

Calif. Dancers Moving To Form Nation's Only Strip Club Union

By Braden Campbell

Law360 (August 26, 2022, 8:00 PM EDT) – Amid an organizing wave that has seen unions gain footholds at many previously nonunion businesses, a group of workers in California has just sought an election at perhaps the most novel workplace yet: the Star Garden Topless Dive Bar in North Hollywood.

Performing artists union Actors' Equity Association petitioned Aug. 18 for an election to represent dancers at the Star Garden following months of protests over safety conditions and other concerns. Should the dancers secure an election and vote in favor of the union, they will form the only bargaining unit of strippers in the country and just the third ever.



Protesters rally outside the Star Garden Topless Dive Bar on Aug. 19. Strippers have raised concerns about what they say are failures by the club to stop inappropriate behavior from patrons or address safety hazards. (FREDERIC J. BROWN/AFP via Getty Images)

"I spent the weekend on the picket line with these workers," Actors' Equity President Kate Shindle told Law360 on Aug. 23. "They're remarkably supportive of each other and really quite unified in their desire, and I hope no one is underestimating them."

The organizing drive dates back to March, when Star Garden dancers raised concerns about what they say were repeated failures by the club to stop patrons from touching or filming them without consent or address safety hazards like broken glass on the stage. After the club fired a dancer who objected to these conditions — the claim is the subject of one of several pending unfair labor practice charges with the National Labor Relations Board — several workers walked off, and

the bulk have remained on the picket line since, according to Actors' Equity.

Some dancers had prior connections to Strippers United, an advocacy group that helps strippers organize and assert their workplace rights, and linked up with the outfit for support. But the protest didn't budge the club, and the dancers decided to unionize "when it became clear management had no interest in workers having basic safety precautions at work," said Antonia Crane, Strippers United's founder and a dancer at the last strip club to unionize, the Lusty Lady.

The strippers initially sought to organize independently with Strippers United before connecting with the more established Actors' Equity.

Actors' Equity has not previously represented strippers — few unions have — but the Star Garden dancers' concerns mirror in many ways those of the theater performers the group has represented for a century, general counsel Andrea Hoeschen said. For example, ensuring performance and backstage spaces are kept safe and clean are priorities for the group, especially during the COVID-19 pandemic.

"Even though it was clear the larger conversation was going to involve many other factors [like an exploitative wage structure], the initial concerns did resonate as things this union has been addressing historically and very significantly the last two years," Hoeschen said. "There just aren't many other unions who represent people who are standing on stage in front of live patrons."

While there is some meager history of union organizing in the strip club industry, no U.S. clubs are currently unionized.

Dancers at a San Diego club called Pacers formed the first strippers union in the U.S. in 1993, but the union dissolved in 1996 due to waning support amid turnover, according to academic histories of organizing in the strip club industry.

In 1996, dancers and other staff formed the industry's second union at the Lusty Lady, a San Francisco "peep show" club, where performers danced for individual customers behind a barrier rather than on a stage in a bar-like setting.

The workers, who were represented by a Service Employees International Union local, inked a contract in 1997 that included raises, the removal of two-way mirrors that allowed customers to film performers without their knowledge, and sick and holiday time off, among other benefits. The unit persisted at the club, which later became a worker-owned co-op, until it folded in 2013.

Crane said the Lusty Lady organizers were met with a brutal, emotional campaign that relied on common employer tactics for thwarting organizing drives. The Star Garden has yet to respond to the election petition — and its lead attorney did not respond to a request for comment by Law360 — but it wouldn't be a shock for management to resist, Hoeschen said.

Should the company object, it may do so on the basis that the dancers are independent contractors. Clubs typically classify their dancers as contractors, who are excluded from most workplace rights statutes, including the National Labor Relations Act.

There's little NLRB case law regarding coverage for strip club dancers, but what exists is promising for the dancers. A board panel comprising a trio of Republicans appointed by former President Donald Trump grappled with whether a stripper at Ohio venue Centerfold Club was an employee in a 2020 unfair firing case. The unanimous panel upheld an administrative judge's decision ordering the dancer's rehire with back pay, saying **the club's dancers were employees** based on the "significant degree of control" management held "over the dancers' opportunities for economic gain."

While this precedent favors the dancers at the NLRB, any dispute over their eligibility may ultimately end up before a federal appeals panel, which will pay little deference to the board's finding, said Anne Marie Lofaso, a labor law professor at West Virginia University College of Law. There, too, the odds would be stacked against the club, she said.

"Courts are really good at seeing through whether or not an employer is just trying to make [independent contractor status] up," Lofaso said. Unless the Star Garden's practices are far afield from industry norms, a reviewing court will likely find the dancers are employees, she added.

The Actors' Equity officials declined to share the specifics of the dancers' work structure, citing concerns about giving Star Garden management a playbook with which to fight the union drive.

If the Star Garden drive is successful, more may follow, Crane said. Unionizing is an effective measure for addressing numerous, common issues in the industry, including tip and wage theft, biased and unfair hiring and firing practices, and failure to protect dancers from sexual assault and other violence, she said.

"They are pervasive, they have been normalized [and] they have gotten worse over the past three decades," Crane said.

But there may be impediments to a wave of union organizing across the strip club industry, others said.

Christina Corl, a labor and employment attorney who represented Centerfold in the NLRB case and frequently represents clubs in litigation, said it's been her experience that many dancers prefer not to be employees to avoid being on record with the government as having worked at a strip club. Additionally, many strippers only work for a short time, whereas unions are most common in settings where workers stick around for decades, she said.

"The hindrance to unionization has been dancers themselves," said Corl, who co-leads the labor and employment practice at Midwestern firm Plunkett Cooney PC.

Caity Gwin, a former stripper and advocate now in her second year at the University of Nevada, Las Vegas, William S. Boyd School of Law, said several barriers may have contributed to the dearth of organizing in the industry to date.

Because strippers compete to entice customers to buy lap dances or one-on-one time, the nature of the work can preclude solidarity, said Gwin, who has studied stripper organizing. Many strippers are in coercive situations or are otherwise marginalized, and may not have the time and energy outside of work to organize. And they may harbor fears of losing what little control they have over their work if they're considered employees, she said.

"I'll be really interested to see what happens with Star Garden," Gwin said. "I know from grassroots organizing that it can be difficult ... but the Star Garden group has done great, they have had a strong, solid group."

For its part, Actors' Equity is taking it one shop at a time.

"There are certainly folks who are talking industrywide," Shindle said. "Right now, I think at Equity, the focus is going to be on this club and this first contract."

--Editing by Abbie Sarfo.