

# Equality on the Move

## Lambda Legal's Impact in 2009

Lambda Legal, the leading national legal organization dedicated to achieving full civil rights for LGBT people and people with HIV, has had an exceptional year. Our high-impact cases and educational programs continue to serve our mission by securing new and expanded legal protections and by amplifying our message in public forums. Below are highlights of our accomplishments.

### **IOWA Lambda Legal Wins Historic Marriage Victory**

In April, in a thrilling conclusion to Lambda Legal's landmark *Varnum v. Brien* case, the Iowa Supreme Court ruled that denying marriage to same-sex couples in the state is unconstitutional—making Iowa the first state in the Midwest to issue marriage licenses to same-sex couples. This was the first unanimous decision in the country for marriage equality and helped turn the tide in other states.

### **NEW YORK High Court Upholds Spousal Benefits**

In November, New York State's highest court unanimously affirmed the right of government agencies to recognize marriages of same-sex couples performed out of the state for purposes of granting spousal benefits to public employees. Lambda Legal successfully argued cases before the Court on behalf of two married same-sex couples, defending against repeated attacks from the antigay Alliance Defense Fund. Lower court decisions in these cases have affirmed that recognition of out-of-state marriages is state law in New York.

### **FLORIDA Social Security Clinched for LGBT Family**

In 2008, Lambda Legal filed a lawsuit against the Social Security Administration on behalf of Gary Day, a gay, disabled father. The SSA refused to determine benefits eligibility for his children based on unexplained "legal questions and policy issues." After we challenged their inaction, the agency finally announced that it would provide benefits for Day's children, giving his family the social safety net he had paid into for decades and that other families benefit from on a regular basis.

### **GEORGIA & NATIONWIDE Workplace Fairness Sought for Transgender Employees**

When Vandy Beth Glenn informed superiors at the Georgia General Assembly that she would be presenting as a woman at work pursuant to her medically-prescribed gender transition, they fired her from her

### **NATIONWIDE The Fight for Marriage Equality Moves Forward**

After a bare majority of California voters passed Proposition 8 last November, eliminating same-sex couples' right to marry there, Lambda Legal and our sister organizations NCLR and the ACLU immediately challenged its constitutionality in state court in *Strauss v. Horton*. Although the California Supreme Court upheld Prop 8, we succeeded in our fight for those who had already married, and the Court upheld the rights of 18,000 same-sex couples wedded between June 16 and November 4, 2008. In October, as part of our "Marriage Watch: California" campaign to protect married lesbian and gay couples, we warned SkyWest and Delta Airlines on behalf of a California employee and his husband that the airlines' treatment of gay employees' spouses and registered domestic partners violates not only the airlines' own policies, but also California law.

The fight continues across the country. At the national level, Lambda Legal and other LGBT groups helped Congressman Jerrold Nadler craft a bill to repeal the so-called "Defense of Marriage Act" (DOMA), which already has more than 100 co-sponsors. We met with officials from the Department of Justice and filed a friend-of-the-court brief in the early stages of the federal marriage equality case launched in California. We continue to work in Iowa to fight any effort to amend the state's constitution, and we're thrilled that this success helped spur legislative victories for marriage equality in Vermont and New Hampshire and marriage recognition in the District of Columbia.

job as a legislative editor. Lambda Legal filed a lawsuit on Glenn's behalf, and on June 26, we won an important initial ruling when the court allowed the case to proceed. In September, Glenn also testified on Capitol Hill at an Employment Non-Discrimination Act (ENDA) hearing, urging the federal government to end workplace discrimination on the basis of sexual orientation and gender identity. Lambda Legal also sent a letter to House committee leaders explaining the legal reasons that ENDA is so important.

## **LOUISIANA Family Recognition Demanded and Won**

Oren Adar and his partner Mickey Smith were told by the Louisiana state registrar that they could not get a birth certificate for their Louisiana-born son, whom they adopted in New York, because the state does not recognize adoption by unmarried parents. Lambda Legal sued the registrar on Adar's behalf, citing the requirement in the U.S. Constitution for states to respect court judgments in other states. The U.S. District Judge then ordered the registrar to issue a new birth certificate – a major victory for same-sex parents nationwide.

## **CALIFORNIA Justice Prevails in Health Care Case**

One year after Lambda Legal's historic victory before California's Supreme Court, establishing that health professionals can't invoke religion to excuse discrimination against LGBT patients, Lambda Legal client Guadalupe "Lupita" Benitez reached a gratifying settlement with her former physicians for an undisclosed sum of money. The physicians had denied her infertility treatment based on their Christian beliefs, claiming exemption from California's antidiscrimination law. As part of the settlement, the doctors said they "want all of their patients, including those who are lesbian and gay, to feel welcome and accepted in their medical practice."

## **NEW YORK Discriminatory Adoption Services Shut Down**

Rosario Gennaro and Alexander Gardner, a gay couple, were unable to use a profile-posting website for prospective adoptive parents because it allowed only couples that were "one male husband and one female wife" to use it. Lambda Legal filed a complaint on their behalf, and in 2009, New York Attorney General Andrew Cuomo announced that ParentProfiles.com had stopped doing business in New York. ParentProfiles.com violated New York laws prohibiting discrimination based on sexual orientation and marital status.

## **LOUISIANA Partner Rights Defended in New Orleans**

Lambda Legal successfully argued to a Louisiana court that New Orleans had the authority to grant health insurance benefits for city employees' domestic partners as well as start a domestic-partner registry. Though established more than a decade ago following a Lambda Legal win, these policies came under attack by the antigay Alliance Defense Fund (ADF). Lambda Legal joined the suit on behalf of city employees and their partners and the court rejected the ADF's claims.

## **OHIO Child Custody Prevails Over Antigay Amendment**

When Denise Fairchild and Therese Leach split, Fairchild tried to use Ohio's 2004 antigay marriage ban to keep Leach from their son, whom they both parented from birth. After losing in three courts, Fairchild took her case to the state

Supreme Court. In 2009 Lambda Legal, representing Leach, successfully urged the Court to refuse the case, maintaining that Ohio's antigay amendment was not grounds to deprive Leach of custody of her child. The Court dismissed Fairchild's argument as failing to raise a "substantial constitutional question."

## **NEW YORK "Gay" is Not Defamation**

Agreeing with Lambda Legal's friend-of-the-court brief in the matter, a New York federal court rejected a claim that being described as gay is defamatory *per se*. In the case, Howard K. Stern claimed he was entitled to collect damages because the book *Blonde Ambition: The Untold Story Behind the Death of Anna Nicole Smith* described him as gay. Lambda Legal successfully urged the court to become the first in New York to reject the claim.

## **ARKANSAS & NATIONWIDE Lambda Legal Fights HIV Discrimination**

When Rev. Robert Franke moved out of his home into an assisted living facility in Arkansas at the age of 75, he never imagined that he would be evicted the very next day because he has HIV. Lambda Legal is representing Rev. Franke and his daughter, alleging that the facility violated both federal and state law. Lambda Legal is also fighting federal discrimination. We provided legal analysis and formal comments on numerous occasions urging the government to end the HIV travel and immigration ban that has been in place for more than 20 years. In January, the ban will finally be lifted.

## **FLORIDA On the Front Lines for Hospital Visitation**

In a very disappointing decision, a Florida court dismissed our lawsuit against Jackson Memorial Hospital on behalf of Janice Langbehn, the Estate of Lisa Pond and their three adopted children. In February 2007, the family was tragically kept apart by hospital staff for eight hours as Pond's condition deteriorated. Lisa was pronounced brain-dead the next morning. The court's decision reinforced the need for antidiscrimination and marriage-equality laws that require health care facilities to respect our families. Lambda Legal continues to work with local partners to improve laws and hospital policies in Florida.

## **NATIONWIDE Historic Study of Health Care Fairness Completed**

In 2009, Lambda Legal received over 5,000 responses to a national survey – part of our health care fairness campaign – about how LGBT people and people with HIV are treated in health care settings. Many respondents reported being denied necessary treatment or receiving care from poorly trained or even hostile providers. We also gathered over 10,000 signatures for our health care fairness petition to President Obama. As we enter the second year of the campaign, we will publish the findings from our study to help educate policymakers and advocates, encouraging them to take action to ensure health care fairness for all.