

Attorney Builds Wage-and-Hour Practice

By Stefanie Knapp

When Bet Tzedek Legal Services secured a recent settlement for four Los Angeles garment workers, no supporter of the nonprofit's employment rights project was more pleased than René Barge.

One of the terms of the settlement requires the defendant, Foothill Ranch-based Wet Seal Inc., to donate \$40,000 to Bet Tzedek, a contribution Barge hopes will propel the efforts of the wage-and-hour clinic she helped establish to handle these kinds of claims.

The plaintiffs in the case worked for DT Sewing, which Wet Seal contracted to produce Wet Seal garments, according to pro bono co-counsel Paul Chan, a partner at Los Angeles' Bird, Marella, Boxer & Wolpert. The plaintiffs alleged that they were subjected to terrible work conditions, did not receive overtime and were paid by the piece, which resulted in the workers receiving less than minimum wage, Chan says.

The workers filed claims with the labor commissioner against Wet Seal. The labor commissioner in this case awarded the workers full compensation of lost wages, according to Chan. Wet Seal appealed the decision, which resulted in the case being filed in Los Angeles Superior Court. *Achoa v. Wet Seal Inc.*, BS-081608 (L.A. Super. Ct., settled Jan. 20, 2004).

Joseph Farrell, a partner in Latham & Watkins' Costa Mesa office, represented Wet Seal and declined to comment.

The case, which settled on the eve of trial, was the first set for trial since the enactment of California's 1999 wage guarantee law that requires garment companies to ensure that workers who produce the clothes are paid minimum wage and overtime, Chan says.

In addition to the \$40,000 donation to Bet Tzedek, the settlement requires Wet Seal to pay the four plaintiffs \$90,000, the full amount they claim they were owed, according to Chan. Plus, the company agreed to implement a monitoring program to improve the workplace, according to Gus May, director of Bet Tzedek's North Hollywood office.

May oversees the wage-and-hour clinic, which the organization began in September.

The clinic is held once a week for a few hours at Bet Tzedek's North Hollywood office. Clients walk in and meet with one of the volunteer law students, who get the facts about the client's problem. The students then talk to the attorneys about how to proceed.

"We generally try to resolve the matters informally, often through a demand letter," May says.

Funding for the clinic initially came from Barge. Last year, she gave Bet Tzedek \$25,000 to set up a wage-and-hour clinic to handle claims like the case against Wet Seal.

Just a decade earlier, Barge, now 45, knew nothing of employment law. Instead, she had a successful career managing the research department of a national trade association. Deciding she needed a new challenge, Barge began attending Western State University College of Law part time. Then in 1993 at 36, she quit her job and moved to Denver



Photo by Robert Levins

The settlement requires Wet Seal to make a contribution to Bet Tzedek, which attorney René Barge hopes will propel the efforts of the wage-and-hour clinic.

to start over and attend the University of Denver College of Law full time.

After graduating in 1996, she hung up her own shingle and barely made ends meet doing contract work for attorneys.

Barge's first client came through a referral of a friend. Her client was a salaried manager who worked 12-hour days, six or seven days a week. Meryvn's, her employer, told her client that she was exempt and did not qualify for overtime, according to Barge. Barge also learned about hourly department managers who were told to clock out and then continue working, Barge says.

Barge worked up a case summary and started marketing it to law firms. Her pitch caught the eye of Callahan, McCune & Willis, which hired Barge as an associate. She went from "practically on welfare" to getting paid to litigate the case.

The litigation was especially grueling for Barge. The hourly claim settled after 1½ years, but the manager's claim dragged out for 2½ years, according to Barge. The cases settled for a combined \$11 million.

The case took so much out of Barge, she says, she wasn't sure she wanted to continue her practice when it ended. After taking a month and a half off, she returned to her practice and a large number of referrals, thanks to her work in the Mervyn's case.

Deciding that she had done the hard work of learning the laws and how to litigate a class action, Barge stayed with the practice.

"How much harder can it be to do it again?" she asked herself.

In the seven years since, she's racked up big wins for her clients, and three years ago she teamed up other class-action wage-and-hour lawyers to form Spiro Moss Barness Harrison & Barge in Los Angeles.

In 2002, Barge represented Starbucks managers and assistant managers in an overtime dispute. That settled for \$18 million, her biggest settlement to date. In 2003, she settled a case for \$16 million on behalf of managers at a major retailer.

And she has two class actions pending against 24 Hour Fitness. One is an overtime claim on behalf of managers. The other involves employees who are forced to forfeit their commission if they make any number of small mistakes when processing a new membership, according to Barge.

"Even if I don't make each person a millionaire, I know that ... I'm limiting the company's ability to be abusive to the work force," Barge says.

Barge continues that work through the employment law clinic at Bet Tzedek. The organization held a trial run of the clinic last summer before deciding to make it weekly. Barge was overwhelmed by the turnout.

"It was unbelievable," she says.

Barge also couldn't believe the claims that were coming in, many of which were unpaid overtime claims by housekeepers. They were not paid overtime, and their wages were well below minimum wage, she says.

One such worker is Maria Zavala. She was a live-in domestic worker who says she was fired after 1½ years and was never paid for her work. She claimed that she was owed \$40,000.

She came to Bet Tzedek in 2002 and on opening night of the clinic, Zavala met with Bet Tzedek staff to go over some final matters with her case. Bet Tzedek won her case, and Zavala received \$41,000.

"I'm happy ... that justice was done," Zavala said through a translator.

May hopes that the clinic will help more workers like Zavala by providing them with service in the evenings, so that they won't have to skip work or lose wages to come during the day.

And May hopes that, with the continued outreach that Bet Tzedek does, the clinic will see more clients, which will help raise awareness of the labor laws.

"We hope to ultimately see fewer and fewer cases because employers learn they need to do the right thing from the beginning," he says.