

Lambda
Legal

Impact

Civil unions "send the message
there's something inappropriate
or shameful about our family."

—Sarah Lael (2nd from left)
with partner Suyin Lael
and their children



NEXT STOP: New Jersey

LAMBDA LEGAL RETURNS TO COURT FOR MARRIAGE EQUALITY

INSIDE

LOSING THE BATTLE, WINNING THE WAR

Hospital visitation plaintiff
Janice Langbehn on her call
from President Obama, p.16



Lambda Legal
making the case for equality

SUMMER 2010



Advocating for Change

KEVIN M. CATHCART, EXECUTIVE DIRECTOR

At Lambda Legal, we spend most of our time making the case for equality in the courts—but we also fight for freedom in the community and in the chambers where laws are made.

During Pride season, Lambda Legal staff, members and volunteers can be found in cities and towns around the country marching, handing out fact sheets, answering questions and having fun. We enjoy seeing so many LGBT folks, friends and allies getting together to share their pride. Please check out the list of pride events (see page 5) where Lambda Legal will be marching or have a booth—and come by and visit us!

I have been traveling around the country quite a lot recently to speak at events and meet our members and supporters. One of my most frequent destinations is our nation's capital, Washington, D.C. More federal and congressional offices have been opening their doors to the LGBT community. Lambda Legal has been in the room and at the table, making the case for equality.

For 37 years, we have been bringing—and winning—high impact cases to court on behalf of LGBT people and people living with HIV. Just this spring, we won a federal court decision striking down a law in Wisconsin that had barred certain medical treatment for transgender people in prison. We also won a decision from New York State's highest court affirming the parental rights of a non-biological lesbian mother.

Even when we don't win in court, though, we move forward and make change. When our client Janice Langbehn received a call from Air Force One and heard the voice of President Obama on the line, she knew that her fight had an enormous impact on the lives of other LGBT families facing medical crises. Here's what happened:

First a tragedy occurred—and a hospital treated a lesbian couple in an outrageous and discriminatory way. We sued the hospital on behalf of Janice and her family but the court found that even though what had happened to Janice was terribly wrong, there was no legal recourse. We never want to

lose a case, and our hearts were breaking for Janice, but we all kept fighting. Lambda Legal and Janice kept the story alive with community organizing, public speaking and work with the media—and the story reached the ears of the President. Even though we lost a battle in court, we won the war. The change ordered by the President will be more far-reaching than the court could have ordered in Florida.

But at Lambda Legal, we also know that the better our laws and government policies are, the more protected people are from unequal treatment, and the more equipped Lambda Legal's attorneys are to fight injustice. That's why we push for change and provide expert advice to White House officials and members of Congress.

We are not lobbyists, but legislative leaders count on our attorneys to provide crucial information, expertise and support on the Employment Nondiscrimination Act (ENDA), repeal of "Don't Ask, Don't Tell" and other matters vital to the communities we serve. I joined one of our plaintiff couples from Iowa and Rep. Jerrold Nadler as he introduced the Respect for All Marriages Act, which would eliminate DOMA. We were also proud when our client Vandy Beth Glenn, fired from her job because of her gender identity, was one of four individuals invited to tell her story and testify in support of ENDA at a congressional hearing.

After years of winning groundbreaking cases to protect the rights of LGBTQ youth in schools, we assisted the drafters of the federal Student Nondiscrimination Act introduced in January. We have collaborated with many partners to pursue LGBT equality in immigration and health care reform. And after years of advocacy by Lambda Legal and many others, the travel ban on people with HIV was finally lifted, along with the ban on federal funding for syringe exchange programs.

Making the case for equality means covering all the bases: the courts, the community, the White House, the halls of Congress and the offices of federal officials. That's how we make change and demonstrate our pride.

On behalf of Lambda Legal, we wish you all a happy pride season!

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

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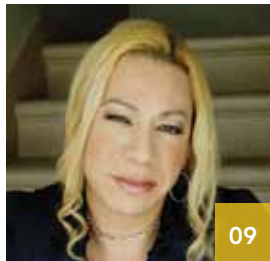
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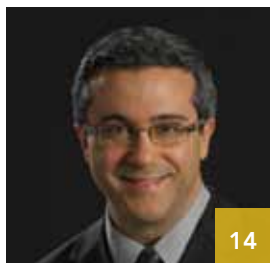
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Lambda Legal is a national organization committed to achieving full recognition of the civil rights of lesbians, gay men, bisexuals, transgender people and those with HIV through impact litigation, education and public policy work.

On the cover: SARAH AND SUYIN LAEL of Dayton, NJ, plaintiffs in *Lewis v. Harris*, our suit for marriage equality in New Jersey, with daughters (from left to right) Zenzali, 12, Tenaj, 11 and Danica, 9. See "Uncivil Union," page 7. Photo by Jason Gardner.

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

ON THE DOCKET IN THE FIELD

HIGHLIGHTS OF LAMBDA LEGAL'S RECENT WORK AROUND THE COUNTRY

CALIFORNIA

Lambda Legal Sues for Spousal Health Coverage

In January, Lambda Legal filed suit against the U.S. Office of Personnel Management (OPM) on behalf of federal court employee Karen Golinski, whose wife, Amy Cunningham, has been denied the health insurance the federal judiciary provides for spouses of public employees. In January 2009, Ninth Circuit U.S. Court of Appeals Chief Judge Alex Kozinski ruled the benefits denial constitutes illegal discrimination, but OPM, citing the so-called "Defense of Marriage Act," stepped in and told Golinski's insurer, Blue Cross/Blue Shield, not to comply, leading to this lawsuit.

TENNESSEE

Suit After Sex Sting Results in Police Policy Change

In January, Lambda Legal successfully resolved a lawsuit filed against the Johnson City Police Department (JCPD) in Tennessee, on behalf of Kenneth Giles, whose photo, along with those of 39 other men arrested in a public sex sting, was made available to the media contrary to usual practice. The lawsuit asserted that it was improper and discriminatory for the JCPD to single out certain groups of people for increased public attention by publicizing their arrest photographs. The Department agreed to adopt a nondiscrimination policy, update the department's media policy and institute a sensitivity-training program for officers.

CALIFORNIA

SkyWest Offers Travel Benefits to Spouses of Gay Employees

In March, SkyWest Airlines announced that it is now offering travel benefits for the same-sex spouses or domestic partners of its gay and lesbian employees. The move came after Lambda Legal sent a complaint letter last October on behalf of SkyWest employee Gilbert Caldwell. The airline had denied travel benefits for Caldwell's spouse. Lambda Legal's letter explained that the airlines' treatment of married or partnered gay employees violated the airlines' stated policies as well as California law. "I'm relieved and gratified that I now will be treated as an equally valued employee," said Caldwell.

WISCONSIN

Federal Court Mandates Treatment for Transgender Prisoners

In 2006, the Wisconsin legislature passed a law denying transgender people access to medical care while in state custody. But on March 31st, a federal court, ruling on a challenge brought by Lambda Legal and the ACLU, struck the law down. "The court understood that medical treatment is critical for transgender people and that medical decisions should be made by doctors, not legislators," said Dru Levasseur, Lambda Legal's Transgender Rights Attorney.

HAWAII

Civil Unions Approved While Lambda Legal Prepared Suit

Lambda Legal was preparing to file suit in Hawai'i for civil unions when, on April 29, the state's lawmakers approved a bill to create civil unions for the state's unmarried gay and straight couples. Hawai'i's constitution allows the legislature to restrict marriage to heterosexual couples and gay couples have been able only to register as "reciprocal beneficiaries." The vote was "down to the wire, but it represents years of steady work by Hawai'i's lesbian, gay, bisexual and transgender (LGBT) community and by concerned state legislators," said Lambda Legal Marriage Project Director Jennifer Pizer. As we go to press, we await Governor Lingle's decision whether to sign, veto or allow the law to go into effect without her signature.

NEW YORK

Lambda Legal Wins Parental Rights for Non-Biological Lesbian Mom

Lambda Legal successfully convinced the New York State Court of Appeals, in a May decision, to rule that petitioner Debra H., a non-biological mom, is a legal parent based on a Vermont civil union that she and her former partner entered prior to the birth of their son. The ruling overturned an intermediate appeals court that had denied Debra H.'s right to seek custody and visitation as well as her obligation to provide financial support to the child.

CELEBRATE PRIDE WITH LAMBDA LEGAL

Lambda Legal staff, supporters and volunteers will be at the following Pride season events. Come grab a tote bag, check out our information resources or just say hello!

JUNE

- 11–13 Los Angeles
- 12 Brooklyn, NYC: Park Slope Gay Pride
Chicago: Latino/a Pride Picnic
Indianapolis
- 12–13 Chicago: Midsommarfest
Des Moines: Capital City Pride
Washington, D.C.: Capital Pride
- 13 Birmingham, AL
Philadelphia
- 19 Honolulu
Iowa City
- 20 Wilton Manors, FL: Stonewall Street Festival
- 19–20 Denver
Baltimore
- 26 Houston
Harlem, NYC
- 26–27 San Francisco
Twin Cities, MN
- 27 Chicago Pride Parade
Seattle
New York: Heritage of Pride Parade

JULY

- 17–18 San Diego
- 25 New York: LGBT Dominican/Latino Health Fair Picnic

AUGUST

- 7–8 Chicago: North Halsted Market Days
- 28 Jersey City, NJ

SEPTEMBER

- 3–6 Atlanta: Black Pride
- 12 Peoria, IL
- 18 Rehoboth, DE
- 19 Dallas
San Francisco: Latino Pride

OCTOBER

- 2 Asheville, NC: Blue Ridge Pride
- 9–10 Atlanta
- 10 Philadelphia: Outfest Philly



American Airlines is the official airline of Lambda Legal. American Airlines has been a national sponsor of Lambda Legal and a travel partner since 2004. 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 making a reservation on www.AA.com/rainbow or through a travel agent, all you need to do is provide Lambda Legal's unique Business ExtrAA Account number and you will help earn valuable points for Lambda Legal. The best part is that you still earn your own AAdvantage Miles! When booking on www.AA.com/rainbow, simply enter **541544** at the bottom of the Enter Passenger Details section, in the field for Business ExtrAA Account Number.



VOLUNTEER AT PRIDE! Pride volunteers all over the country help us get the word out about our important work for equality. You can help us staff a Pride booth or march with Lambda Legal at a Pride parade in a city near you. Visit www.lambdalegal.org/pride

Justice at Work

What to do if you encounter discrimination based on gender identity or expression or sexual orientation on the job.

Everyone is entitled to work in an environment that respects the dignity and rights of its staff. Unfortunately, workplace concerns are one of the top reasons people call Lambda Legal's HelpDesk. As far as American society has moved ahead in attitudes about fairness for LGBT people and people living with HIV, discrimination can still mar our experience on the job.

Only thirteen states and the District of Columbia currently prohibit employment discrimination on the basis of gender identity or expression or sexual orientation. Eight more states have bans limited to sexual orientation (see Lambda Legal's interactive map, "In Your State," at lambdalegal.org). Until the Employment Nondiscrimination Act (ENDA) now before Congress passes, there are no federal protections for most LGBT workers in the private sector. Public employees, except for those in the military or in intelligence positions, may fare somewhat better. Some companies voluntarily adopt a nondiscrimination policy that includes gender identity or expression and/or sexual orientation; however, an employee is often limited to internal remedies. Check your company's personnel manual for its nondiscrimination statement and the grievance procedures available to you.

If you are being harassed or discriminated against, report the matter to human resources or your supervisor.

Since these initial meetings may be in person or over the telephone, an e-mail or a short note can be helpful to document that a discussion on the topic took place. If no action is taken, make sure your next report is *in writing*, that is, a formal complaint. A written charge of discrimination is sometimes enough to prompt a serious—in many cases favorable and apologetic—response from management. With smaller companies where the person

Workplace concerns are a top reason people call Lambda Legal's HelpDesk

responsible for the abuse may also be the authority to whom you have to report it, you may want to open a dialogue directly with your boss or with the head of the company.

If you're thinking of proceeding to legal actions like mediation or litigation, take steps beforehand to establish a record showing your attempts to resolve the issue through the proper channels (it is important to pursue the administrative remedies available to you). Print out emails and memoranda and keep them in a safe place at home. If you are fired, you may not have an opportunity to retrieve these things, especially if they are still in an electronic format.

Demonstrating bias against you may depend on a standard of comparison. Are you treated differently from other employees in a similar situation? You may have experienced a "toxic work environment," a general atmosphere of offensive humor and innuendo severe enough to interfere with the performance of your job. Sometimes discrimination escalates to sexual or physical harassment or violence. As stressful as your situation may feel, remember that there is help available to you, and that others who have been in your shoes have found ways to speak up, fight back if possible, move on when necessary and grow stronger through the experience. **L**

FOR ADDITIONAL HELP:

Call Lambda Legal's Help Desk at 866-542-8336 or send us an e-mail using our online Help Desk form at www.lambdalegal.org/help/online-form. We can provide general information and refer you to legal help in your area. You can also download Lambda Legal's Out at Work toolkit www.lambdalegal.org/out-at-work.

Uncivil Union

Lambda Legal is fighting to make sure New Jersey delivers what its Supreme Court has already mandated: equality for same-sex couples.

By Hayley Gorenberg, Lambda Legal Deputy Legal Director



Sarah and Suyin Lael, plaintiffs in Lambda Legal's lawsuit for marriage equality

What does it mean to be in a civil union, the “all-but-married” legal status New Jersey’s legislators gave same-sex couples after the state’s supreme court unanimously ruled in 2006 that barring same-sex couples from the rights, benefits and responsibilities of marriage was unconstitutional?

For Cindy Meneghin, a director of web services for Montclair State University who lives in Morris County, it has meant fear and confusion. In August 2009, Meneghin’s doctor, concerned she had appendicitis, urged her to report to a hospital immediately.

“At the emergency room, I tried to let everyone know that Maureen was my partner in a civil union and that she had the right to see me and speak for me,” Meneghin recalls. She was met with blank stares. One nurse had no idea what Meneghin was talking about. “I told her that in New Jersey, people in civil unions are supposed to be treated the same as people in marriages.” Nonetheless, Meneghin says, the nurse kept repeating, “But it’s not marriage, right?” For Meneghin and Kilian, together for 35 years, civil unions simply don’t offer the security marriage would. “We feel at the mercy or whim of whoever wants to deal with us.”

THE STATE OF THE UNION

On March 18, Lambda Legal announced our return to the New Jersey Supreme Court to finish the fight we started in 2002, and to fulfill the objective the court ordered in our case, *Lewis v. Harris*: equal rights for New Jersey’s same-sex couples. In our landmark case, the court ordered the state legislature to act within 180 days to create the remedy. But instead of simply dropping marriage discrimination, the legislature created a legal experiment dubbed “civil unions.”

Civil unions are an experiment that other states, since the New Jersey ruling, have dismissed as unable to provide equality, except for Hawaii, where a constitutional amendment bars marriage equality, and where the legislature recently approved civil unions for same-sex and straight couples. Two states that offered civil unions when we initiated *Lewis* have done away with them in favor of freedom to marry, finding that civil union wasn’t adequate, didn’t work to fully protect families and was far from equal. Connecticut’s Supreme Court overturned civil union in 2008 and ordered the freedom to marry, a decision later embraced by the legislature. Vermont’s legislature voted to scrap civil union and embrace marriage in 2009.

As New Jersey embarked on its civil union experiment, the legislature created a control on the test: the “Civil Union Review Commission,” which would determine whether its newly fabricated separate status for lesbians and gay men comported with the

court's ruling. The thirteen-member Commission included stakeholders from around the state and designees from state government: representatives from the Division on Civil Rights, the Office of the Attorney General, the Department of Human Services, the Department of Banking and Insurance, the Department of Health and Senior Services and the Department of Children and Families. The commission held hearings around the state, amassed 885 pages of transcripts and recorded 150 witnesses, from New Jersey residents with civil unions, to children whose parents are limited to civil union status to medical, therapeutic, and legal experts about the harms inflicted by the inadequacy of civil union. The commission decided unanimously that civil unions had failed, and the legislature eventually took the matter up after a hard-fought battle by the state-wide advocacy group Garden State Equality. But in January 2010, the legislature voted down the clear solution: marriage equality.

THE BATTLE CONTINUES

The unequal status of civil union invades many dimensions of our plaintiffs' private and public lives. New Jerseyans in civil unions are outed during jury duty, because they can't honestly answer the question "Are you single or married?" without disclosing their status, designated by the state for lesbians and gay men only. In workplaces with benefits plans built around married spouses, their different, nonmarital status invites unequal pay for the same work. Former plaintiff Diane Marini, whose partner of fourteen years, Marilyn Maneely, succumbed to amyotrophic lateral sclerosis (commonly known as Lou Gehrig's disease) over the course of the case, speaks about how the lack of full rights and recognition for their relationship kept Marini from carrying out one of Maneely's final wishes: that her body be donated to science.

"One time someone in our daughter Zenzali's seventh grade class started presenting information about

equality and civil unions in class," says Sarah Lael, a elementary school speech and language therapist from Middlesex County who, with civil union partner Suyin Lael, is also a plaintiff in the suit. "When the class started to discuss it, the teacher cut discussion off and explained that not everyone was mature enough to discuss the topic. Kids at

The unequal status of civil union invades many dimensions of our plaintiffs' private and public lives

that age obviously understand what a marriage is and what it means. It sent the message to our daughter that there is something illicit, inappropriate, and even shameful about her parents."

For the Laels, civil union status has also brought frustration and injustice in the workplace. When Suyin Lael tried to obtain supplemental disability insurance with hospital coverage for Sarah as part of her employer's plan, she was told she could get coverage for

their children only. The provider "did not recognize civil unions," Suyin Lael says, "because they have offices in New Jersey and Pennsylvania and follow Pennsylvania law only. They said this even though the employee handbook says they should follow the policy and laws of each state." The Laels were able to secure primary coverage through Sarah Lael's workers' union, "but only after we explained what a civil union is and that it should be treated the same as a marriage," Suyin Lael says. Even with coverage in place, their worries aren't over. "At one point I had to have a medical procedure, and it worried me that someone would say I wasn't covered for it. We also worry about what would happen if we changed employers or had to deal with another company."

The families who returned to the New Jersey Supreme Court in March, the plaintiffs in *Lewis v. Harris*, have walked a long and painful road. Same-sex couples in New Jersey shouldn't have to wait any longer. As a matter of both justice and dignity, we are asking the Court to enforce its order, and fulfill the constitutional command of equality. **L**

BRICK BY BRICK

A history of Lambda Legal's suit for marriage equality in New Jersey

2002: Lambda Legal files historic lawsuit in New Jersey state court seeking marriage equality for gay and lesbian couples in New Jersey.

2003: Lambda Legal argues the case in court in June. In November, the trial court upholds the exclusion from marriage.

2004: Lambda Legal argues appeal.

2005: Appellate division affirms lower court, 2-1.

2006: Lambda Legal presents oral argument to the New Jersey Supreme Court in February. In October, the seven justices unanimously rule that denying same-sex couples the rights and

benefits different-sex couples obtain through marriage is unconstitutional and directs state legislature to take action within 180 days. In December, New Jersey Legislature passes civil union bill; Lambda Legal moves forward with "Civil Union Watch" to reach the goal of marriage equality.

2008: New Jersey Civil Union Review Commission, appointed by the legislature, concludes that civil unions are insufficient and do not provide equality.

2010: New Jersey Senate votes down a marriage equality bill in January. In March, Lambda Legal files motion to reactivate the case.

Bad Medicine

Transgender people face discrimination where they least expect it—the doctor’s office

By M. Dru Levasseur, Lambda Legal Transgender Rights Attorney



"I am empowered enough to stand up for myself and speak up," says Bamby Salcedo. "On intake forms, I check transgender, or if there's not a box on the form, I make my own little box."

Imagine walking into a medical office. Usually the first thing you do is fill out a form with your name and gender. What if your answers don't match your appearance? What happens when a receptionist calls out your name in the waiting room in front of other people?

Transgender and gender-nonconforming people face significant barriers to adequate health care. Whether the barriers are due to bias, lack of transgender-specific health-care training, or insurance that excludes transition-related care, the consequences on people's lives can be devastating.

Lambda Legal has fought transphobia in health settings. Most recently, on March 31, 2010, a federal court, ruling on a challenge brought by Lambda Legal and the ACLU, struck down a law passed by the Wisconsin legislature which denied transgender people access to medical care while in state custody.

In addition, Lambda Legal recently published a survey, "When Health Care Isn't Caring," the first to examine barriers to health care among LGBT and HIV communities on a national scale. In almost every category, transgender and gender-nonconforming respondents reported the highest rates of discrimination:

- Almost 90 percent of transgender people surveyed felt that there are not enough health professionals adequately trained to care for them.
- 27 percent were refused care.
- 21 percent were subjected to harsh language.

- 8 percent experienced physically rough or abusive treatment.

The numbers are even more staggering for low-income transgender people and transgender people of color. Many transgender people wait until they are forced to seek emergency medical care, rather than seek out preventive care. Sometimes, delay or denial of care can be life-threatening.

Life on the Margins

The American Medical Association, the American Psychological Association, the American Academy of Family Physicians and the World Professional Association for Transgender Health have all recognized the medical necessity of gender transition and have called upon public and private insurers to cover transition-related care. Yet even with private health insurance or

Medicaid, most transgender people cannot secure coverage of transition-related care, and many are forced to forgo treatment because they cannot afford to pay out of pocket. According to a 2009 survey by the National Center for Transgender Equality and the National Gay and Lesbian Task Force, 15 percent of transgender people live on less than \$10,000 a year, and the unemployment rate is twice that of the general population.

Much transition-related care is based on a psychological diagnosis of gender identity disorder, currently undergoing review for the upcoming fifth edition of the “Diagnostic and

Statistical Manual” due out in 2013. Medical and transgender communities are debating whether gender variance is properly categorized as a mental disorder—similar to the way homosexuality once was—or whether it should be changed to a medical diagnosis or removed completely.

As the field of transgender health care evolves, Lambda Legal is on the frontlines to raise awareness of the disparities faced by transgender and gender-nonconforming people. LGBT people and people living with HIV deserve access to dignified, compassionate, and competent care. Our very lives are at stake. **L**

FIND OUT MORE Read the full report on Lambda Legal’s health-care survey at www.lambdalegal.org/health-care-report.

NEED A LEGAL REFERRAL? Call the Lambda Legal Help Desk at 866-542-8336 or email us by visiting www.lambdalegal.org/help/online-form.

STORIES FROM THE FRONTLINES

JAY KALLIO, a former medical professional who began his transition from female to male four years ago at the age of 50, discovered a lump in his breast. Terrified because all of the women in his family had died of cancer, he rushed to a New York City cancer center for a mammogram. The radiologist informed him that the mass was highly suspicious and had the characteristics of a very aggressive cancer. Jay waited more than ten days, but the doctor never called with his results. Finally, the radiologist intervened and had the oncologist call. He told Jay, “I don’t even know what to call you.” He was reluctant to offer Jay the common course of treatment, a double mastectomy, and instead referred Jay to a psychologist. It took Jay 40 minutes recounting his family history with cancer to convince the doctor that Jay’s concern was legitimate and not a plot to

manipulate him into providing transition-related care.

After his mastectomy, Jay’s results were sent to an oncologist to determine a course of chemotherapy. The oncologist insisted on a copy of Jay’s entire medical history before offering any treatment plan, and called Jay’s primary physician to verify why Jay was taking testosterone. This delayed the critical therapeutic window of treatment for another month. Jay transferred to yet another facility, where they agreed to treat him even though time had run out on his recommended window of treatment.

BAMBY SALCEDO, a transgender woman who coordinates the transgender youth harm-reduction project at Children’s Hospital LA Division of Adolescent Medicine, says of medical reception staff, “Sometimes they’re shocked to see someone like me trying to access services.” Once when she had to go to the emergency room, she said people who got there after her were assessed and helped before her. “I firmly believe it was due to who I am.”

She notes that in the Latino community, “Culturally, people try to take care of

themselves however they can through homemade remedies or traditional herbal medicine from the botanicas. In trans communities, it’s sort of the same; many people get their hormones outside of medical settings. Only in extreme cases do we go to the doctor to seek medical care. Many of us don’t have insurance. Or we don’t want to deal with the crap that we as a community can go through.” Salcedo says she’s an exception in her communities. “I am empowered enough to stand up for myself and speak up. On intake forms, I check transgender, or if there’s not a box on the form, I make my own little box.” Now she sees a doctor at a community-based clinic where she feels very comfortable. “It’s not transgender-specific clinic, but they do provide transgender health services. I learned about it in 1998 from a friend who worked there, and I’ve been going ever since.”

Salcedo says she is advocating for more information about the interaction between hormonal treatment and HIV medication in transgender communities. “I’m really advocating for research on this,” she says, “but obviously, our community is not a priority to many people.”

PRESCRIPTIONS

What can I do if I'm discriminated against in a health-care setting?

Tell someone! Report the mistreatment to a staff member or file a complaint. You can also report it to your state medical licensing board. Finally, call Lambda Legal at 866-542-8336 or email us by visiting www.lambdalegal.org/help/online-form. Our Transgender Rights Project is working hard to combat discrimination in health care settings.

How do I find a transgender-friendly health-care provider who can meet my medical needs?

Several LGBT health clinics maintain a list of transgender-sensitive health-care providers. Many support groups and political organizations keep a local transgender provider directory. Contact Lambda Legal for a referral to your local LGBT community group.

What can medical providers do to change the landscape for transgender health?

Attend a seminar on transgender health. Invite a transgender speaker to do an in-person training at your office, clinic or hospital to make sure that everyone—from the security guard at the door to the head physician—understands how to be respectful to transgender patients. Review your forms to make sure that they are transgender-inclusive. Add a policy that prohibits discrimination in your workplace on the basis of gender identity and gender expression, and make sure it is enforced. Make your office and waiting room more welcoming to gender diversity by having visible transgender posters or stickers. If you have the capacity, hire a liaison to your transgender patients to make sure their needs are being met. Create a volunteer transgender community panel that can meet to provide feedback and work to make your workplace a national model for transgender-sensitive medical care.



A CLOSER LOOK:

FRANCISCO DUENAS

Proyecto Igualdad, established in 2004, is Lambda Legal's outreach project to the Latino community. Brandon Aultman speaks to its coordinator, based in the Western Regional Office in Los Angeles.

Describe your role as Proyecto Igualdad Coordinator at Lambda Legal.

My role is equal parts ambassador, educator and advocate. I oversee the creation and distribution of Lambda Legal's Spanish language content, including publications, our website and online communications. I also constantly build relationships and represent Lambda Legal within the Latino community. I'll edit a know-your-rights publication in Spanish one minute, meet with a Latino community leader and share our educational resources for LGBT Latinos the next.

How do you increase community awareness of Lambda Legal?

As Americans the idea of a legal defense organization seems to be embedded in us. Most Latinos have never heard of Lambda Legal. I usually tell folks, "We're the largest and oldest of the groups that sue when LGBT people or people living with HIV are discriminated against." They totally get it! With Latino lawyers, depending on the part of the country I am in, I will describe Lambda Legal as "the gay MALDEF" (Mexican American Legal Defense and Education Fund) or "the gay PRLDEF" (Puerto Rican Legal Defense and Education Fund.) Once again, it clicks!

How are you continuing to make the case for equality?

In Los Angeles, I have been working with the Latino Equality Alliance, a new coalition among Latino and LGBT organizations designed to facilitate collaboration and coordinate advocacy for LGBT Latinos. Across the country, we continue to have a presence at Latino LGBT pride celebrations and at Latino conferences, and I meet with community and national groups to build coalitions for equality.

Is there any Francisco trivia that your Lambda Legal colleagues might be surprised to learn about you?

I have been honored to officiate three weddings for friends and family, including what might have been the first legally sanctioned gay wedding in East Los Angeles, a historically Latino community. Oh, and I almost made it onto *Teen Jeopardy*.

We Are Family

Despite court victories—and no evidence that having same-sex parents harms children—discrimination against lesbian and gay parents continues. Lambda Legal takes a closer look at the challenges facing gay men and lesbians who want to know the joys of parenthood.



“At first, I thought that being a parent was something that gay men couldn’t do,” says San Diego resident and Lambda Legal client Oren Adar. “But both Mickey and I come from incredibly loving families and it felt like the most natural step.”

In April 2006, after a lifetime of dreaming about it and a year of paperwork, Adar and his partner, Mickey Smith, became the adoptive fathers of a ten-month-old boy.

They had sought the adoption in New York, one of sixteen states that allow same-sex couples to petition for joint adoption. Much to their surprise, the application process went smoothly. But a year later, the happy new family

hit a road bump: Their son’s state of birth, Louisiana, refused to issue a birth certificate naming Adar and Smith as his legal parents.

“We were incredibly angry,” says Adar. But like most new parents, their overriding concern was for their son: Not having an updated birth certificate prevented them from enrolling him in their health coverage.

Thus began an ongoing, three-year battle, with Lambda Legal representing them in a federal lawsuit against the Louisiana Registrar of Vital Statistics.

States of Denial

In October 2007, Lambda Legal sued on behalf of Adar and Smith, arguing that the Louisiana registrar

was violating the Full Faith and Credit Clause of the U.S. Constitution, which provides that judgments issued by one state’s court must be respected in other states as well. Louisiana Attorney General Buddy Caldwell disagreed. He argued that Louisiana’s registrar should not honor an adoption that would have been denied under Louisiana’s own state law.

Florida does not allow gay men or lesbians to adopt as individuals or as couples. Mississippi and Utah have an explicit ban on adoption by same-sex couples. Louisiana law, however, while allowing adoption by a single person, forbids joint adoption by unmarried individuals. Combined with its law restricting marriage to a man and a woman and its refusal to recognize marriages of same-sex couples performed out-of-state, Louisiana stands in the way of same-sex couples who wish to realize dreams of parenthood by way of adoption.

Louisiana keeps company with such states as Arkansas, Michigan and Mississippi, which also bar adoption by unmarried couples.

Expert Opinion

The laws of states like Florida and Louisiana defy the overwhelming consensus among our country’s leading mental health and child welfare organizations that whether children thrive or not tends to be based on the quality of their relationships with their parents, the relationship their parents have with each other, and whether the family has adequate resources—not their parents’ sexual orientation.

“Lesbian and gay parents are as likely as heterosexual parents to provide supportive and healthy environments for their children,” writes the American Psychological Association (APA). In 2005, the organization published a study showing conclusively that prejudice against gay and lesbian parents was “completely unwarranted.” At the root of the problem, wrote the APA, are “beliefs [that are] held generally in society and often not based in personal experience, but are frequently culturally transmitted.”

Adar’s experience reflects this. He says he and Smith are often questioned about the whereabouts of their son’s mother, or about why their son’s ethnic background is different than theirs. “People are just curious,” he says. “Once they get to know us, we are looked upon as any other family.”

The Cost of Denial

Without an updated birth certificate, Adar and Smith have encountered discrimination or misunderstanding from schools, health insurance providers, and even airport personnel. Adar and Smith have also been forced to reveal information about the adoption that they had never planned to share or make public.

“We were able to get our son a passport, but it required that we send information that is private,” Adar explains. “Our most recent issue was registering our son for school in our new home. Our son should be afforded the same rights as all other children. Having to prove over and over that we are his parents is humiliating, to say the least.”

A Nationwide Challenge

Fear and prejudice have jeopardized the family aspirations of other gay men and lesbians. Many have decided to fight back, with Lambda Legal’s help.

Dennis Barros, a veterinarian in Orlando, Florida, hit a different roadblock when he approached a fertility clinic, having already lined up a consenting surrogate. The doctor at the clinic refused to treat him,

citing sperm-donation guidelines that recommend avoiding anonymous sperm donations from men who have sex with men. In Barros’ case, the guidelines were completely inapplicable, and thus the doctor’s denial of services was baseless and discriminatory. Hardly anonymous, Barros was a “directed donor” whose sperm would only be used by him and the surrogate mother with whom he had made arrangements. With the help of Lambda Legal, Barros filed a complaint with the Orlando Human Relations Department; the matter has since moved to court. In the meantime, Barros eventually did have a son, that he now is raising happily.

Lupita Benitez encountered discrimination from doctors in



California who refused to provide infertility treatment to her when she and her longtime partner encountered difficulties trying to start their family. Lambda Legal represented her and won an important ruling from the California Supreme Court making clear that doctors’ offices must abide by the antidiscrimination laws of the state and may not use religion as an excuse to deny care. Benitez and her spouse Joanne Clark today have a beautiful family with three children.

It’s Not Over

In December 2008, the U.S. District Court for the Eastern District of Louisiana decided in Adar and Smith’s favor. The Registrar had to respect Adar and Smith’s adoption and issue a new birth certificate. But Louisiana appealed the ruling.

Last October, Lambda Legal argued the case before a three-member panel of federal judges in the Fifth Circuit Court of Appeals. In February 2010, to Adar and Smith’s relief, the judges affirmed the lower court’s decision.

However, in March 2010, Attorney General Caldwell asked the entire Fifth Circuit to review the panel’s decision.

“Clearly, Mr. Caldwell is consumed with his bias against gay parents to the point of being blinded to the harm he is causing,” says Ken Upton, supervising senior staff attorney for Lambda Legal, who represents Adar and Smith. “His single-minded persecution of a child just because he doesn’t approve of the boy’s parents not only is legally wrong but morally reprehensible.”

Despite affirmation in court and from leading professional organizations, gay parents continue to encounter stigma and fear, which jeopardizes the happiness of families across America and even, as in Adar and Smith’s case, rolls back rights they thought already were secure.

Adar’s fears that being gay could deny him the full joys of parenthood have proven true in part. But although his family cherishes their privacy, they have chosen to stand up. “Equal rights for our children is something that every parent will want to fight for,” he says. He hopes, like families across the U.S., that reality catches up with what’s right—and sooner rather than later. His son will soon need to enroll in kindergarten. **L**



KEVIN M. CATHCART



THOMAS SAENZ

A Common Goal

How can Latino and LGBT civil rights advocates work together to achieve equality? Lambda Legal Executive Director Kevin Cathcart talks with Thomas A. Saenz, president of the Mexican American Legal Defense and Education Fund (MALDEF).

THOMAS SAENZ: The success that the LGBT community has had in moving the public's views on marriage equality is astounding. It's really no longer a matter of "if," in my view, but a matter of "when." I don't feel as though the same shift has occurred with comprehensive immigration reform. That's something that's worthy of much greater attention in the Latino community, to try to learn from that. The Latino civil rights struggle and the LGBT civil rights struggle have a lot in common. We both are struggling with the fact that people do not have complete freedom to acknowledge their total identity without fear. In our community, it's around those who are undocumented, who have to hide their status, not just for fear of legal action, but also because too often these days it inspires even violent reactions from some sectors of the populace. It's interesting that some activist students are actually using the term "coming out of the closet" to describe their becoming public and known advocates for undocumented students.

KEVIN CATHCART: It fascinates me that our community's model is being used in other places. I do think that

our communities face tremendous glass ceilings that are actually quite low. If you're undocumented, it's difficult to work. If you're LGBT, you can't be in the military. And of course you still can face racism and prejudice in American society.

"Some students are using 'coming out of the closet' to describe becoming public advocates for undocumented students."

SAENZ: From the legal standpoint, both of these communities have struggled to gain some measure of constitutional recognition in the court system. For the Latino community, it goes back to being classified as white for historical reasons that relate, as much as anything else, to preventing the application of civil rights precedent to them. For the LGBT community, there's been a similar struggle to have discrimination based on sexual orientation recognized.

CATHCART: I also suspect that LGBT people may be overrepresented in immigrant populations. Depending

on the country, LGBT people can have strong reasons to leave for the United States, even with all the challenges that undocumented people face. I suspect that among the most invisible of the invisible would be LGBT undocumented immigrants.

In terms of Lambda Legal's work, we seek to represent the broadest possible range of LGBT people and people living with HIV. Obviously undocumented LGBT people are part of the community we represent. A piece that is important is family unification. Because of immigration law, families in which one partner is not a documented resident get broken up. People get deported. There are also same-sex couples where both people are undocumented. How are they not as real a relationship or a family as my family? We need to ask ourselves, what kind of country do we want to live in?

“We both are struggling with the fact that people do not have complete freedom to acknowledge their total identity without fear.”

Do we want to live in a country that’s reality-based? I’d settle for a little bit reality-based, because that would be a big step forward for millions of people who are here, who are not going to go away, who are contributing members of society. And we act like immigrants aren’t here—the way that a lot of people pretend that gay people aren’t here.

Why Immigration Reform Matters

SAENZ: Comprehensive immigration reform is necessary because no piecemeal legislation, no matter how progressive, is really going to get at fixing a system that is inconsistent with our national constitutional values, and does not even serve our national interests. I think there are appropriate “down payments,” if we cannot get comprehensive reform in 2010, including the Uniting American Families Act (UAFSA). It says something important about a critical philosophical piece of our immigration system: whether it should be primarily based on family or primarily based on employment and skill sets. As important as that second concern is, the primary philosophy behind our immigration system should be family unification. UAFSA recognizes that family is so important to our

nation, that we must acknowledge that families come in forms beyond those that are currently acknowledged by immigration law, and that includes same-sex partners.

CATHCART: Another challenge is the invisibility of undocumented people in the LGBT political world. How many other people are out there who are LGBT who are unable to participate fully—either economically, because they’re not in a position to support organizations, or politically, because they’re not in a position to attend demonstrations?

Joining Forces

SAENZ: MALDEF has had the opportunity in the past to join together with LGBT organizations, including Lambda Legal, and to work on common issues. There’s always more work to do to make sure that our movements are building bridges.

CATHCART: You made a powerful speech at Creating Change, the largest LGBT conference in the United States. It was a wake-up call to many who hadn’t given a lot of thought to immigration reform before. Also, MALDEF signed on as *amicus* on Lambda Legal’s fight against Prop 8 in California. At Lambda Legal, we created an outreach project, *Proyecto*

Igualdad, to provide information, resources and support to the Latino community.

SAENZ: We need to be attentive to the unintentional and implicit ways that we may be excluding portions of the communities we serve from full involvement. We need to make sure that there is continued discussion

“We need to ask ourselves, what kind of country do we want to live in?”

and acknowledgment, that there is a common struggle for full inclusion and equality here. We’ve got to work together.

CATHCART: If you look at California, the LGBT community got a lot more support on marriage from people-of-color groups than we have given back so far on immigration. That’s a struggle in the mainstream gay community, which has been focused for so long very narrowly on our issues. So I think the ball is in our court. **L**

POTUS Calling

Losing a lawsuit can be tragic, but can sometimes lead to greater good. Just ask Lambda Legal plaintiff **Janice Langbehn**, who got a phone call from Air Force One—and reassurance that hospital visitation policies for LGBT families would change for the better.

It's a familiar joke from the days of the TV show *The West Wing*: If POTUS calls, you take it.

Fortunately I had a heads up from Lambda Legal. Sure enough at 4:32 Pacific time on April 15, 2010, my cell rang. The caller ID said, "Unknown." I was briefed to expect that. What does the phone number from Air Force One actually come up as? Then a gentleman introduced himself and asked if I had time to speak with the President. I had been coached not to assume this was a crank call or a telemarketer.

The next voice I heard was that of President Barack Obama himself.

A feeling of humility surrounded me and filled the next three minutes of my life. He knew Lisa's name and our story. Our President understood that what had happened to Lisa, the kids and me was wrong on many levels, but especially on the human level. He offered the long awaited apology (that Jackson Memorial still refuses to give—why is that?) for the agony we experienced. I thanked him for his efforts. He said, "Have a good night."

I hung up and sat in shocked silence.

Just before calling me, President Obama had signed a memo directing the Secretary of Health and Human Services to take steps to address hospital visitation and other health care issues affecting LGBT families. I reflected on the meaning of the memo and the timing of its release. Despite what the kids and I went through, I felt very fortunate. So many people and activists



Langbehn with her children at home in Lacey, Washington.

"A gentleman introduced himself and asked if I had time to speak with the President"

work their entire lives for change at the national level and never see it.

A whirlwind of press interviews ensued. I got ready and headed to a TV satellite truck that came to my house near Olympia, Washington. The kids set the Tivo and came in from their basketball game with friends to watch me. Anderson Cooper talked to me first, on a live feed to both coasts. The following morning the story was on the front page of *The New York Times*, and I was taken to Seattle for interviews with MSNBC, CNN and ABC.

None of this—the call, the memo, the coverage—will bring back Lisa, with whom I was going to celebrate eighteen years together. But what all of this did, hopefully, for the next gay couple is that

if your partner is dying, you won't be locked behind a door for eight hours as your beloved slips from this earth, and not be allowed to say goodbye.

I'm grateful to Lambda Legal for so bravely taking our case. Although we lost the suit—the court ruled that hospitals in Florida do not have an obligation to provide visitation—so much more has come than if we'd won. With the stroke of a pen, the coroner erased our eighteen years together by listing Lisa as "single, never married." But with the stroke of a different pen, the President recognized that we were a couple deserving of the same rights as any other American couple.

Thank you Mr. President. I would gladly take your call any day. **L**



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IM10SUMJ

LAMBDA LEGAL IN THE NEWS

ABC News, 4/16/2010, quoting Executive Director Kevin Cathcart on President Obama's memo calling for new rules on hospital visitation: "These measures are intended to ensure that no family experience what the Langbehn-Pond family did that night at Jackson Memorial Hospital. We are so proud of Janice and her family—she stood up and told her story and it made a difference."

The Chattanooga, 4/17/2010, on the teen sent home for wearing an "I Heart Lady Gay-Gay T-Shirt": "Sending Cole home for wearing a shirt with the word 'gay' on it not only trampled this student's right to freedom of expression, but also sent a destructive message to all students that there is something wrong with being gay or even saying the word gay," said Lambda Legal attorney Beth Littrell."

Bay Windows, 4/12/2010, on the retirement of Supreme Court Justice John Paul Stevens: "He has been a strong, clear, and consistent voice for the rights of gay people and other minorities, the disabled, reproductive freedom, and free speech," said Jon Davidson, Legal Director at Lambda Legal."

The Philadelphia Inquirer, 3/19/2010, on the reopening of Lewis v. Harris, the case for marriage equality in New Jersey: "'We come back to the court to turn equal rights on paper to equal rights in the real [world],' said Hayley Gorenberg, Lambda Legal's deputy legal director. 'We're asking the court to enforce its order—to give equality, which must be marriage.'"

Associated Press, 2/18/2010, quoting Ken Upton, Supervising Senior Staff Attorney on Adar v. Smith and same-sex couples' adoption rights: "Once again, the court is saying that the Constitution requires state officials across the country to respect the parent-child relationships established by adoption decrees, regardless of the state where that decree is entered."

LAMBDA LEGAL OUT ON THE CASE

Lambda Legal members attend gatherings all over the country. Find out about future events at www.lambdalegal.org/events



Women's Wine Down, Los Angeles: Board member Laura Brill and LA Leadership Committee members Sheri Bonstelle, Danielle Gruen and Jennifer Sheppard (photo courtesy of Danielle Gruen Photography).



Bon Foster, Chicago: Executive Director Kevin Cathcart, Midwest Regional Director Jim Bennett and Keynote Speaker Tina Tchen, Director of the White House Office of Public Engagement and Executive Director of the White House Council on Women and Girls.



Jeffrey Fashion Cares, New York: National Leadership Council member and event co-chair Todd Sears, event founder and Jeffrey owner Jeffrey Kalinsky and fellow event co-chairs Chris Wile and Dan Rothmann.



Lambda Legal in Fort Lauderdale: Liberty Circle member Michael Dennis with Lambda Legal plaintiff and event speaker Vandy Beth Glenn at the Bonnet House Museum & Gardens.



Dallas Donor Appreciation Reception: Liberty Circle members Tracey and Jennifer Guyot-Wallace at a Liberty Circle Appreciation event at Dallas' The House.



San Francisco Celebration: National Leadership Council member and event co-chair Dena Narbaitz, Amy Cunningham, Cunningham's wife and Lambda Legal plaintiff Karen Golinski and Lambda Legal National Marriage Project Director Jenny Pizer.



Phoenix House Party: Liberty Circle members Richard Pearce-Moses, Frank Loulan and Pat Carlton.



Lambda Legal in the Desert, Palm Springs, CA: Board member and event host Thao Ngo with Syd Peterson and event host committee member Mark Hamilton.



Who's Under Attack?

JON W. DAVIDSON, LEGAL DIRECTOR

Here's one straight out of the pages of George Orwell: In two cases currently pending before the United States Supreme Court in which Lambda Legal has filed "friend of the court" briefs, anti-LGBT forces are arguing that the Court needs to intervene to protect *them* against discrimination, harassment and violence.

One case, *Christian Legal Society v. Martinez*, involves a policy of California's Hastings Law School. If a student organization wants to use the school's name and logo, obtain school funding and be able to communicate with students through the state-run school's communication vehicles, the group must be willing to admit any Hastings student as a member, regardless of the personal characteristics or beliefs of the student. The Christian Legal Society, which refuses to admit members who engage in what it believes is "unrepentant participation in or advocacy of a sexually immoral lifestyle," including "homosexual conduct," sued the school. Hastings does not deny the group the ability to meet on campus or communicate with students through bulletin boards and other means. Nevertheless, the Christian Legal Society is claiming that its First Amendment and equal protection rights are under siege, because it is being denied benefits available to others. In other words, while turning a blind eye to the harm it is doing to lesbian, gay and bisexual students, the Christian Legal Society proclaims that it is the victim because the government won't subsidize its discrimination.

In the other case, *Doe v. Reed*, the organization that backed a referendum in Washington to repeal the state's comprehensive domestic partnership law now seeks to keep the state from releasing information identifying those who signed petitions to qualify the measure for the ballot. Like the Christian Legal Society, this organization is claiming that those opposed to gay rights are under attack, in this instance

from people who want to have conversations with petition-signers or who no longer want to patronize the businesses of those who seek to do our community harm. The organization wildly exaggerates incidents that did not involve actual signers, but rather paid staff of groups behind other antigay measures.

Anti-LGBT forces argue that they need protection from discrimination, harassment and violence.

In the Supreme Court's order earlier this year to block the federal Proposition 8 trial from being broadcast to other courthouses, as well as its ruling allowing corporations to finance election ads, a number of justices gave credence to this disturbing and distorted narrative: that transparency is dispensable.

The briefs submitted by Lambda Legal and our sister groups seek to correct the record. We do not condone violence or vandalism. Actual incidents directed against our opponents have been rare. What remains sadly common are murders, assaults, harassment, and discrimination against LGBT people—much of it fomented by the prejudice those now complaining perpetuate. Those responsible deserve neither government support nor anonymity.

It all reminds me of the story about the man who killed his parents and claimed that he should receive mercy because he is now an orphan. Maybe the response should be: You reap what you sow.

Jon W. Davidson

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