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# Security for Survivors

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## Latham & Watkins helps Holocaust victims seek financial reparations from the German government

BY JOE MULLICH PHOTOGRAPHY BY DUSTIN SNIPES

AFTER ENDURING ONE OF THE MOST HORRIFIC EVENTS KNOWN TO HUMANKIND, many Holocaust survivors face a different challenge near the end of their lives. An estimated 25 to 30 percent of survivors in the U.S. live below the poverty line and about half of those in Los Angeles are classified as poor or low-income, according to Bet Tzedek, a Los Angeles-based legal services organization.

"Survivors might be struggling to afford food as well as medicine for a sick wife," says Josh Mausner, an associate at Latham & Watkins' Los Angeles office.

So his firm decided to do something about it. Since 2007, some 350 lawyers from Latham & Watkins' offices in the United States and Germany, in collaboration with Bet Tzedek, have participated in a pro bono program to help clients receive financial compensation for work done in German-controlled ghettos throughout Europe during World War II.

None of it is easy. "Many of the clients are frail and housebound," says Diego Cartagena, pro bono director at Bet Tzedek. "There are issues with dementia and memory loss. The lawyers often have to make home visits to secure the signatures of clients."

The work also involves navigating complicated and often confusing laws. In 2002, Germany enacted a program, known by its German acronym ZRBC, which allows survivors who worked in Nazi-controlled ghettos to apply for monthly government pensions. But the program's requirements were fairly stringent: Between 2002 and 2007, more than 80 percent of applicants were denied.

In 2007, Germany introduced another option, the German Ghetto Work Payment program, which allowed qualified survivors to receive a one-time payment of 2,000 euros. Two years later, the courts issued several decisions to loosen ZRBC's rules and the program agreed to reconsider thousands of previously rejected applicants.

"We got a good approval rate based on the new, broad law," says Mausner, who serves as global coordinator of Latham & Watkins' Holocaust reparations programs. "We ramped up our effort." In some cases, he says, clients lived in ghetto-like conditions during the war, even if the area was not formally recognized as a ghetto. So Mausner and his pro bono team applied for pensions based on the theory that their clients' wartime conditions *should* have been classified as a ghetto.

Josh Mausner, an associate at Latham & Watkins' Los Angeles office and global coordinator of the firm's Holocaust reparations programs.

A 2014 ruling broadened the ZRBC program even further to include ghettos in territories never formally annexed or occupied by Germany but under Nazi influence, like Slovakia and Romania, and also provided retroactive payments back to 1997.

**FINDING THE DOCUMENTATION** necessary for applications can involve a fair amount of detective work.

In one case, a woman was entitled to her own pension as well as a widow's pension. German authorities required a marriage certificate and proof of her husband's Jewish heritage, but neither of those documents survived the war. Attorneys worked with the Romanian consulate to get a copy of her marriage certificate, as well as a note from the Romanian cemetery where the woman's husband was buried, which said only Jewish individuals could be buried there.

Another challenge can be tracking down the ghetto itself. Memories can be foggy, and the Nazis could rename an area overnight. "One client mentioned a ghetto ... and our associate couldn't find a mention of this particular ghetto anywhere," says Carlos Alvarez, a partner in Latham & Watkins' New York office. "She researched and found the client was referring to the ghetto by a colloquial name that people used for it, rather than the official name."

In another case, a client was denied a pension because incorrect information about her was provided for a previous reparation program. "We had to track down people in South Africa who would corroborate the client was actually in the ghetto," Alvarez says.

An added benefit of the project is the application process creates a written record of each survivor's story. Lawyers hear stories that clients often haven't told before—even to family members.

One woman told Mausner her story of being taken in a cattle car to Auschwitz, where Josef Mengele himself was separating people into two lines. The client and her sister-in-law were put in one line, the sister-in-law's children in another.

"The mother did not want to leave the children, and begged and pleaded, and finally Mengele allowed her to get in the other line," he says. "The client never saw her sister-in-law again, because the line she joined with her children was marched directly into a gas chamber."

Soliciting such stories requires decorum from attorneys. Because clients are elderly, they often come to meetings with their children. "In some cases, the clients don't want to tell you the details of what they went through in front of their children, to protect them," Alvarez says. "So you have to call the clients afterwards, privately."

Another delicate issue has been the requirement that "work done in the ghetto had to be voluntary," Mausner says. "It can be difficult for Holocaust survivors to accept that anything about the Holocaust was voluntary."

Lawyers have to explain that the legal concept of "voluntary" doesn't mean they were willing laborers for the Nazis. "Voluntary under the law might mean you went to find work yourself rather than were forced to do it," Mausner says. "If you had decision-making authority of which room in a house you started to clean, that would be considered voluntary work."

Due to the complications that can come up, pension cases can consume anywhere from 40 to 150 hours of work apiece. But lawyers are credited for pro bono hours the same way they are for commercial billable hours for purposes of evaluation and bonuses. "Latham has brought to bear all the resources a large law firm would bring to any case," Cartagena says. "They don't make any distinction between their paying or pro bono clients."

Latham & Watkins is particularly well situated for these efforts because it has offices around the world. "To appeal a case that's been denied, you need a lawyer who can practice in Germany and file paperwork in Germany," Cartagena says. "It's not like walking down the street to the superior court. Latham's bridge with their Germany practice was essential for the initial round of appeals."

#### AS A SIGNATORY TO THE LAW FIRM

Pro Bono Challenge, Latham & Watkins pledged to provide the equivalent of at least 60 hours in pro bono services per U.S. lawyer annually. The firm has surpassed this goal every year since. Since 2000, the firm has worked more than 2.5 million pro bono hours, totaling over \$1 billion in free legal services.

"Our firm handles a wide array of initiatives, from asylum to human trafficking," says Wendy Atrokhov, the firm's public service counsel. "Most of the efforts originate locally to best align with the different needs in each community, but something like pensions for Holocaust survivors can extend to many offices in a number of geographic territories."

Since 2007, the firm has helped nearly 450 Holocaust survivors secure more than 1.7 million euros in lump-sum awards and over 41,000 euros in ongoing payments for lifetime pensions. "The money can't make up for what happened, but it can provide some financial security and dignity at the end of the survivor's life," Mausner says.

He recalls returning home from a trial one day to find a long voice mail from a client. The 91-year-old man was caring for himself and his wheelchair-bound wife because he could no longer afford a caretaker for her. "He had just received his first payment," Mausner says. "He left a two- or three-minute message, concluding with, 'This changes everything. I can afford a caretaker for my wife now.'"

What particularly strikes Mausner is the resilience of Holocaust survivors. In December 2011, the law firm had a gathering for about a dozen survivors and their families in its LA office. He expected it to be a somber affair, but was struck by the lively spirit and camaraderie.

"One of the biggest things I've noticed is their outlook on life is so positive," Mausner says, noting that one client donates a portion of her pension every month to charity to educate future generations about the Holocaust. "It's unbelievably emotional to see people who experienced one of the worst things in the history of humanity and want to turn that into inspiration for the rest of their life." 