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Report to Congressional Requesters

September 2003

THE WORKER ADJUSTMENT AND RETRAINING NOTIFICATION ACT

Revising the Act and Educational Materials Could Clarify Employer Responsibilities and Employee Rights

GAO-03-1003

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Highlights

Highlights of GAO-03-1003, a report to Congressional Requesters

Why GAO Did This Study

In 2001, 1.75 million workers lost jobs through extended mass layoffs. The Worker Adjustment and Retraining Notification (WARN) Act requires advance notice of plant closures and mass layoffs. The report discusses (1) the extent to which plant closures and mass layoffs were subject to WARN's requirements, (2) the extent to which employers with mass layoffs and plant closures provided notice, and (3) what issues employers and employees face when assessing the applicability of WARN to their circumstances.

What GAO Recommends

The Secretary of Labor should make enhanced educational materials widely available to employers and employees for assistance in understanding the regulations. Further, Congress may wish to consider amending the WARN act by simplifying the calculation of thresholds, clarifying the definition of employer and how damages are calculated, and establishing a uniform statute of limitations. Labor provided informal comments and technical clarifications on this report, which we incorporated as appropriate. Labor informed us about efforts that it has already made to address our recommendation and chose not to comment formally.

www.gao.gov/cgi-bin/getrpt?GAO-03-1003.

To view the full product, including the scope and methodology, click on the link above. For more information, contact Robert E. Robertson at (202) 512-9889 or robertsonr@gao.gov.

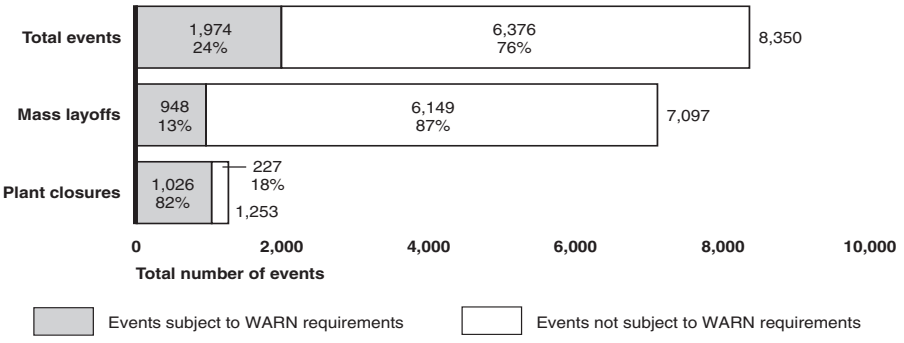
What GAO Found

About one quarter of the 8,350 plant closures and mass layoffs in 2001 appear subject to WARN's advance notice requirements. Mass layoffs were less likely to be subject to the requirements than plant closures. The difference between mass layoffs and plant closures stems primarily from a rule exempting mass layoffs from WARN's requirements if businesses lay off less than one-third of their workforce (up to 499 workers).

Employers provided notice for approximately one-third of layoffs and closures that appear subject to WARN requirements. Specifically, employers provided notices for almost one-half of plant closures, compared with approximately one-quarter of mass layoffs. The remaining mass layoffs and plant closures appear subject to WARN requirements, but notices were not provided. Two-thirds of the notices that employers provided gave the full sixty days' advance notice required by the law. Employers that did not provide notice may be engaging in other practices that limit their liability under the law. In addition, other employers provided notice for mass layoffs and plant closures that were not subject to WARN's requirements as encouraged in the law and the regulations.

Employers and employees find WARN's definitions and calculations difficult to apply to their circumstances. Almost all state dislocated worker units reported that employers and/or employees contact them with basic questions on WARN—GAO calculated that states received thousands of communications from employers, employees, and their representatives per year. The courts have interpreted some of the provisions in the law in varying ways, which adds to the confusion and uncertainty when employers and employees apply WARN to their circumstances. Because of this uncertainty, employers, employees, and courts incur costs in time and resources in determining the applicability of WARN to specific circumstances. Finally, the enhanced educational materials being developed by the Department of Labor to address some of these issues have not been made widely available and therefore fail to answer many of the questions asked by employers and employees. This lack of clarity and guidance could ultimately circumvent the purpose of advance notice—namely, to assist dislocated workers in becoming reemployed.

Events Subject to and Not Subject to WARN Requirements in 2001



Source: GAO analysis and BLS, May 2003.

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Abbreviations

BLS	Bureau of Labor Statistics
DWU	dislocated worker unit
ETA	Employment and Training Administration
MLS	Mass Layoff Statistics
WARN	Worker Adjustment and Retraining Notification Act

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Accountability * Integrity * Reliability

United States General Accounting Office
Washington, DC 20548

September 19, 2003

The Honorable George Miller
Ranking Minority Member
Committee on Education and the Workforce
House of Representatives

The Honorable Major R. Owens
Ranking Minority Member
Subcommittee on Workforce Protections
Committee on Education and the Workforce
House of Representatives

The Honorable Robert E. Andrews
Ranking Minority Member
Subcommittee on Employer-Employee Relations
Committee on Education and the Workforce
House of Representatives

In 2001, job losses through extended mass layoffs[1] reached 1.75 million, the highest level since 1995. To assist workers who have recently been laid off with job training and to facilitate their reemployment, Congress enacted the Worker Adjustment and Retraining Notification (WARN) Act[2] in 1988, which requires employers to provide advance notice to employees and state and local officials in the event of a mass layoff or plant closure. Advance notice allows workers and their families some transition time to adjust to the prospective loss of employment, to seek and obtain alternative jobs, and if necessary, to enter skill training that will allow these workers to compete successfully in the job market. According to both business and labor leaders, advance notice allows time for state officials to provide information about skill training and retraining services before the layoff or closure occurs.

[1]The Bureau of Labor Statistics defines an extended mass layoff as an employment loss, at a job site, that affects at least 50 people who file a claim with Unemployment Insurance over a 5-week period and are involved in a layoff that lasts at least 31 days. The data collected by the Bureau do not directly measure WARN criteria. (See app. I.)

[2]Pub. L. No. 100-379 (1988); 29 U.S.C. 2101-2109.

WARN generally requires employers with 100 or more workers to provide 60-days advance notice for both mass layoffs and plant closures involving 50 or more employees. WARN requirements differentiate between mass layoffs and plant closures by including a provision in the law, called the "one-third" rule, which only applies to mass layoffs and requires employers to give advance notice for layoffs of 50-499 employees only if they are reducing their workforce by at least 33 percent. The employer is responsible for determining if the layoff or closure meets WARN criteria, and providing a notice that contains certain information about the mass layoff or plant closure as outlined in the regulations. The Department of Labor is not responsible for enforcing WARN; enforcement is done entirely through the federal courts. However, Labor was required to issue implementing regulations, which it did in 1989. Labor is also responsible for providing assistance in understanding these regulations and has provided educational materials to facilitate employers' and employees' understanding of WARN.

To identify issues about compliance with and implementation of the WARN Act, you asked us to provide you with information on (1) the extent to which mass layoffs and plant closures were subject to WARN's advance notice requirements, (2) the extent to which employers with mass layoffs or plant closures that appear subject to WARN's advance notice requirements provided notice, and (3) what issues employers and employees face when assessing the applicability of WARN to their circumstances.

To determine the extent to which mass layoffs and plant closures appear subject to WARN's advance notice requirements, we used the Bureau of Labor Statistics[3] (BLS) Mass Layoff Statistics (MLS) data for 2001 to determine which events appear subject to WARN according to the criteria included in the statute and the regulations. To determine the extent to which employers with mass layoffs and plant closures subject to WARN's advance notice requirements provided notice, we obtained all WARN notices received for mass layoffs and plant closures in 2001 from all 50 states and the District of Columbia.[4] BLS then matched its MLS data for

[3]BLS is an agency within the Department of Labor. The MLS program, run by BLS, collects data on mass layoff actions that result in workers being separated from their jobs.

[4]We asked the state dislocated worker units to provide us with notices because they are the only recipient of all WARN notices for the entire state and because no data are collected on WARN compliance. We use these notices as a proxy measure for employers notifying all relevant parties.

2001 with the notices states sent us, which provided an estimate of the number of events subject to WARN's advance notice requirements where the employers provided notice.[5] To assess the extent to which notices met the requirements of the WARN Act, we analyzed a random, nationwide sample of 600 WARN notices from 2001 to determine the extent to which the notices contained the required elements outlined in the law.[6] To determine what issues employers and employees face when assessing the applicability of WARN to their circumstances, we interviewed dislocated worker officials in all 50 states[7] and the District of Columbia, labor experts, employee and employer groups, law firms, and selected a random sample of 50 employers that provided states with a WARN notice in 2001.[8] Finally, we reviewed the WARN Act provisions, WARN Act regulations, Department of Labor's educational materials, and all reported court cases decided between 1998 and 2002 that discuss or apply WARN provisions to describe the key issues raised through the courts by laid-off workers and employers. We conducted our work between October 2002 and July 2003 in accordance with generally accepted government auditing standards. (See app. I for our scope and methodology.)

Results in Brief

On the basis of 2001 data from BLS, we found that an estimated 24 percent of all mass layoffs and plant closures appear subject to WARN's advance notice requirements. However, mass layoffs were less likely to be subject to WARN's advance notice requirements than plant closures. Specifically, employers were required to provide advance notice for approximately 13 percent of the 7,097 mass layoffs, while employers were required to provide advance notice for approximately 82 percent of the 1,253 plant closures. This difference between mass layoffs and plant closures stems primarily from the law's "one-third" rule, which applies only to mass layoffs. In 2001, while approximately 661,000 workers were involved in a mass layoff or plant closure that met WARN criteria, over 415,000 workers

[5]These numbers are an estimate from the available data. Like any data set, these estimates include limitations. See app. I for further explanation.

[6]Notices sent to the state officials should include the expected date of first separation, address of employment site, name and contact information, number of affected workers, and if the notice is sent less than 60 days in advance, an exception should be listed with a brief statement of why the exception is applicable.

[7]We did not formally interview state officials in Nevada, but they provided all WARN notices and other relevant information.

[8]From the 50 employers, we interviewed 23. See app. I for further explanation.

were involved in mass layoffs that did not meet the one-third rule; therefore, their employers were not required to provide advance notification.

On the basis of 2001 data from BLS, we found that employers provided notice for an estimated 36 percent of mass layoffs or plant closures that appear subject to WARN's advance notice requirements. Specifically, employers provided notices for almost one-half (46 percent) of plant closures, compared with approximately one-quarter (26 percent) of mass layoffs. The remaining mass layoffs and plant closures appear subject to WARN requirements, but notices were not provided. This discrepancy might be explained partially by the use of other practices, not precluded by WARN, that employers and employee representatives reported, such as asking employees to sign waivers of their rights to advance notice. Of the 36 percent of mass layoffs and plant closures with a WARN notice, about two-thirds of the notices (an estimated 68 percent) provided at least the required 60-day advance notice. Almost all of the notices included all required elements outlined in the regulations. In addition, other employers provided notice for mass layoffs and plant closures that were not subject to WARN's requirements as encouraged in the law and regulations.

On the basis of interviews with interested parties and a legal review of court cases, we found that certain definitions and requirements of WARN are difficult to apply when employers and employees assess the applicability of WARN to their circumstances. In particular, employers, employee representatives, and others reported it problematic to apply the statute's provisions when calculating the layoff threshold (i.e., whether the requisite number of employees have been laid off within prescribed time frames) that triggers WARN requirements. In addition, the courts have applied the statute's provisions in varying ways, resulting in decisions that do not always clarify employer responsibilities and employee rights under the law. For example, the courts have interpreted the damages for violating the statute's advance notice provision in two ways; in some cases the courts have calculated damages using calendar days, while in other cases they have used work days. The use of one calculation versus the other either increases or decreases the amount of money the employer is required to pay for a WARN violation by approximately 30 percent and affects the amount of money workers receive when they do not receive 60-days advance notice of a layoff or closure. Finally, although the Department of Labor has taken steps to improve educational materials on WARN originally developed in 1989, Labor has not made these materials widely available to employers or employees.

To educate and inform employers and employees about WARN, we recommend that the Secretary of Labor take immediate action to make revised educational materials widely available to employers and employees for assistance in understanding the regulations. In responding to preliminary findings of this report, Labor officials said that updating the regulations would not address many of the issues outlined in this report. Consequently, we include a Matter for Congressional Consideration to clarify employer responsibilities and employee rights under WARN, specifically clarifying definitions and layoff thresholds through amending the statute. Labor provided informal comments and technical clarifications on this report, which we incorporated as appropriate. Labor informed us about efforts that it has already made to address our recommendation and chose not to comment formally.

Background

WARN generally requires that employers with 100 or more full-time workers give their affected employees or their representatives, the state's dislocated worker unit, and local government officials 60 days advance notice of an impending closure or layoff. Employers with 100 or more full-time workers generally account for less than 2 percent of all employers. However, these employers employ 64 percent of the labor force.

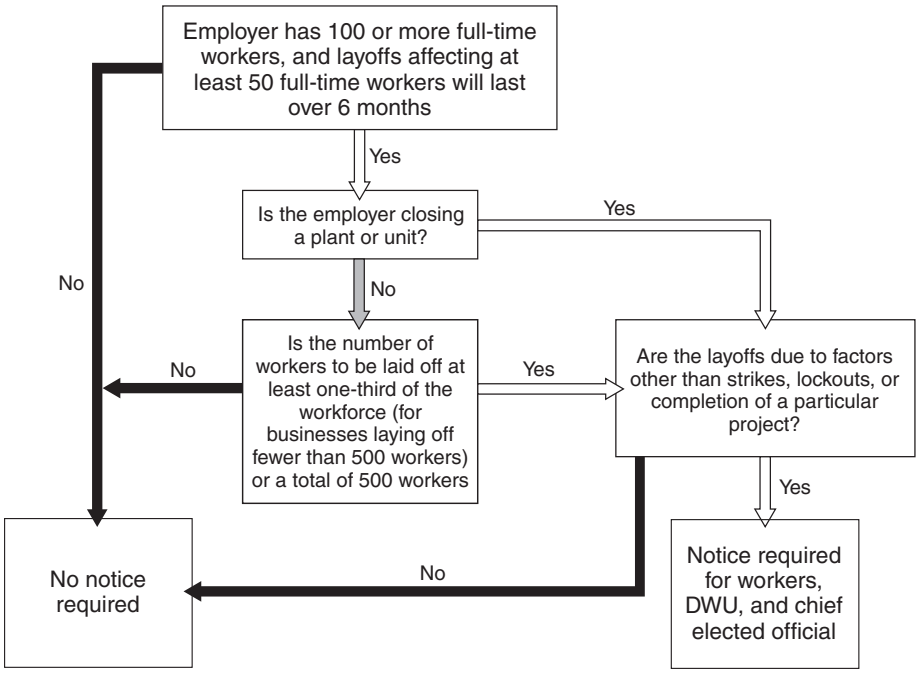
The purpose of advance notice is twofold. First, advance notice provides workers and their families with an appropriate amount of time to transition and adjust to the prospective job loss, to seek and obtain alternative jobs, and if necessary, to participate in skill training and retraining so that these workers can re-enter the job market. Second, advance notice promotes the delivery of rapid response services to the affected workers through the state's dislocated worker unit (DWU), by allowing the DWU to go to the employment site and provide information about job services before workers are laid off and more difficult to locate.

A number of factors determine whether employers are required to provide notice under WARN. (See fig. 1.) First, employers must decide if the mass layoff or plant closure at a single site will affect at least 50 employees, excluding part-time workers. For a mass layoff, employers must also consider if the layoff will affect at least 33 percent of the workforce (excluding part-time workers) and will be expected to exceed 6 months.[9]

[9]The employer must also determine whether there has been a reduction in hours of work of more than 50 percent during each month of any 6-month period.

Alternatively, employers with 100 or more employees who in the aggregate work at least 4,000 hours per week (excluding overtime) are covered. Employers must then determine if at least 50 full-time workers will be laid off during any 30-day period, or for two or more groups, over a 90-day period.[10] If the mass layoff or plant closure has met all these criteria, it would be subject to WARN's requirements and notice must be provided at least 60 days before the first layoff. Certain layoffs and closures are exempt from advance notice, including those that involve the completion of a particular project, certain transfers or reassignments, and strikes or lockouts.

Figure 1: WARN Decision Matrix



Source: GAO data.

[10]The 90-day period applies unless employers demonstrate in court that the layoffs are the result of separate and distinct actions and causes and are not an attempt to evade WARN's requirements.

WARN also lists three exceptions that allow employers to give less than 60 days advance notice. These are (1) "faltering company," which is defined as those employers involved in a closure who are trying to seek new business or raise capital at the time that 60-day notice would have been required; (2) "unforeseeable business circumstances," which applies to closings and mass layoffs caused by business circumstances that were not reasonably foreseeable at the time that 60-day notice would have been required; and (3) a natural disaster. Employers that wish to use these exceptions must still provide notice in as much time as possible and also give a brief statement of why the exception is being used in the WARN notice.

Congress did not assign any agency responsibility for enforcing WARN. The Department of Labor is responsible for issuing regulations, providing educational information about the act, and for providing any future revisions to the regulations as may be necessary. Employees seeking redress under WARN must pursue their cases through the federal courts.[11] The time frames for employees to file under WARN vary by state because the act does not contain a statute of limitations. Courts can award damages of up to 60 days back pay and benefits as remedy to workers for WARN violations.[12] The courts must reduce the damages for each day the employer gave notice, if less than 60 days, or for any wages paid during the violation period. The courts may also award the winning party reasonable attorney's fees.

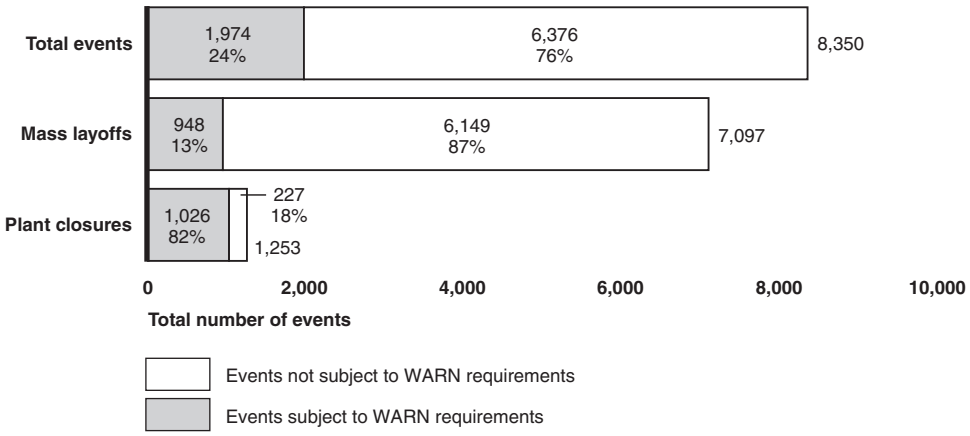
An Estimated 24 Percent of All Mass Layoffs and Plant Closures Appear Subject to WARN's Advance Notice Requirements

Of the 8,350 mass layoffs and plant closures in 2001, 24 percent appear subject to WARN advance notice requirements and involved approximately 661,000 workers. Fewer mass layoffs appear subject to these requirements than plant closures (13 percent vs. 82 percent). This is due primarily to the one-third rule that only applies to mass layoffs, specifically layoffs affecting at least 33 percent of the workforce. Figure 2 provides a summary of events subject and not subject to WARN requirements in 2001.

[11]Cases are initially filed with one of the U.S. district courts located in the 50 states, District of Columbia, or the U.S. Territories. Each state has at least one district court. A decision of the district court may be appealed to 1 of the 13 U.S. courts of appeal, also referred to as circuit courts. Parties may request review of circuit court decisions by the U.S. Supreme Court, but the Supreme Court accepts only a small percentage of such requests.

[12]Courts can also award up to $500 per day, for up to 60 days, to local governments.

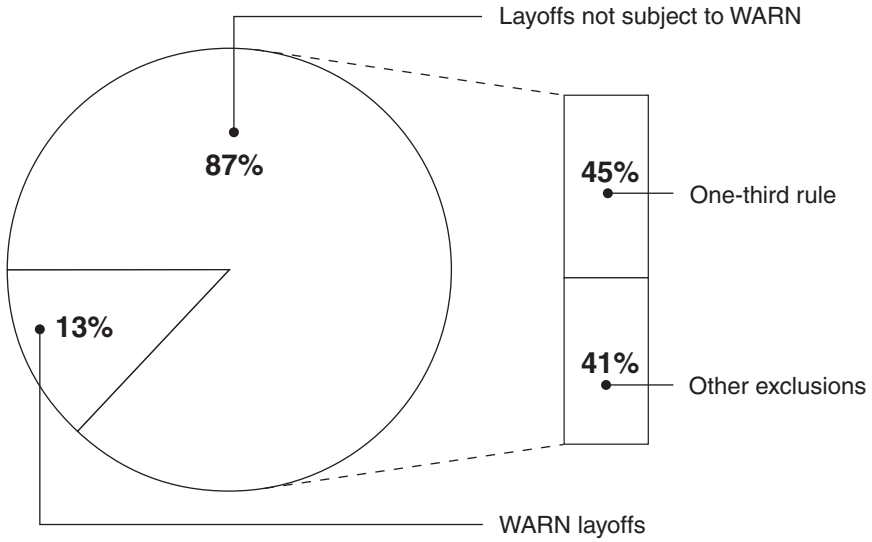
Figure 2: Events Subject to and Not Subject to WARN Requirements in 2001



Source: GAO analysis and BLS, May 2003.

The 948 mass layoffs that appear subject to WARN involved about 300,000 workers. In comparison, the 6,149 layoffs not subject to WARN's requirements involved over 1 million workers. Forty-five percent of the mass layoffs were not subject to WARN because the "single event" did not affect at least one-third of the employer's workforce. (See fig. 3.) These layoffs affected approximately 415,000 workers whose employers were not required to provide notice.

Figure 3: Percentage of Mass Layoffs in 2001 Excluded from WARN Requirements Due to the One-Third Rule



Source: BLS, May 2003 and 2001 WARN Notices from state DWUs.

Note: Exclusions do not total 87 percent due to rounding. Other exclusions include layoffs that affect less than 100 workers and public sector layoffs. It also includes those workers who are seasonal, involved in labor disputes, involved in weather-related layoffs, on leave, and finished with a contract.

In contrast to mass layoffs, 82 percent of plant closures appear subject to WARN's requirements. (See fig. 2.) These 1,026 plant closures affected about 360,000 workers. In comparison, the 227 plant closures were not subject to WARN's requirements and involved approximately 20,000 workers. Plant closures may be excluded from WARN's requirements for a variety of reasons; for example, plant closures that involve seasonal workers or workers who have completed a contract. (See app. I for further explanation.)

Employers Provided Notice for about One-Third of Layoffs and Closures Subject to WARN Requirements, Most of Which Were Timely

While 1,974 mass layoffs and plant closures appear to be subject to WARN's advance notice requirements in 2001, BLS estimated that employers provided notice for only 717 of these events. Most of the notices provided gave at least the required 60-day advance notice. In addition, almost all notices included the required elements outlined in the regulations. Other employers provided notice for mass layoffs and plant closures that were not subject to WARN's requirements as encouraged in the law and the regulations.

Employers Provided Notice for about One-Third of WARN-Covered Mass Layoffs or Closures

Data from BLS indicated that employers provided notices for 717, or 36 percent, of the 1,974 mass layoffs and plant closures that appear subject to advance notice requirements under WARN in 2001. Employers provided notices for plant closures at a higher rate than for mass layoffs. Specifically, they provided notices for almost one-half (46 percent) of plant closures, compared with approximately one-quarter (26 percent) of mass layoffs. The remaining two-thirds (64 percent) of mass layoffs and plant closures appeared to be subject to WARN requirements, but employers did not provide notices. (See app. I.)

In those cases where notices were not provided, employers may be engaging in other practices, not precluded by WARN, that limit their liability under the law. Representatives for both employers and employees told us about two practices in particular: pay in lieu of notice and waivers. For the former, employers offer employees money instead of their full 60-days notice.[13] For the latter, employers ask employees to sign a contract waiving their rights under WARN—sometimes in exchange for a severance package.[14] In both cases, employees might receive payment for foregoing the advance notice, but the lack of an advance notice means that the state is less likely to be able to deploy services to facilitate workers'

[13]The Department of Labor states that neither the act nor the regulations recognize the concept of pay in lieu of notice and that failure to give notice does a significant disservice to workers and undermines other services that are part of the purpose of the WARN Act. However, the statute does specifically provide that the amount for which the employer is liable must be reduced by any wages paid during the period of violation. 29 U.S.C. 2104 (a)(2)(A).

[14]Neither the act nor the regulations address waivers under WARN; however, the courts have upheld employees' waiver of WARN Act claims. See *Joe v. First Bank System, Inc.*, 202 F.3d 1067 (8th Cir. 2000).

reemployment before the plant closure or mass layoff. An employer representative told us that some employers use these other practices because they are confused, in general, about the law, and its applicability to their circumstances. According to employers and their representatives, employers have difficulty determining when WARN requirements apply to mass layoffs, in particular, because of the layoff threshold requirements. In addition, employer representatives told us about concerns that employers have about providing advance notice, which might influence an employer's decision to engage in other practices.[15] Specifically, some employers fear that providing advance notice will affect their businesses negatively by causing employees to leave before the scheduled layoff or commit sabotage. Although 17 of the 23 employers we interviewed that provided advance notice told us that some employees resigned after they received advance notice, only 2 employers indicated that this was a hardship. Two experienced acts of sabotage.

Interestingly, employers provided more notices than there were WARN events in 2001. Employers provided 5,349 notices, but there were only 1,974 plant closure and mass layoffs that appeared to meet the WARN criteria for advance notice. The volume of notices provided suggests that employers appear to be heeding the portion of the law and regulations that encourages advance notice in ambiguous situations even if it is not required by WARN. Providing advance notice when not required may lead to the delivery of rapid response services for dislocated workers. Some state officials told us that they provide rapid response services for layoffs and closures that do not meet WARN requirements if they receive notice.

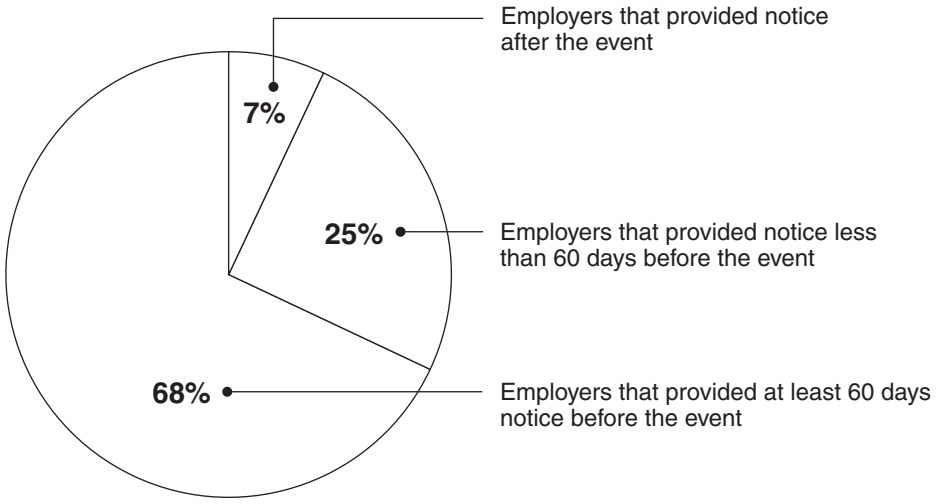
Of the Notices Provided, Two-Thirds Were Timely

On the basis of a sample of WARN notices, we found that employers with mass layoffs or plant closures that were subject to WARN requirements and sent a notice to their state officials generally provided notice on time and almost always included all of the required elements as outlined in the law. We estimated that two-thirds (68 percent) of the notices that state officials received were dated 60 or more days before the mass layoff or

[15]A previous GAO report found that researchers and opponents of WARN expressed concerns about the cost of providing notice, but parties we spoke with did not express this as a concern. See U.S. General Accounting Office, *Dislocated Workers: Worker Adjustment and Retraining Notification Act Not Meeting Its Goals*, GAO/HRD-93-18 (Washington, D.C.: Feb. 23, 1993). Employers' estimates of costs of providing the notice ranged from $0 to $5,800, with an average cost of less than $1,300. This range excludes costs from lawsuits related to WARN.

plant closure; the estimated average advance notice was 49 days.[16] (See fig. 4.) We further estimated that 32 percent of employers gave state officials less than 60 days to prepare for the event.[17] Regardless of when states received notice, approximately 90 percent of all notices included all of the required elements as outlined in the regulations.

Figure 4: Amount of Employer Advance Notice to State Officials before a Mass Layoff or Plant Closure



Source: 2001 WARN Notices from state DWUs..

[16]This estimate includes those employers that provided notice after the layoff or plant closure and those employers that used exceptions to account for less than 60 days notice.

[17]This estimate includes those employers that used exceptions to account for less than 60 days notice. The most commonly used exception was unforeseeable business circumstance.

Employers and Employees Find WARN's Definitions and Calculations Difficult to Apply Due to Ambiguities in the Statute and Limited Guidance

On the basis of our interviews with interested parties and a legal review of court cases, we found that certain definitions and calculations of WARN are difficult for employers and employees to apply when assessing the applicability of WARN to their circumstances. The courts have applied the statute's provisions in varying ways, resulting in decisions that do not always clarify employer responsibilities and employee rights under the law. In addition, Labor has made several efforts to enhance educational materials on the WARN Act, but these materials are not yet widely available to employers and employees.

Employers and Employees Find WARN's Definitions and Calculations Difficult to Apply

A variety of indicators suggest that employers and employees find WARN definitions and calculations difficult to apply. These include inquiries made regarding WARN provisions, litigation stemming from the provisions, and an examination of the steps necessary to decide if and when WARN is applicable. In our 1993 report,[18] we found that the employers had similar issues with WARN.

The questions employers and employees ask about the application of WARN provides one indicator of the difficulties they have in applying its provisions. State DWUs, the Department of Labor, and employer groups all reported that employers and employees contact them with basic questions about WARN.[19] Of the state DWU's able to provide an estimate, 36 states reported receiving thousands of inquiries each year on WARN. This number does not include the additional eight dislocated worker units in states that reported receiving inquiries but could not estimate the number. Moreover, the amount of inquiries surpasses the amount of events that appear to meet WARN criteria and even surpasses the amount of total events in 2001. According to dislocated worker officials, employers called to ask whether their circumstances required compliance with WARN and where to send notices, while employees called to ask whether their layoff was covered and what their rights were. An Employment and Training Administration (ETA) official within the Department of Labor reported receiving

[18]See U.S. General Accounting Office, *Dislocated Workers: Worker Adjustment and Retraining Notification Act Not Meeting Its Goals*, GAO/HRD-93-18 (Washington, D.C.: Feb. 23, 1993).

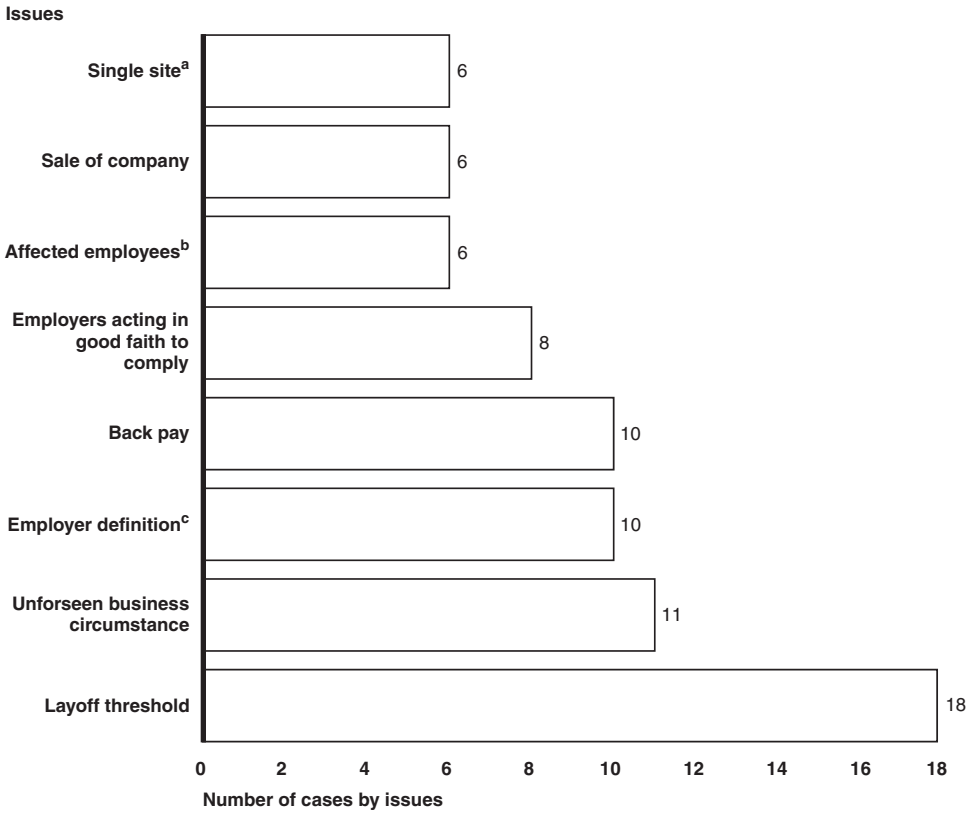
[19]Callers also included unions, legislative staff, and others.

553 inquiries on the WARN Act in 2002. She also reported that employees were the most frequent callers and most often asked about practices employers used in lieu of notice or about severance. Additionally, employer groups reported receiving inquiries about WARN from employers and their representatives, and one employer representative told us his organization provides WARN information sessions for employers twice each year.

In addition to these queries, litigation over certain provisions provides further evidence of the difficulties experienced by employers and employees in applying WARN provisions. During our legal review of court cases from 1998-2002, we found that certain provisions resulted in more litigation in the courts. (See fig. 5.) In this time frame, we identified 68 reported decisions addressing WARN. (See app. III.) The most commonly litigated issues in these cases were related to layoff thresholds. Lawyers who litigated WARN cases told us that layoff threshold issues involved multiple definitions that were difficult to comprehend. Employers, employer and employee representatives, and lawyers cited the statute's definition of calculating the 50 employees who have been laid off, the one-third rule, and the aggregation of multiple layoffs within a 90-day period as difficult to apply to their specific circumstances. Lawyers we spoke with said that neither the statute nor Labor's guidance were sufficient for helping them understand these definitions. In addition, because the WARN Act does not have a statute of limitations, the court must decide for each case whether the case was filed within the appropriate time period. To do this, the courts look to the most analogous state statute of limitations as opposed to federal law.[20] The applicable state statute of limitations, however, is not always easy to identify and often varies from state to state.

[20] *North Star Steel Co. v. Thomas*, 515 U.S. 29 (1995).

Figure 5: WARN-Related Court Cases by Litigation Subject 1998-2002



Source: GAO analysis, Guild Law Center, Lexis, and Westlaw.

Note: Only major issues are represented in the graphic; therefore, they do not add up to the 68 reported decisions addressing WARN.

[a]WARN requires that layoffs or closures occur at a single site of employment in order to calculate the requisite number of workers affected by a layoff or closure. These cases discuss a "single site" as being geographically connected. Even where several distinct operations are performed at a geographically connected site, that building or complex will be counted as one site. In some limited cases, geographically separate sites may still be considered a single site of employment because of other business-related connections; for example, sites that share the same staff and management and are used for the same purpose.

[b]WARN notices are required to be provided to all "affected employees." These court cases have dealt with this issue and found, for example, that workers who are temporarily laid off prior to a WARN event are entitled to notice.

[c]Establishes who the employer is for purposes of WARN notification. These cases discuss, for example, the relationship between parent and subsidiary companies when determining the employer responsible for providing advance notice.

Some labor law attorneys we spoke with said that applying the layoff threshold definitions is difficult because doing so involves multiple steps they characterized as complicated. In determining whether or not the WARN threshold has been met, employers must first decide if at least 50 employees or one-third of the workforce have suffered an employment loss[21] at a single site. Employers must exclude all employees who have worked fewer than the last 6 out of 12 months or fewer than 20 hours per week. The layoff threshold calculations are further complicated when a short-term layoff (i.e., a layoff lasting less than 6 months) that is not covered under WARN is extended beyond 6 months becoming a long-term layoff (i.e., a layoff lasting more than 6 months) and thus triggering the WARN requirements.

In addition, applying the layoff threshold definitions can be further complicated when multiple layoffs occur across a 90-day period. If there are waves of layoffs within a 90-day period that result in an employment loss for at least 50 workers and one-third of the workforce, then these combined events may be subject to WARN. For example, if a company employs 150 employees and has three layoff events involving 20 workers during each event over 90 days, then these events in aggregate would be subject to WARN's requirements. Waves of layoffs are not always aggregated for purposes of determining whether WARN is triggered; however, if the issue is challenged, the employer must demonstrate that the employment losses were the result of separate and distinct causes and not an attempt to evade WARN's requirements. Moreover, if there are multiple layoffs within a 90-day period and one of them alone triggers WARN, the rest are not subject to WARN's requirements unless they otherwise meet WARN's requirements. For example, if a company employs 150 employees and has three layoffs within a 90-day period involving 20 workers for the first and second events but 60 employees in the third, then this last event alone would be subject to WARN's requirements, while the other two would not be subject to WARN's requirements even though they all took place within a 90-day period.

Lawyers also told us that the difficulties in applying the layoff thresholds allow some employers to manipulate numbers to qualify under the one-third rule or lay off workers in waves over a period of time so that WARN

[21]Employment loss is an employment termination, other than a discharge for cause, voluntary departure, or retirement, a layoff exceeding 6 months, or a reduction in hours of work for individual employees of more than 50 percent during each month of any 6-month period.

thresholds do not apply during a 90-day period. According to lawyers representing employers and employees, some employers have a difficult time applying these standards while other employers are so savvy at manipulating the numbers that it is difficult for employees to know if and when their rights have been violated.

Court Decisions Interpret Certain WARN Provisions Inconsistently

Areas of inconsistency among the courts' interpretations of certain WARN Act provisions have caused difficulties for employers, employees, and their lawyers when assessing the applicability of WARN to their circumstances. Depending upon the circuit,[22] the courts interpret two WARN provisions differently: (1) the calculation of damages and (2) the definition of "employer" when two companies are closely related—an issue that is associated with determining the employer responsible for giving notice.

When calculating damages, the law states that employees are entitled to up to 60 days back pay for a violation of WARN. However, the law does not state if the 60 days should be interpreted as calendar days or as workdays. The difference between the calendar day versus workday approach would be the difference between 60 and 42 days pay, which decreases or increases the amount an employer must pay for a WARN violation by approximately 30 percent. The courts have different interpretations of the law, and the regulations do not address the calculation of damages.

Because of this uncertainty, much litigation surrounds the calculation of back pay and whether the law intended workers to receive 60 or 42 days of pay for a WARN violation. The third circuit alone has found that back wages should be calculated as calendar days—1 day of wages multiplied by 60. The other circuit courts that have addressed the calculation of WARN damages have all upheld the workday interpretation and use the rationale that the back pay was meant to describe the wages that would have been earned on average during a 60-day time period.

[22] District court judges are required to follow decisions of the circuit court for the region in which the district court sits. For example, a district court Judge in Maryland is bound by the decisions of the Court of Appeals for the 4th Circuit, which is located in Richmond, Virginia, but includes all the districts in Maryland, Virginia, North Carolina, South Carolina, and West Virginia. District courts may look to other circuit courts for guidance if their regional circuit court has not addressed a particular issue. District court judges are not bound by other district court decisions.

Lawyers representing both employers and employees would like the law to be clarified, regardless of whom the outcome favors. For example, if the calendar day approach were decided as the mandatory way to calculate damages, then employers would be paying more money in damages, but employers wishing to settle a WARN violation could better estimate pay because they would know exactly how much they were liable for if the case went to court.

The courts also have taken various approaches in determining who the "employer" is for purposes of complying with WARN. Different courts have chosen to use varying tests as outlined in several laws to determine the employer responsible for providing WARN notice. Specifically, there is no uniformity among the courts around the issue of identifying the responsible employer when there are two closely related companies (e.g., the parent of a subsidiary), and it is unclear as to who is responsible for sending the notice prior to a layoff. The WARN statute defines an employer as a business enterprise but does not further define the term to address parent and subsidiary companies.

To give employers, employees, and the courts guidance on determining who the employer is, WARN's regulations outline a five-factor employer test. However, this test differs from other federal and state employer tests, which results in the application of various tests when making determinations regarding the employer and inconsistent outcomes for employers and employees in court. As a result, the tests the courts have applied have varied from case to case. (See app. II.) Each test examines a number of factors meant to determine which of the two closely related companies can be identified as the employer. For some cases, the courts have used the five-factor test established in the WARN regulations. In others, they have used a slightly different four-factor test called "federal common law" in combination with the five-factor test. And in still other cases, courts have looked to state law in addition to the other laws. In most cases, the courts have used some combination of these three. According to ETA officials, in promulgating regulations and the five-factor test they contain, Labor did not intend to create a new employer test that could be used instead of existing federal common law.

The Department of Labor's Enhanced Educational Materials Are Not Widely Available

Organizations representing both employers and employees indicated that confusion over WARN definitions and calculations may stem, in part, from a lack of guidance. The implementing regulations that the Department of Labor published in 1989 tasked Labor with providing assistance in understanding the regulations. In the same year, Labor produced an

eight-page informational brochure on the WARN Act for employers and later made the regulations available over the Internet. However, the inquiries about WARN discussed earlier indicate that employers and employees still have basic questions about WARN and find its definitions and calculations difficult to apply to their circumstances. Further, the brochure published in 1989 does not address case law established since the act passed in 1988.

The Department of Labor has made several efforts to enhance educational materials on the WARN Act, but these materials are not yet widely available to employers and employees. These efforts have taken place over the past 3 years and include taking steps to revise the brochure for employers and developing an additional brochure for employees. In addition, ETA officials told us that they have made some efforts to put explanatory information about WARN regulations on the Internet. Labor has also taken the initial steps to develop an interactive flow chart that employers could use to determine if WARN is applicable. Labor's enhanced educational materials can be made widely available independent of any changes to the law and will begin to address the need for additional educational materials on WARN.

Conclusions

The assessment of the applicability of WARN is important, because for every potential mass layoff or plant closure employers are responsible for determining if their circumstances require compliance with WARN, and employees are responsible for determining if their rights have been violated. Although the Department of Labor has issued implementing regulations and educational materials on WARN, these efforts have not been sufficient to clarify employer responsibilities and employee rights under the WARN Act. The lack of clarity stems, in part, from the statute that contains provisions the courts, employers, and employees find difficult to apply to specific situations. Because of this uncertainty, employers, employees, and courts incur costs in time and resources in determining the applicability of WARN to individual circumstances. This lack of clarity could ultimately circumvent the purpose of advance notice—namely, allowing states to prepare for workforce reductions and quickly return dislocated workers to the workforce.

Recommendation for Executive Action

To educate and inform employers and employees about WARN, we recommend that the Secretary of Labor take immediate action to make revised educational materials widely available to employers and employees for assistance in understanding the regulations.

Matter for Congressional Consideration

To clarify employer responsibilities and employee rights under WARN and to address varying court decisions, the Congress may wish to consider amending WARN by simplifying the calculation of layoff thresholds, clarifying how damages are calculated, defining the term "employer" to address closely related corporations, and establishing a uniform statute of limitations.

Agency Comments and Our Evaluation

We provided the U.S. Department of Labor with a draft of this report for review and comment. Labor generally concurred with our conclusions about the difficulties in WARN implementation and provided informal comments and technical clarifications, which we incorporated as appropriate. Labor informed us that it has already made efforts to address our recommendation and thus chose not to comment formally. Furthermore, officials have indicated that they will continue to work towards making enhanced educational materials widely available. In July 2003, the department published new WARN educational brochures for employers and employees. However, distribution of the brochures is currently limited to individuals inquiring about WARN through the department, and the brochures have not yet been posted on ETA's Web site. Additionally, Labor is developing a WARN e-law advisor program to help employers and employees understand their rights and responsibilities under federal employment laws. However, department officials were unable to provide an estimate on when the e-law advisor program would be finished.

As agreed with your offices, unless you publicly announce the contents of the report earlier, we plan no further distribution until 30 days from the report date. At that time, we will send copies of this report to the Secretary of Labor, appropriate congressional committees, and other interested parties. In addition, the report will be made available at no charge on GAO's Web site at http://www.gao.gov.

If you or your staf have any questions about this report, please contact me at (202) 512-9889. Other contacts and staff acknowledgments are listed in appendix IV.

Robert E. Robertson
Director, Education, Workforce, and
Income Security Issues

Appendix I: Objectives, Scope, and Methodology

We were asked to provide information on (1) the extent to which mass layoffs and plant closures appear subject to the Worker Adjustment and Retraining Notification (WARN) Act's advance notice requirements, (2) the extent to which employers with mass layoffs or plant closures that appear to meet WARN criteria provided notice, and (3) what issues employers and employees face when assessing the applicability of WARN to their circumstances.[1] To attain the objectives for this engagement, we began by reviewing the WARN Act provisions, the U.S. Department of Labor's regulations, and the preamble to the regulations. We also reviewed Labor's explanatory brochure on WARN for employers, as well as the draft brochures for employers and employees.

To determine the extent to which mass layoffs and plant closures appear subject to WARN's advance notice requirements, we asked the Bureau of Labor Statistics (BLS)[2] to determine which events in its Mass Layoff Statistics (MLS) data for 2001 appear subject to WARN according to the criteria included in the statute and the regulations. To determine the extent to which employers with mass layoffs and plant closures that appear subject to WARN's advance notice requirements provided notice, we asked all 50 states and the District of Columbia to provide us with all WARN notices received for mass layoffs and plant closures in 2001.[3] BLS then matched its MLS data for 2001 with the WARN notices states sent us, which provided an estimate of the number of events subject to WARN's advance notice requirements where the employers provided notice.[4] To assess the extent to which notices met the requirements of the WARN Act, we conducted analysis on the content of a random, nationwide sample of 600 WARN notices to determine the extent to which the notices contained

[1]Because these questions were similar to those answered in our 1993 report on WARN, we replicated much of the methodology from the earlier report. See U.S. General Accounting Office, *Dislocated Workers: Worker Adjustment and Retraining Notification Act Not Meeting Its Goals*, GAO/HRD-93-18 (Washington, D.C.: Feb. 23, 1993).

[2]BLS is an agency within the Department of Labor. The MLS program, run by BLS, collects data on mass layoff actions that result in workers being separated from their jobs.

[3]We asked the state dislocated worker units to provide us with notices because they are the only recipient of all WARN notices for the entire state. We used these notices as a proxy measure for employers notifying all relevant parties.

[4]These numbers are only an estimate from the available data. Like any data set, they include sampling errors and other data limitations.

all of the required elements outlined in the law.[5] To determine what issues employers and employees face when assessing the applicability of WARN to their circumstances, we talked to dislocated worker officials in all 50 states and the District of Columbia, labor experts, employee and employer groups, law firms, and 23 employers from a random sample of 50 employers that provided WARN notices to states in 2001. Finally, we reviewed all reported court cases decided between 1998-2002 that discuss or apply WARN provisions to describe the key issues raised through the courts by laid-off workers and employers.

Mass Layoff Statistics Data

In order to determine the extent to which mass layoffs and plant closures appear subject to WARN's advance notice requirements, we asked BLS to perform some work utilizing its MLS data. There are no data collected on the WARN Act, and although the type of information obtained by MLS and the information required by the WARN provisions differ slightly (see next paragraph),[6] the MLS data are the best available for measuring WARN layoffs and closures. Due to the differing criteria, BLS could only assess whether mass layoffs and plant closures in the analysis "appear" to meet WARN requirements. Because MLS does not generate sufficiently detailed information about all the circumstances involved in each event and BLS's confidentiality pledge to employers prevented us from contacting the employers directly, we could not conclusively determine whether every closure that appeared to meet the WARN criteria actually met each provision of the law. With these caveats in mind, we asked BLS to provide us with information on the total number of extended mass layoffs in 2001 and to subtract from that total the mass layoffs and plant closures that did

[5]Notices sent to the state officials should include: the date of first separation, address of employment site, name and contact information, number of affected workers, and if the notice is sent less than 60 days in advance, an exception should be listed with a brief statement of why the exception is applicable.

[6]An example of the difference between WARN and MLS would be events that affected at least 50 workers during a 90-day period (appearing subject to WARN requirements) that prompted fewer than 50 dislocated workers to submit claims for Unemployment Insurance during a 5-week period. This event would not meet MLS criteria but appears subject to WARN. Another example of the difference would be an employer that mistakenly reported the reason for the extended mass layoff as one that was covered by WARN when the correct reason would not have been covered by WARN. This event would meet MLS criteria and would appear subject to WARN but should not be counted as subject to WARN.

not appear to meet the WARN criteria due to exclusions[7] and exemptions[8] that are provided in the law. BLS provided us with a list of 1,974 extended mass layoffs[9] from its MLS data that appear to meet WARN criteria. Table 1 shows the process by which BLS arrived at its list of events that appeared to meet WARN criteria.

Table 1: Extended Mass Layoffs and WARN Coverage in 2001

Extended mass layoff events, 2001	Layoffs	Closures	Total
Events	7,097	1,253	**8,350**
Less exclusions:	4,611	210	**4,821**
Employment level not provided[a]	1,070	50	**1,120**
Employment level less than 100	206	159	**365**
Ownership not private	125	1	**126**
Events with 50-499 separations not meeting the one-third criteria	3,210	[b]	**3,210**
Subtotal, less exclusions	**2,486**	**1,043**	**3,529**
Less exemptions:	1,538	17	**1,555**
Seasonal work	1,254	10	**1,264**
Labor disputes	17	1	**18**
Employees on leave	75	0	**75**
Weather-related	25	0	**25**
Natural disaster	2	0	**2**
Contract completed	165	6	**171**
Appear to meet WARN criteria	948	1,026	**1,974**

Source: BLS.

[a]For closures, includes those events for which no employment was provided and between 50-99 workers were separated.

[b]Not applicable.

[7]BLS deleted events from its list when factors of the extended mass layoff were outside the scope of WARN. These included layoffs at establishments where (1) the employment level was not provided, (2) the employment level was less than 100, (3) the ownership was not private, or (4) the layoff did not affect at least one-third of the workforce.

[8]BLS deleted events from its list when the reason for the extended mass layoff was outside the scope of WARN. These included events due to (1) seasonal layoffs, (2) labor disputes, (3) leave, (4) weather, (5) natural disasters, or (6) completed contracts.

[9]BLS defines an extended mass layoff as an employment loss at a job site of at least 50 people who file claims with Unemployment Insurance over a 5-week period and the employer indicates that the layoff of at least 50 people would last at least 31 days.

WARN provisions do not match exactly with the data collected in MLS. WARN requires that notice be provided for plant closures and mass layoffs affecting at least 50 workers during a 30- or 90-day period, with some exclusions and exemptions. MLS uses reports of layoffs involving at least 50 workers and lasting more than 30 days. Information on extended mass layoffs is developed initially from each state's Unemployment Insurance database using a standardized automated approach for identifying establishments that have at least 50 initial claims filed against them during a consecutive 5-week period (the "extended mass layoff"). The state agency then contacts these establishments by telephone to determine if a "permanent" layoff or plant closing has occurred. A permanent layoff is one that lasts more than 30 days. An establishment is considered closed if, at the time of contact, the employer plans to close, is closing, or has already closed the work site. The telephone survey obtains specific information on the nature of the extended mass layoff, including the number of separations, the reason for and the duration of the extended mass layoff, and whether the establishment is remaining open.

To determine the extent to which employers with mass layoffs and plant closures that appear to meet WARN criteria provided notice to their state DWU, we asked BLS to link its MLS data with WARN notices we collected from states. First, we asked the DWUs from all 50 states and the District of Columbia to provide us with a list of all WARN notices that they received for mass layoffs and plant closures in 2001 (n = 5,349).[10] Then BLS

[10]We asked the states to send us records of notices that they determined to be WARN notices provided for layoffs and closures that occurred during calendar year 2001. However, the following caveats apply:

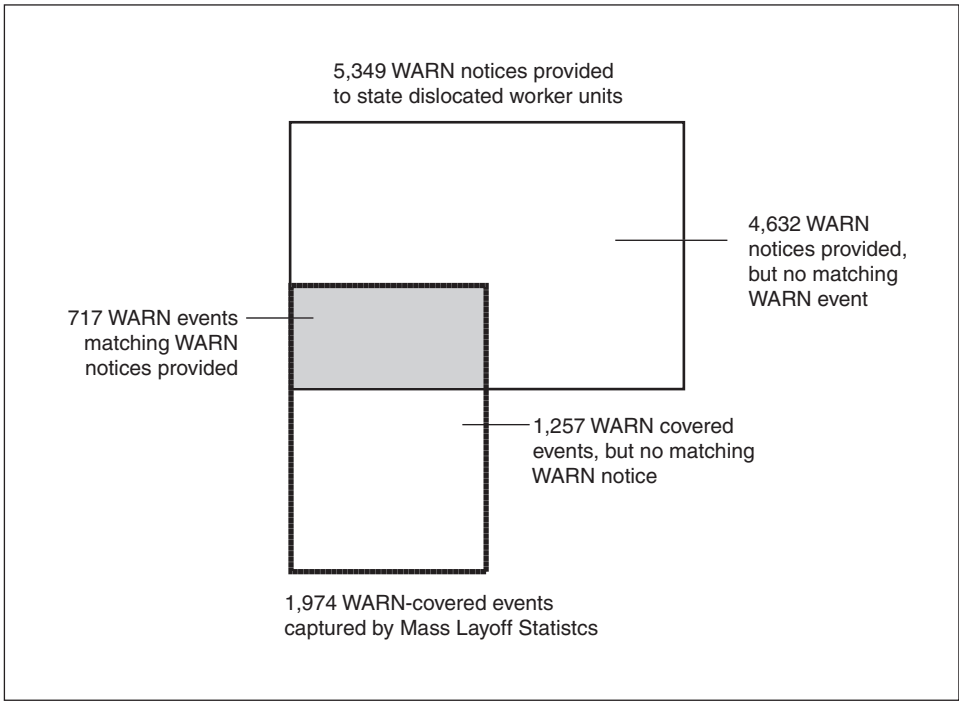
Arizona, Georgia, and Tennessee provided both WARN and non-WARN notices that they received because their data systems did not distinguish between the two; we included all the notices these three states sent to us for both the matching procedure and the content analysis. The inclusion of some potentially non-WARN notices does not affect the matching procedure result, which focuses on compliance, because these notices would be counted as "overcompliance" (encouraged by the law) and not noncompliance (prohibited).

Kentucky, Michigan, Minnesota, New Mexico, New York, and North Carolina provided records of notices received between July 2000 and December 2001 because their data systems record the date of the notice, not the layoff or closure. The inclusion of some notices for events in 2000 does not affect the matching procedure result, which focuses on compliance, because these notices would be counted as "overcompliance" (encouraged by the law) not noncompliance (prohibited).

Pennsylvania reported that it was unable to provide us with data for layoffs and closures occurring in July 2001 due to data systems conversion.

matched the mass layoffs and plant closures that appear subject to WARN's advance notice requirements with the list of WARN notices. This match was conducted using employer name and state to determine if there was a match; it also provided us with an estimate of the number of events that appear to be covered by WARN where the employers also provided notice to the state dislocated worker unit. The number of notices, mass layoffs and plant closures, and the overlap are in figure 6.

Figure 6: Overlap between WARN Notices and Events That Appear Subject to WARN



Source: State dislocated worker units and Bureau of Labor Statistics, May 2003.

WARN Notices

To determine the extent to which WARN notices were timely and complete, we performed a content analysis on a random, national sample of notices we collected. From the list provided by the dislocated worker units, we selected a random sample of 600 notices and asked states to provide us with copies of those notices. We performed a content analysis

Washington, D.C. could not provide us with any notices for 2001, but according to BLS, there were no WARN events in D.C. for the year 2001.

to determine the extent to which notices provided the amount of advance notice required in the law and contained required elements (see table 2.) Specifically, we evaluated the extent to which employers included the name and address of the employment site, the date of first separation, a contact person for the company, the number of affected workers, and, if applicable, exemptions and a brief statement of the exemption.[11] After reviewing copies of the notices provided by the state DWUs, we eliminated five WARN notices from the sample because they occurred in 2000 or 2002. We also eliminated 40 notices because states told us they were not able to provide those missing notices because either the employer did not provide a notice (the DWU learned of the event through other means, such as a newspaper article), the DWU lost the notice after it was received or the DWU destroyed the notice after it was archived. The final sample of 555 WARN notices represents about 10 percent of the adjusted universe of WARN notices for layoffs and closures in 2001.

[11] Sampling errors of estimated percentages from this sample were 4 percent or less. The sampling error for the estimated average advance notice is between 3 and 4 days.

Table 2: Required Elements in the Notices

Information	Dislocated worker units and chief elected officials[a]	Worker representative	Workers[b]
Name and address of employment site	X	X	
Name and telephone number of company official to contact	X	X	X
Expected date of first separation	X	X[c]	X[c]
Number of affected workers	X		
Statement of type of layoff		X	X
Titles of positions to be affected and names of the workers currently holding these jobs		X	
Existence of bumping rights[d]			X

Source: Department of Labor's regulations.

[a]The following information is not required to be included in the notices to dislocated worker units and local officials, but must be made available upon request by the dislocated worker unit or elected officials: (1) job titles of positions to be affected, (2) statement of type of layoff, (3) existences of bumping rights, (4) name of union representative, and (5) name and address of chief elected officer of each union.

[b]If no representative.

[c]Must also include schedule of separations.

[d]"Bumping rights" include displacing the least senior person in the affected employee's job classification. For example, a carpenter with seniority could bump the least senior carpenter in order to remain employed.

Interviews

To determine what issues employers and employees face when potentially affected by WARN, we conducted semistructured interviews with (1) state DWUs or rapid response officials from all 50 states and the District of Columbia;[12] (2) academic and professional experts on the WARN Act, including officials from the Guild Law Center; (3) employer groups, such as Labor Policy Association and Small Business Administration; (4) employee groups, such as the AFL-CIO and United Auto Workers; and (5) lawyers with experience litigating WARN cases, from both the

[12]We did not formally interview state officials in Nevada, but they provided all WARN notices and other relevant information.

employer and employee sides. These groups provided us with a multifaceted look from the employer and employee perspective at the issues faced when potentially affected by WARN. In our interviews with the state dislocated worker units in all 50 states and the District of Columbia, we asked the officials to estimate the number of inquiries they receive per year. Thirty-six states were able to provide estimates.

To collect information on employer perspectives and experiences regarding the clarity of provisions and the consequences associated with filing a WARN notice, we conducted structured interviews[13] with a small, randomly selected set of employers who provided a WARN notice to their state dislocated worker unit for a mass layoff or plant closure in 2001. We attempted to contact 50 employers. Of those, 18 had closed entirely and/or we were unable to locate any current contact information for them. From the remaining 32 employers, 9 declined to participate in the interview for a variety of reasons. We interviewed 23 employers. With these data, among other sources, we were able to assess which WARN provisions were unclear to the employers, other practices used to limit potential WARN liability, and costs associated with providing notice.

Review of Court Cases

To determine what issues employers and employees face when potentially affected by WARN, we reviewed court cases from 1998-2002 that were substantively about the WARN Act. In order to find all of the relevant court cases that dealt with the WARN Act, we used Lexis, Westlaw, and the Guild Law Center's Plant Closing (WARN Act) Project.[14] The Department of Labor's ETA also provided us with a list of cases that we checked against our own research and the Guild Law Center's Plant Closing Project to establish a list of cases addressing WARN during the past 5 years.

From our list of all reported court cases that discuss or apply WARN provisions, we summarized the outcomes of each case and then coded each case according to the issues addressed. (See app. III and fig. 5.) We reviewed the cases to identify patterns between the interviews and court cases where employers and employees seem to be confused with the law

[13]The structured interview questions were based on the survey of employers conducted for the 1993 report.

[14]Through the Plant Closing Project, the Guild Law Center publishes a WARN Act Practitioner's Guide and WARN Act Case Law Updates and Summaries.

and its regulations. In addition, we reviewed law review articles discussing the inconsistencies in the application of various WARN provisions by the courts. We also reviewed articles discussing the evolution of WARN and general information regarding the law and its regulations.

Appendix II: Tests Applied to Find Liability in Parent/Subsidiary, Sister Corporation, and Lender/Borrower Situations

State law tests: Generally focus on the extent of actual control the company has over its own business decisions.

Federal common law test: Also referred to as single employer, integrated enterprise or single business enterprise test: (1) common ownership; (2) common management; (3) centralized control of labor relations; (4) functional integration of operations; focus on whether two nominally independent enterprises really constitute one integrated enterprise (absence of arms length dealing).

WARN: Department of Labor's regulations (20 C.F.R. 639.3(a)(2)): (1) common ownership; (2) common directors and/or officers; (3) de facto exercise of control; (4) unity of personnel policies emanating from a common source; (5) dependency of operations.

Table 3: Different Tests Used by Courts to Determine Employer Liability

Test(s) applied	State law and WARN	WARN and federal common law	Tripartite (state law, federal common law, WARN)	WARN only
Cases	Wholesale & Retail Food Distribution Local 63 v. Santa Fe Terminal Servs., Inc., 826 F. Supp. 326 (C.D. Cal. 1993)	United Mine-workers of Am. v. Florence Mining Co., 855 F. Supp. 1466 (W.D. Pa. 1994)	Watts v. Marco Holdings, L.P., 1997 WL 578783 (N.D. Miss. 1997)	Local 217 Hotel & Rest. Employees Union v. MHM, Inc., 976 F.2d 805 (2nd Cir. 1992)
	Hollowell v. Orleans Reg'l Hosp., 217 F.3d 379 (5th Cir. 2000)	Int'l Bd. of Teamsters Local 952 v. Am. Delivery Serv. Co.,50 F.3d 770 (9th Cir. 1995)	United Paperworkers Int'l Union v. Alden Corrugated Container Corp., 901 F. Supp. 426 (D. Mass. 1995).	Pearson v. Component Tech. Corp., 247 F.3d 471 (3rd Cir. 2001)
		Childress v. Darby Lumber Inc., 126 F.Supp.2d 1310 (D. Mont. 2001)	Local 397, Int'l Union of Elec., Elec., Salaried Mach. & Furniture Workers v. Midwest Fasteners, Inc., 779 F. Supp. 788 (D. N.J. 1992)	United Auto., Aerospace & Agric. Implement Workers of Am. Local 157 v. OEM/Erie Westland, LLC., 203 F.Supp.2d 825 (E.D. Mich. 2002)
				Bledsoe v. Emery Worldwide Airlines, 2003 WL 1907798 (S.D. Ohio 2003)

Source: GAO analysis, Westlaw, and Lexis.

Appendix III: Reported Court Cases under WARN Act, 1998-2002

Table 4: Reported Court Cases under WARN Act, 1998-2002

Case	State filed	Year	Outcome
Air Trans. Local 504, Transp. Workers Union of Am. v. Ogden Aviation Servs., No. 96 CV 4506 SJ, 1998 WL 191297 (E.D.N.Y. Apr. 20, 1998).	New York	1998	Court found that Ogden, seller company, was not responsible for providing WARN notices to workers subsequently laid off by buyer company; case proceeded toward trial.
Amalgamated Serv. & Allied Indus. Joint Bd. v. Supreme Hand Laundry, Inc., 182 F.R.D. 65 (S.D.N.Y. 1998).	New York	1998	Corporation failed to file notice of appearance of counsel, and court entered default judgment for plaintiff. Corporation was not permitted to subsequently raise a defense of good faith.
Amatuzio v. Gandalf Sys. Corp., 994 F. Supp. 253 (D.N.J. 1998).	New Jersey	1998	Court held that WARN's definition of "affected employees" is not limited to those laid off after plant shutdown, but includes those expected to experience an employment loss. With respect to one group, more facts were needed to determine whether layoffs of two groups should be aggregated for purposes of determining WARN's applicability.
Breedlove v. Earthgrains Baking Cos., Inc., 140 F.3d 797 (8th Cir. 1998).	Arkansas	1998	Court held that back pay liability under WARN is calculated based on working days.
Burns v. Stone Forest Indus., Inc., 147 F.3d 1182 (9th Cir. Or. 1998).	Oregon	1998	Back pay under WARN is limited to the days that would have been worked during the period (up to 60 days) for which no notice was given.
Cain v. Inacom Corp., No. ADV. 00-1724, 2001 WL 1819997 (Bankr. D. Del. Sept. 26, 2001).	Delaware	2001	Corporation's motion to dismiss was denied because there was a question of whether at the time of the layoffs it was a liquidating fiduciary or "engaged in business"—if the latter, it would be considered an employer under WARN.
Calvert v. Ladish Co. Inc., LR-C-97-577 (E.D. Ark. 1999).[a]	Arkansas	1999	Employers' motion to dismiss was denied because seller was not relieved of obligation to provide notice where the seller merely transferred assets to a buyer and not its employees.
Calvert v. Ladish Co. Inc., LR-C-97-577 (E.D. Ark. Mar. 23, 1998).[a]	Arkansas	1998	Employees who were laid off as a result of a plant closing and not rehired after sale of company suffered an employment loss; those rehired after sale did not.
Castro v. Chicago Housing Auth., No. 99 C 6910, 2001 WL 709445 (N.D. Ill. June 25, 2001).	Illinois	2001	Factual questions to be resolved at trial were whether a single site existed for WARN purposes and whether employer, a quasipublic entity, is a commercial enterprise and thus subject to WARN requirements.
Castro v. Chicago Housing Auth., No. 99 C 6910, 2002 WL 31324053 (N.D. Ill. Oct. 17, 2002).	Illinois	2002	Court found that a group of layoffs occurred at a single site.
Childress v. Darby Lumber, Inc., 126 F. Supp. 2d. 1310 (D. Mont. 2001).	Montana	2001	WARN obligations applied because parent and wholly owned subsidiary were a single business enterprise that employed over 100 employees. Employer did not qualify for good faith, unforeseen business circumstance exception, or faltering company exception. Employer's notice was inadequate because it did not state why the notice was for a shortened time period.

Case	State filed	Year	Outcome
Ciarlante v. Brown & Williamson Tobacco Corp., 143 F.3d 139 (3rd Cir. 1998).	Pennsylvania	1998	Court reversed ruling for plaintiffs because it was not clear whether plaintiffs, traveling salesmen, were at a "single site of employment." The case was remanded to district court.
Corbo v. Tompkins Rubber Co., 146 Lab. Cas. (CCH) P 10071, 2002 WL 1969653 (E.D. Pa. 2002).	Pennsylvania	2002	District court dismissed plaintiff's case because employer did not have more than 100 employees, which is the threshold for WARN coverage.
DePalma v. Realty IQ Corp., No. 01 CIV 446 RMB, 2002 WL 461647 (S.D.N.Y. Mar. 25, 2002).	New York	2002	Defendant's motion to dismiss on the grounds that employees had waived their WARN claims was denied; questions remained about the whether signed releases were voluntary, and case will proceed toward trial.
Dingle v. Union City Chair Co., 134 F. Supp. 2d 441 (W.D. Pa. 2000).	Pennsylvania	2000	Court found that fewer than 50 employees suffered an employment loss; thus WARN notice requirement was not triggered.
Gomez v. Am. Garment Finishers Corp., No. EP-99-CA-260-DB, 2000 WL 33348730 (W.D. Tex. Oct. 12, 2000).	Texas	2000	Employees previously laid off could be affected employees entitled to notice subsequently if they had a reasonable expectation of recall.
Graphic Communs. Int'l Union, Local 31-N v. Quebecor Printing Providence Inc., F. Supp. 2d, (D. Md. Apr. 25, 2002).	Maryland	2002	Employer was entitled to use "good faith" defense even though it did not initially raise this defense.
Graphic Communs. Int'l Union, Local 31-N v. Quebecor Printing (USA) Corp., 252 F.3d 296 (4th Cir. 2001).	Maryland	2001	Notice was required when the plant was shut down even though workers were previously laid off and had received notice of temporary layoff. When shutdown occurred, employees suffered an "employment loss," triggering new notice.
Halkias v. General Dynamics Corp., 137 F.3d 333 (5th Cir. 1998).	Texas	1998	Court found that an unforeseen business circumstance relieved the employer from providing notice where there was not a foreseeable probability that a significant government contract would be cancelled.
Hollowell v. Orleans Regional Hosp. LLC, 217 F.3d 379 (5th Cir. 2000).	Louisiana	2000	Court affirmed district court's decision in favor of plaintiffs, finding that two groups of workers laid-off over a 90 day period were appropriately combined for purposes of establishing that at least 50 workers suffered an employment loss, thus triggering the WARN notice requirements.
Hotel Emples. and Rest. Emples. Int'l Union Local 54 v. Elsinore Shore Associates, 173 F.3d 175 (3rd Cir. 1999).	New Jersey	1999	Court affirmed district court's decision in favor of employer—failure to provide notice was excused by unforeseeable business circumstance exception where government ordered the shutdown of a casino.
Hotel Emples. & Rest. Emples. Int'l Union v. Paroc, Inc., No. 99 Civ. 3078 MBM, 2000 WL 204537 (S.D.N.Y. Feb. 2, 2000).	New York	2000	Unforeseeable business exception did not apply because employer could not show that successful completion of negotiations was not reasonably foreseeable as of the date that closure notices would have been required.
In re Arrow Transp. Co. of Delaware, 224 B.R. 457 (Bankr. D. Or.1998).	Oregon	1998	Bankruptcy court found that the debtor/employer was a "prevailing party" under the WARN Act and that it is entitled to an award of attorneys' fees incurred in objecting to that claim.

Case	State filed	Year	Outcome
In re Beverage Enters., Inc., 225 B.R. 111 (Bankr. E.D. Pa. 1998).	Pennsylvania	1998	WARN Act claims arising or earned as a result of events, which take place post-petition are entitled to administrative claim status under the Bankruptcy Code.
In re Fidelity Bond & Mortgage Co., No. 99-18427 DAS, 2000 WL 1218358 (Bankr. E.D. Pa. (Aug. 22, 2000)).	Pennsylvania	2000	Layoffs at different sites in Philadelphia did not occur at a "single site," and insufficient evidence was presented that 50 employees were laid off at any one site.
In re Jamesway Corp., 235 B.R. 329 (Bankr. S.D.N.Y. 1999).	New York	1999	Court found a violation of the WARN Act, and the reliance on unforeseeable business circumstance, faltering company, and good faith exceptions were not applicable; WARN claims for back pay do not receive priority in bankruptcy.
In re Jamesway Corp., 242 B.R. 130 (Bankr. S.D.N.Y. 1999).	New York	1999	Claim for attorneys' fees awarded to a group of workers who brought successful WARN case were given priority in bankruptcy.
In re Kitty Hawk, Inc., 255 B.R. 428 (Bankr. N.D. Tex. 2000).	Texas	2000	WARN claims are not administrative claims receiving high priority against a bankrupt debtor; WARN claims are treated as wages or salaries—a "third priority" claim.
In re United Healthcare Sys., Inc., 200 F.3d 170 (3rd Cir. 1999).	New Jersey	1999	Court of appeals reversed lower court ruling for plaintiffs; Court held that a bankrupt company winding up its affairs was not an "employer" required to give WARN notice.
International Assoc. of Machinists and Aerospace Workers v. Compania Mexicana de Aviacion, S.A. de C.V., 199 F.3d 796 (5th Cir. 2000).	Texas	2000	Appeals court affirmed lower court's decision that employees' release of rights constituted a waiver, and the court held that the release does not have to specifically mention WARN.
International Oil, Chem. & Atomic Workers, Local 7-517 v. The Uno-Ven Co., 170 F.3d 779 (7th Cir. 1999).	Illinois	1999	The appeals court affirmed a lower court decision that the laid-off workers who were rehired after the sale of a company did not suffer an employment loss and thus not entitled to notice.
International Union, Oil, Chem. & Atomic Workers, Local 7-517 v. Uno-Ven Co., No. 97 C 2663, 1998 WL 341617 (N.D. Ill. June 23, 1998).	Illinois	1998	The laid-off workers who were rehired after sale of company did not suffer an employment loss.
Joe v. First Bank Sys., Inc., 202 F.3d 1067 (8th Cir. 2000).	Nebraska	2000	The appeals court affirmed a lower court decision finding that one employee waived his WARN Act notice, and another, who did not sign the waiver, received a defective notice (no likely date of when the layoff will occur or the date of separation).
Johnson v. Telespectrum Worldwide, Inc., 29 Fed. Appx. 76, 2002 WL 54693 (3rd Cir. 2002) 145 Lab. Cas. (CCH) P 11228 (NO. 01-1985).	Delaware	2002	The court found that the plaintiffs failed to establish that at least 50 employees suffered an employment loss, noting that employees who quit voluntarily are not considered to have suffered an employment loss for meeting the threshold.
Johnson v. Telespectrum Worldwide, Inc., 61 F. Supp. 2d 116 (D. Del. 1999).	Delaware	1999	Court declined to decide the case without a trial, finding that issues of fact remained concerning whether the requisite number of layoffs occurred to trigger WARN notice requirements and whether an offer to transfer workers relieved the employer of the obligation to provide workers notice; case proceeded toward trial.

Case	State filed	Year	Outcome
Kelly v. Sabretech Inc., 106 F. Supp. 2d 1283 (S.D. Fla. 1999).	Florida	1999	Court held that back pay damages are to be based on work days, not calendar days.
Kildea v. Electro-Wire Prods., Inc., 144 F.3d 400 (6th Cir. 1998).	Michigan	1998	Laid-off employees who had a reasonable expectation of recall were "affected employees" entitled to notice when the plant announces a permanent shutdown. Employer was entitled to good faith defense where it interpreted the statute reasonably and otherwise complied with requirements.
Kildea v. Electro-Wire Prods., Inc., 60 F. Supp. 2d 710 (E.D. Mich. 1999).	Michigan	1999	Despite a finding of a violation of WARN by the circuit court, on remand, the district court reduced the amount of damages to zero based on a finding of good faith and did not award attorney's fees.
Kirby v. Cyprus AmaxMinerals Co., 203 F. 3d 835 (10th Cir. 2000)	New Mexico	2000	Plaintiffs sought relief for WARN violation from the successor company and not the companies that had terminated the employees without notice. Since the defendant was not the employer at the time, court found that the employer was not liable.
Local 1239, Int'l Bhd. of Boilermakers, Iron Shipbuilders, Blacksmiths, Forgers and Helpers v. Allsteel, Inc., 9 F. Supp. 2d 901 (N.D. Ill. 1998).	Illinois	1998	Following a finding of WARN Act violation, court concluded that employer was liable for back pay only for days worked during violation period. Alleged knowledge by employees that plant would close did not excuse employer from complying with WARN.
Local 1239, Int'l Bhd. of Boilermakers, Iron Shipbuilders, Blacksmiths, Forgers and Helpers v. Allsteel, Inc., No. 94 C 3552, 1998 WL 808981 (N.D. Ill. 1998).	Illinois	1998	Court found that where a layoff for which a WARN notice was provided was postponed, employees were entitled to additional notice referring back to the earlier notice.
Local 819, Int'l Bhd. of Teamsters v. Textile Deliveries, Inc., No. 99CIV. 1726 (JGK), 2000 WL 1357494 (S.D.N.Y. Sept. 20, 2000).	New York	2000	Court found that there was a genuine issue for trial as to whether employees, who were terminated and offered new employment, suffered a break in employment constituting an employment loss.
Local Joint Exec. Bd. of Culinary Bartender Trust Fund v. Las Vegas Sands, Inc., 7 Fed. Appx. 753, 2001 WL 366784 (9th Cir. 2001) (NO. 98-17065, 98-17322).	Nevada	2001	Back pay under WARN includes tips and holiday pay; this court reversed the lower court's denial of class certification as a "damages" class.
Local Union No. 1992, Int'l Bhd. of Elec. Workers v. Okonite Co., 189 F.3d 339 (3rd. Cir. 1999).	New Jersey	1999	Reversing the district court's decision, Appeals court held that plaintiffs' waiver of WARN notice may have been valid because of ambiguous provisions of a collective bargaining agreement. The district court had found that the plaintiffs' waivers in exchange for severance benefits were invalid for lack of consideration because they were entitled to those benefits under the agreement without signing the waiver. Case was remanded to district court for further proceedings.
Local Union No. 1992, Int'l Bhd. of Elec. Workers v. Okonite Co., 34 F. Supp. 2d 230 (D.N.J. 1998).	New Jersey	1998	The district court reduced the attorneys' fees awarded to a Union, which had brought a successful WARN action.

Case	State filed	Year	Outcome
Michigan Regional Council of Carpenters v. Holcroft L.L.C., 195 F. Supp. 2d 908 (E.D. Mich. 2002).	Michigan	2002	On motion for reconsideration, the court reversed an earlier decision that fewer than 50 employees suffered an employment loss, finding several questions of fact, such as whether certain laid off employees had a reasonable expectation of recall.
New England Health Care Emples. Union, District 1199 S.E.I.U. v. Fall River Nursing Home Inc., 14 I.E.R. Cas. (BNA) 400, 1998 WL 518188 (D. Mass 1998).	Massachusetts	1998	Court found that issues of fact were present concerning the applicability of the WARN Act's strike exemption; shutdown of a health care facility resulting from a strike notice would constitute a strike under WARN unless the notice were rescinded in a timely way. Case proceeded toward trial.
North Star Steel Co. v. Thomas, 515 U.S. 29 (1995).	Pennsylvania	1995	Supreme Court resolved a split in the circuits and held that in the absence of a statute of limitations in the WARN Act, federal courts should look to analogous state law, not federal law, to determine the time period for filing an action under WARN.
Oil, Chem. and Atomic Workers v. RMI Titanium, 199 F.3d 881 (6th Cir. 2000).	Ohio	2000	Three employees who were working on a special project and terminated could not be aggregated for purposes of meeting threshold number of layoffs in 90-day period, since they were laid off for separate and distinct reasons. No reduction in force occurred when temporarily laid-off employees were again laid off, but replaced by employees returning from voluntary layoff status, and thus not counted toward the threshold criteria.
Paper, Allied-Indus., Chem. & Energy Workers, Int'l Union et al. v. Sherman Lumber Co., 2000 U.S. Dist. LEXIS 10450 (D. Me. July 11, 2000).	Maine	2000	Magistrate recommendation that WARN claim be denied because employer had fewer than 100 employees during the 12-month period preceding the snapshot date (the date that notice was to be given).
Pearson v. Component Tech. Corp., 247 F.3d 471 (3d. Cir. 2001).	Pennsylvania	2001	Court affirmed lower court finding that that employer's creditor was not liable for employer's failure to provide notice using the test contained in regulations for determining the employer.
Pearson v. Component Tech. Corp., 80 F. Supp. 2d 510 (W.D. Pa. 1999).	Pennsylvania	1999	The creditor was not liable for employer's failure to provide notice.
Pena v. Crowley Am. Transp., Inc., 172 F. Supp. 2d 321 (D. P.R. 2001).	Puerto Rico	2001	Plaintiff raised multiple claims, including one WARN allegation. Court found that only 14 employees were laid off; therefore, the notice requirement was not triggered.
Ramos Pena v. New P.R. Marine Mgmt., Inc., 84 F. Supp. 2d 239 (D. P.R. 1999).	Puerto Rico	1999	Multiple count case, including WARN allegation; court found that layoffs did not occur at a single site (Ponce and San Juan); therefore, the threshold requirement was not met.
Reyes v. Greater Texas Finishing Corp., 19 F. Supp. 2d 709 (W.D. Tex. 1998).	Texas	1998	Court found that a factual issue remained about whether 50 employees suffered an employment loss. Thus, case could proceed toward trial.
Roquet v. Arthur Anderson, LLP, No. 02 C 2689, 2002 WL 1900768 (N.D. Ill. Aug. 16, 2002).	Illinois	2002	Court held that part-time employees can experience an employment loss and may bring suit against employer for failing to provide 60 day's notice of mass layoff.

Case	State filed	Year	Outcome
Snider v. Commer. Fin. Servs., Inc., 288 B.R. 890 (N.D. Okla. 2002).	Oklahoma	2002	Court held that employer did not establish unforeseen business circumstance defense for failing to provide timely notice, but that the notice given for the shortened time period contained the required information.
Teamsters Local 838 v. Laidlaw Transit, Inc., 156 F.3d 854 (8th Cir. 1998).	Montana	1998	Court held that seasonal employees did not suffer an employment loss because they were laid off every year at the time of plant closing and had sufficient notice that they would not be recalled.
Teamsters Nat'l Auto. Transporters Indus. Negotiating Comm. v. Hook Up, Inc., No. Civ. A. 7:02CV00035, 2002 WL 1066954 (W.D. Va. May 23, 2002).	Virginia	2002	Court dismissed plaintiff's claim for civil penalties ($500 per day, available only to local government).
United Auto., Aerospace & Agric. Implement Workers of Am. Local 157 v. OEM/Erie Westland, LLC, 203 F. Supp. 2d 825 (E.D. Mich. 2002).	Michigan	2002	Employer's motion for summary judgment was denied because court found issue of fact—whether company exercised the requisite degree of control over the plant's operations to qualify as a "single employer."
United Food and Commer. Workers Union Local 751 v. Brown Group, Inc., 517 U.S. 544 (1996).	Montana	1996	Unions have standing (legal authority) to sue on behalf of its members under WARN.
United Mine Workers of Am. Int'l Union v. Martinka Coal Co., C.A., #1:96-CV-156 (Filed Jan. 5, 1998) (N.D. W.Va.).[a]	West Virginia	1998	Court found that workers laid off in advance of plant closing were entitled to WARN notice.
United Mine Workers of Am. Int'l Union v. Martinka Coal Co., 45 F. Supp. 2d 521 (D. W.Va. 1999).	West Virginia	1999	The court found that the coal company had violated WARN with respect to 89 employees; the court addressed the issue of damages—overtime, benefits, and inactive employees.
United Mine Workers of Am. v. Martinka Coal Co., 202 F.3d 717 (4th Cir. 2000).	West Virginia	2000	The appeals court affirmed a lower court decision in favor of the plaintiffs: When an affected employee's layoff date is earlier than the date of the plant shutdown, the affected employee is entitled to notice of the closing 60 days before the date of that employee's layoff.
Watson et al. v. Michigan Indus. Holdings, et al., Civil No. 97-76034-DT (E.D. Mich. October 13, 2000).[a]	Michigan	2000	Court found that the unforeseeable business circumstances exception applied where the employer discontinued its operations due to unexpected failure of a customer to pay a bill.
Watson v. Michigan Indus. Holdings, Inc., 311 F.3d 760 (6th Cir. 2002).	Michigan	2002	Appeals court affirmed district court's decision in favor of defendant based on unforeseeable business circumstances exception.
Watts v. Marco Holdings, L.P., 13 I.E.R. Cas. (BNA) 1552, 1998 WL 211770 (N.D. Miss. 1998).	Mississippi	1998	Court found that the employer violated the WARN act, noting that unforeseen business circumstance exception could have reduced notice, but employer failed to give any notice and a brief statement of the basis for the reduction of the period. Court reduced liability by 50 percent based on good faith exception.
Wilson et al. v. Airtherm Prods., Inc., U.S. District Court #2:01-CV-00055-WRW, (unpublished opinion, September 10, 2001) (E.D. Ark. 2001).[a]	Arkansas	2001	Court found WARN Act violation where workers were not transferred after sale of company but had to submit application for new employment.

Source: Guild Law Center, Lexis, Westlaw.

Notes:

This table includes only WARN cases containing a detailed discussion of the WARN act provisions and does not include cases focused solely on procedural issues.

This table also includes the two cases decided by the U.S. Supreme Court which address the WARN Act, even though they were decided prior to 1998: *North Star Steel Co. v. Thomas*, 515 U.S. 29 (1995); *United Food and Commercial Workers Union Local 751 v. Brown Group, Inc.,* 517 U.S. 544 (1996).

[a]Most of the cases in this table are reported decisions or available through the Westlaw or Lexis legal databases; however, we have included some decisions that we became aware of through the Sugar Law Center Practitioner's Guide to Litigating the WARN Act.

Appendix IV: GAO Contacts and Staff Acknowledgments

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Related GAO Products

Workforce Investment Act: Issues Related to Allocation Formulas for Youth, Adults, and Dislocated Workers. GAO-03-636. Washington, D.C.: April 25, 2003.

Workforce Investment Act: Better Guidance and Revised Funding Formula Would Enhance Dislocated Worker Program. GAO-02-274. Washington, D.C.: February 11, 2002.

Trade Adjustment Assistance: Trends, Outcomes, and Management Issues in Dislocated Worker Programs. GAO-01-59. Washington, D.C.: October 13, 2000.

Dislocated Workers: Worker Adjustment and Retraining Notification Act Not Meeting Its Goals. GAO/HRD-93-18. Washington, D.C.: February 23, 1993.

Advance Notice: Public and Private Sector Policy and Practice. GAO/T-HRD-91-19. Washington, D.C.: April 18, 1991.

Dislocated Workers: Labor-Management Committees Enhance Reemployment Assistance. GAO/HRD-90-3. Washington, D.C.: November 21, 1989.

Plant Closings: Evaluation of Cost Estimate of Proposed Advance Notice Requirement. GAO/HRD-88-71. Washington, D.C.: March 3, 1988.

Plant Closings: Limited Advance Notice and Assistance Provided Dislocated Workers. GAO/HRD-87-105. Washington, D.C.: July 17, 1987.

Plant Closings: Information on Advance Notice and Assistance to Dislocated Workers. GAO/HRD-87-86BR. Washington, D.C.: April 17, 1987.

Dislocated Workers: Exemplary Local Projects Under the Job Training Partnership Act. GAO/HRD-87-70BR. Washington, D.C.: April 8, 1987.

Dislocated Workers: Local Programs and Outcomes Under the Job Training Partnership Act. GAO/HRD-87-41. Washington, D.C.: March 5, 1987.

Dislocated Workers: Extent of Business Closures, Layoffs, and the Public and Private Response. GAO/HRD-86-11BR. Washington, D.C.: July 1, 1986.

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