

**UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT**

RICHARD BLUMENTHAL, .
ATTORNEY GENERAL OF CONNECTICUT,
SUSAN G. TOWNSLEY, ACTING
COMMISSIONER OF THE STATE OF
CONNECTICUT DEPARTMENT OF : CIVIL ACTION NO.
LABOR, AND STATE OF CONNECTICUT
DEPARTMENT OF LABOR,
Plaintiffs

v.

WALKER DIGITAL CORPORATION, :
Defendant : JANUARY 11, 2001

VERIFIED COMPLAINT

PARTIES

1. The plaintiff Richard Blumenthal, Attorney General of Connecticut, has general supervision over all civil legal matters in which the State is an interested party, pursuant to Conn. Gen. Stat. § 3-125. A written legal notice of a plant closing/mass layoff at Walker Digital Corporation affecting citizens of the State of Connecticut was given to the State dislocated worker unit of the State of Connecticut Department of Labor, in purported compliance with 29 U.S.C. § 2102(a)(2) of the Worker Adjustment and Retraining Notification Act ("WARN").

2. The plaintiff Susan G. Townsley, Acting Commissioner of the State of Connecticut Department of Labor, is the department head of the Labor Department of the State of Connecticut, pursuant to Conn. Gen. Stat. § 31-1. It was her department's dislocated worker unit that received the notice, in purported compliance with 29 U.S.C. § 2102(a)(2), of the plant closing/mass layoff at Walker Digital Corporation.

3. The plaintiff State of Connecticut Department of Labor is an administrative agency of the State of Connecticut charged with administration and enforcement of the labor statutes of the State of Connecticut codified in Title 31 of the Connecticut General Statutes, §§ 31-1 et seq. The department's dislocated worker unit received the notice of the plant closing/mass layoff at Walker Digital Corporation, in purported compliance with 29 U.S.C. § 2102(a)(2). The department is charged with carrying out rapid response activities, including training to dislocated workers, pursuant to the Workforce Investment Act, successor to the Job Training Partnership Act referenced in 29 U.S.C. § 2102(a)(2).

JURISDICTION

5. This controversy is governed by the Worker Adjustment and Retraining Notification Act ("WARN"), 29 U.S.C. § 2101 et. seq., and this court has jurisdiction pursuant to 29 U.S.C. § 2104(a)(5) and 28 U.S.C. § 1331.

6. Venue in this court is proper pursuant to 29 U.S.C. § 2104(a)(5) as the violation of WARN occurred in this district, the employees were employed in this district and Walker transacts business in this district.

FACTUAL ALLEGATIONS

7. On December 1, 2000, Walker gave a written legal notice of a plant closing/mass layoff to the State dislocated worker unit of the State of Connecticut Department of Labor, in purported compliance with 29 U.S.C. § 2102(a)(2). WARN Notice from Jay S. Walker, Chairman of the Board of Walker Digital Corporation, to Patricia Mayfield, Program Manager, Dislocated Worker Unit, Connecticut Department of Labor, dated December 1, 2000, attached hereto as Exhibit A. Pursuant to that notice, on the morning of Monday, November 20, 2000, Walker announced to all employees the closing of certain units of business of the company, with a

reduction in staffing levels and separation from the company effective November 21, 2000. One hundred six employees were permanently terminated effective November 21, 2000 due to the plant closing. About twenty more employees continued to be employed as part of a transition team, but have been informed that they would also be terminated over the next few months. The announcement was the first time that the employees received notice of any plans to close certain units of the business permanently.

8. The notice Walker gave to the State dislocated worker unit as the reason for the plant closing/mass layoff was that over the past several months Walker was actively pursuing financing from investors to permit it to continue operations and avoid reduction in staffing levels but, on November 18, the investors advised Walker management that the anticipated financing would not be forthcoming. The reason for such abrupt notice of termination was Walker's belief that giving additional notice would have prevented it from obtaining the needed financing.

9. Walker's notice to the State dislocated worker unit does not detail, with any specificity as to dates and circumstances, any specific efforts made by it to pursue additional third-party financing from investors. Moreover, the notice makes no reference whatsoever to the potential availability of additional financing from related businesses with similar ownership and management and individuals who are principals in such businesses.

10. At least fifty of the employees who worked at the High Ridge Park facility were "affected employees" as defined by 29 U.S.C. § 2101(a)(5).

11. Walker effected a " plant closing" and/or "mass layoff," as those terms are defined in 29 U.S.C. §§ 2101(a)(2) and (3), by permanently terminating one hundred six employees at 5 High Ridge Park, Stamford, Connecticut, on November 21, 2000.

12. The plant closing and/or mass layoff resulted in "employment losses," as that term is defined in 29 U.S.C. § 2101(a)(6), during a thirty day period for at least fifty employees, excluding "part-time employees," as that term is defined in 29 U.S.C. § 2101(a)(8).

13. Walker failed to give written notice of the plant closing/mass layoff to any "affected employee" or the State dislocated worker unit of the State of Connecticut Department of Labor, as required by WARN, 29 U.S.C. § 2102, prior to the actual date of the closing.

14. Because Walker employed over one hundred full-time and/or one hundred or more employees who, in the aggregate, worked at least four thousand hours per week, exclusive of overtime hours, it was an "employer" of the employees, as defined in WARN, 29 U.S.C. §§ 2102(a)(1)(A) and (B).

15. The shutdown described in Paragraph 7 resulted in an "employment loss" for more than fifty of Walker's employees, as that term is defined by 29 U.S.C. § 2101(a)(6).

16. The shutdown described in Paragraph 7 constitutes a "plant closing" within the meaning of 29 U.S.C. § 2101(a)(2).

17. Alternatively, the shutdown described in Paragraph 7 resulted in an employment loss of more than one third of Walker's employees, as that term is defined by 29 U.S.C. § 2101(a)(6), and as such constitutes a "mass layoff" within the meaning of 29 U.S.C. § 2101(a)(3).

18. The terminated employees are "affected employees" within the meaning of 29 U.S.C. § 2101(a)(5).

19. Walker failed to give at least sixty days advance notice to all "affected employees" and the State dislocated worker unit of the State of Connecticut Department of Labor of the employees' terminations, as required by 29 U.S.C. §§ 2102(a)(1) and (2).

20. Walker's failure to give the terminated employees and the State dislocated worker unit of the State of Connecticut Department of Labor at least sixty days prior written notice of the employees' termination as a result of its closing certain units of business of the company at its High Ridge Park facility, and the consequent termination of all of their "affected employees" constitutes a violation of the provisions of WARN, 29 U.S.C. §§ 2101, et seq.

21. Insofar as an exception to WARN was claimed in the notice to the State dislocated worker unit, Walker has failed and refused to pay employees sixty days pay and benefits owed to them under WARN.

22. Walker failed to give at least sixty days advance notice of the plant closing/mass layoff to the State dislocated worker unit of the State of Connecticut Department of Labor, as required by 29 U.S.C. § 2102(a)(2), as well as the similarly situated employees, and plaintiffs have brought this action, pursuant to 29 U.S.C. § 2104(a)(5), on behalf of the similarly situated employees as "aggrieved employees" pursuant to 29 U.S.C. § 2104(a)(7).

PRAYER FOR RELIEF

WHEREFORE, plaintiffs request the following relief:

1. That the Court order Walker to pay sixty days of back pay and other benefits, with prejudgment interest, to each affected employee, in accordance with 29 U.S.C. § 2104(a)(1);
2. That the court award plaintiffs their costs and attorney's fees;
3. That plaintiffs be granted any and all other relief that this Court may determine to be just and proper.

Dated at Hartford, Connecticut, this 11th day of January, 2001.

PLAINTIFFS,
RICHARD BLUMENTHAL,
ATTORNEY GENERAL OF
CONNECTICUT,
SUSAN G. TOWNSLEY, ACTING
COMMISSIONER OF THE STATE
OF CONNECTICUT
DEPARTMENT OF LABOR and
STATE OF CONNECTICUT
DEPARTMENT OF LABOR

BY:

RICHARD BLUMENTHAL
ATTORNEY GENERAL

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VERIFICATION OF COMPLAINT

STATE OF CONNECTICUT)

ss: Wethersfield

January 5, 2001

COUNTY OF HARTFORD)

I, Patricia Mayfield, Program Manager, Dislocated Worker Unit, Connecticut Department of Labor, make this oath to the truth of the matters contained in the foregoing Complaint.

Patricia Mayfield, Program Manager
Dislocated Worker Unit
Connecticut Department of Labor

Subscribed and sworn to before me on
this 5th day of January, 2001

Richard T. Sponzo
Commissioner of the Superior Court