

turing industries.³³ It is structured as a pyramid, with a small number of retailers at the top, fewer than 1000 manufacturers below them,³⁴ and approximately 20,000 contractors and subcontractors below them.³⁵

Most often, “manufacturers” actually do not produce clothing; they contract out production work to subcontractors in order to increase profits.³⁶ The function of manufacturers is to design apparel, provide fabric, and give instructions about how garments should be produced.³⁷ Contractors operate and own the garment shops, employing cutters, seamstresses, trimmers, and pressers.³⁸

Since workers are actually employed by the contractors, manufacturers generally have avoided direct liability to workers for either wages or working conditions.³⁹ Meanwhile, the workers’ direct employers, the contractors, have evaded responsibility simply by closing up shop and reopening elsewhere when workers have demanded their rights.⁴⁰ While the situation may be changing with respect to liability for wages,⁴¹ the multitiered structure has allowed manufacturers to hide behind a corporate shield, while contractors play a “shell game,”

³³ See *Prevalence of Sweatshops*, supra note 17, at 3; see also Lora Jo Foo, *The Vulnerable and Exploitable Immigrant Workforce and the Need for Strengthening Worker Protective Legislation*, 103 *Yale L.J.* 2179, 2185 (1994) (noting that “thirty-eight-billion-dollar-a-year apparel industry relies heavily on sweatshop labor”).

³⁴ Manufacturers often carry well-known brand names, including Liz Claiborne®, Jessica McClintock®, Guess®, and Esprit®. See Foo, supra note 33, at 2185.

³⁵ See *Prevalence of Sweatshops*, supra note 17, at 3-4.

³⁶ See *id.*; Foo, supra note 33, at 2185.

³⁷ See Lam, supra note 20, at 629-31 (describing structure and roles within garment industry).

³⁸ See *id.* at 629.

³⁹ See *id.*; see also Bruce Goldstein et al., *Enforcing Fair Labor Standards in the Modern American Sweatshop*, 46 *UCLA L. Rev.* 983, 995-1002 (1999) (describing structure of garment industry and implications for manufacturer liability).

⁴⁰ See Foo, supra note 33, at 2209 (citing Susan Headden, *Made in the U.S.A.*, *U.S. News & World Rep.*, Nov. 22, 1993, at 48, 54) (estimating that average garment sweatshop remains in operation for 13 months).

⁴¹ See *Lopez v. Silverman*, 14 F. Supp. 2d 405, 423 (S.D.N.Y. 1998) (holding manufacturer liable for back wages unpaid by subcontractor); see also N.Y. Lab. Law § 345-a (McKinney 2000) (holding apparel manufacturers and contractors who contract out apparel work liable for wage violations of subcontractors if they knew or should have known that subcontractors failed to comply with labor laws). In another joint employer case in the New York garment industry, garment workers who had worked 137-hour weeks pursued wage claims against the subcontractor, the manufacturer, and retailers. See *Chinese Staff & Workers’ Ass’n: Garment Workers’ Commission* (visited Sept. 20, 2000) <<http://www.cswa.org/garment.htm>>. Ultimately, the manufacturer sportswear company, not the subcontractor, paid the \$285,000 settlement. See *id.*; Melanie Kletter, *Bklyn. Sweatshop Workers to Share \$285,000 Deal*, *Womenswear Daily*, June 22, 1999, available in 1999 WL 11974319.