



---

**Portfolio Media, Inc.** | 111 West 19th Street, 5th floor | New York, NY 10011 | [www.law360.com](http://www.law360.com)  
Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | [customerservice@law360.com](mailto:customerservice@law360.com)

---

## Crane Heyman Can't Dodge Suit Over Layoff Advice

By **Lauraann Wood**

Law360 (September 27, 2018, 7:19 PM EDT) -- An Illinois federal judge on Wednesday refused to toss a World Marketing LLC bankruptcy trustee's malpractice suit accusing Crane Heyman Simon Welch & Clar of failing to properly advise the company before it instituted mass layoffs, saying the claim is barred neither by legal doctrine nor the company's bankruptcy proceedings.

U.S. District Judge Thomas Durkin told the firm that bankruptcy trustee Norman Newman, who got slapped with class claims alleging World Marketing had laid off more than 300 employees without proper notice under the Worker Adjustment and Retraining Notification Act, can advance the malpractice claim because the "Barton doctrine" — which typically prohibits third-party plaintiffs from filing lawsuits against court-appointed trustees for conduct not directly related to the bankruptcy case — neither applies nor removes his jurisdiction to hear the case.

Newman and Crane Heyman were court-appointed parties in World Marketing's ongoing bankruptcy proceedings, and "there is no concern that the trustee is attempting to circumvent the appointing court's supervision to obtain some advantage over other claimants."

"The trustee is not a creditor seeking faster payment," Judge Durkin said. "Rather, he is the estate representative administering the estate by attempting to liquidate one of its claims, and presumably bring more value to the estate."

**Newman's September 2017 lawsuit** claims Crane Heyman, which is no longer involved in the bankruptcy case, owed a duty to advise Milwaukee-based World Marketing that as a company with over 100 employees, it needed to follow the WARN Act's requirement that it provide 60 calendar days' advance notice of plant closings and mass layoffs.

World Marketing had secured the firm's services shortly after its lender, Associated Bank NA, allegedly swept millions from the company's accounts "without warning" in late summer 2015. World Marketing had contacted Crane Heyman about potentially filing for bankruptcy should the company's refinancing efforts not succeed, and it cut 300 workers from its payroll and filed for Chapter 11 bankruptcy soon afterward.

Those workers filed a class action over the layoffs just a few weeks later. Newman's suit alleges Crane Heyman is at fault for that suit, claiming the firm's records show that the first time it ever considered the WARN Act or its implications for World Marketing was not until almost 30 days after the layoffs.

In forcing the firm to face those allegations, Judge Durkin rejected its argument that the bankruptcy court already adjudicated Newman's malpractice claim by granting fees to the ex-workers in November 2016.

Newman's malpractice suit arises under state law, and part of succeeding under a state law malpractice claim includes proving actual damages, Judge Durkin noted. But World Marketing could not have met that requirement until the bankruptcy court brought the workers' WARN claim into the suit in February 2017, so the prevailing fee petition could not have triggered Newman's malpractice claim at the time because "it did not yet exist," he ruled.

The judge rejected for similar reasons the firm's argument that collateral estoppel kills Newman's

suit, noting “the trustee’s malpractice claim was never actually litigated and decided on the merits by the bankruptcy court.”

Counsel for Newman declined comment Thursday.

Counsel for Crane Heyman did not immediately respond Thursday to requests for comment.

Newman is represented by Eric Madden, Brandon V. Lewis and David Benjamin Thomas of Reid Collins & Tsai LLP, Aaron Hammer of Horwood Marcus & Berk Chtd. and Michael Brandess of Sugar Felsenthal Grais & Helsing LLP.

Crane Heyman is represented by Daniel Francis Konicek, Thomas James Long and Amanda Jo Hamilton of Konicek & Dillon PC and Gabriel Aizenberg, Scott T. Mendeloff and Symone Danielle Shinton of Greenberg Traurig LLP.

The case is Norman Newman v. Crane Heyman Simon Welch & Clar, case number 1:17-cv-06978, in the U.S. District Court for the Northern District of Illinois.

--Editing by Orlando Lorenzo.

---

All Content © 2003-2018, Portfolio Media, Inc.