

Strippers' lawsuit challenges independent contractor status The Boston Globe

By Jonathan Saltzman, Globe Staff | September 18, 2009

When Noel Van Wagner began working as a stripper in New England clubs about 15 years ago, she typically got a modest wage or no salary at all. But she said she made so much in tips - \$300 to \$800 per shift - that she didn't care and didn't even mind paying club owners \$10 or \$20 for the right to perform each night.

Like other forms of entertainment, however, strip clubs have lost customers because of the bad economy, and Van Wagner said the place where she works, Ten's Show Club in Salisbury, has responded by wringing as much money as it can out of each dancer. The club, she says, pays no salary, charges each stripper \$40 to \$60 per shift to perform, and imposes other fees for lateness or failing to participate in every dance routine - all at a time when tips have plunged.

Yesterday, she and another dancer at the club, along with one who left in March, sued the business in Essex Superior Court for allegedly misclassifying them as "independent contractors," depriving them of wages and tips. The strippers were emboldened by a recent state court ruling that about 70 strippers who worked at King Arthur's Lounge in Chelsea were entitled to recover thousands of dollars in damages in a class-action lawsuit that made similar allegations. That complaint was believed to be the first of its kind in Massachusetts.

"I expect fair treatment in the work place, and I expect club owners to obey the law and conduct their business according to the law," said Van Wagner. "None of us wants to sue, but we feel as though it's the only way to effect change."

An English major at Framingham State College who lives in Boxborough and gives her age as "thirty-something," Van Wagner said her husband, an engineer, showed her a newspaper article about the earlier suit. It prompted her to call one of the plaintiffs' lawyers from that case.

The lawyer, Tod A. Cochran, of Boston, said he believes strip clubs in Massachusetts routinely violate state labor law by misclassifying dancers as independent contractors to avoid paying minimum wage, overtime, Social Security, workers' compensation, and other benefits. Customers, he said, should be "outraged that the club isn't sharing any of its profits with the workers and is exploiting [the strippers] by not only not paying them but by charging them a fee."

Mark Filtranti, who owns the night club in the beach town near New Hampshire, was out of state yesterday and could not be reached for comment, according to a man who answered the phone at the club.

The suit follows a July 30 ruling by Suffolk Superior Court Judge Frances A. McIntyre that King Arthur's was liable for misclassifying strippers and that the plaintiffs could proceed to trial to determine the damages they should recover.

The club had argued that selling alcohol was its main business, not putting on strip shows, and that performers were independent contractors who provided extra entertainment akin to televisions and pool tables at a sports bar. McIntyre scoffed at that in her ruling, saying, "The dancing is an integral part of King Arthur's business."

Robert R. Berluti, a Boston lawyer for King Arthur's, said the ruling reflected the fact that Massachusetts is "an outlier" in the country, with one of the strictest laws governing the classification of workers as independent contractors.

Van Wagner said she has worked at the club off and on for about 15 years. The other two plaintiffs named in the suit are Bonnie Griffin, of Merrimack, N.H., who has danced at the club since 2002, and Katherine Sandoval, of Kennebunkport, Maine, who worked there from 2006 to early this year.

The suit says they are employees, not contractors, of Ten's Show Club because management controls most aspects of their jobs, including their wardrobes, the music they dance to, and their work schedules. The women are not allowed to work at competing clubs.

Van Wagner said Ten's Show Club never paid her a salary, but that was not a problem when management charged her \$10 to perform each shift. But with the fee as much as \$60 on some nights and management deducting from their tips if they are late or miss a dance routine, she said, strippers sometimes barely earn enough to make it worth it.

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