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Of Counsel On Campus

This November, Lambda Legal launched Of Counsel On Campus, a bi-monthly eNewsletter aimed at law students. The eNewsletter is a concise and accurate resource that empowers and encourages busy law students to learn more about the civil rights of lesbian, gay, bisexual, transgender people and people living with HIV. Of Counsel On Campus features information and analysis of Lambda Legal’s groundbreaking litigation, reflections on strategy and tactics by Lambda Legal attorneys, and much, much more. So far, hundreds of students have signed up from schools such as New York University, Georgetown University, Columbia School of Law and many others. Of Counsel On Campus is an offshoot of our eNewsletter, Of Counsel, which focuses on lawyers and the legal community.

Sign up Of Counsel On Campus today at www.lambdalegal.org/ofcounseloncampus.

People with HIV face increased regulations for U.S. travel

The Department of Homeland Security (DHS) recently proposed new regulations for HIV positive travelers to the United States. Though supposedly intended to ease restrictions, the new regulations create greater barriers for people with HIV traveling to the United States and significantly limit their rights once within U.S. borders.

“There is no medical justification to continue to treat people living with HIV as creating, by their very presence, a danger to public health.”

This invasive policy unfairly targets people with HIV by requiring a close examination of an applicant’s personal, medical and financial history. Bebe Anderson, HIV Project Director at Lambda Legal comments, “There have been extraordinary advances in the understanding and treatment of HIV/AIDS and how it’s transmitted. There is no medical justification to continue to treat people living with HIV as creating, by their very presence, a danger to public health.”

HISTORY REPEATS ITSELF

The Hudson Valley LGBTQ Center is fighting for its property’s tax exemption status. The Center provides educational forums, support and counseling groups, and publications for the Hudson Valley LGBTQ community. The Center’s goals and objectives clearly entitle it to nonprofit property tax exemption under New York law. But the assessor for the city of Kingston denied its application, dismissing the Center’s activities as merely “social.” The Center appealed to the Board of Assessment Review, providing documentation that summarized its activities. This appeal was denied, leaving the center with a damaging tax bill of $9,000. Lambda Legal, the Worker’s Rights Law Center of New York and Fried, Frank, Harris, Shrier and Jacobson LLP represented the center to secure exemption from this discriminatory tax bill.

IMPACT: Many LGBT organizations have had to fight bureaucracy for their right to exist as nonprofit entities. By denying LGBT organizations access to these tax exemptions, the ultimate goals of these organizations are undermined — a blow to LGBT communities at large that receive help and support from such important organizations.

L.A.’S FINEST

The Los Angeles City Council voted unanimously to approve the non-monetary portion of a settlement for Mitchell Grobeson, the first openly gay officer in the Los Angeles Police Department. Grobeson was suspended for what the LAPD deemed “unauthorized recruiting” of lesbians and gay men to join the force, and for allegedly wearing his uniform without permission at Pride and AIDS-awareness events.

IMPACT: This important settlement provides a vast array of protections for lesbian, gay, bisexual and transgender employees and job applicants in Los Angeles, additionally, it provides protections for people living with HIV. It also mandates recruitment from LGBT communities and strengthens the city’s antidiscrimination policies by writing them into the city’s administrative code.

LGBT POSITIVE SEX ED

The Montgomery County School Board in Maryland voted to implement a curriculum that would discuss sexual orientation in a nonjudgmental framework and include medically accurate information about homosexuality. The curriculum has passed every layer of evaluation and has been included medically accurate information about homosexuality.

Ten years ago, the city of New Orleans extended insurance benefits to same-sex partners of city employees. Shortly thereafter, the city created a domestic partnership registry. Domestic partnership registries have important symbolic value for couples and both public and private employers often find them helpful when extending benefits to employees’ partners. Since 2003, the city’s domestic partner policies have been under attack by the Alliance Defense Fund, an antigay legal organization that filed a lawsuit against the city. Lambda Legal is participating in the case, representing a city employee and his same-sex partner. In 2005, the case reached the Louisiana Supreme Court, which allowed the challenge to continue and returned it to the lower court. Lambda Legal is now arguing the case at the trial court level.

IMPACT: Lambda Legal supports sex education curricula that reflect the experiences of a diverse student body, including students who identify as lesbian, gay, bisexual, transgender or who question their orientation or gender identity. Access to accurate information on human sexuality is not only important for a well-rounded academic experience but is a necessity when it relates to medical and sexual health.

NOLA STRIKES BACK

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the Ts That Bind
How Transgender Rights Affect Us All

BY COLE THALER, TRANSGENDER RIGHTS ATTORNEY

I t was, as they say, politics as usual. Last fall, the Employment Non-Discrimination Act, or ENDA, a bill that would directly prohibit discrimination based on sexual orientation and gender identity, was pending in the House of Representatives. But a new version, one that removed mention of gender identity, sparked major controversy among LGBT organizations and activists. The end result — House passage of the bill without protections for gender identity — was disappointing, but there is a silver lining. It led to numerous conversations about why transgender people are part of the LGBT movement.

Engaging in painful dialogue is absolutely critical for the future of any movement. The question at the heart of the conversation is this: Do the lesbian, gay, bisexual communities have enough in common with the transgender community to merit linking them within one acronym and one movement? Civil rights organizations around the country answered in the affirmative years ago, but the question remains fresh.

One way to begin answering this question is to think about the term “gender identity.” ENDA originally defined “gender identity” as “the gender-related characteristics of an individual, with or without regard to the individual’s designated sex at birth.” This protection does not apply only to transgender people. It applies to anyone whose identity, appearance, mannerisms or other characteristics might not line up with traditional gender norms nearly at all.

Our strength as a movement lies in our commonalities. Both gay people and transgender people must come out. And often enough, both must navigate through a thicket of gender-related slurs: sissy, fag, tomboy, dyke, pansy, queen, flamers, lesbian, queer, butch, fairy. These words are dangerous when used against us as weapons, but many of us have reclaimed them and used them in the service of self-definition. Are these words about our sexual orientation? Or about our “gender-related appearance, mannerisms, or other characteristics?” Does it make any sense to distinguish?

The same bullies attack us, the same bigots fire us and the same fear of difference makes us legally vulnerable. The distinctions that seem so stark to some are meaningless in the eyes of our common enemies.

For a long time, it didn’t occur to me that I could be transgender, because I knew that my mannishness, demeanor and “gender-related characteristics” were feminine. I thought that gender transition would require me to become a stereotypically masculine man. But though I felt “girly” and was attracted to men, I didn’t feel like a woman. I could never relax in my own skin. Then I began to meet people who were woman-born but identified as gay men. Suddenly I realized that there are many ways for men to express their gender, and that a whole range of gender expression would be open to me if I transitioned. I would not have to be a stereotypically masculine man, something I knew would feel inauthentic. I could be myself.

When I transitioned, I brought with me all of the gender-related characteristics that I have always had. As a feminine gay man, I’m in good company. But transgender, gay, or gender non-conforming, we’re all vulnerable and in need of legal protection.

The place where sexual orientation — whom we love and desire — blends into gender expression is blurry and permeable. We cannot leave our gendered selves at the door of the prom or the office. Just as KK Logan could not shed his femininity when the school principal demanded it, the LGBT community cannot create artificial borders between the interrelated components of our identities. We are a richly varied community of individuals who, despite our differences, need to remain allies in our fight for a common goal: equality in the eyes of the law.

For more information on Lambda Legal’s transgender rights work, visit our website at http://www.lambdalegal.org/our-work/issues/transrights.
Puerto Rico’s Child Welfare System — Ready to Transform

BY FLOR BERMUDEZ, STAFF ATTORNEY, YOUTH IN OUT-OF-HOME CARE PROJECT

As I entered the large yellow building in the center of Río Piedras, a poster on the wall caught my attention. It pictured a red heart and a sad young girl, alone at the top of a hill with her arms open, as if waiting for someone to embrace her. The caption read Un niño esperaba en la puerta de tu corazón (A child awaits by the doors of your heart). It was the new recruitment campaign material for Puerto Rico’s Office of Children and Family Services (ADFAN). Looking at that same image on my way out, all I could see were thousands of lesbian, gay, bisexual, transgender or questioning (LGBTQ) youth who were waiting in despair. They had found no open doors.

Take the story of Alya*, which led Evelyn Crespo, ADFAN’s Auxiliary Assistant, to request guidance and resources from Lambda Legal’s Youth in Out-of-Home Care Project, hoping to improve the quality of care for Puerto Rico’s LGBTQ youth. Alya is 15 years old and has been in the child welfare system for two and a half years. Crespo says, “Alya acts and dresses like a boy. We do not know what to do with her any more.” Alya has had as many as 90 placements over two years. “She ends up being rejected everywhere she goes. So she runs away and then she comes back to us with the hope that her next placement may be more accepting. Alya is humiliated and hurt constantly — both verbally and physically — and she reacts with a lot of anger.” Alya’s story is not unique. Across the United States, many LGBTQ teens are living out of home because their families have been hostile to their sexual orientation or gender identity. Some were forced to escape abusive families who wanted to punish or “cure” them from homosexuality. Others were sexually molested. As a result, LGBTQ youth are overrepresented among child welfare, juvenile justice and homeless systems of care, and they live with an increased risk of depression, physical or emotional abuse, rape, unethically “conversion therapies,” prostitution, substance abuse and suicide.

It is also not uncommon for LGBTQ youth to be harassed, rejected and abused by youth, staff and caretakers in the child welfare system itself. Alya is only one out of thousands of LGBTQ youth in Puerto Rico’s foster child population (7,572 children — with only 3,805 placed with caretakers) who face these challenges without supportive adults who can help them feel more comfortable with questioning, identifying and accepting their sexual orientation.

Alya also faces a myriad of class, cultural and religious barriers to acceptance in her community. Most foster children come from poor families who experience higher rates of unemployment, substandard housing, poor health, inadequate medical insurance and early death. Cultural biases and prejudices can take time and effort to unlearn; those struggling through poverty are less likely to prioritize that education.

Models of Compassion

Antigay religious views can also factor into the lack of acceptance and support for LGBTQ individuals within Latino culture. Puerto Ricans on the island are increasingly turning to religions where teachings “blame and shame” gays and lesbians. But it would be a mistake to accuse all religious people — even clergy members — of intolerance. As I talked with Crespo, three nuns came into the room looking for promotional T-shirts for the recruitment campaign. The nuns are motivated by their religious commitment to provide food and other developmental services to the foster youth in the custody of ADFAN. The nuns showed genuine interest when I began talking about Lambda Legal’s efforts to protect and reach youth in out-of-home care. They listened attentively and expressed their commitment to welcome and affirm LGBTQ youth who access their services. When I told them about Alya, they identified similar cases and detailed their experience as advocates for their care.

I was inspired to see that these women were motivated by their religious faith to serve LGBTQ youth. The nuns appeared to be role models and mentors for agencies and individual caregivers struggling to bridge the gap between religious beliefs and professional standards of care. Crespo said, “I wish many of our staff were as open-minded and accepting as these nuns. The system would be very different.” ADFAN officials worry that well-intentioned caseworkers try to change young people’s sexual orientation instead of acknowledging it. We suggested that the agency’s policy be clear: negative behaviors and attitudes towards LGBTQ people are not tolerated. We also recommended the implementation of staff-wide training so that all workers could learn to identify warning signs that a young person may be experiencing mistreatment or antigay abuse, so they can learn to effectively intervene on behalf of victims.

NOTES from the FRONT LINE

Puerto Rico’s Child Welfare System — Ready to Transform

* Name changed to maintain confidentiality.
The Youth in Out-of-Home Care Project also brings targeted impact when needed. detention and homeless shelters, and rights of youth in foster care, juvenile justice, and other child welfare advocates to ensure safe and affirming child welfare services for LGBTQ youth in out-of-home care, the majority of whom are people of color. Next steps in our effort to assist Puerto Rico’s child welfare system will be identifying appropriate resources for staffing, distributing our new bilingual poster that spells out the legal rights of youth in foster care, juvenile detention and homeless shelters, and continuing to provide technical assistance when needed.

Flor BERMUDEZ Youth in Out-of-Home Care Attorney

In the Beginning

Highlights of Lambda Legal History

All this year we’re proud to offer you some highlights of Lambda Legal’s work over the past 35 years. This issue we begin with some of our very first cases in the 1970s.

In 1973, Gay Student Organization v. Bonner

“A spectacle,” said a furious New Hampshire Gov. Meldrim Thomson, Jr., denouncing a gay student dance at the University of New Hampshire in 1970. Lambda Legal filed a federal lawsuit in 1973. After the court lifted the ban on gay student social activities, agreeing with Lambda Legal that: “... homosexuality and sexual preference is a protected class under the federal right to freedom of association.” Lambda Legal secured the legal right to exist and to become the nation’s most powerful force for LGBT legal rights — was about being recognized and treated equally. That’s the same fight we’ve waged on behalf of LGBT people and others with HIV ever since.

For 35 years, we have been strategically building up laws and policies that protect and promote civil rights of HIV and people living with HIV, building a foundation brick by brick. During this anniversary year, we are proud to highlight some of the victories that building blocks brought us in our fight for civil rights.

The Youth in Out-of-Home Care Project also brings targeted impact litigation to protect the rights of LGBTQ youth in out-of-home care and to set legal precedents nationwide. In 2006 Lambda Legal and the Silvera Rivera Law Project sued the New York Office of Children & Family Services (OCFS) on behalf of a transgender young person who was not receiving adequate medical treatment while in OCFS custody. The parties eventually reached a favorable settlement that included monetary damages and a commitment by OCFS to evaluate its policies with an eye toward improving in its ability to support and protect transgender young people in its care.

A Movement Grows

Although Puerto Rico’s child welfare system has just begun to transform, the last few years have seen some major progress for LGBTQ civil rights in Puerto Rico. Puerto Rico decriminalized homophobia and sexuality in 2005. There are now hate crime laws that include protections for both sexual orientation and gender identity.

Around 2005, the University of Puerto Rico became the first governmental institution to prohibit discrimination based on sexual orientation; it also extended health benefits to partners of gay and lesbian employees. On my last day in Puerto Rico, I joined a demonstration organized by the Human Rights Foundation. The people protested a Senate proposal to amend the constitution to ban marriage between same-sex partners. Francisco Dueñas, Lambda Legal’s Puerto Rico Program Coordinator, was by my side. He had been inspired by all these very enthusiastic, hardworking activists who dedicate their lives to fight every day for LGBTQ civil rights.

Lambda Legal’s Youth in Out-of-Home Care Project will continue our work with Puerto Rico’s child welfare system, so that one day young Alya and others like her can lead stable, happy lives in their local communities and even, perhaps, feel empowered to join Puerto Rico’s thriving population of LGBTQ activists.

Their voices — strong and supported by a secure and loving foundation — will further aid the growing LGBTQ civil rights movement in Puerto Rico. L

Flor BERMUDEZ Youth in Out-of-Home Care Attorney

The dialogue with ADFA has brought Lambda Legal’s Youth in Out-of-Home Care Project closer to its core mission: to increase the will and capacity of youth-serving organizations that prepare and support LGBTQ youth as they transition from adolescence to independence. We also work with social workers, case managers, administrators and other child welfare advocates to ensure safe and affirming child welfare services for LGBTQ youth in out-of-home care.

Hopefuly, one day young Alya and others like her can lead stable, happy lives in their local communities and even join Puerto Rico’s thriving population of LGBTQ activists.
**Q&A**

**KEVIN M. CATHCART AND COL. GRETHE CAmMERMeyer**

**Time to Ask and Tell**

**KEVIN M. CATHCART AND COL. GRETHE CAMMERMeyer**

Changing a law is time consuming. I remember when I first joined the military in the early 1960s. The idea of women in the military was very offensive to many young men. When I first went down to Fort Sam, I saw young enlisted people cross the street so that they wouldn’t have to salute me as I walked by. The other big social change in the military, of course, had to do with integration. When I first joined, I saw a real effort on the part of the military to try to overcome bigotry.

I think, again, it is partly generational. People in higher ranks with more power are usually older and have had less contact and less comfort being around openly gay people. At the time of Lawrence v. Texas, it wasn’t that there had never been lesbian or gay clerks at the Supreme Court. It’s that they were never out. So, Supreme Court justices could believe that they had never known any gay people. But, society has changed so much. Now you have soldiers and sailors who went to high school with openly gay people. That doesn’t mean that there aren’t risks that come with being out, both physical risks and those to one’s career. But it does mean that the feeling on the ground is extremely different.

**On my website I’ve had about 50 people tell their stories. There are certainly people who have been threatened. We already know of individuals who have been killed and assaulted. So there is an undertone of discontent. But we had that when there was integration and we had it with women. The military is a unique system in that, if the leadership says that there are certain types of behaviors that are inappropriate, and then take action when there is inappropriate behavior, the exterior conduct becomes one of, “We do not tolerate discrimination.” That does not take care of the subliminal bias and the frank homophobia that people both express and feel. That takes conscious effort and time to work through.

But the same thing is happening in congress. It’s not just within the military. There’s this political battle, much of which involves people who have never served, but who recognize the ways that the world has changed. We now have significantly more states and municipalities with employment discrimination protections, which makes the military seem even more like a stand-alone than it did back then. We’ve also seen the Supreme Court of the United States in the Lawrence case talk about privacy, autonomy and decision making around sexuality for adults. And while that’s not directly on target for the military, it’s very hard to look at the Lawrence decision and balance it with the discriminatory military policy. So the contradictions are becoming sharper and sharper.

I think the broader issue has to do with the rights of the individuals in the military to serve honestly. And that the government of the United States has a law on the books that specifically names and discriminates against a group of people. That should not be tolerated.

Absolutely. What we’re seeing in terms of social change is certainly due to the fact that Lambda Legal has taken on these precedent-setting cases that show through the legal system that these types of laws are discriminatory and take away equal protections. You have to push the boundaries. If it weren’t for ACT UP in the days of the AIDS epidemic, would people have ever come to the table to discuss the treatment of people with AIDS? You have to have some people that pushes.

Well, Representative Tammy Baldwin is planning on introducing a bill for domestic partnership benefits for federal employees. If that were worked out in Congress first, then that could really set the stage for some of these discussions.

And we’re going to trial in February in federal court in Washington in the Taylor v. Rice case where we’re challenging the State Department, which still has a policy of not hiring anyone for the Foreign Service who’s HIV-positive. So, yes, there are still these major pieces of federally mandated discrimination that need to be eliminated. Yet even with those low points still in place, public opinion has changed. The polls of service members are not lying. People see it differently today. The work that we have all done over the last 14 years is having an impact on the military. You can see this in the work we’ve done in schools, making it possible for young gay people to be out and to have gay student groups. It’s changed the tenor of schools. And that has an impact on the people who are going into the military today.

Absolutely. What we’re seeing in terms of social change is certainly due to the fact that Lambda Legal has taken on these precedent-setting cases that show through the legal system that these types of laws are discriminatory and take away equal protections. You have to push the boundaries. If it weren’t for ACT UP in the days of the AIDS epidemic, would people have ever come to the table to discuss the treatment of people with AIDS? You have to have some people that pushes.

I think we need to always be thinking three or four steps out. But we have to keep thinking about the first step, too. We haven’t changed the policy yet. There is great momentum, but momentum by itself is not the same thing as achievement. I think the most important thing that people can do right now is continue to hold politicians’ feet to the fire on how important this issue is to all of us in the LGBT community and how important it should be to everyone in America who not only wants a country governed by a constitution and free of discrimination but a strong and fair military.

And then you continue to have the day-to-day experience of individuals having to come out, being at risk, wondering if they’re going to be thrown out from their families, their schools, the military. Society is coming along in slow increments behind us and we, as individuals, have to continue to come out every single day to somebody. There is the dichotomy of changing one heart at a time. But that really is how progress is made.

I agree with you on the need to keep coming out. I think the pressure is on those of us who have the option, because we need to carry it for the people who can’t. One of the challenges of the movement these days is that we have made so much progress — not that we don’t have a long way to go — but where life is now quite comfortable for many people. Yet there are still other people who are left behind, who aren’t in the same position to speak for themselves.

Invariably, the stories from service members have been along the lines of “I’m a patriot. And yet, I could not tolerate not being a patriot, always wondering whether somebody was going to target me.” There is something really marvelous about what it feels like to put on a uniform and to represent America — the America that we used to think of. And so, to feel that you have to give it up for your own sanity is really a tragedy for these individuals and a tremendous loss for America.
Everyone is vulnerable to life’s risks, but LGBT people and people living with HIV face extra dangers because of the discrimination they confront.

People living with HIV should likewise be able to make important decisions about their lives without fear of discrimination or legal battles. Unfortunately, discrimination can still create enormous barriers to adequate care. When Cecil Little, a Louisiana man living with HIV, suffered a stroke and two aneurisms in 2003, he fell into a coma and had to go on life support. His family rallied around his hospital bed. When he finally came out of his coma, beating the odds and his doctors’ assertions that he wouldn’t live, his sister and mother began making plans for his long-term care. Six nursing homes, all of which initially accepted him into their care, eventually retracted their offers when learning of Cecil’s HIV status. Cecil’s sister contacted Lambda Legal and filed a discrimination complaint. Finally, one of the homes agreed to admit Cecil into its care.

Cecil’s struggle shows how prejudices and stigma still surround HIV within nursing homes, hospitals and other health care facilities, making it all the more important to prepare documents that give your wishes legal force. This does not apply only to people living with HIV. Everyone should have a health care proxy (also known as a medical power of attorney), living will and other relevant documents. Proper legal documents, such as a medical power of attorney and documents appointing a guardian, are necessary to protect themselves.

Learning from experience

In recent history, Lambda Legal has stepped in to help in many situations where LGBT and HIV-affected individuals and couples were not protected with legal documents and were treated unfairly under the law. In a sad and well-known case in the 1980s, Karen Thompson had to fight in court for eight years to gain legal guardianship of her lesbian partner, Sharon Kowalski, who was left paralyzed following an automobile accident.

Kowalski’s father sought and obtained guardianship of his daughter after the accident, denying the importance of the relationship the women shared. The couple did not have the necessary documents, and the laws did not immediately protect them. In 1991, a Minnesota Court of Appeals finally awarded guardianship to Sharon. Thompson’s drawn-out battle to provide care for her life partner was the first of its kind in the courts — and drove home the importance of same-sex couples drawing up proper legal documents, such as a medical power of attorney, documents appointing a guardian, for protection in times of crisis.

Everyone should have a health care proxy, living will and other documents stored in an easy-to-find location. When you create your blueprint, decide who and what is most important to you, assess the laws and opportunities available in the state in which you live and begin making detailed plans. Take your blueprints with you, and always have a health care proxy, living will and other documents ready.

Take the POWER — Plan Your LIFE.
As Lambda Legal celebrates its 35th anniversary, we take a moment to look back and reflect on our humble yet ambitious beginnings. We are pleased to present a special edition of In My Own Words, shared with us by one of our founders, Bill Thom.

Lambda Legal began with its name on a Band-Aid on my apartment mailbox and a $25 bank account. When I founded the organization in 1973, the idea of legal defense and education funds was in the air. The National Organization for Women had created one, and there was the Native American Legal Defense and Education fund and the Puerto Rican Legal Defense and Education Fund. It was part of the ethos at the time.

I had been offering legal assistance to an organization called the Gay Activists Alliance. Their political work involved courting politicians to support gay and lesbian causes. They also held more radical actions, like sit-ins. While I was there it occurred to me that something like Lambda Legal would be a good idea for lesbians and gay men, so I began doing the paperwork. I followed the Puerto Rican Legal Defense Fund’s workword for word, except I changed the beneficiaries from Puerto Ricans to lesbians and gay men. A New York court turned down the application for incorporation on the grounds that I had not demonstrated the organization was “benevolent or charitable.” So I became involved in a court battle that would reach the highest court in the state of New York before we ever got permission to incorporate.

From the beginning, we had two roles to play: the first litigation, the second education. We were ambitious and wanted to have a national focus. Initially, our board was composed of six men. My partner became the general counsel and, as I recall, I was president and chief cook and bottle washer for the first five years. I think in our best year we probably raised $50,000. That was worth a good deal more then than it is now, but it still wasn’t a great deal of money. I took a couple fundraising courses, but we were inexperienced. It felt at times like we were just muddling through. We were fairly cautious about the cases we took. Even though we were doing the legal work for nothing, lawsuits have a lot of other expenses. For instance, in the military challenge that my partner handled against the Department of Defense, the case was tried in Washington, D.C. Anytime there was activity in that case, he had to make that trip. If it’s a busy case, at this one was, the costs can add up.

The defense department settled that case, and we later took cases involving access in federal prisons to gay publications, a couple custody cases, and an immigration case. We had quite a cross-section from the beginning, and since we had no publicity budget it was surprising how quickly we became known. We met once a month as a board and we would discuss the facts of a case, the resources it would take and the opportunity for the case to be precedent-setting. The key to being a successful legal advocacy organization is to get the best factual case you can. So it was very important in those early days for us to determine whether we had as close to an optimum set of facts as we could to make the best case.

Those of us who were there in the beginning were involved because we believed in the cause — equality for LGBT communities.”

“"Those of us who were there in the beginning were involved because we believed in the cause — equality for LGBT communities.”

The Board of Education reversed course after members learned over the weekend that Lambda Legal...had issued a statement that called the district’s pursuit [to challenge the] state human rights law “unconscionable.” Lambda Legal believes that neither federal or state education law protects LGBT students against antigay discrimination and harassment.”


November 11, 2007
When people think about Lambda Legal’s docket of parent-child cases, they frequently think about litigation involving lesbian mothers. But Lambda Legal also maintains a healthy docket of cases involving both gay and HIV-positive fathers. We are proud of the ways we have overcome sexual orientation and HIV bias to vindicate the rights of men who have become fathers.

Some of our cases have involved men who had children in previous marriages. In Maryland and Virginia, we battled court orders that threatened to deny divorced fathers visitation with their children so long as the father was living with a same-sex partner. In another case in Maryland, we are representing a father living with HIV whose deceased wife’s mother has sought custody of his three children, outrageously arguing that his HIV status makes him unfit as a parent.

“We are proud of the ways we have overcome sexual orientation and HIV bias to vindicate the rights of men who have become fathers.”

Other cases have involved litigation between two fathers. We recently helped resolve a parenting dispute between a gay couple who had separated. Kevin McManamon’s former partner had moved from Michigan to California with the couple’s two children, whom only he had adopted. With the assistance of Jeffrey Erdman of the Los Angeles firm of Bennett & Erdman, we filed a lawsuit seeking joint custody and visitation on behalf of Kevin. After we won temporary visitation for Kevin, the parties agreed to share joint custody and worked out a visitation schedule.

“We have represented men who have jointly adopted their children. In the Finsten v. Edmonson case, we represented a number of couples, including Ed Swaya and Gregory Hampel from Washington, D.C. With our assistance, the couple was able to adopt two children and successfully challenged state laws that prevented same-sex couples from adopting together.”

We are currently handling a similar case in Louisiana on behalf of a gay couple living in California. We have even represented men facing discrimination as they seek to become fathers. We are working on a case in Florida on behalf of a man whose doctor refused him medical assistance with a surrogacy procedure. The doctor wrongly thought that because our client is gay, FDA regulations designed to prevent transmission of HIV automatically applied, preventing his sperm from being used to father a child.

Given that about 20 percent of gay male couples have children — and the number is on the rise — and that a recent survey showed nearly 30 percent of men living with HIV want to have children, we are likely to see increasing numbers of legal disputes involving fathers who are gay or living with HIV. As those cases arise, Lambda Legal will be there to make sure that the law develops in ways that respect the rights of men in our communities who have taken on the awesome responsibility of raising our nation’s next generation. We admire these men — including several Lambda Legal staff members — who frequently have to fight against stereotypes about gay men and about families. As their lives and their families become more visible, more Americans learn that regardless of gender, sexual orientation, age or social status, good parents are loving parents. Period.

Jon W. Davidson
LEGAL DIRECTOR

Lambda Legal’s 2007 event season was a smash! Check out photos from our fall and winter months. To find a Lambda Legal event near you, visit www.lambdalegal.org/events.
Save the date:

Thursday, May 15th for Clock In, the 2nd Annual Day of Action for Workplace Equality!

Last year, over 200 organizations and individuals in every state took action in support of workplace fairness for LGBT people and people living with HIV. This year, we can activate an even broader base of support with your help. Sign up at www.lambdalegal.org.

See our entire calendar of events on page 7.