

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

**MATTHEW MITCHELL,
on behalf of himself and
all others similarly situated,**

Plaintiff,

v.

Case No.:

REN MEDIA GROUP USA, INC.,

Defendant.

_____ /

CLASS ACTION COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff, MATTHEW MITCHELL, on behalf of himself and all others similarly situated, (“Named Plaintiff”) files this Class Action Complaint against Defendant, REN MEDIA GROUP USA, INC., (“Defendant”), state as follows:

NATURE OF ACTION

1. This is a class action for collection of unpaid wages and benefits for 60 calendar days pursuant to the Workers Adjustment and Retraining Notification Act of 1988, (“WARN Act”), 29 U.S.C. §§ 2101-2109 *et. seq.*
2. The Defendant is liable under the WARN Act for failure to provide the Named Plaintiff and the other similarly situated former employees at least 60 days’ advance notice of their termination as required by the WARN Act.

JURISDICTION AND VENUE

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

4. Venue is proper in the Middle District of Florida, because the events occurred in Clearwater, FL, Pinellas County, which lies within the Middle District.

PARTIES

5. Named Plaintiff, MATTHEW MITCHELL, is a resident of Pinellas County, Florida.

6. Defendant, REN MEDIA GROUP USA, INC. operates a home shopping television channel in Pinellas County, Florida.

GENERAL ALLEGATIONS

7. Named Plaintiff has satisfied all conditions precedent, or they have been waived.

8. Named Plaintiff has hired the undersigned attorneys and agreed to pay them a fee.

9. Named Plaintiff requests a jury trial for all issues so triable.

10. At all times material to this Complaint, Named Plaintiff was an “employee” of Defendant.

11. At all times material to this Complaint, Defendant was an employer subject to the requirements of the WARN Act.

STATEMENTS OF FACTS

12. Named Plaintiff was employed by Defendant from April 2014 until November 3, 2017.

13. Named Plaintiff and other similarly situated employees' employment were terminated as part of plant shutdown as defined by the WARN Act, for which they were entitled to receive 60 days advance written notice under the WARN Act from Defendant.

14. On November 3, 2017, approximately 50 other similarly situated employees of Defendant were terminated as part of a plant shutdown at the Clearwater, Florida location.

15. Pursuant to the WARN Act, the Named Plaintiff maintains this action on behalf of himself and on behalf of each of the other similarly situated former employees.

16. Each of the other similarly situated former employees are similarly situated to the Named Plaintiff in respect to his or her rights under the WARN Act.

17. Defendant was required by the WARN Act to give the Named Plaintiff and other similarly situated former employees or their representatives at least 60 days advance written notice of their respective termination.

18. Prior to their terminations, neither the Named Plaintiff nor the other similarly situated former employees or their representatives received written notice that complied with the requirements of the WARN Act.

19. Defendant failed to pay Named Plaintiff and the other similarly situated former employees their respective wages, salary, commissions, bonuses, accrued holiday pay vacation which would have accrued for 60 days following their respective termination without notice and failure to make 401(k) contributions and provide them with health insurance coverage and other employee benefits.

RULE 23 CLASS ACTION ALLEGATIONS

20. Named Plaintiff asserts his Rule 23 class claim on behalf of the Putative Class defined as follows:

WARN ACT CLASS: All employees who worked for Defendant and were laid off without cause by the Defendant as part of or as the reasonably foreseeable result of plant shutdown on November 3, 2017.

21. Named Plaintiff is and has been a member of the Putative WARN Act Class (“Putative Rule 23 Class”) described herein.

22. The number of persons in the Putative Rule 23 Class herein is so numerous that joinder of all such persons would be impracticable. While the exact number and identities of all such persons are unknown to Named Plaintiff at this time and can only be obtained through appropriate discovery, Named Plaintiff is informed and believes, and on that basis alleges, that the Putative Rule 23 Class herein include over 50 persons.

23. Disposition of Named Plaintiff’s claims in a class action will benefit all parties and the Court.

24. There is a well-defined community of interest presented by the Putative Rule 23 Class herein in that, among other things, each member of the Putative Rule 23 Class has an interest in obtaining appropriate legal relief for the harm of which Named Plaintiff complains, and obtaining other adequate compensation for the common damages which Named Plaintiff and all other persons similarly situated have suffered as a result of Defendant's actions.

25. The prosecution of separate actions by individual members of the Putative Rule 23 Class herein would create a risk of inconsistent and/or varying adjudications with respect to individual members of the Putative Rule 23 Class which would or may establish incompatible standards of conduct for Defendant and which would also create a risk of adjudications with respect to individual members of the Putative Rule 23 Class herein which would, as a practical matter, be dispositive of the interests of other members of the Putative Rule 23 Class not parties to the particular individual adjudications, and/or would or may substantially impede or impair the ability of those other members to protect their interests.

26. Common questions of law and fact exist in this case with respect to the Putative Rule 23 Class which predominate over any questions affecting only individual members of the Class and which do not vary between members thereof.

27. At some time during the Class Period, all of the individuals in the Putative Rule 23 Class herein have been employed by Defendant and were laid off, as described more fully herein.

28. A class action is superior to other available methods for the fair and efficient adjudication of this controversy- particularly in the context of WARN Act litigation, where the Named Plaintiff and class member may lack the financial resources to vigorously prosecute a lawsuit in federal court against Defendant.

29. There are questions of law and fact common to the Class Members that predominate over any questions solely affecting individual members of the Class, including but not limited to:

- a. Whether the Corporate Defendants ordered the termination of employment of each of the Class Members without cause on their part and without giving them 60 days advance written notice as required by the WARN Act; and
- b. The claims of the Named Plaintiff in this case are typical of those of the other Class Members which they seek to represent, in that, among other things, Named Plaintiff and each other Class Member have sustained damages and are facing irreparable harm because of, and arising out of, a common course of conduct engaged in by Defendant as complained of herein.

30. The Named Plaintiff herein will fairly and adequately represent and protect the interests of the members of the Putative Class which he seeks to represent. Named Plaintiff does not have any interests which are antagonistic to the interests of the Putative Class herein.

31. Counsel for Named Plaintiff is experienced, qualified and generally able to conduct complex class action legislation.

32. The relief sought in this action is necessary to restore to members of the Putative Class the money and property which the Defendant has illegally acquired through the unlawful treatment of each Class Member as described herein.

33. Named Plaintiff intends to send notice to all members of the Putative Class to the extent required by Fed. R. Civ. P. 23. The names and addresses of the Putative Class members are available from Defendant's records.

COUNT I – WARN ACT VIOLATIONS CLASS ACTION CLAIM

34. Named Plaintiff realleges and readopts the allegations of paragraphs 1 through 33 of this Complaint, as though fully set forth herein.

35. At all relevant times, Defendant employed 100 or more employees, exclusive of part-time employees, 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 as defined by the WARN Act, and employed more than 50 employees at the facilities.

36. At all relevant times, Defendant is an "employer" of the Class Members as that term is defined by the WARN Act.

37. On November 3, 2017, Defendant ordered "plant shutdown," as that term is defined by the WARN Act.

38. Defendant's actions resulted in an "employment loss" as that term is defined by the WARN Act for at least 33% of its workforce, and at least 50 of its employees, excluding (a) employees who worked less than six of the twelve months prior to the date WARN notice was required to be given and (b) employees who worked an average of less than 20 hours per week during the 90-day period prior to the date WARN notice was required to be given.

39. Defendant's termination of the Class Members' employment constituted plant shutdown as defined by the WARN Act.

40. The Named Plaintiff and each of the Class Members who were employed by the Defendant and then terminated by Defendant as a result of Defendant's executing plant shutdown at the Clearwater facility were "affected employees" as defined by the WARN Act.

41. The Named Plaintiff and each of the Class Members are "aggrieved employees" of Defendant as that term is defined by the WARN Act.

42. Pursuant to the WARN Act, Defendant was required to provide 60 days prior written notice of the termination, or notice as soon as practicable, to the affected employees, on their representative, explaining why the 60 day prior notice was not given.

43. Defendant failed to give at least 60 days prior notice of the termination in violation of the WARN Act.

44. Defendant failed to pay the Named Plaintiff and each of the Class Members their respective wages, salary, commissions, bonuses, accrued holiday pay and accrued vacation for 60 working days following their respective termination, and failed to make the pension and 401(k) contributions, provided other employee benefits under ERISA, and pay their medical expenses for 60 calendar days from and after the dates of their respective terminations.

45. As a result of Defendant's failure to pay wages, benefits and other monies as asserted, the Named Plaintiff and Class Members were damaged in an amount equal to the sum of the members' unpaid wages, accrued holiday pay, accrued vacation pay, accrued sick leave pay and benefits which would have been paid for a period of 60 calendar days after the date of their termination.

WHEREFORE, the Named Plaintiff and Class Members demand trial by jury and judgment against Defendant as follows:


- a) An amount equal to the sum of: unpaid wages, salary, commissions, bonuses, accrued holiday pay, accrued vacation pay and 401(k) contributions and other ERISA benefits, for 60 working days following the member employees' termination, that would have been covered and paid under the then applicable employee benefit plans had that coverage continued for that period, all determinate in accordance with the WARN Act, 29 U.S.C§ 2104(a)(1)(A);
- b) Certification that, pursuant to Fed. R. Civ. P. 23 (a) and (b) and the WARN Act, Named Plaintiff and the other similarly situated former employees constitute a single class;
- c) Interest as allowed by law on the amounts owed under the proceeding paragraphs;
- d) The reasonable attorneys' fees and the costs and disbursements the Plaintiffs incur in prosecuting this action, as authorized by the WARN Act; and
- e) Such other and further relief as this Court may deem just and proper.

JURY TRIAL DEMAND

Plaintiff demands trial by jury as to all issues so triable.

Dated this 24th day of April, 2018.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Christ J. Saba", written over a horizontal line.

CHRISTOPHER J. SABA

Florida Bar Number: 0092016

WENZEL FENTON CABASSA, P.A.

1110 North Florida Avenue, Suite 300

Tampa, Florida 33602

Main Number: 813-224-0431

Direct Dial: 813-321-4086

Facsimile: 813-229-8712

Email: csaba@wfclaw.com

Email: tsoriano@wfclaw.com

Attorneys for Plaintiff

JS 44 (Rev. 12/12)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

<p>I. (a) PLAINTIFFS</p> <p>MATTHEW MITCHELL, on behalf of himself and all others similarly situated,</p> <p>(b) County of Residence of First Listed Plaintiff _____ <i>(EXCEPT IN U.S. PLAINTIFF CASES)</i></p> <p>(c) Attorneys (Firm Name, Address, and Telephone Number) CHRISTOPHER J. SABA, WENZEL FENTON CABASSA, P.A., 1110 North Florida Avenue, Suite 300, Tampa, Florida 33602, Main No.: 813-224-0431</p>	<p>DEFENDANTS</p> <p>REN MEDIA GROUP USA, INC.,</p> <p>County of Residence of First Listed Defendant <u>Pinellas</u> <i>(IN U.S. PLAINTIFF CASES ONLY)</i></p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.</p> <p>Attorneys (If Known)</p>
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<p>II. BASIS OF JURISDICTION (Place an "X" in One Box Only)</p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)</p> <p><input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)</p>	<p>III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)</p> <table style="width:100%;"> <tr> <td style="width:33%;">Citizen of This State</td> <td style="width:10%;"><input type="checkbox"/> 1</td> <td style="width:10%;"><input type="checkbox"/> 1</td> <td style="width:33%;">Incorporated or Principal Place of Business In This State</td> <td style="width:10%;"><input type="checkbox"/> 4</td> <td style="width:10%;"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2</td> <td><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td><input type="checkbox"/> 5</td> <td><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3</td> <td><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td><input type="checkbox"/> 6</td> <td><input type="checkbox"/> 6</td> </tr> </table>	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6														

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	LABOR	SOCIAL SECURITY	
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input checked="" type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	
			IMMIGRATION	FEDERAL TAX SUITS	
			<input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

V. ORIGIN (Place an "X" in One Box Only)

1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from Another District (specify) 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
29 U.S.C. §§ 2101-2109 et. seq.

Brief description of cause:
WARN ACT VIOLATIONS CLASS ACTION CLAIM

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. **DEMANDS** CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY (See instructions):

JUDGE _____ DOCKET NUMBER _____

DATE: 04-24-18 SIGNATURE OF ATTORNEY OF RECORD: Christy J. Saba

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [REN Media Group Accused of Failing to Provide Adequate Notice of Clearwater, FL Plant Shutdown](#)
