

UNITED STATES
BANKRUPTCY COURT

SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In re	§	
	§	Bankr. Case No. 21-30427
SEADRILL LIMITED, et al.,	§	Chapter 11
	§	Jointly Administered
<i>Debtor(s)</i> . ¹	§	
COREY KIMBLE, Individually and	§	
On Behalf of All Others Similarly	§	
Situated,	§	
	§	
<i>Plaintiff(s)</i> ,	§	
	§	Adv. Proc. No. _____
v.	§	
	§	
SEADRILL AMERICAS, INC.,	§	
	§	
<i>Defendant(s)</i> .	§	

PLAINTIFF COREY KIMBLE’S ORIGINAL COMPLAINT

Plaintiff Corey Kimble (referred to as “Kimble”) brings this action: (1) under 29 U.S.C. § 2104(a)(5) individually and on behalf of all similarly situated current and/or former employees of Defendant Seadrill Americas, Inc. (referred to as “Seadrill”) who were terminated without cause or suffered other employment loss as part of or as the

¹ A complete list of the debtors in these chapter 11 cases may be obtained on the website of the debtors’ proposed claims and noticing agent at <http://cases.primeclerk.com/SeadrillLimited>. The last four digits of Seadrill Americas, Inc.’s federal tax identification number are 8993 and its headquarters is: 11025 Equity Drive, Suite 150, Houston, Texas 77041-8247.

result of a plant closing or mass layoff ordered by the company on or about March 1, 2021, and within thirty (30) days of that date and who were not provided with advance written notice of the plant closing or mass layoff as required by the Worker Adjustment Retraining and Notification Act, 29 U.S.C. §§ 2101-2109 (“WARN Act”) and (2) under Fed. R. Bankr. P. 7001(2) to determine the priority of his claim.

I. Nature of Suit

1. Kimble’s claims arise under the WARN Act.
2. The WARN Act “provides protection to workers, their families and communities by requiring employers to provide notification 60 calendar days in advance of plant closings and mass layoffs[;] [a]dvance notice provides workers and their families some transition time to adjust to the prospective loss of employment, to seek and obtain alternative jobs and, if necessary, to enter skill training or retraining that will allow these workers to successfully compete in the job market.” 20 C.F.R. § 639.1(a).
3. Seadrill violated the WARN Act by ordering a plant closing or mass layoff before “the end of a 60-day period after ... serv[ing] written notice of such” plant closing or mass layoff to each affected employee, including Kimble and other similarly situated current and/or former employees. *See*, 29 U.S.C. § 2101(a); *see also, id.* at § 2101(a)(5) (defining “affected employee”).

4. Kimble (sometimes referred to as the “Class Representative”) brings this action under 29 U.S.C. § 2104(a)(5) and Fed. R. Civ. P. 23, made applicable by Fed. R. Bankr. P. 7023, individually and on behalf of all similarly situated current and/or former employees (defined below) to recover back pay, employee benefits and attorney’s fees under the WARN Act.

II. Jurisdiction & Venue

5. This action arises under a federal statute, the WARN Act. 28 U.S.C. § 1331 (federal-question jurisdiction); *see also*, 28 U.S.C. § 1334; 29 U.S.C. § 2104(a)(5).

6. This is a core proceeding under 28 U.S.C. §§ 157(b)(2)(A)-(B), (O).

7. Venue is proper in this district and division because the WARN Act violations described in this complaint are related to a case under chapter 11 of the United States Bankruptcy Code that is pending in this district and division. 28 U.S.C. § 1409(a).

8. Kimble does not consent to entry of final orders or judgment by the bankruptcy court. *See*, Fed. R. Bankr. P. 7008(a).

III. Parties

9. Kimble is an individual who resides in Fort Bend County, Texas and who was employed by Seadrill during the last two years.

10. Seadrill is a Texas Corporation that may be served with process by serving its registered agent:

CT Corporation System
1999 Bryan Street, Suite 900
Dallas, Texas 75201-3140

Alternatively, if the registered agent of Seadrill cannot with reasonable diligence be found at the company's registered office, Seadrill may be served with process by serving the Texas Secretary of State. *See*, Tex. Bus. Org. Code §§ 5.251-5.254; *see also*, Tex. Civ. Prac. & Rem. Code § 17.026.

11. An allegation that Seadrill committed any act or omission should be construed to mean the company's officers, directors, vice-principals, agents, servants or employees committed such act or omission and that, at the time such act or omission was committed, it was done with the full authorization, ratification or approval of Seadrill or was done in the normal course and scope of employment of Seadrill's officers, directors, vice-principals, agents, servants or employees.

IV. Facts

12. Seadrill is an oilfield services company that provides, among other things, offshore drilling services.

13. Seadrill does business in the territorial jurisdiction of this Court.

14. Seadrill employed Kimble from December 2012 to March 1, 2021.

15. During Kimble's employment with Seadrill, the company had one hundred (100) or more employees (excluding part-time employees) or one hundred (100) or more employees who in the aggregate work at least 4,000 hours per week (exclusive of overtime hours).

16. Seadrill employed Kimble as a roughneck.

17. During his employment with Seadrill, Kimble's primary duties required travel from point to point.

18. During his employment with Seadrill, Kimble's primary duties involved work outside of the company's regular employment sites.

19. During his employment with Seadrill, Kimble was outstationed.

20. For purposes of the WARN Act, Seadrill employed Kimble at its facility located 11025 Equity Drive in Houston, Texas (referred to as "the Equity Drive Facility") and at the facility located on the drillship on which he worked (referred to as "the Drillship Facility"), and it employed other similarly situated current and/or former employees at those facilities and at other facilities (referred to as "the Facilities"). *See*, 20 C.F.R. § 639.3(i)(6); *see also*, 20 C.F.R. § 639.3(i)(8) ("The term 'single site of employment' may also apply to truly unusual organizational situations where the above criteria do not reasonably apply. The application of this definition with the intent to

evade the purpose of the [WARN] Act to provide notice is not acceptable.”); *see also*, 20 C.F.R. §§ 639.3(i)-(j).

21. Seadrill terminated Kimble on March 31, 2021, without cause.

22. Kimble’s termination was part of a plant closing ordered by Seadrill because it involved the permanent or temporary shutdown of the Facilities and resulted in (1) the termination of; (2) a layoff exceeding six (6) months for; and/or (3) the reduction of hours of work by more than fifty percent (50%) during each month of any six-month period for at least fifty (50) of Seadrill’s employees (excluding part-time employees) at the Facilities during any thirty-day period.

23. Alternatively, Kimble’s termination was part of a mass layoff ordered by Seadrill because it resulted in (1) the termination of; (2) a layoff exceeding six (6) months for; and/or (3) the reduction of hours of work by more than fifty percent (50%) during each month of any six-month period for either (1) at least five hundred (500) of Seadrill’s employees (excluding part-time employees) at the Facilities or (2) at least thirty-three percent (33%) of Seadrill’s employees (excluding part-time employees) at the Facilities, which is at least fifty (50) employees (excluding part-time employees) during any thirty-day period.

24. Seadrill did not provide Kimble or any other employee who may have been reasonably expected to be affected by the plant closing or mass layoff (“affected

employees”) with advance written notice of the plant closing or mass layoff in violation of 29 U.S.C. § 2102(a).

25. Seadrill did not provide Kimble or any other affected employee the pre-termination wages and benefits required by the WARN Act.

26. Seadrill is liable to any affected employee who suffered an employment loss as a result of the plant closing or mass layoff ordered by the company, including Kimble, for (1) back pay for each day of violation (at a rate of compensation not less than the higher of the average regular rate received by each affected employee during the last three years of the employee’s employment or the final regular rate received by such employee) and (2) benefits under an employee benefit plan described in 29 U.S.C. § 1002(3). *See also*, 29 U.S.C. § 2104(a)(7).

27. Seadrill is liable to any affected employee who suffered an employment loss as a result of the plant closing or mass layoff ordered by the company, including Kimble, for his reasonable attorney’s fees. *See*, 29 U.S.C. § 2104(a)(6).

28. All current and/or former employees of Seadrill who were terminated without cause or suffered other employment loss as part of or as the result of a plant closing or mass layoff ordered by the company on or about March 31, 2021, and within thirty (30) days of that date and who were not provided with advance written notice of

the plant closing or mass layoff as required by the WARN Act are similarly situated to Kimble. *See*, 29 U.S.C. § 2104(a)(5).

29. On February 10, 2021, Seadrill filed a voluntary petition for relief under chapter 11 of the United States Bankruptcy Code.

**V. Count One—
Failure to Provide Advance Written Notice of Plant Closing or Mass Layoff
in Violation of 29 U.S.C. § 2102(a)**

30. Kimble adopts by reference all of the facts set forth above. *See*, Fed. R. Civ. P. 10(c).

31. Seadrill employed Kimble from December 2012 to March 1, 2021, as a roughneck.

32. During Kimble's employment with Seadrill, the company was covered by the WARN Act.

33. During Kimble's employment with Seadrill, there was a plant closing or mass layoff at the Facilities that resulted in an employment loss to Kimble and to other affected employees.

34. Under the WARN Act, Seadrill was required to provide Kimble and any other affected employees with advance written notice of the plant closing or mass layoff. *See*, 29 U.S.C. § 2102(a).

35. Seadrill did not provide Kimble or the other affected employees with advance written notice of the plant closing or mass layoff as required by the WARN Act. *See*, 29 U.S.C. § 2102(a).

36. Seadrill did not provide Kimble or any other affected employee the pre-termination wages and benefits required by the WARN Act.

37. By failing to provide Kimble and the other affected employees with advance written notice of the plant closing or mass layoff and by failing to them pay pre-termination wages and benefits, Seadrill violated the WARN Act. *See*, 29 U.S.C. § 2102(a).

38. As a result of the WARN Act violation(s) described above, Seadrill is liable to Kimble for back pay, employee benefits and attorney's fees.

**VI. Count Two—
Class Action Allegations Under Fed. R. Civ. P. 23 and Fed. R. Bankr. P. 7023
for Violations of the WARN Act**

39. Kimble adopts by reference all of the facts set forth above. *See*, Fed. R. Civ. P. 10(c).

40. Kimble, the Class Representative, brings Count One against Seadrill under Fed. R. Civ. P. 23, made applicable by Fed. R. Bankr. P. 7023, on behalf of the following class of persons:

All current and/or former employees of Seadrill who were terminated without cause or suffered other employment loss

as part of or as the result of a plant closing or mass layoff ordered by the company during the last two years and who were not provided with advance written notice of the plant closing or mass layoff as required by the WARN Act (referred to as the “WARN Act Class”).

41. The claims of the WARN Act Class, if certified for class-wide treatment, will be pursued by all similarly situated persons who do not affirmatively opt-out of the class.

42. The members of the WARN Act Class are so numerous that joinder of all members is impracticable; the exact number of putative class members is unknown at the present time but should be over one hundred (100).

43. There are numerous questions of law and fact common to the WARN Act Class, including:

- a. whether the members of the WARN Act Class were employees of Seadrill who worked at the Facilities;
- b. whether Seadrill provided the members of the WARN Act Class with advance written notice of a plant closing or mass layoff ordered by the company that resulted in their termination without cause or other employment loss; and
- c. whether Seadrill failed to pay the members of the WARN Act Class the pre-termination wages and benefits required by the WARN Act.

44. Kimble’s claims are typical of the claims of the WARN Act Class because Kimble and the members of the WARN Act Class all worked at the Facilities and were all part of the same plant closing or mass layoff that resulted in their termination

without cause or other employment loss and that was ordered by Seadrill without advance written notice to Kimble and the members of the WARN Act Class; in other words, Kimble's claims and the claims of the WARN Act Class arise out of a common course of conduct of Seadrill and are based on the same legal and remedial theories.

45. Kimble will fairly and adequately protect the interests of the WARN Act Class and has retained competent and capable attorneys who are experienced trial lawyers with significant experience in complex employment litigation (including class actions, collective actions, and multidistrict litigation); Kimble and his counsel are committed to prosecuting this action vigorously on behalf of the WARN Act Class, have the financial resources to do so and do not have interests that are contrary to or that conflict with those of the proposed class.

46. Class certification of the WARN Act Class is appropriate under Fed. R. Civ. P. 23, made applicable by Fed. R. Bankr. P. 7023, because questions of law and fact common to the putative class members predominate over any questions affecting only individual members of the class; adjudication of these common issues in a single action has important and desirable advantages of judicial economy, and there are no unusual difficulties likely to be encountered in the management of this case as a class action.

47. The class action mechanism is superior to any alternatives that may exist for the fair and efficient adjudication of these claims because:

- a. proceeding as a class action would permit the large number of injured parties to prosecute their common claims in a single forum simultaneously, efficiently, and without unnecessary duplication of evidence, effort and judicial resources;
- b. a class action is the only practical way to avoid the potentially inconsistent results that numerous individual trials are likely to generate;
- c. class treatment is the only realistic means by which the WARN Act Class can effectively litigate against a large, well-represented corporate defendant like Seadrill;
- d. in the absence of a class action, Seadrill would be unjustly enriched because the company would be able to retain the benefits and fruits of the numerous violations of the WARN Act; and
- e. numerous individual actions would place an enormous burden on the courts as they will be forced to take duplicative evidence and decide the same issues relating to Seadrill's conduct over and over again.

48. Seadrill has acted or refused to act on grounds generally applicable to the WARN Act Class, thereby making final injunctive relief or corresponding declaratory relief appropriate with respect to the class as a whole; prosecution of separate actions by members of the WARN Act Class would create the risk of inconsistent or varying adjudications with respect to individual members of the WARN Act Class that would establish incompatible standards of conduct for Seadrill.

49. Kimble will send notice to all members of the WARN Act Class to the extent required by Fed. R. Civ. P. 23, made applicable by Fed. R. Bankr. P. 7023.

**VIII. Count Three—
Attorney's Fees Under 29 U.S.C. § 2104(a)(6)**

50. Kimble adopts by reference all of the facts set forth above. *See*, Fed. R. Civ. P. 10(c).

51. Kimble is authorized to recover attorney's fees on his claims by statute. 29 U.S.C. § 2104(a)(6).

52. Kimble has retained the professional services of the undersigned attorneys.

53. Kimble has complied with the conditions precedent to recovering attorney's fees.

54. Kimble has incurred or may incur attorney's fees in bringing this lawsuit.

55. The attorney's fees incurred or that may be incurred by Kimble were or are reasonable and necessary.

56. Seadrill is liable to Kimble both individually and on behalf of the WARN Act Class for attorney's fees by reason of the WARN Act violations described above. *See*, 29 U.S.C. § 2104(a)(6).

**IX. Count Four—
Determination of Priority of WARN Act Claim**

57. Kimble adopts by reference all of the facts set forth above. *See*, Fed. R. Civ. P. 10(c).

58. Kimble's claim for pre-termination wages and benefits under the WARN Act, if allowed, are first priority post-petition administrative expenses under 11 U.S.C. § 503(b)(1)(A)(ii).

59. Alternatively Kimble's claim for pre-termination wages and benefits under the WARN Act, if allowed, have wage priority status under 11 U.S.C. § 507(a)(4)-(5) up to \$13,650 with the remainder as a general unsecured claim.

X. Relief Sought

60. Kimble demands the following relief:
- a. an order allowing this action to proceed as a class action under 29 U.S.C. § 2104(a)(5) and Fed. R. Civ. P. 23, made applicable by Fed. R. Bankr. P. 7023;
 - b. an order appointing Kimble representative of the WARN Act Class;
 - c. an order appointing MOORE & ASSOCIATES class counsel;
 - d. an incentive award for Kimble for serving as class representative if the Court allows this action to proceed as a class action under 29 U.S.C. § 2104(a)(5) and Fed. R. Civ. P. 23, made applicable by Fed. R. Bankr. P. 7023;
 - e. judgment against Seadrill in Kimble's favor both individually and on behalf of the WARN Act Class for back pay, employee benefits and attorney's fees, plus interest and costs;

- f. an order designating all of the damages incurred by Kimble and the WARN Act Class as a result of Seadrill's violations of the WARN Act as a first priority post-petition administrative expense under 11 U.S.C. § 503(b)(1)(A) or, alternatively, as having wage priority status under 11 U.S.C. § 507(a)(4)-(5) up to \$13,650 and the remainder as a general unsecured claim; and
- g. all other relief and sums that may be adjudged against Seadrill in Kimble's favor both individually and on behalf of the WARN Act Class.

Respectfully Submitted,

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ATTORNEYS FOR PLAINTIFF

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Class Action Lawsuit Claims Seadrill Failed to Provide Workers Proper Notice Before March 2021 Facility Closure](#)
