



Mary Dryovage

Sole practitioner has been protecting federal employees for 30 years

BY STEPHEN ELLISON

When it comes to fair labor and employment practices, keeping big corporations in check certainly is no small feat. For example: when the United States government steps out of line with its workers. That's when the call goes out to Mary Dryovage.

A sole practitioner based in San Francisco, Dryovage has been protecting federal employees for the better part of 30 years. She is considered by many a pioneer in employment litigation who has taken on such entities — as the Department of Defense, the Department of Homeland Security, the U.S. Postal Service, the U.S. Geological Survey and the Internal Revenue Service. She's one of the few employment attorneys in California who specializes in environmental cases and has become the go-to lawyer for protecting whistleblowers.

Not bad for a one-woman show.

"She is quite dedicated, thorough and not afraid to take risks," says Jeff Ruch, executive director of Public Employees for Environmental Responsibility (PEER), who has worked with Dryovage for the past 15 years. "She's a one-person firm, so she has limitations. I'm always impressed with the breadth and scope of her work despite her having to do it on her own."

Dryovage has been flying solo since 1984 — the only way to fly, she insists — but she hasn't been without help. In the early years, her practice was small and a bit impersonal but extremely effective. "I started (as a sole practitioner) right around the time the first PCs were being marketed," the Detroit native recalls. "I got one, and it helped level the playing



Dryovage

field. I was able to produce documents and respond to motions quickly."

Today, Dryovage has at her disposal hundreds of associates as a member of the National Employment Lawyers Association (NELA) and the Cali-

fornia Employment Lawyers Association (CELA). "We found that with organizations like CELA and NELA, it was easier to find each other," she says. "It's worked really well for me. I've connected with people all across the country doing similar work."

Wendy Musell, of San Francisco-based Stewart & Musell is one of those associates. She counts Dryovage as a mentor and personal hero. "She's very passionate about her work in civil rights for federal employees — she never gives up," Musell says. "She is persistent and has a keen sense of justice — I think she's an outstanding lawyer."

The call of duty

Dryovage was exposed at a relatively young age to the obstacles women face in the workforce. As an art student in the early-to-mid-1970s, she aspired to work in advertising, but was told upon applying for such positions that if she really wanted to be a career woman, she should get a teacher's credential. Dryovage, to say the least, became disenchanted. But rather than give in, she embarked on a mission to make things right.

Her first step in that mission became law school, during which she worked several thankless jobs, including on the as-

sembly line at Ford Motor Co. and as a custodian at the university's medical school. "It gave me an appreciation for what many workers face, even today," she says. "I gained some real insight into what workers go through as far as harassment and discrimination."

When Dryovage decided to take a semester off law school to travel, yet another perspective surfaced after she "ended up in North Africa." There she encountered people who had walked across an entire desert just to be able to work for a dollar a day. "For someone who was trying to expand employee rights, it made me realize how great I had it," she says.

After earning her law degree from Wayne State University, Dryovage wasted little time getting involved in employment law, landing a job with the Michigan Employment Relations Commission. A little more than a year later, Dryovage saw opportunity out West. "The day (Ronald) Reagan got elected, I booked a flight to San Francisco to see if I could get a job in California," she says. Dryovage was hired by the Federal Labor Relations Authority (FLRA) to investigate unlawful labor practices by government agencies, and "ever since then, I've dedicated my life to protecting the rights of public sector workers."

In the early 1980s, Dryovage was laid off by the FLRA as part of a reduction in force. Although she had plenty of options to continue working for other federal agencies, Dryovage had other ideas. "I was very excited to do this type of work without all of the restrictions placed on government attorneys," she says. After a brief stint teaching and training union representatives, from



which she was able to draw a client base, Dryovage became her own boss.

David vs. Goliath

Over the years, Dryovage's opponents have been as formidable as those of any plaintiffs' attorney – suing the IRS pretty much says it all, doesn't it? – and she's made certain nobody is above the law. "Her work is 'How big of a beating are you going to take this week and continue to get up and fight?'" says Brad Yamauchi, a partner with Oakland-based Minami Tamaki. "It's sort of a David-versus-Goliath thing because the odds are always against her."

Dryovage recently took a case against the U.S. Postal Service, which fired an employee without notice for serving on a grand jury (*Joseph J. Fanucchi, M.D. v. U.S. Postal Service*, Postal Service Board of Contract Appeals, No. 5356 and 6186). The USPS claims its workers are not required to abide by grand jury law. "That's a huge conflict of interest when the government or other public entities are not subjected to the same laws as the rest of us," she says. The case was due to be heard before the PSBCA beginning February 17.

Another case involved a whistleblower at Atwater Federal Penitentiary (*Smith v. Department of Justice, Bureau of Prisons*). Leroy Smith, the prison's safety manager, went public with Atwater's hazardous process for computer recycling, which involved small hammers being used to smash computers and other hardware. This method of breaking down electronic waste delivered contaminants into the air, posing a severe health risk to workers. "The Department of Justice investigated (Smith's) claims and found that when people are exposed to the toxins, it takes years for the boils to appear on the skin," Dryovage says. "Unless there are regular blood tests, it's very difficult to establish causation."

Smith, who was subsequently harassed for his whistleblowing role, contacted Dryovage because of her experience handling environmental cases. After the case settled in 2006, the

Office of Inspector General for the Department of Justice launched an investigation into the prison's computer recycling program but has yet to file an official report. However, the program has been shut down and the officials responsible for setting it up were forced to retire, Dryovage says.

Still another case that opened in 1995 and came to a close just last year involved the U.S. Geological Survey arbitrarily firing 550 of its scientists. Dryovage uncovered evidence of age discrimination and sued on behalf of 14 scientists based in Menlo Park (David P. Adam, et al v. Gale Norton, Secretary of the U.S. Department of the Interior, U.S. District Court for the Northern California District, no. C 98-2094 CW). "There was significant research being done that had to be discontinued when these scientists were dismissed," she says. "That case went to the Supreme Court because the judge applied the evidence to only two (of the laid-off workers)." The U.S. Supreme Court denied review of the case for the remaining 12 plaintiffs.

Colleagues seem to agree that Dryovage's success has been the result of three very important characteristics. "She's fearless, no matter who the opposition is," Yamauchi says. "She's persistent, with cases going on for more than 10 years. And she's committed to the advocacy of her clients."

Work-life balance

As Dryovage looks forward, one particular challenge weighs heavy on her mind: the health and well-being of her fellow law professionals. She's seeing burnout in some of her colleagues and associates and feels compelled to act. On top of the work-related stress, Dryovage points to what she calls "vicarious traumatization" – extreme weather, earthquakes, financial collapses – disasters that cause people emotional and psychological pain. People experiencing these symptoms tend to come up with techniques to avoid the harsh reality, she says. "Some

people might go berserk – it manifests in different ways," she adds. "And all of it can be demeaning."

Dryovage wants to help alleviate the everyday stress by researching and publicizing various methods of self-care. She plans to reach out with podcasts containing expert analysis and advice. "A lot of problems are not caused by the person experiencing them, and yet they are responsible for getting themselves out," she explains.

Dryovage herself has taken up a number of stress-relief activities. She is an avid cyclist, practices yoga, enjoys an occasional ski trip and recently took up salsa dancing. "Over the years, I have learned to take time to relax and have a life, even if it cannot be balanced all the time," she says.

While that happy work-life medium might appear a little higher on her priority list these days, Dryovage isn't ready to walk away from three decades of successful advocacy. In many ways, she feels as if she's just getting a foothold in employment law and can really begin making an impact, whether it's for clients or for colleagues.

Musell, for one, aims to follow Dryovage's example in the areas of work ethic and career dedication. "She's been doing this for 30 years," Musell says, "and I can only hope I have as much staying power."

As if her track record wasn't persuasive enough, Dryovage had these musings for prospective attorneys: "Find your passion. If you really believe in what you're doing, you'll find the resources to make a difference. And there are people who will support you.

"Having wisdom about what you can and can't change is important as well," she adds. "But if what you're doing is right, you should never give up."

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