

Coping with the coronavirus in the workplace, part two

By **Eli M. Kantor**
and **Jonathan D. Kantor**

Since our article that was published on March 18, there have been dramatic changes due to the ongoing COVID-19 pandemic. On March 17, California Gov. Gavin Newsom issued Executive Order N-31-20 modifying employers' obligations under the CAL WARN Act Cal Labor Code Section 1400 et seq., because of the coronavirus. Under the previous law, employers with 75 or more employ-

ees who were engaging in a mass layoff of at least 50 individuals had to give 60 days' notice to impacted employees, if at least 50 individuals were going to be laid off during a 30 day period due to lack of work or lack of funds. If employers failed to provide the requisite 60 days' notice, they had to pay those workers their wages for 60 days.

Under the order, employers who are engaging in these types of layoffs no longer need to follow the above mentioned requirements. Rather, they now have to do the following:

(i) Give the written notices specified in Labor Code Section 1401(a)-(b), including to: "the Employment Development Department, the local workforce investment board, and the chief elected official of each city and county government within which the termination, relocation or mass layoff occurs."

(ii) Consistent with United States Code, Title 29, Section 2102(b)(3), give as much notice as is practicable and, at the time notice is given, provide a brief statement of the basis for reducing the

notification period;

(iii) Consistent with United States Code, Title 29, Section 2102(b)(2)(A) and Code of Federal Regulations, Title 20, Section 639.9(b), order such a mass layoff, relocation, or termination that is caused by COVID-19-related "business circumstances that were not reasonably foreseeable as of the time that notice would have been required;" and

(iv) The notice to the employees must also state the following in writing: "If you have lost your job or been laid off temporarily, you

may be eligible for Unemployment Insurance (UI). More information on UI and other resources available for workers is available at labor.ca.gov/coronavirus2019."

Paid Sick Leave

Congress has just passed legislation that would offer up to two weeks of paid sick leave at 100% of the worker's salary to workers who have coronavirus, are in a quarantine, helping a family member with COVID-19 or who have children whose schools have closed.

Conclusion

Newsom's order provides a lot of needed flexibility and relief to employers who are dealing with the impact of the coronavirus on their business. As the situation continues to remain fluid, employers should contact experienced legal counsel to keep them up to date and to help them remain compliant with pending legislation. ■

Eli Kantor can be reached at eli@elikantorlaw.com and **Jonathan Kantor** can be reached at jonathan@elikantorlaw.com.