Recent Federal District Court Ruling Provides Insight Into How WARN Act May Apply to COVID-Related Workforce Cuts

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The Worker Adjustment and Retraining Notification (WARN) Act is a federal law that requires employers to provide advance notice to their workforce in the event of a qualified plant closing or mass layoff. With certain notable exceptions, the WARN Act makes it illegal for employers with 100 or more employees to fire 50 or more employees at a time without providing them 60 days advance written notice.

On January 4, 2021, Judge Roy B. Dalton of the U.S. District Court for the Middle District of Florida issued a ruling in *Benson et al. v. Enterprise Holdings, Inc., et al.* that provides some initial insight into how WARN Act cases may be perceived by the courts going forward.

Enterprise Holdings, the parent entity of car rental firms Enterprise Rent-A-Car, Alamo Rent a Car and others, was sued in a class action by two employees who alleged that the company violated the WARN Act when it terminated their jobs as part of a mass layoff in the spring of 2020 during the COVID-19 pandemic.

Enterprise sought dismissal of the complaint even prior to answering, arguing that the pandemic represented a "natural disaster" that nullified the advance notice requirements of the WARN Act, and further that the "unforeseeable business circumstances" exception to the statute applied.

Judge Dalton, in denying the defendants motion to dismiss, ordered that discovery proceed, an indication that WARN Act claims will not likely be adjudicated by exceptions to the statute resulting in early dismissal or summary judgment.

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In addressing the "natural disaster" defense, the Court ruled that Enterprise's layoffs were not a direct result of the pandemic but were instead the consequence of an economic turndown precipitated by the broader impacts of the pandemic, including travel patterns. Judge Dalton further noted the lack of guidance from the U.S. Department of Labor as to whether the pandemic can be considered a natural disaster.

As to the "unforeseeable business circumstances" defense, the Court's ruling did not exclude this exception but noted that the provision "softens" but does not eliminate the advance notice requirement, and that the timing of notice under the statute is a "hotly contested factual issue" as the WARN Act provides only that notice be given "as is practicable" in the case of unforeseeable business circumstances.

Although this case is not dispositive of cases in other federal or state jurisdictions, by allowing this case to progress the Court has established the significant prospect that exceptions to the WARN Act may not apply, raising a potential setback for employers who furloughed and/or terminated large numbers of employees during the pandemic with little to no advance warning. Many states, including New Jersey, have their own WARN Acts, which may also not be subject to such exceptions.

However, the logic of the Enterprise Holdings case may well serve as a bellwether as to how future WARN Act cases may be judged. At minimum, this decision should be closely scrutinized by large businesses subject to the federal WARN Act as it could be instructive as to how other mass layoffs and terminations will be perceived by the courts.

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