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# FINDING THE SYNERGY BETWEEN LAW AND ORGANIZING: EXPERIENCES FROM THE STREETS OF LOS ANGELES

Victor Narro\*

## I. INTRODUCTION

The topic of law and organizing has generated much scholarly debate over the past twenty years.<sup>1</sup> There exists a wide array of articles written by legal scholars and other academics on the relationship between public interest lawyers and organizers during the process of legal representation and litigation. From critical reflec-

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1. The following is an important, but not exhaustive, list of scholarly articles (some of which will be referenced throughout this article): William R. Corbett, *Waiting for the Labor Law of the Twenty-First Century: Everything Old Is New Again*, 23 BERKELEY J. EMP. & LAB. L. 259 (2002) [hereinafter Corbett, *Waiting for the Labor Law*] (Section 7 of the National Labor Relations Act (“NLRA”) is an important tool for nonunionized workers to gain voice and power); Scott Cummings & Ingrid V. Eagly, *A Critical Reflection on Law and Organizing*, 48 UCLA L. REV. 443, 444 (2001) [hereinafter Cummings & Eagly, *A Critical Reflection*] (presenting a detailed critical analysis of the emerging concept of law and organizing); Ingrid V. Eagly, *Community Education: Creating a New Vision of Legal Services*, 4 CLINICAL L. REV. 433 (1998) [hereinafter Eagly, *New Vision*] (addressing gaps between the collaborative lawyering theory and the reality of legal services practice); Jennifer Gordon, *Visions and Revisions of a Movement: We Make the Road by Walking: Immigrant Workers, the Workplace Project, and the Struggle for Social Change*, 30 HARV. C.R.-C.L. L. REV. 407, 450 (1995) [hereinafter Gordon, *Make the Road by Walking*] (a critical reflection on the conflict between providing individual legal representation and organizing low-wage immigrant workers during the Workplace Project’s policy campaign in Long Island); Victor Narro, *Impacting Next Wave Organizing: Creative Campaign Strategies of the Los Angeles Worker Centers*, 50 N.Y.L. SCH. L. REV. 465 (2005) [hereinafter Narro, *Next Wave Organizing*] (a reflection on immigrant-led worker center organizing campaigns in Los Angeles); William P. Quigley, *Reflections of Community Organizers: Lawyering for Empowerment of Community Organizations*, 21 OHIO N.U. L. REV. 455 (1994) [hereinafter Quigley, *Lawyering for Empowerment*] (discussing how the concept of “empowerment lawyering” could be a vehicle for progressive attorneys to work with community organizers for social change); Paul Tremblay, *Theoretics of Practice: The Integration of Progressive Thought and Action: Rebellious Lawyering, Regnant Lawyering, and Street-Level Bureaucracy*, 43 HASTINGS L.J. 947 (1992) (noting that sympathetic treatment of rebellious lawyering is a “justifiable, justice-based allocation of resources away from clients’ short term needs and in favor of a community’s long-term needs”); Lucie E. White, *Mobilization on the Margins of the Lawsuit: Making Space for Clients to Speak*, 16 N.Y.U. REV. L. & SOC. CHANGE 535 (1988); Lucie E. White, *To Learn and Teach: Lessons from Drieffontein on Lawyering and Power*, 1988 WIS. L. REV. 699 (1988).

tions to theoretical propositions, these articles discuss the role of public interest lawyers involved in community and labor campaigns. Unique to law and organizing is the theory that lawyers can promote social justice and empower low-income communities through legal advocacy, which is intimately connected and ultimately subordinate to a grass roots organizing campaign strategy.<sup>2</sup> Law and organizing legal scholars present sophisticated theoretical analyses and concrete practical examples of how legal advocacy and community organizing can be integrated as credible social change strategy.<sup>3</sup> They propose case models of law and organizing that suggest that public interest lawyers should transition from a conventional legal practice to one where their efforts focus on facilitating community organizing campaign efforts.<sup>4</sup>

In recent years, the law and organizing model has been most prominently applied as a strategy for improving the conditions of low-wage workers. Public interest and legal services lawyers in the field of workers' rights have combined litigation and workplace organizing techniques to pressure employers to enforce wage and hour requirements, workers' compensation laws, occupational health and safety regulations, child labor protections, and antidiscrimination laws.<sup>5</sup> This new approach of law and organizing in the workplace draws upon the traditional theories of labor organizing.<sup>6</sup>

Like their union counterparts, law and organizing proponents seek to build collective bargaining power as to create more equitable working conditions. Despite the strong connections to the union movement, workplace law and organizing advocates have been forced to venture outside the scope of conventional labor law

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2. See Cummings & Eagly, *A Critical Reflection*, *supra* note 1, at 447.

3. *Id.*

4. *Id.* at 450. In general, this new framework offers a vision of social change directed by community-based organizations in which lawyers are ancillary to the definition and implementation of a transformative agenda. *See id.*

5. *Id.* at 470; *see also* JENNIFER GORDON, *SUBURBAN SWEATSHOPS: THE FIGHT FOR IMMIGRANT RIGHTS* (The Belknap Press of Harvard Univ. Press 2005) [hereinafter GORDON, *SUBURBAN SWEATSHOPS*]; Jennifer Gordon, *Make the Road by Walking*, *supra* note 1, at 450.

6. *See* Jennifer Gordon, *Law, Lawyers and Labor: The United Farm Workers' Legal Strategy in the 1960s and 1970s and the Role of Law in Union Organizing Today*, 8 U. PA. J. LAB. & EMP. L. 1 (2005) [hereinafter Gordon, *Law, Lawyers and Labor*] (analyzing United Farm Workers' use of labor lawyering in the 1930s, 1940s, and today, and suggesting a framework for understanding what union lawyers are already doing and what they might do further to support the emergence of a rejuvenated labor movement).

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practice for a variety of reasons.<sup>7</sup> Most importantly, the declining power of unions, particularly in the low-wage employment sector, has heightened the need for alternative workplace organizing tactics.<sup>8</sup> Much of the current law and organizing activity in the workplace context has therefore sought to bring the protections and advantages of unionization to the non-unionized workforce. This effort has been important in industries where labor has a weak presence, such as the garment industry or in areas in which unionization would be impractical, such as domestic work or day labor. These industries are also comprised of large numbers of undocumented immigrant workers who are employed on a part-time or contingency basis and who are particularly vulnerable to employer exploitation.<sup>9</sup>

The worker center movement has opened up opportunities for progressive lawyers to engage in this model of new “empowerment lawyering.” Throughout the last decade, Los Angeles and other major cities have witnessed the emergence of non-traditional organizing efforts by community-based worker centers. Due to major economic and migration trends that have led to demographic and structural changes in the manufacturing and service industries, the exploitation of low-wage, predominately immigrant workers has become prevalent throughout the low-wage workforce.<sup>10</sup> Dur-

7. See GORDON, *SUBURBAN SWEATSHOPS*, *supra* note 5, at 185-236 (providing a comprehensive analysis of the integration of a legal clinic and organizing).

8. See Gordon, *Law, Lawyers and Labor*, *supra* note 6, at 3, 9 (“[U]sed thoughtfully (and often unconventionally), with full awareness of its pitfalls, law can play an important supporting role in the rebirth of a movement, both in the workplace and beyond.”).

[U]nions gradually gave up their broader social vision and emphasis on organizing, and focused instead on consolidating their economic gains. This shift was accompanied by increasing bureaucratization of the union structure, with members relying on paid business agents to defend them, rather than on mobilizing themselves as rank and file workers. Employers responded to the rise of global competition in the late 1960s by breaking the compact and going on the offensive against workers. The bureaucratized unions were not prepared to organize a response and their subsequent decline was rapid.

Gordon, *Make the Road by Walking*, *supra* note 1, at 425-26 (internal references omitted); see also JANICE FINE, *WORKER CENTERS: ORGANIZING COMMUNITIES AT THE EDGE OF THE DREAM* (2006) [hereinafter FINE, *WORKER CENTERS*]; Janice Fine, *Worker Centers: Organizing Communities at the Edge of the Dream*, 50 N.Y.L. SCH. L. REV. 417 (2005-2006) [hereinafter Fine, *Edge of the Dream*].

9. See Cummings & Eagly, *A Critical Reflection*, *supra* note 1, at 471; see also Fine, *Edge of the Dream*, *supra* note 8, at 422.

10. See FINE, *WORKER CENTERS*, *supra* note 8, at 31-33. Much of the background material in the Introduction and Part II refers to an earlier article I wrote regarding the Forever 21 Boycott Campaign. This material has been supplemented with the

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ing this period of demographic changes and restructuring within these industries, there have been very few, if any, avenues for immigrant workers to participate at the workplace and integrate into the economic and social fabric of American society.<sup>11</sup> Many of the institutions and labor organizations that helped these immigrant workers in the past have either disappeared or seen their presence decline dramatically.<sup>12</sup> Low-wage immigrant workers increasingly labor in these industries in which there are few or no unions or outlets through which workers can fight for their rights.<sup>13</sup>

Within this context, worker centers have struggled to emerge over the past several decades as a new type of organization that can assist immigrant workers.<sup>14</sup> Worker centers are community-based membership organizations that organize workers to fight widespread labor exploitation.<sup>15</sup> Worker centers organize at a grassroots level, across trades and industries, in working-class communities.<sup>16</sup> In addition to confronting systematic exploitation in the workplace, the centers also focus their attention on the economic, social, and political concerns of their members.<sup>17</sup> These centers are part of a comprehensive effort to build a new labor movement to fight against exploitation of immigrants and other working-class people.<sup>18</sup>

A growing number of worker centers across the country provide service and advocacy support for immigrant workers; many have

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reflections and experiences gained from the Car Wash Worker Justice Campaign, as well as other literature regarding law and organizing. *See generally* Narro, *Next Wave Organizing*, *supra* note 1.

11. *See* FINE, WORKER CENTERS, *supra* note 8, at 31-33; *see also* Narro, *Next Wave Organizing*, *supra* note 1, at 466. R

12. *See* FINE, WORKER CENTERS, *supra* note 8, at 36-41; *see also* Narro, *Next Wave Organizing*, *supra* note 1, at 466. R

13. FINE, WORKER CENTERS, *supra* note 8, at 36-41; *see also* Narro, *Next Wave Organizing*, *supra* note 1, at 466-67; ROBERT GOTTLIEB ET AL., THE NEXT LOS ANGELES: THE STRUGGLE FOR A LIVABLE CITY 76-89 (2005); PASCALE JOASSART-MARCELLI & DANIEL FLAMING, WORKERS WITHOUT RIGHTS: THE INFORMAL ECONOMY OF LOS ANGELES 12 (2002), *available at* [http://www.economicrt.org/download/workers\\_without\\_rights.html](http://www.economicrt.org/download/workers_without_rights.html) (examining the industries in Los Angeles County that have higher probabilities of informal employment by comparing different sources of employment data and industry characteristics, including the percentage of unauthorized Latino immigrants within a given industry). R

14. *See* FINE, WORKER CENTERS, *supra* note 8, at 31-33; Narro, *Next Wave Organizing*, *supra* note 1, at 467. R

15. FINE, WORKER CENTERS, *supra* note 8, at 31-33. R

16. *Id.* at 13.

17. *Id.* at 13-14.

18. *See* Gordon, *Make the Road by Walking*, *supra* note 1, at 429. R

also become community centers that promote civic participation.<sup>19</sup> These innovative campaigns have provided public interest lawyers the opportunity to look at new models of empowerment or people lawyering that are integral to organizing. The Workplace Project in Hempstead, New York is a well-known example of this model.<sup>20</sup> The Workplace Project was the first group to use legal representation and legal services to support a broader worker center effort to build a new movement of non-traditional and non-unionized workers.<sup>21</sup>

Worker centers in California, most notably in Los Angeles, have played a significant role in creating community organizing strategies that have led to local victories for low-wage immigrant workers.<sup>22</sup> Very few worker centers, however, have succeeded at large-scale economic intervention in labor markets. Even with relatively low membership numbers compared to labor unions or hometown associations,<sup>23</sup> these worker centers have sustained their membership levels. Systematic implementation of leadership and campaign development programs, as well as the integration of membership development with case management and other direct services have helped to maintain membership.<sup>24</sup>

The campaigns of worker centers in Los Angeles exemplify the collective work between lawyers and organizers. Each campaign contains different and unique facets of the lawyer-organizer relationship depending on the organizing effort and its goals.<sup>25</sup> This Article explores two case studies that demonstrate effective ways to foster positive synergy between lawyers and organizers.

19. See FINE, WORKER CENTERS, *supra* note 8, at 70-82; see also Narro, *Next Wave Organizing*, *supra* note 1, at 467. R

20. See GORDON, SUBURBAN SWEATSHOPS, *supra* note 5, at 149-84. R

21. See *id.*; see also Gordon, *Make the Road by Walking*, *supra* note 1, at 450. R

22. See Narro, *Next Wave Organizing*, *supra* note 1, at 469.

23. Hometown Associations, known in Spanish as “organizaciones de pueblo,” or “clubes sociales,” are community organizations or clubs created by migrants of specific communities who come together mainly to support their communities of origin, most notably by raising funds for local public works such as roads, bridges, water systems, electric power systems, or public spaces such as town squares, sports fields, schools, churches, or community halls. See JONATHAN FOX & GASPAR RIVERA-SALGADO, *INDIGENOUS MEXICAN MIGRANTS IN THE UNITED STATES* (Univ. of Ca. Press 2004).

24. For an excellent discussion of how worker centers have used legal clinics to promote membership development and organizing, see FINE, WORKER CENTERS, *supra* note 8, at 74-88. See also Janice Fine, *Non-Union, Low-Wage Workers are Finding a Voice as Immigrant Workers Centers Grow*, LABOR NOTES (Aug. 2003), available at <http://www.labornotes.org/node/735>. R

25. See Narro, *Next Wave Organizing*, *supra* note 1, at 465 (analyzing the different campaigns of Los Angeles Worker Centers).

Part II of this Article examines the first case study and focuses on how the positive working relationship between organizers and lawyers led to a successful organizing campaign effort. The first case study is a recent boycott organizing campaign by a group of garment workers in Los Angeles—the Garment Worker Center Forever 21 Boycott Campaign of 2001-2004. This case study demonstrates the most common model of law and organizing where public interest lawyers become involved with an existing organizing campaign. Part II also discusses the challenges to maintaining this level of synergy between lawyers and organizers and how they can work together to overcome common obstacles.

Part III focuses on the second case study where lawyers initiated the process that led to an organizing strategy. This case study deviates from the common perception that the development of an organizing strategy should precede the integration of progressive lawyers into an organizing campaign. Through analysis of a newly emerging organizing campaign involving car wash workers, this case study presents the hypothesis that lawyers can formulate the long term vision of an organizing campaign and initiate the process that leads to an effective organizing strategy well before the involvement of labor organizers. Part III discusses the role of attorneys in laying the foundation for an innovative organizing campaign. In the Car Wash Worker Justice Campaign case model, a group of progressive lawyers shared a vision that The Car Wash Worker Law would become a vehicle from which labor organizers could carry out an effective campaign to organize car wash workers. Part III also discusses how and to what extent a group of progressive legal advocates laid the foundation for a low-wage immigrant worker organizing campaign. This Part analyzes the following three outcomes to answer this question: (1) the passage and reauthorization of The Car Wash Worker Law; (2) union involvement in the campaign; and (3) fostering worker participation in the campaign. This case model defies much of the literature on law and organizing that argue for ways that lawyers should integrate into already pre-existing organizing campaigns. The lawyers viewed the law as a means, and not an end, to bringing about long-term changes in the car wash industry.

## II. FOREVER 21 BOYCOTT CAMPAIGN

### A. Background of the Garment Industry in Los Angeles

“Apparel is a \$24.3 billion industry in California, with Los Angeles serving as the capital of garment production in the United States.”<sup>26</sup> As of April 2005, there were 63,500 garment workers in Los Angeles County, with likely thousands more employed by unregistered garment shops.<sup>27</sup> It is the largest garment production center in the country and consists of approximately 5000 shops that employ an immigrant, primarily female, workforce.<sup>28</sup> “Apparel manufacturing constitutes 14% of all manufacturing employment in Los Angeles, making apparel the single largest manufacturing sector. Nearly 80% of California’s garment employment is located in L.A. County.”<sup>29</sup> The numbers reported to the government, however, fail to take into account “the many workers involved in the informal economy.”<sup>30</sup> State law requires garment contractors to register with the California Department of Industrial Relations (“DIR”), yet many garment contractors fail to register and continue to operate unlicensed shops, often failing to pay payroll taxes or workers’ compensation insurance and avoiding other laws and regulations.<sup>31</sup>

It is not an uncommon practice for contractors to frequently change the location or the name of the business, “sometimes as a tactic to avoid accountability for labor abuses.”<sup>32</sup> For example, in 2000, a U.S. Department of Labor survey concluded that “two out of every three garment shops in Southern California did not comply with federal minimum wage and overtime laws.”<sup>33</sup> A 2003 study by UCLA found that “three out of every four garment factories cited by California’s Division of Labor Standards and Enforce-

26. SWEATSHOP WATCH & GARMENT WORKER CENTER, CRISIS OR OPPORTUNITY? THE FUTURE OF LOS ANGELES’ GARMENT WORKERS, THE APPAREL INDUSTRY AND THE LOCAL ECONOMY 3 (2004), available at [http://www.sweatshopwatch.org/media/pdf/garment\\_report\\_2004.pdf](http://www.sweatshopwatch.org/media/pdf/garment_report_2004.pdf) [hereinafter CRISIS OR OPPORTUNITY?].

27. See ASIAN PACIFIC AMERICAN LEGAL CENTERS AND SWEATSHOP WATCH, REINFORCING THE SEAMS: GUARANTEEING THE PROMISE OF CALIFORNIA’S LANDMARK ANTI-SWEATSHOP LAW 9 (Sept. 2005), available at <http://www.sweatshopwatch.org/media/pdf/AB633Report.pdf> [hereinafter REINFORCING THE SEAMS].

28. *Id.* at 9, 11; see also Narro, *Next Wave Organizing*, *supra* note 1, at 471.

29. CRISIS OR OPPORTUNITY?, *supra* note 26, at 3.

30. *Id.*

31. See *id.*; see also Narro, *Next Wave Organizing*, *supra* note 1, at 471-72.

32. CRISIS OR OPPORTUNITY?, *supra* note 26, at 3; see Narro, *Next Wave Organizing*, *supra* note 1, at 472.

33. CRISIS OR OPPORTUNITY?, *supra* note 26, at 3; see Narro, *Next Wave Organizing*, *supra* note 1, at 472.

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ment (“DLSE”) were unregistered with DIR or violated record-keeping requirements.”<sup>34</sup> The next most common citations were for “paying workers cash under the table or failing to keep a record of payroll deductions.”<sup>35</sup> The report also found that the garment industry was more likely than all other industries inspected by the DLSE’s Bureau of Field Enforcement to be cited for minimum wage and overtime violations.<sup>36</sup> The restructuring of the industry due to globalization trends and the subsequent loss of union density created a need to launch an organization that would focus on improving the working conditions and protecting the rights of garment workers.<sup>37</sup>

**B. History of the Garment Worker Center**

The Garment Worker Center (“Garment Worker Center” or “Center”) was created in 2001 by a coalition of garment worker advocates from several immigrant rights groups who have been helping garment workers for many years—Sweatshop Watch,<sup>38</sup> Asian Pacific American Legal Center (“APALC”),<sup>39</sup> Coalition for Humane Immigrant Rights of Los Angeles (“CHIRLA”),<sup>40</sup> and Korean Immigrant Workers Advocates (“KIWA”).<sup>41</sup> In order for working conditions in the Los Angeles garment industry to im-

34. CRISIS OR OPPORTUNITY?, *supra* note 26, at 3; see Narro, *Next Wave Organizing*, *supra* note 1, at 472. .

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35. CRISIS OR OPPORTUNITY?, *supra* note 26, at 3; see Narro, *Next Wave Organizing*, *supra* note 1, at 472.

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36. See CRISIS OR OPPORTUNITY?, *supra* note 26, at 3; see also Karin Mak & Joannie Chang, Presentation on the State of California’s Garment Industry: Strengthening Opportunities for Immigrant Workers at the Conference on the Future of California’s Garment Industry (Nov. 11-12, 2004), [http://www.sweatshopwatch.org/media/powerpoint/garment\\_overview04.ppt](http://www.sweatshopwatch.org/media/powerpoint/garment_overview04.ppt).

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37. See Patrick J. McDonnell, *Center Offers Garment Workers a Voice*, L.A. TIMES, Apr. 14, 2001, at B1.

38. Sweatshop Watch was founded in 1995 as a statewide network organization that serves low-wage workers nationally and globally, with a focus on eliminating sweatshop exploitation in California’s garment industry. See Narro, *Next Wave Organizing*, *supra* note 1, at 472.

39. The Asian Pacific American Legal Center of Southern California “is the nation’s largest legal organization serving the Asian and Pacific Islander (API) communities.” See APALC, <http://apalc.org> (last visited Jan. 8, 2008).

40. “The Coalition for Humane Immigrant Rights of Los Angeles (CHIRLA) was founded in 1986 to advance the human and civil rights of immigrants and refugees in Los Angeles.” See CHIRLA, <http://www.chirla.org> (last visited Jan. 7, 2008).

41. KIWA was founded in 1992 to help low-wage workers in the Koreatown area of Los Angeles gain a voice in the workplace and the community in general. KIWA has engaged in many campaigns to bring the struggles of the working people of Koreatown to light and to build community support. See KIWA, <http://www.kiwa.org/> (last visited Jan. 8, 2008).

prove, these garment worker advocates realized that they must find a way to hold manufacturers and retailers responsible for the behavior of the contractors that hire the workers who sew their brands. In 1999, after a decade of hard fought advocacy, these groups successfully campaigned to pass California Assembly Bill 633 (“AB 633”).<sup>42</sup> Under AB 633, which was enacted in 2000, garment manufacturers are legally responsible as guarantors for workers’ minimum wages and overtime compensation, and garment workers may claim these wages through an expedited administrative process before the state Labor Commissioner.<sup>43</sup> The campaign to pass AB 633, the strongest anti-sweatshop legislation in the country, created momentum among garment worker advocates to continue working towards improving working conditions for garment workers in Los Angeles.

After California passed AB 633, these garment worker advocates formed a coalition with other advocates from legal services groups to develop strategies on how to use AB 633 to improve the working conditions for garment workers.<sup>44</sup> This coalition coordinated filing of legal claims, worked to ensure accountability on the part of the Labor Commissioner’s office to effectively implement AB 633, and provided outreach workshops to garment workers at local schools and churches to educate them about the new law.

During the community workshops, the advocates from Sweatshop Watch, APALC, CHIRLA, and KIWA began to involve workers in the discussions of creating a multi-ethnic worker center to fight for the rights of garment workers in Los Angeles. Through

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42. See REINFORCING THE SEAMS, *supra* note 27, at 6.

43. See *id.* at 6-7.

44. One example of the utilization of this law through effective legal advocacy appeared in the Wet Seal case where the California Labor Commissioner ruled that Wet Seal, the retailer, along with the contractor and manufacturer, were responsible for the labor violations of the contractors who sewed for the label. See FINE, WORKER CENTERS, *supra* note 8, at 289 n.21 (citing Labor Commissioner of the State of California, Department of Industrial Relations, Division of Labor Standards Enforcement, *Order, Decision, or Award of the Labor Commissioner*, Oct. 24, 2002). This decision was historic because it was the first time that the California Labor Commissioner found that if a retailer was functioning as a manufacturer, it could be held liable under AB 633. The decision read in part:

A manufacturer is a person that contracts to have garment manufacturing operations performed. If a retailer by its actions comes within that definition it must register as a manufacturer and is subject to the wage guarantee. . . . In this instance the evidence established that the West Seal Inc. actions were sufficient to be deemed a retailer engaged in “garment manufacturing” and therefore . . . subject to the wage guarantee.

*Id.*; see also *id.* at 90-91.

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a series of dialogue with Chinese and Latino garment workers, these advocates created the blueprint for the Garment Worker Center. These four organizations would comprise the steering committee for the Center. The relationship of the steering committee to the Center would play an instrumental role in facilitating the relationship between the workers and their lawyers during its first major project—the Forever 21 Campaign.<sup>45</sup>

### C. Forever 21 Campaign

Within a few months after the Garment Worker Center opened its doors in April 2001, nineteen Latina garment workers from six factories who sewed for the popular women's clothing line Forever 21<sup>46</sup> came to the Center with complaints of labor violations. When the Garment Worker Center organizers calculated the unpaid wage claim of each of the workers, the total amounted to hundreds of thousands of dollars in unpaid wages and overtime wages. On average, each employee worked as long as twelve hours a day for sub-minimum wages and no overtime pay. The garment factories where they worked were dirty and unsafe, with rats and cockroaches running around. Some of the workers were also fired for protesting the poor conditions. The Center organizers engaged the nineteen workers in a strategic power analysis of their situation to help them strategize how they could work together to address their individual labor violations as one major collective effort.<sup>47</sup> The initial meeting to discuss their labor violations led to a series of meetings where the nineteen workers were able to formulate a broader strategy that would enable them to see their collective effort against Forever 21 as part of a larger struggle for justice for garment workers throughout Los Angeles.

On November 17, 2001, these workers announced an official boycott of Forever 21.<sup>48</sup> Garment worker members from the

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45. I was the Workers' Rights Project Director for CHIRLA at the time of the launching of the Garment Worker Center and the Forever 21 Campaign. In 2001, I became the Co-Executive Director for Sweatshop Watch until 2003, when I left my position at Sweatshop Watch and joined the UCLA Labor Center.

46. At the time of the boycott campaign, Forever 21 was emerging as a major retailer of young women's fashion with its headquarters and production in Los Angeles and had annual revenues exceeding \$500 million. See Forever 21, <http://www.Forever21.com> (last visited Jan. 7, 2008).

47. In my capacity as Workers' Rights Project Director for CHIRLA, I participated in these meetings and assisted with the power analysis.

48. See *Boycott Forever 21!*, SWEATSHOP WATCH NEWSLETTER (SWEATSHOP WATCH, Los Angeles, Cal.), Dec. 2001, at 2, available at [http://www.sweatshopwatch.org/media/pdf/newsletters/7\\_3.pdf](http://www.sweatshopwatch.org/media/pdf/newsletters/7_3.pdf).

Center and their community allies picketed Forever 21 stores every Saturday for the rest of the year, and they reached out to university students and community groups to build support for their campaign.<sup>49</sup> The nineteen workers from this campaign were at the forefront of the larger strategy to demand accountability from retailers and raise awareness among consumers. Over time, these workers developed a collective awareness of their potential as a group to demand widespread changes in the local garment industry.<sup>50</sup>

### 1. *Legal Strategy*

Before the Garment Worker Center launched the boycott campaign, the organizers and the nineteen workers offered to negotiate a settlement with the representatives of Forever 21 regarding the wage and hour violations. Following the attempts at settlement, the attorneys from APALC met with the key organizing staff from Garment Worker Center and Sweatshop Watch to create a popular education workshop for the nineteen workers to go over the anatomy of a lawsuit and how the lawsuit would support their campaign.<sup>51</sup> Because we anticipated a long campaign, it was instrumental that we develop the litigation strategy with the workers and clarify the roles and responsibilities of each party.<sup>52</sup>

In September 2001, after attempts to negotiate a settlement directly with Forever 21 failed, the workers filed a lawsuit against the immediate garment contractors, the manufacturers for whom they

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49. *Id.*

50. *See id.*

51. *See, e.g.,* Cummings & Eagly, *A Critical Reflection*, *supra* note 1, at 482.

Popular education . . . has evolved as a process of nonhierarchical learning through which people analyze problems on their own so that they may arrive at a more critical understanding of the mechanisms of power and oppression. This understanding may then form the basis for collective action; however, it is the process of arriving at this understanding, rather than the action taken as a result, that constitutes the core of the popular education technique.

*Id.*

52. *See* Quigley, *Lawyering for Empowerment*, *supra* note 1, at 474.

The organization should work with the attorney to decide what the attorney should be involved in, how the legal strategy should proceed, and when the lawyer's assistance is needed. If a legal strategy is developed, the organization should decide what are the first steps taken, what forum should those steps be taken in, what resources should be committed to the task, and what realistic goals and timetables should be communicated to the members of the organization.

*Id.*

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sewed, and Forever 21.<sup>53</sup> The lawsuit filed by APALC on behalf of the workers sought unpaid wages, damages and penalties, as well as assurances from Forever 21 that they not use sweatshop labor in the future.<sup>54</sup>

On March 4, 2002, the federal district court judge granted Forever 21's motion to dismiss the workers' lawsuit.<sup>55</sup> APALC filed an appeal with the Ninth Circuit Court of Appeals. The attorneys immediately met with the organizers and workers to go over their appellate strategy. It was important for the workers to understand that the boycott was the main driving force in the campaign pending the long process of the appellate court system.

*a. Forever 21 Lawsuit Against Workers and the Advocates*

On March 6, 2002, in response to the district court's ruling, Forever 21 filed a defamation lawsuit in Los Angeles Superior Court against each of the workers, the Garment Worker Center, Sweatshop Watch, CHIRLA and certain staff members.<sup>56</sup> Forever 21 alleged that statements claiming Forever 21 owed wages to the garment workers constituted defamation.<sup>57</sup> Forever 21 also alleged that the Boycott Forever 21 campaign was unlawful and interfered with its business.<sup>58</sup> The Forever 21 campaign did not expect this lawsuit and viewed it as retaliation against the workers and their advocates.<sup>59</sup>

The advocates and the workers sought the legal assistance of the National Lawyers Guild-LA Chapter ("NLG") and the ACLU of Southern California. The defendants argued that the lawsuit attempted to chill their First Amendment rights and filed a motion to dismiss under the California anti-SLAPP (Strategic Litigation Against Public Participation) statute, a state law that set up a special process for courts to review lawsuits that effectively discourage people and groups from exercising their First Amendment rights.<sup>60</sup> With mounting pressure from students and community supporters who called and sent letters to Forever 21, the retailer withdrew the

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53. All six factories were producing brand name garments in sweatshop conditions for the Forever 21 label.

54. See *Castro v. Fashion 21, Inc.*, No. 01-09487 (Cal. Dist. Ct. Nov. 5, 2001).

55. *Id.*

56. See *Fashion 21, Inc. v. The Garment Worker Center*, No. BC-269427 (Cal. Sup. Ct. 2002). I was one of the defendants named in the lawsuit. *Id.*

57. *Id.*

58. *Id.*

59. Nancy Cleeland, *Forever 21 Files Defamation Suit Against Groups*, L.A. TIMES, Mar. 7, 2002, at C2.

60. *Id.*

lawsuit against the workers a month later, prior to the first hearing before the judge, but continued the lawsuit against the advocates.<sup>61</sup> Immediately thereafter in what many considered a strong demonstration of leadership and solidarity, the workers held a press conference at the APALC offices to denounce the owner of Forever 21 for retaliating against the workers and the advocates.<sup>62</sup> This decision on the part of the workers exemplified their close relationship with the attorneys and advocates.

The SLAPP litigation added a new focus to the campaign. In addition to the issue of retailer accountability for labor violations, the campaign now became a test case on the First Amendment rights of workers and advocates to engage in boycotts and other public actions against abusive employers. To prevent confusion of the different legal actions, the lawyers from the ACLU and NLG representing the advocates in the SLAPP suit joined the APALC lawyers to form one cohesive legal strategy team. This team would become the main source of communication for the advocates and workers. The next step for this legal team was to create a presentation for the workers to educate them about the SLAPP lawsuit and how their defense fit within the overall campaign strategy.

*b. First Legal Victory*

On March 12, 2002, one manufacturer, One Clothing, agreed to a settlement that included an unprecedented consent decree, which provided that One Clothing and any of its successors would:

- (1) establish a multilingual toll-free number where workers can call the manufacturer directly to report sweatshop conditions;
- (2) require that all of its factories post the toll-free number;
- (3) conduct annual training for all workers in the factories they use on workers' rights under federal and state laws;
- (4) conduct annual training for the garment factories with whom they contract on workers' rights under federal and state law; and
- (5) ensure that garment factories with whom they contract provide clean bathrooms, potable water, a clean space for workers to eat and take breaks, adequate ventilation and adequate lighting.<sup>63</sup>

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61. *Los Angeles Garment Workers Announce Settlement with Major Manufacturer*, SWEATSHOP WATCH NEWSLETTER (SWEATSHOP WATCH, Los Angeles, Cal.), Spring 2002, at 3, available at [http://www.sweatshopwatch.org/media/pdf/newsletters/8\\_1.pdf](http://www.sweatshopwatch.org/media/pdf/newsletters/8_1.pdf).

62. *Id.*

63. *Id.* at 1, 3. This case was unprecedented because up until that time period, it was rare for manufacturers to take steps to ensure that their garment contractors would comply with labor laws. *Id.*

The consent decree was a huge victory for the nineteen workers and for Los Angeles garment workers. One Clothing also agreed to take proactive measures to improve working conditions in their factories. This set a precedent that garment manufacturers should and can accept responsibility for factory working conditions.<sup>64</sup> Another manufacturer named in the lawsuit, Sany Fashion d/b/a Vanilla Ville, also settled and entered into a consent decree earlier in the year.<sup>65</sup> These two victories were important because they provided concrete positive outcomes for the workers and organizers during a time when the federal court case was on appeal and the defense against the SLAPP lawsuit was just underway.

*c. New Worker Plaintiffs*

Over the next two years, more garment workers joined the Forever 21 campaign<sup>66</sup> because of the influence of the nineteen workers' public efforts.<sup>67</sup> They came to the Garment Worker Center with complaints similar to the nineteen workers who filed the original lawsuit.<sup>68</sup> They labored in different sweatshops around downtown Los Angeles and sewed clothing for the Forever 21 label. In the end, there were forty-five workers involved with the boycott and federal court litigation. The increase in the number of plaintiffs made it more challenging for the attorneys and the organizers to ensure that the workers were fully involved with the litigation and that they understood the relationship of the court case to the organizing.

*2. Boycott Campaign Battle*

During the two years following the campaign launch, while the two major cases were making their way through the federal and state courts, the Garment Worker Center and Sweatshop Watch engaged in creative organizing events to highlight the struggle of these garment workers and advance the boycott campaign. In early August 2002, the Center launched a month long billboard campaign to increase public awareness about Forever 21's sweatshop conditions and to promote the campaign.<sup>69</sup> In September 2002, the Center sponsored two events: a major mobilization to

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64. *Id.*

65. *Id.*

66. *Id.*

67. *Id.*

68. *Id.*

69. See Kristin Young, *Forever 21 Targeted by Sweatshop Watch*, WOMEN'S WEAR DAILY, Aug. 6, 2002.

commemorate the one-year anniversary of the Forever 21 campaign and a community forum to generate more public support for the boycott.<sup>70</sup> During the community forum, the Center joined KIWA in combining two major campaigns as part of a larger struggle for the rights of Los Angeles workers. At the same time that the Garment Worker Center kicked off the Forever 21 Campaign, KIWA launched its Justice for Grocery Market Workers Campaign. Both campaigns combined to create a comprehensive, well publicized campaign for worker justice on behalf of garment workers and grocery market workers. A highlight of this joint effort was a major march and mobilization through Koreatown in November 2002 to highlight the one year anniversary of both campaigns.<sup>71</sup>

*a. National Speaking Tour*

During this period, the local boycott campaign became national, as Garment Worker Center members and organizers traveled throughout the country on a national speaking tour in an effort to generate public support and solidarity. Among the major cities visited were San Francisco, Amherst, New York, San Antonio, Austin, Miami, and Washington, D.C. In each stop of the tour, workers from the campaign spoke with university students and community organizations about the boycott and went to Forever 21 stores in the area to leaflet and picket. The national speaking tour helped the worker leaders see their local campaign as part of the larger struggle for corporate responsibility. Through the national tour, the boycott was able to gather additional strength and support.<sup>72</sup>

*b. Wear and Tear of the Campaign*

While the boycott was gaining national attention and supporters, the internal campaign began to suffer from stress and tensions generated by the prolonged efforts.<sup>73</sup> The attempt to sustain weekly protests and community outreach efforts had taken its toll on the

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70. Information on these events is on file with the author.

71. See *Forever 21 Boycott Gains Momentum*, SWEATSHOP WATCH NEWSLETTER (Sweatshop Watch, Los Angeles, Cal.), Fall 2002, at 6 available at [http://www.sweatshopwatch.org/media/pdf/newsletters/8\\_3.pdf](http://www.sweatshopwatch.org/media/pdf/newsletters/8_3.pdf).

72. See FINE, WORKER CENTERS, *supra* note 8, at 104 (“[T]he Garment Worker Center decided to escalate its tactics to include a national boycott campaign that would tap into the informal network of worker centers and anti-sweatshop activists to hold actions in front of stores in different parts of the country.”).

73. *Id.* at 105 (“Some of the staff and leaders of the Garment Worker Center expressed frustration and boredom with the pickets . . . as they worried that the boycott was not working.”).



workers, especially on the women with children.<sup>74</sup> Tensions emerged between the women who were always at the protests and those who failed to show up on a regular basis. This deterioration in relationships impacted the work of the organizers and the attorneys. There were numerous conflict resolution meetings to resolve internal relationship issues and to dispel any rumors about the litigation. The attorneys involved in the federal and state cases also found it difficult to discuss litigation and organizing strategies with the organizers because of the different legal issues highlighted by both cases.<sup>75</sup> The Forever 21 campaign was in need of a major turning point to bring back a sense of energy and momentum.

In spite of the internal challenges, the organizers were able to maintain the public visibility of the boycott through weekly Saturday protests at Forever 21 stores throughout Los Angeles. During the holiday shopping season, the Center engaged in creative public actions to inform consumers and energize the boycott.<sup>76</sup> As the boycott continued in the streets with weekly protests and major actions, the long awaited major court decisions helped to change the campaign.<sup>77</sup>

### 3. Long Awaited Victories in Federal and State Court

In March 2004, in a highly anticipated legal decision for this campaign, the Ninth Circuit Court of Appeals reversed the district court's dismissal of the lawsuit against Forever 21 and ordered the federal court to dismiss the workers' state law claims against Forever 21 without prejudice, thus allowing the workers to proceed with their lawsuit against Forever 21 in state court.<sup>78</sup> In April 2004, the California Court of Appeals issued two major decisions in the defamation lawsuit.<sup>79</sup> The court reversed a previous order denying

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74. *Id.*

75. See *Made in L.A., A Documentary Film* (PBS television broadcast Sept. 4, 2007) (on file with author). The legal strategies became a complex maze because the federal wage and hour case was merged with the SLAPP lawsuit in an attempt to reach a global settlement. *Id.*

76. *Id.*

77. See *Boycott Forever 21!*, *supra* note 48.

78. *Castro v. Fashion 21, Inc.*, 88 F. App'x. 987 (9th Cir. 2004); see *Narro, Next Wave Organizing*, *supra* note 1, at 477.

79. See *Garment Workers Ctr. v. Superior Court*, 12 Cal. Rptr. 3d 506 (Cal. Ct. App. 2004); *Fashion 21 v. Coal. for Humane Immigrant Rights of L.A.*, 117 Cal. App. 4th 1138 (Cal. Ct. App. 2004); see also *Narro, Next Wave Organizing*, *supra* note 1, at 477. The anti-SLAPP litigation took much longer than allowed under the California anti-SLAPP laws and became an increasingly complex legal maze. After Forever 21 dismissed the nineteen workers from the lawsuit, the remaining defendants filed a motion to have the Court dismiss the lawsuit alleging that it had no merit and order

a SLAPP motion in an appeal by the Coalition for Humane Immigrant Rights of Los Angeles and one of the advocates.<sup>80</sup> It directed the trial court to issue a new order striking Forever 21's complaint against them, and awarded them costs and attorneys' fees.<sup>81</sup> In a separate decision, the court issued a writ of mandate directing the trial court to vacate its previous order allowing Forever 21 to conduct limited discovery on Garment Worker Center employees, and to proceed with the SLAPP motion on the merits.<sup>82</sup> The Court of Appeals noted that Forever 21's lawsuit had continued long enough to chill the First Amendment rights of garment workers and their advocates.<sup>83</sup>

These two major victories galvanized the workers and the advocates. Immediate strategy meetings were held at the Garment Worker Center to plan the next series of significant actions. The attorneys began preparing to move forward with both cases in anticipation of going to trial. There were several meetings between the attorneys, the organizers, and the advocates about the next steps in the campaign. With the victories in both state and federal court, there was a window of opportunity to negotiate a settlement with Forever 21. The public outreach of major protests and street

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Forever 21 to pay the defendants' costs. After the NLG and ACLU lawyers filed the SLAPP motion, Forever 21 asked the Court to allow them to depose each of the defendants to find out what the advocates and others had said about Forever 21 and its owner. The goal was to discover if anything defamatory was said, even though Forever 21 would have to prove on its face that the statements they claimed were unlawful were, in fact, false. ACLU and NLG argued that the anti-SLAPP law did not permit them to file a lawsuit claiming defamation and then use the legal system to force defendants to tell plaintiffs what they said about Forever 21. The Superior Court judge agreed with Forever 21. The Court of Appeal issued a stay of the lower court's decision. After receiving Forever 21's opposition papers, the Court of Appeal issued an Alternative Writ directing the Superior Court to set aside its ruling allowing discovery or show cause why the ruling should not be set aside. The Court issued a schedule for filing briefs and set a date for oral arguments. The Court of Appeal also stayed the Superior Court's order granting discovery until the Court of Appeal decided the question of whether the boycott was protected First Amendment activity. In response to the order from the Court of Appeal, the Superior Court judge reversed her earlier order and denied the motion for discovery. The judge did, however, indicate that a new motion for limited discovery could be filed. In light of this action by the Superior Court, the Court of Appeal dismissed the writ case as moot. *See Garment Workers Ctr.*, 12 Cal. Rptr. 3d at 506.

80. *See* Narro, *Next Wave Organizing*, *supra* note 1, at 477.

81. *Id.*

82. *Id.*

83. *See id.*; *Garment Workers Ctr.*, 12 Cal. Rptr. 3d at 509.

actions following the legal victories helped further pressure Forever 21.<sup>84</sup>

#### D. Major Victory—Settlement with Forever 21

With the threat of major public actions during the upcoming holiday season, Forever 21 reached out to the workers and advocates to settle the case. The lawyers from the different cases had to develop an effective way to synthesize the complexity of both litigations in order to enable the forty-five workers to fully understand the concepts of a global settlement and attorney fees so that they could make an informed decision on any settlement offer. The lawyers and organizers worked together to conduct joint presentations for the workers.<sup>85</sup>

In December 2004, Forever 21, the Garment Worker Center, Sweatshop Watch, and the APALC settled all litigation on behalf of the forty-five workers.<sup>86</sup> In addition, the parties agreed to take steps to promote greater worker protection in the local garment industry.<sup>87</sup> The parties announced the resolution of the litigation as a positive and symbolic step forward in demonstrating respect and appreciation for garment workers.<sup>88</sup> Under the parties' agreement, the national boycott of Forever 21 and related protests at the

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84. See *Los Angeles Garment Workers Announce Settlement with Major Manufacturer*, *supra* note 61, at 3.

85. See *Made In L.A.*, *supra* note 75.

86. The following is the joint public statement between Forever 21 and the advocates on the settlement:

Agreement Reached with Forever 21:

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.

Press Release, Garment Worker Center, Garment Workers Celebrate End of Year with a New Beginning: End of Campaign of Forever 21 Announced 2 (Dec. 12, 2004), [http://www.garmentworkercenter.org/media/f21/GWC\\_F21\\_settlement.pdf](http://www.garmentworkercenter.org/media/f21/GWC_F21_settlement.pdf).

87. *Id.*

88. See Narro, *Next Wave Organizing*, *supra* note 1, at 478.

company's retail stores came to an end.<sup>89</sup> The parties agreed that garment workers should labor in lawful conditions and should be treated fairly and with dignity. Forever 21 joined the Garment Worker Center and Sweatshop Watch in remaining committed to ensuring that the clothing Forever 21 sells in its stores would be made under lawful conditions.<sup>90</sup>

## E. Outcomes of the Campaign

### 1. Los Angeles City Ordinance

The Forever 21 Campaign was a bold effort to organize garment workers and to fight for corporate responsibility in an industry that has been in decline due to the tremendous outsourcing of jobs throughout the past decade.<sup>91</sup> As a result, the impact of the Forever 21 Campaign on corporate responsibility within the Los Angeles garment industry is difficult to ascertain.<sup>92</sup> What is certain is that the campaign created a well defined standard of conduct detailing how retailers and manufacturers must ensure that their garment contractors comply with labor laws and health and safety standards.<sup>93</sup> The campaign generated a standard of corporate responsibility and visibility for the plight of garment workers in Los Angeles. The outcome spurred momentum and gave energy to the local effort to pass an ordinance in Los Angeles that would establish a sweat-free procurement policy for equipment, materials, goods, and supplies, as well as compliance procedures for the City's Contractor Code of Conduct.<sup>94</sup>

This anti-sweatshop law, approved by a unanimous vote of the Los Angeles City Council, is the toughest of its kind in the country and has served as a model for other cities, school districts, and municipalities. The ordinance requires vendors to sign a Code of Conduct affirming that they and their suppliers will subscribe to all applicable workplace laws.<sup>95</sup> The ordinance also requires that a "procurement living wage" be paid to workers on garment contracts.<sup>96</sup> Vendors or their suppliers found to be in violation of the

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89. Press Release, End of Campaign of Forever 21 Announced, *supra* note 86.

90. *Id.*; see also Narro, *Next Wave Organizing*, *supra* note 1, at 478.

91. See Narro, *Next Wave Organizing*, *supra* note 1, at 478-79.

92. *Id.* at 479.

93. *Id.*

94. See L.A. Cal., Admin. Code div. 10, art. 17, §§ 10.43-10.43.7 (2005).

95. *Id.* § 10.43.3.

96. *Id.* § 10.43.3(d).

For contracts involving the procurement of garments, uniforms, foot apparel, and related accessories, to ensure that workers are paid no less than a pro-

ordinance are subject to penalties and, if no corrective action is taken, to the termination of the contract.<sup>97</sup>

## 2. *Worker Leadership*

The workers involved in the campaign became effective leaders of the membership base of the Center.<sup>98</sup> Throughout the campaign, the workers developed leadership skills in the areas of public speaking, media communications, delegation visits, public testimony, and collective action. Today, the women remain effective leaders and advocates for other garment workers who experience exploitation in their workplaces.<sup>99</sup> These women workers have become strong ambassadors for the Garment Worker Center and the anti-sweatshop movement in Los Angeles.<sup>100</sup>

### **F. Impact of the Forever 21 Campaign on Law and Organizing**

The Forever 21 Boycott Campaign emphasizes the importance of open and clear communication between lawyers and organizers. The legal advocates understood the importance of establishing a clear process of integration and education so that the organizers and workers could fully understand the legal strategy and how it could support their campaign. This approach became even more critical during the stages of the campaign where the litigation in state and federal courts became a complex legal maze. The legal advocates involved with this campaign avoided the common pitfalls of getting so wrapped up in the litigation process that they would sacrifice the follow-up communication with the clients.<sup>101</sup>

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curement living wage, meaning for domestic manufacturers a base hourly wage adjusted annually to the amount required to produce, for 2080 hours worked, an annual income equal to or greater than the U.S. Department of Health and Human Services most recent poverty guideline for a family of three plus an additional 20 percent of the wage level paid either as hourly wages or health benefits.

*Id.*

97. *Id.* § 10.43.5.

98. See Narro, *Next Wave Organizing*, *supra* note 1, at 481.

99. *Id.*; see FINE, WORKER CENTERS, *supra* note 8, at 105. The Garment Worker Center leaders believed that the campaign helped to establish the organization within the L.A. community. *Id.* The campaign gave GWC an important opportunity to recruit new workers and to give them a sense of solidarity. *Id.*

100. See FINE, WORKER CENTERS, *supra* note 8, at 105.

101. See Gordon, *Make the Road by Walking*, *supra* note 1, at 440 (“In our experience, lawsuits that are not backed by a strong group of workers often flounder because they are vulnerable to the pitfalls of the legal process. Legal procedure, bankruptcy laws, the slowness of court and administrative proceedings, and even the

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### III. CAR WASH WORKER JUSTICE CAMPAIGN

The Car Wash Worker Justice Campaign defies much of the literature on law and organizing that focus on models like the Forever 21 Campaign, where progressive lawyers integrate pre-existent organizing campaigns into a legal strategy. In this case study, a group of progressive legal advocates and lawyers formulated a vision that a car wash worker law would become a vehicle from which labor organizers could carry out an effective campaign to organize car wash workers.

#### A. Background of the Car Wash Industry

The car wash industry in the United States has over 14,000 establishments and brings in revenues of over \$5 billion.<sup>102</sup> The industry is fragmented; almost 95% of the firms operating in the United States consist of single establishments, and only thirty-two firms have ten or more car washes.<sup>103</sup> In California, there are over 1500 establishments, with 22,000 employees, that bring in \$872 million in revenue.<sup>104</sup> In Los Angeles County alone, there are 7600 employees in the car wash industry, with an estimated 2200 unreported employees.<sup>105</sup> The car wash industry is labor intensive and full service car wash employees face fast-paced and often dangerous work.<sup>106</sup>

The full service car wash workforce is made up of predominantly male, Latino immigrants, many of whom are undocumented workers.<sup>107</sup> Car wash workers face routine health and safety violations, meal and rest period violations, and nonpayment or underpayment

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rules of legal ethics frequently interfere with the effective representation of immigrant workers.”).

102. See Matt Parker, *Wage, Labor and Safety Conditions in the California Car Wash Industry 1* (April 2006) (unpublished M.A. thesis, UCLA) (on file with author).

103. *Id.* at 3.

104. *Id.*

105. MILIKEN INSTITUTE ET AL., SECTION IX, HOPEFUL WORKERS, MARGINAL JOBS, THE LOS ANGELES ECONOMY PROJECT 299 (2005), available at [http://www.la.economyproject.com/laep\\_section09.pdf](http://www.la.economyproject.com/laep_section09.pdf).

106. See CALIFORNIA COALITION OF OCCUPATIONAL SAFETY AND HEALTH, CAR WASH WORKERS: THE HAZARDS OF CAR WASH WORK AND HOW TO REDUCE OR ELIMINATE THEM 1 (2005) [hereinafter CAL-OSHA REPORT] (on file with author).

107. See Memorandum from Victor Narro, UCLA Downtown Labor Center on Day Laborers in Los Angeles (2004) (on file with author); see also MILIKEN INSTITUTE ET AL., *supra* note 105, at 303, 306 (reporting that the percentage of those employed in the car wash industry at 67% noncitizen and 27% undocumented, but noting that these statistics are likely lower than the actual numbers because of the fear undocumented workers have of reporting and the incentive for car wash owners not to report the undocumented status of their employees).

of wages.<sup>108</sup> Many workers are not paid at all and survive solely on tips from customers.<sup>109</sup> When they are paid, the wage is often below the minimum wage and they are not compensated for overtime.<sup>110</sup>

### B. Campaign for Passage of AB 1688 (Car Wash Worker Law)<sup>111</sup>

In 1999, the Coalition for Humane Immigrant Rights of Los Angeles (“CHIRLA”) encountered cases of day laborers who suffered labor violations as car wash workers. The meetings with day laborers from CHIRLA’s Day Laborer Program exposed a pattern of complaints of wage and hour violations, substandard working conditions, and harassment among workers in the car wash industry.<sup>112</sup> During that same period, a group of approximately sixteen car wash workers, from SpeedWay car wash, an affluent car wash establishment in West Los Angeles, went to State Senator Tom Hayden’s office for assistance on similar issues.<sup>113</sup> Senator Hayden’s office contacted CHIRLA and the Koreatown Immigrant Workers Advocates (“KIWA”) and set up a meeting in Senator Hayden’s office. The majority of these workers were fired for their participation in the meeting.<sup>114</sup> Representatives from KIWA and CHIRLA met with the owner of the SpeedWay car wash to attempt to negotiate on behalf of these workers, and the owner responded in a highly confrontational manner.<sup>115</sup> CHIRLA and KIWA then worked with the California Occupational Safety and Health Administration (“Cal/OSHA”) and the California Labor Commissioner’s Office to investigate SpeedWay. All of the work-

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108. See CAL-OSHA REPORT, *supra* note 106, at 2.

109. See CAL. CODE REGS. tit. 8, §§ 13680-13693 (“Background to Regulatory Proceeding”).

110. See *id.*

111. Susan Garea & Alexandra Stern, An Analysis of California Assembly Bill 1688 (AB 1688) and Senate Bill 1468 (SB 1468): How The Car Wash Worker Law Can Be Used By Workers’ Rights Advocates (Dec. 15, 2006) (unpublished paper, UCLA Law School) (on file with author).

112. *Id.*; see also Interview by Susan Garea & Alexandra Stern with Victor Narro, Project Director, UCLA Downtown Labor Center, in L.A., Cal. (Dec. 6, 2006) (on file with author) [hereinafter Garea & Stern Interview].

113. See Garea & Stern Interview, *supra* note 112.

114. *Id.*

115. *Id.* At the meeting between the advocates and the owner of the SpeedWay, the owner became incensed and threw things across the room. Later, I received a letter from the law firm Latham and Watkins, stating that they were representing the owner and alleging that I had assaulted the owner. The letter went on to threaten me with prosecution for trespassing and assault if I came on to the premises again. *Id.*

ers, except for one, were reinstated with back pay.<sup>116</sup> During the process of helping these workers, CHIRLA staff noticed that their colleagues from legal services organizations received many wage and hour complaints from car wash workers.<sup>117</sup> Drawing on their experience with SpeedWay, the CHIRLA and KIWA advocates worked with Senator Hayden to draft legislation to regulate the car wash industry, California Senate Bill 1097, which mirrored the Garment Worker Law, Assembly Bill 633.<sup>118</sup> Due to a lack of information and reporting of abuses within the industry, the bill faced fierce legislative opposition from the Western Car Wash Association (“WCWA”).<sup>119</sup> Also, there was no clear organizing and policy campaign for this legislation—the work was generated mostly from Senator Hayden’s office. The strategy did not even involve winning support from the California Federation of Labor.

In spite of these challenges, the legislature passes California Senate Bill 1097.<sup>120</sup> Governor Davis vetoed the bill, however, stating:

“I am vetoing this bill because it would impose additional operational costs on the Department of Industrial Relations that are not budgeted in the 2000 Budget Act. Additionally, I do not believe that the need for car washing and polishing business[es] to register with the Labor Commissioner has been demonstrated.”<sup>121</sup>

This experience was a wake up call for the advocates. In order to successfully pass an effective law to regulate the industry, we would need a well thought out policy campaign. At that time, there was little, if any, information or data about the exploitation that went on in the car wash industry,<sup>122</sup> much less any efforts to

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116. *Id.*

117. See CAL-OSHA REPORT, *supra* note 106.

118. See A.B. 633 (Ca. 1999) (regulating the garment industry by setting up a fund for wage and hour claims and holding both contractors and manufacturers liable for violations).

119. WCWA’s mission statement is:

The primary purpose of this association is to serve and promote the interests of the carwash industry: to serve as a rallying point for collective action by individual operators and regional organizations of carwash operators on problems affecting the industry; and to do whatever is necessary, proper, and legitimate for the common good and welfare of the industry.

See Western Car Wash Association, <http://www.wcwa.org/index.cfm?Page=AboutUs> (last visited Jan. 9, 2008).

120. State of California Department of Industrial Relations, 2000 Legislative Summary, available at [http://www.dir.ca.gov/OD\\_pub/2000Summary.htm#SB%201097](http://www.dir.ca.gov/OD_pub/2000Summary.htm#SB%201097).

121. *Id.*

122. See Garea & Stern Interview, *supra* note 112. The organizers of the car wash industry learned from this early failure. *Id.* The next bill passed created a registration



organize the workers.<sup>123</sup> Unlike AB 633, there was no “front page” story or public outrage to justify a new law.<sup>124</sup>

### 1. *Los Angeles Workers Advocates Coalition*

In 2002, many of the Los Angeles organizations that deal directly with low-wage workers, labor violations, labor enforcement, and the immigrant community formed a coalition: Los Angeles Workers Advocates Coalition (“LAWAC”). The founding members were Bet Tzedek Legal Services,<sup>125</sup> Legal Aid Foundation of Los Angeles (“LAFLA”),<sup>126</sup> Neighborhood Legal Services (“NLS”),<sup>127</sup> Garment Worker Center, Sweatshop Watch, CHIRLA, KIWA, and other groups.<sup>128</sup> The coalition focused on two major goals: (1) to create collective strategies with wage and hour cases; and (2) to work together to create legislation and policy reform. Because of the high number of cases dealing with labor violations in car washes and the failure to pass SB 1097, LAWAC’s first major effort would target the car wash industry.<sup>129</sup>

LAWAC’s legal advocates felt that although they were successful in prevailing on wage and hour administrative complaints through the Labor Commissioner’s Office, these victories did little to end

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fee to fund enforcement so the overstretched California budget would not have to be expanded. *Id.* The organizers worked to solidify the support of organized labor, and they provided more background information and research on the poor labor conditions in the car wash industry. *Id.*

123. *Id.*

124. See REINFORCING THE SEAMS, *supra* note 27, at 9 (explaining how the discovery of seventy-two Thai garment workers working “behind barbed wire and under armed guard” in El Monte, CA, raised public awareness about sweatshops and garment worker exploitation).

125. Bet Tzedek, The House of Justice, provides “free legal assistance to more than 10,000 people of every racial and religious background in the Los Angeles area.” See Bet Tzedek: The House of Justice, <http://www.bettzedek.org> (last visited Jan. 9, 2008).

126. Legal Aid Foundation of Los Angeles promotes access to justice, strengthens communities, combats discrimination, and effects systemic change through representation, advocacy, and community education. See Legal Aid Foundation of Los Angeles, <http://www.lafla.org> (last visited Jan. 9, 2008).

127. Since 1965, Neighborhood Legal Services of Los Angeles County has provided free legal services to low-income residents. They serve all of Los Angeles County, including the San Fernando and San Gabriel Valleys, the neighboring communities in the Pomona, Santa Clarita, and Antelope Valleys, and the cities of Burbank, Glendale, and Pasadena. See Neighborhood Legal Services of Los Angeles County, <http://www.nls-la.org> (last visited Jan. 9, 2008).

128. In 2006, LAWAC member organizations joined together with Northern California worker advocates to create the California Low-wage Immigrant Workers Advocates.

129. Garea & Stern Interview, *supra* note 112.

the vicious cycle of exploitation within this industry with widespread labor code violations. The coalition decided that legislation was needed to regulate the car wash industry.<sup>130</sup> Although LAWAC was mostly led by legal services lawyers, they were progressive legal advocates who understood from the beginning that long term systemic changes in the industry to improve working conditions would only come about through an organizing effort. They viewed a law that would regulate the industry as a means to provide an important mechanism for an effective organizing campaign.

The LAWAC advocates analyzed the failure of Senator Hayden's earlier campaign through the lens of their collective experiences with legal cases and policy work. LAWAC located a powerful sponsor for the bill in Assemblywoman Jackie Goldberg, who had a long history of effective coalition building and a strong background in labor issues.<sup>131</sup> The bill resembled the previous one Senator Hayden sponsored.<sup>132</sup> During the same time, two UCLA law students produced a research paper on the car wash industry and low-wage workers.<sup>133</sup> This research paper was the only documentation and data available on the car wash industry and it would become the principal document to educate legislators during the process of moving forward with the legislation.<sup>134</sup> LAWAC originally garnered the support of the car wash industry by agreeing to a three-year sunset provision.<sup>135</sup> The industry, however, ceased its support when LAWAC insisted on requiring a registration fee.<sup>136</sup> LAWAC retained the registration fee and moved forward without the industry's support. Because California was experiencing an economic budget crisis during this time period, the bill would not have made it through the legislative fiscal committee if the advocates were unable to demonstrate that the revenues from the registration fees would pay for the staffing to enforce the law. LAWAC did, however, retain the sunset provision as a concession to demonstrate that the advocates had compromised with the industry to win

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130. *Id.*

131. *Id.*

132. *See* S.B. 1097 (Cal. 1999).

133. *See* Irma Hernandez & Guillermo Mayer, *Legal Problems of Low Wage Workers* (2002) (unpublished paper, UCLA Law School) (on file with author).

134. *Id.*

135. A sunset provision refers to the timeline of a law.

136. *See* Garea & Stern Interview, *supra* note 112.

support from Governor Davis. LAWAC was also strategic in securing the California Labor Federation's<sup>137</sup> support for the bill.<sup>138</sup>

An important reason why the labor movement supported and fought for this legislation was that the LAWAC advocates presented the Labor Federation with its long term strategy explaining how this new law would assist with union organizing in the car wash industry. LAWAC won its first major victory when AB 1688 was passed by the assembly and signed into law by Governor Davis on October 10, 2003.<sup>139</sup> The key provisions of AB 1688 are the registration requirements,<sup>140</sup> including fee collection<sup>141</sup> and establishment of a surety bond, creation of the Car Wash Worker Restitution Fund and Car Wash Worker Fund,<sup>142</sup> the successorship provision,<sup>143</sup> and the record keeping provision.<sup>144</sup> AB 1688 would help guarantee the wages and provide for a safe working environment for car wash workers.<sup>145</sup>

In November 2003, Governor Davis was recalled<sup>146</sup> and Republican Governor Arnold Schwarzenegger took office in January 2004, when the Car Wash Worker Law was set to take effect. When Schwarzenegger took office, he declared AB 1688 too vague and called for the California Labor Workforce Development Agency, the agency responsible for enforcing labor laws, to issue regulations.<sup>147</sup> The WCWA and other business groups labeled AB 1688 as one of many new laws that negatively impact business in Califor-

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137. The California Labor Federation is the state AFL-CIO, whose mission statement reads in part, "to elect candidates supportive of working families' issues, and to hold elected officials accountable to working families." The organization has resources dedicated towards lobbying and knowledge of the process. *See* The California Labor Federation, <http://www.calaborfed.org/about/index.html> (last visited Jan. 9, 2008).

138. Garea & Stern Interview, *supra* note 112.

139. CAL. LAB. CODE § 2050 (West 2007).

140. *Id.* § 2054.

141. *Id.* § 2059.

142. *Id.* § 2065.

143. *Id.* § 2066.

144. *Id.* § 2052.

145. The bill establishes a bonding system to ensure the prompt payment of wages. *Id.* § 2055. In addition, AB 1688 requires car wash operators to register with the Labor Commissioner and creates a system of accountability. *Id.* Registration will require employers to submit proof of workers' compensation insurance, and city/local business licenses. *Id.* § 2056. Finally, this bill creates a Car Wash Worker Fund, funded by car wash operators through registration and penalty fees, to be accessed by car wash workers who are found by the California Labor Commissioner to have been denied their wages. *Id.* § 2059.

146. In 2003, groups opposed to Governor Davis were successful in gathering enough voter signatures to call for a recall election for Governor.

147. Garea & Stern Interview, *supra* note 112.

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nia.<sup>148</sup> Unfortunately, as a result of constant delays and bureaucratic obstacles, the administrative process of issuing the implementation regulations moved very slowly. AB 1688 was due to sunset on January 1, 2007.<sup>149</sup> The implementation was not approved until December 22, 2005. With only one year left before the three-year sunset provision, the law would only be in effect for one-third of the intended time. Further, the regulations created a staggered schedule for registering, which meant some counties would not register for 210 days, around July 20, 2006.<sup>150</sup> Thus, after all car washes registered, the Car Wash Worker Law would remain in effect for only 164 days.

Because the law would serve as an effective tool to organize car wash workers, it was clear that the legislation had to be reauthorized. The Coalition of Low Wages and Worker Associates (“CLIWA”)<sup>151</sup> began the legislative campaign to support a bill to extend AB 1688 for another three years. CLIWA advocates argued that this new law needed its full three year authorization to be effective. After advocacy efforts by the California Labor Federation, Governor Schwarzenegger agreed to sign a three-year extension of the law on the condition that no substantive changes were made to it.<sup>152</sup>

At first, the process appeared to proceed smoothly. The new bill, Senate Bill 1468 (“SB 1468”), was sponsored by Senator Richard Alarcon, and it passed through the senate and committee with relative ease.<sup>153</sup> The bill faced difficulty, however, after it was brought to the California Assembly floor for a debate and vote. The WCWA had hired the law and consulting firm Robinson & Associates to lobby hard against the bill. The firm attempted to convince moderate pro-business Democrats to vote against the bill by claiming that the penalty provisions were not strong enough and that further reforms were necessary.<sup>154</sup> In doing so, the lobbyists were in effect sabotaging the bill. If stronger provisions were ad-

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148. See WCWA, *supra* note 119.

149. CAL. LAB. CODE § 2067 (West 2007). The 2007 code indicates that this provision is due to sunset on January 1, 2010. See *id.*

150. See CAL. CODE REGS. tit. 8, § 13684 (West 2007).

151. At this point, LAWAC had merged with the Northern California Advocates to become CLIWA.

152. See Garea & Stern Interview, *supra* note 112.

153. *Id.*

154. *Id.* This concept is known as “veto baiting.” The WCWA argued that they did not need any new regulations to go after labor law violators. In fact, they indicate on their web site that they educate their members about labor laws through workshops and other meetings. See WCWA, *supra* note 119.

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ded, Governor Schwarzenegger would veto the bill, as he had agreed to sign the extension only if no substantive changes were made.<sup>155</sup> The intense lobbying against this bill was unexpected among the advocates and labor unions, as the law would be rendered ineffective without the extension.

The opposition generated enough support to defeat the bill by six votes; however, with the strong support of the California Labor Federation, LAWAC was able to convince the Speaker of the Assembly, Fabian Nunez, to call for a reconsideration vote ten days later.<sup>156</sup> LAWAC advocates employed all of their resources for this fight, and the Labor Federation staff visited with each Democrat who voted against the bill. The reconsideration vote produced a different outcome. SB 1468 passed the Assembly, and the governor signed it.<sup>157</sup> The new law extends the Car Wash Worker Law for three more years with a new expiration date of January 1, 2010.<sup>158</sup>

### C. The Movement to Organize Car Wash Workers

During its effort to win passage of SB 1468, the California Labor Federation argued that the law was needed for unions to organize workers. This statement reflected the long held view of the LAWAC that SB 1468 was a means of organizing the car wash industry. With the passage of SB 1468, the legal advocates now had a law that would regulate the car wash industry and create opportunities to work towards implementation of the law within an organizing strategy.

The next major challenge was to find a union or worker center willing to organize the workers. During the effort to pass AB 1688 and SB 1468, LAWAC advocates were in contact with immigrant rights groups, worker centers, and unions in Los Angeles about organizing the car wash industry. Because there was no history of any success in organizing this industry and these organizations were involved in their own respective major organizing campaigns, there was no interest on their part to take on a new major organizing project.<sup>159</sup> The right opportunity came during a meeting with high level officials of the AFL-CIO in July 2006.

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155. See Garea & Stern Interview, *supra* note 112.

156. *Id.*

157. CAL. LAB. CODE § 2067 (West 2007).

158. *Id.*

159. Although no union was willing to consider taking on a major organizing campaign, there was a high level of support for LAWAC's efforts by local unions. For example, the Los Angeles/Orange County Organizing Committee, a local committee

1. *AFL-CIO*<sup>160</sup> *Worker Center Initiative and United Steelworkers (USW)*

On August 9, 2006, after months of negotiating sessions in Los Angeles, the AFL-CIO announced a historic partnership with the National Day Laborers Organizing Network (“NDLON”)<sup>161</sup> as the beginning of its new National Worker Center Partnership initiative.<sup>162</sup> Under this national agreement, the AFL-CIO and NDLON agreed to work together for state and local enforcement of rights as well as the development of new protections in areas including wage and hour laws, health and safety regulations, immigrants’ rights, and employee misclassification.<sup>163</sup> They will push for comprehensive immigration reform that supports workplace rights and includes a path to citizenship and political equality for immigrant workers.<sup>164</sup> The partnership is also working against punitive, anti-immigrant, and anti-worker legislation.<sup>165</sup> The AFL-CIO is granting a special certificate of affiliation for any NDLON member organization that wishes to join either the local central labor council or statewide labor federation.<sup>166</sup> Such certificates of affiliation authorize the worker center or association of worker centers to affiliate with the local state federation or central labor council in order to build ties between these organizations and enable them to work cooperatively on issues of mutual concern. They also entitle

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of long time union organizers and AFL-CIO affiliates that meets quarterly, have adopted the car wash industry campaign as a project to support once the organizing effort gets underway.

160. The American Federation of Labor and Congress of Industrial Organizations is a voluntary federation of fifty-five national and international labor unions. The United Steelworkers is an affiliate of the AFL-CIO. *See* AFL-CIO, <http://www.aflcio.org> (last visited Jan. 9, 2008).

161. NDLON’s mission is “to strengthen and expand the work of local day laborer organizing groups in order to become more effective and strategic in building leadership, advancing low-wage worker and immigrant rights, and developing successful models for organizing immigrant contingent/temporary workers.” National Partnership Agreement Between the AFL-CIO and NDLON, Aug. 9, 2006 [hereinafter National Partnership Agreement] (on file with the author); *see also* NDLON, <http://www.ndlon.org> (last visited Jan. 9, 2008).

162. National Partnership Agreement, *supra* note 161; *see also* Steven Greenhouse, *Labor Federation Forms a Pact with Day Workers*, N.Y. TIMES, Aug. 10, 2006, at A18; Molly Selvin, *AFL-CIO to Back Day Laborers*, L.A. TIMES, Aug. 10, 2006, at C1.

163. National Partnership Agreement, *supra* note 161.

164. *Id.*

165. *Id.*

166. *See id.* (“The AFL-CIO operates as an umbrella organization for fifty-three national union affiliates, and includes some fifty state and 500 local central bodies (state federations and central labor councils) throughout the country.”); *see also* AFL-CIO, *supra* note 160.

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the worker center or association of worker centers to a representative in the state federation or central labor council in question.<sup>167</sup>

During the negotiation sessions in Los Angeles, which took place at the UCLA Downtown Labor Center, I took Stewart Acuff, Organizing Director for the AFL-CIO, to visit a few car washes. I provided details about the campaign to pass AB 1688 and provided him with data on the working conditions of the industry.<sup>168</sup> He was very impressed with the work of the LAWAC legal advocates, especially their vision of passing a law that will someday lead to union organizing in the industry. He invited me to their national office in Washington, D.C., to present to a group of AFL-CIO affiliates. The meeting took place in November 2006.<sup>169</sup> After the meeting, the USW expressed an interest in organizing a campaign in the car wash industry. The USW agreed to work with the LAWAC legal advocates in a joint outreach campaign to car wash workers regarding the new law from January to April 2007. LAWAC formed a car wash working committee of its legal advocates to coordinate closely with the USW organizers on this outreach project.<sup>170</sup>

For the next few months, this joint LAWAC/USW committee worked together to reach out to workers, educate them about the new law, and generate new wage claims for the attorneys. The major part of the outreach was to invite the workers to the UCLA Downtown Labor Center in April, 2007, where they could learn about the new law and receive legal services for their cases. The event in April turned out to be a huge success. Almost 100 workers from over twenty car washes attended the event. The workers were interested not only in receiving legal services for their labor violations, but how they could fight their employers for better working conditions. High level officials from the USW national office in Pittsburgh were at the event and they were so moved by the high turnout of workers and their strong desire to change the car wash industry that they agreed to continue providing resources and

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167. National Partnership Agreement, *supra* note 161.

168. See Parker, *supra* note 102, at 1.

169. Present at the meeting were: Stewart Acuff; Kenneth Zinn, AFL-CIO Director of Center for Strategic Research; Jon Hiatt, AFL-CIO General Counsel; and Mike Yoffee, Organizing Director for the USW.

170. This committee consists of legal and community advocates from Bet Tzedek Legal Services, The UCLA Downtown Labor Center, L.A. Foundation for Legal Aid, Gilbert and Sackman (a labor law firm that represents USW), and Neighborhood Legal Services. They meet regularly in order to coordinate and integrate together the legal advocacy, community outreach, and organizing efforts of the organizing campaign.

consider a long-term organizing campaign. During the summer of 2007, workers who participated in the community meeting continued to meet with the USW organizers every Wednesday night at the UCLA Downtown Labor Center. They focused on the working conditions of the different car washes and what workers can do to organize against their employers. LAWAC attorneys took turns attending meetings to educate workers about the law, answer any questions, and if necessary, provide intake sessions for any unpaid wage or overtime claims. As the summer months passed, more and more workers from other car washes came to the weekly meetings. During this time, the UCLA Labor Center, organizing and research staff from the AFL-CIO and USW, and the LAWAC car wash worker committee worked together on developing the blueprint for a car wash organizing campaign that they would present to their respective presidents for adoption.

On September 4, 2007, the day after Labor Day, high level officials from the AFL-CIO and USW met with the USW president to discuss the blueprint for the campaign.<sup>171</sup> In a climactic decision, the USW president agreed to take on the organizing campaign.

## 2. *The Car Wash Worker Organizing Campaign*

The Car Wash Worker Organizing Campaign utilized the unique organizing opportunities AB 1688 presented by creating a community coalition-based, industry-wide organizing model. This organizing model resembles an industry-wide association of car wash workers. The goal is for this worker association to become the main vehicle for justice in the workplace for car wash workers. Over a period of time, this association will transform into a self-sustaining local affiliate of USW with members covered by a regional, industry-wide “basic” collective bargaining agreement.<sup>172</sup>

The long term goal of union density in this industry will require a strong community based campaign to leverage labor compliance by the employers. Utilizing a collaboration with the Los Angeles labor movement, immigrant rights and community groups, religious and faith-based groups, legal advocates, and political supporters,

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171. See Victor Narro, *Building Power for Workers in Southern California: A Plan for a Joint USW/AFL-CIO Community-Based Project with the UCLA Labor Center to Organize Workers in the Southern California Car Wash Industry*, Sept. 2007 (unpublished presentation on file with the author).

172. *Id.*



the Association through USW will launch a code of conduct campaign as the first phase towards unionization.<sup>173</sup>

### 3. *Legal Strategy for Campaign*

#### a. *Labor Coordinating Committee (LCC)*

An important part of the AFL-CIO is its legal department. Apart from the General Counsel and team of Associate Counsels, the AFL-CIO relies heavily on a national network of over 1700 labor union lawyers known as the Lawyers Coordinating Committee (LCC).<sup>174</sup> As part of its National Worker Center Partnership initiative, the AFL-CIO hired a full-time staff attorney with a strong background in legal services and immigrant rights work to facilitate local meetings between LCC attorneys and worker centers in major cities throughout the country to create joint legal/organizing projects and initiatives.<sup>175</sup> In Los Angeles, the LAWAC legal advocates and LCC attorneys are forming a legal strategy committee that will develop a legal plan of action to supplement and integrate with the organizing strategy.

#### b. *Role of LAWAC Legal Advocates*

Apart from participating in a legal strategy team with the LCC attorneys, the LAWAC legal advocates will continue to have other important roles in the campaign. First, they will be part of a campaign oversight committee where they will continue to provide their industry expertise to a core group of researchers and organizers to enable them to reach important decisions as the campaign moves forward. Second, they will continue to work closely with the organizers and worker leaders on implementing the campaign to ensure that their legal services for individual workers will connect with the goals of the organizing strategy.<sup>176</sup> Finally, the LAWAC member organizations will be part of a strong labor/com-

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173. *Id.*

174. *See* AFL-CIO, *supra* note 160.

175. *See* National Partnership Agreement, *supra* note 161.

176. *See* Gordon, *Make the Road by Walking*, *supra* note 1, at 443.

[I]n the context of limited resources, legal assistance should go to workers who want to be active participants in our programs, rather than to those who expect to be the passive recipients of a service. Second, once a worker is committed to fighting for better working conditions, problems must be addressed through a team approach. This approach necessarily involves as many workers from the affected workplace as possible, an organizer, and when necessary, a lawyer or supervised legal advocate.

*Id.*

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munity coalition that will provide strong public support for the workers.

#### **D. Impact of the Car Wash Worker Campaign on Law and Organizing**

The movement for car wash workers is unique in that a group of legal advocates set into motion the process almost eight years ago that would become a full scale organizing campaign. This group of progressive lawyers realized that the struggle to pass and reauthorize AB 1688 was crucial in ensuring that the law actually had a chance to impact the future of organizing in the car wash industry. The policy strategy to pass AB 1688 was motivated not by a long term vision of organizing, but rather a litigation strategy. These legal advocates represented the essential elements of “lawyering for empowerment.”<sup>177</sup>

#### **IV. CONCLUSION**

The Forever 21 Boycott Organizing Campaign and the Car Wash Worker Organizing Campaign are two innovative models of immigrant worker organizing that have promoted and influenced emerging new roles for the public interest lawyers and legal advocates involved in organizing campaigns. The Forever 21 Boycott Campaign demonstrated the important elements needed to reach a positive level of synergy between organizers and lawyers, which led to a successful organizing campaign effort. The Car Wash Worker Organizing Campaign defied much of the literature on law and organizing that argues for ways that lawyers should integrate their work into pre-existing organizing campaigns. The campaign began when a group of progressive legal services lawyers envisioned that the car wash worker law would become the vehicle to organize car wash workers. They viewed the law as a means, and not an end, to bringing about long term changes in the car wash industry. From the street level, as legal observers during demonstrations and protests, to the courtroom, where lawyers focus on litigation that can strengthen the hands of the organizers, legal advocates involved with these campaigns are rewriting the role of public interest law-

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177. See Quigley, *Lawyering for Empowerment*, *supra* note 1, at 479 (“Learning to join rather than lead, learning to listen rather than to speak, learning to assist people in empowering themselves rather than manipulating the levers of power for them, these are the elements of lawyering for empowerment.”).

yers. The lawyers involved with these campaigns have forged the use of a new calculus—one that proclaims success when legal advocacy has empowered groups of workers.