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The T-Shirt Wars

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A visionary deal settles long-running labor dispute.

The American Lawyer

By **Michael D. Goldhaber**

May 01, 2010

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The March reopening of a unionized Russell Athletic plant in Honduras has been hailed by *The New York Times* as the triumph of the campus antisweatshop movement. Confrontational U.S. college students paid an unwelcome house call on Russell owner Warren Buffett, bombarded the jersey maker's biggest customers with Twitter messages, and persuaded about 100 universities to boycott its school-logo apparel. But the Russell deal also caps two decades of uncommonly conciliatory labor-lawyering by Claude Fontheim, who is currently a partner at Sonnenschein, Nath & Rosenthal.

"Claude is the go-to guy for companies that have decided to get serious about labor rights," says Ben Hensler, general counsel of the Worker Rights Consortium, a group that polices the global apparel trade.

The antisweatshop movement took off in 1996 with the revelation that underpaid Honduran teenagers were helping to make the Kathie Lee Gifford line, which was sold by Wal-Mart Stores, Inc. The retailer Limited Brands, Inc., used Fontheim for trade work at the time, and, for lack of anyone else to call, it asked him how to improve the labor practices of its suppliers. "The basic insight was that if you own the brand, you own the problem on the factory floor," recalls Fontheim.

That experience, and the expertise he developed, became the legal practice known as corporate social responsibility (CSR). In 1990, he founded the trade consultancy Fontheim International, LLC. "Once I had a little experience with CSR, that was more than anyone else had." Over time he built a broad CSR practice covering labor, the environment, and human rights.

The Fontheim consultancy, which has grown to ten employees, has helped clients like The Gap, Inc., avoid similar exposés. Two years ago, he forged a client-sharing alliance with Sonnenschein and became a partner in the firm. (Sonnenschein did not participate in the Russell deal.)

The Russell imbroglio began in 2008, when the T-shirt exporter closed its only unionized plant in Honduras. The company blamed the recession, but workers thought it was retaliation for union organizing. Students took to the streets—and Russell soon acquired a keen interest in CSR.

The apparel maker hired Fontheim in early 2009. He is the rarest of creatures—a management-side lawyer who commands respect from unions. "When I saw Claude, I knew we'd have a deal," says the Honduran unions' lead negotiator, Jeff Hermanson.

The unions' main demand was to reemploy the laid-off union workers, and this is as far as such deals have gone in the past. But Russell—and Fontheim—wanted to go much further, and to achieve a lasting labor peace in Honduras as a whole. Russell gave some 1,200 workers compensation of \$1,600 each (or nine months' salary), reemployed most of them, and set up a program that will give all Russell's Honduran workers a meaningful right to unionize. Perhaps most innovatively, the deal created a labor-management board (including Fontheim) to oversee the agreement and made disputes subject to binding arbitration.

"It's the opposite of the experience of garment workers in Central America," says Hensler. "Until this point, workers who have attempted to organize have experienced mass firings, factory closures, and, in some cases, violent repression."

The Russell deal was also exceptional in the labor world for the amicability and idealism of its lawyers on all sides. All express hope that they've created a new paradigm for global labor rights. Says Fontheim: "This model can be replicated by any consumer company with developing-world labor or a developing-world supply chain, whether it's in the manufacturing, agricultural, or extractive sectors. That's a long list."

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