

**To:** Faraone, Janet M (LABOR); Foehr, Linda (LABOR)  
**Subject:** WARN Act and Time Inc.

Janet,

Thank you for speaking with me briefly about my situation with my former employer, Time Inc. and my rights regarding the WARN Act. I believe that I am entitled to an additional 90 days or 13 weeks of benefits that the company did not grant me. I would like to contact the Human Resource Department to discuss, but wanted to find out on a state/legal end what my rights are. I will explain my situation briefly below.

The day that my company policy maternity leave ended on September 2nd, I received a call from my department head that my job was eliminated. I was completely shocked because I was actually not suppose to go back to work until 9/22 since I was adding on vacation time to my maternity leave time(with department head approval). **I was explained that this job elimination was part of a bigger mass layoff that would take place in a few weeks, and that the department was "doing me a favor" by not having me come back after setting up childcare, only to be laid off in a few weeks.** I was told that the job elimination had NOTHING to do with my performance or my maternity leave, and that it was simply a cost elimination and again, part of a bigger lay off to take place.

I was instructed to contact our HR department to get my severance package. HR gave me the standard Time Inc severance package which was 2 weeks per year of service. I was told this would go into effect on 10/2, after my 4 weeks of unused vacation time would be taken.

On 11/2, the company started the mass layoff of approximately 280 folks. I was just recently told by affected employees that as part of their package, they received an additional 13 weeks of severance/benefits. Obviously, had I known that the mass layoff would have entitled me to the additional 13 weeks, I would have investigated this sooner. Clearly, I was part of this mass layoff and my WARN rights were violated.

Me signing the release for my standard company severance package should have nothing to do with NY State law and the additional rights I am entitled to. I need to know how I go about getting granted these rights of the WARN act, and receiving the additional 13 weeks. Should I contact the Time Inc HR department? I would like to know if I legally have a claim with Time Inc.

Thank you for your input and any information that you can provide. I hope for a quick response in case this is time sensitive and I may run into cut off dates.

Sincerely,

Michelle Jurkovic

**Hesnor, Shannon (LABOR)**

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**From:** Hesnor, Shannon (LABOR)  
**Sent:** Friday, January 22, 2010 2:33 PM  
**To:** 'mjurkovic09@gmail.com'  
**Cc:** Faraone, Janet M (LABOR)  
**Subject:** FW: WARN Act and Time Inc.

Ms. Jurkovic,

I am responding to your email inquiry from January 5, 2009 to Janet Faraone.

From the information you provided, it does not appear as if your layoff on September 2, 2009 can be aggregated to the larger layoff on November 2, 2009. To be entitled to WARN payments, you must meet the requirements of the New York State Worker Adjustment and Retraining Notification (WARN) Act. Under the WARN Act, a mass layoff results in an employment loss at a single site of employment during any 30-day period when at least 25 employees, constituting at least 33% of the employees at the site, or at least 250 employees, regardless of the percentage of employees, are laid off. It appears that your employment termination occurred more than 30 days before the larger layoff and therefore, there were not 25 employees laid off within a 30-day period before or after September 2, 2009 which means an actionable employment loss under the Act did not occur. Even if we interpret the WARN Act most favorable to you and determine that your layoff date was October 2, 2009, it is still not within 30 days of November 2, 2009 and, therefore, cannot be aggregated.

Under the Act, in determining whether an employment loss has occurred, you must look ahead 30 days and behind 30 days to determine whether employment actions will in the aggregate, for any 30-day period, reach the minimum numbers for a mass layoff. In the situation you describe, and as stated above, there were not another 24 employees laid off within 30 days of your layoff. Next, you can look ahead 90 days and back 90 days from the date of each employment action to determine whether actions constituting employment losses, each of which separately is not of sufficient size to trigger the notice requirement, will in the aggregate for any 90-day period reach the minimum numbers for a mass layoff. Since the mass layoff beginning on November 2, 2009 constituted an employment loss of sufficient size to trigger the WARN notice requirements on its own, it cannot be aggregated with your individual employment loss.

If you have any further questions, please let me know. Thank you.

Shannon J. Hesnor  
Senior Attorney  
Counsel's Office  
New York State Department of Labor

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**From:** Michelle Jurkovic [mailto:mjurkovic09@gmail.com]  
**Sent:** Tuesday, January 05, 2010 3:22 PM