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11
12 **UNITED STATES DISTRICT COURT**
13 **CENTRAL DISTRICT OF CALIFORNIA**
14 **WESTERN DIVISION**

15 RONALD ROSS,

16 Plaintiff,

17 v.

18 FOOD MANAGEMENT PARTNERS,
19 INC.; and CATALINA
20 RESTAURANT GROUP, INC.,

21 Defendants.

Case No. 15-cv-2626

COMPLAINT FOR DAMAGES FOR
VIOLATION OF THE WORKER
ADJUSTMENT AND RETRAINING
NOTIFICATION ACT (29 U.S.C. §§ 2101
et seq.; Cal. Labor Code §§ 1400 *et seq.*)

DEMAND FOR JURY TRIAL

CLASS ACTION

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CLASS ACTION COMPLAINT

1 Plaintiff Ronald Ross, individually and on behalf of a class of all others similarly
2 situated, for his Complaint against Defendants Food Management Partners, Inc. and
3 Catalina Restaurant Group, Inc. states as follows:

4 **JURISDICTION AND VENUE**

5 1. This Court's jurisdiction is based on 28 U.S.C. § 1331, 29 U.S.C. §§ 2102,
6 2104(a)(5), and California Labor Code § 1404 of the Worker Adjustment and Retraining
7 Notification Act (the United States and California Worker Adjustment and Retraining
8 Notification Acts are referred to herein collectively as the "WARN Act" unless otherwise
9 stated) (29 U.S.C. §§ 2101, *et seq.*; California Labor Code §§ 1400, *et seq.*).

10 2. Venue in this district is proper under 28 U.S.C. § 1391(b) and (c), and
11 section 5(a)(5) of the WARN Act (29 U.S.C. § 2104(a)(5)) because Defendants do
12 business in this district, employed Plaintiff and many other individuals in this district, and
13 the acts underlying the WARN Act claims occurred in this district.

14 **PARTIES**

15 3. Plaintiff Ronald Ross was a full-time employee of Defendants who, in
16 addition to other substantial employee benefits, earned regular compensation and was
17 damaged by Defendants' acts in violation of the WARN Act.

18 4. Defendant Catalina Restaurant Group Inc. ("Catalina") is a Delaware
19 Corporation that is registered to do business in California and has its principal place of
20 business in California. Catalina operates the Coco's Bakery and Carrows chains of
21 restaurants.

22 5. Defendant Food Management Partners, Inc. ("FMP") is a Texas Corporation
23 with its principal place of business in Hollywood Park, Texas that recently purchased
24 Catalina.

25 6. The Defendants are a single employer in that, based on information and
26 belief, they share common ownership, corporate directors, and officers, and FMP has de
27 facto control over Catalina. Defendants have fully integrated and interdependent
28 business operations and share personnel policies that emanate from a common source.

1 **FACTS**

2 7. Until recently, Catalina Restaurant Group, Inc. operated nearly 150 Coco's
3 Bakery and Carrows Restaurants, primarily in California, Nevada, and Arizona.

4 8. On March 31, 2015, Defendant FMP acquired Catalina from Catalina's
5 previous owner, Zensho America Corporation.

6 9. On April 1, 2015, FMP closed approximately 75 of Catalina's Coco's
7 Bakery and Carrows Restaurants. Many employees showed up to work only to find a
8 sign on the door announcing that the restaurant had closed.

9 10. On April 3, 2015, Defendants terminated the restaurant employees and
10 nearly all of the 100 employees who worked at Catalina's corporate headquarters.

11 11. The terminated employees were not given advance notice that they would be
12 terminated, were offered no severance pay, and those whose compensation included
13 medical insurance benefits were told that their coverage would be cut off after one week.

14 12. Plaintiff Ronald Ross is one of those employees who were abruptly
15 terminated. Mr. Ross worked at Coco's and Carrows Restaurants for almost 25 years.
16 For the past several years, he has worked as a team leader. He primarily worked at the
17 Coco's restaurants in Torrance and Compton, California, and the Carrows restaurant in
18 Gardena, California.

19 13. It was not unusual for employees to be scheduled to work at multiple Coco's
20 and/or Carrows restaurants in the same pay period. Mr. Ross and similar employees were
21 paid by Catalina, and received one paycheck, regardless of the restaurants at which they
22 worked.

23 14. In addition to sharing employees and coordinating their employees'
24 schedules, Catalina restaurants freely shared inventory. They also relied on a shared set
25 of back office computer systems, including systems for ordering food and supplies,
26 managing payroll and timekeeping, processing credit card transactions, tracking cash
27 receipts, and financial reporting.

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1 15. For at least the past 6 months, Mr. Ross has worked more than 20 hours per
2 week at Catalina's Torrance, California restaurant.

3 16. On the morning of April 1, 2015, Mr. Ross was scheduled to work at the
4 Torrance, California location that day and the Compton, California location the next day.
5 Before he left for work, Mr. Ross received a telephone call from his supervisor. Mr.
6 Ross's supervisor told him not to come to work at either location on April 1 or 2 because
7 the restaurants were "taking inventory." Instead, he was told to come to the Torrance
8 restaurant on Friday, April 3 to attend a meeting.

9 17. At the April 3, 2015 meeting, Mr. Ross was told that he and all of his co-
10 workers were being terminated, effective immediately, and that the Torrance and
11 Compton locations were shutting down.

12 18. Mr. Ross was not given any advance notice of his termination.

13 19. At least 50 full-time employees were terminated at the Torrance, California
14 restaurant on or about April 3, 2015, or within a 30-day period of that date.

15 20. Alternatively, at least 50 full-time employees were terminated at the
16 Torrance, California restaurant within a 90-day period of April 3, 2015, and these
17 terminations were not the result of separate and distinct actions and causes.

18 21. On or about April 3, 2015, Defendants terminated approximately 3,000
19 other, similarly situated persons, without providing the notices required by the WARN
20 Act.

21 **CLASS ACTION ALLEGATIONS**

22 22. Plaintiff brings this action as a class action under Federal Rule of Civil
23 Procedure 23(a), (b)(1) and (3) and the WARN Act (29 U.S.C. § 2104(a)(5); Cal. Labor
24 Code § 1404).

25 23. Plaintiff brings this action on behalf of himself and all other similarly
26 situated employees. Plaintiff seeks to represent a Class initially defined as: "All of
27 Defendants' employees that were terminated from employment on or within 30 days of
28

1 April 3, 2015 without being provided 60 days written notice of a plant closing and/or
2 mass layoff before the date of their termination.”

3 24. Plaintiff further seeks to represent a subclass initially defined as: “All of
4 Defendants’ employees in California who were terminated from employment on or
5 within 30 days of April 3, 2015 without being provided 60 days written notice of a
6 termination and/or mass layoff before the date of their termination.”

7 25. Plaintiff and class members are “affected employee(s)” subject to an
8 “employment loss,” as those terms are defined in the WARN Act, 29 U.S.C. § 2101(a)(5)
9 and (6).

10 26. Plaintiff and class members were subjected to one or more “plant closings”
11 and/or “mass layoffs” as those terms are defined in the federal WARN Act, 29 U.S.C.
12 § 2101.

13 27. Plaintiff and the sub-class members are “employees” at a “covered
14 establishment” subject to a “mass layoff” and/or “termination” as those terms are defined
15 in the California WARN Act, California Labor Code § 1400(h), (a), (d) and (f),
16 respectively.

17 28. Plaintiff’s claims satisfy the numerosity, commonality, typicality, adequacy
18 and superiority requirements of a class action.

19 29. The members of the class and the sub-class each exceed 100 in number, and
20 joinder is therefore impracticable. The precise number of class members and their
21 addresses are readily determinable from the books and records of Defendants.

22 30. There are common questions of fact and law as to the class that predominate
23 over any questions affecting only individual class members. The questions of law and
24 fact common to the class arising from Defendants’ actions include, without limitation, the
25 following:

- 26 a. whether the provisions of the WARN Act apply;
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- 1 b. whether Defendants’ employee terminations on or about April 3,
- 2 2015, or within 30 days of that date, constitute “plant closings”
- 3 “terminations” and/or “mass layoffs” under the WARN Act;
- 4 c. whether Defendants failed to provide the notices required by the
- 5 WARN Act (29 U.S.C. § 2102(b); Cal. Labor Code § 1401);
- 6 d. whether Defendants can avail themselves of any of the provisions of
- 7 the WARN Act that permit shorter notice periods;
- 8 e. the appropriate formulae to measure damages under the WARN Act
- 9 (29 U.S.C. § 2104(a); Cal. Labor Code § 1402); and
- 10 f. the appropriate definitions and formulae to measure payments to
- 11 potentially offset damages under the WARN Act (29 U.S.C.
- 12 § 2104(a)(2); Cal. Labor Code § 1402).

13 31. The questions set forth above predominate over any questions affecting only
14 individual persons, and a class action is superior with respect to considerations of
15 consistency, economy, efficiency, fairness and equity, to other available methods for the
16 fair and efficient adjudication of the WARN Act claims.

17 32. A class action is the superior method for the fair and efficient adjudication of
18 this controversy. Defendants have acted or refused to act on grounds generally applicable
19 to the class. The presentation of separate actions by individual class members could
20 create a risk of inconsistent and varying adjudications, establish incompatible standards
21 of conduct for Defendants, and/or substantially impair or impede the ability of class
22 members to protect their interests.

23 33. Plaintiff is an affected employee who was terminated by Defendants on or
24 about April 3, 2015, without the notice required by the WARN Act. He is thereby a
25 member of the class. Plaintiff is committed to pursuing this action and has retained
26 counsel with extensive experience prosecuting complex wage, employment, and class
27 action litigation. Accordingly, Plaintiff is an adequate representative of the class and has
28 the same interests as all of its members. Further, Plaintiff’s claims are typical of the

1 claims of all members of the class, and Plaintiff will fairly and adequately protect the
2 interests of the absent members of the class.

3 34. Further, class action treatment of this action is authorized and appropriate
4 under the WARN Act (29 U.S.C. § 2104(a)(5); Cal. Labor Code § 1404), which clearly
5 provides that a plaintiff seeking to enforce liabilities under the WARN Act may sue either
6 on behalf of his or her self, for other persons similarly situated, or both.

7 **CLAIM I**

8 **Violations of the United States Worker Adjustment and Retraining Notification Act**

9 35. Plaintiff reasserts and re-alleges the allegations set forth above.

10 36. At all times material herein, Plaintiff, and similarly situated persons, have
11 been entitled to the rights, protections, and benefits provided under the federal WARN
12 Act, 29 U.S.C. §§ 2101, *et seq.*

13 37. The federal WARN Act regulates the amount of notice an employer must
14 provide to employees who will be terminated due to the employer's closing of a plant or
15 mass layoffs, as well as the back pay and other associated benefits an affected employee
16 is due based on a violation of the required notice period.

17 38. Defendants were, and are, subject to the notice and back pay requirements of
18 the federal WARN Act because it is a business enterprise that employs 100 or more
19 employees, excluding part-time employees, as defined in the Act, 29 U.S.C. § 2101(1)(A).

20 39. Defendants willfully violated the federal WARN Act by failing to provide
21 the required notice.

22 40. Section 2103 of the federal WARN Act exempts certain employers from the
23 notice requirements of the Act. 29 U.S.C. § 2103(1)-(2). None of the federal WARN Act
24 exemptions apply to Defendants. Accordingly, Plaintiff and class members must receive
25 the notice and back pay required by the federal WARN Act (29 U.S.C. §§ 2102 and
26 2104).

27 41. Plaintiff and class members have been damaged by Defendants' conduct
28 constituting violations of the federal WARN Act and are entitled to damages for their

1 back pay and associated benefits for each day of the violation because Defendants have
2 not acted in good faith nor with reasonable grounds to believe its acts and omissions were
3 not a violation of the federal WARN Act.

4 **CLAIM II**

5 **Violations of the California Worker Adjustment and Retraining Notification Act**

6 42. Plaintiff reasserts and re-alleges the allegations set forth above.

7 43. At all times material herein, Plaintiff, and similarly situated persons, have
8 been entitled to the rights, protections, and benefits provided under the California WARN
9 Act, California Labor Code §§ 1400, *et seq.*

10 44. The California WARN Act regulates the amount of notice an employer must
11 provide to employees who will be terminated due to the employer's layoffs, as well as the
12 back pay and other associated benefits an affected employee is due based on a violation
13 of the required notice period.

14 45. Defendants were, and are, subject to the notice and back pay requirements of
15 the California WARN Act because it is a covered establishment that employs 75 or more
16 employees, excluding part-time employees, as defined in the Act. Cal. Labor Code
17 § 1400.

18 46. Defendants willfully violated the California WARN Act by failing to
19 provide the required notice.

20 47. The California WARN Act exempts certain employers from the notice
21 requirements of the Act. None of the California WARN Act exemptions apply to
22 Defendants. Accordingly, Plaintiff and class members must receive the notice and back
23 pay required by the California WARN Act.

24 48. Plaintiff and all similarly situated employees have been damaged by
25 Defendants' conduct constituting violations of the California WARN Act and are entitled
26 to damages for their back pay and associated benefits for each day of the violation
27 because Defendants have not acted in good faith nor with reasonable grounds to believe
28 its acts and omissions were not a violation of the California WARN Act.

1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiff, and all similarly situated employees, demand judgment
3 against Defendants and pray for:

- 4 (1) an order certifying that the action may be maintained as a class action
5 under Federal Rule of Civil Procedure 23;
6 (2) designation of Ronald Ross as the representative of the class, and
7 counsel of record as Class Counsel;
8 (3) compensatory damages in an amount equal to at least the amounts
9 provided by the WARN Act (29 U.S.C. § 2104(a); Cal. Labor Code
10 § 1402(a));
11 (4) reasonable attorneys' fees, costs and disbursements as allowed by the
12 WARN Act (20 U.S.C. § 2104(1)(6); Cal. Labor Code § 1404); and
13 (5) such other relief as the Court deems fair and equitable.

14 **DEMAND FOR JURY TRIAL**

15 Plaintiff hereby requests trial by jury of all issues triable by jury.

16 DATED: April 8, 2015

Respectfully submitted,

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