

IN THE UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF MISSISSIPPI  
ABERDEEN DIVISION

In re:

UNITED FURNITURE INDUSTRIES,  
INC., aka United Furniture, aka Lane Furniture

Debtor

BECKY TACKETT, HEATHER HUTCHINS,  
REBECCA GRANT, ANTHONY SHATTUCK,  
JAMES PUGH, RYAN WEDEL, JUAN REYES,  
KALVIN HOGAN, JENNIFER WILSON, CASIA  
CORDOVA, JESSICA STACY, ISSAEL RANGEL,  
individually and on behalf of all others similarly  
situated,

Plaintiffs,

v.

UNITED FURNITURE INDUSTRIES,  
INC., aka United Furniture, aka Lane Furniture

Defendant.

Chapter 11

Bankr. Case No. 22-13422-SDM

Adv. Proc. No. \_\_\_\_\_

CLASS ACTION ADVERSARY COMPLAINT FOR (1) VIOLATION OF  
FEDERAL WARN ACT 29 U.S.C. § 2101, *ET SEQ.*, (2) BREACH OF CONTRACT, (3)  
UNJUST ENRICHMENT, (4) DECLARATORY RELIEF, (5) VIOLATION OF  
CALIFORNIA LABOR CODE §1400 *ET. SEQ.*, (6) VIOLATION OF CALIFORNIA  
LABOR CODE § 201 *ET. SEQ.* and (7) VIOLATION OF  
NORTH CAROLINA WAGE AND HOUR ACT §§ 95-25.1 *ET SEQ.*

COME NOW Plaintiffs Becky Tackett, Heather Hutchins, Rebecca Grant, Anthony Shattuck, James Pugh, Ryan Wedel, Juan Reyes, Kalvin Hogan, Jennifer Wilson, Casia Cordova, Jessica Stacy, Issael Rangel, individually and on own behalf of all others similarly situated, by and through their undersigned attorneys, and file this Class Action Adversary Complaint against Defendant United

Furniture Industries, Inc. (hereinafter sometimes referred to as “United” or “Debtor”) for its violation of the federal Worker Adjustment and Retraining Notification Act, 29 U.S.C. § 2101 et seq. (the “WARN Act”), breach of contract, unjust enrichment, declaratory relief, and violations of various state laws in North Carolina and California.

### **PARTIES**

1. Plaintiffs Becky Tackett, Heather Hutchins, Rebecca Grant and Anthony Shattuck are adult residents of Mississippi, and were employees of Defendants until terminated via text message on November 21, 2022.
2. Plaintiffs James Pugh, Ryan Wedel, and Juan Reyes are adult residents of California and were employees of Defendants until terminated via text message on November 21, 2022.
3. Plaintiffs Kalvin Hogan, Jennifer Wilson, Casia Cordova, Jessica Stacy and Issael Rangel are adult residents of North Carolina and were employees of Defendants until terminated via text message on November 21, 2022.
4. Plaintiffs bring this lawsuit as a Rule 23 Class Action on behalf of all affected employees who were employed by United and were terminated with no advance notice in connection with United’s mass layoffs across the United States.
5. Plaintiffs further bring claims of unjust enrichment and breach of contract.
6. Defendant United Furniture Industries, Inc. is an Ohio corporation, headquartered in Tupelo, Mississippi.

### **JURISDICTION AND VENUE**

7. This Court has jurisdiction over this adversary proceeding pursuant to 28 U.S.C. §§ 157, 1331, 1334 and 1367.
8. This is a core proceeding pursuant to 28 U.S.C. §§ 157(b)(2)(A), (B) and (O).
9. This Honorable Court has personal jurisdiction over this matter because United is headquartered in this District and conducts substantial business operations in this District.

**FACTUAL ALLEGATIONS**

10. United is a furniture manufacturer that employed thousands of people across the United States.
11. At or about 10:56 p.m. CST on November 21, 2022, United notified Plaintiffs and all the class members, via text message, that it was terminating all of its employees effective immediately.
12. In its communication, United specified that the terminations were expected to be permanent, and all benefits would be terminated without provision of COBRA.
13. Except for over-the-road drivers, all employees were instructed not to return to work.
14. Plaintiffs, like thousands of other United employees, received an email on November 21, 2022, stating that she was being laid off, effective November 21, 2022.
15. United did not give sixty (60) days advance written notice (or any advance notice at all) to its employees, as required by the federal WARN Act.
16. At all relevant times, UFI employed 100 or more employees, exclusive of part-time employees, (i.e., those employees who had worked few than 6 of the 12 months prior to the date notice was required to be given or who had worked fewer than an average of 20 hours per week during the ninety (90) day period prior to the date notice was required to be given), or employed 100 or more employees who in the aggregate worked at least 4,000 hours per week exclusive of hours of overtime within the United States.
17. These terminations resulted in the loss of employment for more than 2,700 employees.

**CLASS ACTION ALLEGATIONS**

18. Plaintiff brings this action as a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure on behalf of the following Class:

**Nationwide Class**

All persons who were employed by and laid off by United Furniture Industries, Inc. on November 21, 2022.

19. Numerosity – Fed R. Civ. P. 23(a)(1). The Class contains more than 2000 individuals, the joinder of which in one action would be impracticable. The exact number or identification of the Class Members is presently unknown. This identity and number of the Class Members is ascertainable and can be determined from the Defendant's records.
20. Predominance of Common Questions - Fed R. Civ. P. 23(b)(3). The questions of law and fact common to the Class predominate over questions affecting only individual Class Members, and include, but are not limited to:
  - a. Whether the Class Members were employees of the Defendant;
  - b. Whether Defendant gave the requisite 60 days' advanced written notice;
  - c. Whether Defendant can avail itself of any affirmative defenses;
  - d. Whether the proposed class has enough members for this class action to proceed;
  - e. Whether Defendant paid the Class Members 60 days' wages and benefits as required by the WARN Act.
21. Defendant engaged in a common course of conduct giving rise to the legal rights sought to be enforced by Plaintiff individually and on behalf of the other members of the Class. Individual questions, if any, are not prevalent in comparison to the common questions that dominate this action.
22. Typicality – Fed R. Civ. P. 23(a)(3). Plaintiff's claims are typical of those of the members of the Class in that they are based on the same underlying facts, events, and circumstances relating to Defendant's conduct.
23. Adequacy – Fed R. Civ. P. 23(a)(4); 23(g)(1). Plaintiff will fairly and adequately represent and protect the interests of the Class, has no interest incompatible with the interests of the Class, and have retained counsel competent and experienced in such class action litigation.
24. Superiority – Fed. R. Civ. P. 23(b)(3). This case is best suited as a class action because individual litigation of each Class Members' claims would be impracticable and unduly

burdensome on the courts. Because of the size of each individual Class Members' claim, no Class Member could afford to seek legal redress for the wrongs identified in the Complaint. A class action in this case presents fewer management problems and provides the benefits of single adjudication, economies of scale, and comprehensive supervision by a single court.

**COUNT I -VIOLATION OF FEDERAL WARN ACT**

25. Plaintiffs, by this reference, adopts and re-asserts all allegations, averments, and statements of fact contained in the preceding paragraphs of this Complaint.
26. Plaintiffs and other affected employees who have worked for United are entitled to the rights, protections, and benefits provided under the federal WARN Act, 29 U.S.C. § 2101 et. seq. 24.
27. Defendant is subject to the notice and back pay requirements of the federal WARN Act because United is a business enterprise that employed 100 or more employees, excluding part-time employees, and/or, employed 100 or more employees who in the aggregate work at least 4,000 hours per week (exclusive of overtime), as defined in the WARN Act. 29 U.S.C. §§ 2101(1)(A) and(B).
28. Defendant engaged in conducting mass layoffs but has not provided affected employees with the required notice under the federal WARN Act.

**COUNT II – BREACH OF CONTRACT (as to the Mississippi Class)**

29. Plaintiffs incorporate by reference all the allegations set forth above as if set forth fully herein.
30. Defendant entered into a contract with Plaintiffs and class members based on company policy, practice, or an employment contract.
31. Pursuant to this contract, Defendant agreed to pay Plaintiffs and class members wages owed for their final week of work and accrued paid time off (PTO), including unused vacation pay in consideration for Plaintiffs and class members' time and labor.

32. Defendant failed to perform under the contract by its failure to pay wages owed for Plaintiffs and class members' final week of work and accrued paid time off (PTO), including unused vacation pay.
33. Upon their terminations, Plaintiffs and class members were entitled to payment of unused vacation pay and their final week of wages from Defendant, none of which has been paid.
34. As a result of Defendant's breach, Plaintiffs seek to recover unpaid wages and accrued paid time off as owed to each individually and all similarly situated employees entitled to such wages and benefits, under the laws of the respective states in which they worked prior to their termination on or about November 21, 2022.

**COUNT III -UNJUST ENRICHMENT (as to the Mississippi Class)**

35. Plaintiffs incorporate by reference the allegations set forth above as if set forth fully herein.
36. Plaintiffs and class members worked for Defendant in exchange for wages and accrued paid time off (PTO).
37. Defendant failed to pay Plaintiffs and class members their final week of wages and for accrued paid time off (PTO).
38. Defendant was unjustly enriched to Plaintiffs and class members' detriment as Defendant benefitted directly from Plaintiffs and class members' time and labor.

**COUNT IV -DECLARATORY JUDGMENT ACT, 28 U.S.C. §§ 2201-02**

39. Plaintiffs incorporate by reference all the allegations set forth above as if set forth fully herein.
40. An actual controversy of sufficient immediacy exists between the parties as to the concern by Plaintiffs that United should be prohibited from circumventing the requirements of the WARN Act by conducting mass layoffs without providing the required notice and by soliciting the employees it is laying off to sign separation agreements that release their claims under the WARN Act, without first informing them of this lawsuit or their rights under those statutes.

Plaintiffs seeks a declaratory judgment and an injunction prohibiting United from engaging in such conduct.

**COUNT V -VIOLATION OF CALIFORNIA LABOR CODE § 1401 (as to the California Class)**

41. Plaintiffs incorporate by reference all the allegations set forth above as if set forth fully herein.
42. Plaintiffs bring the Claim for Relief for violation of Labor Code § 1401 on behalf of themselves and a class of similarly situated persons pursuant to Lab. Code § 1404 and Federal Rules of Civil Procedure 23(a) and (b), who worked at, reported to, or received assignments from the Facilities and were terminated without cause on or about November 21, 2022 and within 30 days of that date (the “CAL-WARN Class”).
43. Defendant was an “employer” pursuant to Lab. Code § 1400(b).
44. Defendant violated CAL-WARN by terminating Plaintiffs’ employment and the employment of other similarly situated employees pursuant to a “mass layoff,” “relocation” or “termination” as defined in Lab. Code § 1400 on or about November 21, 2022 or thereafter, without giving written notice at least 60 days before the order took effect to: (1) the employees affected by the order and (2) the Employment Development Department, the local workforce investment board, and the chief elected official of each city and county government within which the mass layoff, relocation or termination occurred. The “mass layoff,” “relocation” or “termination” was not necessitated by a physical calamity or act of war.
45. As a result of Defendant’s violation of Lab. Code § 1401, Plaintiffs and the other similarly situated employees are entitled to 60 days of back pay under Lab. Code § 1402(a-b).
46. Plaintiffs have incurred attorneys’ fees in prosecuting this action and is entitled to an award of attorneys’ fees under Cal. Lab. Code § 1404.

**COUNT VI -VIOLATION OF CALIFORNIA LABOR CODE § 201 ET. SEQ. (as to the California Class)**

47. Plaintiffs reallege and incorporates by reference all allegations in all proceeding paragraphs.

48. Plaintiffs seek to recover under California state laws for Defendant's failure to pay wages owed for their final week of work, unused paid time off, and to issue a final paystub, and waiting time penalties, for themselves and the other similarly situated employees who worked in California. 70. Pursuant to Cal. Lab. Code §§ 201 and 227.3, upon the discharge of Plaintiffs and the other similarly situated former employees on November 21, 2022, their earned and unpaid wages, including unused vacation pay, became due and payable immediately.
49. In violation of Cal. Lab. Code § 203, Defendant failed to issue to Plaintiffs and the other similarly situated former employees their final paychecks, in full and itemized statements, upon discharging them from their employment on November 21, 2022.
50. Defendant, as an employer that willfully failed to pay in accordance with Cal. Lab. Code § 201 and 227.3, is liable to Plaintiffs and the other similarly situated former employees waiting time penalties of up to 30 days' wages. Defendant's failure to pay accrued vacation wages upon termination was willful.
51. Defendant's failure to pay accrued vacation wages upon termination represents a violation of Labor Code sections 201 and 227.3 (and IWC Wage Order 8) and as such those wages continue as a penalty under Labor Code § 203.
52. Upon information and belief, Defendant exercised control over the workers' wages (including the decision over whether to pay out the vacation wages upon termination), hours, or working conditions, (b) suffered and permitted them to work, and/or (c) engaged them, thereby creating a common law employment relationship.
53. Plaintiffs will seek to certify a subclass of these similarly situated individuals to the extent necessary.

**COUNT VII -VIOLATION OF CALIFORNIA WAGE LAW: §§ 95-25.1 ET SEQ.  
AND OF OTHER STATE LAWS (as to the California Class)**

54. Plaintiffs reallege and incorporates by reference all allegations in all proceeding paragraphs.

55. Under N.C. Gen. Stat. § 95-25.1 et seq. the North Carolina Wage and Hour Act (“NCWHA”), an employer must pay final wages to discharged employees through the regular payroll method used by the employer, unless the employee(s) makes a written request for a live check to be sent by trackable mail.
56. Under the NCWHA, employees whose employment is discontinued for any reason must be paid all wages due on or before the next regular payday.
57. Plaintiffs who worked in Defendant’s Facilities in North Carolina and were terminated on November 21, 2022, were to be paid all wages due on November 25, 2022 but were not.
58. Under the NCWHA, “wage benefits” are benefits such as, but not limited to,
59. vacation pay (including PTO and PDO leave), sick leave, jury duty pay, and holiday pay.
60. Plaintiffs who worked in Defendant’s Facilities in North Carolina were promised vacation pay by Defendants prior to the terminations, pursuant to company policy, practice, or an employment contract.
61. Upon their terminations, Plaintiffs who worked in Defendant’s Facilities in North Carolina, were entitled to payment of unused vacation from Defendants, none of which has been paid.
62. Due to Defendant’s violation of N.C. Gen. Stat. § 95-25.1 et seq., Defendants are liable for civil penalty of up to two hundred fifty dollars (\$250.00) per employee with the maximum not to exceed two thousand dollars (\$2,000) per *violation*.
63. Plaintiffs seek to recover unpaid wages and accrued paid time off for all similarly situated employees entitled to such wages and benefits, under the laws of the respective states in which they worked prior to their termination on or about November 21, 2022.

**JURY DEMAND**

64. Plaintiffs request a trial by jury on these claims.

**PRAYER OF RELIEF**

WHEREFORE PREMISES CONSIDERED, Plaintiffs respectfully pray that this Honorable Court grant the following relief:

- a. Declare and find that Defendant violated the WARN Act, 29 U.S.C. § 2101 *et seq.*;
- b. Certify a class action and appoint Plaintiffs and their counsel to represent a class of United employees under Count I who have worked for Defendant anywhere in the United States and were laid off without required notice, in conjunction with the mass layoff described herein;
- c. Enter declaratory relief and an injunction under Count II enjoining United from violating the WARN Act and from seeking releases of claims under the WARN Act without informing employees of the pendency of this lawsuit and their rights under those statutes;
- d. An allowed claim against the Defendant in favor of Plaintiffs and Class members equal to the sum of: (a) unpaid wages, salary, commissions, bonuses, accrued holiday pay, accrued vacation pay, pension and 401(k) contributions and other ERISA benefits, for 60 days, that would have been covered and paid under the then applicable employee benefit plans had that coverage; continued for that period, all determined in accordance with the WARN Act, 29 U.S.C. § 2104 (a)(1)(A) and the California Lab. Code § 1402, with the first \$15,150.00 of each Class member's allowed WARN Act claim against the Defendant entitled to wage priority claim status under 11 U.S.C. § 507(a)(4) and (5), and any remainder as a general unsecured claim;
- e. A judgment in favor of Plaintiffs and each similarly situated employee whose rights under Cal. Lab. Code §§ 201 and 227.3, for wages owed, including unused vacation, and waiting time penalties;
- f. A judgment in favor of all similarly-situated employees for any unpaid wages and accrued vacation or paid time off benefits, under the laws of the respective states in which they worked prior to their termination on or about November 21, 2022;

- g. An allowed administrative priority claim against Defendant under 11 U.S.C. § 503 for the reasonable attorneys' fees and the costs and disbursements that Plaintiffs incur in prosecuting this action, as authorized by the WARN Act, 29 U.S.C. § 2104(a)(6) and Lab. Code § 1404;
- h. Award pre- and post-judgment interest;
- i. Award reasonable attorneys' fees, costs, and expenses; and
- j. Award any and all additional relief the Court deems appropriate.

THIS, the 26<sup>th</sup> day of January, 2023.

Respectfully Submitted,

BY: /s/Philip C. Hearn  
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on behalf of themselves and all others similarly situated*