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Historic Dealings

Charlene Barshefsky, Wilmer Cutler Pickering Hale and Dorr

BY
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LOVE

Public service makes one a
“more efficient and accurate
adviser.” —Charlene Barshefsky

IN 2001—BARELY A WEEK AFTER RETURNING TO PRIVATE practice from eight-years in the Clinton administration—international trade lawyer Charlene Barshefsky received a frantic call from one of her new colleagues.

“I have a client in crisis,” said the partner at her new firm—Wilmer Cutler Pickering Hale and Dorr. “He’s in a deep hole with the government and needs a way out.”

“Yeah, I’ll talk to him,” she told the partner.



Twenty years later, in an interview with *The American Lawyer*, Barshefsky recounted the conversation that followed.

“The client goes through this tale of woe. And I’m listening—but only half listening, because immediately I know what he’s going to say,” she says. “It was the kind of thing you hear so often when you’re in government.”

The client finished his tale, and Barshefsky took a beat before replying.

“I said to him, ‘Look, here are the factors that the folks in government are thinking about, and here’s what you’re up against—actually,’” she says, adding that the true problem wasn’t anything like what the client thought it was.

“Here’s what you should do,” she advised. “Nothing. Leave it alone, and in about two weeks, call the person you’ve been dealing with, and just recalibrate your response and recalibrate your tone.”

The client took her advice and it all worked out OK.

“I didn’t have to research anything. I didn’t have to look at anything. I just knew exactly why he was in the situation he was in,” Barshefsky tells *The American Lawyer*. “The substance of the matter was less important than how he had dug himself into the hole. And I knew how we could get out.”

Barshefsky believes that this early client interaction at Wilmer is a good example of what public service does for a lawyer’s practice, and part of the essence of her success over her career.

“You become a more efficient and accurate adviser. You have a skill set that you didn’t have before, which is vital to all sorts of clients in different situations,” she says.

The irony of her own opinion is not lost on Barshefsky. When asked to serve as Clinton’s deputy U.S. Trade Representative, the last thing she wanted to do was leave private practice for government.

For the previous 18 years, she had built up a successful international practice at Steptoe & Johnson, working with a team she knew, loved and respected.

“I really looked up to her because she seemed to have this dazzling talent,” Susan Esserman, Barshefsky’s long-time colleague at both Steptoe and the Office of the U.S. Trade Representative, recounts.

Esserman says that trade ministers and other negotiating counterparts recognized Barshefsky’s formidability, with a mix of “respect, envy, and fear.”

In 1993, after almost two decades as an international trade lawyer, that success led to an invitation to join the government as a deputy USTR.

Then in 1997, Barshefsky earned her place in the history books. Vaulted to the top job as USTR and a member of Clinton’s cabinet, it came down to her to negotiate with China over the country’s historic entry into the World Trade Organization.

Barshefsky’s WTO negotiations—and earlier negotiations with China over intellectual property piracy enforcement—have become so renowned that her skill and technique is now taught in law schools and MBA negotiation programs around the globe.

James Sebenius, director of Harvard Business School’s Harvard Negotiation Project, says her handling of the IP piracy negotiations is a particularly insightful lesson for serious negotiators.

Instead of focusing only on the negotiation table, Barshefsky “zoomed out” to examine how to shape the big picture so that the U.S. could achieve its ultimate target, Sebenius says.

“She conditioned the situation so that when she was at the table, she had the best shot at achieving what she wanted,” Sebenius recalls. “What tends to distinguish the truly great negotiators is how they can smoothly iterate between the big picture and the micro—the strategic and interpersonal. Charlene is a master at that.”

After serving as trade representative, she joined Wilmer Cutler Pickering Hale & Dorr. Robert Novick—a current co-managing partner of the firm, and Barshefsky’s general counsel at the trade office—joined around the same time.

“Charlene affected the course of global international trade in ways few others ever have,” says Novick, adding that for that alone she deserves a lifetime achievement award. “But she has given so much more to the profession by mentoring generations that have followed, and for that we are proud.”

In the next 20 years at Wilmer, Barshefsky carved out a reputation as the go-to international trade lawyer not only in D.C., but around the country and the world. She rose to chair the firm’s international trade, investment and market access group, and retired in 2021. ■