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Laid-Off Workers File WARN Act Suit In Yellow Ch. 11 Case

By **Emily Lever**

Law360 (August 8, 2023, 8:59 PM EDT) -- An employee laid off by bankrupt trucking firm Yellow Corp. filed a proposed class action adversary proceeding in the company's Chapter 11 case, saying Yellow violated the WARN Act by laying off 30,000 workers with no advance notice.

The action, filed late Monday, is **not the first WARN Act suit** filed against Yellow amid a dispute with the International Brotherhood of Teamsters, which represents 20,000 of the laid-off workers, over a restructuring the company says is existentially necessary. The union, for its part, has contended the workers should not pay the price of decades of corporate mismanagement.

Roger Keef, the lead plaintiff, was a dockhand and spotter for 28 years in Yellow's Chicago Heights, Illinois, facility — until July 30, when he learned on social media that he had been terminated, according to the complaint. About 400 other Yellow employees who worked out of that facility were also laid off on July 30 without ever having been previously notified, according to the complaint.

The company failed to provide 60 days' advance written notice, the complaint said, and it asks that the workers receive 60 days' worth of pay, benefits and health care, plus damages.

Armando Rivera, a longtime dockworker and union steward at a Yellow facility in Bloomington, California, also filed a proposed class action Aug. 2 saying he and thousands of other union and nonunion workers lost their jobs with no advance notice. He said he has reason to believe all 600 employees at the Bloomington facility are now out of work.

Yellow, which filed for bankruptcy protection Sunday with \$1.5 billion in secured debt, intends to wind down its business through the Chapter 11 process, according to a statement. The filing came as Yellow clashed with the Teamsters over a proposed operational restructuring; it filed a \$137 million lawsuit against the Teamsters in Kansas federal court in June, claiming the union's unwillingness to back the plan sent the company into a "death spiral."

The union was set to strike in late July over Yellow's failure to make \$50 million in payments to a pension and benefit fund, but a last-minute deal averted the threatened work stoppage and gave the company 30 days to come current on its obligations to the funds. The judge presiding over the lawsuit denied a bid by Yellow to block the strike on July 21.

The "death spiral" is also attributable to the company, while union members sacrificed to keep the company going, according to a statement released July 31 by Teamsters for a Democratic Union, a caucus of the Teamsters.

"Members took a 15% wage cut and a 70% reduction in pension contributions. But Yellow kept wanting more concessions, till there were no more to give and nothing left to save," the statement read. "The last straw came when Yellow stopped paying into Teamcare, shorting our health fund by \$50 million. Members' health care was set to be cut off, so the union had no choice and had to say 'no' to that final insult to members."

None of the parties could be reached for comment Tuesday.

The workers are represented by Ian Connor Bifferato of The Bifferato Firm, and Joseph G. Sauder and Joseph B. Kenney of Sauder Schelkopf LLC.

Yellow is represented by Laura Davis Jones, Timothy P. Cairns, Peter J. Keane and Edward Corma of Pachulski Stang Ziehl & Jones LLP, and Patrick J. Nash Jr., David Seligman, Whitney Fogelberg and Allyson B. Smith of Kirkland & Ellis LLP.

The adversary proceeding is Keef v. Yellow Corp., case number unavailable, and the bankruptcy case is In re: Yellow Corporation, case number 1:23-bk-11069, in the U.S. Bankruptcy Court for the District of Delaware.

--Editing by Adam LoBelia.

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