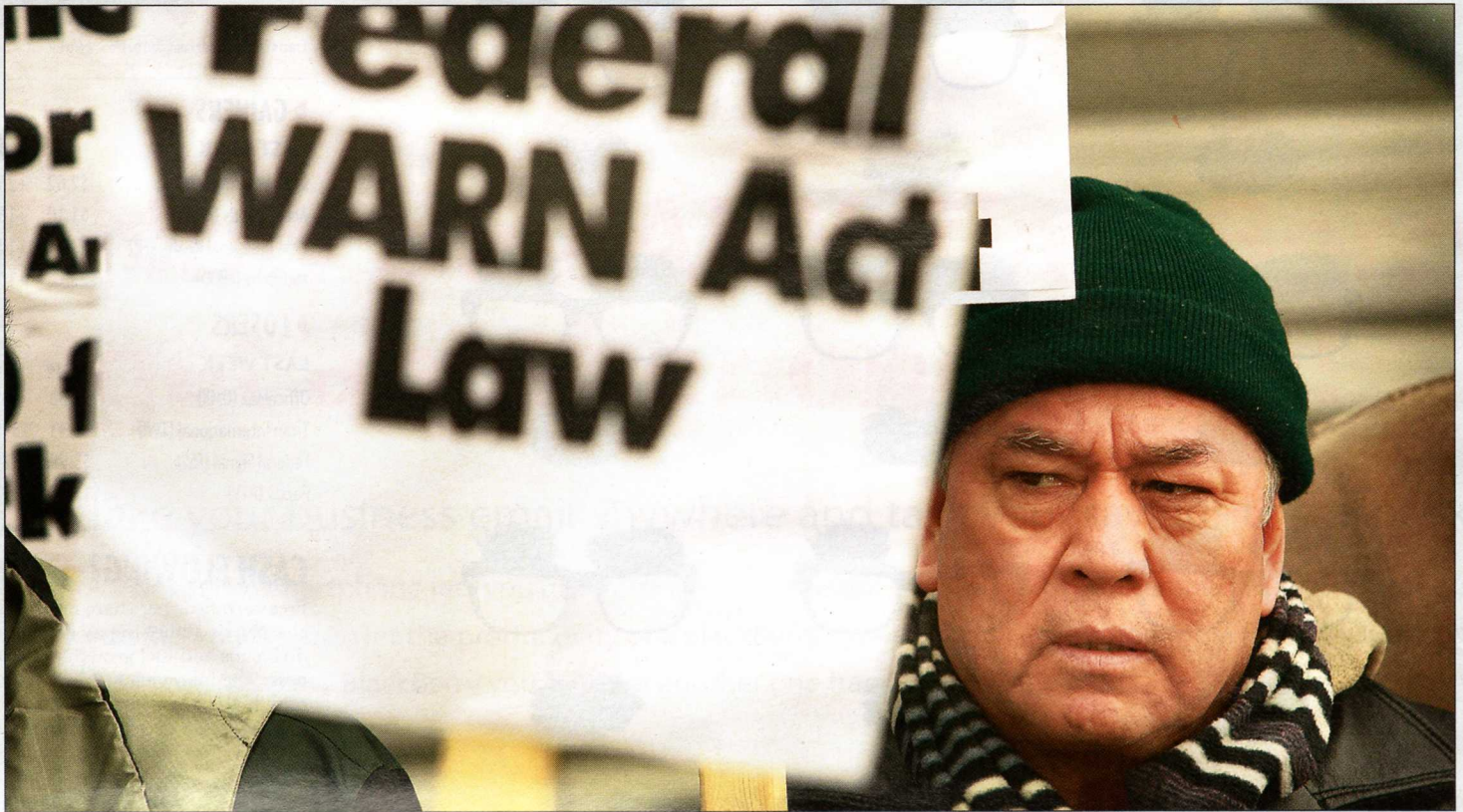


"THE LEGAL SYSTEM IS THE EMPLOYER'S GAME."

[Emily Rosenberg, director, DePaul University's Labor Education Center]



GETTY IMAGES

About 300 Republic Windows & Doors employees held a sit-in to protest their factory's closing in December. The move attracted national media attention.

WARN-ING SIGNS

As more plants close, more fights over compliance with notice law

BY CLAIRE BUSHEY

The closings of Republic Windows & Doors' factory and Heinemann's Inc. bakery are similar in some ways.

Both shuttered abruptly after lenders yanked a key line of credit. Laid-off workers at each accused their employer of violating the federal Worker Adjustment and Retraining Notification Act, which requires businesses with more than 100 employees to notify workers of mass layoffs 60 days in advance.

That's where the similarities end.

The 300 workers at Republic Windows, who attracted national media attention with a sit-in at the

Goose Island window factory, will collect \$1.75 million in wages, plus two months of health benefits. Former Heinemann's employees, who convinced a judge in August that their former employer violated the WARN Act, will collect a fraction of that.

"The difference with Republic Windows is they sat down in the plant," says Emily Rosenberg, director of DePaul University's Labor Education Center. "The legal system is the employer's game."

Outcomes may differ, but WARN Act disputes are likely to rise in the months ahead as the sinking economy forces more companies to close factories and other

workplaces. WARN Act filings with the Illinois Department of Labor have surged to 150 so far in fiscal 2009, which began July 1, 2008. That's well above the pace of 140 to 160 filings a year since 2006, according to the department.

Another lawsuit pending in federal court here charges Lincoln Park Hospital in Chicago with violating the WARN Act when it closed last fall. The hospital denies the allegation.

Since 2004, the state Department of Labor has investigated 42 complaints alleging WARN Act violations, finding that only two compa-

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WARN Act disputes on the rise

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nies broke the law. In the other 40 cases, investigators found the companies were exempt from the warning requirement under provisions that allow plant closings without notice by companies that are trying to raise capital or are facing "unforeseen business circumstances" such as a "major economic downturn."

"If they find during the investigation that the company had legitimate reasons to do what it may have done, they certainly take that into consideration," a department spokeswoman says.

Lincoln Park Hospital's corporate parent, Kentucky-based Merit Health Systems LLC, argues in court filings that exemptions excused it from notifying workers 60 days in advance of the hospital's Oct. 15 closing.

Employees received a letter from the hospital's interim director of human resources, Richard Dodsworth, saying, "Earlier notice of the action was not given because we have been in the process of actively seeking capital . . . and giving notice would have precluded us from obtaining such capital and could have impaired our ability to provide an appropriate level of care for our patients."



ERIK LINGER

"We decided we can get everything, or we can get nothing," says Martin Quiroz, who worked for Heinemann's Inc. until the bakery closed in 2005.

That didn't dissuade about 400 workers from filing suit.

Rosemary Jefferson, a former hospital switchboard operator who joined the lawsuit, says employees learned of the closing when the hospital's CEO called a meeting in the cafeteria and told them to leave immediately. He also admonished them not to take anything belonging to the company as they left, Ms. Jefferson recalls.

She vows to stick with the lawsuit "as long as it takes." A spokesman for Merit declines to comment.

A similar sentiment took hold among a small group of former Heinemann's workers. After 104 of their colleagues accepted a settlement of \$1,000 apiece, 16 pursued their WARN Act case to a final judgment. In August, a judge ruled that Heinemann's violated the act and ordered the company

to pay \$162,000 to the workers.

"We decided we can get everything, or we can get nothing," says Martin Quiroz, who made \$16.16 an hour operating a dough mixer at the Southwest Side bakery until it closed in 2005. "I'm not going to give up all those years I worked in the company, and they had a lot of gains, and I have nothing."

But Heinemann's has no assets to pay the judgment, says company attorney Richard McArdle. Plaintiffs' attorney Travis Ketterman says he doesn't expect the workers to collect the full amount of the judgment.

Heinemann's baked goods are now manufactured by CC's Kitchen, a Belmont, Mich., company owned by Jim McColgan, who says he bought the Heinemann's name and intellectual property rights at auction in November 2005.