

### 100 Or More Employees and Contemplating Layoffs or Closures?

The Worker Adjustment and Retraining Notification (“WARN” Act) applies to employers with over 100 employees contemplating Covid-19 related layoffs that shall (or may) last for more than 6 months or facility closures.

Under the WARN Act, a written notice to employees and the state are required 60 days before the effective date of the lay-off, unless such layoffs or closings are the result of unforeseen circumstances, which could include Covid-19 crisis based downsizing. Other exceptions may apply. Failure to provide sufficient or timely notice may subject employers to penalties amounting to the back pay and benefits for the period of violation – up to 60 days of pay and benefits.

With business conditions being uncertain, many employers may not know whether they will be able to reinstate laid off employees within six months. A reasonable certainty test based on existing circumstances is applied. Notice of layoffs shorter than 60 days from the effective date of the layoffs based on unforeseen circumstances excuses the 60 day advance notice requirement.

Employers should consider preparing WARN notices now to avoid liability.

Please contact a Bodman Workplace Law attorney, listed below to discuss.

[Q&A – Coronavirus and Business Disruptions: An Employer’s Next Move](#)

## WORKPLACE LAW PRACTICE GROUP

<b>AARON D. GRAVES</b>   <i>Chair</i> 313.392.1075 agraves@bodmanlaw.com	<b>JOHN T. BELOW</b> 248-743-6035 jbelow@bodmanlaw.com	<b>JOHN C. CASHEN</b> 248.743.6077 jcashen@bodmanlaw.com
<b>GARY S. FEALK</b> 248-743-6060 gfealk@bodmanlaw.com	<b>STEVEN J. FISHMAN</b> 248.743.6070 sfishman@bodmanlaw.com	<b>JOHN DAVID GARDINER</b> 616.205.3123 jgardiner@bodmanlaw.com
<b>MELISSA M. TETREAU</b> 248.743.6078 mtetreau@bodmanlaw.com	<b>BRENT R. SCOTT</b> 616.205.3317 bscott@bodmanlaw.com	<b>REBECCA C. SEGUIN-SKRABUCHA</b> 313.393.7594 rseguin-skrabucha@bodmanlaw.com
<b>KATHERINE F. CSER</b> 248.743.6031 kcser@bodmanlaw.com	<b>DAVID B. WALTERS</b> 248.743.6052 dwalters@bodmanlaw.com	<b>KAREN L. PIPER</b>   <i>Of Counsel</i> 248.743.6025 kpiper@bodmanlaw.com