

Client Alert

California Suspends WARN Act Notice Requirements Due to COVID-19 Pandemic until Further Notice

March 18, 2020

On March 17, 2020, California Governor Gavin Newsom issued an executive order intended to protect employers laying off workers or shuttering their businesses as a result of the COVID-19 pandemic. Executive Order N-31-20 (the “Executive Order”) temporarily suspends California’s Worker Adjustment Retraining Notification (“CA WARN”) Act’s requirement that employers provide covered employees 60-days’ written notice before a mass layoff, relocation, termination or plant closure, but requires that, in lieu of the full 60-day notice period, businesses give employees “as much notice as is practicable” and provide “a brief statement of the basis for reducing the [regular] notification period.” The Executive Order is retroactive to March 4, 2020—the date Governor Newsom declared a State of Emergency in California.

The requisite notice must include all of the information already required by the CA WARN and must indicate that the mass layoff, relocation, termination or plant closure is caused by COVID-19-related “business circumstances that were not reasonably foreseeable as of the time that notice would have been required.” Furthermore, the notice must contain the following statement: “If you have lost your job or been laid off temporarily, you may be eligible for Unemployment Insurance (UI). More information on UI and other resources available for workers is available at labor.ca.gov/coronavirus2019.”

Notably, those California employers large enough to be covered under the federal WARN Act must still comply with the federal statute and should ensure that their prospective WARN notices comply with both federal and state law. Finally, the Executive Order does not excuse employers from providing *any* notice; employers must still provide notice as soon as practicable (even if less than 60 days). The Executive Order also calls for the

California Labor and Workforce Department to provide further guidance to employers by March 23, 2020.

The Executive Order marks the first state which has relaxed the strict notice requirements of its legislative analog to the federal WARN Act. It remains to be seen whether other states with their own analogs to the federal WARN Act will similarly relax, or suspend altogether, their notice requirements in light of the unprecedented circumstances brought to bear by the COVID-19 pandemic, or whether the federal Act's notice requirements as well will be suspended at this time.

If you require any additional information about WARN Act requirements or any other labor and employment-related issues, please contact any of the attorneys listed below. We know this is a difficult time for many employers whose normal employment practices and protocols are being tested and we are here to help you navigate these issues during these unprecedented times.

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Morrison Cohen LLP has also created the COVID-19 Resource Taskforce, a multidisciplinary taskforce comprised of attorneys with deep expertise in a broad range of legal areas, to assist clients navigating the challenging and uncertain business and legal environment caused by the COVID-19 pandemic. We encourage clients to utilize our capabilities by reaching out to their primary Morrison Cohen attorney contact, who will put you in touch with the appropriate Taskforce person. You may also reach out directly to Joe Moldovan and Alec Nealon, the Taskforce co-chairs:

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