

# 8th Circuit: No Contracting Out of WARN Act Obligations Where Sale of Business is 'Going Concern'

The 8th U.S. Circuit Court of Appeals issued an opinion reminding employers that they cannot contract out of the Worker Adjustment and Retraining Notification Act (WARN) obligations requiring employers to provide 60 days' written notice to employees of a plant closing or mass layoff, according to a post on the website of **Winston & Strawn LLP**.

In *Day v. Celadon Trucking Services, Inc.*, the circuit court held that the purchaser of a business, Celadon Trucking Services Inc., was responsible under the WARN Act for providing notice of a mass layoff to more than 400 employees, even though Celadon never hired or fired those employees, the sales agreement characterized the transaction as a sale of assets, and stated that the seller, Continental Express Inc., was solely responsible for providing the WARN notices.

**Steve Sheinfeld** and **Jeffrey Salomon** wrote the article.

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