



# Profile: Mark Talamantes

*Employment attorney made his mark early in the now-crowded specialty of wage-and-hour litigation*

BY STEPHEN ELLISON

If plaintiff lawyers were paid according to the passion they felt for clients, Mark Talamantes might well be one of the wealthiest persons in his profession. His firm, Talamantes Villegas Carrera, was one of the early wage-and-hour litigators, advocating for low-wage Latino laborers such as janitors, housekeepers and farm workers, and it's a niche he is quite proud to have helped establish.

"Our clients are the reason we take the elevator up to work every day. They are the real heroes," said Talamantes, who is based in San Francisco. "They are the people who come forward and stick their necks out so we can do our job."

Talamantes started his firm in 1998 with the idea of focusing on an area that very few law firms in the state – if any – had embraced. Exploitation of low-wage, Spanish-speaking workers in California was rampant, and he and his partners set out to stop it.

"I'm very lucky that I have a partner like Virginia Villegas and that we have this firm that is so specialized," he said. "Our niche is so targeted to representing low-wage workers; I think we are unique in all of California in that all our lawyers speak Spanish, and we represent only the poorest of the poor. Virginia and I set out to create a firm exactly like this, and we're fortunate that we were able to make it happen."

Over the past 14 years, the firm has quietly and diligently gone about its business of representing low-wage workers, and the results, Talamantes said, have helped create good law that can be used by other employment law firms for all workers throughout the state. But, while that aspect of his work is rewarding,



Talamantes

Talamantes is concerned about the current state and the future of his specialty.

His firm has begun to diversify with more discrimination cases, he said, because the wage-and-hour area has become

so saturated. "We have people coming in who are bringing these cases for maybe the wrong reasons," Talamantes explained. "Lawyers can recover statutory fees with wage-and-hour cases. We should all be paid for the work we do, but some of the work is sloppy, and as a result, bad law is created.

"The purpose of wage-and-hour law is for low-wage workers to recover wages," he continued. "The impact of it really affects the people at the bottom. So, yeah, I'm concerned about how that's going to play out in the future."

## Leap of faith

A native of El Paso, Texas, Talamantes was raised by a single mother and became the first in his family to attend college, enrolling at Texas Tech University and majoring in mass communications. Upon graduation, he immediately set out on a career in advertising, leaving Lubbock for Los Angeles, where he said he camped out for six weeks at an agency that represented Apple Computer until he landed a job. "I was very persistent, and, I imagine, somewhat annoying," he conceded. "But I got the job I wanted."

For the next three years, Talamantes worked on advertising campaigns for

Apple and other high-profile clients. He was happy to be working in his field of study, at a job he loved, in one of the largest markets in the world. But he wasn't quite content. He felt he owed it to himself and his family to realize his full potential.

"(Advertising) was a great industry to be in, but I just felt I had to make the decision to get my graduate degree," Talamantes said. "So I applied to three law schools in California and three MBA programs, and also two programs in Texas."

Talamantes chose Hastings College of the Law in San Francisco, but beyond that decision, most everything about his future in law was uncertain. "I wasn't sure what area I was going to practice because I had no support, no one to tell me what it was like to be a lawyer," he said. "I never took an employment class, which is ironic because that's all I do now. I thought I would practice intellectual property – that would have married well with my advertising background."

After law school, however, the job market was thin. So Talamantes took a volunteer position with Marin Legal Aid, at its employment clinic. It was there he met his first client, worked his first case and started his first employment law class action against IHOP. "I didn't know what I was getting myself into," he said. "The rest is history. I've been practicing wage-and-hour law since."

## Cases of influence

Much of that practice has involved ongoing battles against exploitative employers in California. Talamantes cited a high-profile case against the supermarket industry that shined a bright light on one such battle. Five firms banded together to stop the state's largest grocers from



hiring subcontractors to recruit immigrant laborers from Mexico as janitors for subpar wages in subpar working conditions.

“They basically recruited these workers to come to the U.S., but the workers didn’t have papers, the employer didn’t provide any of that stuff,” said Talamantes, whose client was housed at an apartment in Rohnert Park and worked at a Safeway. “They were brought from Mexico to a strange place where they had no transportation, and the subcontractor would take the employees to the supermarket, where they’d work at night. Then they were taken home in the morning and just left there.

“Our clients weren’t paid overtime, weren’t paid properly,” he continued. “It was just a horrible exploitative practice.”

After countless hours on the case, it was finally filed in Southern California. The \$22 million award remains the largest wage-and-hour result that has benefited janitors in California, Talamantes said. More important, he said, it resulted in a bill sponsored by California Rural Legal Assistance (CRLA) Foundation that essentially became Labor Code 2810, which protects janitors, farm workers, security guards and other low-wage laborers from being exploited by subcontractors and large corporations.

“The idea behind this lawsuit was Safeway controlled the workers – you know, this is how you scrub a toilet, how you clean the floor,” Talamantes said. “But when the workers went to them and said, ‘We aren’t being paid correctly,’ Safeway would say essentially, ‘I don’t know who you are, I’m not your

employer.’ We stopped that practice. Or we tried to stop it. I think it still goes on in some places, but at least there’s good law now.”

Another influential case Talamantes brought, with CRLA as co-counsel, involved strawberry workers in Santa Barbara. Like the supermarket case, it involved two entities – farmers and packing sheds – conspiring to get the most labor for the least amount of money. The suit named both as employers, Talamantes said, and it went all the way to the California Supreme Court, which rendered a landmark decision defining who is and is not an employer in California (*Martinez v. Combs*, 2010).

“Our objective was to allow working poor to take cases to the labor commissioner – because, to that point, identifying an employer was so difficult with all the subcontractors,” Talamantes explained. “Now a worker just has to go to the labor commissioner and say, ‘I don’t know who my employer is, but I work for such and such a company.’ If the worker can identify the institution he believes he works for, that is sufficient for (him) to make a claim in California.

“It made it easier,” he added, “for low-wage workers to access justice.”

CRLA, Inc. Executive Director Jose Padilla considers Talamantes a hero for standing up for people who cannot necessarily stand up for themselves. “There are many out there who give to legal aids and offer to work pro bono, and that is just part of what Mark does,” said Padilla, who remembers Talamantes as an up-and-coming law student interested in labor and employment work. “It’s one

thing to see these principles of justice as a job. I think Mark looks at it as a purpose. He’s lived it, and he puts it into practice every day.”

### Always on the move

When Talamantes is not in the courtroom or the office, he probably can be found lecturing at employment law conferences, participating in panel discussions at state and national conventions, or speaking at numerous venues as a wage-and-hour expert.

When off the clock – which is not often, he said – Talamantes is a self-proclaimed soccer and lacrosse dad to his children, ages 12 and 10. He enjoys swimming and taking road trips, and he and his wife and kids try as much as possible to take advantage of the countless outdoor activities available throughout Northern California.

He rarely strays far from his role as passionate advocate, though. And he is happy to pass along to others his formula for success. “Always keep in mind, our clients are most important, and they should be treated with respect and dignity, no matter who they are,” he said. “It is an honor to be a lawyer, to be given this great responsibility, to actually have the ability to help people.”

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