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'Disgusting!', Cry Legal Experts: Is This The Lowest A Top U.S. Law Firm Has Ever Stooped?

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Would any self-respecting U.S. law firm represent a client who suggested the Jews deserved the Holocaust? Probably not. As a matter of honor, most law firms would run a mile, and even the least honorable would conclude that the damage to their reputation wasn't worth it.

Where imperial Japan's atrocities are concerned, however, at least one top U.S. law firm hasn't been so choosy. In what is surely one of the most controversial civil suits ever filed in the United States, the Los Angeles office of Chicago-based Mayer Brown is trying to prove that the so-called comfort women – the sex slaves used by the Imperial Japanese Army in World War II – were no more than common prostitutes.

The suit has been filed on behalf of two Japanese-Americans, Michiko Shiota Gingery and Koichi Mera, plus a corporation called GAHT-US (a bizarre entity whose involvement must be a particular embarrassment to any decent person at Mayer Brown – more about this in a moment). At the center of the controversy is a Korean-funded memorial to the comfort women which was recently established in a park in Glendale, California. The suit suggests that the above named Japanese-Americans will suffer "irreparable injury" from "feelings of exclusion, discomfort, and anger" if the memorial is not removed.

This is, of course, the functional equivalent of suggesting that German-Americans suffer "irreparable injury" from memorials to the Jewish Holocaust. Although the suit has so far received little attention in the mainstream American press, it has provoked outrage elsewhere, not least in London where the noted British commentator Robert Fisk has provided a particularly trenchant [account](#)

[\(\(at%20least%20in%20the%20United%20States%20--%20the%20best%20mainstream%20account%20I%20have%20read%20is%20one%20from%20the%20top%20British%20It has also sparked a firestorm among legal bloggers. \[Here\]\(#\)](#)



(<http://www.popehat.com/2014/02/25/controlling-public-art-by-lawsuit-japanese-american-citizens-sue-to-remove-comfort-women-memorial/>), for instance, is a comment from Ken White, a prominent Los Angeles-based criminal attorney: "I cannot remember a lawsuit that so immediately repulsed and enraged.....This lawsuit is thoroughly contemptible. It should fail, and everyone involved should face severe social consequences."



Publicizing the comfort women issue: 65 years after the truth was established in a Dutch court room, a top American law firm says the victims of one of World War II's worst atrocities are liars. (Photo credit: theogeo)

Strong words but White's assessment is hard to fault. The indisputable historical record, after all, shows that countless women who served in the Imperial Army's brothels were innocents seized at gunpoint in Japan's erstwhile colonies and forced into sexual servitude. (Yes, of course, not all were innocents. The army's first recourse was to professional prostitutes but even if every prostitute in the empire had volunteered for such a hellish assignment, there were far too few of them to serve the army's needs. Japan's war was vast, spread as it was across six time zones and involving at least six million men, most of whom seem never to have had any home leave.)

On the basis of 27 years of on-the-spot Japan-watching in Tokyo, I can report that Mayer Brown's suggestion that the facts "remain an active topic of political debate" is sheerest sophistry. There are no two sides to this issue and no decent Japanese citizen I have ever met questions the validity of the comfort women's allegations. Anyone who does has a manipulative agenda and doesn't believe a word he is saying.

Even the Japanese government has admitted as much. Japanese Chief Cabinet Secretary Yohei Kono issued a widely publicized statement in 1993 acknowledging that there were "many cases" of agents acting on behalf of the Imperial Army "intimidating these women to be recruited against their will."

The [statement](http://www.mofa.go.jp/policy/postwar/issue9308.html) (<http://www.mofa.go.jp/policy/postwar/issue9308.html>) went on tacitly to acknowledge the comfort women's enslaved status: "In the war areas, these women were forced to move with the military under constant

military control and that they were deprived of their freedom and had to endure misery.”

The Kono statement was treated as front-page news by the American press at the time, but was hardly new news. To be sure it had been preceded by a long series of denials in Tokyo, a record taken at face value by an ever naïve American press; but the main allegations had been proved in a Dutch court under Western rules of evidence as far back as 1948. That court, which had been convened in what was then the Dutch East Indies (now Indonesia), had considered allegations that Japanese army officers had forced many Dutch women seized in the Dutch East Indies into sexual slavery. One Japanese military official was executed and eleven other Japanese citizens were sentenced to jail terms. The Dutch went on in 1956 successfully to press the Japanese government to pay compensation to the women, an almost unheard-of achievement in Western diplomacy (the Japanese establishment has otherwise proved highly successful in stonewalling compensation claims from countless victims of other atrocities). In 1985 details of the comfort women story were published in an official Dutch government history of the war. For more detail on the Dutch side of the story click [here](http://www.awf.or.jp/pdf/0205.pdf) (<http://www.awf.or.jp/pdf/0205.pdf>).

One of the more striking aspects of the case against Imperial Japan is that so many women of so many nationalities — Korean, Chinese, Taiwanese, Filipinas, Burmese, Vietnamese, and Dutch, among others — closely agreed on the details. Not the least telling detail is that though modern Japan had a long previous history of militarism (it had fought several wars in the late nineteenth and early twentieth centuries), allegations of sexual slavery first surfaced in the 1930s. Up to that time Japan had been exemplary in abiding by the Geneva Conventions, including those on the treatment of women. It was a strategy aimed at winning diplomatic and economic acceptance for Japan as a “civilized nation” that was the equal of the then world-dominant Great Powers of the West. The fact that there had been virtually no complaints about Japanese military’s sexual behavior before the 1930s and then such complaints suddenly became a torrent is consistent with another evidence that Tokyo broke decisively with the Geneva Conventions in the early 1930s in a new policy of no-holds-barred warfare.



As for GAHT-US, its full name is the Global Alliance for Historical Truth-US. If that sounds impressive, its genesis is less so. It was incorporated as recently as February 6 and uses a UPS office as its official address. The really controversial part is that its name has evidently been chosen so it would be confused with a very different entity, the Global Alliance for Preserving the History of WWII in Asia. This latter is a long-established, entirely respectable scholarly group founded by Chinese-American professors that is on the other side of the comfort women argument. The first two responses to a [Google](http://companies.google/) search today for “Global Alliance for Historical Truth” brought up the Chinese-American entity, thus suggesting that respectable Chinese-American opinion endorses the effort to brand the comfort women as prostitutes.

For the record I reached Michiko Shiota Gingery by phone and asked her whether she really believes the comfort women are lying. In avoiding the question, she argued that the memorial had no place in America and should be located instead in Korea or Japan. This echoed an opinion voiced by other opponents of the memorial but it seems a bit selective. The fact is that ethnic Koreans constitute a significant minority in Glendale and it is not unusual for other ethnic groups to erect monuments remembering past injustices. If Wikipedia is to be believed, there are 45 memorials to the Jewish Holocaust alone in the United States, sixteen to the Irish famine, and six to the Ottoman Turks' genocide of Armenians.

I emailed the four Mayer Brown attorneys involved in the case – Neil Soltman, Matthew Marmolejo, Ruth Zadikany, and Rebecca Johns – for a comment. I also emailed the firm's chief executive Paul Theiss. I received no responses. Reached by phone, Soltman referred me to the firm's public relations officer Bob Harris but Harris also failed to respond.

Should Mayer Brown have taken on this suit? Here is the opinion of the prominent First Amendment attorney Marc Randazza: "Every law firm gets confronted (on a pretty regular basis) with the question: 'should I put my name on this?' That soul searching comes into play when you wonder, 'is this honorable?' You know when it is, and when it isn't. I'm not talking about representing a client that you know is guilty – they deserve a defense. I'm not talking about representing a really evil client – because there might be an important legal issue in play. I'm talking about when you do something truly disgusting."

Why therefore would Mayer Brown, which ranks among America's top 20 corporate law firms, take on such a case? Beats me but one answer suggested by a commenter at Ken White's website is probably worth passing on: "Mayer Brown has a heavy practice in Asia.... They are probably either doing this as a favor to a large client, or trying to expand their Asia presence to Japan."

Update: This commentary has drawn a particularly interesting series of comments and I urge readers to check them out. I am planning a new article to address some of the issues and will post this on Sunday, April 20.



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