

# First the Knife, Then the Axe

BY CHRISTINE DINSMORE

In December 1995, soon after her breast cancer diagnosis, Margaret Minter began chemotherapy. Throughout the treatment, she worked as a branch manager at a bank in Westlake Village, California, where she had been employed for nearly a decade. In May of 1996, she underwent a bone marrow transplant, and the following December she began eight weeks of radiation. As daunting as her treatments were, Minter says they paled in comparison to the discrimination she experienced because of her disease—a circumstance that prompted her to sue her employer. With a court-imposed gag order, Minter would not identify the bank or the amount it paid her to settle. But according to public record, a lawsuit that was settled in January 1999 charged that Wells Fargo Bank initially denied Minter time off for the radiation treatment. Her employer finally relented but required her to take a demotion in exchange for medical leave. She needed the company's health insurance, so she agreed.

The lawsuit alleged that the bank not only failed to abide by the California Family Rights Act, the state's version of the Family and Medical Leave Act, but also that bank personnel gossiped about her

breast cancer. By law, employers must keep employees' medical records confidential.

"I worked hard, served on the board, got awards," says Minter. "But when I asked my employer for something, they slammed the door."

With breast cancer at epidemic levels—it accounts for one of every three cancer diagnoses in women in the U.S.—Congress is debating more than 15 bills designed to protect breast cancer survivors from discrimination. But

despite proposed legislation and court settlements, survivors continue to battle more than the disease.

Minter is one of more than 500 women who each year call the Breast Cancer Legal Project (BCLP), an arm of the California Women's Law Center comprising about 50 pro bono attorneys and other volunteers. Since its inception in 1995, BCLP has helped breast cancer survivors with employment rights, housing discrimination issues, child custody issues, debtors' rights, and insurance problems.

Chris, a teacher who was

refused full access to her district's sick-leave pool, faced losing her home. With BCLP's help, she got her sick leave and kept her home. Blanca, a K-Mart dispatcher for 28 years, lost seniority because she couldn't lift 60 pounds, as required by the company. She died before BCLP could charge the store with violating the Americans with Disabilities Act.

L. Susan Slavin, the co-founder of New York's Breast Cancer Legal Advocacy Pro-

ment. Margaret Minter received an obscene e-mail from a coworker that alluded to her disease. Minter says the same man announced to colleagues and clients that she had breast cancer, emphasizing the word breast.

Barbara Hoffman, the general counsel for the National Coalition for Cancer Survivorship, says Minter's experience is not unique: "From a legal standpoint there is no difference between survivors of breast cancer and other cancer survivors, but, in fact, it is different. Breast cancer survivors face discrimination that has a sexual component that is not necessarily faced by lung cancer survivors."

In 1994, for example, Julie Sheppard, a makeup artist for a cosmetics firm, had a bilateral mastectomy. Sheppard was the company's number one salesperson. Yet when she returned to work, she says, "My regional supervisor said, 'You no longer fit the beauty image of our company.'"

The firm never fired her. But she was given impossible quotas and eventually left.

Sharmila Lodhia, a BCLP attorney, notes: "Women with breast cancer tell me, 'I can handle the disease. But it's the discrimination that will break me.'"

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ject, says that although many people with life-threatening illnesses face discrimination, breast cancer survivors are more likely than most to experience this. She notes that 99 percent of survivors are women and are therefore less likely to have positions of power in the work place. A typical case was that of legal secretary Jane Karuschkat, dismissed by her firm because she had breast cancer. In 1996, Slavin successfully sued the firm.

The fact that the disease affects a part of the body associated with sexuality has made some women prey to harass-