

**From:** Stephen Hanson <[REDACTED]>  
**To:** Jeffrey / E / Epstein <jeevacation@gmail.com>  
**Subject:** Fwd: [EXT] Re: New York WARN Act  
**Date:** Fri, 11 May 2018 22:06:12 +0000

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FYI

Sent from my iPad

Begin forwarded message:

**From:** "Grindlinger, Glenn S." <[REDACTED]>  
**Date:** May 11, 2018 at 1:06:48 PM EDT  
**To:** Stephen Hanson <[REDACTED]>  
**Cc:** "Richmond, Carolyn D." <[REDACTED]>  
**Subject:** RE: [EXT] Re: New York WARN Act

Correct. Almost all of the Restaurant employees had been employed for less than 6 months. I think there might have been 5-6 (at most) that were employed for more than 6 months. Because only 5-6 full-time employees (i.e., those that were employed for more than 6 months) were being laid off, the New York WARN Act did not apply.

**Glenn Grindlinger**  
Partner  
**Fox Rothschild LLP**

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

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**From:** Stephen Hanson [mailto:[REDACTED]]  
**Sent:** Friday, May 11, 2018 12:56 PM  
**To:** Grindlinger, Glenn S. <[REDACTED]>  
**Cc:** Richmond, Carolyn D. <[REDACTED]>; Shanson900 <[REDACTED]>  
**Subject:** Re: [EXT] Re: New York WARN Act

But I came in under the under 6 months of employment rule  
Correct  
Sent from my iPad

On May 11, 2018, at 11:22 AM, Grindlinger, Glenn S. <[REDACTED]> wrote:

It depends on whether we are talking about a plant closing or a mass layoff. If you are closing a restaurant within a hotel, it is more likely that the closure of the restaurant would be deemed a plant closing rather than a mass layoff especially if the restaurant is its own LLC and employees at the hotel and restaurant do not cross-over (i.e., restaurant workers do not work in hotel jobs and hotel workers do not work in the restaurant).

Regardless of whether it is a plant closing or mass layoff, if you have 44 full-time employees working at the restaurant and you lay off less than 25 of them, finding jobs (or continuing operations) for the others, then you do not need to issue WARN notices. However, if you lay off 25 or more employees, then you would need to provide WARN notices.

The 250 total employee number comes into play when, for example, you have 1,000 full-time employees working at a facility and you lay off 300 employees and continue operations using the remaining 700. In such an event, only 30% of the workforce would be laid off, which is less than 33% of the employees. However, because more than 250 employees are being laid off, the employer would still need to issue WARN notices even though the 33% threshold is not met.

**Glenn Grindlinger**  
Partner  
**Fox Rothschild LLP**

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**From:** Stephen Hanson [mailto: ]  
**Sent:** Friday, May 11, 2018 11:10 AM  
**To:** Grindlinger, Glenn S. < >  
**Cc:** Richmond, Carolyn D. < >; Shanson900 < >  
**Subject:** [EXT] Re: New York WARN Act

So if I had 44 total employees. Closed shop and laid off 25 people does it mean that the 25 had to be at least 33% of the total employees as 25 of 44 is almost - 50%

So I could have had a problem if 25 were in fact laid off

This correct

But what is the —or at least 250 total employee — last line ?

Sent from my iPad

On May 11, 2018, at 10:11 AM, Grindlinger, Glenn S. < > wrote:

Steve:

Pursuant to your voicemail that you left for Carolyn last night, attached please find copies of the New York WARN Act along with the regulations/rules thereto promulgated by the New York Department of Labor.

Generally, under the New York WARN Act, an “employer,” defined as any enterprise that employs 50 or more employees within New York (excluding part-time employees), must provide **90 days** of advance notice (as opposed to 60 days under federal law) prior to ordering a mass layoff, plant closing, relocation, or a covered reduction in work hours. These are defined below:

- “Mass layoff” - defined as a reduction-in-force of at least 25 full-time employees and 33% of the workforce, or at least 250 employees, during any 30-day period at a single site of employment;
- “Plant closing” - defined as the permanent or temporary shutdown of a single site of employment, if the shutdown results in an employment loss for 25 or more full-time employees in a 30-day period;
- “Relocation” - defined as the removal of all or substantially all of the operations of an employer to a different location 50 miles or more away; and
- “Reduction in Work Hours” – defined as a reduction in hours of work of more than 50% during each month of any consecutive 6-month period that impact at least 25 employee provided those affected employees constitute at least 33% of the workforce at the site of employment or impacts at least 250 employees at the site of employment.

In determining whether the above thresholds are met, the employer can exclude part-time employees. Part time employees are those employees who average less than 20 hours per week over the past year or who have been employed for less than 6 months regardless of the amount of hours they average during employment. In deciding whether notice is required, an employer must look ahead ninety (90) days and behind ninety (90) days to determine whether employment losses, when aggregated together, reach the minimum levels necessary to trigger notice requirements.

Further, in determining whether the employer satisfies the 50-employee threshold, the New York WARN Act reviews the business enterprise as a whole and not just the specific entity that pays the employees at the affected establishment or company (i.e., LLC).

Let me know if you need additional information.

Regards,

**Glenn Grindlinger**

Partner

**Fox Rothschild LLP**

[Redacted signature block]

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<WARN%20law%20%20chapter%20475-C2.pdf>

<Text\_of\_New\_York\_State\_WARN\_Rule\_7-10.pdf>

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