

## FISHER PHILLIPS ATTORNEYS ACHIEVE SUMMARY JUDGMENT AND DISMISSAL ON CRITICAL WARN ACT CASE

Outcome Could Impact Pending WARN Act Cases Across the Country

News  
Feb 8, 2021

**COLUMBIA, SC (February 8, 2021)** – Fisher Phillips has secured a resounding victory for client Fluor Corporation in one of the largest WARN Act cases in the U.S. On January 6, South Carolina U.S. District Court Judge J. Michelle Childs ruled that the firm’s client was not liable for claims alleged in the WARN Act class action involving nearly 4,000 employees and dismissed the case with prejudice. Fluor is a global engineering, procurement, fabrication, construction and maintenance company.

The case involved the 2017 closure of the Virgil C. Summer nuclear reactor project where Fluor subsidiaries, Fluor Enterprises, Inc. and Fluor Daniel Maintenance Services, Inc., were subcontractors. The case – which was pending for over three years – involved complicated and novel legal theories of liability and is one of the largest WARN Act class actions litigated nationally in recent years. Its outcome could impact pending and future WARN Act class action cases across the country.

Importantly, Judge Childs ruled that Fluor Enterprises, Inc. and Fluor Daniel Maintenance Services, Inc., (subcontractors) were not a single employer with the project owner and that the project owner’s rapid closure did not support a single employer finding. Judge Childs said, “To hold otherwise would likely deform the WARN Act well beyond Congress’ intent and could open a floodgate of litigation against principal clients who are wholly

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independent from a contractor or subcontractor.” The Judge further held that the Fluor entities did not order the closure and were therefore not WARN employers, and that even if they were WARN employers, the abrupt closure of the nuclear project was an unforeseeable business circumstance that excused them from the obligation of providing 60 days’ advance notice.

The Fisher Phillips team representing the Fluor entities included partners from Columbia, SC and Atlanta: **J. Hagood Tighe, David Kresser and Matthew Korn.**

The case is *Harry Pennington III et. al. v. Fluor Corp. et al.*, case number 0:17-cv-02094, in the U.S. District Court for the District of South Carolina.

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