

JUSTICE *at* Work

Employment Rights
Whistleblower Rewards
Sexual Harassment

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My Favorite Courts

By John Howley

Every lawyer dreams of arguing in the U.S. Supreme Court. My dream came true when I argued there on behalf of the Governments of India and Mongolia.



You can listen to my Supreme Court argument here:
<https://www.oyez.org/cases/2006/06-134>

It was amazing. For months, my colleague

Bob Kandel and I studied every legal authority our team could find. We worked with some of the smartest lawyers in the country to draft the brief, and we convinced the U.S. Solicitor General to argue in support of our side of the case.

Then came the oral argument. Standing before nine Justices. Going one-on-one with Justice Scalia. Diving deep into the nuances of international law with the Notorious RBG. Getting a helping hand from the Chief when another Justice tried to take me down an irrelevant path. These are some of the most unforgettable moments of my legal career.

If the opportunity arises again, I will jump at it. But I am perfectly content to represent people in the trial courts every day.

By the time a case reaches the U.S. Supreme Court, the issues are limited to questions of law. The Justices are concerned with legal principles, precedents, and hypotheticals. "If we rule in your favor, what will happen in the next case with slightly different facts?" It is intellectually challenging and satisfying. But the Justices are less concerned with the impact their decision will have on your particular client.

It is telling that there is no place in the courtroom for your client to sit. You have to make special arrangements if your client wants to watch the argument of their own case.

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HOW WE CAN HELP

At The Howley Law Firm, we are passionate about helping individuals seek justice. After many years defending multinational corporations, we formed this law firm to give individuals like you the same high-quality legal representation. We focus on representing individuals in the areas of employment rights, whistleblower rewards, and sexual harassment cases. Learn more at www.HowleyLawFirm.com

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Sexual Harassment ON CAMPUS



A federal judge ruled that our client was protected by Title IX, even though she had already graduated and was no longer a student at the school.

Title IX is best known for requiring colleges and universities to provide equal athletic opportunities for women. The law, however, is much broader. It prohibits all forms of sex discrimination at any school, college, or university that accepts federal funds. It also prohibits retaliation against anyone who complains of sex discrimination or sexual harassment.

After graduating, our client complained that a professor had sexually harassed her when she was a student. She tried to resolve the issue with the school. Ultimately, she filed a lawsuit with three

other women who accused the same professor of similar conduct.

The school turned against her. She was no longer invited to alumni events. She was denied career services. A professor who had written glowing reference letters in the past refused to recommend her for a fellowship and admitted in an email that the reason was her claims against a colleague.

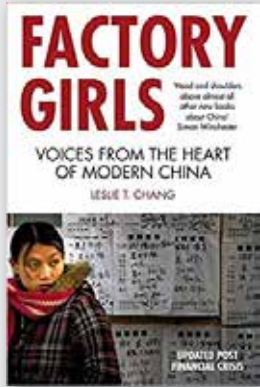
We added a claim for retaliation in violation of Title IX. The school argued that Title IX did not apply because our

Our client filed a lawsuit with three other women who accused the same professor of similar conduct.

The school turned against her.

client “was not deprived of educational opportunities” and the retaliation occurred when she “was no longer a student.”

The court disagreed. **Title IX applies to any program or activity that receives federal funding, whether directly or indirectly.** That includes programs and activities for alumni, such as alumni networking events, lectures, art shows, and career services. ■



FACTORY GIRLS: *Voices from the Heart of Modern China*

Every year in China millions of young people, mostly young women, leave villages to find jobs in cities. They are the driving force behind China’s economic boom. They work long hours for little money to make the computers, mobile phones, designer handbags, and other consumer goods we buy.

In *Factory Girls: Voices from the Heart of Modern China*, author

Leslie Chang takes us along as she gets to know two young women who left their families and villages to work in a city with thousands of factories and millions of strangers. The young women are smart, ambitious, eager to learn, and likeable.

As they adjust to life in a factory city, they become hardened by a constant struggle for self-preservation. They work in Orwellian factories where loudspeakers boom slogans like “If you don’t work hard today, you’ll look hard for work tomorrow.” They are completely alone. They have no friends or relationships. They

are suspicious of everyone.

Their stories are at once fascinating and heartbreaking. They are human beings pursuing dreams and aspirations like our own, but they have been forced to adapt to a system that treats them as just another commodity used in the factories.

I started reading this book to learn more about daily life for ordinary people in China. I finished it with a better appreciation of who we are and why legal protections for working people are essential to further our belief that everyone has the rights to life, liberty, and the pursuit of happiness. ■



Is Your **NURSE** an *Indentured Servant*?

Excessive “Buyout” Clauses in Employment Contracts are Illegal

If you have been to a hospital or nursing home anywhere in the United States, you have probably seen nurses from the Philippines. In some parts of the country, more than 20% of all Registered Nurses (RNs) are from the Philippines.

Most of the nurses sign contracts with employment agencies that require payment of “liquidated damages” if they stop working. Some of the contracts require payments of \$25,000, \$45,000, and even \$90,000. Filipino nurses refer to these clauses as “buyout” provisions, because they have to “buy out” their contract in order to stop working for the agency.

The financial pressures on Filipino nurses to continue working for the agencies often lead to abuses. Some agencies ignore complaints of understaffing, unsafe conditions for patients, and sexual harassment of the nurses. Others threaten to have the nurses deported if they quit and refuse to pay the “buyout” fee. Many agencies fail to pay Filipino nurses the prevailing wage, which tends to depress the wages of all nurses.

We have brought dozens of legal challenges against these “buyout” provisions. In most cases, the agencies have quickly agreed to cancel the contracts and pay our legal fees. They know that their

“buyout” fees are indefensible.

In the cases that have been decided in court, judges have ruled that “buyout” fees are unenforceable when the amount is excessive or when the agency’s actual losses can be calculated. In several cases, we have convinced courts that “buyout” clauses requiring payment of between \$15,000 and \$25,000 were unenforceable because the amounts were disproportionate to the agencies’ actual losses.

In the most egregious cases, we have convinced courts that the “buyout” clauses created contracts of indentured servitude.

In other words, the contracts imposed a debt (an indenture) on the nurses that they had to work off or pay off in order to buy their freedom to leave and work someplace else.

In one case – a class action on behalf of more than 200 Filipino nurses – we convinced the court that an agency’s threats to enforce a \$25,000 buyout clause violated the Trafficking Victims Protection Act. ■

If you are worried that you cannot leave an employer because of a “liquidated damages” or “buyout” clause in your contract, call us at (212) 601-2728. We will review your contract and let you know what your options are.

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My Favorite Courts

Trial courts are different. The trial judge and jury are focused on the people sitting in front of them. They listen to people testify and decide who is telling the truth. And when a verdict is announced, there are often tears and hugs.

The intimate nature of trials explains why many of us who work in the trial courts every day write novels or produce Broadway plays. We are storytellers. We use direct testimony, cross-examination, and visual exhibits to seek justice.

Give me a smart trial judge with common sense and a commitment to justice. Give me a jury of ordinary citizens who take their oath seriously. Let them see and hear my client. The U.S. Supreme Court may be the brains of our judicial system. But the trial courts and the lawyers who practice there are the heart and lungs that keep the system alive. ■

-John

You Deserve Our Undivided Attention

When you schedule time to consult with us by phone, video, or in person, we want to give you our undivided attention. That is why we work by appointment. It allows us to focus on your questions and concerns without distractions or interruptions. To schedule a consultation, call us at **(212) 601-2728**, send us an email at **info@howleylawfirm.com**, or fill out one of the contact forms on our web site at **www.HowleyLawFirm.com**

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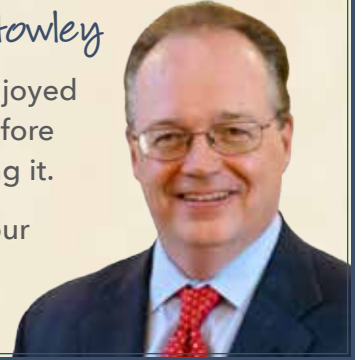
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A Personal Message From John Howley

For this month's issue of Justice at Work, I enjoyed recounting my experience arguing a case before the Supreme Court. I hope you enjoy reading it.

Also, don't miss the tips and advice about your rights at work... you never know when you'll need it!



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3 Reasons Why You Should Read Your **EMPLOYEE HANDBOOK**

You probably never read your Employee Handbook. That is not surprising. Your boss probably never read it either. Most people don't read it until there's a problem.

Here are three reasons why you should read it now.

1 Understanding Your Rights: Your handbook is almost as important as a contract. It describes company policies governing performance evaluations, compensation reviews, vacation and sick days, discipline, and other terms and conditions of your employment. For example, many handbooks include a "progressive discipline" process that requires a verbal warning, and then a written warning, before you can be fired.

2 Exercising Your Rights: Your handbook describes how to exercise your rights. For example, the law gives you a right to take family or medical leave, but your company can decide the process for requesting leave and whether you

must use vacation or sick leave first. The law also protects you from discrimination and a hostile work environment, but your company can decide the process for investigating and resolving internal complaints.

3 Limitations on Your Rights: If you signed an acknowledgement that you received a copy of the handbook, then you may have given up some important rights. For example, you may have agreed that all disputes with your employer will be resolved in binding arbitration.

Don't wait until you have a dispute with your employer to find out what your rights are. Read your Employee Handbook now. And keep a copy at home just in case you ever need it. ■