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**NCLR
Marriage Clients
in California**



Jeanne Rizzo & Pali Cooper



Lancy Woo & Cristy Chung



Corey Davis & Andre Lejeune



Myra Beals & Ida Matson

Photos: Marina Dicerbo

Denied at the Altar

Jeanne Rizzo, one of NCLR's clients, shares first-person perspectives about why she and others are involved in NCLR's lawsuit seeking marriage equality in California.

After a relentless busy signal we finally got an appointment: March 11th at 3 p.m. For the next two weeks, Pali, the love of my life for the last 15 years, and I planned our wedding celebration. On March 11th at 2:45 we were standing in line as the sign went up: "By order of the State of California, the City of San Francisco can no longer issue marriage licenses to same-sex couples." Pali and I were denied, literally at the altar. The look on my son Christopher's face reflected back to us the pain of being separated from our civil rights.

On the evening of March 11th, Kate Kendell asked us all to be part of the NCLR lawsuit. It gave us some comfort and great hope that we could turn our anger and grief into real social change. Now, along with 11 other couples, we are plaintiffs in *Woo v. Lockyer*, one of several cases around the country seeking to win marriage equality for our families.

Ida Matson and Myra Beals have been together for 27 years. Myra explained: "For 27 years it didn't matter at all to me that Ida and I could not get married. There was no meaning in marriage that we didn't already have in our love. And then one day in February 2004, marriage equality became all that mattered." Myra and Ida now find themselves constantly educating their neighbors, friends, and even strangers about why they should have the right to marry. "It's so very important to us that we speak up, not only for those of us who now want the right to marry, but for all of us who want the right to live in freedom."

Corey Davis and his partner Andre Lejeune want that freedom. "Growing up as a black male in this

society," Corey said, "I have received too often that message of exclusion or of judgment by others to be 'less than' when they don't know me at all." That his government is sanctioning this discrimination only makes it worse. He planned to pick up wedding rings on the afternoon of March 11th in anticipation of his marriage to Andre on the 17th. But their plans were shattered by the California Supreme Court's order. Corey immediately thought of a banner in the schools where he works: "Is this good enough for your child?" Would you, he asks, accept this kind of limit on the lives of your children?

Lancy Woo and Cristy Chung do not accept that limit. Nor do they seek the spotlight that has come with being "*Woo v. Lockyer*." They would prefer to lead a quiet life, but they entered the public eye because they are determined to protect their family, including their six-year-old daughter Olivia. Cristy proclaimed, "Marriage discrimination is about family discrimination. Olivia must see that we are willing to fight for our rights—rights equal to those of the other families at school, where she is learning about Martin Luther King and civil rights." Lancy and Cristy are willing to sacrifice their privacy to make the world a better place for their daughter.

Privacy is no longer an option for any of us. As plaintiffs in this historic case, our names are on this moment. And as Bernice Johnson Reagon said, "When your name is on the moment, you have a choice: to take it or not."

So, hold our place in line. We'll take that moment back. In the meantime, please support NCLR. They are doing amazing work. Our freedom to marry is counting on the work of this organization and your support.

— By Jeanne Rizzo

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A TALE OF TWO NATIONS

On November 3 we will awaken to one of two nations. A nation where differences are respected and the politics of division and denunciation diminish, a nation that understands that stubbornness is not a substitute for strength, a nation where enormous challenges will be met with thoughtfulness and intelligence. Conversely, we may awaken to a nation where division and difference are exploited and relished, where power is wielded without regard to consequence, a nation where the privileged never sacrifice or suffer but where the most marginalized continue to be stripped of what little they have.

It is a responsibility of virtually unprecedented magnitude for us to be deeply invested in actively shaping which world we will live in for the next four years. So many of us have done so much to assure that the nation we wake up to on November 3 is one where hope lives; so many of us cannot quite bear the plausible thought of the alternative. Yet we know that in either world the challenges posed by these unmatched times will stress the talent and resources of the National Center for Lesbian Rights. We understand that the outcome of the 2004 election will make the road ahead one filled with challenges and opportunities or one filled with landmines and setbacks.

A Message from Kate Kendell

But make no mistake; regardless of the nation we inherit on November 3, NCLR is up to the challenge. The past few months have demonstrated that this organization that you have helped build does indeed have the depth, expertise, muscle and reflexes to respond to unprecedented historical moments and demands. Our legal staff, led by Legal Director Shannon Minter, has masterfully spearheaded our lawsuit challenging marriage discrimination in California in the wake of the amazing events here in San Francisco in February and March. Recognizing the need to invest significantly in our own capacity, over the past few months we hired some new and very impressive staff. Lena Ayoub is our newest staff attorney and has already demonstrated the intellect and skill of a far more seasoned litigator. Karen Boyd is our first-ever Communications Director and her presence and talent immediately boosted our national profile. Desiree Buford, our new Events Assistant, and Trilce Santana, our Development Assistant, have provided much-needed support to our development department and our ability to increase our outreach and resources.

Never before have we faced a future so fraught with risk. And never before have we been better positioned to respond to whatever that future might bring. On November 3 we will be here, no matter what, and with your continuing, generous support we can face the dawn.

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Board and Staff News

Our Staff is Growing!

In keeping with our commitment to deepen the effectiveness of our legal advocacy work, expand the organization's reach, and enhance our visibility, NCLR hired four new staff people this summer.

Karen Boyd Director of Communications

Photo: Jan E. Watson



Karen Boyd joined NCLR in September as the organization's first-ever Director of Communications. A seasoned communications professional with 16 years' experience, Karen will be responsible for directing a strategic,

multi-dimensional communications program that includes media relations, advertising, website management, and community outreach. Prior to joining NCLR, Karen served as Legal Communications Director for Oakland's Office of the City Attorney, where she directed a full-scale communications program addressing a wide range of complex, high-profile and controversial legal matters.

Photo: Jan E. Watson



Lena Ayoub, Esq. Staff Attorney

In July, Lena Ayoub joined NCLR's Legal Department as Staff Attorney. An immigration rights specialist, Lena brings specific expertise in defending LGBT clients in an effort to gain them asylum in the United States based on sexual orientation. Before joining NCLR, Lena practiced immigration law at the Law Office of Robert B. Jobe, where she successfully represented immigrants seeking deportation relief before the Immigration Court, Board of Immigration Appeals, and federal court. A learned

understanding of her clients' varying cultural, religious and ethnic backgrounds is a core principle in her litigation approach.

Two New Development Department Staff

NCLR also hired two additional staff to support the Development Department. **Trilce Santana** started in June as a Development Assistant to assist with the membership program, and **Desiree Buford** came on board as an Events Assistant to support NCLR's Gala event, national house parties, and numerous fundraising and outreach events.

NCLR Welcomes Two New Board Members



Olga Talamante

Olga became the first Executive Director of the Chicana Latina Foundation in January 2003. The foundation's mission is the empowerment of Chicanas/Latinas through their personal, educational and professional advancement. Prior to joining CLF, she was Western Region Vice President of

INROADS, a career and leadership development organization aimed at Latino, African American, and Native American college students pursuing careers in business and engineering. Olga is well known for her community activism and has worked with several service-providing and public advocacy agencies, including Head Start, the YMCA, the American Friends Service Committee, and the Argentine Commission for Human Rights.



Donna Ryu, Esq.

Donna is a Clinical Attorney and Adjunct Assistant Clinical Professor at U.C. Hastings College of the Law. Before joining the clinic staff at Hastings in July 2002, Donna taught and supervised student clinicians as Associate Director of the Women's Employment Rights Clinic at Golden Gate University School of

Law. Prior to that, she spent ten years litigating civil rights class action and individual cases in private firms, including her own all-women partnership in Oakland. Donna also worked as an appellate attorney in a large San Francisco firm during her first two years out of law school. She received her BA from Yale University and her JD from University of California's Boalt Hall School of Law.

Kate Kendell

Named One of Top 100 Attorneys

On September 27, 2004, a California legal newspaper, the Daily Journal, published its seventh annual list of the state's most influential, change-making lawyers. Nominated by her peers in the legal community, NCLR's very own Kate Kendell was recognized as one of the Top 100 most influential lawyers in California.

"Collecting votes for this year's Top 100, the staff of Daily Journal EXTRA found that no issue captured the community more than gay marriage," the newspaper wrote. "Creating a moment in history is a special accomplishment. Picking up where that moment ends and carrying a cause to the finish is extraordinary."

As Executive Director for NCLR, Kate was lauded for the following: "Her group settled a \$1 million case on behalf of six Bay Area high school students subjected to harassment because of sexual orientation. The center has fought to allow same-sex marriages by counseling San Francisco Mayor Gavin Newsom, representing same-sex couples and filing a constitutional challenge to marriage laws." An unattributed source noted that, "She possesses a seemingly unparalleled combination of smarts, passion and charisma, and the power to move people across the political and social spectrum."

Please join NCLR's staff and Board in congratulating Kate on this outstanding achievement.

NCLR Opens Regional Office

In Washington, D.C.

Starting this fall, Legal Director Shannon Minter will be spending about 30% of his time in our new regional office in Washington, D.C. Having a home base in our nation's capital will enable us to expand our legal work in the south and northeast and strengthen our ties with other sister organizations such as the Human Rights Campaign, the National Gay & Lesbian Task Force, and the National Center for Transgender Equality.

NCLR Creates Coalition

To Defeat Florida Adoption Ban

Florida is the only state in the country to categorically ban all gay and lesbian people from adopting – even when it is in the best interests of the children.

Decades of studies have shown that children are not harmed in any way by being raised by gay or lesbian parents, and that children raised by gay and lesbian parents can have the same advantages and expectations for health, adjustment, and development as can children raised by heterosexual parents. Florida's ban remains even though more than 4,000 adoptable children are languishing in foster care, many bouncing from foster home to foster home.

This year, NCLR, Equality Florida, Florida's Children First, the Family and Public Interest Law Sections of the Florida Bar, and dozens of child welfare, medical, and faith organizations are coming together to make an all-out push to repeal this shameful law this year.

In December and January, this coalition will begin holding town hall meetings across the state where we will gather to share our stories, provide simple trainings in how to lobby legislators, and provide educational materials to help debunk the myths about gay and lesbian families. When the next legislative session begins in February 2005, bills will be introduced to repeal the ban in both the Florida House and Senate and we are already receiving strong bi-partisan support for a repeal.



"Repealing the gay adoption ban in Florida would be a positive step toward allowing me to be a legally recognized parent to my child. It would allow me to make medical decisions for my child without having to draft legal papers to document my role in his life. Most importantly, being recognized as a parent

would protect Tyler if anything happened to my partner or me."

– Cathy, NCLR client

Marriage in New Mexico: The Sandoval 64

by Lynn Perls, Esq.



Photo: Mary Ellen Capek

Couples who got married in Sandoval County, their legal advocates, and friends.

Early 2004 could have been called the Winter of Love in San Francisco and beyond as marriage equality began to become a reality across the United States. On February 20, 2004, the County Clerk in Sandoval County, New Mexico began issuing licenses to gay and lesbian couples, just a week after San Francisco did the same. Before the day was out and the Attorney General halted the issuance of licenses to same-sex partners, 64 gay and lesbian couples exchanged vows. They are now known as The Sandoval 64.

In a collaborative effort, NCLR, Lambda Legal, and the New Mexico Lesbian and Gay Lawyers Association joined forces the morning the County Clerk began issuing and recording marriage licenses to same-sex couples. Within the week, NCLR's Legal Director Shannon Minter traveled to New Mexico to participate in a legal forum addressing the 64 married couples. He also provided

regular support and information to the local New Mexico Lesbian and Gay Bar Association, who was working with the statewide LGBT organizations and the recently married couples. In the flurry of activity across the country this spring, NCLR has contracted with New Mexico attorney Lynn Perls in order to provide the community a local legal presence, and provide NCLR an additional contract attorney at such a dynamic and busy time in our LGBT history.

The 64 marriage licenses recorded on behalf of same-sex couples in New Mexico are presumed valid until they are challenged in court. A restraining order issued by the New Mexico Supreme Court has stopped the Clerk from issuing further licenses, pending the outcome of litigation between the State Attorney General and the County Clerk about the Clerk's authority to issue such licenses. If the pending lawsuit expands to include the validity of the 64 licenses already issued, the legal team will intervene in the suit on behalf of the first married couple and the statewide LGBT Coalition.

NCLR congratulates The Sandoval 64 and will continue to support marriage equality for same-sex couples in New Mexico and throughout the country.



Norma Vasquez & Mary Houdek received the first marriage license in Sandoval County. They will be NCLR clients if we file a lawsuit.

The Day San Francisco City Hall Said "I Do."

Filmmaker Debra Chasnoff was invited to document the history-making lesbian and gay weddings in San Francisco. With interviews with Mayor Gavin Newsom and NCLR's Kate Kendell, *One Wedding and a Revolution* takes you behind the scenes during the frantic days leading up to February 12, 2004 and these momentous ceremonies.

To order a copy of this film, go to:

http://www.womedia.org/ordering_home.htm.



Photo: Pamela Peniston

March from Castro Street to City Hall on August 12, 2004: The Bay Area community poured into the streets of San Francisco to protest the court's invalidation of over 4,000 marriage licenses issued to gay and lesbian couples. NCLR was there to raise our voices for marriage equality.

California's New Domestic Partnership Law: *What Couples Need to Know*

by Shannon Minter, Esq., Legal Director

On January 1, 2005, California will become the second state, along with Vermont, to give registered domestic partners most of the rights and responsibilities of married couples under state law. Vermont enacted its civil unions law in 2000. In California, a statewide registry for domestic partners was created in 1999. Since then, the legislature has amended the law several times to give domestic partners added rights and responsibilities. In 2003, the California Legislature enacted the Domestic Partner Rights and Responsibilities Act, which expanded the law dramatically to require that California law must treat domestic partners and spouses equally in almost every area of state law. The legislature delayed implementation of the law for a year in order to give the Secretary of State time to send out notices to couples who already were registered as domestic partners, informing them of the upcoming change.

Under the new law, registered domestic partners will gain hundreds of new rights and responsibilities. These include, among many others: the right to community property, which means that any property acquired by a couple after they register as domestic partners will be owned equally by both partners; mutual obligation for debts to third parties; and the same rights given to a surviving spouse under state law, including the right to inherit without a will, the right to bereavement leave, and the right to make funeral arrangements. Children born to domestic partners also will have the same protections given to children born to married parents. This means, for example, that a child who is born through assisted reproduction to a lesbian or gay couple who are registered domestic partners will automatically be considered the legal child of both partners. The new law will also change the requirements for dissolving a domestic partnership. Rather than simply filing a notice of termination with the Secretary of State, which is all that the current law requires, most domestic partners will have to go through a formal court proceeding to end their relationship.

While the new law is a tremendous step forward, it does not achieve full equality for same-sex couples and their children. First, even after the new law goes into effect, domestic partners

still will not have all of the rights of married couples under state law. For example, they still will not be able to file joint tax returns, and the requirements for entering and dissolving a domestic partnership still will be different from those for marriage. Second, even after the new law goes into effect, domestic partners still will not be entitled to any of the 1,138 rights and obligations given to spouses under federal law. Third, unlike married couples, domestic partners do not have the assurance that their relationship will be respected by other states. This means that – unlike married couples – domestic partners still must take many extra steps to protect themselves and their families, and even then, they cannot be sure they will be protected. For example, although domestic partners who have children together will both be presumed to be the legal parents of their children, without the need for any legal action, we strongly advise couples who have children together in California to obtain court judgments, in case they travel or move to another state where their parental status may be questioned. Similarly, while registered domestic partners in California automatically have the right to make medical decisions for one another, we strongly advise such couples to obtain legal documents giving one another the right to do so.

Most importantly, domestic partnership does not provide full equality because it does not – and cannot – provide the same societal value and respect given to marriage. As the Massachusetts Supreme Judicial Court recently observed in a decision holding that civil unions are not equal to marriage, “The history of our nation has demonstrated that separate is seldom, if ever, equal.” That is why we are continuing our efforts to win marriage equality through our lawsuit, *Woo v. Lockyer*, which is pending in San Francisco Superior Court, and through our partnership with Equality California in support of Assemblymember Mark Leno’s Marriage License Non-Discrimination Act.

Lo que las Parejas deben saber sobre el Acto de Beneficios y Responsabilidades de Compañeros(as) Domésticos(as) (AB 205)

El primero de enero del 2005, California será el segundo estado que otorgará a parejas registradas como compañeros(as) domésticos(as), la mayoría de los derechos y responsabilidades estatales que se les otorga a las parejas heterosexuales que están casadas. Vermont aprobó la ley de Unión Civil en el año 2000. Una matrícula estatal de parejas registradas como compañeros(as) domésticos(as) en el estado de California fué creada en 1999. Desde entonces, la legislatura ha reformado la ley agregando derechos y responsabilidades adicionales a las parejas registradas como compañeros(as) domésticos(as). En el 2003, la legislatura de California aprobó AB 205, el Acto de Beneficios y Responsabilidades de Compañeros(as) Domésticos(as) (Domestic Partner Rights and Responsibilities Act). La legislatura retrazó la implementación de esta ley por un año para darle tiempo al Secretario del Estado para enviar notificación a las parejas ya registradas como compañeros(as) domésticos(as), informándolas de los cambios que se efectuaran por medio de dicha ley.

Bajo la nueva ley, parejas registradas como compañeros(as) domésticos(as) obtendrán cientos de nuevos derechos y responsabilidades. Estos incluyen, entre otros: el derecho a la propiedad común, lo cual significa que toda propiedad adquirida por la pareja después de haberse registrado como compañeros(as) domésticos(as) pertenecerá igualmente a los dos; obligación mutua por deudas a terceros; los mismos derechos otorgados a un cónyuge superviviente bajo la ley estatal, como el derecho a la herencia de su pareja sin necesidad de un testamento, el derecho a permanecer ausente en el período de luto en caso del fallecimiento del cónyuge y el derecho de proceder con los preparativos para el funeral; niños nacidos a parejas registradas como compañeros(as) domésticos(as) tendrán las mismas protecciones otorgadas a niños nacidos a padres casados. Esto significa, por ejemplo que un niño nacido a través de métodos alternativos de reproducción (i.e. inseminación artificial) a compañeros(as) domésticos(as) registrados(as) será automáticamente considerado hijo legal de ambos compañeros(as).

La nueva ley también cambiara las reglas que gobiernan la terminación de una relación de compañeros(as) domésticos(as). Actualmente, la ley sólo requiere que se presente una notificación de terminación al Secretario del Estado. Bajo la nueva ley AB 205, la mayoría de los compañeros(as) domésticos(as) tendrán que llevar a cabo un procedimiento formal con la corte para disolver la relación.

Aunque la nueva ley es un gran avance, no otorga la igualdad completa a las parejas del mismo sexo y a sus hijos. En primer lugar, aún después de que AB 205 se convierta en ley, parejas registradas como compañeros(as) domésticos(as) no tendrán todos los derechos que se les confieren a las parejas heterosexuales que son casadas. Por ejemplo, no podrán declarar sus impuestos conjuntamente y tendrán que disolver su relación de una manera diferente de como se termina un matrimonio. También, cuando esta ley entre en vigencia, parejas registradas como compañeros(as) domésticos(as) todavía no tendrán ninguno de los 1,138 derechos y obligaciones bajo las leyes federales que se les confiere a parejas heterosexuales que están casadas. Además, a diferencia de parejas heterosexuales que están casadas, parejas registradas como compañeros(as) domésticos(as) no tienen la seguridad de que su estado civil será respetado por otros estados. Esto significa que – a diferencia de parejas casadas – compañeros(as) domésticos(as) registrados(as) todavía tendrán que tomar medidas extras para proteger a sus familias y aún así no van a tener la absoluta seguridad de que son protegidos por la ley. Aunque compañeros(as) domésticos(as) registrados(as) que tienen hijos juntos serán ambos considerados padres legales, sin necesidad de acción legal, en California nosotros le aconsejamos a esas parejas que tienen hijos juntos en California que obtengan una orden judicial finalizada por si viajan o decidan mudarse a otro estado donde quizás sea cuestionado su estatus de padre. Del mismo modo, aunque en California ambos compañeros(as) domésticos(as) registrados(as) tienen el derecho automáticamente de tomar decisiones médicas el uno por el otro, le aconsejamos que obtenga documentos legales especificando tales derechos.

Más importante aún es que el estado civil de compañero(a) doméstico(a) registrado(a) no nos provee una igualdad completa porque no tiene el mismo valor social ni el respeto del matrimonio. Como observó hace poco la Corte Judicial Suprema de Massachussets, manteniendo la decisión de que las Uniones Civiles no son iguales al matrimonio, "[l]a historia de nuestra nación ha demostrado que separado es rara vez lo mismo que igual." Es por eso que continuamos nuestros esfuerzos para ganar la igualdad en el matrimonio a través de nuestro caso *Woo v. Lockyer*, el cual está pendiente en la Corte Superior de San Francisco y también con nuestra asociación con la organización Equality California en su apoyo de el Acto de No-Discriminación de Licencia de Matrimonio, de Mark Leno, miembro de la asamblea legislativa.

Project Updates

Homophobia in Sports Project



Esera Tualo (former NFL lineman), Jenny Allard (Harvard softball coach), and NCLR client Andrea Zimbardi (former varsity softball catcher, University of Florida) participated in a conference hosted by the University of Minnesota's Tucker Center for Research on Girls and Women in Sports called "Homophobia in Sports: Breaking Barriers by Breaking the Silence." They shared their own histories about coming out and being out, exploring the challenges and complexities surrounding homophobia, and suggested strategies for a more inclusive sports world. This is one of many conference presentations made by the Project's speakers' bureau, which includes some of the country's top athletes and coaches.



Former pro-football player, Don McPherson, joined the NCLR team at our training for University of Florida athletic directors, coaches, and staff to combat homophobia in sports. This training

was mandated as part of NCLR's groundbreaking settlement with the University on behalf of Andrea Zimbardi, who had alleged sexual orientation discrimination and been barred from the team in her senior year.

Immigration Project

In July, Lena Ayoub joined NCLR's Legal Department as a Staff Attorney (see page 3). Lena brings specific expertise in defending lesbian, gay, bisexual and transgender clients in an effort to gain them asylum in the United States based on sexual orientation. In September, longtime NCLR staff member Noemi Calonje became Director of the Immigration Project. Calonje has helped shape the Project since its inception in 1993, and has worked closely with immigration clients, supported key litigation, expanded our network of cooperating attorneys, and coordinated our program of monthly immigration clinics. We are now well-positioned to deepen our immigration and asylum work in the coming year. We expect to intensify our litigation, deepen our relationships with mainstream immigrant rights groups, continue to build support for the Permanent Partners Immigration Act, and continue our monthly legal clinics serving more than 150 clients per year free of charge.

Youth Project

On January 1, 2004, California became the first state in the nation to add LGBT non-discrimination to its foster care bill of rights. It is now illegal to discriminate against youth in foster care based on sexual orientation or gender identity. NCLR, along with the California Youth Connection and the Out of Home Youth Advocacy Council, created and will distribute this new brochure to foster youth throughout the state to give them the power to assert their rights, obtain legal advice, and improve their lives.



Elder Law Project

Project volunteers Pamela Spevak (l) and Bea Howard (r) staff the Elder Law Project information booth at "Sistahs Steppin' in Pride" in Oakland, CA. At this event, and through many other outreach activities and conferences, the Project connects LGBT people over 55 with NCLR's free legal resources to help them address discrimination, and helps mainstream aging service providers better serve our community.



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NCLR is a national, lesbian-feminist, non-profit law firm with headquarters in San Francisco, and regional offices in Tampa and Washington, D.C. Our mission is to create a world in which every lesbian can live fully, free from discrimination. Through impact litigation, public policy advocacy, public education, collaboration with other social justice organizations and activists, and direct legal services, we advance the legal and human rights of lesbians, gay men, and bisexual and transgender individuals across the United States. Each year we serve more than 4,000 clients in all fifty states. NCLR prioritizes serving those who historically have been marginalized: lesbians, immigrants, low-income people, lesbians of color, youth, elders, and transgender individuals.

On the Docket

The National Center for Lesbian Rights works to achieve equality for lesbian, gay, bisexual, and transgender people in courts across the nation. Our advice and counseling service—providing free assistance to callers from across the country and technical assistance to attorneys—is a key component of NCLR’s litigation program. In addition to litigating impact cases through direct representation and *amicus* (friend of the court) briefs, NCLR joins in briefs on issues of importance to lesbians that are authored by other organizations, and serves as co-counsel with firms at both the trial and appellate levels. Attorneys interested in providing pro bono assistance may contact NCLR Executive Director Kate Kendell, Esq.

MARRIAGE

Woo v. Lockyer

**California Superior Court
Case filed March 12, 2004**

NCLR is lead counsel in a lawsuit seeking the right to marry for same-sex couples in California. Our clients include Equality California, Our Family Coalition, and 12 same-sex couples. Our co-counsel are Lambda Legal; the ACLU’s of Northern and Southern California; Stephen V. Bomse, Richard DeNatale, and Chris Stoll of Heller Ehrman White & McAuliffe LLP; David C. Codell of the Law Office of David C. Codell; and Clyde J. Wadsworth and Dena L. Narbaitz of Steefel, Levitt & Weiss.

Eight of the couples had appointments to obtain marriage licenses at San Francisco City Hall, but their appointments were cancelled as a result of the California Supreme Court’s March 11 order directing San Francisco to stop issuing marriage licenses to same-sex couples. Two of these couples were at City Hall—with family and photographers, filling out paperwork—when the Supreme Court’s order staying the issuance of further licenses took effect. Two other couples, including Del Martin and Phyllis Lyon, married in mid-February and lived as married couples for the next six months until August 12, 2004, when the Supreme Court ruled that their licenses and their marriages were invalid because the local officials lacked the authority to issue the licenses and to perform the marriages without first obtaining a court ruling.

The lawsuit argues that denying same-sex couples the right to marry violates the California Constitution’s guarantees of equality, liberty, privacy, and freedom of expression. On September 2, 2004, NCLR and co-counsel filed their opening brief with the Court.

– NCLR case



William Hazelton and Gary Gethen – Florida

Higgs v. Kolhage Florida

NCLR is representing six same-sex couples and Equality Florida, a statewide LGBT education and advocacy organization, in a lawsuit seeking marriage equality for same-sex couples in Florida. All six couples were turned away by the Clerk of the Court’s office when they tried to file for a marriage license. Local attorney Alan Eckstein is co-counsel in the suit.

– NCLR case

Lockyer v. City and County of San Francisco et al California Supreme Court

On February 12, 2004, the City and County of San Francisco began issuing marriage licenses to same-sex couples. The next day, two anti-gay groups, and later State Attorney General Bill Lockyer, filed numerous legal challenges to stop the marriages. On March 11, 2004, the California Supreme Court directed San Francisco to stop issuing marriage licenses to same-sex couples until the Court resolves the issues presented by the case.

NCLR and our co-counsel sought to intervene and participate in the Supreme Court cases on behalf of five same-sex couples who had married in San Francisco, but the Court denied this motion. NCLR and co-counsel then filed an *amicus* brief supporting San Francisco officials and urging the Court to uphold the validity of the marriages.

On August 12, 2004, the Supreme Court ruled that San Francisco Mayor Gavin Newsom lacked the authority to issue marriage licenses to same-sex couples and that the licenses issued to more than 4,000 same-sex couples and their marriages were invalid. In its ruling, however, the Court was careful to make clear that its decision in no way was meant to address the core constitutional question raised by this action: “To avoid any misunderstanding, we emphasize that the substantive question of the constitutional validity of California’s statutory provisions limiting marriage to a union between a man and a woman is not before our court in this proceeding, and our decision in this case is not intended, and should not be interpreted, to reflect any view on that issue.”

– *Amicus brief filed*

Kantaras v. Kantaras Florida Appeal pending

On July 23, 2004, a Florida appeals court reversed an 800+ page trial court ruling which, after a careful review of the extensive medical evidence presented at trial, held that

Michael Kantaras, a transgender man, is both medically and legally male, that his marriage to Linda Kantaras was valid, and that he is the legal father of the couple's two children, now ages 15 and 12. The trial in this case was televised on Court TV, and the trial court decision received nationwide acclaim for its thoughtfulness and humanity. NCLR staff attorney Karen Doering and NCLR Legal Director Shannon Minter argued the case, along with local counsel Collin Vause.

Although the Florida Court of Appeal reversed the trial court's ruling on the validity of the marriage, it refused to strip Michael of his parental rights. On the marriage issue, the appeals court ignored the extensive medical evidence and held that a person's legal sex is determined exclusively at birth, regardless of whether he or she has completed sex-reassignment. NCLR is seeking review of this decision by the Florida Supreme Court. This case is one of only a handful of appellate decisions on the issue of whether transgender people are legally able to marry in their new sex. No matter what the ultimate outcome, this case has brought unprecedented attention to transgender people and to their ability to be loving, committed parents.

– NCLR case

RELATIONSHIP RECOGNITION

Knight v. Davis Thomasson v. Davis California **VICTORY!**

Shortly after AB 205—the California Domestic Partner Rights and Responsibilities Act of 2003—was signed by former Governor Davis, Senator Pete Knight and Randy Thomasson of the Campaign for California Families filed lawsuits seeking to prevent the law from going into effect. The lawsuits claimed that AB 205 violates Proposition 22, a 2000 initiative that was intended to prevent California from having to respect marriages of same-sex couples from other jurisdictions.

In October 2003, 12 California couples and Equality California became parties in the law-

suits to defend the validity of AB 205. NCLR represents the 12 couples and Equality California, along with the Law Office of David C. Codell; the American Civil Liberties Union; the ACLU affiliates in Northern California, Southern California and San Diego; and Lambda Legal of Los Angeles.

On September 8, 2004, Sacramento Superior Court Judge Loren E. McMaster held that the new, expanded domestic partnership law—AB 205—is valid.

– NCLR case

Sheila Ortiz-Taylor and Joy Lewis v. Westminster Oaks Retirement Community Florida **VICTORY! Settlement reached**



Joy Lewis and Sheila Ortiz-Taylor

In June 2004, NCLR clients Sheila Ortiz-Taylor and Joy Lewis reached a confidential settlement with Presbyterian Retirement Communities, Inc., a national chain of retirement communities. In a case filed in March 2003, Joy and Sheila had alleged that Westminster Oaks, the Presbyterian retirement community to which they applied, discriminated against them based on their sexual orientation, sex, and marital status. Sheila and Joy were denied admission based on a policy which did not permit unmarried, non-related couples to live together in the facility. Following the settlement, Joy and Sheila said that they were looking forward to being part of the Westminster Oaks community and were pleased that PRC has made clear that all qualified applicants have equal access to its facilities.

– NCLR case

PARENTING

Adoption.com California **New case**

In 2002, Adoption.com, the largest adoption-related Internet business in the United States, refused to accept an application from Rich and Michael Butler, a same-sex couple who have been together eight years and who sought to post their profiles on one of Adoption.com's websites. A company spokesperson told the Butlers that Adoption.com does not allow gay and lesbian couples to use their services. Represented by NCLR and the law firm of Orrick, Herrington & Sutcliffe LLP, the Butlers filed a lawsuit challenging this discriminatory policy under California law, which prohibits businesses from discriminating on the basis of sexual orientation.

In May 2004, federal district court Judge Phyllis Hamilton ruled that the lawsuit can proceed to trial. In an initial victory for the Butlers, Judge Hamilton's ruling rejected Adoption.com's argument that it does not have to comply with California's non-discrimination laws.

– NCLR case

In re: E.L.M.C. Colorado **VICTORY!**

NCLR filed an *amicus* brief on behalf of a lesbian mother seeking equal custody rights of the child she raised with her former partner. Eley Maxwell McLeod and Cheryl Ann Clark were in a committed relationship for 11 years and decided to have a child together. Clark adopted a baby girl from China with the intention that both Clark and McLeod would parent her. The couple changed the child's name to reflect both of their surnames and the child's medical and school records reflect that both are her parents. Six years after the adoption, Clark and McLeod ended their relationship and Clark argued that McLeod had no legal right to visitation or care of their daughter.

On July 1, 2004, the Colorado Court of Appeals upheld the trial court's order giving

both Clark and McLeod equal parenting rights. The court explained that McLeod was entitled to seek parenting rights based on her established parental relationship with the child.

Along with co-counsel Kim Willoughby, NCLR filed an *amicus* brief arguing that the child has an equal right to maintain a relationship with both parents. McLeod is represented by Gina B. Weitzenkorn of Mills & Weitzenkorn. The Colorado Legal Initiative Project and the ACLU of Colorado also filed *amicus* briefs.

– *Amicus brief filed*

Elisa B. v. Superior Court **California** **Appeal pending**

Elisa and Emily were in a committed same-sex relationship for more than six years. In 1995, the couple decided to have a child together using an anonymous sperm donor. Elisa gave birth to their first child in 1997. Subsequently, Emily was inseminated using the same anonymous sperm donor and gave birth to twins in 1998. One of the twins has Down's syndrome and requires round-the-clock medical care. After the three children were born, the parties agreed that Emily would stay home and care for them and Elisa would be the primary wage earner. Elisa provided health insurance and took the tax dependency exemption for all three children.

Elisa and Emily separated in 1999. Elisa visited with the twins and provided some financial assistance until 2001, when she cut off all financial assistance and contact with the twins. Emily was forced to apply for public assistance to support herself and the twins. The County of El Dorado filed a child support action against Elisa, and a trial court found that Elisa is a legal parent and must pay child support.

The Third Appellate District Court of Appeal reversed, holding that Elisa is not a legal parent and has no obligation to support the twins. The appellate court specifically held that the rules used to determine the parentage of other children do not apply equally to children born to same-sex couples.

On September 1, 2004, the California

Supreme Court agreed to review the decision. NCLR is counsel for Emily B. Attorney General Bill Lockyer also urged the California Supreme Court to review the decision and is taking the position that the rules that apply to other children should be applied equally to children born to same-sex couples.

– *NCLR case*

Kristine H. v. Lisa R. **California** **Appeal pending**

Kristine H. and Lisa R. decided to have a child together using alternative insemination. Prior to the child's birth in 2002, the birth mother, Kristine, asked a court to hold that both mothers were legal parents under the California Uniform Parentage Act. The court granted the request and issued a judgment declaring both Kristine and Lisa to be the child's legal parents. Both women raised the child together. Two and a half years later they separated and Kristine filed a lawsuit asking the trial court to vacate its prior judgment and hold that Lisa was not a legal parent and had no right to custody or visitation with their child.

The trial court refused to invalidate the previously granted judgment. The California Court of Appeal reversed and held the judgment to be invalid. In another part of the opinion, however, the court indicated that Lisa may be a legal parent under a different provision of the Uniform Parentage Act and remanded the case for a new decision. Both sides are seeking review from the California Supreme Court, which was granted on September 1, 2004.

NCLR filed an *amicus* brief on behalf of Lisa, the non-biological mother, arguing that she is a legal parent.

– *Amicus brief filed*

Angela G. **California** **Appeal pending**

Angela G. and Dindi W., a lesbian couple, decided to have a child together using assisted reproduction. When the child was born in

1998, the couple decided to give the child Angela's last name to reflect their intention to co-parent him. From the moment of his birth, Angela treated the child as her son and presented herself as one of his two mothers. After the couple separated in 2000, Angela continued to support the child and kept him on her insurance. She also had visitation with the child on alternate weekends and holidays. In 2003, the Department of Children and Family Services filed a dependency action based on allegations that Dindi had abused her older child. Angela appeared in the dependency action. The dependency court found her to be a *de facto* parent and gave her visitation with the child. After the child was returned to Dindi, however, Dindi refused to allow him to see Angela. Angela eventually filed an action seeking an order of custody or visitation. The trial court denied Angela's petition, holding that a lesbian co-parent does not have standing to request custody or visitation with a child that she jointly brought into the world and co-parented.

NCLR is representing Angela on appeal. Angela was represented at trial by Nathan Hoffman and Eva E. Chick.

– *NCLR case*

Carvin **Washington** **VICTORY!**

Sue Ellen Carvin and her former partner Page Britain were in a committed relationship for 12 years. They had a child together in 1995 and raised her together for six years until they separated in 2001. During this time, Carvin was the child's primary caretaker. After their separation, Britain cut off all contact between Carvin and the child. When repeated efforts to work out a voluntary settlement failed, Carvin brought a lawsuit seeking custody or visitation.

Following the lead of other states, the Washington Court of Appeals held that Carvin had standing to seek parental rights such as custody or visitation based on her established parental relationship with the child. Carvin is represented by the Northwest Women's Law Center. NCLR and COLAGE filed an *amicus* brief on her behalf.

– *Amicus brief filed*

Burch **West Virginia** **Appeal pending**

Tina Burch and Christine D. Smarr, a lesbian couple, lived together from 1998 until Christine's death. Their family included their two children: A.B., who is Tina's biological child, and Zachary, who is the biological child of Christine. Tina and Christine jointly planned Zachary's birth, with the intention that they would raise him together as co-parents.

After Christine's death, Tina sought custody of Zachary. Her request was opposed by Christine's parents. After finding that "a strong parent-child bond exists between" Zachary and Tina, the Family Court awarded primary custody to Tina.

On appeal, the Circuit Court reversed, holding that a lesbian co-parent is not entitled to seek custody of a child that she co-parented.

NCLR filed an *amicus* brief in the case along with Lambda Legal. Tina is represented by James Wilson Douglas of Sutton, West Virginia.

– *Amicus brief filed*

McGriff v. McGriff **Idaho** **Partial victory**

NCLR is representing Theron McGriff, a gay father in Idaho who lost joint legal and physical custody of his two children because of his sexual orientation. Prior to the divorce, which was initiated by Theron's ex-wife, Theron was the primary caretaker of the two children. After the divorce the parties agreed to share custody of the children. This arrangement continued until Theron became involved with a male partner, at which point his former wife petitioned for and received sole custody based on her argument that the children would be harmed by living with a gay father. To add insult to injury, the trial court also held that Theron can only have visitation with his children if he does not live with his partner.

The Idaho Supreme Court, in its first decision involving a lesbian or gay parent, held that Idaho courts may not base child custody deci-

sions on a parent's sexual orientation. Despite the court's rejection of anti-gay bias, however, the court denied relief to Theron due to his alleged inability to communicate with his former wife and tension between her and Theron's partner. The factual record did not support a denial of custody to Theron. The court has allowed the children in this case to suffer by being deprived of contact with a loving and devoted father.

– *NCLR case*

Lisa W. v. Carolyn W. **Georgia** **Pending**

Lisa W. and Carolyn K. W. were in a committed relationship for eight years starting in 1994. In 1995, Lisa and Carolyn decided to start a family. They agreed that they would both be a parent to any child they had together. They also agreed that they would share custody and support of the child should they end their relationship. Lisa and Carolyn subsequently planned B.'s conception and birth. After B. was born, they raised her together as equal parents. Carolyn encouraged B. to love and depend on Lisa as one of her two parents and held Lisa out to the community as B.'s parent, consistent with their agreement.

After Lisa and Carolyn separated in 2002, Lisa visited with B. on a regular basis. In 2003, Carolyn terminated all contact between B. and Lisa. Lisa filed suit in Georgia to preserve her relationship with her child.

NCLR, along with Lambda Legal, filed an *amicus* brief arguing that Lisa and Carolyn's agreement is enforceable under Georgia statutes and case law.

– *Amicus brief filed*

YOUTH

Youngblood v. School Board of Hillsborough County et al **Florida** **VICTORY! Settlement reached**

NCLR represented Robinson High School

Senior Nikki Youngblood in a federal lawsuit against a Florida school district for requiring all female students to wear an ultra-feminine scoop neck drape for their senior portraits, while allowing male students to wear a jacket and tie. Despite repeated requests from Nikki and her mother to exempt Nikki from wearing the drape because she did not feel comfortable wearing stereotypically feminine attire, school officials refused to grant Nikki an exemption from the policy. As a result, Nikki's picture did not appear in her senior yearbook alongside those of her classmates. NCLR filed suit in federal court on Nikki's behalf, alleging violations of state and federal constitutional provisions and sex discrimination laws. After the trial court granted the school board's motion to dismiss, Nikki appealed to the Eleventh Circuit Court of Appeals. While the case was pending on appeal, the school board agreed to modify its dress code policies to allow for exemptions from any sex-differentiated dress codes. Following the settlement, Nikki said, "I'm just relieved that no other student will have to be excluded from her senior yearbook just because she doesn't want to conform to someone else's gender stereotypes."

– *NCLR case*



Robinson High School Senior, Nikki Youngblood

IMMIGRATION/ ASYLUM

Asylum case **California** **New case, pending**

In September 2003, a young woman left Nicaragua and fled to the United States after being physically attacked by her former boyfriend, who became violent and abusive

because of her desire for independence and because he knew she was a lesbian. She was picked up by the INS shortly after crossing the United States border. After she was detained, her friend connected her with the Lawyers Committee for Civil Rights, an organization that locates attorneys to represent individuals on political asylum cases pro bono. NCLR partnered with local attorney Betsy Allen and filed an asylum application on her behalf based on gender and sexual orientation. She is awaiting a hearing on her claim.

– NCLR case

Jorge Soto Vega v. Ashcroft **California** **Appeal pending**

On July 24, 2002, Jorge Soto Vega filed an affirmative application for asylum with the INS based on past persecution he suffered in Mexico on account of his sexual orientation and his well-founded fear of future persecution if forced to return to his home country. As a child in Mexico, Jorge suffered abuse, harassment, and ridicule from family members and classmates threatened by Jorge's suspected sexual orientation. Principals and teachers did nothing to protect him from such abuse but rather accused him of bringing it upon himself by his "girly behavior." As a teenager, Jorge was severely beaten by officers of the Mexican police force upon suspicion that he was gay. The officers yelled derogatory slurs at Jorge as they threatened to kill him in order to "rid the streets of fags."

The INS referred Jorge's asylum application to the Immigration Court. On January 21, 2003, the Immigration Court held a hearing on the merits of Jorge's asylum application where Jorge presented credible testimony as to his past persecution and his fear of future persecution if returned to Mexico. An expert psychologist also testified that Jorge's fear of persecution is well-founded. Jorge also presented documentary evidence about the countrywide persecution of gay men in Mexico. At the conclusion of the hearing, the Immigration Judge denied Jorge's application for asylum, based on the Judge's view that Jorge is not immediately recognizable as gay based on "his dress, his manner, his

demeanor, his gestures, his voice, or anything of that nature." Accordingly, the judge held that "it would not be obvious that he would be homosexual unless he made that...obvious himself." Jorge filed an appeal of the Judge's decision with the Board of Immigration Appeals.

On January 27, 2004, the Board issued its decision affirming, without opinion, the Judge's decision to deny Jorge asylum. Lambda Legal is representing Jorge in an appeal to the Ninth Circuit. NCLR and the ACLU of Southern California are filing an *amicus* brief on his behalf.

– *Amicus brief filed*

SPORTS ISSUES

Koebke v. Bernardo Heights Country Club **California** **Partial victory**

B. Birgit Koebke and Kendall E. French are a lesbian couple who have been domestic partners for 12 years. Koebke joined the Bernardo Heights Country Club in 1987. Although she paid the same price for a family membership as heterosexual clubmembers, the club refused to provide her partner with the same benefits it gives to the partners of married heterosexual members.

Koebke and French sued the Bernardo Heights Country Club for refusing to provide them with the same membership benefits given to different-sex couples and for allowing other members to harass and insult them for being a same-sex couple. In March 2004, the California Court of Appeals ruled that Koebke and French had presented sufficient evidence to state a claim of sexual orientation discrimination and sent the case back to the trial court for a hearing on that issue. However, the appellate court rejected their argument that the club's policy of providing family memberships only to married couples was inherently discriminatory.

Lambda Legal is representing Koebke and French on appeal to the California Supreme Court. NCLR, the Women's Sports Foundation,

and the California Women's Law Center are filing an *amicus* brief that discusses the long and continuing history of discrimination against women by private golf clubs and the many ways in which that discrimination excludes women from important political, professional, and business connections.

– *Amicus brief filed, Letter to Court filed*

Harbinson v. Outsports.com **North Carolina** **Motion to dismiss pending**

Outsports.com is a website that reports on sporting events of interest to the LGBT community. In March 2004, Outsports.com published a gallery of photos taken at the 2004 Los Angeles Marathon. Shortly thereafter, Outsports.com received a request to remove a photograph from their website of a man who was not gay and who objected to having his photograph connected with Outsports.com. Although not legally obliged to do so, Outsports.com immediately removed the photo. In July 2004, the Plaintiff in this case filed suit against Outsports.com alleging that the publication of his photograph on their website was libel per se based on the fact that he is not gay and that Outsports.com should have known that the false depiction of him as gay could subject him to ridicule, contempt, and disgrace. Local counsel, Amanda Martin of Everett Gaskins Hancock & Stevens in Raleigh, North Carolina has filed an answer to the complaint and a motion to dismiss for lack of jurisdiction and failure to state a claim.

– *NCLR is assisting local counsel*

For the complete docket, see
www.NCLRights.org

For free assistance in English
and Spanish, call us at:
(415) 392-6257 or (800) 528-6257

IN MEMORY OF MARIAN C. CHAPMAN

December 19, 1945 - January 2, 2004



In the early 1980's, Marian Chapman swept onto the legal scene like a tornado. As Board Chair of the Lesbian Rights Project, she led the transformation of that primarily local project into the National Center for Lesbian Rights, an independent, public-interest law firm serving the entire nation. Among her many accomplishments in the area of family law, to which she devoted her career, Marian helped conceive of second-parent adoption, a legal mechanism for lesbian and gay parents that has now spread throughout the nation. We are

all beneficiaries of her pioneering leadership at NCLR and in the lesbian and legal communities.

The Marian C. Chapman Family Advocacy Fund of NCLR was established in loving memory of Marian, and in honor of her life's work, by the NCLR Board and Sandy Springs, her partner of 25 years. Marian's legacy continues through the support of her family and friends. The Fund supports NCLR's cutting-edge litigation and advocacy on behalf of LGBT families.

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(As of October 4, 2004)



Please contact Ruth Herring,
Director of Resource Development,
for more information.

NCLREVENTS

27th Anniversary Gala Breaks All Records

NCLR thanks Gala Co-chairs Kelly Dermody and Deborah Dixon, and the entire Gala Committee, for creating an evening that will go down in NCLR history: Nearly 3,000 supporters from around the nation raised the roof of San Francisco's Moscone Center on April 24 in celebration of our leadership in the battle for marriage equality, and to honor our heroes and heroines, allies and clients. The power of this event, and the groundbreaking recent legal developments, resulted in a record-breaking \$610,000 raised.



Photo: Jan E. Watson



Photo: Jan E. Watson



Photo: Virginia Morgan



Photo: Jan E. Watson

Clockwise (from top left): Gala Co-chairs Kelly Dermody (l) and Deborah Dixon (r); Awardees Sharon Stone and San Francisco Mayor Gavin Newsom, with Kimberly Guilfoyle Newsom; We rocked the house!; Members of the Gala Committee and friends

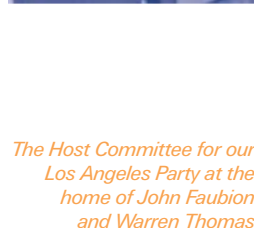
2004 Fundraising Parties Build Visibility

We thank the following for their generosity in hosting NCLR fundraising events in 2004: National Advisory Board member Raquel Matas and Carla Lupi (Miami); Meryl C. Friedman (Ft. Lauderdale); Delaine Bacon (Tampa Bay); National Advisory Board member Susan Gore and Ann Wigodsky (Dallas); John Faubion and Warren Thomas (Los Angeles); National Advisory Board member Jane Marquardt, and the Utah GLBT Center (Salt Lake City); Fiona Martin and Amanda Lewis (Denver); SacLegal (Sacramento); Starlight Lounge & Bar (New York); Annie Keating and Kim Hawkins (Brooklyn). We extend special thanks to these organizations and individuals for naming NCLR as beneficiary of their wonderful events: Alison Burgos (Orlando Gay Days); Charna Greenstein, Nordstrom; Lisa Geduldig (Funny Girlz); San Diego LGBT Center; Mariah Hanson and Chris Carnes; Justyn and Kim Haveson-Lezin; Jennifer Loomis and 2223 Market Restaurant and Bar; Nike; and Olivia Cruises and Resorts.



Ambassador James C. Hormel (l) spoke at our first annual men's cocktail event in San Francisco where more than 200 men gathered to support NCLR in response to the Hormel Challenge Grant

Photo: Desiree Buford



The Host Committee for our Los Angeles Party at the home of John Faubion and Warren Thomas

Photo: Desiree Buford

NCLR CALENDAR

For additional events, please visit www.NCLRights.org

SAVE THE DATES
for NCLR Events in 2004
and Early 2005!

28th Anniversary Gala Dinner Dance in San Francisco Saturday, May 14, 2005

November

November 20, Oakland, CA –
Dance at La Peña Cultural Center

December

December 2, San Francisco, CA –
Olivia Cruises and Resorts hosts a party and auction to celebrate lesbians in sport, and to benefit NCLR's Homophobia in Sports Project

February

February 25, 2005, Miami, FL –
House party at the home of National Advisory Board member Raquel Matas and Carla Lupi

February 26, Boca Raton, FL –
Party at the home of Susan and Elaine Greenfield

February 27, Tampa, FL –
Party at the home of an NCLR supporter

March

March 26, Palm Springs, CA –
The first-ever NCLR party at Dinah Shore Weekend; special thanks to Mariah Hanson

April

April 4, Indianapolis, IN –
Join world-class athletes and coaches at our event at the WNBA Final Four, a benefit for NCLR's Homophobia in Sports Project and Lambda Legal