

UNITED STATES
BANKRUPTCY COURT

SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In re:

STAGE STORES, INC. and
SPECIALTY RETAILERS, INC.,

*Debtors.*¹

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Bankr. Case No. 20-32564-DRJ
Chapter 11
Jointly Administered

AMY STUMPF, Individually and On
Behalf of All Others Similarly Situated,

Plaintiff,

v.

STAGE STORES, INC. and
SPECIALTY RETAILERS, INC.

Defendants.

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Adv. Proc. No. _____

PLAINTIFF AMY STUMPF'S ORIGINAL COMPLAINT

Plaintiff Amy Stumpf (referred to as "Stumpf") brings this action under 29 U.S.C. § 2104(a)(5) individually and on behalf of all similarly situated employees of Defendant Stage Stores, Inc. and Defendant Specialty Retailers, Inc. (collectively referred to as "Stage Stores") who were terminated without cause or suffered other

¹ The debtors in these Chapter 11 cases, along with the last four digits of each debtor's federal tax identification number are: Stage Stores, Inc. (6900) and Specialty Retailers, Inc. (1900). The debtors' headquarters is: 2425 West Loop South, Houston, Texas 77027-4205.



employment loss as part of or as the result of a plant closing or mass layoff ordered by the company on or about March 27, 2020, and within thirty days of that date and who were not provided with advance written notice of the plant closing or mass layoff as required by the Worker Adjustment Retraining and Notification Act, 29 U.S.C. §§ 2101-2109 (“WARN Act”).

I. Nature of Suit

1. Stumpf’s claims arise under the WARN Act.
2. The WARN Act “provides protection to workers, their families and communities by requiring employers to provide notification 60 calendar days in advance of plant closings and mass layoffs[;] [a]dvance notice provides workers and their families some transition time to adjust to the prospective loss of employment, to seek and obtain alternative jobs and, if necessary, to enter skill training or retraining that will allow these workers to successfully compete in the job market.” 20 C.F.R. § 639.1(a).
3. Stage Stores violated the WARN Act by ordering a plant closing or mass layoff before “the end of a 60-day period after ... serv[ing] written notice of such” plant closing or mass layoff to each affected employee, including Stumpf and other similarly situated employees. 29 U.S.C. § 2101(a); *see also, id.* at § 2101(a)(5) (defining “affected employee”).

4. Stumpf (sometimes referred to as the “Class Representative”) brings this action under 29 U.S.C. § 2104(a)(5) and Fed. R. Civ. P. 23 individually and on behalf of all similarly situated employees (defined below) to recover back pay, employee benefits and attorney’s fees under the WARN Act.

II. Jurisdiction & Venue

5. This action arises under a federal statute, the WARN Act. 28 U.S.C. § 1331 (federal-question jurisdiction); *see also*, 28 U.S.C. § 1334; 29 U.S.C. § 2104(a)(5).

6. This is a core proceeding under 28 U.S.C. §§ 157(b)(2)(A)-(B), (O).

7. Venue is proper in this district and division because the WARN Act violations described in this complaint are related to a case under chapter 11 of the United States Bankruptcy Code that is pending in this district and division. 28 U.S.C. § 1409(a).

III. Parties

8. Stumpf is an individual who resides in Harris County, Texas and who was employed by Stage Stores during the last two years.

9. Stage Stores, Inc. is a Nevada corporation that may be served with process by serving its registered agent:

Cogency Global, Inc.
1601 Elm Street, Suite 4360
Dallas, Texas 75201-4701

Alternatively, if the registered agent of Stage Stores, Inc. cannot with reasonable diligence be found at the company's registered office, Stage Stores, Inc. may be served with process by serving the Texas Secretary of State. *See*, Tex. Bus. Org. Code §§ 5.251-5.254; *see also*, Tex. Civ. Prac. & Rem. Code § 17.026.

10. Specialty Retailers, Inc. is a Texas corporation that may be served with process by serving its registered agent:

Cogency Global, Inc.
1601 Elm Street, Suite 4360
Dallas, Texas 75201-4701

Alternatively, if the registered agent of Specialty Retailers, Inc. cannot with reasonable diligence be found at the company's registered office, Specialty Retailers, Inc. may be served with process by serving the Texas Secretary of State. *See*, Tex. Bus. Org. Code §§ 5.251-5.254; *see also*, Tex. Civ. Prac. & Rem. Code § 17.026.

11. An allegation that Stage Stores committed any act or omission should be construed to mean the company's officers, directors, vice-principals, agents, servants or employees committed such act or omission and that, at the time such act or omission was committed, it was done with the full authorization, ratification or approval of Stage Stores or was done in the normal course and scope of employment of Stores' officers, directors, vice-principals, agents, servants or employees.

IV. Facts

12. Stage Stores principally operates department stores (for example, Bealls, Goody's, Palais Royal, Peebles, etc.) that focus on small to mid-sized markets throughout the United States and that sell clothing, shoes, handbags, accessories, jewelry, watches, beauty and fragrance products, gift items, and articles for the home.

13. Stage Stores does business in the territorial jurisdiction of this Court.

14. Stage Stores employed Stumpf from May 2007 to July 8, 2020.

15. Stage Stores paid wages to Stumpf through March 28, 2020.

16. During Stumpf's employment with Stage Stores, the company had one hundred or more employees (excluding part-time employees) or one hundred or more employees who in the aggregate work at least 4,000 hours per week (exclusive of overtime hours).

17. Stage Stores employed Stumpf as a director of planning and allocation.

18. Stage Stores employed Stumpf at its facility located at 2425 West Loop South in Houston, Texas, and it employed other similarly situated employees at other facilities (referred to as "the Facilities"). *See*, 20 C.F.R. §§ 639.3(i)-(j).

19. Stage Stores terminated Stumpf on July 8, 2020, without cause.

20. Stumpf's termination was part of a plant closing ordered by Stage Stores because it involved the permanent or temporary shutdown of the Facilities and resulted

in (1) the termination of; (2) a layoff exceeding six months for; and/or (3) the reduction of hours of work by more than fifty percent during each month of any six-month period for at least fifty of Stores' employees (excluding part-time employees) at the Facility the Facilities during any thirty-day period.

21. Alternatively, Stumpf's termination was part of a mass layoff ordered by Stage Stores because it resulted in (1) the termination of; (2) a layoff exceeding six months for; and/or (3) the reduction of hours of work by more than fifty percent during each month of any six-month period for either (1) at least five hundred of Stores' employees (excluding part-time employees) at the Facility the Facilities or (2) at least thirty-three percent of Stores' employees (excluding part-time employees) at the Facility the Facilities, which is at least fifty employees (excluding part-time employees) during any thirty-day period.

22. Stage Stores did not provide Stumpf or any other employee who may have been reasonably expected to be affected by the plant closing or mass layoff ("affected employees") with advance written notice of the plant closing or mass layoff in violation of 29 U.S.C. § 2102(a).

23. Stage Stores did not provide Stumpf or any other affected employee the pre-termination wages and benefits required by the WARN Act.

24. Stage Stores is liable to any affected employee who suffered an employment loss as a result of the plant closing or mass layoff ordered by the company, including Stumpf, for (1) back pay for each day of violation (at a rate of compensation not less than the higher of the average regular rate received by each affected employee during the last three years of the employee's employment or the final regular rate received by such employee) and (2) benefits under an employee benefit plan described in 29 U.S.C. § 1002(3). *See also*, 29 U.S.C. § 2104(a)(7).

25. Stage Stores is liable to any affected employee who suffered an employment loss as a result of the plant closing or mass layoff ordered by the company, including Stumpf, for his or her reasonable attorney's fees. 29 U.S.C. § 2104(a)(6)

26. All employees of Stage Stores who were terminated without cause or suffered other employment loss as part of or as the result of a plant closing or mass layoff ordered by the company on or about March 27, 2020, and within thirty days of that date and who were not provided with advance written notice of the plant closing or mass layoff as required by the WARN Act are similarly situated to Stumpf. 29 U.S.C. § 2104(a)(5).

27. On May 10, 2020, Stage Stores filed a voluntary petition for relief under chapter 11 of the United States Bankruptcy Code.

**V. Count One—
Failure to Provide Advance Written Notice of Plant Closing or Mass Layoff
in Violation of 29 U.S.C. § 2102(a)**

28. Stumpf adopts by reference all of the facts set forth above. *See*, Fed. R. Civ. P. 10(c).

29. Stage Stores employed Stumpf from May 2007 to July 8, 2020, as a director of planning and allocation.

30. During Stumpf's employment with Stage Stores, the company was covered by the WARN Act.

31. During Stumpf's employment with Stage Stores, there was a plant closing or mass layoff at the Facilities that resulted in an employment loss to Stumpf and to other affected employees.

32. Under the WARN Act, Stage Stores was required to provide Stumpf and any other affected employees with advance written notice of the plant closing or mass layoff. *See*, 29 U.S.C. § 2102(a).

33. Stage Stores did not provide Stumpf or the other affected employees with advance written notice of the plant closing or mass layoff as required by the WARN Act. *See*, 29 U.S.C. § 2102(a).

34. Stage Stores did not provide Stumpf or any other affected employee the pre-termination wages and benefits required by the WARN Act.

35. By failing to provide Stumpf and the other affected employees with advance written notice of the plant closing or mass layoff and by failing to them pay pre-termination wages and benefits, Stage Stores violated the WARN Act. *See*, 29 U.S.C. § 2102(a).

36. As a result of the WARN Act violation(s) described above, Stage Stores is liable to Stumpf for back pay, employee benefits and attorney's fees.

**VI. Count Two—
Class Action Allegations Under Fed. R. Civ. P. 23
for Violations of the WARN Act**

37. Stumpf adopts by reference all of the facts set forth above. *See*, Fed. R. Civ. P. 10(c).

38. Stumpf, the Class Representative, brings Count One against Stage Stores under Fed. R. Civ. P. 23 on behalf of the following class of persons:

All employees of Stage Stores who were terminated without cause or suffered other employment loss as part of or as the result of a plant closing or mass layoff ordered by the company on or about March 27, 2020, and within thirty days of that date and who were not provided with advance written notice of the plant closing or mass layoff as required by the WARN Act (referred to as the "WARN Act Class").

39. The claims of the WARN Act Class, if certified for class-wide treatment, will be pursued by all similarly situated persons who do not affirmatively opt-out of the class.

40. The members of the WARN Act Class are so numerous that joinder of all members is impracticable; the exact number of putative class members is unknown at the present time but should be over one hundred.

41. There are numerous questions of law and fact common to the WARN Act Class, including:

- a. whether the members of the WARN Act Class were employees of Stage Stores who worked at the Facilities;
- b. whether Stage Stores provided the members of the WARN Act Class with advance written notice of a plant closing or mass layoff ordered by the company that resulted in their termination without cause or other employment loss; and
- c. whether Stage Stores failed to pay the members of the WARN Act Class the pre-termination wages and benefits required by the WARN Act.

42. Stumpf's claims are typical of the claims of the WARN Act Class because Stumpf and the members of the WARN Act Class all worked at the Facilities and were all part of the same plant closing or mass layoff that resulted in their termination without cause or other employment loss and that was ordered by Stage Stores without advance written notice to Stumpf and the members of the WARN Act Class; in other words, Stumpf's claims and the claims of the WARN Act Class arise out of a common course of conduct of Stage Stores and are based on the same legal and remedial theories.

43. Stumpf will fairly and adequately protect the interests of the WARN Act Class and has retained competent and capable attorneys who are experienced trial

lawyers with significant experience in complex employment litigation (including class actions, collective actions, and multidistrict litigation); Stumpf and her counsel are committed to prosecuting this action vigorously on behalf of the WARN Act Class, have the financial resources to do so and do not have interests that are contrary to or that conflict with those of the proposed class.

44. Class certification of the WARN Act Class is appropriate under Fed. R. Civ. P. 23 because questions of law and fact common to the putative class members predominate over any questions affecting only individual members of the class; adjudication of these common issues in a single action has important and desirable advantages of judicial economy, and there are no unusual difficulties likely to be encountered in the management of this case as a class action.

45. The class action mechanism is superior to any alternatives that may exist for the fair and efficient adjudication of these claims because:

- a. proceeding as a class action would permit the large number of injured parties to prosecute their common claims in a single forum simultaneously, efficiently, and without unnecessary duplication of evidence, effort and judicial resources;
- b. a class action is the only practical way to avoid the potentially inconsistent results that numerous individual trials are likely to generate;
- c. class treatment is the only realistic means by which the WARN Act Class can effectively litigate against a large, well-represented corporate defendant like Stage Stores;

- d. in the absence of a class action, Stage Stores would be unjustly enriched because the company would be able to retain the benefits and fruits of the numerous violations of the WARN Act; and
- e. numerous individual actions would place an enormous burden on the courts as they will be forced to take duplicative evidence and decide the same issues relating to Stores' conduct over and over again.

46. Stage Stores has acted or refused to act on grounds generally applicable to the WARN Act Class, thereby making final injunctive relief or corresponding declaratory relief appropriate with respect to each class as a whole; prosecution of separate actions by members of the WARN Act Class would create the risk of inconsistent or varying adjudications with respect to individual members of the WARN Act Class that would establish incompatible standards of conduct for Stage Stores.

47. Stumpf will send notice to all members of the WARN Act Class to the extent required by Fed. R. Civ. P. 23.

**VIII. Count Three—
Attorney's Fees Under 29 U.S.C. § 2104(a)(6)**

48. Stumpf adopts by reference all of the facts set forth above. *See*, Fed. R. Civ. P. 10(c).

49. Stumpf is authorized to recover attorney's fees on her claims by statute. 29 U.S.C. § 2104(a)(6).

50. Stumpf has retained the professional services of the undersigned attorneys.

51. Stumpf has complied with the conditions precedent to recovering attorney's fees.

52. Stumpf has incurred or may incur attorney's fees in bringing this lawsuit.

53. The attorney's fees incurred or that may be incurred by Stumpf were or are reasonable and necessary.

54. Stage Stores is liable to Stumpf both individually and on behalf of the WARN Act Class for attorney's fees by reason of the WARN Act violations described above. 29 U.S.C. § 2104(a)(6).

IX. Relief Sought

55. Stumpf demands the following relief:

- a. an order allowing this action to proceed as a class action under 29 U.S.C. § 2104(a)(5) and Fed. R. Civ. P. 23;
- b. an order appointing last representative of the WARN Act Class;
- c. an order appointing MOORE & ASSOCIATES class counsel;
- d. an incentive award for Stumpf for serving as class representative if the Court allows this action to proceed as a class action under 29 U.S.C. § 2104(a)(5) and Fed. R. Civ. P. 23;
- e. judgment against Stage Stores in Stumpf's favor both individually and on behalf of the WARN Act Class for to recover back pay, employee benefits and attorney's fees, plus interest and costs;
- f. an order designating all of the damages incurred by Stumpf and the WARN Act Class as a result of Stores' violations of the WARN Act as a first priority post-petition administrative expense under 11 U.S.C. § 503(b)(1)(A) or, alternatively, as having wage priority status under 11

U.S.C. § 507(a)(4)-(5) up to \$13,650 and the remainder as a general unsecured claim; and

- g. all other relief and sums that may be adjudged against Stage Stores in Stumpf's favor both individually and on behalf of the WARN Act Class.

Respectfully Submitted,

MOORE & ASSOCIATES
Lyric Centre
440 Louisiana Street, Suite 675
Houston, Texas 77002-1063
Telephone: (713) 222-6775
Facsimile: (713) 222-6739

By: 

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ATTORNEYS FOR PLAINTIFF

B1040 (FORM 1040) (12/15)

ADVERSARY PROCEEDING COVER SHEET (Instructions on Reverse)		ADVERSARY PROCEEDING NUMBER (Court Use Only)
PLAINTIFFS Amy Stumpf	DEFENDANTS Stage Stores, Inc. Specialty Retailers, Inc.	
ATTORNEYS (Firm Name, Address, and Telephone No.) Moore & Associates 440 Louisiana St Ste 675 Houston, TX 77002-1063	ATTORNEYS (If Known) Tel. (713) 222-6775 Fax (713) 222-6739 www.mooreandassociates.net	
PARTY (Check One Box Only) <input type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input checked="" type="checkbox"/> Creditor <input type="checkbox"/> Other <input type="checkbox"/> Trustee	PARTY (Check One Box Only) <input checked="" type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input type="checkbox"/> Creditor <input type="checkbox"/> Other <input type="checkbox"/> Trustee	
CAUSE OF ACTION (WRITE A BRIEF STATEMENT OF CAUSE OF ACTION, INCLUDING ALL U.S. STATUTES INVOLVED) Worker Adjustment Retraining and Notification Act, 29 U.S.C. §§ 2101-2109		
NATURE OF SUIT (Number up to five (5) boxes starting with lead cause of action as 1, first alternative cause as 2, second alternative cause as 3, etc.)		
<p>FRBP 7001(1) – Recovery of Money/Property</p> <input type="checkbox"/> 11-Recovery of money/property - §542 turnover of property <input type="checkbox"/> 12-Recovery of money/property - §547 preference <input type="checkbox"/> 13-Recovery of money/property - §548 fraudulent transfer <input checked="" type="checkbox"/> 14-Recovery of money/property - other <p>FRBP 7001(2) – Validity, Priority or Extent of Lien</p> <input type="checkbox"/> 21-Validity, priority or extent of lien or other interest in property <p>FRBP 7001(3) – Approval of Sale of Property</p> <input type="checkbox"/> 31-Approval of sale of property of estate and of a co-owner - §363(h) <p>FRBP 7001(4) – Objection/Revocation of Discharge</p> <input type="checkbox"/> 41-Objection / revocation of discharge - §727(c),(d),(e) <p>FRBP 7001(5) – Revocation of Confirmation</p> <input type="checkbox"/> 51-Revocation of confirmation <p>FRBP 7001(6) – Dischargeability</p> <input type="checkbox"/> 66-Dischargeability - §523(a)(1),(14),(14A) priority tax claims <input type="checkbox"/> 62-Dischargeability - §523(a)(2), false pretenses, false representation, actual fraud <input type="checkbox"/> 67-Dischargeability - §523(a)(4), fraud as fiduciary, embezzlement, larceny <p style="text-align: center;">(continued next column)</p>	<p>FRBP 7001(6) – Dischargeability (continued)</p> <input type="checkbox"/> 61-Dischargeability - §523(a)(5), domestic support <input type="checkbox"/> 68-Dischargeability - §523(a)(6), willful and malicious injury <input type="checkbox"/> 63-Dischargeability - §523(a)(8), student loan <input type="checkbox"/> 64-Dischargeability - §523(a)(15), divorce or separation obligation (other than domestic support) <input type="checkbox"/> 65-Dischargeability - other <p>FRBP 7001(7) – Injunctive Relief</p> <input type="checkbox"/> 71-Injunctive relief – imposition of stay <input type="checkbox"/> 72-Injunctive relief – other <p>FRBP 7001(8) Subordination of Claim or Interest</p> <input type="checkbox"/> 81-Subordination of claim or interest <p>FRBP 7001(9) Declaratory Judgment</p> <input type="checkbox"/> 91-Declaratory judgment <p>FRBP 7001(10) Determination of Removed Action</p> <input type="checkbox"/> 01-Determination of removed claim or cause <p>Other</p> <input type="checkbox"/> SS-SIPA Case – 15 U.S.C. §§78aaa <i>et seq.</i> <input type="checkbox"/> 02-Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case)	
<input type="checkbox"/> Check if this case involves a substantive issue of state law	<input checked="" type="checkbox"/> Check if this is asserted to be a class action under FRCP 23	
<input type="checkbox"/> Check if a jury trial is demanded in complaint	Demand \$	
Other Relief Sought		

B1040 (FORM 1040) (12/15)

BANKRUPTCY CASE IN WHICH THIS ADVERSARY PROCEEDING ARISES		
NAME OF DEBTOR Stage Stores, Inc.	BANKRUPTCY CASE NO. 20-32564	
DISTRICT IN WHICH CASE IS PENDING Southern District of Texas	DIVISION OFFICE Houston Division	NAME OF JUDGE Hon. David Jones
RELATED ADVERSARY PROCEEDING (IF ANY)		
PLAINTIFF	DEFENDANT	ADVERSARY PROCEEDING NO.
DISTRICT IN WHICH ADVERSARY IS PENDING	DIVISION OFFICE	NAME OF JUDGE
SIGNATURE OF ATTORNEY (OR PLAINTIFF)		
DATE 7/16/20	PRINT NAME OF ATTORNEY (OR PLAINTIFF) Melissa Moore	

INSTRUCTIONS

The filing of a bankruptcy case creates an “estate” under the jurisdiction of the bankruptcy court which consists of all of the property of the debtor, wherever that property is located. Because the bankruptcy estate is so extensive and the jurisdiction of the court so broad, there may be lawsuits over the property or property rights of the estate. There also may be lawsuits concerning the debtor’s discharge. If such a lawsuit is filed in a bankruptcy court, it is called an adversary proceeding.

A party filing an adversary proceeding must also must complete and file Form 1040, the Adversary Proceeding Cover Sheet, unless the party files the adversary proceeding electronically through the court’s Case Management/Electronic Case Filing system (CM/ECF). (CM/ECF captures the information on Form 1040 as part of the filing process.) When completed, the cover sheet summarizes basic information on the adversary proceeding. The clerk of court needs the information to process the adversary proceeding and prepare required statistical reports on court activity.

The cover sheet and the information contained on it do not replace or supplement the filing and service of pleadings or other papers as required by law, the Bankruptcy Rules, or the local rules of court. The cover sheet, which is largely self-explanatory, must be completed by the plaintiff’s attorney (or by the plaintiff if the plaintiff is not represented by an attorney). A separate cover sheet must be submitted to the clerk for each complaint filed.

Plaintiffs and Defendants. Give the names of the plaintiffs and defendants exactly as they appear on the complaint.

Attorneys. Give the names and addresses of the attorneys, if known.

Party. Check the most appropriate box in the first column for the plaintiffs and the second column for the defendants.

Demand. Enter the dollar amount being demanded in the complaint.

Signature. This cover sheet must be signed by the attorney of record in the box on the second page of the form. If the plaintiff is represented by a law firm, a member of the firm must sign. If the plaintiff is pro se, that is, not represented by an attorney, the plaintiff must sign.