

LAMBDA LEGAL

Impact

TIME FOR HAWAI'I

WHY THE GUILLERMO-TOGAWAS AND OTHER FAMILIES DESERVE PROTECTION AND RESPECT NOW

KNOW YOUR RIGHTS?

TAKE OUR QUIZ

HOW BLOGS HAVE TRANSFORMED OUR MOVEMENT

A LEGACY OF GIVING: HONORING DR. WAVERLY COLE



Lambda Legal
making the case for equality

OUR MOVEMENT HERO



KEVIN M. CATHCART

EVERY YEAR FOR TWO DECADES, the National LGBT Bar Association has bestowed its highest honor, the Dan Bradley Award, on a member of the LGBT legal community who has made an outstanding contribution to the advancement of LGBT rights and those of people living with HIV.

IT'S IMPOSSIBLE TO DESCRIBE HOW MUCH OUR MOVEMENT OWES JON DAVIDSON.

This year, Lambda Legal was extremely proud to learn that Jon Davidson, our Legal Director, was chosen to receive the award.

When Jon arrived at Lambda Legal in 1995, he was already a seasoned and distinguished advocate. Educated at Stanford and Yale Law School, Jon had headed the Lesbian and Gay Rights Project of the ACLU of Southern California. Before then, he was a partner at Irell & Manella, one of Los Angeles' leading law firms, where he specialized in media and entertainment litigation.

At Lambda Legal, Jon has helped to make history. He represented Derek Henkle, who suffered severe harassment and abuse from fellow students at his high school in Reno, Nevada. The successful outcome of that case established the

precedent that students have the constitutional right to be open at school about their sexual orientation. It also led to the largest pretrial award ever in such a case, as well as sweeping changes in the school district's policies.

Jon was also lead counsel in lawsuits that successfully forced school boards in Salt Lake City, Utah, and Orange, California, to allow LGBT students and supporters to meet and express themselves on the same terms afforded other students.

Jon's contributions have ranged from helping to secure asylum for LGBT people persecuted in their home countries to stopping HIV-related discrimination and helping win marriage equality in several states. He helped reform antigay practices within the Los Angeles Police Department. He co-drafted AB 205, California's comprehensive Domestic Partner Rights and Responsibilities Act. He authored a friend-of-the-court brief in *Rene v. MGM Grand Hotel* that was instrumental in allowing gay and transgender employees to pursue claims for sexual harassment under federal employment discrimination law.

Jon has also imparted his invaluable, hard-won wisdom to younger legal minds, teaching courses on sexual orientation and HIV-related issues at the University of Southern California Law Center, Loyola Law School, Whittier Law School and UCLA School of Law.

It's impossible to describe how much our movement owes him. He invigorates and enriches the work we do at Lambda Legal with his passion, humility and vibrant wit. It's an honor to call him both colleague and friend.

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

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

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ON THE COVER

Jill (left) and Pauline Guillermo-Togawa, plaintiffs in our Hawai'i lawsuit for civil unions, with their daughter Carmel. PAGE 8

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LAMBDA LEGAL CO-CHAIR WINS PRESTIGIOUS CIVIL RIGHTS AWARD



Lambda Legal board co-chair Paul M. Smith (pictured left), who successfully argued our 2003 landmark victory in *Lawrence v. Texas*, received the Thurgood Marshall Award at an annual American Bar Association (ABA) dinner in August. Named after the late Supreme Court justice—the first honoree, in 1992—the award honors members of the legal profession who have made outstanding contributions to the advancement of civil

rights. This is the first time the ABA has honored an openly gay attorney for legal work on behalf of LGBT equality.

A partner at the Washington, D.C., firm Jenner & Block, Smith has argued before the Supreme Court in 12 cases in addition to *Lawrence*, which struck down all remaining state sodomy laws. This year, he was co-counsel in *CLS v. Martinez*, in which the Court agreed that a public university can deny funding to a group that excludes LGBT students (Lambda Legal filed a friend-of-the-court brief in the case). He was also co-counsel in *Gill v. OPM*, in which a federal judge found a critical portion of the so-called Defense of Marriage Act unconstitutional.

“This award is a recognition not just of me, but of a movement,” Smith said in his acceptance speech, “a movement that is engaged in the civil rights fight of our time.”



after staff learned he had HIV. Lambda Legal sued Fox Ridge on behalf of Dr. Franke and his daughter, Sara Franke Bowling (pictured left), alleging that it violated both federal and state law.

Bowling, who also lives in North Little Rock, says she and her father are pleased with the resolution of the lawsuit and elated that their legal battle has already had an impact. “Recently, I received an email from a

friend who works as the activity director at an independent living facility in town,” Bowling said. “She told me that most of the staff at her facility were being educated and trained about HIV and indicated that our case was described to the staff. I can’t tell you how happy this news has made my father and me.”

Dr. Franke currently resides at Chenal Heights, an assisted living facility in Little Rock.

HIV DISCRIMINATION SUIT SETTLED

In August, the parties in *Franke and Bowling v. Parkstone Living Center, Inc. (d/b/a Fox Ridge at North Little Rock)* reached a settlement as the case neared its trial date. The case began when Fox Ridge, an assisted-living facility in North Little Rock, Ark., abruptly ejected Rev. Dr. Robert Franke, a 75-year-old retired university provost and minister,

COURT VINDICATES TRANSGENDER NURSING STUDENT



For two years, LaDonna Thornton attended nursing classes at a technical college in Montgomery, Ala. as a female, in the nurse’s uniform she bought from the school. Yet last fall as she registered for class, an instructor pulled her aside and said, “There’s a problem. Your documents don’t match up.” Thornton explained she was transgender, that she considered herself female and had legally changed her name, and that she

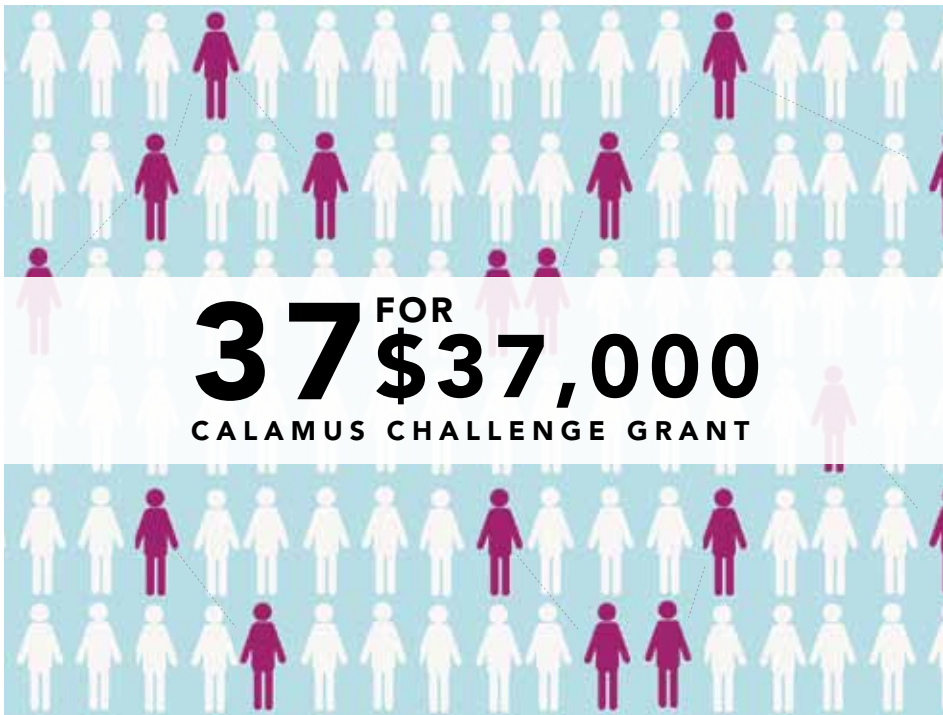
had intentionally left the gender question blank to avoid deception.

School officials told her to dress like a male or risk losing her place in the program. As graduation approached, she was asked to fill out another form, on which she left the gender question blank. Again she was pulled aside. The school director told her, “You must dress as a male for graduation.”

Fortunately, Thornton asked Lambda Legal to intervene on her

behalf. And thanks to our advocacy, she proudly attended the pinning-and-capping ceremony in her female nurse whites. “This is a huge victory, not just for LaDonna, but for transgender people anywhere,” said Lambda Legal Staff Attorney Beth Littrell. “Everyone should be able to pursue an education without regard to gender expression and be afforded the dignity to present themselves in accordance with their gender identity.”

<p>SAVE THE DATE!</p>	OCTOBER (LGBT HISTORY MONTH)		NOVEMBER	DECEMBER
	<p>1 National Coming Out Day</p> <p>Lambda Legal Indiana Benefit Dinner at the Indianapolis Marriott Downtown www.lambdalegal.org/indianadinner</p>	<p>17 Lambda Legal Connecticut Cares at Mitchell's of Westport www.lambdalegal.org/connecticut10</p> <p>20 National Bullying Prevention Day</p>	<p>22 Lambda Legal in Miami</p> <p>23 Lambda Legal in Long Beach, CA</p>	<p>20 International Transgender Day of Remembrance</p> <p>6 Lambda Legal Dallas Black-Tie Dinner</p>
<p>FOR MORE INFORMATION ON LAMBDA LEGAL EVENTS, VISIT www.lambdalegal.org/events</p>				



PROMOTING PHILANTHROPY. PROMOTING EQUALITY.

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

In honor of the 20th anniversary of the Liberty Circle and the 37th anniversary of Lambda Legal’s founding, the Calamus Foundation has announced the 37 for \$37,000 Calamus Challenge Grant. On Lambda Legal’s anniversary—October 31, 2010—the Calamus Foundation will fulfill the \$37,000 pledge if we are able to find 37 new individuals to join the Liberty Circle with a commitment of \$1,500 or more.

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

- Louis Bradbury, Calamus Foundation Board President



MERRILL LYNCH WEALTH MANAGEMENT IS PROUD TO BE A NATIONAL CORPORATE SPONSOR OF LAMBDA LEGAL.

Merrill Lynch Wealth Management is one of the top national corporate sponsors of Lambda Legal. As a national sponsor of Lambda Legal, Merrill Lynch has assembled a dedicated team of financial advisers to help educate the LGBT community on the financial issues that arise in domestic partnerships, civil unions and marriage. The members of the LGBT Financial Team, with this in mind, offer individual strategies and solutions tailored to meet these unique needs. To help you locate an adviser near you, please call **1-877-MER-LGBT** or visit www.totalmerrill.com/domesticpartners.



AMERICAN AIRLINES IS THE OFFICIAL AIRLINE OF LAMBDA LEGAL.

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

Ask Lambda Legal

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



Q Last year, I asked my boss for medical leave to care for my eight-year-old son, who had been diagnosed with leukemia. I have raised him with my partner, who gave birth to him, since the day he was born. But I was denied leave because I'm not his biological mother and second-parent adoptions are unavailable in my state. Could the new interpretation of the Family and Medical Leave Act (FMLA) that President Obama announced in June help in the future?

A It should. The recent clarification of the Family and Medical Leave Act set forth by the Department of Labor gives all employees, whether LGBT or not, the same right to care for a sick child, even if that child is non-biological or non-adoptive.

The FMLA, passed by Congress in 1993, applies to public employees or people who work for private worksites with 50 or more employees. Generally, such personnel are entitled to 12 weeks of unpaid leave to care for a parent, spouse, son or daughter with “a serious health condition,” as well as time off to care for a newborn or recently adopted child. Before this recent clarification of the law, you could be assured of equal respect for your parenting role only if you had adopted

your child, and many in our community aren't lucky enough to live in a state that offers second-parent adoption.

You will still need to meet FMLA eligibility criteria, such as length of employment. Also bear in mind that the FMLA still won't allow a worker in a same-sex relationship to take leave to care for a sick partner. But we at Lambda Legal see the FMLA change as a sign that federal policies are finally starting to catch up with the ways people in this country actually live their lives.

—Greg Nevins, Supervising Senior Staff Attorney, Lambda Legal

6,020

Number of inquiries received by Lambda Legal's Help Desk in 2009

Q My sister, who is living with HIV, is about to go into prison. I am worried about her health. Is there anything she or I can do to ensure she gets proper care while she's inside?

A The U.S. Supreme Court has ruled that prison officials must provide medical treatment to prisoners, regardless of whether they are in a federal, state or local prison or jail.

And while the situation might be different for immigration detention centers, the following information could still be useful.

If she is not yet in prison, encourage your sister to ask her doctor to write a letter to prison medical officials explaining her HIV status and detailing her treatment plan—including names, dosages, and schedule for any medications—and the importance of continuous care in preventing drug resistance and protecting your sister's long-term health. She should also have her doctor do a complete physical and blood workup before she goes to prison. That way, current information about her condition will be available, and if by chance her health gets worse while in prison, she will have some evidence to show what is required for her to receive adequate care.

If you believe she is being denied adequate care, the law requires prisoners to use and “exhaust” any grievance process before filing a claim in court. Find out how to file a formal complaint at the prison, and follow up on any complaint you file: If a grievance is denied and the problem has not been fixed, file an appeal. If an appeal is denied, you should attempt to appeal that decision to the next level. Your sister should keep proof of how she tried to get the problem fixed. Help her make and keep copies of any complaints she files and all responses she receives.

If possible, your sister should also keep a diary about her medical conditions and the treatment she receives. She should list the names of medical staff she has seen, the effects of any delay in treatment and the number of days she goes without treatment. She should always include dates, a list of any witnesses to events she describes and any other information that would help show that a prison official was aware of her serious medical needs. One hopes these things do not end up in court, but if they do, you will want to be prepared. —Scott Schoettes, HIV Project Staff Attorney, Lambda Legal



IF YOU HAVE QUESTION FOR LAMBDA LEGAL ATTORNEYS

contact Lambda Legal's Help Desk at www.lambdalegal.org/help/online-form or call us toll free at 1-866-542-8336.



Jamie Nabozny speaks out about bullying to students at Wallenberg High School in San Francisco.

Healing Time

Unspeakable abuse at his high school prompted Jamie Nabozny to attempt suicide several times and drop out. In a historic suit won by Lambda Legal, he was awarded close to \$1 million. Fourteen years later, a documentary about him, *Bullied*, is just out. Nabozny spoke to *Impact* about survival, inspiring others and forgiving his abusers.



Nabozny during his historic lawsuit, winter 1995.

I've spent most of my adult life in therapy, dealing with the aftermath of what happened in school, and the post-traumatic stress disorder. Being able to stand up and say it was wrong, and to win in a court of law, was very healing. In the end, in spite of everything, I was able to overcome it.

My proudest moment came after I got a call from the woman who was putting together my 10-year high school class reunion. She said it would be healing for everybody if I came. I thought a lot about it.

I DON'T KNOW WHY, but I was expecting everybody there to be the same, even though I'm very different from who I was in high school. They were not the same. They had families and careers and they were grown up. Knowing that helped me stop demonizing them, in a way. A lot of

people came up to me to ask questions about what had happened and to apologize. One of the kids who harassed me was one of the first to come up. I think his words were, "I apologize for being a douche bag back in school." I accepted his apology and his offer of a drink. As it turned out, we ended up working together in the same company.

I got a call last fall from a producer saying the Southern Poverty Law Center wanted to do a documentary about bullying in schools, specifically against LGBT students, and asking if I would be interested in being a part of it. They ended up focusing on my story, I think because mine was the first case of its kind. I'm hoping to go back to school and get a graduate degree in educational psychology. I also want to continue to do public speaking. I think the documentary's going to open a lot of doors for that.

ONE OF MY MOST MEMORABLE SPEAKING EVENTS was at a school in Minneapolis. During the Q&A, a student came up to the microphone and asked if he could give me a hug. He was very jock-like. I thought, Is this some kind of joke? He was very emotional. Two weeks later I got a call from his mom. She said, "I want to thank you for giving me my son back." She said he was a good student and a sweet kid, but when he entered junior high school, he started acting out and bullying other kids. "After you spoke, he came home. For the first time since he was 10, he wanted to talk about what happened at school. He told me about your presentation and what you went through—and he came out to me." Now he wants to start an anti-bullying club to make sure that nobody else gets hurt. The fact that that kind of change can happen in one person—that's what makes it worthwhile. It makes me want to keep doing what I do. **L**



FOR MORE ON THE CASE, VISIT www.lambdalegal.org/nabozny

Hawai'i Two-0

Lambda Legal is back in the birthplace of the modern marriage equality movement, fighting the latest attack on lesbian and gay couples and their children: Gov. Lingle's veto of civil unions.

By Staff Attorney Tara Borelli

IT IS ONLY FITTING that Lambda Legal is launching another round of family protection litigation in Hawai'i—the birthplace of the modern marriage equality movement—as our Western Regional Office celebrates its 20th anniversary. Almost 20 years ago, the Hawai'i Supreme Court set the stage for some extraordinary gains for same-sex couples, ruling in its landmark 1993 *Baehr v. Lewin* decision that barring lesbian and gay couples from marriage discriminates based on sex, and requiring the state to justify this discrimination only with a compelling government purpose. Lambda Legal joined the case as co-counsel and helped conduct a historic trial in 1996. This trial led to a first-of-its kind decision in the country, finding that same-sex couples are equally good parents to their children and the state had no adequate reasons for abridging their equal right to marry.

As the state appealed the trial court's decision, the legislature struck a supposed compromise—enacting a limited “reciprocal beneficiaries

law” for same-sex couples and others who are not allowed to marry, while also approving a proposed antigay constitutional amendment to allow the legislature to restrict marriage just to heterosexual couples. In a bruising fight that would repeat itself in 28 additional states, money from antigay forces poured into Hawai'i, antigay churches mobilized and voters ratified the amendment in 1998, locking the state courthouse doors to lesbians and gay men, who could no longer bring freedom-to-marry litigation.

THE COMMUNITY REGROUPED, as we must after disappointing defeats, and worked tirelessly over many years in efforts culminating in the passage of civil union legislation in May 2010 by strong majorities in both houses of the state legislature. As the bill was sent to Governor Linda Lingle's desk, Lambda Legal helped provide legal guidance to community members and legislators, who made a compelling case to

the governor that the bill should become law.

But on July 6, Lingle dashed the hopes of same-sex couples across the islands, announcing that she had vetoed the bill because “[t]his is a decision that should not be made by one person sitting in her office...but by all the people of Hawaii behind the curtain of the voting booth.” And with that, Lingle—as one person—decided the issue for the thousands of families who have been suffering from incomplete legal protections, by overriding the strong majority votes in both representative houses with her veto of the bill. And worse, she did so endorsing the appallingly misguided and destructive notion that minority rights should be put to a popular majority vote.

LAMBDA LEGAL THEN PUT THE finishing touches on a lawsuit that we had been preparing for over a year in the event the civil union legislation did not succeed. We developed our case recognizing that there is a frustrating limit on the relief the court can provide, but that

ALOHA, EQUALITY!

Two decades of
historic victories
and setbacks

1990 Three Honolulu same-sex couples, denied marriage licenses, sue the director of the Hawai'i Health Department. Case dismissed by trial court.

1992 Lambda Legal joins as amicus as appeal goes directly to Hawai'i Supreme Court.

1993 High court rules that denying gay couples the right to marry is sex discrimination needing compelling state justification, and sends the case back to trial court. Lambda Legal joins as co-counsel for the plaintiffs.

1996 Following trial, the circuit court rules the state failed to prove that denying marriage is justified. The state appeals.

the status quo must not continue—the current reciprocal beneficiaries system relegates same-sex couples to a confusing, incomplete third-tier status, inflicting daily harm and risk on them and their families. While the 1998 constitutional amendment bars the court from ordering an end to restrictions on marriage based on sex and sexual orientation, and thus prevents us from suing for full equality, same-sex couples and their children need a better interim safety net. The civil union legislation would have accomplished that, but Lingle’s absurd suggestion that same-sex couples should have to go door-to-door among voters to ask for civil unions made clear we cannot wait any longer to take the litigation route. Hawai’i activists and allies will continue to work toward full equality by advocating for a change in the marriage law, which the legislature has the power to do under the 1998 constitutional

highest court that civil unions are insufficient to satisfy New Jersey’s unamended constitutional guarantees of equal treatment of all. Although New Jersey’s Supreme Court declined to re-open our *Lewis v. Harris* marriage case of several years ago, the press for full equality will continue in the Garden State. Securing stop-gap relationship protections as a “best available” safety net for same-sex couples, in the absence of marriage equality, is a familiar feature of our work. Lambda Legal has drafted domestic partnership legislation, including California’s seminal law, and has participated in litigation to defend domestic partnership laws across the country. All forms of this work are needed. We won’t settle for less than full equality, but responsibility requires that in the interim we shore up basic family protections using the range of complementary legal and policy arguments.

WE WON'T SETTLE FOR LESS THAN FULL EQUALITY, BUT FAMILIES NEED BETTER PROTECTIONS IN THE INTERIM.

amendment. In the meantime, same-sex couples need the complete set of legal tools to protect their families that different-sex spouses already have. *Young v. Lingle* seeks exactly that. Nothing about the 1998 amendment prevents the court from providing same-sex couples the rights and responsibilities granted to spouses, and in fact, the state constitution’s equal protection clause demands it. The constitutional amendment does not render gay people strangers to the law in Hawai’i, and the abiding equal protection guarantees require the courts to reduce the law’s inequality for same-sex couples to the greatest extent possible.

YOUNG V. LINGLE PRESENTS a set of challenges that are both new and familiar. Never before has Lambda Legal filed an affirmative relationship recognition case seeking a second-class status, instead of full equality through marriage. In fact, not long before we filed our civil union lawsuit in Hawai’i, we returned to court in New Jersey to argue to that state’s

We could sense exhilaration among community members on the day we filed *Young v. Lingle*. It’s bruising for any vulnerable minority group to have the right to equality nullified by an official elected to uphold the constitution and to serve everyone. It’s especially painful because Hawai’i’s community of activists and allies worked tirelessly to show political decision-makers that civil unions are a necessary next step to protect our families. Lambda Legal stands in good stead to carry this fight to the courts in tandem with the ongoing equality movement built by community activists, and we will continue working side-by-side to ensure that the effort to secure stop-gap protections today goes hand-in-hand with our collective push for marriage equality tomorrow. **L**

Lambda Legal is co-counsel with attorneys from the ACLU of Hawai’i Foundation and the Honolulu law firm of Alston, Hunt, Floyd & Ing.

LESS THAN EQUAL?

What “reciprocal beneficiary” status means for our plaintiff couples.



Robie Lovinger (right) helps partner **Louise Esselstyn** cope with multiple sclerosis. If they need public assistance with nursing home care, the state may place a lien on their home.



Suzanne King (right) faced unfair barriers to securing legal status as mother to **Shylar**, the daughter she is raising with **Tambry Young**, and to taking the last name Tambry and Shylar share.



Afghanistan war veteran **Sean Smith** (left), discharged under “Don’t Ask, Don’t Tell,” plans a family including children with **Kale Taylor**, but they worry about how secure their status as parents will be.



Jill (left) and **Pauline Guillermo-Togawa** worry about roadblocks to adopting a second child, and vulnerabilities their daughter Carmel may face as she starts school.



Kathleen Sands (left) and **Linda Krieger** are pained that the state favors religious views that discriminate against same-sex couples while ignoring religious views that, like their own, favor equality and inclusion.



Danny Robinson (right) and **Allen Castro** long to solemnize their relationship through a state-sanctioned ceremony in their home state of Hawai’i.

1997 With anti-equality dollars and forces flooding the state, legislators propose a constitutional amendment, subject to voter approval, reserving for the legislature the power to restrict marriage to different-sex couples.

1998 Voters approve the amendment.

1999 Hawai’i Supreme Court dismisses marriage case. Lawmakers submit a broad domestic partnership bill, but it dies without action by the end of the two-year legislative session.

2001 Lawmakers submit a civil union bill, which dies by session’s end. The bill is resubmitted in the three subsequent sessions with the same result.

2010 Legislature strongly approves civil unions bill in April, and sends it to Gov. Lingle, who vetoes it in July. Three weeks later, Lambda Legal and the ACLU of Hawai’i file suit.



FOR A COMPLETE TIMELINE VISIT
www.lambdalegal.org/pub-hawaii-timeline

LGBT Rights Quiz

HOW WELL DO YOU KNOW YOUR HISTORY OF LGBT AND HIV RIGHTS?

The legal landscape is changing every day. Are you up-to-date? Take this quiz highlighting Lambda Legal’s landmark litigation and find out.

1. JOHN LAWRENCE AND TYRON GARNER were arrested in 1998 in Lawrence’s Houston home after police who were responding to a false crime report found the men having sex. The two men were convicted of violating Texas’ “Homosexual Conduct” Law. When the Lambda Legal case, *Lawrence v. Texas*, reached the U.S. Supreme Court in 2003, the justices struck down the law—and all similar state laws around the country, which had long been used to justify discrimination against LGBT people. At the time, how many states still had laws on the books banning private, non-commercial consensual sodomy?

- a. 3
- b. 13
- c. 23
- d. 50

2. IN 1993, 21-YEAR-OLD BRANDON TEENA was raped and later killed by two men who discovered he was transgender. Prior to the killing, the sheriff not only notified the rapists that Teena had pressed charges against them but also took no steps to protect Teena. (Teena’s life and death were the subject of the 1999 film *Boys Don’t Cry*.) Teena’s mother, JoAnn Brandon, sued. After a bad trial court ruling, Lambda Legal stepped in to help with the appeal, and in 2001 the Nebraska Supreme Court ruled unanimously that the sheriff:

- a. Had acted appropriately in that there was no “imminent peril” to the victim.
- b. Had been negligent in his duty to protect Brandon Teena and “laid an essential link in the chain that led to the victim’s death.”
- c. Had “not foreseen and could not have foreseen that the course of action he chose would have led to the murder of [Brandon Teena].”

3. TRUE OR FALSE: BEFORE CONGRESS enacted the “Don’t Ask, Don’t Tell” law in 1994, dismissals from the military on the basis of sexual orientation were ruled unconstitutional.

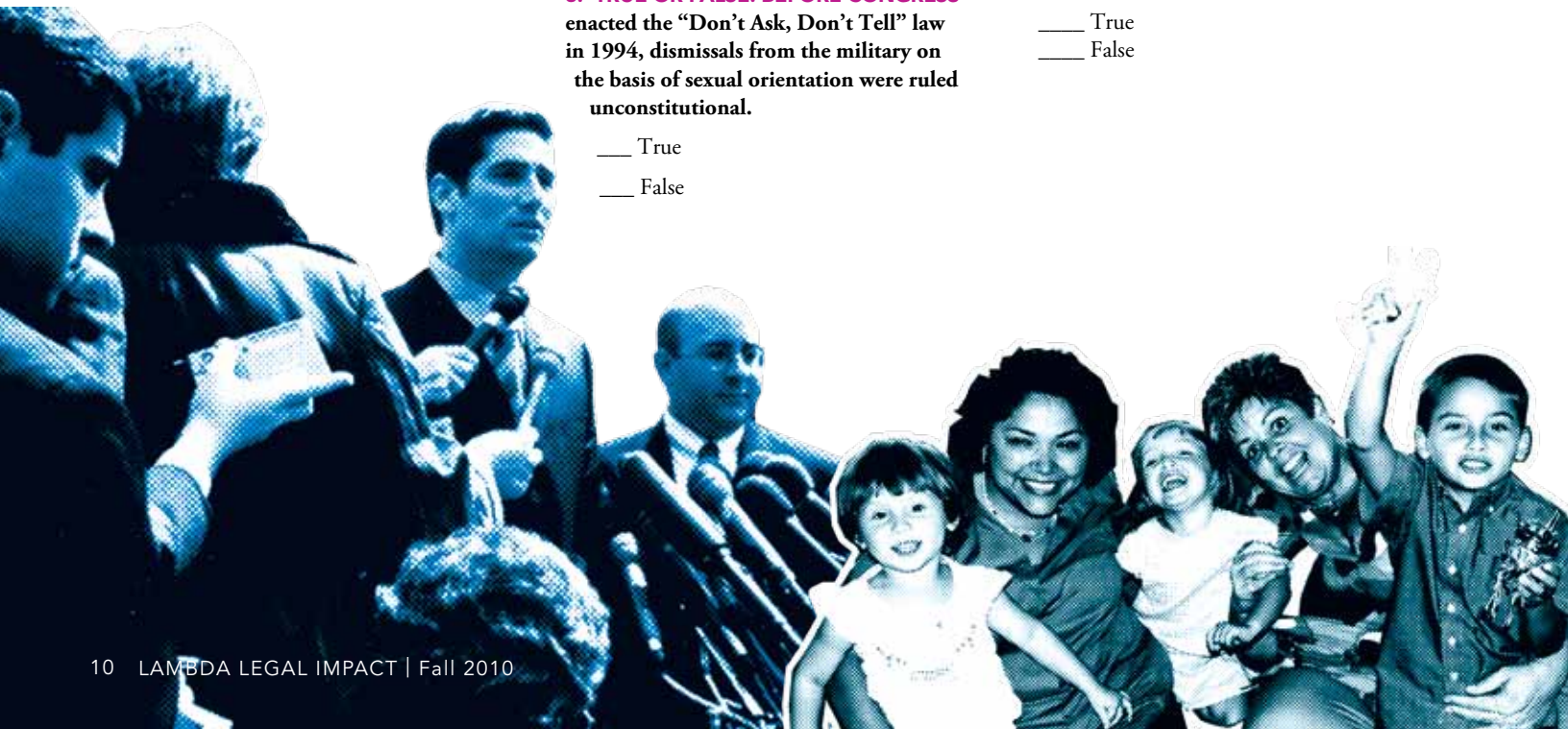
- True
- False

4. WHEN CIRQUE DU SOLEIL FIRED AERIAL gymnast Matthew Cusick because of his HIV status, the Equal Employment Opportunity Commission found (in *Cusick v. Cirque du Soleil*, 2004):

- a. That Cirque du Soleil’s concerns in this regard override the provisions of the Americans with Disabilities Act.
- b. That Cirque du Soleil had likely engaged in illegal discrimination by violating the Americans with Disabilities Act.
- c. That Cirque du Soleil’s 20 years of experience in this area were enough for it to determine the degree of risk.

5. TRUE OR FALSE: THE U.S. SUPREME Court, in *Romer v. Evans* (1996), found that Amendment 2 to Colorado’s constitution—which forbade all branches of state government from enacting legislation or adopting policies that would prohibit discrimination against lesbians, gay men and bisexuals—was valid.

- True
- False



6. JAMIE NABOZNY ENDURED SO MUCH

verbal and physical abuse from his high school classmates that he attempted suicide and eventually dropped out of school. He sued school officials who knew of the abuse and did nothing (see “Healing Time,” p. 7). Lambda Legal took over his case before a federal appeals court, which decided in 1996 that:

- a. A school cannot be held liable for the actions of students.
- b. Public schools have a constitutional obligation to provide gay students the same protection against harassment and abuse that they provide other students.
- c. The First Amendment protects public censure of outrageous behavior and mannerisms.
- d. The appellant had failed to present an equal protection claim based on his sexual orientation under the Fourteenth Amendment to the U.S. Constitution.

7. IN 1990, THE BOY SCOUTS INVITED

Eagle Scout James Dale to become an assistant scoutmaster, only to force him out of the organization after they found out he was gay. Lambda Legal sued on Dale’s behalf. When the case reached the U.S. Supreme Court, a friend-of-the-court brief on behalf of the Boy Scouts cited the research of:

- a. Noted sexologists William Masters and Virginia E. Johnson.
- b. Alfred Kinsey, author of the *Kinsey Reports* on sexual behavior.
- c. Paul Cameron, discredited psychologist, and George Rekers, the Baptist preacher who was caught last May with a “travel companion” he hired on Rentboy.com.

8. LAMBDA LEGAL CLIENT LUPITA BENITEZ

was denied infertility treatment by the North Coast Women’s Care Medical Group because she is a lesbian. The doctors claimed their conservative Christian beliefs gave them a right to withhold care from Benitez that they routinely provide to heterosexual patients. In 2008, the California Supreme Court found that:

- a. Freedom of religion, guaranteed by the First Amendment, gives health care providers the right to discriminate against gay men and lesbians.
- b. The First Amendment’s protection of free exercise of religion does not exempt health care providers from abiding by state civil rights laws.
- c. Conservative Christians should not practice artificial insemination.
- d. A medical clinic is only required to provide services that are of an emergency nature or that are not elective.

9. AN OKLAHOMA ADOPTION LAW, WHICH

the U.S. Tenth Circuit Court of Appeals ruled unconstitutional in 2007 (in *Finstuen v. Edmondson*), would have:

- a. outlawed second-parent adoptions in the state.
- b. allowed second-parent adoptions in the state.
- c. imposed criminal sanctions against individuals who attempted to “defraud” an Oklahoma adoption agency by styling themselves as married under the laws of another state or sovereign nation.
- d. made children adopted by same-sex couples in other states or sovereign nations legal orphans if the families traveled through or relocated to Oklahoma.

ANSWERS

- 1. b.
- 2. b.
- 3. True. The “Don’t Ask, Don’t Tell” (DADT) law went into effect in 1994. But in *Cammermeyer v. Perry* (1996), Lambda Legal’s landmark suit on behalf of a decorated colonel discharged from the military for being a lesbian, a federal court held that military policy with regard to lesbian and gay service members that was in effect *prior* to DADT was unconstitutional.
- 4. b.
- 5. False. The Court found Colorado’s Amendment 2 violated the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution.
- 6. b.
- 7. c.
- 8. b.
- 9. d.

Freedom Fighters (pictured, left to right): expelled Eagle Scout James Dale and Lambda Legal counsel Evan Wolfson (question 7); Guadalupe Benitez (left) and family (question 8); actor Glenn Close and Col. Margarethe Cammermeyer (question 3); Brandon Teena (right) with a friend (question 2); Tyron Garner and John Geddes Lawrence (question 1).



A Legacy of Giving

Lambda Legal honors Drs. Waverly Cole and John Cook

In June 1960, Drs. Waverly Manson Cole and John Cook moved from Southside Virginia to Richmond and established a home, becoming the first to live as an openly gay couple in the city. Together for over 50 years until Waverly's passing in 2009, their relationship spanned such milestones as Stonewall, the AIDS epidemic, *Lawrence v. Texas* and the marriage-equality movement.

If Cook and Cole's commitment to one another is a testament to their loyalty, so too is their support for Lambda Legal. The couple made their first gift to Lambda Legal in the early 1980s and continued as major supporters through the years. In August 2009, Lambda Legal mourned the passing of its longtime supporter and friend Dr. Waverly Cole.

PRIOR TO MEETING, both had served in the U.S. Army in World War II. Cole had been named Outstanding Captain in Germany. Cook, who landed on the beaches of Normandy, had been awarded the Cross of War by the French government.

Young, handsome, well-educated and charming Virginia gentlemen, the medical doctor and teacher/counselor were quickly accepted by Richmond society. Cole touched thousands of lives throughout his 40 years in medicine, helping to heal the ill as an anesthesiologist. He headed the Department of Anesthesiology at St. Mary's Hospital and was named Outstanding Anesthesiologist in



Cole at Longwood University, which he and Cook endowed with a gift of \$5 million.

“Be happy, contribute, and be generous,” urges Dr. Waverly Cole’s partner, Dr. John Cook. “When you give, as we both did, the happiness just comes naturally.”

Virginia. John Cook headed Guidance Services at the Virginia Department of Education, was named Outstanding Counselor in Richmond, in Virginia and in the U.S. and co-authored the first elementary guidance legislation ever introduced in Congress.

Over their 50 years as a couple, they befriended prominent doctors, educators, lawyers and judges and came to meet or dine with some of the world's leading luminaries. These

included, to name just a few, Queen Elizabeth II, Margaret Thatcher, Henry Kissinger, Winston Churchill, Mikhail Gorbachev, General George Patton, Eleanor Roosevelt, Ginger Rogers, Secretary of Defense Robert Gates and every Virginia governor since 1960.

In addition to carrying on busy professional lives, Cole and Cook invested in real estate throughout Virginia and amassed a considerable fortune. Rather than



Cole, left, and Cook with their dog April at home in Richmond, Virginia, in 2007

leading a lavish lifestyle, they generously shared their wealth, talents and leadership with worthwhile causes at the local, state and national levels.

COLE AND COOK HAVE GIVEN, and given generously, to the movement for LGBT rights and for the rights of people living with HIV. They became charter members of Equality Virginia, Lambda Legal, Human Rights Campaign, Servicemembers Legal Defense Network and GLSEN, all of whom have honored them for years of support. In 1985, they established the first AIDS fund to care for young Virginians living with HIV. As Lambda Legal Executive Director Kevin Cathcart recalls, “When I came to Lambda Legal in 1992, we were facing a serious budget gap. I will always remember how quickly

Waverly and John stepped up to help with a very generous gift that made an enormous difference. They have always been there for Lambda Legal and for me personally ever since, and I will always miss Waverly.”

Cole and Cook also both endowed a total of 30 scholarships at the Medical College of Virginia, Virginia Commonwealth University, the College of William & Mary and Longwood University. Following a \$5 million gift in 2006, Longwood University renamed the College of Arts & Sciences Cook-Cole College—the first and only college in the U.S. to be named for two gay men. Over the years, they have also funded churches, museums, animal shelters, hospitals, reading centers, historical foundations and homeless shelters.

“Very early on in our relationship, Waverly sat me down,” Cook remembers, “and he said,

‘Here’s how we’re going to live our life: We are going to be outstanding. We are going to accomplish. We are going to achieve. And we are going to help *a lot* of people.’”

Lambda Legal salutes Drs. Cole and Cook for their exceptional accomplishments, generosity, love and inspiration. They have touched the lives of thousands, and with their example teach the true meanings of love, giving, and working to make our world a better place. As men of deep faith, their lives have been their message.

When asked for their secret to a beautiful relationship and a rewarding life, Cook says, “Be happy, contribute, and be generous. I’m so pleased that we were able to help Lambda Legal. When you give, as we both did,” he adds, “the happiness just comes naturally.” **L**



Net Gains

How have blogs and social networks transformed the LGBT movement? Executive Director Kevin M. Cathcart talks with bloggers Pam Spaulding of *Pam's House Blend* and Andy Towle of *Towleroad*.

PAM SPAULDING: I started *Pam's House Blend* in 2004 as an online diary of my own political thoughts, rather than a conversation with readers. But the fascinating thing is that over time, people would stop by who felt the same way (or a polar opposite) and comment. The anchor or hub that a good community blog provides is to spur conversation and debate, as well as to develop online relationships that sometimes result in offline meetings.

ANDY TOWLE: LGBT people became early adopters of the online world because it opened up new methods for those who may not have had the opportunity—or been afraid—to go to a gay bar to meet one another. The need for community

drew many gays and lesbians online in the early days of the Internet, and while it's still very useful in that sense, the early adopters have now gone on to be power users—both as consumers and creators of information.

KEVIN CATHCART: Even if we are not as socially isolated, it is hard to get good LGBT news. I read *The New York Times* almost religiously but long stretches can go by with nothing about our community. Television news is worse, as only the biggest headline stories get covered. And in most places there is no gay press, or it is not frequent enough or funded enough to cover news in a real way. So I think that part of our communal interest in or reliance on

blogs and new media is that although we live in a so-called information age, we are generally starved for the kinds of information we want or need, and blogs help fill this function.

SPAULDING: All of those new media tools have complicated the LGBT movement because it has shifted some of the balance of power in terms of messaging and tactics. It has become decentralized to an extent, with the relationship between the LGBT legacy organizations, LGBT media and LGBT bloggers sometimes strained.

Some of this new media chaos represents growing pains for the movement because the ground shift created by tools allowing

voices not previously heard to become influential is unsettling in a way that fosters distrust rather than collaboration in the struggle for equality. It will take time and relationship-building—along with more effective communication outside of social networks and blogs, to ensure these tools continue to effect change through inclusion, not infighting.

TOWLE: I think the influence of blogs and social networks on the LGBT movement has been a huge net positive. When you consider that in a matter of hours, a blogger or someone on Twitter can mobilize a large group of people to counter-demonstrate at a rally, or join a boycott or email members of the legislature. That's a kind of power that only the major gay organizations used to wield. Consider if the early gay-rights groups Daughters of Bilitis or the Mattachine Society had had something as powerful as a networking tool, instead of having to hold secretive meetings and fear raids and arrest by the police.

CATHCART: What is sometimes challenging is the lack of an editorial function in many of these platforms. This is not true of blogs like yours, where you do make decisions about what goes up and when to update things; I'm thinking more of sites that are endless open threads, where people with lots of time or determination to get a particular point of view across can opine or assert away on topics that they may or may not be well informed about.

But while this may create challenges for some organizations or kinds of organizing, it creates incredible opportunities for others. At Lambda Legal, for instance, we have the opportunity to get information about our cases or victories out directly to lots of people, without having to worry about

whether the editors of local mainstream media will think it important enough to devote space to. Knowledge gives us more power to protect ourselves, our families, our communities. It is a huge net good.

"KNOWLEDGE GIVES US MORE POWER TO PROTECT OURSELVES, OUR FAMILIES, OUR COMMUNITIES." —KEVIN CATHCART



TOWLE: Prop 8's passage in California was a huge moment for the LGBT blogosphere as it was the first place to disseminate photos and information regarding the breadth of the protests and anger. *Towleroad* collected hundreds of photos and accounts of impromptu protests from our readers, as I know many other blogs did as well.

SPAULDING: I had never seen traffic like that before. The organizing around the protests was organic, almost all through Facebook, in cities around the country. It really was less about the blogs than about social networks. The blogs just tried to keep up with covering all of the action/reaction to it all. It proved that people online could in fact be activated offline, and that had to be intimidating to those unaware of the power of this form of communication.

TOWLE: One of the challenges of blogs I think, is a responsibility to share news accurately. I consider *Towleroad* more of a place where news is aggregated than either an opinion site or a site that delivers original reporting, and the sheer volume of material I must read through

every day is a challenge in and of itself. If I'm following a more complex story it can be challenging to deliver all the details at the speed with which I have to do it. I've published things that are wrong. But my readers will let me know immediately if something needs to be corrected, which is the blessing and the

curse of having hundreds of commenters waiting for you to hit the publish button.

CATHCART: I think the challenge for nonprofit organizations is that we have so many different ways to communicate with different subsets of our constituents or of the general public, and that we have to use all of them at the same time and all of the time. It used to be slow but simple: you printed a newsletter, sent direct mail via U.S. Postal Service, waited for results to come in. Now our lists, donors, public are segmented—different people get their news in different ways—and if we don't want to leave people out, we have to do all of them. And there is always a race to be the first ones out of the box with breaking news. It is great to be able to put information in people's hands so quickly, but there is a lot of pressure to be quick and that doesn't always work well with a legal culture where we want to read and analyze decisions before commenting. Being quick means we have to run more of a risk of sometimes being wrong (or at least not quite right) and that challenges us! **L**

LAMBDA LEGAL OUT ON THE CASE



Lambda Legal Landmark Dinner/White Party Gala: National Leadership Council and Landmark Dinner Committee member Shaneka Reese, Landmark Dinner Committee Chair Chad West and Co-Chair Tyler Horton introduce the evening's program at the W Victory in Dallas, August 14, 2010.



Seattle Pride: Lambda Legal Help Desk Specialist Huong Lam, Marie Lee, Bryan Masumoto and Colleen Murphy at the Lambda Legal booth, June 27, 2010.



National Liberty Awards: Founding and 20-year Liberty Circle members (from left) Ralph L. Pellecchio, James Wernz, Deby Zum, Jayne B. Sherman, Dr. Barbara A. Rosen, Patricia A. Martone, Richard S. Kemmler, Arthur S. Leonard, Marc L. Baum and Harry H. Harkins Jr. were honored for their longtime support at Pier 60, Chelsea Piers, New York City, May 3, 2010.



Public Education Forum on Police Accountability: Community Educator Holiday Simmons takes the floor at the Phillip Rush Center in Atlanta, July 28, 2010.



San Juan Pride: A petition signer dons our T-shirt at Lambda Legal's first booth at a Pride event in Puerto Rico, June 6, 2010.



White House LGBT Pride Reception: President Barack Obama welcomes Lambda Legal plaintiff Janice Langbehn (second from right) and her children David, Danielle and Katie, June 22, 2010.



RAID NYC: Hercules Pappas and Alphonso David at the Eagle NYC, May 12, 2010.



PBS NEWSHOUR

Seattle

PBS NewsHour: Marriage Project Director Jennifer Pizer fields questions on the implications of Judge Vaughn Walker's ruling on Proposition 8 from host Ray Suarez, August 5, 2010.



Seattle Garden Party: Board member Lynn Slaughter with Shireen Kahn and her partner, Kate Dee, at the home of Liberty Circle members Susan and Eric Benson, August 5, 2010.



Lambda Legal in DC: Board member Robbin Burr, honoree Cornelius Baker, Lambda Legal Executive Director Kevin Cathcart, Board Co-Chair Paul Smith and Board member Karen Dixon at Long View Gallery, June 9, 2010.



RAGBRAI 2010: Kevin Cathcart flanked by Team Lambda Legal and supporters at the seven-day bike ride across Iowa at the end of July.



Lambda Legal in the Hamptons: At the Sag Harbor, NY, home of National Leadership Council member Mitchell Draizin and Philippe Brugere-Trelat, guests take in Executive Director Kevin Cathcart's remarks, June 5, 2010.



Fire Island Pines Brunch: Executive Director Kevin Cathcart, Board Co-Chair Paul Smith, Board member and Pines Brunch host Dan Cochran and Liberty Circle member Michael Dennis at the home of Dan Cochran and Greg Sutphin, July 10, 2010.



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LAMBDA LEGAL IN THE NEWS

Los Angeles Times, August 13, 2010

"When you don't win an argument on the merits, change the subject. That seems to be the favorite tactic of groups opposed to marriage equality for same-sex couples."

From op-ed by Legal Director Jon Davidson on charges that U.S. District Chief Judge Vaughn Walker couldn't rule objectively on Proposition 8 because of reports he is gay.

PBS News Hour, August 5, 2010

"Should antigay rules be seen presumptively as suspect, or should they not? That's an open question, where it's been resolved for quite a long time for other types of group-based discrimination."

Marriage Project Director Jennifer Pizer on the implications of Judge Vaughn R. Walker's ruling that Proposition 8 is unconstitutional.

Honolulu Star-Advertiser, July 29, 2010

"In this country, we don't put people's fundamental rights up to a popular vote. If we did that, our schools would probably still be segregated."

Linda Hamilton-Krieger, plaintiff in Young v. Lingle, on Hawai'i Governor Linda Lingle's call to have voters decide whether same-sex couples should have access to civil union status (see feature, p. 8).

Associated Press, July 7, 2010

"[Judge] Story ruled that 'avoiding the anticipated negative reactions of others cannot serve as a sufficient basis for discrimination and does not constitute an important government interest.'"

From article on federal ruling in favor of Lambda Legal client Vandy Beth Glenn, who was fired after telling her boss she intended to transition from male to female.

The Christian Science Monitor, June 25, 2010

"If you look at the justices over the court's history or even in the last 20 years, the number of them that have been women or people of color is staggeringly low."

Executive Director Kevin Cathcart on the confirmation of Elena Kagan to the U.S. Supreme Court and the importance of diversity on the bench.

GO WEST



JON W. DAVIDSON

WHILE LAMBDA LEGAL HAS always had a national focus, a national board, and a national network of volunteers and supporters, 20 years ago the organization opened its first regional office in Los Angeles. In space offered by the law firm of Hedges & Caldwell (now Caldwell Leslie & Proctor), it started with just one attorney, Mary Newcombe, and one legal assistant, Nina Brown. In short order, the West Coast Regional Office (WRO) was in full throttle, providing counseling to hundreds of callers, particularly servicemembers, and taking on staunch resistance in the courts. “The district court dismissed our case challenging the military’s discharge of Capt. Dusty Pruitt,” Newcombe recalls. “Although it took three years, we ultimately convinced the Ninth Circuit that we were entitled to have a factual hearing on the basis for the military’s antigay policy.” This case paved the way for Lambda Legal’s victory in Col. Margarethe Cammermeyer’s military discharge

case some years later—a groundbreaking victory achieved by the WRO team.

The office has now grown to a full-time staff of 14. Its success inspired the establishment of more regional Lambda Legal offices in Chicago, Atlanta and Dallas. Under the leadership of Senior Counsel Jenny Pizer and Regional

NAME THE ISSUE, AND LAMBDA LEGAL’S WESTERN REGIONAL OFFICE HAS BEEN THERE. ON ITS 20TH ANNIVERSARY, WE’RE BEAMING.

Director Loren Javier, the WRO is now a powerhouse for LGBT and HIV civil rights advocacy and education throughout the 11 states in the West.

Thanks to the work of the WRO in collaboration with our sister legal organizations, more than 18,000 same-sex couples married legally in California and remain legally married in the state. WRO attorneys also drafted California’s domestic partnership law, successfully defended it against legal challenges, and helped those in Oregon, Washington and Nevada who drew on it in passing their states’ domestic partnership laws. The WRO also won rulings that those who erroneously believed they had registered with the state as domestic partners are entitled to its protections and that California businesses must treat registered domestic partners identically to spouses.

A hallmark of the WRO has been its tenacity. The WRO has returned to Hawai’i (where the

modern fight for relationship rights for same-sex couples began, with Lambda Legal’s *Baehr v. Lewin* case) to seek equal rights and benefits for same-sex couples under state law. The WRO is also at work again in Arizona, seeking to preserve domestic partner benefits for the state’s lesbian and gay employees.

Another hallmark has been the breadth of the WRO’s docket. Not only have our attorneys fought for marriage equality and other relationship protections, health care fairness and the rights of LGBT servicemembers—they have defended the validity of second-parent adoptions, reunited parents and children cruelly separated by antigay relatives, and won benefits for partners of 9/11 victims. The WRO has vindicated the rights of students to form gay-straight alliances and to be free from censorship and harassment at school. It also has helped seniors keep their homes or other family assets after the death of their partners.

The WRO has fought workplace discrimination against lesbian teachers, reporters and servicemembers and gay police officers, insurance agents and paramedics. It has challenged discrimination based on gender identity or expression in employment, public accommodations and custody determinations. It has blocked and overturned antigay initiatives. It has fought for people with HIV against invasions of privacy and unfair insurance practices. It has championed the rights of gay rights protestors subjected to police misconduct and it has won asylum for those persecuted in their home countries for being part of the LGBT community.

You name the issue, you name the community, and Lambda Legal’s Western Regional Office has been there. It’s a lot to be proud of. And, on this anniversary, we’re beaming.

A handwritten signature in blue ink that reads "Jon W. Davidson". The signature is fluid and cursive, written in a professional style.



IT'S NOT TOO LATE...

Join the list of members and activists who have already let Hawai'i Gov. Linda Lingle know they disagree with her decision to veto the civil union bill. Make a gift today and add your name to our **"Equality: Wish You Were Here"** postcard that we'll send to Gov. Lingle in the coming month.

Visit www.lambdalegal.org/lingle-postcard

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