

Lambda
Legal

Impact

Historic
Marriage
Win in
California!

See story on p. 19.



O&A with
Phill Wilson,
Black AIDS
Institute

It's Pride Season!



Lambda Legal
making the case for equality



History Is on Our Side

In 1986, I sat in the U.S. Supreme Court gallery when the Court heard *Bowers v. Hardwick*, a challenge to Georgia's sodomy law. In a shamefully homophobic decision, the highest court in our nation said it was perfectly legal to brand lesbians and gay men as criminals. I was utterly devastated and vowed that we would do everything in our power to fight back.

We did — and history was with us.

For 17 years Lambda Legal and other groups challenged sodomy laws state by state, building a legal framework and a stronger movement for LGBT rights around the country. And in 2003 I was back in the Supreme Court gallery, awaiting a decision in Lambda Legal's case challenging Texas' sodomy law on behalf of John Lawrence and Tyron Garner. The tension in the courtroom was unbearable: We knew 17 years was a short span of time for the Supreme Court to reconsider one of its decisions. If we lost again, it would be years before we were back.

Justice Anthony Kennedy began reading the decision, and very soon it became clear that we hadn't just won — we'd hit a home run: a ruling that struck down all 13 remaining state sodomy laws and launched a new era in the LGBT civil rights movement.

As we celebrate the fifth anniversary of *Lawrence v. Texas* this summer, it's clear that our victory has transformed life for LGBT people, and indeed for all people in this country. It has been cited in hundreds of cases addressing employment discrimination, custody rights, relationship recognition and criminal law. And it has given us a powerful tool to fight for — and win — LGBT equality, beating our opponents in court and in the court of public opinion.

The lesson of *Lawrence* is that we must be strategic, patient and fearless. We must continue to choose high-impact cases at the state and federal level that protect LGBT people in their daily lives, expose prejudice and inequality, and hold the federal and our state constitutions accountable to the promise of fairness and equality. We must have patience — not in the sense of waiting around for something to happen but in our understanding of how important changes in the law most often come after diligent, persistent litigation and education make those changes necessary.

Most of all, we must be fearless. We cannot be afraid to demand the right to marry, to work and go to school without discrimination, to be parents, to express our gender identity and sexuality, to serve our country openly, to live without fear of violence. There is no such thing as partial equality. Justice Kennedy got it right in *Lawrence* when he wrote: "As the Constitution endures, persons in every generation can invoke its principles in their own search for greater freedom." We have continued this search for greater freedom in our work for LGBT people and people with HIV. In doing so, we continue to shift the course of history.

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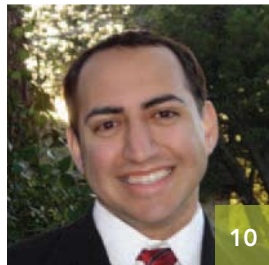
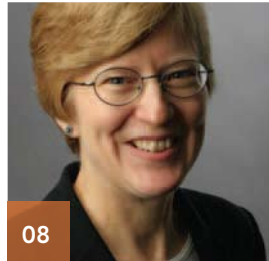
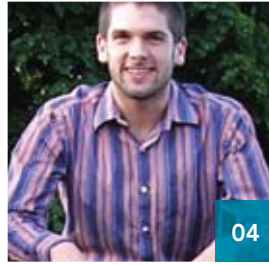
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DESIGN

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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.

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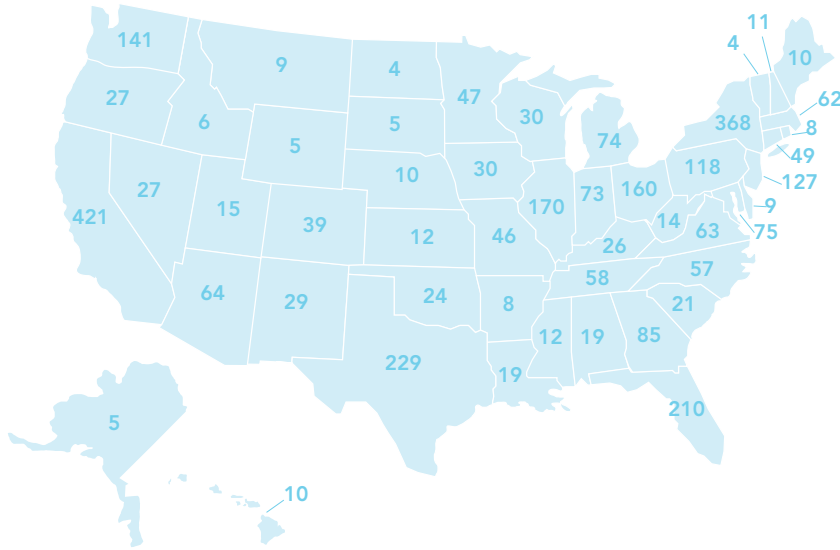
On the cover:

Lambda Legal plaintiff Janice Langbehn stands with her children in remembrance of her partner, Lisa Pond, who was isolated from her family by hospital staff in her final hours. (Photo: DJ Bradley)

Impact Magazine is published three times a year in February, June and October.

LAMBDA LEGAL FINDINGS

Clock In for Equality: 2008 *"I Signed the Pledge"*



Clock In for Equality 2008 was a rousing success! We had participants signing the pledge to fight workplace discrimination in every state in the nation! Clock In is a national day of action against workplace discrimination and inequality. On May 15th, activists, community leaders, allies, employers, and everyday individuals gathered together to discuss workplace fairness and what they can do to combat discrimination. Check out photos of people who've made the pledge to fight workplace discrimination at our Flickr site: <http://www.flickr.com/people/lambdalegal/>



Queer Eye for the Straight Guy's Carson Kressly (shown here at the Jeffrey Fashion Cares event) was one of many supporters who signed the pledge in our Clock In for Equality campaign.

ON THE DOCKET

I HEART NY

In a series of victories, Lambda Legal has reaffirmed the legal standing of out-of-state marriages of same-sex couples in New York. Lambda Legal intervened in a lawsuit on behalf of Peri Rainbow and Tamela Sloan — two New York state employees who were married in Canada. Rainbow and Sloan relied on the health insurance benefits they received, much like their co-workers in different-sex marriages. Last year, the Department of Civil Service issued a policy recognizing out-of-state marriages of same-sex couples in order to provide these employees with the health insurance coverage they require. The Alliance Defense Fund, an antigay organization, represented a handful of taxpayers in a lawsuit arguing that this coverage was unconstitutional and an illegal spending of state funds. A New York State judge ruled against this claim and upheld the Department of Civil Service's policy.

IMPACT: New York's governor's office, attorney general, state comptroller and countless others have agreed to recognize the validity of out-of-state marriages of same-sex couples when providing benefits. Our work in the Empire State, along with our other relationship recognition work across the nation, brings us closer to a day when same-sex couples will be able to marry.



HATE CRIMES NEVER PAY

Lambda Legal has successfully reached a settlement on behalf of Brett Timmerman, an openly gay former University of Wisconsin student. While approaching a local sandwich shop with a friend, Timmerman was verbally and physically assaulted. He was called "faggot" numerous times, spat on, pushed, hit in the head, tackled to the ground and then falsely accused of starting the fight. He suffered a ruptured eardrum and was given a citation for disorderly conduct, which was later dismissed. Lambda Legal filed a lawsuit under the civil recovery provision of Wisconsin's hate crime law, which provides special compensation for victims of violence on the basis of sexual orientation.

IMPACT: This is the first time that Wisconsin's hate crime civil recovery law was used successfully in response to antigay violence. The case sends a clear message to the public, law enforcement and the courts that antigay violence will not go unpunished.



BRETT TIMMERMAN

Involved, Invisible, Ignored.

A new study by the Gay, Lesbian and Straight Education Network, "Involved, Invisible, Ignored," finds LGBT parents more active in their children's education than the general parent population.

94% of LGBT parents attend parent-teacher conferences compared to **77%** of a national sample of parents.

67% of LGBT parents volunteer at their child's school, compared to **42%** of a national sample.

TROUBLE IN PARADISE

Joseph O'Leary and Phi Ngo lived together in on-campus family housing at the University of Hawaii in Manoa during the 2006-2007 school year. After the couple reapplied for housing the following year, they were surprised when their request was denied. The University of Hawaii based this decision on the state of Hawaii's definition of marriage — as an option only available to different-sex couples. O'Leary and Ngo were forced to move off campus, which raised their living expenses considerably. Lambda Legal has filed a lawsuit on behalf of the couple.

IMPACT: Offering housing to couples on the basis of being married in a state where same-sex couples cannot marry is discriminatory. A win in this case would hold a large public institution, the University of Hawaii, accountable for unlawful and discriminatory policies.



T FOR TEXAS

Izza Lopez was offered a job as a scheduler with River Oaks Imaging and Diagnostic, a medical imaging company in Houston. After accepting the offer, Lopez resigned from her position with her then-current employer. She then received a call from River Oaks informing her that her job offer was being rescinded. River Oaks believed that Lopez, a transgender woman, had "misrepresented" herself to the



IZZA LOPEZ

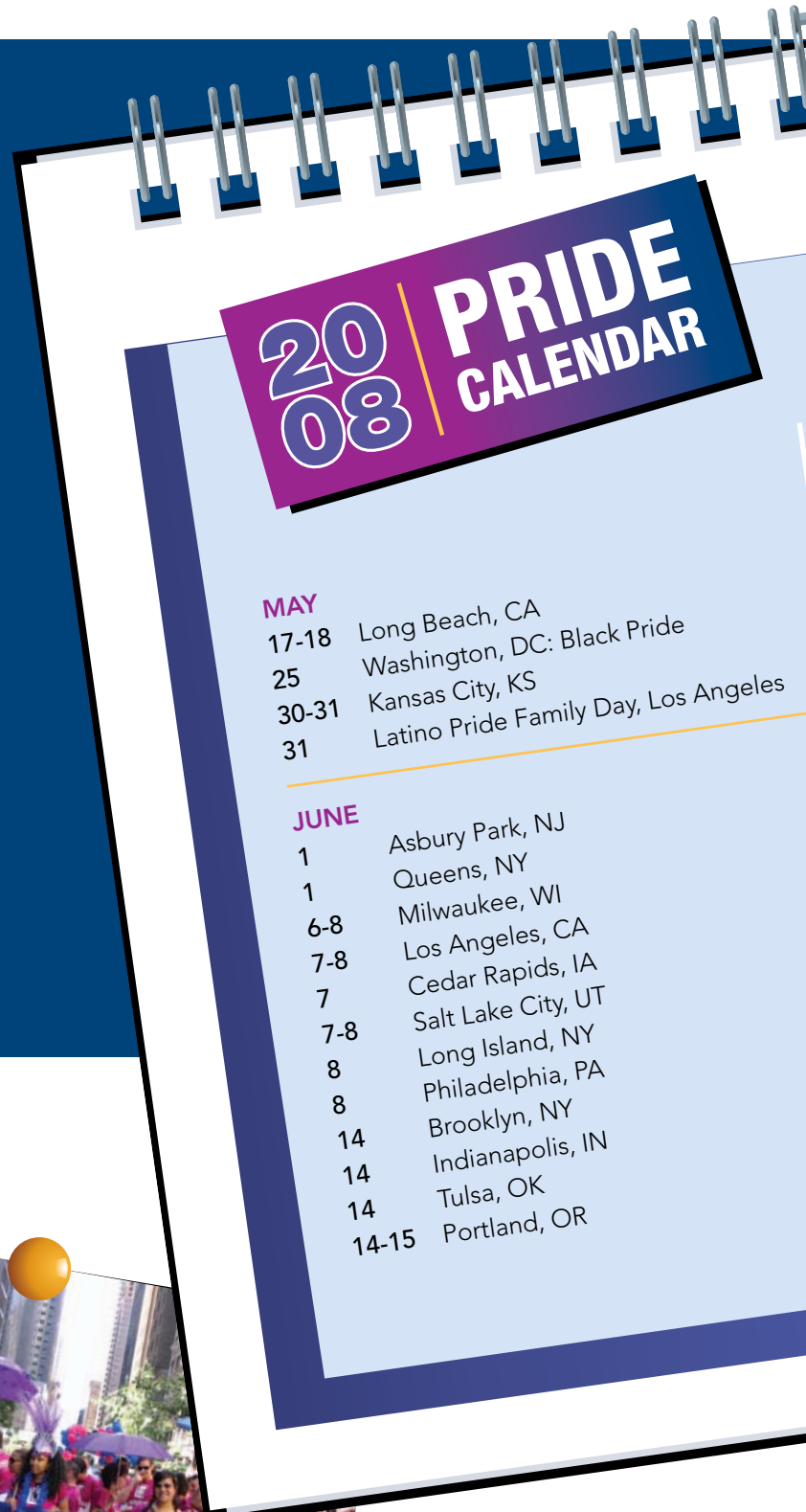
company. Lambda Legal's lawsuit alleged that River Oaks is in clear violation of Title VII, a federal law that prohibits sex discrimination in employment. In April 2008, a federal judge in the Southern District of Texas ruled that Lopez presented evidence of sex discrimination. The case was set to go to trial but has since been settled to the satisfaction of all parties involved.

IMPACT: The judge's ruling confirmed that transgender employees who challenge sex stereotypes can make valid claims under existing sex discrimination laws. Secondly, it acknowledged that transgender people do not "misrepresent" themselves simply by expressing their authentic gender identity.

Happy PRIDE!

Check out our events calendar from May to September to find out if Lambda Legal will be at a Pride celebration near you. March in a parade with us or join us at our booth and get more information about what Lambda Legal is doing in your community.

We look forward to seeing you!



Plan to attend a PRIDE event near you!

JUNE - CONT.

- 15 Des Moines, IA
- 15 Newark, NJ
- 15 Washington, DC: Capital Pride
- 21 Iowa City, IA
- 21-22 Denver, CO
- 22 Wilton Manors, FL: Stonewall Street Fest
- 28 Houston, TX
- 28 St. Petersburg, FL Pride
- 28-29 San Francisco, CA
- 28-29 Twin Cities, MN
- 29 Seattle, WA
- 29 Chicago, IL: Pride Parade
- 29 Manhattan, NY: Heritage of Pride

JULY

- 3-6 Los Angeles, CA: Black Pride
- 5-6 Atlanta, GA: Pride
- 17-20 Charlotte, NC: Black Pride
- 18-20 Seattle, WA: Black Pride
- 19-20 San Diego, CA
- 27 New York: Dominican Pride

AUGUST

- 2-10 Brooklyn, NY: Pride in the City Picnic
- 9 Indianapolis, IN: Black Pride
- 9-10 Chicago, IL: North Halsted Market Days
- 23 Jersey City, NJ
- 30-31 Atlanta, GA: Atlanta Black Pride

SEPTEMBER

- 13 Rehoboth Beach, DE
- 20 Columbia, SC
- 21 Dallas, TX Pride

OCTOBER

- 4-5 Dallas, TX: Southern Pride

Lambda Legal 2008 EVENTS CALENDAR

- | | | |
|--------------|--|------------------|
| MAY 15 | Minneapolis Legal Update | Minneapolis, MN |
| MAY 22 | New York Liberty Game Day | New York, NY |
| JUNE 2 | Lambda Legal in DC | Washington, DC |
| JUNE 3 | Forum Conveniens | Chicago, IL |
| JUNE 5 | Lawrence Fifth Anniversary Roundtable | Washington, D.C. |
| JUNE 8 | Lambda Legal in New Jersey — Surf Event | Asbury Park, NJ |
| JUNE 14 | Into the Woods Kick off | Three Oaks, MI |
| JUNE 14 | Lambda Legal in Long Beach | Long Beach, CA |
| JUNE 20 | Houston Lawrence Celebration | Houston, TX |
| JUNE 21 | Dallas Lawrence Celebration | Dallas, TX |
| AUGUST 2 | Lambda Legal Pines 30th Anniversary Brunch | Fire Island, NY |
| AUGUST 9 | Lambda Legal in the Hamptons | Sag Harbor, NY |
| AUGUST 7 | Seattle Garden Party | Seattle, WA |
| AUGUST 16 | Into the Woods | Three Oaks, MI |
| TBD | Los Angeles Women's Event | Los Angeles, CA |
| SEPTEMBER 12 | Indiana Benefit Dinner | Indianapolis, IN |
| OCTOBER 1 | Fall Theatre Event — Billy Elliot | New York, NY |
| OCTOBER 2 | West Coast Liberty Awards | Los Angeles, CA |

THE HIV PROJECT: then & now



BY BEBE J. ANDERSON,
HIV PROJECT DIRECTOR



Lorenzo Taylor and Lambda Legal fought against the ban on hiring HIV-positive people as Foreign Service officers.

It's not often that one person can stand up against the government and make a difference. But Lorenzo Taylor took up the fight on behalf of people living with HIV, challenging the U.S. State Department's blanket ban on hiring HIV-positive people to be Foreign Service Officers. Taylor himself was an excellent candidate for the Foreign Service: He speaks three languages, holds a degree from Georgetown University's Walsh School of Foreign Service and received a conditional offer of employment after passing the rigorous application process. But his application was rejected because he has HIV, even though he never had any HIV-related illness and the virus was undetectable in his system.

Lambda Legal's HIV Project fought Taylor's case. We argued that a policy to reject all candidates with HIV is based on outdated assumptions about people with HIV and their ability to work. On the eve of trial, the Foreign Service finally lifted its ban on hiring candidates with HIV by adopting

new medical clearance guidelines. The Foreign Service will no longer automatically reject job candidates based on their HIV status but will instead assess each on a case-by-case basis — as federal law requires.

This is a tremendous victory for people with HIV in America, and it signals just how far the HIV Project has come in the past two decades. From the beginning, we have held that the civil rights of anyone with HIV are at risk as long as HIV discrimination and stigma, which often stem from homophobia, persist. And over the years we've tackled cases that will make an impact — through litigation, public advocacy or public education — on as many people affected by HIV as possible.

Our commitment to advance civil rights for all people living with HIV, whatever their sexual orientation or gender identity, is as strong as ever. HIV issues initially became part of our work because of the impact of the epidemic on gay and bisexual male communities. Now into its third decade,

the epidemic continues to have a disproportionate affect on LGBT communities but is a major concern for non-LGBT communities as well, especially communities of color and people with fewer financial resources. When we fight HIV discrimination on behalf of one person living with HIV, like Lorenzo Taylor, we are combating the ignorance and animus that put the rights of all people living with and affected by HIV at risk. When we win, we win for all of us. As part of Lambda Legal's 35th anniversary, we celebrate the HIV Project and its work at the forefront of civil rights.

Early Battles, Victories

In 1982, Dr. Joseph Sonabend was working out of his Manhattan office, treating people diagnosed with AIDS in the early days of the epidemic, until the building's co-op board sent him an eviction notice. It cited his treatment of people with HIV and their presence in the building as the reason for the eviction. Lambda Legal took his case

and blocked the eviction. This became the first HIV discrimination lawsuit — and victory — in the country.

Our HIV casework has always reflected the many contexts in which people living with HIV face discrimination. During the late 1980s and the 1990s, we helped clients who were denied adequate health care and discriminated against on the job because they had HIV. We have also helped shape the law and educate the judiciary about HIV, by filing friend-of-the-court briefs in many cases, including those that established how the courts would evaluate discrimination claims under the Americans with Disabilities Act of 1990 (ADA).

Many of our cases in the 1990s dealt with insurance carriers and coverage for people affected by HIV. In California, for example, we filed a discrimination case on behalf of a woman who was denied life insurance because her husband was HIV-positive. The court ruled in our favor, in one of the first cases to establish that,

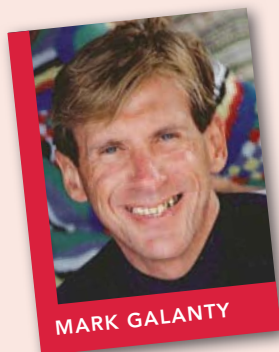
under the ADA, insurers could not deny life insurance coverage based on the HIV status of a spouse. In another case, we joined in the representation on appeal of a man denied disability benefits after he became unable to work due to medical conditions related to his HIV infection. The company had taken premium payments from him for more than five years but claimed he was ineligible for disability benefits because he had tested positive for HIV before the policy was issued. The California appellate court agreed that, under California law, insurers could not collect premium payments for many years and then deny coverage when the person becomes disabled.

On the Job

On the employment front we represented a California bank employee, Andrew Bell, who was denied permission to work one day a week from home to accommodate his medical needs related to HIV. The bank had provided that benefit in the past, but new management revoked the permission. Bell was unable to continue working without that accommodation and had to file for disability benefits. He sued the bank for discrimination, but the trial court ruled against him. We filed a friend-of-the-court brief supporting Bell in his appeal. The appellate court agreed with our argument in the brief and ruled in favor of Bell.

While we have seen some civil rights gains for people with HIV, we continue to find employees suffering harassment and other adverse actions at their workplace once their employer or fellow employees learn

they have HIV. Some are fired because of ungrounded fears about HIV transmission, like the sandwich shop employee we recently represented in Nevada. Others are denied reasonable accommodations — such as flexible work hours — that they need due to the side effects they experience from their HIV medications. Gay employees, sometimes presumed to have HIV solely because of their sexual orientation, also continue to deal with fallout from unfounded rumors about HIV status, while employees with HIV are affected by breaches of confidentiality.



Recently, we weighed in on behalf of several HIV service organizations in the Midwest to support an employee whose HIV status was revealed by a doctor in his workplace, and that case is currently moving its way through the courts. And, of course, we take heart that since February, people with HIV have been allowed to apply for Foreign Service jobs and be treated the same as other candidates.

Our Families, Ourselves

When it comes to our most precious resources — our families — it becomes even more crucial that parents and grandparents and other family members with HIV can count on the law to back their rights. And some-

times we fight for the rights of people affected by their loved one's HIV status. Early in this decade, we helped convince an appellate court to rule against a county policy barring placement of HIV-negative foster children in the care of foster families who also are providing care for children living with HIV. On behalf of public health, HIV/AIDS and child-advocacy organizations, we explained to the court that the county's assessment of the risk was not supported by any sound public health evidence. The appeals court agreed, and the policy was reversed.

But ignorance and stigma related to HIV continue to wrongly influence judges. In 2005, we represented Kerri Rowell, a mother of three children who was given custody with the restriction that the children not visit their aunt, a woman living with HIV. We won reversal of this ruling that was based on ignorance about HIV transmission risks. Most recently, we have undertaken representing a father whose efforts to maintain custody of his children have been hampered by ignorance and bias regarding how HIV impacts his ability to care for his children.

Advocacy: A Team Sport

Our public policy work for people living with HIV complements our civil rights work in the courts and before administrative agencies. And, in doing this policy work, we can't underestimate the importance of the partnerships and coalitions we've been a part of over the years. Our collaborations with other HIV advocacy, legal and medical organizations have resulted in powerful initiatives that cover broad ground. We

regularly submit formal comments on proposed regulations or policies of federal agencies, including the Department of Homeland Security, the Centers for Disease Control and Prevention (CDC), the Social Security Administration and the Food and Drug Administration. We tackle issues including immigrants' rights, privacy and confidentiality concerns, eligibility for benefits for those disabled by HIV, and blood donations by gay men. Currently, we are advocating with sister organizations for proper implementation of expanded HIV testing programs in response to revised recommendations of the CDC, so that HIV testing is conducted in an ethical manner that ensures that testing is voluntary and informed.

As the HIV epidemic has evolved, so has Lambda Legal's HIV Project. We've made our mark: in 2008, it's hard to imagine a doctor facing eviction for treating people with HIV. Our years of experience and direct involvement in helping mitigate so many of the problems facing our communities prepare us for the future of HIV activism, impact litigation and public policy work. We're addressing issues faced by employees who, thanks to medications, are able to work but face discrimination due to outdated, oversimplified views of what it means to be living with HIV. Looking forward, we've identified some likely issues: elder care, for example. And while we still face unknown scenarios in the future, we feel confident that the successes we've had and the progress we've seen is an upward trend. **L**



“No respect! Where’s the respect?”

The shout came from the back of the room, from someone who was not on our committee, who had not worked with us in the months preceding the board meeting. But the woman was as upset as we were when Dallas School Board members began to turn away the students who had come to share their stories of antigay harassment by their peers, and the neglect or outright homophobia displayed by teachers and school administrators.

No student should have to fear for his or her well-being in the classroom. In the last couple of decades, many of our nation’s schools have acted on this principle by taking increasing precautions to protect student safety — in the form of metal detectors, beefed-up security and better training for teachers in conflict resolution. But when it comes to the everyday lives of lesbian, gay, bisexual, transgender and questioning (LGBTQ) adolescents, separate issues arise, often misunderstood or else neglected by school administrators and teachers.

Lambda Legal has recognized the needs of LGBTQ youth for decades. Our work goes back to the 1970s, when we helped persuade a court to force the University of New Hampshire to allow a gay student group to exist alongside other student

NOTES from the FRONTLINE

BY BEN LEAL,
COMMUNITY EDUCATOR,
SOUTH CENTRAL
REGIONAL OFFICE

groups. Since then we have secured first-ever federal rulings that schools must protect gay students from violence and harassment and that gay-straight alliances must be allowed to meet under the same rules as other student groups. We relied on our experience helping make schools safer for LGBTQ youth in working with the Dallas Independent School District (DISD).

Three students waited nervously behind Robert Ivansec, cofounder of Youth First Texas (a drop-in center for LGBTQ youth in northern Texas), who had just presented hard facts to the board: according to GLSEN's National School Climate Survey, nationally, 84 percent of LGBTQ students report being verbally harassed, 64 percent say they feel unsafe in their schools and 19 percent have experienced homophobia from staff members. The DISD, Ivansec reminded its board members, had enacted a nondiscrimination policy in the early 1990s that addressed sexual orientation and also mandated staff training on the needs of LGBTQ students. "You're not doing it," he said, "and youth are not feeling safe."

The DISD, the eighth largest school district in the nation, was the first in the state of Texas to enact a nondiscrimination policy that includes sexual orientation. This policy protects both students and employees from harassment and abuse specifically related to being gay (or the perception of being gay). This policy was the first of its kind in Texas. But in the last 15 years, there has been little to no enforcement of the policy, largely due to a lack of knowledge of its existence.

Lambda Legal, along with Dallas community leaders and Youth First Texas, came together in 2006 to form a committee to address ongoing struggles for LGBTQ youth in the DISD and to try to reactivate the dormant antidiscrimination policy. We decided to bring Dallas students to a school board meeting to offer firsthand accounts of their experiences. That night, after our ally in the audience voiced protest and Ivansec pressed the importance of

hearing these experiences, board members finally backed down and allowed the students to speak.

And their words, unscripted and unrehearsed, were what ultimately got the board's attention. One young woman, a straight ally, said her high school principal followed her around the school, removing signs she had just posted announcing GLSEN's Day of Silence, a national day of action to support LGBTQ students that takes place at schools across the country. After confronting her principal, this honors student said she was deemed "emotionally disturbed" and eventually transferred to another school. Another young woman said she was made an unfair target of security personnel and school administrators because of her "masculinity." She was labeled a "problem student" and transferred in and out of four different schools before eventually dropping out and seeking her G.E.D. instead. And a young transgender man, his first year into college, recalled the period of elementary and high school before he transitioned, saying, "I was called a boy, a dyke, a hermaphrodite. This is before I realized who I was."

Our success in Dallas is a model for future campaigns we're planning in other cities.

After the meeting, the school board president sat down with our committee and pledged his support. The DISD Deputy Superintendent asked Lambda Legal to speak to all middle and high school principals about the nondiscrimination policy and encourage more training. The principals, in turn, requested that we educate all school counselors across the system. We did, and some of our publications — "Bending the Mold," a toolkit for transgender youth, and "Out, Safe and

Respected," a resource for LGBTQ youth about their rights and tips on starting a gay-straight alliance — became permanent additions in counseling offices throughout the district.

The policy itself was reexamined and the district agreed to a number of changes: to include regular training on LGBT issues for staff as part of their diversity trainings; to allow groups like GLSEN and Parents, Families & Friends of Lesbians and Gays (PFLAG) to provide in-service trainings for teachers; to keep books, posters, and other LGBT-related materials visible in libraries, and not held behind counters; and to allow access to websites of LGBT organizations that had been blocked, like those of GLSEN and Youth First Texas.

Our work with DISD was a product of our partnerships with local, state and national organizations, along with some supportive corporations that saw the value in students learning to respect diversity early on; businesses like Merrill Lynch, Ernst & Young and Texas Instruments sent letters of support early in the process of securing support from DISD. Our success in our work here is a model for future campaigns we're planning in other cities like Austin, Texas. Lambda Legal has received national attention for our work with DISD — it was mentioned in a *Time* magazine article on Dallas in 2007, and we presented our model at the National Gay and Lesbian Task Force's 2008 Creating Change conference in Detroit.

As Lambda Legal's attorneys continue to pursue litigation that will have a large impact on youth in their states and across the nation, Lambda Legal's community educators complement those efforts with campaigns we lead in school districts, trainings and resources we provide to administrators and other decisionmakers in schools, and advocacy for students who seek information on their rights. Together, these efforts lead to firmer standards and policies that LGBTQ youth can rely upon — and to the respect they desire and deserve. **L**

Q&A

Prologue to the Future

The HIV/AIDS epidemic is far from over. But many LGBT organizations have been criticized as devoting less attention on HIV-related funding efforts and policy work in the last decade. Meanwhile, the Black AIDS Institute reports that 54 percent of new HIV/AIDS cases in America are in the black community. This crisis affects a disproportionate number of black gay men and remains largely invisible outside of HIV-specific organizations. Executive Director Kevin Cathcart discusses the problem with Black AIDS Institute's cofounder and CEO Phill Wilson.

KEVIN M. CATHCART: Over the last decade I think primarily-white LGBT organizations have become increasingly less visible in HIV work. There's really been a split into two camps: gay organizations and HIV organizations, with not a lot of interaction between them.

PHILL WILSON: In the mid-90s, some people began saying the AIDS epidemic was over. They pointed to protease inhibitors and the fact that people were going to live longer. Well, that was true and continues to be true for many people. But it is less true for black gay men, and certainly less true for black people and poor people in general. That's why we started the Black AIDS Institute in 1999. There was a tremendous amount of progress in fighting the epidemic, but there



KEVIN M. CATHCART AND PHILL WILSON

had been very little done to address the AIDS epidemic in black America. There was a desire in LGBT communities to experience something other than grief. Out of that came the gay men's health movement, which was meant to be about gay health being inclusive and going beyond HIV and AIDS. But what happened is that it became everything but HIV and AIDS. And it became a movement that was dominated by white gay men who, out of fatigue or by virtue of themselves not being HIV positive, didn't really want to talk about HIV. That created distancing.

KC: I agree, with advances in treatment options, it meant having some hope after a long stretch of not having much. Unfortunately, this led to denial and wishful thinking, which has contributed to the increasing invisibility of the epidemic. The other issue that we aren't talking about enough or preparing for is those people who've been living with HIV for 20 to 30 years and who have been taking a lot of drugs for a long time. I suspect there's a whole series of aging issues that are coming down the road. I'm guessing it's getting attention in HIV-specific organizations but I'm not seeing it or hearing it at all in the broader LGBT world.

PW: Even though the rates of infection in young white gay men are less than those of black gay men, the rates are beginning to climb to rival rates that we saw in earlier times of the epidemic. That means that we're going to be faced with multiple problems. We're going to be faced with possible problems arising from an aging population

of HIV-positive gay men. And we have this burgeoning epidemic among young white gay men. Also, I believe very strongly we are losing ground on the progress we had made around diversity in our community. Our community is beginning to splinter in ways that I think won't serve us well in the long run, along race and class lines.

KC: Right. Gay people of color in leadership positions tend to be in the HIV groups. And in broader LGBT groups, the leadership tends to be much more white. That has an impact on direction and can become self-perpetuating. I think that's how some of the more mainstream LGBT groups have been able to continue to act like HIV is something that they've already dealt with.

PW: It does become a self-perpetuating reality because of the people who end up not being in the room. Yes, some of it is about political realities, but some of it is psychological. A broad gay men's health movement is not a bad thing, but we need to reassess what the big issues actually are. We have never been serious enough about prevention work done in a serious and frequent enough way.

KC: As a gay man who lives in New York, I feel like I can go through days of my life without bumping into any noticeable or visible safer sex messages or prevention messages. We've never demanded that this be done differently. We've never banded together to provide the funding to our own agencies to do it better or to demand that the government do it better.

“We need to go back to the basics: raise the volume of the HIV/AIDS conversation in the country, and raise awareness about where the current impact of HIV and AIDS plays out in the gay community. And, yes, we need more conversations about race in the context of the LGBT community. ”

- PHILL WILSON

PW: That’s part of the fallout from the exodus of the LGBT community from the AIDS fight; the advocacy work suffers. One of the reasons why you don’t see the prevention messages is because there’s less funding available. You have the pressure of homophobia, particularly now from funders and politicians who don’t want to get into fights with the right wing. And you don’t have the kind of robust advocacy efforts that were primarily driven by gay men in the early eighties. When you look at the white epidemic in America, it is still predominantly among the gay population. And when you look at the black epidemic, it is also still mostly a gay epidemic. We should be mindful that it is still about all of us. This is hard to say, but I think that when white gay men see how AIDS is impacting black gay men, they don’t see that as an attack on the gay community. It’s critical that we get past that.

KC: We’re not going to be able to bring the gay movement back into the AIDS fight in the way it needs to be unless we talk about race. I think you’re right about white gay men not seeing that what’s happening to black gay men is happening to the gay community as a whole. And it makes it harder to address when we live in a country that shies away from so many conversations about race. But that’s a part of what has to happen to get things to move forward, because we can’t continue to have LGBT organizations work on so many different issues but block off HIV as something separate.

PW: We need to go back to the basics: raise the volume of the HIV/AIDS conversation

in the country, and raise awareness about where the current impact of HIV and AIDS plays out in the gay community. And, yes, we need more conversations about race in the context of the LGBT community. One of the things that we are trying to do at the Black AIDS Institute is to try to work on some of our capacity and infrastructure issues so that we can engage in a more robust way with LGBT organizations and create broader coalitions.

KC: If we get a very different administration next year, we may have possibilities in Washington on major policy issues that we haven’t seen in a long time. But I worry that gay groups will continue to focus solely on “gay issues” and then HIV groups will be left alone to work on HIV issues. When we’re considering talking at a national level, it’s important that we try to come back together a bit more beforehand. Otherwise we might cement this split in place.

PW: We’re trying to figure out how to have a larger presence in other circles. We just opened up new offices in the Gay Men’s Health Crisis building in Chelsea. We hope to provide a potential link between what is happening in black America and the LGBT community. I’m having a tremendous amount of success in getting black clergy and conservative African-Americans to be willing to talk about LGBT issues through the lens of the conversations that we have to have around HIV.

KC: What I think has been one of the big challenges for us – and I know the

same thing is true for the other legal organizations – is that we have never found an effective entryway into using law and litigation as a way to support prevention work. What we’re good at is antidiscrimination work. We just resolved the Taylor case with the State Department, for example [see *“The HIV Project: Then and Now, p. 8”*]. But it’s very hard to come up with a legal hook to address issues in prevention, like lack of or limited access to medical care. These bigger problems surrounding the epidemic have been an ongoing challenge. In the meantime, I have made a commitment to myself to move the HIV conversation much more front and center when I speak around the country. I think these are important conversations to have, and we’ve got to get them into a larger arena.

PW: I think that the good thing about the LGBT community is that we have learned about the power of the possible — the accomplishments and the things that have been achieved in our community when we’ve set our mind to doing them. I think that the same can be said for this issue. If we were successful in developing the will to respond or to re-engage in the fight against HIV we would be very effective in changing the current paradigm. The past, in some ways, can be the prologue to the future. A lot of the successes in fighting HIV were driven by the LGBT community. And that can happen again.

KC: Yes, we have to make it happen again. **L**



Lane Lewis, John Lawrence, David Jones, Suzanne Goldberg, Tyron Garner and Mitchell Katine were among those on the frontlines for equality with *Lawrence v. Texas* and permanently transformed the lives of LGBT people nationwide.

Lawrence v. Texas

FIVE YEARS LATER

Almost 10 years ago on a September night in Houston, a report came through to the Harris County Sheriff's Department of a weapons disturbance at a nearby residential address. The report, it turned out, was false. Upon entering the home of John Lawrence, the officers found no guns or robbery in progress. But they did find something that was, at the time, illegal in the state of Texas.

That night, John Lawrence and Tyron Garner were arrested and jailed overnight for having consensual sex in Lawrence's home. The men were later convicted of violating the state's "Homosexual Conduct" law. But if their arrest marked a low point in LGBT civil rights history, it also marked a turning point. For the arrest of the two men set in motion a chain of events that would transform the LGBT civil rights movement forever.

At the time, people in LGBT communities were living in the shadow of *Bowers v. Hardwick*, the U.S. Supreme Court's 1986 decision upholding Georgia's sodomy law. In *Bowers*, the highest court in the land had said it was perfectly legal to brand lesbians and gay men as criminals. "There was this equation that if you were gay, you were breaking the law, and therefore you deserved all sorts of other bad things that might happen to you, like getting fired from your job or losing your child," says Lambda Legal

Executive Director Kevin Cathcart. "The ruling was that devastating for LGBT people in states throughout the country."

While the years after *Bowers* were difficult ones, the decision was a catalyst for community activism. On the legal front, the strategy shifted to challenging sodomy laws state by state and laying the groundwork for another Supreme Court case, when the opportunity presented itself. "John Lawrence and Tyron Garner gave us, at last, the opportunity we had been waiting for," Cathcart says. "We couldn't be sure that this case would make it to the Supreme Court — we could have won in Texas and that would have been the end of it — but we had a feeling from the beginning that this was a case that could go far."

And it did, eventually landing at the Supreme Court. On June 26, 2003, the court found the Texas "Homosexual Conduct" law to be unconstitutional.

It went on to strike down all remaining sodomy laws in the nation and overturn its decision in *Bowers*. This time around the court said unequivocally that lesbians and gay men are entitled to respect, dignity and equal treatment under the law.

While it takes many years for the full impact of a U.S. Supreme Court case to take shape, *Lawrence v. Texas* has begun to transform life for people in LGBT communities. Already, the case has been cited in over 300 cases addressing, among other things, discrimination, custody rights and relationships — including marriage. But its significance only begins in the courtroom. "It was an important legal victory," says Lambda Legal's Legal Director Jon Davidson, "but more than that, it was a catalyst for a profound cultural shift. The court for the first time recognized that love, sexuality and family can play the same kinds of roles in gay people's lives as they do for everyone else — and this

recognition fundamentally changed the way people all over the country think about gay relationships. That in and of itself is a major breakthrough.” Moreover, in the words of Yale Law Professor Paul Gewirtz, Lambda Legal’s work underscored the responsibility of the courts in “consolidating cultural developments, legitimizing them and translating them into binding legal principle.”

Today, five years after *Lawrence*, Lambda Legal continues to build on that binding legal principle. “The landscape is changing everyday, for the better,” says Cathcart. “But looking at these changes, it’s so clear to me that without *Lawrence* we wouldn’t be nearly as far along in our relationship work—remember that since *Lawrence* we’ve seen marriage in Massachusetts, civil unions and broad domestic partnership laws in California, Connecticut, New Hampshire, New Jersey and Oregon, and more limited domestic partnership laws in the District of Columbia, Hawaii, Washington and Maine, and many more cities and counties. We wouldn’t be half as far along in our custody work, our youth work or our workplace fairness work either. We now argue all of our cases from a new and increased level of respect for LGBT people and our relationships. *Lawrence* has completely raised the bar. That puts Lambda Legal on better footing to combat our opponents in court and in the court of public opinion.”

And the fight is far from over. “In many states, we can still be fired from our jobs,” says Cathcart. “We can be treated as legal strangers to our life partners. We can lose our children because of bigotry and ignorance. And we can be beaten up in schools and in the streets.”

But, says Cathcart, the *Lawrence* victory tells us that Lambda Legal has the formula to keep on winning these battles. “It took 17 years for *Lawrence* to reverse the *Bowers* decision, and in Supreme Court years, that is a very short time for the court to reverse its own decision. Now it’s been only five years since *Lawrence* and look at how much has happened so far. The world is literally a different place, and I expect it’s going to get better and better.” **L**

OVERRULED!



Lambda Legal is proud to present *Overruled!*, a short documentary highlighting the courtroom drama of the *Lawrence v. Texas* case. The film tells the story of John Lawrence and Tyron Garner — two men who fought back and became unlikely heroes at the center of one of the greatest civil rights cases of our time. The film features in-depth interviews with Lambda Legal plaintiffs, lawyers who made the case, leaders of the civil rights movement and everyday people whose lives were affected by sodomy laws.

Celebrate the fifth anniversary of *Lawrence v. Texas* in your own home by hosting an *Overruled!* house party. Watch the film with your family and friends and introduce others to a piece of our communities’ history that continues to propel the fight for equality. Or log in on June 26, the anniversary of the decision day, for our daylong virtual premiere of *Overruled!*

Visit www.lambdalegal.org/overruled to stay posted on the New York premiere and afterparty hosted by *Passport* magazine and the W Hotel, other screenings happening where you live, when you can get the DVD and how to host a screening yourself.

In My Own Words

LANGBEHN V. JACKSON MEMORIAL HOSPITAL

Janice Langbehn and Lisa Pond, together 18 years, had planned to take their three children on a family cruise. But just as they were about to depart from Miami, Lisa, a healthy 39-year-old, suddenly collapsed. Janice Langbehn discusses the tragedy and its aftermath.

Lisa and I always wanted to have a family together. Early into our 18-year relationship, we became foster parents to many beautiful and exceptional children. We adopted four children and made them a permanent part of our family. Our children came from an underprivileged and abusive background, so Lisa and I made an effort to spend a lot of time together as a family. We thought it would be nice to get out of the cold and head to the Caribbean that February.

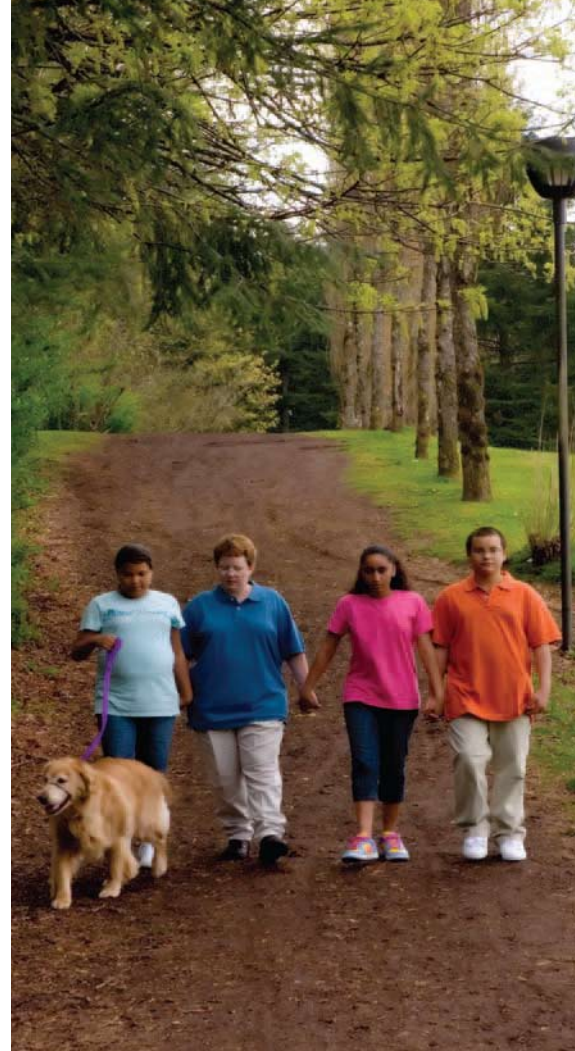
We took our kids on an R Family Vacations Cruise to the Bahamas. While we were still docked in Miami, the children went to the upper deck to play basketball and Lisa went to cheer them on. Suddenly, she collapsed. Lisa had always been very healthy and there were no warnings that she was ill or that her life was in danger. Our children carried her down to the ship's stateroom. I took one look at her and knew it was serious. She couldn't talk or stand up. Luckily, Lisa and I knew sign language; I asked if she had hit her head and she emphatically signed "no." I began to worry that she had had a stroke. I had no idea that this would be the last time that I would see Lisa alive.

Lisa was rushed to the trauma unit at Jackson Memorial Hospital. Instead of being met with compassion and patience when I arrived, the hospital's social worker was confrontational and rude. He told me that I was in an antigay state and that I would need to produce a health care proxy before I would be allowed to see her. The intake nurse also refused to give

me any information. The children and I waited for what felt like forever for word on her condition. I couldn't believe that we were being treated like we weren't Lisa's family. We had spent almost 20 years of our lives together, were raising children together. If that's not family, I don't know what is. I explained to them that I was Lisa's life partner with medical power of attorney. Luckily, I got in touch with a friend and she immediately faxed over our power of attorney papers and medical documents.

"We had spent almost 20 years of our lives together, were raising children together. If that's not family, I don't know what is."

Hours passed before I heard anything about Lisa. Finally, a neurosurgeon told me that she had a massive and fast bleeding brain aneurysm. By then, it had been hours since the last time I saw Lisa. Another neurosurgeon came out to the waiting area and informed me that the aneurysm was too massive and that my Lisa was moving toward brain death. Other than being allowed to watch Lisa receive the ritual of the Last Rites, we were barred from being by her side for more than eight hours until her sister arrived. Lisa had been alone all that time, even though we were just 20 steps away. By the time I was allowed to hold Lisa's hand to soothe her over to the other side, her hand was cold. I could tell that she could no longer hear our words.



Janice Langbehn with daughters (from right) Katie and Danielle, and son David.

Months after Lisa's death, the state of Florida still had not released her death certificate to me because we were not a recognized couple. Without it, our children's Social Security benefits were held up, as were their life insurance benefits.

So we grieved for what was. We grieved for the immeasurable loss of Lisa and we grieved for all the other same-sex couples and their families facing discrimination on a daily basis. Lisa and I never set out to change the world or change how others accept gay families. We just wanted to be allowed to live equally and raise our children well. All we wanted was to be treated with dignity in a time of tragedy. It's hard to believe that was too much to expect. **L**

LOOK SMART AT PRIDE

Join Lambda Legal this year as we celebrate our 35th anniversary at Pride celebrations all around the country. Show your support by wearing our limited edition Member08 T-shirt to your local Pride — yours free with a \$35 Pride membership gift to Lambda Legal now through September 30, 2008.

Available in classic grey or festive eggplant (eggplant is slim-cut), these Member08 T-shirts are soft and comfortable, perfect for a day at a Pride festival or marching in the parade! To join or upgrade your membership and get the Member08 shirt, use the enclosed envelope or visit www.lambdalegal.org/member.

**Be sure to wear your
shirt at Pride!**



In the News

“Ultimately, it becomes a battle of majority rule over constitutional rights. Then the most powerful thing about the Constitution — that it guards against a tyranny of the majority — is lost. And then, everybody loses.”

Editorial in the *Des Moines Register* on the need for judges’ independence from political pressure when ruling on marriage equality for same-sex couples

JANUARY 18, 2008

“I need to be able to live comfortably as a woman. It’s who I am.”

Lambda Legal client Daunn Turner, a transgender woman, quoted in the *Chicago Tribune*, speaking about her case to seek a fee waiver to legally change her name

JANUARY 18, 2008

“I find it a little upsetting,” Judge Susan Brown said of Denise Fairchild’s legal maneuvers.”

Appeals court judge quoted in the *Columbus Dispatch*, in response to a lesbian mother trying to use Ohio’s antigay marriage amendment to invalidate a shared custody agreement with Lambda Legal client Therese Leach

MARCH 28, 2008



California Dreamin'

Our phenomenal marriage equality win in California is a victory for all people who cherish fairness and opportunity. It affects people in California most directly but also has enormous impact across the country. California, with the largest population of LGBT people in the nation, is now the second state where all people have the opportunity to marry the person they love.

Lambda Legal, lead counsel National Center for Lesbian Rights and the American Civil Liberties Union (assisted by our co-counsel at Heller Ehrman and the Law Firm of David Codell) filed our case four years ago on behalf of several same-sex couples seeking the right to marry, the statewide LGBT advocacy group Equality California and San Francisco's Our Family Coalition. Together, on May 15, 2008 we made history.

The California Supreme Court's 4-3 decision was not liberal, and it was not conservative. Of the majority ruling in our favor, three justices were appointed by a Republican governor, while the other was appointed by a Democrat. The court — one of the most respected in the country — issued a thoughtful and well-reasoned decision, building upon our resounding U.S. Supreme Court success in *Lawrence v. Texas*. We were thrilled to see the California Supreme Court majority proclaim that civil unions or broad domestic partnerships provide no substitute for full and equal access to marriage itself. The court refused to let second-class citizenship carry the day. Movingly, the court wrote, "The ability of an individual to join in a committed, long-term, officially recognized family relationship with the person of his or her choice is often of crucial significance to the individual's happiness and well-being."

The win also strengthened the legal foundation of our civil rights struggle. For example, the majority established that discrimination based upon sexual orientation should receive the highest, most probing examination, known as "strict scrutiny." This validation was stunning in its clarity: "Furthermore, in contrast to earlier times, our state now recognizes that an individual's capacity to

establish a loving and long-term committed relationship with another person...does not depend upon the individual's sexual orientation, and, more generally, that an individual's sexual orientation — like a person's race or gender — does not constitute a legitimate basis upon which to deny or withhold legal rights."

With a constitutional amendment looming on California's ballot this fall, Lambda Legal will continue to fight for equality, working with our partners to educate people about fairness and to defeat the antigay ballot initiative. Our hope is that the fair-minded people of California will not tarnish the state constitution by choosing to write discrimination into it through a ballot measure. Our belief is that Californians — and Americans — will continue to move forward and not turn back.

Jenny Pizer, Lambda Legal Senior Counsel, put it best: "Today, for the first time, lesbian and gay families in California are fully equal under law. Their promises of love and commitment for a lifetime can have the same legal protection and dignity as those of other loving couples. Expansion of equality, fairness and inclusion makes California better, and ultimately makes America better. Future generations will look back on today's decision and recognize it as an important, historic step forward, in keeping with our best traditions of fairness and opportunity for all."

JON W. DAVIDSON
LEGAL DIRECTOR

LOOK SMART AT PRIDE

Receive our limited-edition Member08 T-shirt when you join Lambda Legal with your gift of \$35 or more, now through the end of Pride Season (9/30/2008).

- ▶ To join or upgrade your membership and get the Member08 shirt, use the enclosed envelope or visit www.lambdalegal.org/looksmart.



Available in classic grey or festive eggplant (eggplant is slim-cut), these Member08 T-Shirts are soft and comfortable, perfect for a day at a Pride festival or marching in the parade!

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