

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

<p>In re:</p> <p>CHARMING CHARLIE HOLDINGS INC., et al.,<sup>1</sup></p> <p style="text-align: center;">Debtors.</p>	<p style="text-align: center;">Chapter 11 Bankr. Case No. 19-11534-CSS</p> <p style="text-align: center;"><b>Adv. Pro. No.</b> _____ - _____</p>
<p>LAUREN WILRICH on behalf of herself and all others similarly situated,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">v.</p> <p>CHARMING CHARLIE HOLDINGS, INC., CHARMING CHARLIE INTERNATIONAL LLC, CHARMING CHARLIE LLC, CHARMING CHARLIE MANHATTAN LLC, CHARMING CHARLIE USA, INC., POSEIDON PARTNERS CMS, INC., AND CHARMING CHARLIE CANADA LLC,</p> <p style="text-align: center;">Defendants.</p>	

**CLASS ACTION  
ADVERSARY PROCEEDING COMPLAINT FOR  
VIOLATION OF WARN ACT 29 U.S.C. § 2101, ET SEQ.**

Plaintiff Lauren Wilrich (“Plaintiff”) alleges on behalf of herself and a putative class of similarly situated former employees of Charming Charlie Holdings, Inc., Charming Charlie International LLC, Charming Charlie LLC, Charming Charlie Manhattan LLC, Charming Charlie USA, Inc., Poseidon Partners CMS, Inc., Charming Charlie Canada LLC, (together

<sup>1</sup>

The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, include: Charming Charlie Canada LLC (0693); Charming Charlie Holdings Inc. (6139); Charming Charlie International LLC (5887); Charming Charlie LLC (0263); Charming Charlie Manhattan LLC (7408); Charming Charlie USA, Inc. (3973); and Poseidon Partners CMS, Inc. (3302). The location of the Debtors’ headquarters is: 6001 Savoy Drive, Ste. 600 Houston, Texas 77036.

“Debtors” or “Defendants”) by way of this Class Action Adversary Proceeding Complaint against Defendants as follows:

### **NATURE OF THE ACTION**

1. The Plaintiff brings this action on behalf of herself, and other similarly situated former employees who worked for Defendants and who were terminated without cause as part of, or as the result of, mass layoffs or plant closings ordered by Defendants on or about July 12, 2019 and within thirty (30) days of that date, who were not provided 60 days advance written notice of their terminations by Defendants, as required by the Worker Adjustment and Retraining Notification Act, 29 U.S.C. § 2101 *et seq.*, (the “WARN Act”).

2. Plaintiff was terminated along with approximately 200 other similarly situated employees as part of, or as the foreseeable result of a mass layoff or plant shutdown ordered by Defendants. These terminations failed to give Plaintiff and other similarly situated employees of Defendants at least 60 days’ advance notice of termination, as required by the WARN Act. As a consequence of the violation, Plaintiff and other similarly situated employees of Defendants seek their statutory remedies, pursuant to 29 U.S.C. § 2104.

### **JURISDICTION AND VENUE**

3. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1331, 1334, and 29 U.S.C. § 2104(a)(5).

4. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A), (B) and (O).

5. Venue is proper in this District pursuant to 28 U.S.C. § 1409 and 29 U.S.C. § 2104(a)(5).

### **THE PARTIES**

#### **Plaintiff**

6. Plaintiff Lauren Wilrich was employed by Defendants as a Copywriter and worked

at the Defendants' facility located at 6001 Savoy Drive, Suite 600, Houston, Texas ("Headquarters Facility") until her termination on or about July 12, 2019.

7. Plaintiff received no advanced notice of her termination.

8. Along with Plaintiff, hundreds of other employees of Defendants who worked at, reported to, or received assignments from the Headquarters Facility were terminated on or about July 12, 2019 without advanced written notice.

**Defendants**

9. Upon information and belief and at all relevant times, Defendant Charming Charlie Holdings, Inc., is a Delaware corporation with its principal place of business located at the Headquarters Facility, and it conducted business in this district.

10. Upon information and belief, Defendant Charming Charlie International LLC is a Delaware corporation with its principal place of business located at 6001 Savoy Drive, Ste. 600, Houston, Texas.

11. Upon information and belief, Defendant Charming Charlie LLC is a Delaware corporation with its principal place of business located at 6001 Savoy Drive, Ste. 600, Houston, Texas.

12. Upon information and belief, Defendant Charming Charlie Manhattan LLC is a Delaware corporation with its principal place of business located at 6001 Savoy Drive, Ste. 600, Houston, Texas.

13. Upon information and belief, Defendant Charming Charlie USA, Inc. is a Delaware corporation with its principal place of business located at 6001 Savoy Drive, Ste. 600, Houston, Texas.

14. Upon information and belief, Defendant Poseidon Partners CMS, Inc. is a Delaware

corporation with its principal place of business located at 6001 Savoy Drive, Ste. 600, Houston, Texas.

15. Upon information and belief, Defendant Charming Charlie Canada LLC is a Delaware corporation with its principal place of business located at 6001 Savoy Drive, Ste. 600, Houston, Texas.

16. Upon information and belief at all relevant times, Defendants owned, maintained and operated its corporate headquarters at the Headquarters Facility, and operated additional facilities as that term is defined by the WARN Act in the United States.

17. Upon information and belief, on July 12, 2019, Defendants terminated approximately 200 employees who worked at or reported at their Facilities.

18. Until her termination by Defendants, Plaintiff and the other similarly situated persons were employees of Defendants who worked at, received assignments from, or reported to Defendants' Facilities.

19. On July 11, 2019, Debtors filed a voluntary petition for relief under Chapter 11 of Title 11 of the United States Bankruptcy Code.

**FEDERAL WARN ACT CLASS ALLEGATIONS**

20. Plaintiff brings this Claim for Relief for violation of 29 U.S.C. § 2101 *et seq.*, on behalf of herself and on behalf of all other similarly situated former employees, pursuant to 29 U.S.C. § 2104(a)(5) and Fed. R. Civ. P. 23(a), who worked at, reported to, or received assignments from Defendants' Facilities and were terminated without cause beginning on or about July 12, 2019, and within 30 days of that date, or were terminated without cause as the reasonably foreseeable consequence of the mass layoffs and/or plant closings ordered by Defendants on or about July 12, 2019 and who are affected employees, within the meaning of 29 U.S.C. § 2101(a)(5)

(the “WARN Class”).

21. The persons in the WARN Class identified above (“WARN Class Members”) are so numerous that joinder of all members is impracticable. Although the precise number of such persons is unknown, the facts on which the calculation of that number can be based are presently within the sole control of Defendants.

22. Upon information and belief, Defendants employed more than 100 full-time employees who worked at or reported to the Facilities.

23. On information and belief, the identity of the members of the class and the recent residence address of each of the WARN Class Members is contained in the books and records of Defendants.

24. On information and belief, the rate of pay and benefits that were being paid by Defendants to each WARN Class Member at the time of his/her termination is contained in the books and records of Defendants.

25. Common questions of law and fact exist as to members of the WARN Class, including, but not limited to, the following:

(a) whether the members of the WARN Class were employees of the Defendants who worked at or reported to Defendants’ Facilities;

(b) whether Defendants unlawfully terminated the employment of the members of the WARN Class without cause on their part and without giving them 60 days advance written notice in violation of the WARN Act; and

(c) whether Defendants unlawfully failed to pay the WARN Class members 60 days wages and benefits as required by the WARN Act.

26. Plaintiff’s claims are typical of those of the WARN Class. Plaintiff, like other

WARN Class members, worked at or reported to Defendants' Facilities and was terminated beginning on or about July 12, 2019, due to the mass layoff and/or plant closing ordered by Defendants.

27. Plaintiff will fairly and adequately protect the interests of the WARN Class. Plaintiff has retained counsel competent and experienced in complex class actions, including the WARN Act and employment litigation.

28. On or about July 12, 2019, Plaintiff was terminated by Defendants. This termination is part of a mass layoff or a plant closing as defined by 29 U.S.C. § 2101(a)(2), (3), for which he was entitled to receive 60 days advance written notice under the WARN Act.

29. Class certification of these claims is appropriate under Fed. R. Civ. P. 23(b)(3) because questions of law and fact common to the WARN Class predominate over any questions affecting only individual members of the WARN Class, and because a class action is superior to other available methods for the fair and efficient adjudication of this litigation – particularly in the context of WARN Act litigation, where individual plaintiffs may lack the financial resources to vigorously prosecute a lawsuit in federal court against corporate Defendants, and damages suffered by individual WARN Class members are small compared to the expense and burden of individual prosecution of this litigation.

30. Concentrating all the potential litigation concerning the WARN Act rights of the members of the Class in this Court will obviate the need for unduly duplicative litigation that might result in inconsistent judgments, will conserve the judicial resources and the resources of the parties and is the most efficient means of resolving the WARN Act rights of all the members of the Class.

31. Plaintiff intends to send notice to all members of the WARN Class to the extent

required by Rule 23.

**CLAIM FOR RELIEF**

**Violation of the Federal WARN Act**

32. Plaintiff realleges and incorporates by reference all allegations in all preceding paragraphs.

33. At all relevant times, Defendants employed more than 100 employees who in the aggregate worked at least 4,000 hours per week, exclusive of hours of overtime, within the United States.

34. At all relevant times, Defendants were an “employer,” as that term is defined in 29 U.S.C. § 2101 (a)(1) and 20 C.F.R. § 639(a) and continued to operate as a business until it decided to order mass layoffs or plant closings at the Facilities.

35. At all relevant times, Plaintiff and the other similarly situated former employees were employees of Defendants as that term is used in 29 U.S.C. §2101.

36. On or about July 12, 2019, the Defendants ordered mass layoffs or plant closings at the Facilities, as that term is defined by 29 U.S.C. § 2101(a)(2).

37. The mass layoffs or plant closings at the Facilities resulted in “employment losses,” as that term is defined by 29 U.S.C. §2101(a)(2) for at least fifty of Defendants’ employees as well as thirty–three percent of Defendants’ workforce at the Facilities, excluding “part-time employees,” as that term is defined by 29 U.S.C. § 2101(a)(8).

38. Plaintiff and the Class Members were terminated by Defendants without cause on their part, as part of or as the reasonably foreseeable consequence of the mass layoffs or plant closings ordered by Defendants at the Facilities.

39. Plaintiff and the Class Members are “affected employees” of Defendants, within

the meaning of 29 U.S.C. § 2101(a)(5).

40. Defendants were required by the WARN Act to give Plaintiff and the Class Members at least 60 days advance written notice of their terminations.

41. Defendants failed to give Plaintiff and the Class members written notice that complied with the requirements of the WARN Act.

42. Plaintiff and each of the Class Members are “aggrieved employees” of the Defendants as that term is defined in 29 U.S.C. § 2104(a)(7).

43. Defendants failed to pay Plaintiff and each of the Class Members their respective wages, salary, commissions, bonuses, health and life insurance premiums, accrued holiday pay and accrued vacation for 60 days following their respective terminations, and failed to provide employee benefits including health insurance, for 60 days from and after the dates of their respective terminations.

44. The relief sought in this proceeding is predominately equitable in nature.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff, individually and on behalf of all other similarly situated persons, prays for the following relief as against Defendants:

- A. Certification of this action as a class action;
- B. Designation of Plaintiff as Class Representative;
- C. Appointment of the undersigned attorneys as Class Counsel;
- D. A judgment in favor of the Plaintiff and each of the affected employees equal to the sum of: their unpaid wages, salaries, commissions, bonuses, accrued holiday pay, accrued vacation pay, pension and 401(k) contributions and other ERISA benefits, for up to 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 federal WARN Act, 29 U.S.C. §2104(a)(1)(A);

- E. Allowance of all damages as first priority post-petition administrative expense pursuant to 11 U.S.C. § 503(b)(1)(A) or, alternatively wage priority status pursuant to 11 U.S.C. § 507(a)(4) and (5) up to \$12,850, and the remainder as a general unsecured claim;
- F. Reasonable attorneys' fees and the costs and disbursements that Plaintiff will incur in prosecuting this action, as authorized by the federal WARN Act, 29 U.S.C. § 2104(a)(6);
- G. Interest as allowed by law on the amounts owed under the preceding paragraphs; and
- H. Such other and further relief as this Court may deem just and proper.

Dated: July 23, 2019

Respectfully submitted,

By: /s/ Christopher D. Loizides  
Christopher D. Loizides (No. 3968)  
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# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Charming Charlie Facing Proposed WARN Act Lawsuit After Mass Layoff](#)

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