

Agreement Reached with Forever 21

December 2004

Forever 21, Inc., the Garment Worker Center, Sweatshop Watch, and the Asian Pacific American Legal Center, on behalf of several Los Angeles garment workers represented by it, have reached an agreement to resolve all litigation between them. In addition, the parties have agreed to take steps to promote greater worker protection in the local garment industry. The parties are pleased to announce the resolution of this matter as a positive and symbolic step forward in demonstrating respect and appreciation for garment workers. Under the parties' agreement, the national boycott of Forever 21 and related protests at the Company's retail stores, initiated by the Garment Worker Center in 2001, have ended. The parties share a belief that garment workers should labor in lawful conditions and should be treated fairly and with dignity. Forever 21, the Garment Worker Center and Sweatshop Watch all remain committed to ensuring that the clothing Forever 21 sells in its stores is made under lawful conditions.



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Should Corporations, like Nike, Enjoy the Right to Free Speech?

In March, the U.S. Supreme Court heard oral arguments on *Nike v. Kasky*, a landmark case that will shed light on the debate about whether a corporation is a "person" and entitled to the same protections as individuals under the Bill of Rights.

California has a law that allows anyone to sue a company engaged in false advertising and unfair business practices. In 1998, Marc Kasky, a concerned consumer, exercised his right under this state law and filed a lawsuit in California Superior Court against Nike. He alleged that Nike violated this state law by making false statements about the working conditions in factories that make its products in order to increase sales. Rather than refute Kasky's charges that Nike workers labor in sweatshops, Nike argued that it has the same "free speech" rights as individuals and that its advertising is protected political speech.

The case made its way to the California Supreme Court last year. In a 4-3 opinion without deciding Nike's statements were false, the Court rejected Nike's argument that its statements were protected speech. California Justice Joyce Kennard wrote, "When a corporation, to maintain and increase its sales and profits, makes public statements defending labor practices



Activists protesting in front of Niketown in San Francisco. Photo by Sweatshop Watch, 2003.

and working conditions at factories where its products are made, those public statements are commercial speech that may be regulated to prevent consumer deception." Nike then appealed the case to the U.S. Supreme Court.

The Supreme Court heard this case on the issue of whether a public debate over Nike's labor conditions and labor relations constitutes speech on a matter of public concern entitled to full First Amendment protection. However, this case raises an issue of much greater concern to people around the world concerned about the growing power and influence of corporations – whether a corporation is a human being for purposes of First Amendment and other Constitutional protections.

A corporation is an artificial being – invisible, intangible and existing only in contemplation of the law. Being *human* must be a valid condition for protection under the First Amendment. There is no Constitutional basis for bestowing Bill of Rights protections upon corporations. In this case, Nike's executives would be free to say what they like as individuals with full Constitutional protection. However, different standards must apply when they are carrying out the business of the company, acting as a tool for exercising the power of a multi-billion dollar corporation.

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Interestingly, as the Supreme Court considered Nike's case, a federal court judge on the U.S. island of Saipan executed the final judgements and approval for the settlements in the Saipan sweatshop litigation. Ironically, the lawsuit brought by Sweatshop Watch against the Gap, J.C. Penney and others alleged similar violations of California law in *Kasky v. Nike*. Instead of arguing protection under the First Amendment like Nike, 26 of America's biggest clothing retailers and 23 Saipan garment manufacturers reaches a settlement in this lawsuit. The \$20 million settlement marks a turning point for Saipan garment workers. It will fund payment of the workers' back wages and an independent monitoring program to prevent labor abuses.

Some say that Nike's side of the story in this debate about alleged sweatshop abuses is equally entitled to First Amendment protection as statements made by Nike's critics. But this ignores the fact that multi-national corporations and workers who make their products are on a vastly unequal playing field. This is clearly the case in today's global economy where multi-national corporations are at the top of the economic power structures, and they generate their profits off the backs of workers who toil daily in their sweatshops.

The campaign against Forever 21, a popular Los Angeles retailer of young women's clothing, is a case in point. In September 2001, the Garment Worker Center launched a campaign against Forever 21 with a group of garment workers who sewed its clothing under sweatshop conditions. The workers were not paid minimum wage or overtime, and worked in unhealthy and dangerous conditions. These garment workers have united to demand justice, and have been picketing Forever 21 stores each weekend. In response, Forever 21 has expended enormous resources in suing these workers and their supporters for defamation and an end to the boycott campaign.

Everyone who cares about democracy and the growing global influence of corporations over governments and peoples, should see this Supreme Court case as the beginning of a new campaign to disclose corporations for what they really are – a non-living, non-breathing, legal fiction created by the state that should not enjoy the same "free speech" rights as human beings. Corporations feel no pain and do not bleed like the hands of sweatshop workers.

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SW Box

Mission Statement:

Founded in 1995, Sweatshop Watch is a coalition of over 30 labor, community, civil rights, immigrant rights, women's, religious and student organizations and many individuals, committed to eliminating the exploitation that occurs in sweatshops. Sweatshop Watch serves low-wage workers nationally and globally, with a focus on garment workers in California. We believe that workers should earn a living wage in a safe, decent work environment, and that those responsible for the exploitation of sweatshop workers must be held accountable. The workers who labor in sweatshops are our driving force. Our decisions, projects, and organizing efforts are informed by their voices, their needs and their life experiences.

Sweatshop Watch's newsletter is published quarterly.

Membership dues, which include a subscription, are \$20.

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Commentaries, articles, and letters are welcome and should be accompanied with your name, address, and telephone or email.

Thousands in L.A. Celebrate International Workers' Day

Thousands gathered from across the city of Los Angeles. People came from various neighborhoods and represented the rich ethnic diversity of the city. They marched, filled with hope of one day achieving legal status for all immigrants. They demonstrated to end anti-immigrant policies, racial profiling and the scapegoating of immigrant communities. They chanted calling for peace and an end to the U.S. led war on human lives on foreign soil. All the marchers had different backgrounds and personal histories, but one thing was clear. Everyone converged on downtown L.A. to end the war on immigrants.

On May 1, 2003 over 7,000 energized participants united for a march and rally in recognition of International Workers' Day. The streets of downtown Los Angeles were filled with colorful banners, larger-than-life doves and poignant protest signs in support of immigrant rights. As garment workers, homecare workers, day laborers, restaurant employees, and other low-wage workers rallied side by side, one could feel the crowd growing in strength and numbers. Many of these workers are active members of the Multi-Ethnic Immigrant Workers Organizing Network (MIWON). The four organizations that comprise MIWON (Coalition for Humane Immigrant Rights of Los Angeles, Garment Worker Center, Pilipino Worker Center and Korean Immigrant Workers Advocates) were the organizers of the truly unique event. May Day often goes unrecognized in the United States, but this time it was a day to celebrate. It was also a day to raise awareness about the struggle and contribution of immigrant workers.

Immigrant workers significantly add to the wealth and economy of this country. Approximately 5 million undocumented immigrants are estimated to contribute to the U.S. workforce, yet without legal status they are routinely underpaid and are forced to endure deplorable conditions in the workplace. Immigrants often receive little of no protection from government agencies that exist to enforce basic labor laws. Instead of governmental protection, they are often the targets of mass raids, detentions and deportations. The Bush administration has used the tragic events of September 11th as an excuse to expand these acts of immigrant hate. The lives and families of immigrant communities are at stake now more than ever.

Angelica Salas, the Executive Director of the Coalition for Humane Immigrant Rights of Los Angeles spoke passion-

ately during the May 1st activities. "Immigrants contribute in most aspects of this society, even in the battlefield, yet their rights and that of their families are often ignored in this country," said Salas. She and several others addressed the vocal crowd at rallies held before and after the march. The event concluded downtown with speeches made at the steps of the federal building and Governor Gray Davis' Los Angeles office. Those in attendance hope that this year Davis will sign Senate Bill 60, legislation that would give undocumented immigrants the opportunity to receive a driver's license from the Department of Motor Vehicles. Last year, Governor Davis vetoed similar legislation, directly opposing hundreds of immigrant rights, labor and civil rights organizations.



Artwork by Papo de Asis from the Pilipino Worker Center. Photo courtesy of Peter Holden, 2003.

The third annual May 1st march was unique in other ways. For the first time MIWON partnered with major anti-war coalitions such as International ANSWER, Not In Our Name and the Coalition for World Peace to send a message that immigrant workers are opposed to war and demand an end to the recent hate crimes directed upon the Middle Eastern and South Asian communities. Violence against these communities has massively increased since the beginning of the wars upon Afghanistan and Iraq. Many immigrants were forced to flee their home countries after the outbreak of the war and now share a direct understanding about the devastation and unrest that war creates. The anti-war message was well received by the crowd and complimented the other themes of legalization and racist immigration policies.

Next year, march organizers hope to announce major policy victories as steps to the legalization of all undocumented workers. In the meantime, they will continue to organize and build support within the community with key allies. Helen Chien, a Chinese immigrant and organizer with the Garment Worker Center observed that, "America is a country that prides itself on giving rights to everybody, but immigrants don't automatically get these rights. People should be able to see our numerous contributions. We are not making unreasonable demands." Their will and desire felt unstoppable on that hazy Los Angeles afternoon, and the struggle continues as we dream to march closer to the legalization of all U.S. immigrants.

Cap Maker BJ&B Signs Historic Contract

Company and college university Codes of Conduct have been the subject of considerable debate, as have the monitoring methods of enforcing them. But organizers at BJ&B, a factory in the Dominican Republic, have shown that Codes and the right enforcement measures can be effective tools to help empower workers to organize and assert their rights. BJ&B, the major employer in the small town of Villa Altagracia, has 1,500 workers that sew hats for colleges and universities, Major League Baseball, the NBA, NFL, and the NHL.

After at least six years of attempts at unionizing and winning a contract, workers of the Sindicato Unido de Trabajadores (SUT), the union at BJ&B, recently signed a collective bargaining agreement, which is virtually unheard of in the free trade zones. It includes the protection of the right to organize, a ten percent wage increase, scholarships, the protection of pregnant workers, and additional social programs. It is the first contract to be signed in the free zone in the Dominican Republic to exceed government minimums, and may be the largest union with a collective bargaining contract in a free trade zone in the world.

Organizers in Villa Altagracia know very well their success did not come without significant costs to their livelihoods and families. In 2001, when the union was officially formed, an illegal firing of the entire newly-formed union leadership followed. The Workers Rights Consortium (WRC), a group that enforces collegiate Codes of Conduct, was able to invoke college and university Codes and pressure the major brands that are suppliers at BJ&B, such as Nike and Reebok, to get most of the workers rehired, as well as convince the factory it was in their own interest to pledge neutrality.

United Students Against Sweatshops (USAS) sent a student organizer to Villa Altagracia to work with the union. The WRC and USAS' efforts at supporting BJ&B workers, along with international support from a network involving organizations such as UNITE!, the Solidarity Center (AFL-CIO), U.S. Labor Education in the Americas Project (USLEAP), Sweatshop Watch, Resource Center of the Americas, and other non-governmental organizations helped to create space to continue the organizing drive.

Even though organizers faced ongoing threats of factory relocation, continued efforts to isolate them in the factory, and a vigorous anti-union campaign by factory management, they endured. In September 2002, SUT

announced it represented a majority of the workers, and filed for legal recognition. The next level of the union campaign, negotiating a collective agreement, faced even more vicious opposition from the factory management. The factory began layoffs that signaled out unionists – ten of whom have never been rehired.

Jenny Pérez, one of these leaders, put a picture of herself with her children on a flyer for the union that said, "I am Jenny, of Plant #1, and these are my children. For their future, I support the union, and you should, too. Affiliate!" Pérez said she'd like Nike and Reebok to know that, "I was working to improve everyone's lives at the factory, not just myself, and it isn't fair to be singled out." Pérez supports four children on her own, and has not been able to find other employment.

As collective bargaining proceeded, the organizers realized that more international pressure would be necessary to get the factory to negotiate. USAS launched a letter-writing campaign in support of the union, which resulted in greater pressure on Reebok, Yupoong, Inc., the owner of the factory, and the factory management. The contract was finally signed in March 2003, four months after the bargaining began. For their incredible courage and perseverance, the union at BJ&B will go down in the history books, and inspire free trade zone activists for years to come.

By Molly McGrath, United Students Against Sweatshops (USAS)
www.usasnet.org



Poster created by BJ&B Union reads, "I am Jenny of Plant #1, and these are my children. For their future, I support the union, and you should, too. Affiliate!"

California Policy Updates

This year, Sweatshop Watch is a sponsor of the following two bills in California, which will help improve the lives of garment and other low-wage workers throughout the state.

Assembly Bill 570 (Chu) Amendments to Unpaid Garment Worker Fund

Each year, California garment workers lose millions in unpaid minimum wages and overtime payments. Under the current system, they are only able to collect a fraction of their owed wages. AB 570 would allow garment workers to more easily collect money owed to them from the state's Unpaid Garment Worker Fund. This bill would give the California Labor Commissioner greater access to distribute money to unpaid, exploited garment workers. This will reduce problems in an often cumbersome, bureaucratic process. The bill increases the current \$200,000 annual disbursement limit for the Unpaid Garment Worker Fund by allowing the Labor Commissioner to access the full amount that is allocated into the Fund each year in garment industry registration fees – approximately \$450,000 a year. In addition, the Garment Fund currently only allows workers to collect wages, but many of them are owed other monetary amounts, mostly in the form of penalties assessed against the employer for not paying wages. The bill would allow garment workers to collect from the Garment Fund not only their unpaid wages, but but also any benefits, interests, penalties, damages or any other monetary relief available to them.

Assembly Bill 1133 (Koretz) Judgement for Unpaid Wages

California's Department of Labor Standards Enforcement enforces wage and hour laws through their administrative hearing process. However, after a judgement has been entered against an employer, industries that employ low-wage workers systematically flout the law by ignoring judgements and never paying the workers the money that they deserve. Since the amount of their judgement is generally not sufficient to make collection by a collection agency profitable, workers receive no further assistance in recovering their wages. Many employees cannot receive the back wages that are rightfully theirs because collecting on the judgement proves to be nearly impossible. This bill would address the extreme difficulty many workers face in collecting on final judgements for unpaid wages that they obtain against their employers. AB 1133 would provide that if a judgment for unpaid wages remains unsatisfied for six months after the judgement becomes final and the time to appeal the judgement has passed, the amount of the judgement doubles. This bill would provide that the amount of the judgement would then

double for each additional six month period for which the judgement remains unsatisfied. The bill would also provide that that the employee or the Labor Commissioner may recover attorney's fees for enforcing a judgement under this provision.

Sweatshop Watch is also supporting these bills as a member organization of the Coalition of Immigrant Workers Advocates (CIWA) and the Los Angeles Workers' Advocates Coalition.

Senate Bill 179 (Alarcon) Insufficient Labor Contracts

For more than a decade, advocates for low-wage workers have participated in many legislative oversight and policy committee hearings that have exposed the fierce competition and exploitation of workers among labor contractors in the industries that predominate California's underground economy – janitorial, construction, garment, agricultural and security. California has yet to enact sweeping legislation to address this issue. SB179 takes an entirely new approach to this problem by declaring that it is unlawful for an entity to knowingly enter into an agreement with a labor contractor in these industries that is "financially insufficient." The purpose of this bill is twofold: 1) to declare California state policy regarding financially insufficient contracts in these industries, and 2) to encourage contractors to voluntarily agree to put their contracts in writing.

Assembly Bill 1688 (Goldberg) Justice for Carwash Workers

Californians' love affair with the automobile generates a multi-million dollar car wash industry. This industry is plagued with worker exploitation. Because many car wash workers are paid only in tips and do not receive any wages at all, they are commonly referred to as "propineros." "Propina" in Spanish literally means "tip." These workers may work 10 hours a day, six days a week, and do not receive any wages at all from their employer for their labor. AB 1688 would regulate the industry of car washing and polishing by providing specific recordkeeping requirements that employers of car wash workers must implement with regards to wages, hours and working conditions. The bill would require employers to register with the Labor Commissioner, pay a specified registration fee, and obtain a specified surety bond. This bill would create a Car Wash Workers Fund, which would be funded by these penalties and registration fees.

Member Profile:

Asian Pacific American Legal Center of Southern California

Sweatshop Watch is pleased to announce a new Member Profile section to our quarterly newsletter. If you are a member and interested in having your organization profiled, please contact us at sweatinfo@sweatshopwatch.org

The mission of the Asian Pacific American Legal Center of Southern California is to advocate for civil rights, provide legal services and education, and build coalitions to positively influence and impact Asian Pacific Americans and to create a more equitable and harmonious society.

APALC is the region's leading organization dedicated to providing the growing Asian Pacific Community with multilingual, culturally sensitive legal services, education, and civil rights support. It was founded in 1983 with broad community based support and is now the largest organization in the country focused on meeting the legal needs of one of the nation's fastest growing populations.

APALC is a unique organization that merges both the work of a traditional legal service provider and a civil rights organization. It uses four main strategies – direct services, policy advocacy, impact litigation, and interethnic relations and leadership development – in its substantive program areas, which include Legal Services, Asian Language Legal Intake Program, Citizenship and Immigration, Workers' Rights, Demographic Research, Immigrant Welfare, Voting Rights, Anti-Discrimination and Hate Crimes, and Leadership Development in Interethnic Relations.

As a direct legal services provider, APALC serves the diverse Asian Pacific Islander community with intake, legal counseling, education, and representation in the areas of family law and domestic violence, employment, consumer, immigration, government benefits, and housing. Through its staff and volunteers, it has the capacity to facilitate numerous Asian Pacific languages including Hindi, Korean, Mandarin, Cantonese, Khmer, Indonesian, Malayalam, and Vietnamese. APALC is the only legal services provider in Los Angeles County that maintains this type of language capacity, and thus is an important resource for indigent monolingual or limited English speaking Asian Pacific Americans who are in need of legal assistance.

At the same time, as a civil rights advocacy organization APALC has been involved with a wide range of civil rights issues, including hate crimes monitoring, police-community relations, voting rights, and immigrant rights. In addition, APALC takes a leadership role in promoting collaboration with other ethnic groups, advocacy groups and social service providers on a range of issues concerning the Los Angeles community at large.

APALC, along with other advocates, led the groundbreaking workers' rights lawsuit, *Bureerong v. Uvawas*, and worked with Thai and Latino garment workers to hold manufacturers and retailers accountable for sweatshop conditions. APALC's Workers' Rights Project continues to use a grassroots model of litigation that includes casework, outreach, education, and policy advocacy, to empower garment workers to engage in a broader movement for social justice.

Finally, APALC's focus on interethnic relations and multiracial coalition building is evident in its leadership development program, as well as its work in garment workers' rights, hate crimes prevention, and coalition building within the API community. In all these areas, APALC is explicitly multi- and cross-racial in its approach and seeks to develop both young and adult advocates and leaders whose work can cross racial, ethnic, and geographic boundaries. APALC's Leadership Development in Interethnic Relations (LDIR) Program works to equip both school- and community-based advocates with these critical skills, and is currently piloting its community-based program in Flint, Michigan and Philadelphia, Pennsylvania. LDIR's school-based program is active in four high schools throughout the Los Angeles area, and is working to expand to additional schools in the region.



Rojana Chuenchujit, who worked in the El Monte sweatshop testifies before the California legislature with APALC Attorney Julie Su. Photo by David Bacon, 1999.

Saipan Sweatshop Settlement Finalized!

The thousands of young women who have toiled in Saipan garment factories are finally receiving justice for the inhumane conditions they endured, **but not from Levi's**. In April 2003, a U.S. Federal Judge approved a settlement of the Saipan sweatshop lawsuits, which were filed over four years ago. The settlement establishes a \$20 million fund to pay back wages to the workers and create an independent monitoring system of Saipan garment factories. In total, 26 retailers and 23 manufacturers have settled the case. The retailers are: Abercrombie & Fitch, Brooks Brothers, Brylane L.P., Calvin Klein Inc., Cutter & Buck Inc., Donna Karan International, Dress Barn, Gap Inc., (Gap, Banana Republic, Old Navy), The Gymboree Corp., J.C. Penney Company Inc., J.Crew Inc., Jones Apparel Group, Lane Bryant Inc., The Limited Inc., Liz Claiborne Inc., The May Department Stores Company, Nordstrom Inc., Oshkosh B'Gosh Inc., Phillip-Van Heusen, Polo Ralph Lauren, Sears Roebuck and Company, Talbots Inc., Target Corp. (Target, Mervyn's, Marshall Fields, Dayton-Hudson), Tommy Hilfiger USA Inc., Warnaco Inc., and Woolrich Inc.

Of the 30,000 current and former Saipan garment workers who are members of the class action lawsuit, there were no objections to the settlement. Of the 23,000 potential plaintiffs from China to Vietnam in the lawsuit alleging violations of the Fair Labor Standards Act, 15,000 affirmatively filed individual consents to join the lawsuit settlement.

Dozens of big-name U.S. retailers have done the responsible thing by settling the workers' lawsuits. Yet, Levi's is the only retailer who has not yet done so and continues to deny justice to Saipan's garment workers. The workers' lawsuit was first filed in January 1999. Then in 2000, Levi's discontinued production in Saipan. This decision to "cut and run" fails to provide a solution to the labor abuses that the workers endured. Levi's needs to live up to its responsibility to the workers in Saipan, recognizing its fourteen-year involvement in garment production on the island.

Today, Levi's is leading the corporate "race to the bottom" by cutting and running from Saipan and closing dozens of U.S. plants in search of low labor standards in countries like China and Mexico. Saipan garment workers and workers across the globe are waiting for Levi's to do the right thing.

Urge Levi's to settle the Saipan lawsuit and bring further justice to the 30,000 former and current Saipan workers.

For more information, contact Sweatshop Watch, 510-834-8990, www.sweatshopwatch.org/marianas.

Campaign News

Major Apparel Group Calls for Ban on Burmese Imports

In a move that will greatly strengthen the campaign against "Made in Burma" products, the American Apparel and Footwear Association (AAFA), which claims 1,000 members, has called for the U.S. government to ban apparel, textile, and footwear from Burma. Also known as Myanmar, the Asian country's military government has been condemned for political repression, forced labor and child labor. Despite existing sanctions, the U.S. is one of Burma's top trading partners and last year imported \$350 million, mostly in apparel and textiles. The AAFA also urged its members, including Liz Claiborne, Perry Ellis, and others, to review their relations with Burma to ensure that they are not contributing to forced labor there. 40 U.S. companies have now taken a position against "Made in Burma" products. For more info, contact the Free Burma Coalition, 202-547-5985 www.freeburmacoalition.org.

Matamoros Garment Workers Struggle for Union Recognition and Re-opening of Factory

Workers at the Matamoros Garment Factory in the state of Puebla, Mexico are facing two major setbacks in their campaign for an independent union. On March 17, Matamoros Garment informed its workers that the factory was "temporarily" closing because there was no production. PUMA brand clothes were being made in the factory as recently January 2003, when workers staged a one-day strike to protest management's failure to pay one week's wages and their two-week December holiday bonus. On March 26, the local labor board formally rejected the workers' application for an independent union, citing minor technicalities, including their inability to clarify the name of the union, that one union committee member's name was apparently written incorrectly, and that a mechanic from a legally excluded position was supposedly forced to sign the registration papers. The labor board ignored the fact that the majority of Matamoros Garment workers had declared in writing their support for the independent union. Despite these setbacks, the Matamoros Garment workers are continuing to fight for recognition of their independent union. They and their supporters are also making efforts to achieve the reopening of the factory.

Resources

❖ **Tehuacan: Blue Jeans, Blue Waters and Workers Rights** documents the story of Mexico's blue jean capital and the impact of toxic jean production on workers and indigenous communities. US \$12 from Maquila Solidarity Network, 606 Shaw Street, Toronto ON, Canada M6G 3L6, 416-532-8584, www.maquilasolidarity.org.

❖ **Cintas: The Dirty Truth Behind the Uniforms** describes the anti-union activity and labor law violations of the largest uniform rental provider and industrial launderer in North America. UNITE, 800-872-8646, www.cintasexposed.org.

❖ **Asia Health and Safety Project - Training Activists in Indonesia** details the development, conduct and results of two trainings on workplace health and safety in Jarkarta, Indonesia in June 2000 and February 2002 of trade unions and NGOs. Maquiladora Health & Safety Network, www.igc.org/mhssn.

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