



Profile: Bryan Schwartz

Employment law specialist has a keen ability to put himself in his clients' shoes

BY STEPHEN ELLISON

Empathy might be an afterthought for some plaintiffs' attorneys, but for an employment lawyer like Bryan Schwartz, it may well be the driving force behind his profound success.

Schwartz, the principal of the Oakland-based firm that dons his name, represents workers across various industries and sectors who have been cheated out of earnings or discriminated against or forced to work in unsafe conditions or retaliated against for reporting any of those workplace transgressions. And he has the uncanny ability to feel for his harmed clients, something that sparked at the very outset of his law career when he landed a job at a Washington, D.C., employment law firm.

"Really, almost right away, I was reminded why I had been so interested in law," Schwartz recalled about his start at D.C.'s Passman & Kaplan. "I was helping real clients in meaningful ways. There was no esoteric garbage we were learning in law school. My work was helping people put food on the table and buy clothes for their kids. Each of our clients was someone's mom or dad, who people were depending on. It's pretty empowering.

"At that point, I was in my 20s," he continued, "and here were these people, much later in their careers, really depending on me to turn their lives around."

In law, Schwartz found a way to continue the work he had been doing previously at the Equal Employment Opportunity Commission, only in a more positive and impactful way. As a bilingual federal investigator with the EEOC, he said he saw how to address equity and diversity issues in an important way that wasn't "a lost cause or negative." He believed improving the employment arena



Schwartz

in such a way that people really have equal opportunities would allow parents to raise their children and give them a shot at a fulfilling life, and they'll be motivated to be participants in society.

"So (law) seemed like a more positive way to make a difference in the employment context," Schwartz said. "When I was at the EEOC, workers were often unrepresented or underrepresented, compared to the companies they had claims against. That's how I was introduced to employment law. I did a bunch of political work, lived abroad and traveled a lot. But ultimately when I went to law school, I wound up back where I started, finding the most fulfillment at plaintiffs' firms that do the kind of work that helps workers in their daily lives."

Passion began at home

As a youth, Schwartz was very in tune with social justice issues, perhaps influenced by his parents and grandparents. He remembered talking with his grandparents about their struggles in the Great Depression, a time when anti-Semitism was rife in the world, and in the United States, one would even see job postings that said, "No Jews need apply." That injustice, Schwartz said, stuck with his grandparents, so much so that many decades later, after having a good life, it was something they still remembered.

"It was an injustice that was never rectified," Schwartz said. "So, I imagined myself stepping into that moment and being able to turn that around, to take away that bitterness to some degree.

"One of my grandfathers told me a story about when he was working some low-wage job, and he got married to my grandmother," Schwartz continued. "They went on a one-week honeymoon excursion, maybe to a motel somewhere in Pennsylvania, and he got back and had been fired. The employer took away his job and furthermore refused to pay him the wages he had earned before he left. This is a story my grandfather told 40, 50 years later, and that still bothered him. Those few dollars he was cheated out of is something that stuck with him a long time. So, I think about that when I'm helping workers with their wage claims. If I can restore a sense of justice for them, even if it's just several thousand dollars they're getting, that restoration of justice is really important."

West-East-West connection

Born and raised in the Bay Area, Schwartz traveled 3,000 miles for his undergraduate studies at Cornell University in New York. After his stint with the EEOC, he returned west to attend law school at UC Berkeley's Boalt Hall. After he graduated from Cal, he was off to the East Coast once again, "to follow a girl," he said. Career-wise, he found himself at a crossroads of sorts.

"I didn't enjoy law school so much," he recalled. "I had a lot of friends there, but by the time I got out, I wasn't sure I would practice as an attorney. Then, it turned out I needed a job in a hurry to pay rent. ... I was at the point of looking in the phone book for law firms, but I got in touch with the Metro Employment Lawyers



Association in the D.C. area, and they told me about a firm looking for an associate. I wound up getting a job at Passman & Kaplan.”

After gaining invaluable experience at the D.C. firm, Schwartz was hired by Nichols Kaster, a Midwest firm looking to open an office in California. The firm focused on large employment class actions, and Schwartz was excited about that. So, he opened the firm’s office in San Francisco, ran that for a couple of years and then started to feel like he could be running his own shop, he said.

Your own firm offers flexibility. Not!

“I could pick the cases I wanted to focus on, reap the rewards of success,” he said about the prospect of launching a firm. “I thought it would give me more flexibility in my schedule. That was a lie. Running your own law firm does not give you more flexibility in your schedule. You’re always on – it’s always your turn. In more than 10 years, I’ve never knocked off in the afternoon when I felt like it. That’s just not how it works.”

But over that decade, Schwartz has grown his firm steadily. As he puts it, “there are people depending on me,” and his work ethic sets the example. He can now pick and choose cases, and he chooses to take a wide array in the employment arena, whether it’s individuals or multi-plaintiff or class-action; state or federal court, administrative or arbitration. “Pretty much anything is on the table if I think it’s a worthy case where we can make a difference,” he said.

Action and change

Schwartz has obtained a number of large verdicts and settlements over the years, but the financial awards, as crucial as they are to helping his clients recover, seem to be icing for him on cases where his victories affect real change.

One such case came during his tenure at the D.C. firm and involved a whistleblower who exposed to the Environmental Protection Agency that there

REDIRECT

Getaway Spot: Sonoma

Go-To Music or Artist: The blues (Buddy Guy, et al.)

Recommended Reading: Working with my middle-schooler on Robert Frost
Dream Job: Jimi Hendrix Experience backup guitarist

In so many words: “True peace is not merely the absence of tension; it is the presence of justice.”

— Martin Luther King Jr.

was too much lead in the district’s drinking water. The case received a lot of media attention thanks to a report in the Washington Post and was the talk of the town, Schwartz said. Ultimately, he and his team won complete vindication for his client, and the Post wrote an editorial.

“It was justice for my client; it was cool, exciting,” Schwartz said. “Maybe even better than the total vindication for my client, it was trying to do the right thing for people. We actually wound up in hearings with the City Council, and D.C. replaced all the lead-laced lines in the city and issued everyone in the city water filters until the lines were replaced. It had a huge impact and continues even to today.”

Another momentous case for Schwartz was one he worked on after starting his own firm. It involved a State Department employee who previously had been diagnosed with multiple sclerosis but manifested no symptoms of the disease. But because it was in her medical record, the diagnosis prevented her from getting medical clearance for a foreign service job overseas, Schwartz said. As he and his team delved into it, they found the clearance is based on a medical encyclopedia definition of a disease rather than based on consideration of the individual and her condition. In the case of MS, the powers that be decided Schwartz’s client would be susceptible to humidity, even though no doctor was saying that specifically. They decided there

were some countries in the world she couldn’t go to, and the job required she have worldwide availability.

“She could have gone to 85 percent of the countries without any need for accommodation,” Schwartz said. “So, because she couldn’t go to 100 percent of the posts, she wasn’t worldwide available and therefore denied employment altogether. I got a waiver, and she’s had a whole career in foreign services. I got a class case certified against the State Department since 2010. They’ve found five or six different ways to appeal and try to get our class certification rejected or overturned and failed every time. But what they have managed to do is stall this case for years. We’re hoping to have a verdict for the entire class later this year – it could go to trial, but we’ll see.”

Family, travels and other passions

When Schwartz isn’t working, he enjoys spending time with his wife and two young children, traveling, playing games and doing all the activities young kids love to do. He’s also an accomplished photojournalist, having published a book that was 16 years in the making and involved traveling to 50 countries on five continents. “Scattered Among the Nations” was published in 2015 and chronicles Jewish diversity, he said. A nonprofit by the same name was launched in the process.

“I was able to explore that within my own community as well as around the world,” he said. “Africa, Asia, Latin America. The book photographed dozens of exhibits. That was a big activity for me, and a lot of other good things have come out of it. My nonprofit has helped out a lot of Jewish communities.”

Schwartz also spends much of his free time on other nonprofit boards, including the Boys and Girls Club, the Employment Law Center, and the city of Alameda’s Open Government Commission. He’s also the co-chair of the dad’s club at his daughters’ school and is a former president of his



synagogue, not to mention serving on boards for professional organizations.

Schwartz believes the best way for young lawyers to establish themselves in the profession today is to learn and hone all the fundamental skills in litigation.

“Build your toolbox,” he said. “Get busy working, and start learning all the

things you need to do as litigators, and you’ll make yourself valuable. If you know how to initiate discovery, file a lawsuit, take a deposition, defend a deposition, answer discovery, find key documents, interview witnesses, draft declarations – if you know how to do those things, you make yourself needed.

I would suggest people find the opportunities to start doing things and start building their toolbox.”

Stephen Ellison is a freelance writer based in San Jose. Contact him at ssjellison@aol.com.