner Calculated “To Be Understood By the Average Plan Participant”***

46. By failing to adequately explain the procedures for electing coverage, as required by 29 C.F.R. § 2590.606-4(b)(4)(v), coupled with the complete omission of when COBRA coverage end date, where to send payment, the consequences for untimely payments, and even who the Plan Administrator is/was, Defendant cumulatively violated 29 C.F.R. § 2590.606-4(b)(4). This particular section mandates that employers, like Defendant, must provide a notice of

continuation coverage written in a manner calculated “to be understood by the average plan participant.” Without the aforementioned critical pieces of, Defendant’s notice cannot be said to be written in a manner calculated “to be understood by the average plan participant.” Thus, Defendant violated 29 C.F.R. § 2590.606-4(b)(4)(v).

***Violation of 29 U.S.C. §1166(a)(2), (a)(4), (c) – Failure to Provide Timely Notice***

47. Employers have 30 days to notify plan administrators of a covered employee's termination of employment, reduction of hours, or death that is a Qualifying Event. Within 14 days of that notification, the plan administrator is required to notify the individual of his or her COBRA rights. If the employer also is the plan administrator and issues COBRA notices directly, the employer has the entire 44-day period in which to issue a COBRA election notice.

48. Plaintiff experienced a qualifying event (end of employment) in October of 2018 but Defendant waited until February 26, 2019, to provide him with the deficient COBRA notice. Thus, besides the notice being deficient as a matter of law, it is also late as a matter of law.

**CLASS ACTION ALLEGATIONS**

49. Plaintiff brings this action as a class action pursuant to the Florida Rules of Civil Procedure on behalf of the following classes of persons:

**Deficient Notice Class**

**All participants and beneficiaries in the Defendant’s Health Plan who were sent a COBRA notice by Defendant during the applicable statute of limitations period as a result of a qualifying event, as determined by Defendant, who did not elect COBRA.**

**Untimely Notice Class**

**All participants and beneficiaries in the Defendant’s Health Plan in the United States who were entitled to be provided notice of their COBRA rights due to a qualifying event pursuant to 29 U.S.C. §1163(a)(1), (2) and(4) and who were not provided a COBRA notice in the timeframe mandated by 29 U.S.C. §1166, within the applicable statute of limitations.**

50. No administrative remedies exist as a prerequisite to Plaintiff’s claim on behalf of



the Putative Classes. As such, any efforts related to exhausting such non-existent remedies would be futile.

51. Numerosity: The Classes are so numerous that joinder of all Class members is impracticable. On information and belief, hundreds or thousands of individuals satisfy the definition of the Classes.

52. Typicality: Plaintiff's claims are typical of the Class. The COBRA notice that Defendant sent to Plaintiff was a form notice that was uniformly provided to all Class members. As such, the COBRA notice that Plaintiffs received was typical of the COBRA notices that other Class Members received, and suffered from the same deficiencies.

53. Adequacy: Plaintiff will fairly and adequately protect the interests of the Class members, she has no interests antagonistic to the class, and has retained counsel experienced in complex class action litigation.

54. Commonality: Common questions of law and fact exist as to all members of the Class and predominate over any questions solely affecting individual members of the Class, including but not limited to:

- a. Whether the Notice was provided late;
- b. Whether the Plan is a group health plan within the meaning of 29 U.S.C. § 1167(1);
- c. Whether Defendant's COBRA notice complied with the requirements of 29 U.S.C. § 1166(a) and 29 C.F.R. § 2590.606-4;
- d. Whether statutory penalties should be imposed against Defendant under 29 U.S.C. § 1132(c)(1) for failing to comply with COBRA notice requirements, and if so, in what amount;

- e. The appropriateness and proper form of any injunctive relief or other equitable relief pursuant to 29 U.S.C. § 1132(a)(3); and
- f. Whether (and the extent to which) other relief should be granted based on Defendant's failure to comply with COBRA notice requirements.

55. Class Members do not have an interest in pursuing separate individual actions against Defendant, as the amount of each Class Member's individual claims is relatively small compared to the expense and burden of individual prosecution. Class certification also will obviate the need for unduly duplicative litigation that might result in inconsistent judgments concerning Defendant's practices and the adequacy of its COBRA notice. Moreover, management of this action as a class action will not present any likely difficulties. In the interests of justice and judicial efficiency, it would be desirable to concentrate the litigation of all Class Members' claims in a single action.

56. Plaintiff intends to send notice to all Class Members to the extent required the Florida Rules of Civil Procedure. The names and addresses of the Class Members are available from Defendant's records, as well as from Defendant's third-party administrator.

**CLASS CLAIM I FOR RELIEF**  
***Violation of 29 U.S.C. § 1166(a) and***  
***29 C.F.R. § 2590.606-4***

57. The Plan is a group health plan within the meaning of 29 U.S.C. § 1167(1).

58. Defendant is the sponsor and administrator of the Plan, and was subject to the continuation of coverage and notice requirements of COBRA.

59. Plaintiff and the other members of the Class experienced a "qualifying event" as defined by 29 U.S.C. § 1163, and Defendant was aware that they had experienced such a qualifying event.

60. On account of such qualifying event, Defendant sent Plaintiff and the Class Members a COBRA notice in the form attached hereto as Exhibit A.

61. The COBRA notice that Defendant sent to Plaintiff and other Class Members violated 29 U.S.C. § 1166(a) and 29 C.F.R. § 2590.606-4 for the reasons set forth in Paragraph 20 above (among other reasons).

62. These violations were material and willful.

63. Defendant knew that its notice was inconsistent with the Secretary of Labor's Model Notice and failed to comply with 29 U.S.C. § 1166(a) and 29 C.F.R. § 2590.606-4, but chose to use a non-compliant notice in deliberate or reckless disregard of the rights of Plaintiffs and other Class Members.

**CLASS CLAIM II FOR RELIEF**  
*Violation of 29 U.S.C. §1166(a)(2), (a)(4), (c)*

64. The Plan is a group health plan within the meaning of 29 U.S.C. § 1167(1).

65. Defendant is the sponsor and administrator of the Plan, and was subject to the continuation of coverage and notice requirements of COBRA.

66. Plaintiff and the other members of the Class experienced a "qualifying event" as defined by 29 U.S.C. § 1163, and Defendant was aware that they had experienced such a qualifying event.

67. On account of such qualifying event, Defendant was obligated to send notice to Plaintiff and the putative class members of the Untimely Notice class within 44 days but failed to do so.

68. These violations were material and willful.

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff, individually and on behalf of the Classes, pray for relief as

follows:

- a. Designating Plaintiff's counsel as counsel for the Classes;
- b. Issuing proper notice to the Classes at Defendant's expense;
- c. Declaring that the COBRA notice sent by Defendant to Plaintiff and other Class Members violated 29 U.S.C. § 1166(a) and 29 C.F.R. § 2590.606-4;
- d. Awarding appropriate equitable relief pursuant to 29 U.S.C. § 1132(a)(3), including but not limited to an order enjoining Defendant from continuing to use its defective COBRA notice and requiring Defendant to send corrective -- and timely -- notices;
- e. Awarding statutory penalties to the Class pursuant to 29 U.S.C. § 1132(c)(1) and 29 C.F.R. § 2575.502c-1 in the amount of \$110 per day for each Class Member who was sent a defective COBRA notice by Defendant;
- f. Awarding attorneys' fees, costs and expenses to Plaintiffs' counsel as provided by 29 U.S.C. § 1132(g)(1) and other applicable law; and
- g. Granting such other and further relief, in law or equity, as this Court deems appropriate.
- h. Designating Plaintiff's counsel as counsel for the Class;
- i. Issuing proper notice to the Class at Defendant's expense;
- j. Declaring that the COBRA notice sent by Defendant to Plaintiff and other Class Members violated 29 U.S.C. § 1166(a) and 29 C.F.R. § 2590.606-4;
- k. Awarding appropriate equitable relief pursuant to 29 U.S.C. § 1132(a)(3), including but not limited to an order enjoining Defendant from continuing to use its defective COBRA notice and requiring Defendant to send corrective notices;
- l. Awarding statutory penalties to the Class pursuant to 29 U.S.C. § 1132(c)(1)

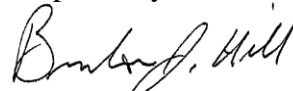
and 29 C.F.R. § 2575.502c-1 in the amount of \$110 per day for each Class Member who was sent a defective COBRA notice by Defendant;

m. Awarding attorneys' fees, costs and expenses to Plaintiffs' counsel as provided by 29 U.S.C. § 1132(g)(1) and other applicable law; and

n. Granting such other and further relief, in law or equity, as this Court deems appropriate.

Dated this 1<sup>st</sup> day of August, 2019.

Respectfully submitted,



---

**BRANDON J. HILL**

Florida Bar Number: 37061

Direct No.: 813-337-7992

**LUIS A. CABASSA**

Florida Bar Number: 053643

Direct No.: 813-379-2565

**WENZEL FENTON CABASSA, P.A.**

1110 North Florida Ave., Suite 300

Tampa, Florida 33602

Main No.: 813-224-0431

Facsimile: 813-229-8712

Email: bhill@wfclaw.com

Email: jcornell@wfclaw.com

Email: rcooke@wfclaw.com

Email: gnichols@wfclaw.com

Email: tsoriano@wfclaw.com

Email: lcabassa@wfclaw.com

**Attorneys for Plaintiff**



# Case Information

Case Number: 19-CA-008006  
 Uniform Case Number: 292019CA008006A001HC  
 Conklin, Jeremy vs Coca-Cola Beverages Florida, LLC

- Icon Keys
- Summary
- Parties
- Events/Documents
- Financial
- File Location
- Related Cases

Filter Events Dates:













From

To

Filter

Show 25 entries Column visibility Excel CSV Search:

Select	Document Index	Clock-In Event Date	Event Description	Comment	Image
	8	08/05/2019	E-FILED SUMMONS ISSUED	X 1 bhill@wfclaw.com ; jcornell@wfclaw.com ; rcooke@wfclaw.com	
	8	08/05/2019	E-FILED SUMMONS ISSUED	X 1 bhill@wfclaw.com ; jcornell@wfclaw.com ; rcooke@wfclaw.com	
	1	08/01/2019	File Home Location - Electronic		

Select	Document Index	Clock-In Event Date	Event Description	Comment	Image
	2	08/01/2019	CIVIL COVER SHEET		
	3	08/01/2019	CIVIL COVER SHEET		
	4	08/01/2019	COMPLAINT		
	5	08/01/2019	REQUEST FOR SUMMONS TO BE ISSUED (E-Filed)		
	6	08/01/2019	DESIGNATION OF EMAIL ADDRESS		
	7	08/01/2019	REQUEST FOR DIVISION ASSIGNMENT (E-FILING)		

Showing 1 to 9 of 9 entries

Previous

1

Next

 Exit Case Details

**FORM 1.997. CIVIL COVER SHEET**

The civil cover sheet and the information contained in it neither replace nor supplement the filing and service of pleadings or other documents as required by law. This form must be filed by the plaintiff or petitioner for the use of the Clerk of Court for the purpose of reporting judicial workload data pursuant to section 25.075, Florida Statutes. (See instructions for completion.)

**I. CASE STYLE**

IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT,  
IN AND FOR HILLSBOROUGH COUNTY, FLORIDA

Case No.: \_\_\_\_\_  
Judge: \_\_\_\_\_

Jeremy Conklin  
Plaintiff

vs.

Coca-Cola Beverages Florida, LLC  
Defendant

**II. TYPE OF CASE**

- Condominium
- Contracts and indebtedness
- Eminent domain
- Auto negligence
- Negligence – other
  - Business governance
  - Business torts
  - Environmental/Toxic tort
  - Third party indemnification
  - Construction defect
  - Mass tort
  - Negligent security
  - Nursing home negligence
  - Premises liability – commercial
  - Premises liability – residential
- Products liability
- Real Property/Mortgage foreclosure
  - Commercial foreclosure \$0 - \$50,000
  - Commercial foreclosure \$50,001 - \$249,999
  - Commercial foreclosure \$250,000 or more
  - Homestead residential foreclosure \$0 – 50,000
  - Homestead residential foreclosure \$50,001 - \$249,999
  - Homestead residential foreclosure \$250,000 or more
  - Non-homestead residential foreclosure \$0 - \$50,000
  - Non-homestead residential foreclosure \$50,001 - \$249,999

- Non-homestead residential foreclosure \$250,00 or more
- Other real property actions \$0 - \$50,000
- Other real property actions \$50,001 - \$249,999
- Other real property actions \$250,000 or more
- Professional malpractice
  - Malpractice – business
  - Malpractice – medical
  - Malpractice – other professional
- Other
  - Antitrust/Trade Regulation
  - Business Transaction
  - Circuit Civil - Not Applicable
  - Constitutional challenge-statute or ordinance
  - Constitutional challenge-proposed amendment
  - Corporate Trusts
  - Discrimination-employment or other
  - Insurance claims
  - Intellectual property
  - Libel/Slander
  - Shareholder derivative action
  - Securities litigation
  - Trade secrets
  - Trust litigation



**COMPLEX BUSINESS COURT**

This action is appropriate for assignment to Complex Business Court as delineated and mandated by the Administrative Order. Yes  No

**III. REMEDIES SOUGHT** (check all that apply):

- Monetary;
- Non-monetary declaratory or injunctive relief;
- Punitive

**IV. NUMBER OF CAUSES OF ACTION:** ( )  
(Specify)

2

**V. IS THIS CASE A CLASS ACTION LAWSUIT?**

- Yes
- No

**VI. HAS NOTICE OF ANY KNOWN RELATED CASE BEEN FILED?**

- No
- Yes – If “yes” list all related cases by name, case number and court:

**VII. IS JURY TRIAL DEMANDED IN COMPLAINT?**

- Yes
- No

---

I CERTIFY that the information I have provided in this cover sheet is accurate to the best of my knowledge and belief, and that I have read and will comply with the requirements of Florida Rule of Judicial Administration 2.425.

Signature s/ Brandon J Hill  
Attorney or party

FL Bar No.: 37061

(Bar number, if attorney)

Brandon J Hill 08/01/2019  
(Type or print name)

Date

### CIVIL COVER SHEET

Form 1.997 The civil cover sheet and the information contained herein neither replaces nor supplement the filing and service of pleadings or other papers as required by law. This form shall be filed by the plaintiff or petitioner for the use of the Clerk of Court for the purpose of reporting judicial workload data pursuant to Florida Statute section 25.075. (See instructions for completion.)

---

I. CASE STYLE

In the Circuit Court of the Thirteenth Judicial Circuit for Hillsborough County, Florida

JEREMY CONKLIN, individually  
and on behalf of all others  
similarly situated

\_\_\_\_\_

Plaintiff(s),

Case #: \_\_\_\_\_

Division: \_\_\_\_\_

vs.

COCA COLA BEVERAGES FLORIDA,  
LLC

\_\_\_\_\_

Defendant(s).

---

II. TYPE OF CASE (If the case fits more than one type of case, select the most definitive category.) If the most descriptive label is a subcategory (is indented under a broader category), place an X in both the main category and subcategory boxes.

- |   |  |
|---|--|
| <input type="checkbox"/> Condominium                          | <input type="checkbox"/> Nonhomestead residential                  |
| <input type="checkbox"/> Contracts and indebtedness           | Foreclosure \$50,001 - \$249,999                                   |
| <input type="checkbox"/> Eminent domain                       | <input type="checkbox"/> Nonhomestead residential                  |
| <input type="checkbox"/> Auto negligence                      | Foreclosure \$250,000 or more                                      |
| <input type="checkbox"/> Negligence – other                   | <input type="checkbox"/> Other real property actions \$0 –         |
| <input type="checkbox"/> Business governance                  | \$50,000   |
| <input type="checkbox"/> Business torts                       | <input type="checkbox"/> Other real property actions \$50,001 –    |
| <input type="checkbox"/> Environmental/Toxic tort             | \$249,999  |
| <input type="checkbox"/> Third party indemnification          | <input type="checkbox"/> Other real property actions \$250,000     |
| <input type="checkbox"/> Construction defect                  | or more  |
| <input type="checkbox"/> Mass tort                            | <input type="checkbox"/> Professional malpractice                  |
| <input type="checkbox"/> Negligent security                   | <input type="checkbox"/> Malpractice – business                    |
| <input type="checkbox"/> Nursing home negligence              | <input type="checkbox"/> Malpractice – medical                     |
| <input type="checkbox"/> Premises liability – commercial      | <input type="checkbox"/> Malpractice – other professional          |
| <input type="checkbox"/> Premises liability – residential     | <input type="checkbox"/> Other                                     |
| <input type="checkbox"/> Products liability                   | <input type="checkbox"/> Antitrust / trade regulation              |
| <input type="checkbox"/> Real property / Mortgage foreclosure | <input type="checkbox"/> Business transactions                     |
| <input type="checkbox"/> Commercial foreclosure \$0-          | <input type="checkbox"/> Constitutional challenge – statute or     |
| \$50,000  | ordinance  |
| <input type="checkbox"/> Commercial foreclosure \$50,001 -    | <input type="checkbox"/> Constitutional challenge – proposed       |
| \$249,999   | amendment  |
| <input type="checkbox"/> Commercial foreclosure               | <input type="checkbox"/> Corporate trusts                          |
| \$250,000 or more   | <input checked="" type="checkbox"/> Discrimination – employment or |
| <input type="checkbox"/> Homestead residential foreclosure    | other  |
| \$0 - \$50,000  | <input type="checkbox"/> Insurance claims                          |
| <input type="checkbox"/> Homestead residential foreclosure    | <input type="checkbox"/> Intellectual property                     |
| \$50,001 - \$249,999  | <input type="checkbox"/> Libel / Slander                           |
| <input type="checkbox"/> Homestead residential foreclosure    | <input type="checkbox"/> Shareholder derivative action             |
| \$250,000 or more   | <input type="checkbox"/> Securities litigation                     |
| <input type="checkbox"/> Nonhomestead residential             | <input type="checkbox"/> Trade secrets                             |
| Foreclosure \$0 - \$50,000                                    | <input type="checkbox"/> Trust litigation                          |



**IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT  
IN AND FOR HILLSBOROUGH COUNTY, FLORIDA  
CIRCUIT CIVIL DIVISION**

**JEREMY CONKLIN, individually and on  
behalf of all others similarly situated,**

**Plaintiff,**

v.

**CASE NO.:**

**DIVISION:**

**COCA COLA BEVERAGES FLORIDA,  
LLC,**

**Defendant.**

\_\_\_\_\_ /

**SUMMONS**

**THE STATE OF FLORIDA:**

To Each Sheriff of the State:

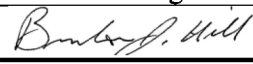
**YOU ARE HEREBY COMMANDED** to serve this Summons and a copy of the Complaint, in this action on defendant:

\_\_\_\_\_

**COCA COLA BEVERAGES FLORIDA, LLC  
c/ o REGISTERED AGENT:  
CORPORATION SERVICE COMPANY  
1201 HAYS STREET  
TALLAHASSEE, FL 32301-2525**

Each defendant is required to serve written defenses to the complaint or petition on Brandon J. Hill, plaintiff's attorney, whose address is Wenzel Fenton Cabassa 1110 N. Florida Avenue, Suite 300, Tampa, Florida 33602 within 20<sup>1</sup> days after the service of this summons on that defendant, exclusive of the day of service, and to file the original of the defenses with the clerk of this court either before service on plaintiff's attorney or immediately thereafter. If a defendant fails to do so, a default will be entered against that defendant for the relief demanded in the complaint or petition.

DATED on August , 2019.

 Printed: Brandon J. Hill Attorney for Plaintiff Wenzel Fenton Cabassa 1110 N. Florida Avenue, Suite 300 Tampa, Florida 33602 Florida Bar No.:0037061	<b>PAT FRANK</b> As Clerk of the Court  By: _____ As Deputy Clerk (813) 276-8100
--	--

<sup>1</sup> Except when suit is brought pursuant to section 768.28, Florida Statutes, if the State of Florida, one of its agencies, or one of its officials or employees sued in his or her official capacity is a defendant, the time to be inserted as to it is 40 days. When suit is brought pursuant to section 768.28, Florida Statutes, the time to be inserted is 30 days.

**If you are a person with a disability who needs an accommodation, you are entitled, at no cost to you, to the provision of certain assistance. To request such an accommodation please contact the ADA Coordinator, Hillsborough County Courthouse, 800 E. Twiggs St., Room 604, Tampa, Florida 33602, (813) 272-7040, at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days; if you are hearing or voice impaired, call 711.**

**IMPORTANT**

A lawsuit has been filed against you. You have 20 calendar days after this summons is served on you to file a written response to the attached complaint with the clerk of this court. A phone call will not protect you. Your written response, including the case number given above and the names of the parties, must be filed if you want the court to hear your side of the case. If you do not file your response on time, you may lose the case, and your wages, money, and property may thereafter be taken without further warning from the court. There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may call an attorney referral service or a legal aid office (listed in the phone book). If you choose to file a written response yourself, at the same time you file your written response to the court you must also mail or take a copy of your written response to the "Plaintiff/Plaintiff's Attorney" named in the documents.

**IMPORTANTE**

Usted ha sido demandado legalmente. Tiene 20 dias, contados a partir del recibo de esta notificacion, para contestar la demanda adjunta, por escrito, y presentarla ante este tribunal. Una llamada telefonica no lo protegera. Si usted desea que el tribunal considere su defensa, debe presentar su respuesta por escrito, incluyendo el numero del caso y los nombres de las partes interesadas. Si usted no contesta la demanda a tiempo, podiese perder el caso y podria ser despojado de sus ingresos y propiedades, o privado de sus derechos, sin previo aviso del tribunal. Existen otros requisitos legales. Si lo desea, puede usted consultar a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a una de las oficinas de asistencia legal que aparecen en la guia telefonica. Si desea responder a la demanda por su cuenta, al mismo tiempo en que presenta su respuesta ante el tribunal, debera usted enviar por correo o entregar una copia de su respuesta a la persona denominada abajo como "Plaintiff/Plaintiff's Attorney" (Demandante o Abogado del Demandante).

**IMPORTANT**

Des poursuites judiciaires ont ete entreprises contre vous. Vous avez 20 jours consecutifs a partir de la date de l'assignation de cette citation pour déposer une reponse ecrite a la plainte ci-jointe aupres de ce tribunal. Un simple coup de telephone est insuffisant pour vous proteger. Vous etes obliges de déposer votre reponse ecrite, avec mention du numero de dossier ci-dessus et du nom des parties nommees ici, si vous souhaitez que le tribunal entende votre cause. Si vous ne deposez pas votre reponse ecrite dans le relai requis, vous risquez de perdre la cause ainsi que votre salaire, votre argent, et vos biens peuvent etre saisis par la suite, sans aucun preavis ulterieur du tribunal. Il y a d'autres obligations juridiques et vous pouvez requerir les services immediats d'un avocat. Si vous ne connaissez pas d'avocat, vous pourriez telephoner a un service de reference d'avocats ou a un bureau d'assistance juridique (figurant a l'annuaire de telephones). Si vous choisissez de déposer vous-meme une reponse ecrite, il vous faudra egalement, en meme temps que cette formalite, faire parvenir ou expedier une copie de votre reponse ecrite au "Plaintiff/Plaintiff's Attorney" (Plaignant ou a son avocat) nomme ci-dessous.

**IN THE CIRCUIT COURT OF THE THIRTEENTH CIRCUIT  
IN AND FOR HILLSBOROUGH COUNTY, FLORIDA  
CIRCUIT CIVIL DIVISION**

**JEREMY CONKLIN, individually  
and on behalf of all others  
similarly situated,,**

**Plaintiff,**

**CASE NO.:**

**v.**

**DIVISION:**

**COCA-COLA BEVERAGES FLORIDA, LLC,**

**Defendant.**

---

**NOTICE OF DESIGNATION OF E-MAIL  
ADDRESSES FOR SERVICE OF COURT DOCUMENTS**

Plaintiff, JEREMY CONKLIN, individually and on behalf of all others similarly situated,, by and through undersigned counsel, files this Notice of Designation of E-Mail Addresses for Service of Court Documents under Florida Rule of Judicial Administration 2.516(b)(1)(A), and hereby designates the following e-mail addresses to be used for service of all court filings in this action: bhill@wfclaw.com, lcabassa@wfclaw.com, jcornell@wfclaw, rcooke@wfclaw.com; gnichols@wfclaw.com and tsoriano@wfclaw.com.

Dated this 1<sup>st</sup> day of August, 2019.

Respectfully submitted,



---

**BRANDON J. HILL**

Florida Bar Number: 37061

Direct No.: 813-337-7992

**LUIS A. CABASSA**

Florida Bar Number: 053643

Direct No.: 813-379-2565

**WENZEL FENTON CABASSA, P.A.**

1110 North Florida Ave., Suite 300

Tampa, Florida 33602

Main No.: 813-224-0431

Facsimile: 813-229-8712

Email: [bhill@wfclaw.com](mailto:bhill@wfclaw.com)

Email: [jcornell@wfclaw.com](mailto:jcornell@wfclaw.com)

Email: [rcooke@wfclaw.com](mailto:rcooke@wfclaw.com)

Email: [gnichols@wfclaw.com](mailto:gnichols@wfclaw.com)

Email: [tsoriano@wfclaw.com](mailto:tsoriano@wfclaw.com)

Email: [lcabassa@wfclaw.com](mailto:lcabassa@wfclaw.com)

**Attorneys for Plaintiff**



**IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT  
IN AND FOR HILLSBOROUGH COUNTY, FLORIDA  
CIRCUIT CIVIL DIVISION**

**JEREMY CONKLIN, individually  
and on behalf of all others  
similarly situated,,**

**Plaintiff,**

**CASE NO.:**

**v.**

**DIVISION:**

**COCA-COLA BEVERAGES FLORIDA, LLC,**

**Defendant.**

\_\_\_\_\_ /

**REQUEST FOR DIVISION ASSIGNMENT**

This is a request base on local Administrative Order(s) for the Clerk of the Court to assign the above styled case in the

Tampa Division

East Division

Prior Division (Please indicate Case Number and Division of Previously filed action:

\_\_\_\_\_ )

I understand that the actual division assignment will be in accordance with the Hillsborough County Administrative Orders. If there is no supported request for specific division assignment, this action will be assigned a division based on random and equitable distribution system.

**BRANDON J. HILL**

Florida Bar Number: 37061

**LUIS A. CABASSA**

Florida Bar Number: 053643

**WENZEL FENTON CABASSA, P.A.**

Email: bhill@wfclaw.com

Email: jcornell@wfclaw.com

Email: rcooke@wfclaw.com

Email: gnichols@wfclaw.com

Email: tsoriano@wfclaw.com

Email: lcabassa@wfclaw.com

**Attorneys for Plaintiff**

**IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT  
IN AND FOR HILLSBOROUGH COUNTY, FLORIDA  
CIRCUIT CIVIL DIVISION**

**JEREMY CONKLIN, individually and on  
behalf of all others similarly situated,**

**Plaintiff,**

v.

**CASE NO.: 19-CA-8006**

**DIVISION: C**

**COCA COLA BEVERAGES FLORIDA,  
LLC,**

**Defendant.**

**SUMMONS**

**THE STATE OF FLORIDA:**

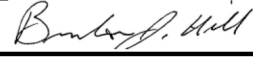


To Each Sheriff of the State:

**YOU ARE HEREBY COMMANDED** to serve this Summons and a copy of the Complaint, in this action on defendant:

**COCA COLA BEVERAGES FLORIDA, LLC  
c/ o REGISTERED AGENT:  
CORPORATION SERVICE COMPANY  
1201 HAYS STREET  
TALLAHASSEE, FL 32301-2525**

Each defendant is required to serve written defenses to the complaint or petition on Brandon J. Hill, plaintiff's attorney, whose address is Wenzel Fenton Cabassa 1110 N. Florida Avenue, Suite 300, Tampa, Florida 33602 within 20<sup>1</sup> days after the service of this summons on that defendant, exclusive of the day of service, and to file the original of the defenses with the clerk of this court either before service on plaintiff's attorney or immediately thereafter. If a defendant fails to do so, a default will be entered against that defendant for the relief demanded in the complaint or petition.

DATED on August **5**, 2019.

 Printed: Brandon J. Hill Attorney for Plaintiff Wenzel Fenton Cabassa 1110 N. Florida Avenue, Suite 300 Tampa, Florida 33602 Florida Bar No.:0037061	<b>PAT FRANK</b> As Clerk of the Court  By:  As Deputy Clerk (813) 276-8100 
--	--

<sup>1</sup> Except when suit is brought pursuant to section 768.28, Florida Statutes, if the State of Florida, one of its agencies, or one of its officials or employees sued in his or her official capacity is a defendant, the time to be inserted as to it is 40 days. When suit is brought pursuant to section 768.28, Florida Statutes, the time to be inserted is 30 days.

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**IMPORTANTE**

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**IMPORTANT**

Des poursuites judiciaires ont ete entreprises contre vous. Vous avez 20 jours consecutifs a partir de la date de l'assignation de cette citation pour deposer une reponse ecrite a la plainte ci-jointe aupres de ce tribunal. Un simple coup de telephone est insuffisant pour vous proteger. Vous etes obliges de deposer votre reponse ecrite, avec mention du numero de dossier ci-dessus et du nom des parties nommees ici, si vous souhaitez que le tribunal entende votre cause. Si vous ne deposez pas votre reponse ecrite dans le relai requis, vous risquez de perdre la cause ainsi que votre salaire, votre argent, et vos biens peuvent etre saisis par la suite, sans aucun preavis ulterieur du tribunal. Il y a d'autres obligations juridiques et vous pouvez requerir les services immediats d'un avocat. Si vous ne connaissez pas d'avocat, vous pourriez telephoner a un service de reference d'avocats ou a un bureau d'assistance juridique (figurant a l'annuaire de telephones). Si vous choisissez de deposer vous-meme une reponse ecrite, il vous faudra egalement, en meme temps que cette formalite, faire parvenir ou expedier une copie de votre reponse ecrite au "Plaintiff/Plaintiff's Attorney" (Plaignant ou a son avocat) nomme ci-dessous.

JS 44 (Rev. 02/19)

### CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

JEREMY CONKLIN, individually and on behalf of all others similarly situated

(b) County of Residence of First Listed Plaintiff Hillsborough  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)  
Brandon J. Hill & Luis A. Cabassa, Wentzel Fenton Cabassa P.A.  
1110 North Florida Ave., Suite 300, Tampa, FL 33602  
Telephone: (813) 224-0431

**DEFENDANTS**

COCA-COLA BEVERAGES FLORIDA, LLC

County of Residence of First Listed Defendant Hillsborough  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)  
Jessica Malloy-Thorpe, Charles B. Lee, & James P. Daniel, Miller & Martin PLLC -- Telephone: (423) 756-6600  
832 Georgia Avenue, Suite 1200, Chattanooga, TN 37405

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input checked="" type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS			
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

**V. ORIGIN** (Place an "X" in One Box Only)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from Another District (specify)
- 6 Multidistrict Litigation - Transfer
- 8 Multidistrict Litigation - Direct File

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
 Consolidated Omnibus Budget Conciliation Act of 1985, 29 U.S.C. § 1161 et seq.  
 Brief description of cause:  
 Claim for statutory penalties and attorneys fees under COBRA.

**VII. REQUESTED IN COMPLAINT:**

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ \_\_\_\_\_ CHECK YES only if demanded in complaint:  
 JURY DEMAND:  Yes  No

**VIII. RELATED CASE(S) IF ANY**

(See instructions): JUDGE \_\_\_\_\_ DOCKET NUMBER \_\_\_\_\_

DATE: 8/26/2019 SIGNATURE OF ATTORNEY OF RECORD: 

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_

# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Coca-Cola Accused of COBRA Violations Over Alleged Failure to Properly Notify Employees of Continuing Healthcare Coverage](#)

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