

LAMBDA LEGAL

# Impact



The Fight for  
Transgender Health Care  
**RELIGIOUS EXEMPTIONS:  
Myths vs. Facts**

What to Do If  
Your Child is Bullied

*NJ FAMILIES WANT*  
**MARRIAGE  
EQUALITY**

New Jersey plaintiffs Erica and  
Tevonda Bradshaw with son Teverico



**Lambda Legal**  
making the case for equality

# FAMILY VALUES



KEVIN M. CATHCART

**LAMBDA LEGAL IS FIGHTING FOR OUR FAMILIES, AND PREVAILING OVER THOSE WHO WOULD BREAK US APART.**

**IN SEVERAL WEEKS, THE HOLIDAYS WILL BE UPON US**, and with it, the prospect of reuniting with loved ones and family. At its best, the word “family” conjures feelings of acceptance and belonging. But for many in our community, “family” continues to be a loaded word.

For too long it’s been a fixed concept, consigning LGBT people to the status of outsiders, looking in. Despite this, many of us forged ahead, defining family on our own terms, loving and committing to a partner openly, raising children, and creating that sense of belonging from which LGBT people were so long excluded.

On so many fronts, Lambda Legal is fighting for our families, and prevailing over those who would break us apart.

In July, Lambda Legal filed a friend-of-the-court brief on behalf of a bi-national lesbian couple, in which we urged an end to the deportation of immigrants married to U.S. citizens. In August, the Department of Homeland Security announced that it will implement new procedures for reviewing deportation cases. This is expected to result in the administrative closure of deportation cases for immigrants with U.S. citizen spouses and children, a victory for thousands of binational couples and families.

That same month, we filed a friend-of-the-court brief in Illinois, where four dioceses of Catholic Charities, despite receiving state funding, refused to allow civil union couples to become foster parents. Two days later, the court ruled against Catholic Charities.

As we go to press, we are waiting to learn whether the U.S. Supreme Court has decided to hear our suit *Adar v. Smith*. In this case, which Lambda Legal has led since 2007, the Louisiana

state registrar has refused to provide an accurate birth certificate for a Louisiana-born boy, adopted in New York by a gay couple, listing both fathers as his parents. Despite two federal court rulings in favor of our clients, a closely divided appeals court overturned the earlier rulings and the state has continued its inhumane rejection of Oren Adar, Mickey Smith and their son as a loving family.

This season, too many LGBT youth will not be celebrating the holidays with their families. The high proportion of LGBT youth living in out-of-home settings like homeless shelters and group homes is a stark reminder of the extent to which we’re still rejected by our families. We were gratified, in August, to reach the resolution of a complaint we had filed on behalf of a teenaged transgender girl, “L.P.,” who had been physically attacked and verbally abused at a youth facility in Philadelphia. As a result of work by our Youth in Out-of-Home Care legal team, the Department of Human Services agreed to change its policies and conduct training for staff as well as provide facilities for transgender residents. It also agreed to pay L.P. an undisclosed sum.

We hope to see a day when we no longer have to litigate cases like these. Until then, we are digging our heels in, and fighting for families across the U.S., to whom we also wish the happiest of gatherings, this season and for many to come.

A handwritten signature in blue ink, appearing to read "Kevin M. Cathcart". The signature is fluid and cursive.

Kevin M. Cathcart, Executive Director  
Frances J. Goldstein, Deputy Director

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**ON THE COVER**  
*Erica, Teverico and Tevonda Bradshaw are plaintiffs in our suit for marriage equality in New Jersey* **PAGE 8**

**FEATURES**

**08 SEEKING EQUALITY: FAMILY PORTRAITS**

Seven Garden State families demand equal respect and protection.

**12 NECESSARY CARE**

Two Lambda Legal suits underscore the urgency of transgender health care access.

**13 A DELICATE BALANCE**

Why religious exemptions to marriage laws are unnecessary.

**DEPARTMENTS**

**04 ON THE DOCKET, IN THE FIELD**

Highlights of Lambda Legal's recent work.

**06 ASK LAMBDA LEGAL**

What to do if your child is being bullied.

**14 DONOR SPOTLIGHT**

Lambda Legal honors Bon Foster.

**16 LAMBDA LEGAL AND FRIENDS**

Snapshots from Lambda Legal events across the U.S.

**18 MEET OUR LAWYERS**

Director of Constitutional Litigation and Senior Counsel Susan Sommer

**COLUMNS**

**02 LETTER FROM EXECUTIVE DIRECTOR KEVIN M. CATHCART**

Lambda Legal's wins on behalf of families.

**07 IN MY OWN WORDS**

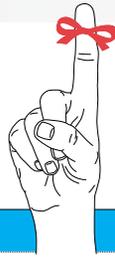
Iván Espinoza-Madrigrál on why he practices social justice law.

**19 LEGAL LANDSCAPE**

Legal Director Jon Davidson sounds the alarm on transphobic violence.

Lambda Legal is a national organization committed to achieving full recognition of the civil rights of lesbians, gay men, bisexuals, transgender people and those with HIV through impact litigation, education and public policy work.

# Save the Date



## OCTOBER

- 1 Lambda Legal in Miami Apogee, Miami Beach
- 1-2 Fort Worth Pride Fort Worth, Texas
- 2 Major Donor Reception with Board of Directors Fort Lauderdale, Fla.
- 3 Womens' Life Planning Seminar New York City
- 4 Law Student & Law Firm Reception Credit-Suisse, New York City
- 6 Law Student & Law Firm Reception Topaz Hotel, Washington, D.C.
- 6-9 Baltimore Black Pride
- 7 "Bar Exam" Membership Party GYM Bar, New York City
- 8-9 Atlanta Pride
- 9 OUTfest Philadelphia
- 11 National Coming Out Day
- 12 Monthly Mix & Mingle Dish Restaurant & Lounge, Dallas
- 23 Connecticut Cares Mitchells of Westport, Westport, Conn.
- 27 West Coast Liberty Awards Petersen Automotive Museum, Los Angeles
- 29 Masquerade Ball The Vendome, Dallas

## NOVEMBER

- 5-6 Palm Springs Pride Palm Springs, Calif.
- 4 "Bar Exam" Membership Party GYM Bar, New York City
- 9 Monthly Mix & Mingle Dish Restaurant & Lounge, Dallas
- 12 Black Tie Dinner Sheraton Hotel Downtown, Dallas
- 20 International Transgender Day of Remembrance

## DECEMBER

- 1 World AIDS Day
- 2 "Bar Exam" Membership Party GYM Bar, New York City
- 14 Monthly Mix & Mingle Dish Restaurant & Lounge, Dallas

FOR MORE INFORMATION ON LAMBDA LEGAL EVENTS, VISIT [www.lambdalegal.org/events](http://www.lambdalegal.org/events)



Client Jacqueline Gill with Lambda Legal's Kenneth Upton, Jr.

## TEXAS

# HIRE LEARNING

Finding a job these days is hard enough. Imagine not being able even to interview for a position—just because of someone's assumption about your sexual orientation.

That's what happened to Lambda Legal client Jacqueline Gill, a Ph.D. student and former high school English teacher who most recently worked as a temporary professor at Tarrant County College (TCC) in Hurst, Texas. When she was hired, she was told it was customary to employ full-time instructors on a temporary basis first, and that teachers who complete the one-year contract successfully are uniformly hired when the positions are made permanent.

Gill received high praise from students, parents, colleagues and superiors. But a former student whom Gill disciplined for academic dishonesty retaliated by falsely claiming that Gill flirted with female students in class. No formal charge or investigation took place. Gill was then subjected to a lengthy diatribe from English Department Chair Eric Devlin about "homosexuals" and about how "Texas and Tarrant County College do not like homosexuals."

All the contract teachers who started the summer of 2009 at TCC and applied for the teaching positions when they were made permanent were invited to interview—all of them, that is, except Gill. In September 2011, Lambda Legal sued Devlin and Antonio Howell, Division Dean of Humanities, Tarrant County College NE Campus, on Gill's behalf. Our suit claims they violated the Equal Protection Clause of the U.S. Constitution by refusing to permit Gill to interview for a permanent teaching position and by interfering with the hiring process regarding Gill's application based on their perception that she is a lesbian.

"I'm a good teacher and I work hard. But none of that mattered once Eric Devlin suspected that I'm a lesbian," says Gill.

"Jacqueline Gill's qualifications match or exceed those of the other temporary instructors hired by TCC that summer," says Lambda Legal Supervising Senior Staff Attorney Kenneth Upton, Jr., who is representing Gill along with pro bono co-counsel Benjamin D. Williams from the firm of Gibson, Dunn & Crutcher LLP. "Employees who work for government employers have a right to be judged based on their job performance rather than any personal characteristic."



TO READ OUR BRIEF, VISIT [www.lambdalegal.org/impact-2011-gill-brief](http://www.lambdalegal.org/impact-2011-gill-brief)



Lambda Legal plaintiff Liza Friedlander

NEW YORK

## BIAS BRUNCH

What was supposed to be a pleasant weekend gathering turned into a terrifying ordeal. Liza Friedlander and two friends went into a Sizzler restaurant in Forest Hills, Queens, for the breakfast buffet. As she made her way back to their table, the manager aggressively approached her and began screaming at her in front of other patrons, accusing her of not paying for her meal. He pushed Friedlander and kicked her in the legs while calling her a “fucking dyke” and yelling for her to get out.

Other diners started shouting homophobic and hate-filled epithets at Friedlander. One man called her a “he-she freak.” Another threatened to drag her outside and sexually assault her to show her “what a dick is.” Finally, police arrived, and a battered Friedlander was rushed to a hospital in an ambulance.

In July, Lambda Legal filed a lawsuit on Friedlander’s behalf against Warogé Met, Ltd., which owns and operates the Sizzler. The suit argues that the firm violated City and State human rights laws because Friedlander was attacked and discriminated against based on her actual or perceived sexual orientation, gender identity or expression, and sex, in a place of public accommodation. This case is the first test of the 2010 bias crime law, which seeks to hold individuals accountable for anti-LGBT violence and intimidation.

“Just because I don’t appear to be the Sizzler manager’s idea of what a woman should look like doesn’t mean that gives him permission to attack me and allow other customers to join in,” says Friedlander. “My friends and I went in for Saturday brunch just like everyone else in the restaurant that day, but it turned into a nightmare. No one should have to go through that.”



TO LEARN MORE ABOUT THE CASE, VISIT

[www.lambdalegal.org/friedlander](http://www.lambdalegal.org/friedlander)

## WHAT YOU’RE SAYING»

A sampling of comments from our Facebook fans

**RE: SIZZLER** (see “Bias Brunch,” this page)

**Dorian Johnson:** Thank you, Lambda, for being there when people need help! What a shame that we live in a world where this still happens. I am sick to my stomach hearing this!

**RE: ESQUIVEL** (see page 12)

**Heather Stambaugh:** How sad that saving the life of a human being has to come to a lawsuit. I know you’ll fight hard for Alec and others in his situation. Thank you!

**RE: GAY-STRAIGHT ALLIANCES IN SCHOOLS**

**Deshawn Kanyesus Kutakenté-Jones:** Once again I see people are teaching their children to hate and fear what is “different” than them. Sadly, in this country, homosexuals are the group that is OK to discriminate against.

OHIO

## CUSTODY BATTLE ENDS IN DISAPPOINTMENT

In a frustrating conclusion to a long and arduous legal fight, the Ohio Supreme Court denied a lesbian mother custody of her child. The court ruled 4-3 in favor of the child’s biological mother, closing the case after more than three years.

Michelle Hobbs and Kelly Mullen were in a committed relationship for five years before deciding to have a child together. When their relationship ended Mullen, the biological mother, refused Hobbs any contact with her daughter. A magistrate judge granted Hobbs joint custody, a trial court and an intermediate appellate court reversed, and the Ohio Supreme Court affirmed the reversal. The decision was particularly frustrating because the Ohio Supreme Court affirmed Ohio law protecting the relationship between children and non-biological parents, but ruled against Hobbs based on the particular facts of her case.

“This decision is a tragedy for the child, above all else,” said Christopher Clark, Senior Staff Attorney for Lambda Legal’s Midwest Regional Office in Chicago. “All Ohio families should be alarmed by this, as a child with a non-biological parent could be taken from their mom or dad in the event of a separation.”



**UBS WEALTH MANAGEMENT AMERICAS IS A PROUD NATIONAL CORPORATE SPONSOR OF LAMBDA LEGAL.**

UBS WMA is pleased to strengthen our ties within the LGBT community by forging this strong alliance with Lambda Legal. As part of our ongoing commitment, we also announce the Domestic Partner Seminar Series presented by UBS Financial Advisors and partnering legal experts. This important series provides financial planning advice and legal education for the specific and unique needs of the LGBT community, from domestic partnerships to marriage to adoptions. We look forward to continuing to be a relevant partner and to making a positive impact in the LGBT community. [www.ubs.com/fs](http://www.ubs.com/fs)



**AMERICAN AIRLINES IS THE OFFICIAL AIRLINE OF LAMBDA LEGAL.**

As a Lambda Legal member, you can help and support Lambda Legal every time you travel on American Airlines, at no cost to you! It is very simple. When booking on [www.AA.com/rainbow](http://www.AA.com/rainbow), simply enter **541544** at the bottom of the Enter Passenger Details section, in the field for Business ExtrAA Account Number.

# Ask Lambda Legal

Our attorneys field your questions on the issues that matter to you most.

**Q** My daughter is in high school and recently came out. She's been experiencing harassment from her classmates, and I'm worried this will affect her health and schoolwork. What can I do to help her?

**A** While your daughter deserves to feel safe and respected at school, it's a distressing fact that 80 percent of lesbian, gay, bisexual or transgender (LGBT) students report having been harassed within the past year. Harassment and violence have terrible consequences: academic performance is often compromised, and LGBT students who are subjected to discrimination are at higher risk for depression and suicide. Here are some steps you can take to help your child:

**Support Your Child:** It's critical for LGBT children to know that their families love and support them. Despite misperceptions, LGBT people do not choose their sexual orientation and gender identity, and those characteristics have nothing to do with a person's worth. Parents can also get support from organizations like PFLAG (202-467-8180; [pflag.org](http://pflag.org)).

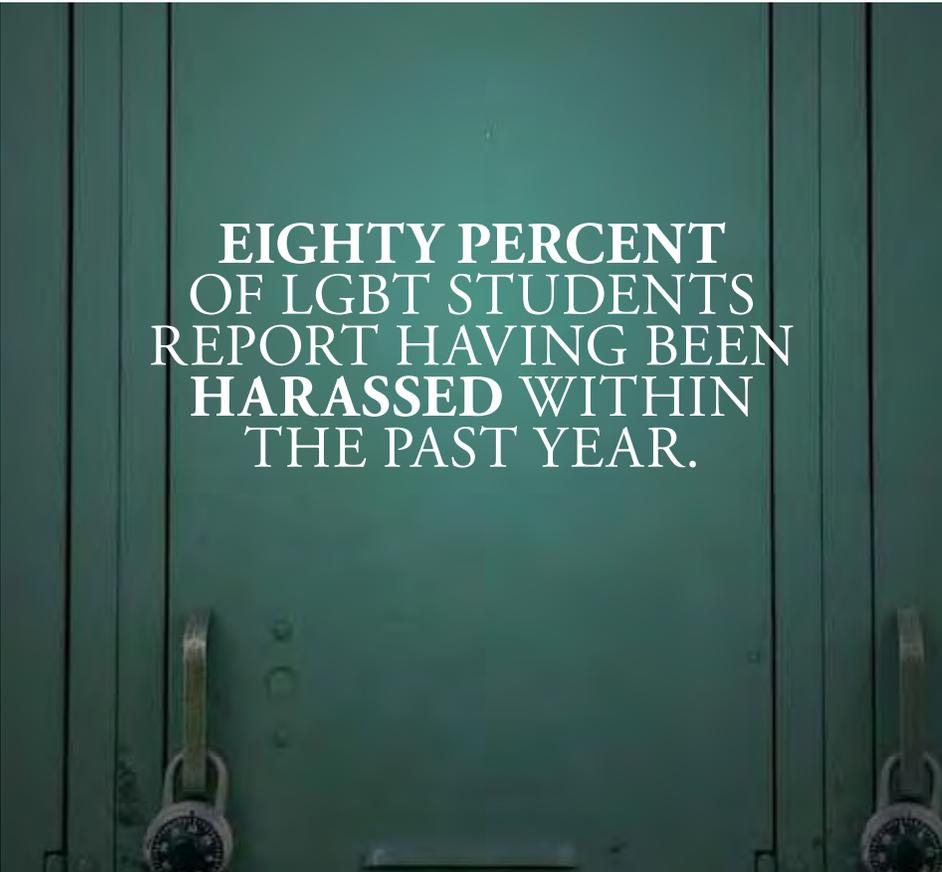
**Know Your Child's Rights:** The U.S. Constitution guarantees all people—including your LGBT child—equal protection under the law, and state constitutions contain similar protections. In some states, schools are required to have nondiscrimination policies that include sexual orientation and gender identity/expression. But even if your state does not, local city ordinances and school district policies may do so. Lambda

Legal has successfully gotten courts to agree that school-based discrimination against LGBT youth is legally unacceptable. If you have any questions about your child's rights, contact Lambda Legal at 866-542-8336 or visit [www.lambdalegal.org/help](http://www.lambdalegal.org/help).

**Take Action:** There are a number of actions you can take to make sure your child is safe.

- Create a safety plan with your child, which may include finding a safer way to get to and from school, arranging for someone to accompany your child and/or providing your child with access to a cell phone.
- Keep a written record about problems. Include dates, details about what happened, the people who were involved, where and when the incident took place, and whether there were any witnesses.
- Report all harassment and abuse to the school principal as promptly as possible. Counselors and teachers you can trust may be helpful, but they generally are not legally required to take action to the same extent as the principal.
- Put your reports and complaints in writing, and keep copies of all documents you send and receive.
- If you find that filing a complaint does not improve your child's situation, call Lambda Legal's Help Desk at 866-542-8336.
- If your child experiences serious threats or physical assault, contact your local police.
- Beyond the support you provide your child, consider meeting with school faculty, staff and parents to discuss issues like safety, nondiscrimination and inclusive curricula.

—Iván Espinoza-Madriral, Staff Attorney



EIGHTY PERCENT  
OF LGBT STUDENTS  
REPORT HAVING BEEN  
HARASSED WITHIN  
THE PAST YEAR.



DISCOVER HOW YOU CAN CREATE  
A SAFE, NURTURING SCHOOL  
ENVIRONMENT FOR LGBT STUDENTS:  
[www.lambdalegal.org/osr](http://www.lambdalegal.org/osr)

# Justice at Work

By Iván Espinoza-Madrugal, Staff Attorney

*Who built the seven gates of Thebes?  
The books are filled with names of kings.  
Was it the kings who hauled the craggy blocks of stone?  
—from the poem “A Worker Reads History” by Berthold Brecht*

As a civil rights lawyer, every case I work on reminds me of this poem by the German poet and playwright Berthold Brecht (1898–1956). The poem, which I first came across in one of my literature classes in college, asks us to think about who really bore the cost of building the wonders of the world, like the great pyramids of Egypt. Brecht challenges us to respect the inherent dignity and worth of every person, even the humblest and poorest. In his view, the benefits of our society should be made accessible to everyone. This basic concept—that every person is endowed with inalienable basic human rights—is the idea that drew me into law and civil rights work, along with my personal experience as a Latino immigrant, and the obstacles and struggles that my family faced when we arrived in this country.

Law is a powerful tool and can be leveraged to change the lives of a large number of people and to bring about meaningful social change. Many of the rights we enjoy today come from court cases, including the desegregation of schools in *Brown v. Board of Education* and the right to sexual privacy secured through *Lawrence v. Texas*. At times, it seems that elements in our society are testing how far—and for how long—they can keep human dignity and justice at bay. Just a year ago, Arizona enacted its anti-immigrant law, SB 1070, to keep people under a constant state of police and immigration surveillance, and to bar undocumented immigrants from the state. To defeat this civil rights threat, I worked with the Mexican American Legal Defense and Educational Fund (MALDEF) to challenge Arizona’s immigration law. SB 1070—like Proposition 8 in California, which bans marriage between same-sex couples—deprives people of equal access to opportunities and benefits. These laws, born out of ignorance, work together to stigmatize and marginalize our community. Taken as a whole, anti-immigrant and anti-LGBT laws, in-tandem, render all of us second-class citizens: They aim to disenfranchise and silence us.

Recognizing that the struggle for immigrants’ rights and LGBT rights faces similar attacks and enemies, at Lambda Legal, I am developing an initiative on behalf of LGBT people of color, LGBT immigrants, and low-income LGBT communities. This work will address the legal needs of LGBT and HIV-affected people who identify across intersecting lines of race, ethnicity and low-income status through litigation, policy advocacy and public education.

For example, Lambda Legal is opposing the application of the so-called Defense of Marriage Act (DOMA) in the immigration context. As part of this work, we recently submitted filed a friend-of-the-court brief in a high-profile immigration case, *Matter of Alcota*, arguing that immigration officials should



Iván Espinoza-Madrugal is dedicated to civil rights.

put deportation proceedings on hold until DOMA is repealed or declared unconstitutional. This work is designed to chip away at DOMA.

We are also urging the U.S. Department of Homeland Security (DHS) to respect the civil rights of LGBT individuals and people with HIV in immigration detention facilities. As a result of my advocacy work, I was invited to present on LGBT immigration detention issues at a congressional briefing. I joined Lambda Legal because I believe that we—LGBT people, immigrants, people of color and low-income persons—can work together to build a united front and concerted effort to protect and promote our civil rights. Together, we can forge a new, modern definition of American citizenship and society which recognizes the inherent dignity and worth of every person. Of course, we have a lot of work ahead of us. Laws like Proposition 8 and SB 1070 are still being considered, debated and enacted. I see these challenges as an open door for us to use our passion, our vision and the law to help bring forth social change and access to justice for all. **L**

# Seeking Equality: Family Portraits

When New Jersey passed a civil union law in 2006, lesbian and gay couples were told their unions would be equal to marriage. They aren't. Meet the brave families fighting for marriage equality in the Garden State.

Lambda Legal is once again fighting for justice in the New Jersey courts. In 2002, Lambda Legal represented seven Garden State couples in the fight for marriage equality. Four years later the case reached the state's high court, which ruled unanimously that same-sex couples must be provided all the benefits and responsibilities of marriage, and gave the state legislature 180 days to provide equality. The legislature hastily passed a civil union law in December 2006 and began issuing civil union licenses to lesbian and gay couples in February 2007.

However, civil unions are a broken promise. In December 2008 the Civil Union Review Commission, created by the legislature itself, issued a report showing the many ways civil unions failed to bring equality to gay couples. Legislative efforts followed, and Lambda Legal plaintiffs were among those who testified on behalf of a subsequent marriage equality bill, which New Jersey legislators failed to pass. In 2010, Lambda Legal filed to reactivate the 2002 case, but the New Jersey Supreme Court wanted development of more of a record. This summer we launched our current suit, led by Deputy Legal Director Hayley Gorenberg, on behalf of seven same-sex couples and their children as well as Garden State Equality. Relegating same-sex couples to an inferior civil union status violates both the New Jersey and the federal Constitutions. It also, as our plaintiffs share here, harms families and children.



**"THAT WAS THE FIRST TIME IT HIT ME SMACK-DAB IN THE CHEST, 'WHOA, THIS IS NOT THE SAME AS MARRIAGE.'"**

◀ **ERICA BRADSHAW, ACTOR, AND TEVONDA BRADSHAW, DISABILITY ANALYST, BOTH 36, NORTH PLAINFIELD, NJ**

In April 2011, Tevonda Bradshaw went into labor. The love of her life, Erica Bradshaw, rushed with her to the hospital for the birth of the couple's first child. As Tevonda's civil union partner, Erica was entitled to be at Tevonda's side and be recognized as their son's parent. However, hospital officials told Erica she had to go home to retrieve Tevonda's wallet and identification (forgotten in the excitement of labor), rather than recognizing Erica as Tevonda's civil union partner and mother of their baby. "That was the first time it hit me smack-dab in the chest," Erica said. "Whoa, [a civil union] is not the same as marriage." Fearing that their relationship would not be recognized, Erica undertook a second-parent adoption of their son, Teverico, during which she was investigated and fingerprinted "like a criminal," she recalled. To shore up their civil union status, Tevonda and Erica have spent a significant sum

on additional legal documentation in the event of an accident or other unforeseen circumstances. Still, their fears have not gone away. "We have our civil union license, we have all the right paperwork, we've done everything right," Erica says. "And still, who do you send home when their spouse is in labor?"

► **JOHN GRANT, FORMER CONTROLLER AT A NON-PROFIT, AND DANNY WEISS, IMMIGRATION LAWYER, BOTH 46, ASBURY PARK, NJ**

In October 2010, John Grant was crossing a street in New York City when he was hit by a car, shattering his skull. John's partner of four years, Danny Weiss, rushed to the hospital to be with him. There, doctors told Danny they weren't sure whether John would live, and they and hospital officials did not recognize John and Danny's civil union, at one point demanding that a blood relative come instead of Danny. "No one was interested in our civil union certificate," Danny said. "It was a worthless piece of paper, because no one understood it." After John survived the accident, the couple decided to wed in Connecticut, even though New Jersey considers their marriage a civil union. The additional shock and distress of that fateful night might never have happened if Danny and John had been simply allowed to say they were married.



**"NO ONE WAS INTERESTED IN OUR CIVIL UNION CERTIFICATE. NO ONE UNDERSTOOD IT."**

► **MARCYE NICHOLSON-MCFADDEN, 47, AND KAREN NICHOLSON-MCFADDEN, 45, PARTNERS IN THEIR OWN EXECUTIVE RECRUITMENT FIRM, ABERDEEN, NJ**

Marcy and Karen Nicholson-McFadden are veterans in the fight for marriage equality in New Jersey, having participated in Lambda Legal's 2002 lawsuit in the state. Together for 21 years, they started a business together, which they run out of their home, and are raising a son, Kasey, and a daughter, Maya. Kasey, who testified before a state senate committee hearing on marriage equality when he was 10, sums up his moms' inability to marry this way: "It feels like my family is seen as less than my friends' families. It would be a lot simpler for everyone—and easier for my friends to understand—if my parents had the benefit of marriage."

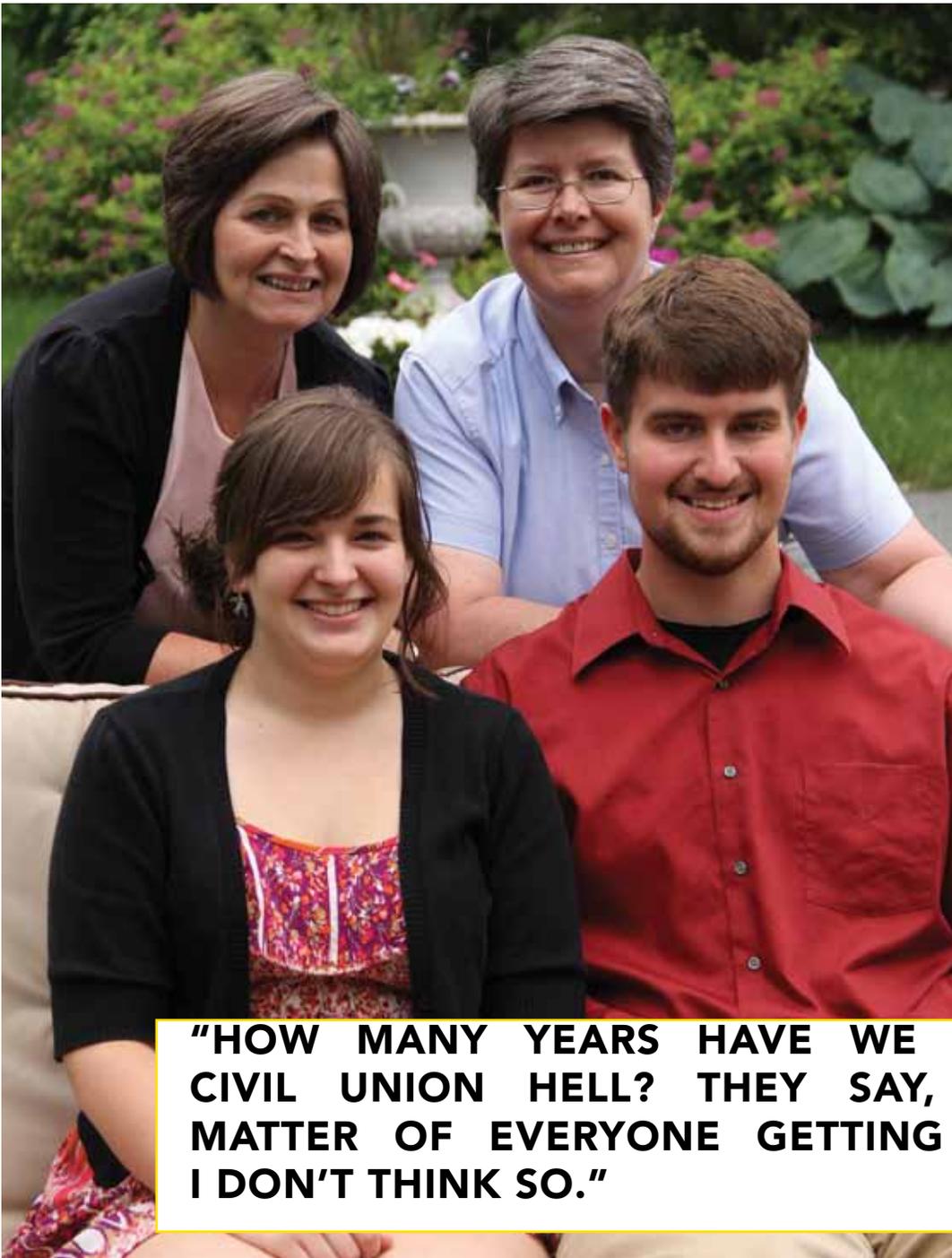


◀ **ELENA QUINONES, 33, BANK EMPLOYEE, AND LIZ QUINONES, 45, CAMPUS SECURITY SERGEANT, PHILLIPSBURG, NJ.**

Elena Quinones and Liz Quinones have been together for nine years and are raising four children: Desiree, 17; Justine, 15; Patrick, 12 and Eli, 2. They got engaged in Puerto Rico in 2006 and entered a civil union in February 2007, on a day filled with hope in the new system. Since then, they've found that the reality of civil union status has not lived up to the promise, having had to spend time and money drafting legal documents to further protect their relationship. They carry papers, such as proof of adoption and their civil union license, wherever they go, fearing their relationship won't be recognized. "It seems like we

**"EVEN IF THE LAW SAYS ONE THING, YOU NEVER KNOW WHO YOU ARE GOING TO MEET ON ANY GIVEN DAY."**

have to take extra steps to protect ourselves," says Liz. "Because even if the law says one thing, you never know who you are going to meet on any given day."



◀ **CINDY MENEGHIN,**  
 WEB SERVICES DIRECTOR,  
 AND **MAUREEN KILIAN,**  
 CHURCH ADMINISTRATOR,  
 BOTH 53, BUTLER, NJ

Cindy Meneghin and Maureen Kilian have always said that they hope to get married before their children—Josh, 18, and Sarah, 16—do. But what began as a joke may become reality as Josh and Sarah grow older and their parents, who started out as high school sweethearts, are still denied the right to marry. Cindy and Maureen, who also stood up for marriage equality in Lambda Legal’s 2002 suit against New Jersey, experienced firsthand the shortcomings of civil unions when Cindy landed in the emergency room with appendicitis. Hospital staff didn’t understand what Maureen meant when she said she was Cindy’s civil union partner. “How many years have we been in this civil union hell in New Jersey?” Cindy said. “They say, ‘It’s just a matter of everyone getting used to it.’ I don’t think so. When we say we’re in a civil union, everyone says, ‘Is that like marriage?’ It’s marriage *light*.”

**“HOW MANY YEARS HAVE WE BEEN IN THIS CIVIL UNION HELL? THEY SAY, ‘IT’S JUST A MATTER OF EVERYONE GETTING USED TO IT.’ I DON’T THINK SO.”**

## STANDING WITH NJ

**WHEN LAMBDA LEGAL ANNOUNCED ITS NEW JERSEY CASE, LETTERS OF SUPPORT, VIA OUR WEBSITE, POURED IN FROM ACROSS THE STATE, THE COUNTRY AND THE GLOBE.**

“When my husband of 13 years passed away in 2005, I didn’t even have the right to decide what happened to his body or be listed in his obituary. Fight guys, fight hard and never give up. Our love is just as real and valid.”  
 —David Salisbury, Salisbury, NC

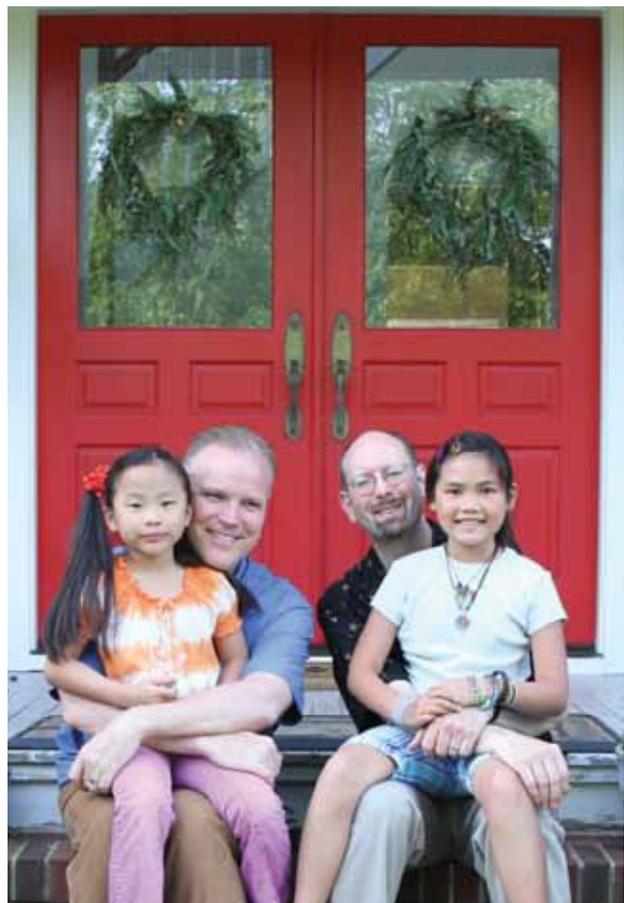
“Greetings John & Danny—and to all who are taking part in this fight for equality. It was a heartening start to our day in Sydney to watch your video. Know that you have our support, be it from afar.”  
 —Matthew & Ayumu, Sydney, Australia

“We’re behind you, alongside you, and all around you in your fight! We also have a civil union ... but are waiting for the day that we can stand toe to toe with ALL married couples!”  
 —Phyl and Ilene

► **MARSHA SHAPIRO,**  
THERAPIST, 56, AND **LOUISE**  
**WALPIN,** NURSE, 57,  
MONMOUTH JUNCTION, NJ

Marsha and Louise have been together for 22 years, raising four children. Two of their sons—Scott and Aaron—were born with disabilities, and in 2008, Aaron died just short of his 21st birthday. “Even at the funeral home, we had to explain we were civil unioned and what that meant,” Marsha said.

Compounding the pain of this loss was the enormous debt the family took on to pay for their sons’ care. After civil unions went into effect, while searching for a new job, Louise had to ask every potential employer if it offered civil union benefits—in effect, outing herself to complete strangers. Although the health care plan offered by Louise’s employer covers her whole family, it is only available on a year-to-year basis, and the family remains uncertain about their ability to pay their bills in the future. “No parent should ever, ever endure burying their child,” Marsha said. “Yet, not only did our relationship survive, we grow stronger and stronger. If this isn’t a marriage, what is?”



◀ **KEITH HEIMANN,** 52,  
ASSISTANT PROFESSOR AT A  
COMMUNITY COLLEGE, AND **TOM**  
**DAVIDSON,** 49, VISUAL DESIGNER,  
SHREWSBURY, NJ

Keith Heimann and Tom Davidson have been together for almost 25 years, registering as domestic partners and eventually entering into a civil union. Though they married in California, in their home state of New Jersey, their bond holds the lesser status of a civil union. Keith and Tom adopted two girls from China, Grace and Marie. Because the state of New Jersey provides health benefits to families of state employees, including civil union partners, Keith was able to provide health coverage to Tom and their children through his job. However, during a state-wide audit of state employee insurance beneficiaries, the contractor demanded to see Keith and Tom’s marriage certificate. Because their marriage was only considered a civil union in New Jersey, Tom and their daughters were removed from Keith’s health coverage. Fear gripped the couple when Marie fell off a chair in their back yard and hit her head. “The first thing that flashed through my mind was: We don’t have health insurance,” Keith said.

The policy was reinstated after months of emails, letter-writing, and even pleading by their state legislator. The entire ordeal would never have occurred if Keith and Tom were able to marry in their home state. “We believed the state of New Jersey when it said that a civil union was going to be the exact same thing as marriage,” Keith said. “It’s not. It’s not even close.”

**“WE BELIEVED THE STATE OF NEW JERSEY WHEN IT SAID THAT A CIVIL UNION WAS GOING TO BE THE EXACT SAME THING AS MARRIAGE. IT’S NOT. IT’S NOT EVEN CLOSE.”**

## GARDEN STATE EQUALITY

Founded in 2004, Garden State Equality is New Jersey’s largest LGBT civil rights organization. It organizes grassroots activism as well as public education, which have been instrumental in the passage of laws protecting LGBT New Jerseyans. Among its many notable campaigns, Garden State Equality successfully advocated for justice for late police officer Laurel Hester, whose partner was denied death benefits (their story was the subject of an Academy Award-winning documentary, *Freeheld*); transgender teacher Lily McBeth, whose school district tried to bar her from the classroom; Andre Jackson, whose high school tried to remove a yearbook photo showing him kissing his boyfriend; and Bob Angelini, a high school theater director who encountered resistance in producing *The Laramie Project*. Thoroughly familiar with the myriad harms which the denial of marriage equality causes to same-sex couples and their children as well as LGBT youth, Garden State Equality is proud to join Lambda Legal’s suit as a plaintiff. To learn more, visit [www.gardenstateequality.org](http://www.gardenstateequality.org)

**FOR MORE INFORMATION ABOUT TAKING LEGAL STEPS TO PROTECT YOURSELF, YOUR PARTNER AND YOUR FAMILY—WHATEVER YOUR RELATIONSHIP STATUS—VISIT [www.lambdalegal.org/take-the-power](http://www.lambdalegal.org/take-the-power)**

# Necessary Care

Lambda Legal's recently launched lawsuit in Oregon and a victory in Wisconsin illustrate why we're fighting for transition-related care. By Transgender Rights Attorney **M. Dru Levasseur**



Alec Esquivel (left), denied health care coverage, faces reporters with Levasseur at the launch of Lambda Legal's suit on his behalf.

**THE TYPES OF HEALTH CARE** associated with gender transition have too often been misunderstood as cosmetic, experimental or simply unnecessary. Because of this misconception, transgender people face widespread discrimination in accessing vital health care by the majority of public and private insurance companies and employers.

The medical community has had consensus for years that transition-related health care, including hormone therapy and sex reassignment surgery, is medically necessary for many transgender people. Even the American Medical Association in 2008 issued a resolution calling upon private and public health insurance companies to remove discriminatory exclusions of care for transition-

related health care. In spite of the support by the medical community and the growing trend by some large, LGBT-friendly businesses to provide trans-inclusive insurance for a perfect score on the revised Human Rights Campaign's Corporate

## Medical care should be left in the hands of doctors, not legislators who may be acting based on bias and misinformation.

Equality Index, we still have a long way to go. Lambda Legal has prioritized transgender health care as an important area of work and is tackling this critical issue through our litigation, policy work and public education.

In June, we filed a case on behalf of Alec Esquivel, a 42-year-old law clerk for the Oregon Court of Appeals. Although Alec was assigned the sex of female at birth, he has a strong, consistent and deeply-rooted male gender identity. In 2001,

Alec was diagnosed with Gender Identity Disorder (GID), and began taking steps in accordance with the World Professional

Association for Transgender Health Standards of Care to bring his body into alignment with his gender identity. In 2010, Alec's doctor informed him that a hysterectomy was medically indicated

*Continued on page 18*

### TRANSITION-RELATED HEALTH CARE



## DOWNLOAD THIS

**FIND OUT MORE ABOUT TRANSGENDER RIGHTS**

The movement toward a more equitable future for transgender health care starts with education. Lambda Legal's new *Transgender Rights Toolkit* fact sheet, "Transition-Related Health Care," explains the medical community's current framework for understanding transition-related care as medically necessary and gives an overview of how Lambda Legal and other advocates are applying this in the legal domain to challenge denial of such care as discriminatory. It also highlights the ways that private industry and municipal governments have begun to follow the medical mainstream by dropping barriers to health care for transgender people and setting standards for a more equitable future.

**TO ORDER A COPY OF THE GUIDE, GO TO [www.lambdalegal.org/trans-toolkit](http://www.lambdalegal.org/trans-toolkit)**

# A Delicate Balance

Religious exemptions have become common in laws opening marriage to same-sex couples. Here, we unpack the myths advanced by opponents of our equality. By Director of Constitutional Litigation and Senior Counsel **Susan Sommer**



◀ While New York State provides civil marriage licenses to same-sex couples, religious organizations remain free to decide whether to participate in their marriage ceremonies. Here, **Nevin Cohen** and **Daniel Hernandez**, plaintiffs from Lambda Legal's suit *Hernandez v. Robles*, hold their long-sought marriage license at the New York City Clerk's Office.

Second, with or without an explicit religious exemption written into a marriage bill, without a doubt no religious clergyperson would be required to participate in civil marriage ceremonies inconsistent with his or her religious beliefs. Settled First Amendment protections already ensure freedom of religious choice for clergy and religious institutions, and prevent state and federal government from intruding into a faith's determination of who is eligible to marry.

Third, marriage opponents cite a handful of conflicts between those with antigay religious beliefs and same-sex couples as a reason to deny marriage rights altogether or condition rights on a broad array of religious exemptions. In fact, the examples they cite have little or nothing to do with marriage. Instead, opponents point to examples of businesses and organizations attempting to decline services to unmarried same-sex couples in violation of laws generally barring discrimination based on sexual orientation. Enactment of a law permitting same-sex couples to marry does not change the outcome in these cases.

Fourth, many non-discrimination laws enacted in states and locales already provide exemptions for religious and certain other organizations, allowing them to refuse membership or services. These exemptions may likewise apply in the context of marriage rights for same-sex couples, allowing religious organizations with religious objections to decline participation in marriage ceremonies, celebrations and related services.

Fifth, many of the religious exemptions written into marriage equality laws simply

*Continued on page 18*

## PASSAGE OF NEW YORK'S MARRIAGE

law brought much reason to rejoice. Yet some of the spotlight on this victory went to those arguing for an array of religious exemptions as a condition for marriage equality for same-sex couples. The debate over religious exemptions plunges into the roiling cross-currents of the fight for marriage equality for same-sex couples, strongly held religious convictions, anti-LGBT prejudices and old-fashioned politics. In reality, however, claims that religious freedoms will be trampled by giving same-sex couples the freedom to marry are misguided and serve only to divert focus from what is truly at stake—ensuring that same-sex couples have access to the enormous web of protections for their families that come only with civil marriage. Let's cut through the myths clouding this subject.

First, those who support government recognition of same-sex relationships are not, as some opposition has held, motivated by hostility to religion. Many people of faith, congregations and clergy embrace the right to marry for same-sex couples. Proponents of marriage equality understand that state-conferred civil marriage rights are separate from religiously-sanctioned unions, and aim solely to eliminate the severe harms inflicted on lesbian, gay and bisexual individuals when they're deprived the freedom to enter into civil marriage. For example, a majority of New York Catholics surveyed in a recent poll support the right of same-sex couples to marry, and Governor Andrew Cuomo, raised Catholic, led the effort in Albany to pass the Marriage Equality Act.

# Remembering Robert Bonvouloir Foster (1955–1991)

The generosity of this Chicago pioneer led to the founding of Lambda Legal’s Midwest Regional Office.

**TWENTY YEARS AGO**, “Bon” Foster, the late civil rights activist and attorney, died of AIDS at the age of 36. His life was short, but his passion, commitment and generosity were unforgettable to those who knew him.

Tina Tchen, chief of staff to First Lady Michelle Obama, spoke about him at Lambda Legal’s annual Bon Foster Civil Rights Celebration in April 2010. “Bon was fiercely demanding and wickedly funny,” said Tchen, who met him in 1978, when they worked together at the State’s Bureau of Budget in Springfield, Illinois. “Bon was always committed to equal justice, to the entire community being able to be who they are, to live out their full potential.”

After graduating first in his class at Northwestern University School of Law in 1987, Foster became a law clerk to U.S. District Judge Milton I. Shadur in Chicago. Later, he was a litigation associate at the Chicago firms of Jenner & Block and Schiff Hardin & Waite.

While at Northwestern, Foster became active in the gay and lesbian student organization. Seeing that Chicago still had no organization of legal professionals within its LGBT community, despite the city’s high number of lawyers and the fact that other cities had such groups, Foster became the prime mover in bringing together a core group of attorneys and law students to found the Lesbian and Gay Bar Association of Chicago.

Throughout law school and his legal career, Foster was unfailingly candid and unapologetic about being gay. His forthright nature and proud stance served as a model to many, encouraging lawyers and other lesbian and gay persons to lead open lives. His personal strength and integrity, as well as the respect and love of his family, friends, and colleagues, helped to sustain Foster during his year-long and unrelenting battle against AIDS.

He challenged others to demand the best of themselves, just as he did



Foster (left) with his maternal grandmother, Nancy Bonvouloir

**“BON WAS FIERCELY DEMANDING AND WICKEDLY FUNNY.”**

of himself. “It was so like Bon to not only bequest the money to start the Midwest office of Lambda [Legal]—and to say, ‘If you don’t do that, you can’t have the money,’” said Tchen.

Through his bequest to Lambda Legal, the Midwest Regional Office (MRO) was opened in Chicago in 1993. The MRO has played an integral role in Lambda Legal’s national strategy and has helped expand its national presence. Some of the organization’s greatest achievements, including *Varnum v. Brien*, the historic lawsuit which brought marriage equality to Iowa—the first such victory in the Midwest—were led out of the Midwest Regional Office.

“He would be so proud of you,” Tchen said of Lambda Legal. “Change is what Bon was committed to, and change is what Lambda Legal is dedicated to.” **L**



# PROMOTING PHILANTHROPY. PROMOTING EQUALITY.

“By promoting community challenge grants, the Calamus Foundation has successfully used our funds in a manner that increases awareness and encourages individual philanthropy. This philosophy continues the philanthropic vision of our founder Saul Kaplan and leaves organizations like Lambda Legal with something more than just a check — they are left with a pool of new and engaged supporters, the most valuable asset of any organization.”

—Louis Bradbury, Calamus Foundation Board President

Twenty-one years ago, Saul Kaplan joined a handful of Lambda Legal supporters to become the founding members of the Liberty Circle, a group dedicated to making annual significant investments in Lambda Legal’s work. With personal giving and through the foundation he founded in 1994, the Calamus Foundation, Saul maintained his membership until his death in 2004.

In honor of Saul’s remarkable legacy, the Calamus Foundation has once again—for the second year in a row—issued a challenge grant to help Lambda Legal increase the number of supporters at the Liberty Circle level. The Calamus Foundation will fulfill a \$30,000 pledge if we are able to find 30 new individuals to join Liberty Circle with a commitment of \$1,500 or more by October 31: the **30 for \$30,000** Calamus Challenge Grant.

Your Liberty Circle gift will be worth \$1,000 more for the next few weeks. There has never been a better time to make an investment in equality. Visit [www.lambdalegal.org/investment-in-equality](http://www.lambdalegal.org/investment-in-equality).



## \$1 A DAY *for* 365 DAYS EVERY DAY COUNTS

We’re looking for 365 people to join our monthly giving program, the Justice Fund, during our **365 for 365 Campaign!** With your pledge of \$1 or \$2 per day (\$30.42 or \$60.84 per month)—or more—you are making a commitment to equality every day.

To become a Justice Fund member, fill out the information below and mail it back using the enclosed envelope, or visit [www.lambdalegal.org/365for365](http://www.lambdalegal.org/365for365).



Check the amount you want to give each month, complete the form and we’ll take care of the rest!

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*“A Delicate Balance,” continued from page 13*

reiterate these pre-existing exemptions. Thus, for example, religious exemptions in New York’s Marriage Equality Act largely reiterate First Amendment and statutory religious exemptions.

Sixth, more sweeping proposals for religious exemptions should be rejected as out-of-step with core non-discrimination principles. It is not acceptable, for example, to exempt government employees from the requirement that they process marriage licenses for same-sex couples. Businesses and their employees engaged in public commerce or government-funded faith-based social service providers cannot refuse to provide services to married couples because of religious beliefs. Such proposals open the door to discrimination in the public sphere not only against same-sex couples but also against others whose relationships might conflict with certain religious beliefs—including inter-faith and interracial couples and those who marry after a spouse’s divorce. No couple should have to face such discrimination when accessing a government service or in the public marketplace.

Finally, despite the sometimes contentious legislative debates over religious exemptions, there has been notably little actual conflict between religious objectors and couples seeking services in places where same-sex couples have the freedom to marry. There is no shortage of wedding industry vendors happy to do business with these couples.

The reality is that same-sex couples planning their weddings and seeking to live as married spouses are not looking to pick fights with religious objectors. All they want is what other Americans enjoy—a day to celebrate their commitment with friends and family, equal rights from their government and legal protections for their families. **L**

*“Necessary Care,” continued from page 12*

to treat his GID and to prevent other health risks, including a serious risk of ovarian and uterine cancer. When Alec submitted a request for health insurance coverage to the State’s self-funded plan, he received a denial letter citing the plan’s categorical exclusion for all services related to a “sex-change operation.” Oregon law prohibits discrimination in employment on the basis of gender identity. The procedure Alec requested is routinely covered for other plan participants. The only factor that distinguished him from others who receive this coverage is that he was denied the care based on his gender identity.

After representing Alec in an internal and administrative appeal, Lambda Legal filed on

## MEET OUR LAWYERS

# SUSAN SOMMER

DIRECTOR OF CONSTITUTIONAL LITIGATION AND SENIOR COUNSEL

### **How did you come to work at Lambda Legal?**

I had gone to law school with the intention of doing public interest work someday, but one thing led to another along the way, and I first found myself a partner at a New York City law firm. Then I had children, and I felt more strongly than ever that I should use my law degree and training to help make our country a better place for new generations (corny, but true). I heard about a job opening at Lambda Legal from my law school classmate, and I jumped on it.

### **What is your role at Lambda Legal?**

My title is a bit of a mouthful: Director of Constitutional Litigation and Senior Counsel. I litigate an array of impact cases, supervise Lambda Legal lawyers and engage in the public education and advocacy that are other important aspects of our work. I’ve also supervised our Youth in Out-of-Home Care project since its inception.

### **What have been the highlights of your work since you arrived here? Or, what have you been especially proud of?**

There’s so much to be proud of about Lambda Legal’s work. Some particular stand-outs for me personally include being a member of the *Laurence v. Texas* Supreme Court team; arguing in appellate courts in New York and elsewhere to set new precedents; getting to know courageous, inspiring and just plain nice LGBT clients who have stood up against injustice; and celebrating the successes of my Lambda Legal colleagues.



It was especially sweet to see couples we had represented marrying in New York a few weeks ago. This is so much more than just a job. I feel incredibly fortunate to be able to work for a cause I know is just, and at work that never ceases to be interesting. Not every lawyer can say that.

### **Is there anything that the Lambda Legal community might be surprised to learn about you?**

Yes, and I won’t be the one to tell!

### **What do you do to unwind when you’re not at work?**

I’ve been trying to stave off a mid-life crisis by spending more time running. I’ve made it to half-marathons, thanks to a Lambda Legal colleague who has been coaching me and doesn’t accept age as an excuse. But I do think mid-life will keep me from going any further. I also read a lot, including books on my iPod while I run. And I have a terrific spouse and kids, and two nutty dogs.

his behalf in Oregon state court arguing that the State’s plan discriminates on the basis of gender identity in violation of Oregon’s Equality Act. This case is significant because it is the first to apply a state nondiscrimination law to discrimination on the basis of gender identity in health insurance coverage.

Also contributing to the growing movement to understand transition-related health care as medically necessary is our recent victory in *Fields v. Smith*, which set a ground-breaking legal precedent for incarcerated transgender people seeking care in the hands of the government. In this case, Lambda Legal and the ACLU challenged the constitutionality of a 2005 Wisconsin state law—“the Inmate Sex-Change Prevention Act”

—which barred transition-related health care for transgender inmates. After hearing testimony of medical experts at trial, in 2010 the Wisconsin District Court found in our favor, ruling that the law violates both the 8th Amendment and Equal Protection Clause of the Constitution. On August 5, 2011, the 7th Circuit upheld this ruling based on the 8th Amendment. The appeals court wrote: “Refusing to provide effective treatment for a serious medical condition serves no valid penological purpose and amounts to torture.” The court understood that medical care should be left in the hands of doctors, not legislators who may be acting based on bias and misinformation about the medical needs of a marginalized population. **L**

# TRANSFORMING HEARTS AND MINDS



JON W. DAVIDSON

**SOME MAY  
REMEMBER THE  
SONG LYRICS  
"YOU'VE GOT  
TO BE TAUGHT  
TO HATE." IT'S  
TIME FOR A NEW  
LESSON PLAN.**

## I CONSIDER MYSELF AN OPTIMIST.

I usually focus on the remarkable progress LGBT people have made through the years, from decriminalizing sodomy laws to passing anti-discrimination laws to winning greater protections for those in same-sex relationships. But, there are times when the venom and violence that still gets directed at members of our community breaks through and I find myself shocked at how strongly some people still hate us and how far we have yet to go.

That happened recently while I was reading news coverage of the victory Lambda Legal and the ACLU obtained in the *Fields v. Smith* case. That suit challenged a Wisconsin law barring prison doctors from providing transgender inmates treatment the doctors believed was medically necessary. An appellate court unanimously ruled that the law violates the Constitution's ban on cruel and unusual punishment. "Refusing to provide effective treatment for a serious medical condition serves no valid penological purpose and amounts to torture," the court wrote. As a result, transgender people in custody, who have no access to care except from prison doctors, can no longer be denied hormone therapy or surgery those doctors prescribe.

When I read some of the online comments about the ruling, my stomach turned. Some referred to transgender people as "weirdos" and "freaks." One claimed that transgender people are "mentally ill" and have a sexual desire to be "mutilated." Another decried transgender people as "moral decay" that will destroy America. One flippantly wrote: "If they want gender reassignment, give 'em some lipstick."

Shortly thereafter I learned of the murder of Camila Guzman, a transgender woman who was a friend of one of our staff and who had moved

to New York from Chile 10 years ago, because of her fear of not being able to be who she was in her homeland. Her tragic death is a reminder that the kinds of vile sentiments quoted above are too often manifested through mayhem. The National Coalition of Anti-Violence Programs documented the murders in 2010 of 12 transgender women based on their gender identity, which amounted to 44 percent of the anti-LGBT murders last year. A recent survey by the National Center for Transgender Equality further found that 61 percent of transgender people report being victims of physical violence.

Speakers at a memorial for Camila Guzman spoke about the desire of murderers to make those they kill "disappear" and how we need to fight back by keeping their memories alive. "Do not discriminate against your children," added one mourner, the mother of Camila's best friend. I could not agree more.

We can do something by telling the stories of those taken from us—of Camila Guzman, and Sakia Gunn and Ashley Santiago Ocasio and Jorge Steven Lopez Mercado and Brandon Teena. We need to share their humanity and erase the notion that any of us are some "other." And we need to start with our children. We can begin by defending laws like California's FAIR Education that will end the invisibility of LGBT people in the history students learn. Some may remember the song lyrics "You've got to be taught to hate." It's time for a new lesson plan.

*Jon W. Davidson*



# UNCLE SAM WANTS YOU TO GIVE

Lambda Legal has once again been included in the Combined Federal Campaign (CFC)! If you're eligible to give through the CFC, you have until **December 15** to designate where you want your employee contribution dollars to go.

Please use **CFC ID# 12482** to make your pledge and to designate Lambda Legal your beneficiary.

Visit [www.opm.gov/cfc](http://www.opm.gov/cfc) for more information about the CFC.

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