

food items for the Indianapolis Gleaners Food Bank at their 11th annual celebration in the Statehouse Capital Rotunda at noon, Jan. 18.

Attorneys take part in life outside firm

Several attorneys, judges and other legal professionals have recently been named to or volunteered their time on private and public organization boards or been recognized for their achievements. They include:

Robert B. Clemens, a partner with Bose McKinney & Evans, was elected president of the Indiana Chapter of the American Board of Trial Advocates.

Kathy Osborn, an associate with the law firm of Baker & Daniels, has been appointed to the Indiana Protection and Advocacy Services Commission.

Stephen R. Pennell, a partner with Stuart & Branigan, was tapped to be vice president of the Defense Trial Counsel of Indiana at the association's eighth annual conference on Nov. 16.

ABA publishes book with help from Indy lawyer

The Forum on Franchising of the America Bar Association has published a new volume called the "Franchise Desk Book," which covers state law regulating franchising.

The chapter covering Indiana was co-written by Indiana lawyer A. Bernard Frechtman. For more information on the book, e-mail: abflaw@att.net.

Grocer must refund former employees

Female employees settle for \$1.2 million in pay shortage

By Denise G. Callahan
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A mega merchandiser refunded female employees major cash for lost wages.

United States Magistrate Judge Roger Cosbey brokered a \$1.2 million settlement between 10 former workers at a Fort Wayne general merchandise warehouse and SuperValu Holdings Inc.

Working on behalf of United States Chief District Court Judge William C. Lee in the United States District Court, Northern District of Indiana, Fort Wayne Division, the magistrate was able to bag an agreement between SuperValu and the female workers who protested the fact they have been paid only 70 percent of the wages earned by their male counterparts.

Citing unlawful sex discrimination and violations of the Equal Pay Act, Indianapolis attorney Amy Ficklin Debrotta filed *Dorothy Freeman et al v. SuperValu, Inc., cause no. 199CV0347*, against the nation's 10th largest grocery retailer, SuperValu Holdings Inc, a *Fortune 100* company.

It seems the company decided to open a new merchandise warehouse and promised 31 male employees if they moved to the new facility, they would receive the same pay scale they negotiated in their 1980 union contract. Any new employees hired at the facility would be paid 70 percent of the union pay scale.

By coincidence or design, when the company began hiring new employees at the facility in 1983, they were all women. And equal pay wasn't their only gripe, they also weren't afforded seniority privileges. That niggling fact proved to be the company's undoing — so to speak, since a settlement was reached.

When the company started talking about closing the facility in 1997, the women started worrying about their futures, should they be transferred elsewhere with no seniority standing.

They had filed union grievances off and on through the years, but obvi-

ously the union put the provision in place and probably wouldn't be prone to purge it, Debrotta said. After the union shunned their concerns, they beseeched the Equal Employment Opportunity Commission. Debrotta said that avenue wasn't looking too promising, so they sought her support.

"They may have known they were making only 70 percent," she said. "But that doesn't make it legal."

Once she won summary judgment on SuperValu's affirmative defenses, Debrotta said the EEOC jumped on the bandwagon for 22 other female SuperValu employees. The EEOC ended up garnering \$400,000 for those women in settlement.

"A private attorney's sole reason is to pursue your best interests," Debrotta said. "The EEOC's goal is to enforce the law for the greater societal good."

"It easily could have been \$10 million total"

Amy Ficklin Debrotta

After SuperValu's motion to reconsider also fell in her court, settlement talks really took hold.

If the statute of limitations — a max of three years — didn't kick in on these kinds of cases, Debrotta estimates her clients may have culled considerably more.

"It easily could have been \$10 million total," she said. "You're talking about an additional nine years for some of these people."

But since these cases are tough as it is, she and her clients thought settling was the savvy segue from this case.

"You can't look at what you could get from a jury," she said. "Your first question has to be if this is going to be adequate for your clients. It's never going to be adequate with all they went through, but they felt they were doing the right thing."

Ice Miller attorney Byron Myers took over the case from Fort Wayne attorneys Scott Niemann and John Menzie after the summary judgment decision. Myers's client chose not to comment on the deal. •

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