

By Lisa Mullenneaux  
*Illustration by Tara Jacoby*

# Trouble in the Nail Salon



**Y**OU ARE AT THE AIRPORT with two hours between flights. Spending that down time at XpresSpa getting your feet massaged and your nails buffed seems ideal, doesn't it? But would you make that choice if you knew the company was being sued for allegedly paying its workers less than the minimum wage, denying them overtime wages, or punishing them for being Chinese?

Nail salon workers are fighting against sweatshop conditions in airport after airport and in elegant spas from Park Avenue to Palo Alto, and in many strip malls in between.

It's a \$7.4 billion industry that has grown by 300 percent in the last decade. About 95 percent of the nearly 400,000 nail technicians are women, 59 percent are women of color, and 42 percent are Asian, according to surveys by *Nails* magazine. For Korean, Vietnamese, and, increasingly, Chinese women, grooming nails is a way to make money while getting around the language barrier. But it's not much money. The average beauty worker earns \$22,150 a year and doesn't have health insurance, according to

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the Department of Labor.

Ying Zhu, sixty-three, arrived in New York City from China in 2000, a divorced mother with a young son. She started grooming hands and feet because it didn't require her to speak English and allowed her to put food on the family table. "When the shop wasn't busy, we could eat or take a break, but not when it was full," she explains through a translator. Chronic neck pain that requires medical treatment is a souvenir of her eight years of clipping and polishing.

Nepali immigrant Pema Sherpa, forty-four, had even more difficulty with her transition to nail technician. She cried the first time she gave a pedicure: Touching a stranger's feet is taboo in her culture. Sherpa earned \$75 for a ten-hour day, bought her tools from the owner at inflated prices, and ate—when allowed to eat—in a tiny waxing room. When she finally couldn't take it and complained, the next day she was fired.

Sherpa took her grievances to Adhikaar, which means "rights" in Nepali.

"Our clients often feel powerless to make any demands because of a language barrier and perhaps their immigration status," says Luna Ranjit, executive director of the Queens, New York, advocacy group. "We help them speak up." With assistance from the Asian American Legal Defense and Education Fund, Sherpa recovered lost wages in February 2012. She still paints nails and encourages her colleagues to fight the same abuses she did.

"The nail salon industry is marketed as promoting leisure," says Shirley Lin with the defense fund, "but we've seen some of the worst labor practices in the areas of discrimination and safety. Many of these businesses are structured around a predatory model of exploiting a workforce that is vulnerable and has few options."

That was certainly the case for six Chinese immigrants who sued Long Island's Babi Nails chain in 2009 for

paying them far less than the federal minimum wage of \$7.25 and no overtime, as required by the Fair Labor Standards Act and New York labor law.

"We worked ten or eleven hours a day, six days a week," says plaintiff De Ping Song through a translator. The Korean owners "would not allow us to read Chinese newspapers or speak Chinese to co-workers. When it was rush hour at the salon, they would pinch us to go faster. . . . We filed a lawsuit but when we did, they fired all of us."

Song and his co-workers told their story to the Chinese Staff and Workers' Association in Queens, which helped them file a complaint for retaliation with the National Labor Relations Board. In March 2012, a jury awarded them \$240,000 in lost wages. Several lawsuits against other New York metro salons are still pending.

**N**ail salon labor and safety law violations are just as egregious on the West Coast, where Vietnamese nail salon owners have dominated a niche market.

In February 2013, Natalie Salon, with five outlets in Northern California, agreed to a \$750,000 settlement in a case brought by 125 workers, who accused the company of cheating them out of legal wages and overtime, denying them breaks, keeping part of their tips, and preventing them from speaking in their native language.

Says Gina Szeto, an attorney with San Francisco's Asian Law Caucus, which filed the action, "Nail salon workers face many of the labor abuses that other low-wage immigrant groups face, but they're also being exposed to chemicals hazardous to their health." Adding insult to injury was the Bay area salon owner who insisted that when workers had no customers they had to sit in a room where the chemicals were stored so the shop wouldn't look "like a Vietnamese supermarket." That case

resulted in a judgment of \$42,500 for one of the workers.

Nail salon workers are routinely exposed to a toxic trio—formaldehyde, toluene, and dibutyl phthalate—used to harden nails and create a smooth finish. Even short-term exposure can cause rashes, breathing problems, dizziness, and vomiting. Long-term exposure has been linked to cancer, cognitive deficits, and reproductive illnesses. Though few studies exist on the long-term effects of these chemicals, nail workers share stories of infertility, miscarriages, birth defects, or poor infant health outcomes. Many quit when they become pregnant to protect their fetuses. (The EU banned dibutyl phthalate from cosmetics in 1976 because the chemical is linked to birth defects.)

"We first became aware of these occupational health hazards," says Sapna Pandya, executive director of Many Languages, One Voice in Washington, D.C., "because children of nail salon workers were being diagnosed with developmental problems by their teachers."

**T**he campaign for nail worker justice started with the courage of one woman—Do Yea (Susan) Kim.

Kim worked at 167 Nail Plaza near ABC Studios in Manhattan. Though her English was halting, her skills were highly valued by customers who needed to look their best on camera.

After seventeen years, she was earning nearly \$40,000 in salary and tips, though she endured grueling ten-and-a-half-hour shifts, sometimes without a break. Like her colleagues, she suffered from neck and shoulder pain and rashes from chemicals in her nail products. Especially toxic were the "silk wraps," a ninety-minute process used to strengthen nails by applying primer, glue, and resin.

On March 17, 2005, Kim asked her boss to hire more staff to allow

her to take regular breaks. She was fired the next day and found herself—at age fifty-three—unemployed and unemployable. “She was angry,” remembers Ken Kimerling of the Asian American Legal Defense and Education Fund, which filed a lawsuit on her behalf. Soon Kim and labor activists were picketing her old salon. She asked the court for \$150,000 but the jury awarded her \$182,000 and the news spread fast, especially in ethnic newspapers.

But the road to legal vindication is a difficult one.

Irma Karina Vivar heard Kim speak at a meeting organized by the National Mobilization Against Sweatshops.

“I was inspired and felt more powerful,” Vivar said at the time. Months later, she and five of her Latina co-workers sued their employer, alleging that they were cheated out of their pay and asked to perform massages on the owner and other men. All six were fired after they filed the lawsuit. Then the defendants filed for bankruptcy, and the plaintiffs have lost hope of collecting any back wages. Kim has so far received only \$70,000.

“Employers can transfer their assets to a family member or friend for \$10,” says Wing Lam, executive director of the Chinese Staff and Workers’ Association. “They can declare bankruptcy and incorporate a new nail salon for a few hundred dollars. That’s why we are working with legal aid groups to change the laws.”

New York State Assemblywoman Linda Rosenthal has introduced a bill to provide a private right of action for nail specialists aggrieved by their employer in the case of a health and safety violation, unlawful retaliatory action, or general labor issues such as hours and breaks.

But a legislative fix is only part of the solution. Improving agency enforcement is just as important.

“New York City doesn’t have enough investigators,” says Ranjit of Adhikaar. “We rarely refer clients to

the state’s department of labor because they lack the resources.”

In February, department staff members confirmed in a meeting with community advocates that they had 15,000 unresolved wage and hour cases and couldn’t keep up with the number of complaints.

California has done more to regulate this industry with passage of the Safe Cosmetics Act of 2005 and the Green Chemistry Initiative of 2008. Under these laws, cosmetics manufacturers are required to disclose the ingredients of their products. Unfortunately, making label claims is no guarantee of safety, as the state’s Department of Toxic Substances Control proved last year. Investigators found that commonly used nail products labeled “free of the toxic three” actually contained high levels of these agents.

Federal oversight of the cosmetics industry is extremely loose. OSHA has the authority to insist that nail salon owners provide Safety Data Sheets that identify dangerous chemicals in nail care products. But they are typically available only in English. The EPA has authority to regulate chemicals under the Toxic Substances Control Act of 1976, but nail care products are excluded from it. The FDA relies for product safety on the Cosmetic Ingredient Review Panel, which is funded by the cosmetics industry itself.

In response to this laxity, Jan Schakowsky, Democrat of Illinois, and Ed Markey, Democrat of Massachusetts, introduced the Safe Cosmetics and Personal Care Products Act of 2013. It would require the phasing out of toxic ingredients and the full disclosure of what is in salon products. Workers would be granted access to this information. And the FDA would get additional funding so it could provide effective oversight and enforcement.

**O**rganizing can also have a positive effect. The Campaign for Safe Cosmetics successfully pressured OPI, the lead-

ing nail products maker, to remove the toxic trio from its top-selling nail polishes and treatments.

“We fanned out to nail salons, demonstrated in shopping centers, wrote thousands of letters, and launched an ad campaign to convince the public and OPI that safer products are good for customers and business,” the group says on its website. “Though OPI was already making safer products for the European market as required by EU law, the company was initially unwilling to reformulate globally. Then, in August 2006, OPI announced it would remove DBP from all of its products. A year later, OPI announced that it would also remove toluene from its products, and was marketing a formaldehyde-free nail hardener. Today, OPI advertisements proudly proclaim its nail polishes to be free of DBP, toluene, and formaldehyde.”

But many nail polishes, hardeners, and gels still get terrible safety ratings in the SkinDeep database put out by the Environmental Working Group.

“It’s one thing to do your own nails once a month, but nail workers do them every day all day,” says Alexandra Scranton, director of science and research for Women’s Voices for the Earth in Missoula, Montana. The group is a member of the National Healthy Nail and Beauty Salon Alliance, which is pushing for safer laws and more stringent oversight.

But until those things happen, grassroots and advocacy groups have to take the lead.

“It’s the community organizations that have educated ethnic workers and the wider public about poor conditions,” says Lin of the Asian American Legal Defense and Education Fund. “They provide the support so these immigrant—mostly non-English-speaking—women can demand dignity in their workplaces.”

Keep their dignity in mind the next time you consider a cheap mani-pedi. ♦