

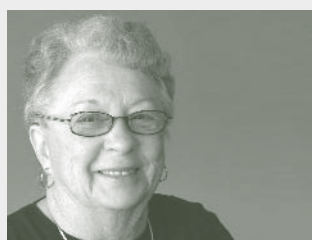
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NCLR Legal Director Shannon Minter with Representative Jerrold Nadler

Repealing DOMA

NCLR and the Respect for Marriage Act

On September 21, 1996, the so-called "Defense of Marriage Act" (DOMA) was signed into law, enshrining discrimination into federal law. Through DOMA, the federal government selectively denies same-sex couples more than 1,100 federal protections and responsibilities, including Social Security and immigration benefits that apply to other married couples.

That was thirteen years ago. Today, former President Bill Clinton, who signed DOMA into law, and former Congressperson Bob Barr (R-GA), who first introduced DOMA, are urging its repeal through the Respect for Marriage Act, a new bill introduced on September 15, 2009, in the House of Representatives by Reps. Jerrold Nadler (D-NY), Tammy Baldwin (D-WI), and Jared Polis (D-CO). The bill now has 101 co-sponsors, and support continues to grow.

The Respect for Marriage Act would repeal DOMA in its entirety, including both sections 2 and 3. Section 2 creates an exception to the full faith and credit clause for married same-sex couples. The bill would eliminate that provision, but it would leave each state free to decide whether to recognize marriages of same-sex couples from other states. Section 3 excludes same-sex spouses from all federal benefits and protections, including Social Security survivor benefits, the right to file joint taxes, and the right to petition for permanent residence for a foreign spouse. The Respect for Marriage Act would require that the federal government treat all married couples equally.

NCLR is proud to play a key role in this historic legislation. We worked closely with lead co-sponsors and partner organizations to help define the scope of the bill and secure federal respect for the marriages of same-sex couples.

On September 15, 2009, NCLR Legal Director Shannon Minter was on Capitol Hill for the introduction of the Respect for Marriage Act, standing side-by-side with lawmakers. Below are his remarks about the need for respect and equality for all legally married couples:

The National Center for Lesbian Rights is thrilled to be here today in support of this historic bill. DOMA is not only a shameful blot on our nation's commitment to the principles of equality and respect for all families, it is also a radical departure from longstanding principles of federalism.

The Respect for Marriage Act will restore the time-honored principle that the federal government will respect all marriages that are valid under state law. This Act will ensure that all married couples have the same legal certainty with respect to federal responsibilities and protections, and that committed couples who are validly married in a state will be treated as such by the federal government, regardless of where they live, travel, or move.

The Respect for Marriage Act will not change any state laws or take away any state's power to determine its own policies with regard to marriage. Rather, it will simply remove the federal government from the business of purporting to tell states which marriages are worthy of respect, or treating some legally married couples worse than others under federal law. For 13 years, DOMA has caused real harm to families; the Respect for Marriage Act will help families. It is as simple, and as essential, as that.

This is a significant first step in repealing DOMA, and NCLR will keep you posted every step of the way. Please visit www.nclrights.org for a complete list of elected officials who support marriage equality and action steps you can take to build support for the Respect for Marriage Act.



a message from
EXECUTIVE DIRECTOR
KATE KENDELL

Dear NCLR Champion:

This is the time every year, before the holidays are upon us, when I start taking stock of what we have accomplished and what is yet to come. Last year, it was crystal clear—Prop 8 was on the ballot and Election Day was around the corner. I was nearly apoplectic with anxiety while clinging to hope. This year, NCLR's work is no less intense, but it is quieter. We're not on television or in the newspaper every week, as we have been in the past with some headline-grabbing cases. But our work is not about making headlines—it's about making change.

In this newsletter, you'll read about our transformative work not only on Capitol Hill, but in rural California, the juvenile justice system, retirement homes, and legal aid offices across the country. I am so proud of the work we do on behalf of LGBT asylum-seekers, elders, youth, farmworkers, athletes, and families. Whenever I read our docket, I see the change taking place state by state. It fills me with renewed hope and determination. Our progress is unstoppable.

And yet again this year, we face an upcoming election where our hard fought victories hang in the balance.

Once again, our lives are being put up for a popular vote. In Washington State, anti-LGBT groups are trying repeal the state's comprehensive domestic partnership law. In Kalamazoo, Michigan, the city council passed an ordinance protecting LGBT people against discrimination in employment, housing, and other public accommodations. The law, which went into effect in July, has been suspended and will now be up for a popular vote. And in Maine, it's Prop 8

déjà vu all over again—complete with the same anti-LGBT horde of fib-crafters and charlatans trying to repeal the right of same-sex couples to marry. The very same highly-paid goons who lied to voters in California and secured passage of Prop 8 are recycling the very same ads and are perpetuating the very same fear-mongering falsehoods.

Please join us in making a commitment to do all you can to protect our rights at the ballot box. We must join together to defend our victories. If our opponents—who clearly hope to profit on our backs—win again, it will only embolden them further and erode our momentum. If we stand together and shout "Not this time!" we set the stage for future victories in other states and at the federal level.

Your support has always been important. Today it's absolutely vital. All of us at NCLR—our staff, Board and more importantly, our clients—are so grateful to every one of you. Your gift, whether \$10 or \$10,000, is why we are able to win cases, help write legislation, advocate for policy changes and in some situations, literally save lives. Every gift—\$10 to \$50 to \$100—made to NCLR has changed the lives of LGBT people in this country. The accomplishments you will read about in these pages belong to you—we cannot do this work without you. Thank you.

In Appreciation and Solidarity,

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All Staff photos by Trish Tunney

Within Reach: The Employment Non-Discrimination Act

Since 1994, the Employment Non-Discrimination Act (ENDA) has been repeatedly introduced in the House and Senate, with each Congress failing to send it to the President. However, after fifteen years of advocacy, a federal employment non-discrimination law that would protect people from discrimination based on both sexual orientation and gender identity is finally within reach. And not a moment too soon! It is time, indeed long past time, for this basic protection for our community to become law.



On September 23, 2009, the House Education and Labor Committee held a full committee hearing on ENDA and the importance of protecting LGBT employees from workplace discrimination. Representative George Miller (D-CA), the committee's chair, began the hearing by saying ENDA would "ensure that employment decisions are based on merit and performance and not prejudice. Fully qualified individuals are being denied employment or are being fired from their jobs for completely non-work-related reasons. This is profoundly unfair and, indeed, un-American. And, it is bad for business."

Along with several other key witnesses, Acting Chairman of the U.S. Equal Employment Opportunity Commission (EEOC) Stuart J. Ishimaru testified in support of ENDA on behalf of the Obama Administration. Commissioner Ishimaru has advocated for reinvigorating the EEOC's work on race discrimination issues. He was instrumental in the Commission's adoption of groundbreaking guidance on gender discrimination, and he opposed the agency's actions to weaken age discrimination protections. In his remarks, Commissioner Ishimaru opened by saying, "It is a privilege to represent the Obama Administration and the EEOC at the first hearing of this Congress to consider ENDA, to voice the Administration's strong support for legislation that prohibits discrimination on the basis of sexual orientation and gender identity. This legislation will provide

sorely needed and long overdue federal protection for lesbian, gay, bisexual, and transgender individuals, who unfortunately still face widespread employment discrimination."

In moving testimony, Yale Law School Professor William Eskridge, Jr. recalled his experience teaching at the University of Virginia School of Law, where he testified that he was denied tenure in 1985 based in part on his sexual orientation. He detailed many other situations where qualified individuals lost their positions, and, at times, their entire careers, because of their sexual orientation and gender identity. Another witness, Vandy-Beth Glenn, told of losing her dream job as an editor with the Georgia General Assembly, editing bills and resolutions during the annual legislative session. Despite having the support of her direct supervisor and colleagues, she was fired when she informed her employer of her plans to begin the process of gender transition.

The overall tenor of the hearing was remarkably positive, and ENDA is now squarely before our nation's lawmakers. It is up to all who care about ending discrimination to pressure them to pass it. NCLR is committed to ensuring that ENDA is enacted into law. We are a founding member of the United ENDA nationwide coalition and serve on its steering committee. In our Washington, D.C. office, Jaan Williams, NCLR's full-time field organizer for transgender equality, is helping to secure key support and reaching out proactively to key communities to help build grassroots support for ENDA.

Please join us in the work to pass this critical piece of legislation. You can find breaking news and action steps on this and other critical legislation at www.nclrights.org/federallegislation.

New Law Protects Children Born to Same-Sex Parents in the District of Columbia

LGBT family law is complex, especially because the laws vary so much from state to state. In July, the District of Columbia enacted a groundbreaking new law to protect children born to same-sex parents in Washington, D.C. NCLR and American University law professor Nancy Polikoff helped draft the measure, known as Bill 18-66, the Domestic Partnership Judicial Determination of Parentage Act of 2009, and worked closely with the Gay and Lesbian Activists Alliance of Washington, D.C. who lobbied the bill to passage.

"By establishing legal ties for families from the moment a child is born, this law provides same-sex parents and their children with much needed security and stability," said NCLR Legal Director Shannon Minter. "The D.C. Council deserves enormous credit for its leadership in updating the law to recognize the true diversity of families in our nation's capital."

The Domestic Partnership Judicial Determination of Parentage Act provides that when a woman bears a child conceived by artificial insemination, and her spouse or unmarried partner consents in writing to the insemination, the consenting spouse or partner is a legal parent.

That person's name will appear as a parent on the child's birth certificate. With the enactment of this measure, the District has become the first jurisdiction in the country to enact a statute specifically providing children born through artificial insemination with two legal parents from the beginning, even when those parents are a same-sex or different-sex unmarried couple. Such a provision was recommended in a model law adopted by the American Bar Association last year.

Until now, a mother's same-sex partner in the District of Columbia could become a child's parent only through the lengthy, and often expensive, adoption process.

"A mother should not have to adopt her own child," said Professor Polikoff. "When a heterosexual married couple uses artificial insemination to have a child, the husband does not have to adopt the child born to his wife. He is the child's legal parent automatically. Now the child of a lesbian couple will have the same economic and emotional security accorded the children of heterosexual married couples who use artificial insemination."



Increasing Access to Justice

In August, NCLR *Proyecto Poderoso* / Project Powerful Coordinator Lisa Cisneros and NCLR Family Protection Project Coordinator Cathy Sakimura published “Legal Advocates Challenging Stereotypes and Increasing Access to Justice for LGBT Communities” in Legal Services of Northern California’s Racial Equity Project newsletter. The article is part of NCLR’s ongoing efforts to inform and motivate legal services organizations to provide more help to poor and working-class LGBT clients.

Throughout the country, legal services organizations provide critically-needed, free legal assistance to low-income people. But stereotypes about LGBT people—especially the false stereotype that LGBT people are predominantly wealthy or middle-class, as well as the ever-shifting legal landscape—make it hard for many LGBT clients to access these services.

Lisa and Cathy’s article dispels stereotypes by sharing poverty and race-related data from recent studies analyzing LGBT demographics. These studies show that poverty is at least as common among LGBT people as heterosexual people. Certain subsets of the LGBT population face higher rates of poverty, such as lesbians, transgender individuals, African Americans, and same-sex couples in rural areas, compared to their non-LGBT counterparts. The article also highlights legal programs that effectively serve low-income LGBT people and LGBT people of color.

Proyecto Poderoso Project Update

Project Powerful Makes Progress in the Coachella Valley

Forty minutes east of Palm Springs, grape vines, citrus trees, and labor camps replace hotel resorts. Thousands of people, including many LGBT individuals, live in this deeply impoverished agricultural region. In August, *Proyecto Poderoso* Coordinator Lisa Cisneros spent several days in east Coachella Valley providing legal trainings to area LGBT residents and service providers.

This was Lisa’s second visit to east Coachella Valley. In May, she first traveled to Coachella to train staff at the local office of California Rural Legal Assistance, Inc. (CRLA). The Coachella office of CRLA provides free civil legal services to the area’s poor, and many of its clients are farm workers. Coachella CRLA staff welcomed the training as an opportunity to learn more about basic terminology, LGBT-related legal rights, and strategies for effectively serving LGBT clients. During the visit, Lisa also spoke about LGBT civil rights at Coachella’s *Día del Trabajador*, “Day of the Worker,” event, which drew over 300 local residents.

Soon after Lisa met with CRLA’s Coachella office, the staff invited her back to help continue their local LGBT advocacy. The local staff organized a workshop for area service

providers, including health providers and social workers, to improve their LGBT-related cultural competency and to learn about existing legal protections for LGBT people. Through the workshop Lisa trained service providers who could be in a position to refer LGBT clients to CRLA. In addition to the workshop, Lisa presented a “Know Your Rights Training” for a local Spanish language LGBT support group, run by Bienestar, a community-based organization promoting health and well-being.

“When I returned to Coachella I noticed changes big and small. There was greater awareness that the local CRLA office is a resource for LGBT people who might need legal assistance,” said Lisa. “The Coachella CRLA office had a rainbow sticker posted in the waiting room and brochures that addressed LGBT-related legal issues right alongside information about minimum wage and overtime rules.” Through this work, NCLR is increasing access to justice for LGBT people even in the most isolated, rural communities.

You can find out more about our *Proyecto Poderoso* work at:

www.nclrights.org/proyectopoderoso.

Family Protection Project Update

There is still a great need for legal services that specifically address the needs of low-income LGBT people. Legal aid organizations and pro bono attorneys have long provided essential services to low-income LGBT people, but these attorneys need the support of LGBT organizations to keep up with the constantly changing legal landscape for LGBT people.

The Family Protection Project helps increase collaboration between these legal aid organizations and pro bono attorneys. This fall, NCLR participated in a session called “Access to Justice for Low-Income LGBT People” at the Annual Conference of the National LGBT Bar Association. This session brought together legal services attorneys, LGBT organizations, and other attorneys, advocates, and law students interested in better serving low-income LGBT people for an important discussion about improving access to legal services.

“It’s been amazing how many new pro bono attorneys we’ve found who want to help low-income LGBT people,” said Cathy. “I support these lawyers by giving them legal information

about LGBT family law that would otherwise be extremely difficult to find. We help lawyers provide the best representation to families who have the least resources.”

For example, NCLR was recently contacted by a lesbian mother who could barely afford the cost of transportation to the courthouse in Texas. There was no way she could pay for legal representation. We were able to connect her with a pro bono attorney to help her with her custody case.

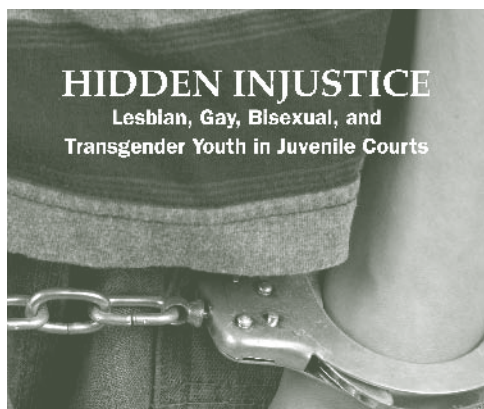
The Family Protection Project also helps families understand their legal rights. This August, NCLR presented a “Know Your Rights Training” for families at *Transgress, Transcend, Transform*, a conference of the National Queer Asian Pacific Islander Alliance. NCLR Family Protection Project Coordinator Cathy Sakimura and Helpline Attorney Ming Wong led a session explaining the legal rights of LGBT people and their families, including the important steps that families should take to protect their rights.

You can find out more about our Family Protection Project work at:

www.nclrights.org/familylaw.

NCLR Publishes Groundbreaking Report about LGBT Youth In Juvenile Courts

A recent study by Ceres Policy Research found that a shockingly large percentage of all youth in detention are lesbian, gay, bisexual, and transgender (LGBT), in some jurisdictions up to 13 percent. Yet many juvenile justice professionals are unaware that LGBT youth exist—and are often treated unfairly—in the system.



To help change this, the Equity Project, a collaboration of the National Center for Lesbian Rights, Legal Services for Children, and National Juvenile Defender Center, just released *Hidden Injustice: Lesbian, Gay, Bisexual, and Transgender Youth in Juvenile Courts*. This major new report, based on extensive surveys and interviews, provides the first comprehensive examination of the treatment of LGBT youth in juvenile courts nationwide.

As Youth Advocate and Equity Project Advisory Committee member Captain Young explained,

“LGBTQ youth are not told, ‘It’s OK to be who you are.’”

“There are problems with the system for all youth, but it’s worse for LGBTQ youth. LGBTQ youth are not told, ‘It’s OK to be who

you are.’ Instead they get the message that they’re bad. LGBTQ youth are harassed, isolated, charged with crimes for having relationships.”

In the report, youth who participated in focus groups are quoted describing the problems they face in their own words. For example, according to a 17-year-old transgender boy, “When I would dress like a boy, my case would take longer. For my last court hearing, I dressed like a girl and they fit me right in. They treated me better when I dressed like a girl. That’s something I figured out on my own.” And a 22-year-old gay male youth told the Equity Project, “As soon as the [detention facility staff] found out that I was gay, they singled me out. They had me go to this one isolated room. I remember thinking at that point, ‘Oh my God, they are doing this because I am gay.’”

To help ensure the rights of LGBT youth and meet their rehabilitative needs, the report contains extensive recommendations directed towards judges, defense attorneys, prosecutors, probation officers, detention facility administrators, policy makers, and advocates. In addition, the report makes eleven core recommendations to enhance the overall capacity of the system to work effectively with LGBT youth, including that:

- All agencies and offices involved in the juvenile justice system develop, adopt, and enforce policies that explicitly prohibit discrimination and mistreatment based on actual or perceived sexual orientation and gender identity.
- All juvenile justice professionals must treat—and ensure others treat—all LGBT youth with fairness, dignity, and respect, including prohibiting any attempts to ridicule or change a youth’s sexual orientation or gender identity.
- All juvenile justice professionals must receive training and resources regarding the societal, familial, and developmental challenges confronting LGBT youth and the relevance of these issues to court proceedings.

You can find out more about our Youth Project work at:
www.nclrights.org/youth.

Victory! NCLR Secures Asylum For Saudi Arabian Gay Man

According to the 2007 State Department Human Rights Report, sexual relations between people of the same sex are illegal in Saudi Arabia and punishable by death or flogging. There have been reports of societal discrimination based on sexual orientation and of discrimination, physical violence, and harassment toward lesbian, gay, bisexual, and transgender individuals.

NCLR client N.A. is a young gay man from Saudi Arabia, who lived his life in fear that others would discover his sexual orientation. He knew that gay men were often detained by police, tortured, and killed. He also knew that his family would disapprove or even report him to the police if they found out about his sexual orientation. As a result, he often hid his feelings towards men, fearing the repercussions. Growing up, it was very difficult for him to accept his sexual orientation in a climate where LGBT people were criminalized and often killed. When he was sexually assaulted by a group of men and was unable to report the incident out of fear of more violence, he fell into a deep depression and attempted suicide. Eventually, a friend from the United States suggested that he leave Saudi Arabia so that he could feel safe and heal. It was then that he started the process of leaving Saudi Arabia, and upon arrival in the U.S., came to NCLR and applied for asylum.

NCLR is thrilled to report that N.A. was granted asylum on September 23, 2009.

You can find out more about our Immigration Project work at:
www.nclrights.org/immigration.

NCLR's Elder Law Project: A Retrospective

Ten years ago, Del Martin and Phyllis Lyon brought to NCLR a woman who would prove an invaluable resource and a powerful advocate: Joyce Pierson, who was trained as a paralegal for elders and had spent many years working with senior organizations and communities. By hiring Joyce in 1999, NCLR became the first LGBT legal organization to launch a permanent Elder Law Project. Joyce leaves NCLR at the end of this year, and we want to acknowledge our gratitude here for the many contributions she has made to the organization and to the greater LGBT community over the past decade.

As the first wave of baby boomers became senior citizens, Joyce's vision for LGBT elder law focused on strengthening the building blocks of inclusion and LGBT diversity within the larger aging movement. She trained national LGBT senior organizations on the provisions and resources of the federal Older Americans Act, focusing on assisting seniors in communities across the nation. Beginning in 2002, Joyce conducted workshops for the American Society on Aging and the National Council on Aging, pressing forward the conversation about how LGBT seniors can and must have full and equal access to federal aging programs. Over the years, she traveled across the country to advocate regionally on these issues, and this past year, her advocacy efforts culminated more fully at the national level. In 2008, Gerald McIntyre, Legal Director of the National Senior Citizens Law Center, invited Joyce to join him in presenting at the National Aging & Law Conference in Washington, D.C. In 2009, she facilitated the symposium, "New Dimensions in Diversity: Addressing the Legal and Ethical Concerns of LGBT Elder



Photo by Trish Tunney

Joyce Pierson

Law," at the 2009 AARP Aging and Diversity national conference in Chicago.

"What an amazing experience to have served as the holder of the LGBT elder consciousness with NCLR, a star of the national LGBT movement," said Joyce. "My heartfelt thanks go to Kate and Shannon for their steadfast vision for the Elder Law Project, and to NCLR Staff Attorney Melanie Rowen, who has brought her litigation expertise and enthusiasm to the Project. Also, I want to thank the numerous colleagues and advocates across the country and throughout California that I



Joyce Pierson and Clients

have worked with for the past ten years. My passion for elder services will continue in my volunteer and related consulting work."

On a more individual level, NCLR's Elder Law Project helps bring LGBT seniors hope, as well as extremely practical assistance. One such case is a powerful example of the vulnerability LGBT seniors face in a time of tragedy. When Marvin Burrows' life-long partner William Swenor suddenly passed away in 2005, Marvin sought to claim William's pension benefits. The International Longshore and Warehouse Union (ILWU), however, refused his claim on the basis that

Staff Updates



Lisa Cisneros Honored by the Chicana/Latina Foundation

The Chicana/Latina Foundation has honored NCLR attorney Lisa Cisneros with its 2009 Emerging Leadership Award, which is presented annually to young leaders committed to social justice and who have demonstrated their commitment with actions and deeds.

Lisa joined NCLR as a Pride Law Fellow in the fall of 2007. She leads Proyecto Poderoso / Project Powerful, a collaborative effort by NCLR and California Rural Legal Assistance (CRLA) aimed at improving legal services for low-income LGBT residents of rural California. Proyecto Poderoso is based in CRLA's Salinas Valley office and is made possible by a generous grant from Pride Law Fund's Tom Steel Fellowship.

"Lisa brings a unique passion and innovation to NCLR and her work is

truly transformative," said NCLR Executive Director Kate Kendell. "We are tremendously grateful to see Lisa acknowledged by the Chicana/Latina Foundation, a particularly important leader in providing opportunities and recognition for young women in California. We couldn't agree more that she is an emerging leader who will help shape the next generation of the LGBT movement."



Jody Marksamer Honored by Stonewall Young Democrats

Stonewall Young Democrats has honored NCLR Youth Project Director Jody Marksamer with their Youth Advocacy Award, which is presented to individuals who have championed the causes of lesbian, gay, bisexual, transgender, and queer (LGBTQ) youth.

As a staff attorney and director of NCLR's Youth

Burrows had no legal right to the pension, despite being registered domestic partners. For months, Burrows thought his situation was impossible to salvage, thought he could do nothing but watch as he lost his home and fell into a financial crisis. Then, he met

for *LGBT Elders* with information about select areas of the law that directly impact LGBT individuals and couples who are age 55 and over. Joyce teamed up with Melanie to address issues related to relationship recognition, finances, health care, long

issues at a national elder abuse prevention conference.

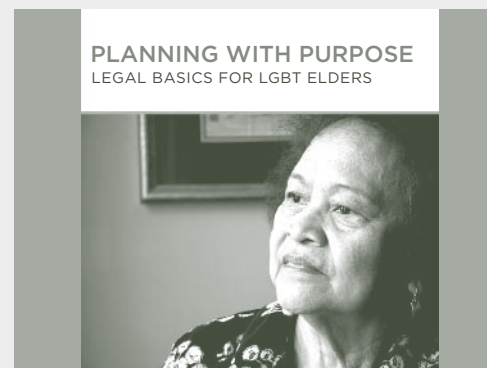
Through these efforts, NCLR is a national leader on LGBT elder law issues and, though Joyce is departing, the work will continue in



Joyce Pierson and Melanie Rowen



Bill Swenor and Marvin Burrows



Elder Law Manual

Joyce, and for two years she and NCLR Legal Director Shannon Price Minter worked with Marvin, fighting the ILWU for these critical benefits. After a long struggle, the ILWU changed its policy to provide equal benefits to surviving domestic partners, making that change retroactive to March 2005, thus allowing Burrows to access William's benefits, providing him with some measure of financial security.

Through the Elder Law Project, NCLR also provides seniors with the tools they need to help themselves, including the recently-released *Planning with Purpose: Legal Basics*

term care, planning for the care of minor or disabled children, inheritance, elder abuse, and discrimination. It covers many of areas where rights, benefits, and protections are generally provided to heterosexual people based on spousal status, but are denied to same-sex couples, even if married or in other legal unions. It also highlights issues unique to transgender elders. Over the past year, Melanie has traveled across the country speaking about LGBT elder law, including presenting at Out & Equal about the rights of LGBT caregivers under the Family Medical Leave Act and speaking about LGBT elder

earnest. NCLR works to protect hard-won gains, strive to expand existing protections, and litigate, as necessary, to enforce the law. All elders, including LGBT elders, deserve to live in a world free of discrimination and bias based on sexual orientation and gender identity, and the families that they create deserve respect.

You can find out more about our Elder Law work at:

www.nclrights.org/elderlaw

Project, Jody oversees NCLR's policy and advocacy work challenging the overrepresentation and disparate treatment of LGBTQ youth in child welfare and juvenile justice settings.

"Jody brings a relentlessness to his work that is inspiring," said NCLR Executive Director Kate Kendell. "Despite the odds or setbacks, he is never defeated and if he is discouraged, it never shows; he is always focused on finding the resources, the solution, the advocates, the answer for every challenge. While some of his most important contributions have been in assisting with the publication of wide-ranging reforms in state-run systems for youth, the most significant contributions he makes are much more personal. Jody gets calls from LGBT young people and their family members who are in very desperate situations—some in juvenile justice facilities in very remote areas. They are experiencing harassment and abuse, often placed in situations of grave risk. When these calls come in he pursues every possible option to provide help. Jody has literally saved lives."



Cecille Isidro Joins NCLR as Communications Associate

NCLR is pleased to welcome Cecille Isidro, who joins as the organization's new Communications Associate. Moving from Washington, D.C., Cecille brings a wide range of nonprofit experience in online content management, media relations, and a personal commitment to the promotion of the equal treatment of members of the LGBT community. She served as the Research and

Development Coordinator for Acorn Active Media Foundation, where she worked with human rights organizations from around the world to support new ways information technology could support their invaluable work. As the Media and Communications Associate for New America Foundation, she helped implement public relations campaigns including supporting the organization's online presence and promoting its other outreach efforts. Welcome Cecille!

NCLR Champions of Justice

A Conversation with Members of the NCLR Family: John Bare & Ignatius Bau

NCLR is blessed to have a strong and generous family of individual donors who are the foundation of support for the life- and law-changing work we do. And just who are these donors? We want to know, so we talked to John Bare and Ignatius Bau, two of NCLR's most fiercely loyal donors.

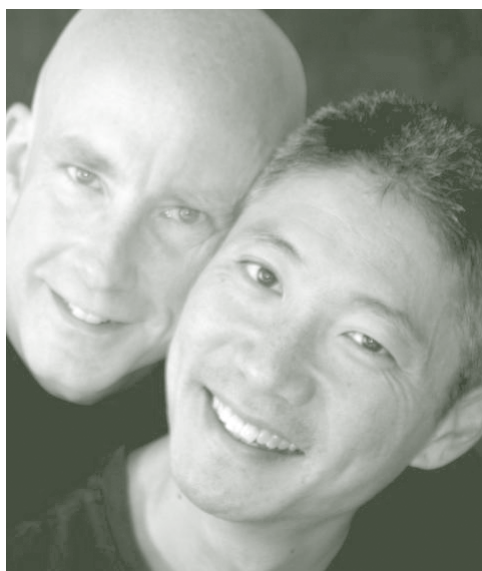
John and Ignatius have been together 19 years and live in San Francisco. John worked for many years as a molecular biologist and is currently an investor and activist who co-authored the Dallas Principles. He also co-edits the online LGBT civil rights toolset www.ActOnPrinciples.org. Ignatius is a Program Director at The California Endowment and a board member of Funders for LGBTQ Issues.

When and how did you first hear about NCLR?

Ignatius first worked with Shannon Minter and NCLR when he was an immigration attorney at the Lawyers Committee for Civil Rights. John first became familiar with NCLR's work through his service on a grants review panel for Horizons Foundation in the 90's.

What inspired your first gift to NCLR, and is there anything in particular about NCLR that has motivated you to continue giving through the years?

What really made us take a closer look at NCLR was when Kate Kendell wowed us by pitching for Equality California some years ago. We thought—if THIS is how enthusiastic she is about ANOTHER organization, she must



really be inspiring to her own team. We also heard Kate and Shannon on some conference calls at about that time and became convinced that they were really key leaders of the multi-organizational efforts to secure LGBT equality.

What are your hopes for and expectations of NCLR and our movement in the next few years?

Our biggest hope for NCLR is that the entire LGBT community recognizes and appreciates the phenomenal contribution that the heroes at NCLR have made—and continue to make—for our movement.

What do you tell others about NCLR?

Do you want to know who takes key cases defending adoption and custody rights? NCLR does. Want to know who fights for equal participation by lesbian, gay, bisexual, transgender, and even straight athletes and coaches? NCLR does. Want to know who pioneered LGBT elder law? NCLR did. Who fights for asylum for LGBT people fleeing persecution in other countries? NCLR does. Who spearheaded the victory that won millions of Californians the equal right to marry? Once again, NCLR. If there is an area of the law in which LGBT individuals and families are treated unfairly, NCLR is there strategizing, negotiating, and litigating.



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NCLR's Group Name: "National Center for Lesbian Rights" or "NCLR"

NCLR's Group ID #: 500022336

Leveling the Playing Field for Transgender Athletes

Transgender and gender non-conforming athletes are increasingly presenting themselves and requesting the equal opportunity to play and participate on teams that are often, if not usually, segregated by sex, presenting unique and complex issues. On October 25-26, 2009 in



Indianapolis, Indiana, NCLR, in partnership with the Women's Sports Foundation Initiative: It Takes a Team! Education Campaign for LGBT Issues in Sport (WSF-ITAT), will host a groundbreaking national think tank to address issues facing transgender student-athletes.

"Equal Opportunity for Transgender Student-Athletes" will provide an occasion to identify best practices and develop model policies for high school and collegiate athletic leaders to ensure the full inclusion of transgender student-athletes. Experts from a range of disciplines are developing and expanding the ideas about what equal opportunity means for these students, and how that translates into fair and equitable policies for high school and college athletic programs governing the participation of transgender student-athletes.

Under the leadership of NCLR Sports Project Director Helen Carroll and WSF-ITAT's Pat Griffin, the two organizations have long collaborated in efforts to end discrimination in athletics based on sexual orientation and gender identity and expression. Addressing this

issue of "Equal Opportunity for Transgender Student-Athletes" is the most recent—and perhaps the most ambitious—joint project undertaken to date. The goal is to foster a robust discussion that inspires creativity and problem-solving in order to identify and generate workable solutions that will afford equal opportunity for transgender student-athletes.

This is NCLR's second national co-hosted think tank. "The Positive Approach: Recognizing, Challenging, and Eliminating Negative Recruiting Based on Actual or Perceived Sexual Orientation," a report with practical recommendations and a model policy from the inaugural think tank, can be read at:

www.nclrights.org/sports

NCLR Active Cases

PARENTING

L.E. v. K.R.

 **Victory!** | Florida

L.E. and K.R. were a female couple who had two children together in Washington. Each partner gave birth to one child, and each adopted her non-biological child through a second-parent adoption in Washington. The couple moved to Florida, and their relationship ended several years later. They entered into an agreement and successfully shared equal custody and visitation with both children until K.R. broke the agreement. Although the children had been raised together all of their lives, K.R. decided that she would raise her biological child by herself, and that L.E. would raise L.E.'s biological child. K.R. unilaterally cut off all contact with L.E. and has refused contact between the children.

NCLR and local family law attorney Leslie Talbot, of Leslie M. Talbot, P.A., represented L.E. in her custody case in the trial court, which refused to recognize L.E.'s adoption of her daughter. NCLR and pro bono attorneys from Carlton Fields appealed the decision. On May 13, 2009, the Florida Court of Appeals unanimously reversed a lower court ruling and held that Florida must give full faith and credit to adoptions granted to same-sex couples by other states.

In re J.D.F.

 **Victory!** | Ohio

T.L. and D.F., a lesbian couple, planned to have a child together. D.F. gave birth to their child, J.D.F. In order to protect the child's relationship with both parents, the couple entered into a court-approved joint custody agreement. Several years later, T.L. and D.F. separated and agreed to share custody. But in 2004, Ohio's anti-gay constitutional amendment excluding same-sex couples from marriage was passed. D.F. began to prevent T.L. from seeing their child, arguing that the amendment invalidated their shared custody order. In January 2007, a judge ruled that a custody agreement between two lesbian parents can be valid and enforceable despite Ohio's anti-gay amendment. On appeal, T.L. was represented by Lambda Legal. NCLR and Robert Eblin of Bailey Cavalieri, submitted an *amicus* brief in support of T.L., providing a national overview of the law and showing that like Ohio, many other states enforce custody agreements.

In June 2008, the Tenth District Ohio Appeals Court ruled that D.F. was not allowed to attack

the validity of the shared custody agreement she had with T.L. Soon after, D.F. attempted to appeal to the Ohio Supreme Court, but in December 2008 the Ohio Supreme Court refused to hear the case.

Debra H. v. Janice R.

 **Pending** | New York

Debra H. and Janice R. planned to have a child together, and Janice gave birth to a child conceived through alternative insemination. Debra acted as a co-parent to the child in all ways, and the couple lived together with their child for over two years. After the couple separated, Debra continued to visit the child regularly, until Janice cut off contact when the child was four and a half years old. Debra then sought visitation with their child, and the trial court found that she should be able to seek visitation and allowed her to have weekly visits. On appeal, the Appellate Division held that Debra did not have a right to ask the court for visitation.

NCLR joined an *amicus* brief by the New York Civil Liberties Union and the ACLU urging the Court of Appeals, the highest court in New York, to review the case. On September 1, 2009, the Court of Appeals accepted review, and the case is currently pending. Debra is represented on appeal by Lambda Legal.

Karen Atala Riffo v. Chile

 **Pending** | Inter-American Human Rights Commission

On May 31, 2004, Karen Atala Riffo, a Chilean judge, lost custody of her three daughters for the sole reason that she is a lesbian and living with her female partner. The Supreme Court of Chile based its decision on inaccurate and unfounded speculation about lesbian parents. With no recourse left in Chile, Ms. Atala took her case to the Inter-American Human Rights Commission in Washington, D.C. NCLR, along with the New York City Bar Association, Human Rights Watch, International Gay and Lesbian Human Rights Commission, International Women's Human Rights Law Clinic at the City University of New York, Lawyers for Children, Inc., Legal Aid Society of New York, and Legal Momentum, filed an *amicus* brief in support of Ms. Atala, arguing that the Court's decision is contrary to the weight of international authority. Ms. Atala's case remains pending before the Commission.

Johnson v. SooHoo

 **Victory!** | Iowa

Marilyn Johnson and Nancy SooHoo raised two children together. When the couple broke up, Johnson unilaterally cut off contact between SooHoo and the children.

The Minnesota Supreme Court held in 2007 that SooHoo was a person "in loco parentis" who had a parent-child relationship with the children, and found that it was in the children's best interest to have visitation with SooHoo, whom they called "mommy." In 2008, Johnson moved the children to Iowa and later filed a petition in Iowa in an attempt to end SooHoo's visitation with the children.

In December 2008, an Iowa trial court held that under federal law, it could not reconsider the visitation decision made by the Minnesota court. The court held that the Minnesota court has exclusive jurisdiction under the federal Parental Kidnapping Prevention Act as long as SooHoo continues to live there. The result of the court's decision is that SooHoo may continue to visit her children. This case is an important victory for LGBT families who move to different states. These families deserve the same respect and recognition as in their home state.

SooHoo was represented in Iowa by the firm Nyemaster, Goode, West, Hansell & O'Brien, P.C., with NCLR's assistance.

HEALTHCARE

Benitez v. North Coast Women's Care Medical Group

 **Victory!** | California

Guadalupe "Lupita" Benitez was denied infertility treatment by her Southern California healthcare providers because she is a lesbian. The trial court rejected the doctors' claim that they do not have to follow California's anti-discrimination law because they have religious objections to serving lesbian patients. On December 5, 2005, the Court of Appeal reversed this decision and said that the doctors must be given an opportunity to demonstrate that their refusal to treat Benitez was not based on her sexual orientation. Benitez appealed the decision to the California Supreme Court, and NCLR filed an *amicus* brief in support of Benitez, who was represented by Lambda Legal.

In a unanimous opinion issued on August 18,

2008, the California Supreme Court reversed the Court of Appeal, and upheld the trial court's original decision. The Supreme Court held that non-discrimination laws regulate discriminatory conduct, not speech or beliefs, and that medical providers cannot violate those laws based on asserted religious objections to providing services to LGBT people.

The opposition's petition for rehearing was denied in October 2008.

MARRIAGE & RELATIONSHIP RECOGNITION


Demers v. Zupancic

 Pending | California

Marilynn Zupancic and her former partner Dianne were together for 30 years and planned on spending the rest of their lives together. Although they could not legally marry in their home state of Colorado, Marilynn and Dianne were partners in every respect. Marilynn, a teacher, supported Dianne while she was in graduate school, and they took out a mortgage on their jointly-owned home so that Dianne could pay off her school loans. In 2007, their relationship ended. If Marilynn and Dianne had been married, the law would have protected Marilynn, who could have been awarded payments from Dianne's future income or earnings. Instead, Marilynn was left with full responsibility for the mortgage that had paid for Dianne's education. At the trial court, Marilynn asked to be compensated for repaying Dianne's school loans. Instead, the trial court ordered Marilynn to pay Dianne the value of her equity in the home. This case is a stark reminder of the difficulties faced by LGBT people whose relationships are not recognized by their government and of the need for equal protection under the law.

NCLR is representing Marilynn on appeal, together with Matthews & Matthews, P.C.

In re Marriage Cases

 Victory! | California

NCLR was lead counsel on behalf of same-sex couples, Equality California, and Our Family Coalition in *In re Marriage Cases*, the marriage equality case decided favorably by the California Supreme Court on May 15, 2008. This was the first decision to hold that same-sex couples have a fundamental right to marry and that LGBT people are subject to the highest level of protection under the California Constitution.



Oral Argument on March 4, 2008

NCLR's co-counsel in the case were Heller Ehrman White & McAuliffe LLP; Lambda Legal; the ACLU; and the Law Office of David C. Codell.

Kerrigan & Mock v. Connecticut Department of Public Health

 Victory! | Connecticut

The Connecticut Supreme Court ruled that the state cannot exclude same-sex couples from marriage. The Court held that preventing same-sex couples from marrying is unconstitutional discrimination on the basis of sexual orientation. The Court also held that the state's civil union system for same-sex couples was inherently unequal because civil unions do not provide the same dignity, stature, and respect as marriage. The plaintiff couples were represented by Gay and Lesbian Advocates and Defenders and Maureen Murphy of Murphy, Murphy, Nugent in New Haven; Kenneth J. Bartschi of Horton, Shields & Knox in Hartford; and the Connecticut Civil Liberties Union. NCLR filed an *amicus* brief with other civil rights groups supporting the couples' right to marry.

Perry v. Schwarzenegger

 Pending | California

On May 22, 2009, two same-sex couples filed suit in the U.S. District Court for the Northern District of California, challenging California's Proposition 8, which amended the California Constitution to prohibit marriage by same-sex couples. The lawsuit argues that Proposition 8 violates the United States Constitution's guarantees of due process and equal protection of the laws. NCLR, the ACLU, and Lambda Legal filed a friend-of-the-court brief in the case on June 26, supporting the argument that Proposition 8 violates the federal Constitution.

In an order issued on June 30 and confirmed at a hearing on July 2, Chief United States District Judge Vaughn R. Walker granted a motion to intervene by supporters of Proposition 8 and declined to rule on a request

by plaintiffs for an immediate injunction staying the marriage ban. On July 8, 2009, NCLR, the ACLU, and Lambda Legal filed a motion to intervene in the case on behalf of several organizations representing the wider LGBT community in California, including Our Family Coalition, Lavender Seniors of the East Bay, and Parents, Families, and Friends of Lesbians and Gays (PFLAG). This motion was denied on August 19, 2009.

A trial date has been scheduled for January 11, 2009.

Reynolds and McKinley

 Pending | Cherokee Nation

NCLR represents Kathy Reynolds and Dawn McKinley, a same-sex couple who are members of the Cherokee Nation. In May 2004, Reynolds and McKinley obtained a marriage certificate from the Cherokee Nation and married shortly thereafter. The next month, another member of the Cherokee Nation filed a petition seeking to invalidate Reynolds and McKinley's marriage.




Kathy Reynolds and Dawn McKinley

NCLR successfully defended Reynolds and McKinley before the Cherokee high court. Two days later, various members of the Cherokee Nation Tribal Council filed a new action seeking to invalidate Reynolds and McKinley's marriage. In December 2005, the high court dismissed this second challenge to their marriage.

In January 2006, the Court Administrator, who is responsible for recording marriage licenses, filed a third lawsuit challenging the validity of the couple's marriage. NCLR is now defending Reynolds and McKinley's marriage against this third, and hopefully final, challenge. NCLR has asked the court to dismiss the case, and is awaiting a ruling from the Cherokee Nation District Court.

Strauss v. Horton

 Partial Loss | California

On November 5, 2008, NCLR, the ACLU, Lambda Legal, Munger, Tolles & Olson, LLP, the Law Office of David C. Codell, and

Orrick, Herrington & Sutcliffe LLP filed a petition asking the California Supreme Court to invalidate Proposition 8. Our petition argued that Proposition 8 is invalid because the California Constitution does not permit the constitutional rights of a minority to be stripped away by a simple majority vote.

A record-breaking number of religious organizations, civil rights groups, and labor unions, along with numerous California municipal governments, bar associations, leading legal scholars, and others filed briefs urging the Court to invalidate Proposition 8.

On May 26, 2009, the California Supreme Court upheld Proposition 8. At the same time, the court unanimously ruled that the more than 18,000 marriages that took place between June 16 and November 4, 2008 continue to be fully valid and recognized by the state of California.


Varnum v. Brien

 **Victory! | Iowa**

On April 3, 2009, the Iowa Supreme Court unanimously struck down the 1998 state ban on marriage for same-sex couples.

The case was brought by Lambda Legal on behalf of six same-sex couples. NCLR submitted an *amicus* brief with co-counsel McGuire Woods LLP and Joseph Barron, Esq. on behalf of several professors of family law in support of the couples, addressing the use of social science research in constitutional cases. This is the fourth state supreme court to rule that same-sex couples must be permitted to marry under state law.


Colombia Diversa, Expediente No. D-6362, Corte Constitucional de Colombia

 **Victory! | Colombia**

A group of Colombian human rights and LGBT organizations challenged their country's marriage laws that excluded same-sex couples under the Colombia Constitution's equal protection provision. NCLR filed an *amicus* brief along with the International Gay & Lesbian Human Rights Commission, Center for Health, Science and Public Policy at Brooklyn Law School, and the Center for the Study of Law & Culture at Columbia Law School. The Colombia Constitutional Court ruled on January 28, 2009 that same-sex couples must be granted the same legal rights and responsibilities as different-sex couples in common-law marriages.

OTHER CIVIL RIGHTS

Christian Legal Society v. Kane

 **Victory! | California**

Like many public schools, the University of California - Hastings College of the Law allows law students to organize student groups that can apply for university funding and other resources for group-related events. To be recognized as an official student group, all student groups must abide by Hastings' policy on nondiscrimination. In 2004, the Christian Legal Society (CLS) filed a lawsuit against Hastings, arguing that the nondiscrimination policy violated the group's First Amendment right to discriminate against LGBT and non-Christian students. NCLR represents Outlaw, the LGBT student group at Hastings, which intervened to defend the University's policy. Hastings is represented by Ethan Schulman of Folger Levin & Kahn, LLP.

On March 17, 2009, the United States Court of Appeals for the Ninth Circuit ruled in favor of Hastings and Outlaw, rejecting CLS's arguments that the school's policy violates its rights to freedom of speech, religion, and association. The Court explained: "Hastings imposes an open membership rule on all student groups—all groups must accept all comers as voting members even if those individuals disagree with the mission of the group. The conditions on recognition are therefore viewpoint neutral and reasonable." The Ninth Circuit's decision affirmed an earlier ruling by United States District Court Judge Jeffrey White upholding the nondiscrimination policy against CLS's First Amendment challenge. CLS has filed a petition for *certiorari* to the U.S. Supreme Court, asking them to review the Ninth Circuit's decision.

Iqbal v. Ashcroft

 **Loss. Remand | Court of Appeals**

Pakistani national Javaid Iqbal was arrested in New York as part of a post-September 11 dragnet by federal officials that targeted Arab men, among others. The U.S. detained Iqbal, subjecting him to beatings, frequent invasive body searches, and other forms of mistreatment, and often confiscated his Koran and forbade his participation in Friday prayers. NCLR has a strong interest in ensuring that all persons receive the protections of the basic civil liberties guaranteed by the U.S. Constitution, and is concerned about government treatment of individuals, racial/ethnic targeting, and religious freedom violations. NCLR joined an *amicus* brief opposing the government's efforts to make


it more difficult for civil rights plaintiffs to discover information about higher government officials who set and oversee policies that violate people's rights.

On May 18, 2009, the Supreme Court ruled 5-4 against Iqbal. Justice Kennedy, writing for the majority, held that Iqbal's pleadings were insufficient to show that former FBI Director Robert Mueller and former Attorney General John Ashcroft violated the constitutional rights of Arab Americans detained in the aftermath of the September 11 attacks. Plaintiffs must plead that each government official acted in a way that violates the Constitution," rejecting the approach advocated for by the National Campaign to Restore Civil Rights and the Allard K. Lowenstein International Human Rights Law Clinic's National Litigation Project at Yale Law School and civil rights groups, including NCLR. The officials must have acted for the purpose of discriminating on account of race, religion, or national origin, not for a neutral reason.

Justice Souter dissented, joined by Justices Breyer, Ginsburg, and Stevens, saying Iqbal should have been permitted to proceed with his case. The Second Circuit Court of Appeals next decides whether to permit Iqbal to amend his complaint and begin anew.

SPORTS

Sulpizio and Bass v. Mesa Community College

 **Pending | California**

Lorri Sulpizio was the Head Women's Basketball Coach at San Diego Mesa College (Mesa), and her domestic partner, Cathy Bass, assisted the team and served as the team's Director of Basketball Operations for over eight years. Despite Sulpizio's and Bass's dedication and demonstrated track record of success leading the women's basketball program at the community college, Mesa officials unlawfully fired both coaches at the end of the 2007 academic year. This was after Coach Sulpizio repeatedly advocated for equal treatment of female student-athletes and women coaches, and following publication in a local paper of an article identifying Sulpizio and Bass as domestic partners. NCLR and the law firms of Boxer & Gerson, LLP and Stock Stephens, LLP are representing Coach Sulpizio and Coach Bass in their lawsuit against San Diego Mesa College, and the San Diego Community College District. Recent high profile Title IX jury verdicts and settlements



at Penn State, California State University, Fresno, and University of California, Berkeley have raised awareness about systemic gender inequities and homophobia at major colleges and universities. This case is a powerful illustration that similar problems pervade the athletic departments of community colleges as well.

A jury trial on Sulpizio and Bass's discrimination, harassment, and retaliation claims is scheduled to begin in San Diego Superior Court in October 2009.

TRANSGENDER LAW

Adams, Vanessa v. Federal Bureau of Prisons et al.

 Pending | Massachusetts

Vanessa Adams is a transgender woman who is seeking medically necessary treatment for Gender Identity Disorder (GID) while she is incarcerated in the federal prison system. Ms. Adams is incarcerated in the United States Medical Center for Federal Prisoners in Springfield, Missouri, where she was transferred from a federal penitentiary in Coleman, Florida after she became so desperate for medical treatment to enable her to express her female gender identity that she removed her own genitals. Ms. Adams was diagnosed with GID in 2005 by prison medical professionals and since then she has made at least 19 written requests to prison officials asking for medical treatment, including hormone treatment for GID, all of which have been denied. According to the allegations in the complaint filed by Ms. Adams, she has been denied any ability to present as female or any medical care relating to her transgender status.

The National Center for Lesbian Rights, Gay and Lesbian Advocates and Defenders, Florida Institutional Legal Services, and Bingham McCutchen LLP, filed a lawsuit in February 2009 against defendants including the Federal Bureau of Prisons, seeking to enjoin the Bureau from subjecting Ms. Adams to unconstitutional treatment and

from continuing to enforce its current GID policy (which denies medically necessary care for many transgender prisoners) against other incarcerated transgender people.

The defendants filed a motion to dismiss the lawsuit in September 2009, which is currently pending before the federal court in Massachusetts. Ms. Adams' opposition is due in October 2009.

NCLR's co-counsel are Morrison & Foerster LLP and the Idaho firm of Stoel Rives, LLP.

Gammett v. Idaho State Board of Corrections

 Victory! | Idaho


Jennifer Spencer is currently serving a 10-year prison sentence for possession of a stolen car and a failed escape attempt that occurred when she was a teenager. Since she has been incarcerated in Idaho, Spencer, a transgender woman, made repeated requests—75 in total—for treatment for her gender identity disorder (GID), but the Idaho Department of Corrections (IDOC) failed to provide her with any appropriate care. Spencer attempted suicide when she learned that prison doctors would not provide any treatment and eventually removed her own genitals using a disposable razor blade, nearly bleeding to death in the process. On July 27, 2007, Judge Mikel Williams of the Federal District Court for the District of Idaho ruled that, based on extensive expert medical testimony, Spencer is entitled to receive female hormone therapy while her case is being decided. Judge Williams held that "gender identity disorder, left untreated, is a life-threatening mental health condition." On September 7, 2007 Judge Williams denied a motion for reconsideration and again held that Spencer must receive hormone therapy. Jennifer started receiving appropriate counseling and hormone treatment in fall 2007. Because there are so few decisions addressing this important issue, this is a tremendous victory that may pave the way for other transgender prisoners who are being denied medically necessary care.

In June 2009, the Idaho Department of Corrections released two new policies to improve the delivery of health care to transgender prisoners. In July 2009, the case settled to the satisfaction of all parties. Jennifer is set to be released from prison in late 2009.

NCLR's co-counsel were Sheryl Musgrove, Morrison & Foerster LLP, and the Idaho firm of Stoel Rives, LLP.

YOUTH


D.A. v. J.W.

 Victory! | Florida

Seventeen-year-old J.W. and 18-year-old D.A. had been dating for almost six months when J.W.'s mother, Ms. W., learned about their relationship. Because she disapproved of her daughter dating another young woman, in December 2007, Ms. W. petitioned a Florida court to get a restraining order to prohibit any contact between the two girls. Ms. W. admitted in court that she was seeking a restraining order only because she did not want her daughter to have a relationship with another girl. Even though no one argued that there was any violence in the girls' relationship, the trial court issued a restraining order, saying that the mere existence of a consensual relationship between D.A. and J.W. was "dating violence" under Florida law. In January 2008, NCLR filed an appeal on behalf of D.A. asking the court to dismiss the restraining order, and arguing that the trial court could not issue a restraining order where there were no accusations of violence. In June 2008, the appeal's court reversed the trial court's decision and dismissed the restraining order.

The Law Offices of Therese Truelove served as co-counsel on the appeal.

California Education Committee v. O'Connell

 Victory! | California

In November 2007, anti-LGBT organizations filed a lawsuit in federal court in San Diego, challenging California's safe schools laws that, among other things, protect students from discrimination based on sexual orientation and gender identity. NCLR clients Equality California and the Gay-Straight Alliance Network got involved in the case in order to defend and protect the anti-discrimination laws.

In January 2008, shortly after NCLR and our co-counsel filed an *amicus* brief asking the court to dismiss the lawsuit, the anti-LGBT organizations voluntarily dismissed their federal case. Soon after, in March 2008, the anti-LGBT organizations filed a similar lawsuit in California state court in San Diego, and NCLR and our co-counsel again filed an *amicus* brief supporting the California Attorney General's motion to dismiss the case, and the anti-LGBT organizations dismissed that case as well. They re-filed in the California state court in Sacramento, and on March 19, 2009, NCLR and our co-counsel filed another *amicus* brief supporting the safe schools laws.

On June 1, 2009, the Sacramento Superior Court issued a decision affirming that the statutes are lawful and dismissing the lawsuit on all counts.

NCLR's co-counsel in the case are Lambda Legal, the Transgender Law Center, and the Law Office of David C. Codell.

IMMIGRATION

Martinez v. Holder

 Pending | Guatemala

Saul Martinez is a gay man from Guatemala who was beaten, sexually assaulted, and threatened by a Guatemalan congressman and repeatedly harassed by the Guatemalan police because of his sexual orientation. He fled to the United States and applied for asylum. However, in 1992, when he initially applied for asylum without an attorney, the U.S. had not yet recognized sexual orientation as grounds for asylum. Afraid of being forced back to Guatemala, where he feared for his life, Martinez did not disclose his sexual orientation in his initial asylum application, stating instead that he feared returning to Guatemala because of his political opinion. Once he retained an attorney, however, he immediately corrected his application and told the immigration judge the real reason he feared returning to Guatemala was because of the persistent persecution he had faced for his sexual orientation. Even though Martinez's life partner testified in court about their relationship, the judge denied him asylum, finding that since he had not told the truth in his initial application, nothing else he said was credible. On March 3, 2009, the Ninth Circuit upheld the immigration court's decision. Without any analysis of Martinez's actual claim or the conditions in Guatemala for LGBT people, the Court simply declared him not credible and denied his claim.

NCLR and Immigration Equality filed an *amicus* brief on April 24, 2009 asking the Ninth Circuit to rehear the case and grant Martinez asylum. However, on September 8, 2009, the Ninth Circuit denied the motion for rehearing.

In re A.C.

 Victory! | Honduras

A.C. is a prominent lesbian activist for LGBT rights and women's rights in Honduras. A paramilitary gang of masked, armed men attacked A.C. in her home in Honduras and sexually assaulted her while making derogatory comments about her sexual orientation. A.C. did not report the sexual assault to the police, fearing that the police

would subject her to further harassment or violence. After the attack, A.C. received a series of threatening phone calls that also used derogatory terms to describe her sexual orientation. She eventually fled to the United States and filed for asylum. The immigration judge granted A.C. asylum, but the Department of Homeland Security appealed that decision to the Board of Immigration Appeals (BIA). In March 2009 the BIA affirmed the grant of asylum, noting that it is well established that human rights violations against LGBT people are pervasive in Honduras and that the Honduran government cannot be relied upon to protect LGBT people against such harm. NCLR assisted A.C.'s pro bono counsel, Robin Nunn, in preparing her brief for the BIA.


In re S.K.

 Victory! | Pakistan

S.K. is a gay Pakistani man seeking asylum and withholding of removal because he fears persecution based on his sexual orientation and HIV status. Under Pakistani law, being gay is punishable by death, and LGBT people are forced to live in secrecy and constant fear of exposure. The immigration judge ignored the serious risk of persecution that S.K. faces and denied his application for asylum. The judge held that S.K., who is HIV positive, and was in a committed relationship with a man in Minnesota, could avoid persecution by hiding his sexual orientation, marrying a woman, and having children. The immigration judge also failed to recognize that S.K.'s traumatizing diagnosis of HIV understandably delayed his filing. The Board of Immigration Appeals (BIA) originally upheld the immigration judge's decision, and S.K. appealed.

After NCLR submitted an *amicus* brief to the Eighth Circuit, that court agreed to send the case back to the BIA so that the Board could clarify its decision. NCLR helped to organize other LGBT, HIV/AIDS, and immigrant-rights groups, including the National Immigrant Justice Center, Immigration Equality, ACLU, AIDS Legal Council of Chicago, and International Association of Physicians in AIDS Care to submit a joint *amicus* brief in support of S.K. to the BIA in July 2008. In May 2009, the BIA remanded the case to the immigration judge to reconsider the original ruling, instructing the judge to assume that S.K. would not hide the fact that he is gay.

In re Angelica

 Victory! | Mexico

Angelica was born in Mexico City to a family that raised her with the expectation that she would get married and have children. Her family was also extremely controlling and abusive. She was not permitted to participate in any activities outside of the home and was physically abused throughout her childhood. When a rumor spread at her school that she had been spotted kissing a girl, in addition to being terrified of her family's reaction, Angelica began facing regular harassment and even physical assaults by classmates and men from her neighborhood. After a young gay man from the neighborhood was viciously murdered, Angelica fled to the U.S. Eventually, she found her way to a shelter where she got in touch with NCLR, the Women's Building, and *Instituto Familiar de la Raza*. With NCLR's help, she filed for asylum, and it was granted in September 2008.

In re Barbara

 Victory! | El Salvador

Born male in El Salvador, Barbara was abused throughout her childhood by family, neighbors, and classmates because she was "too feminine." When Barbara turned 18, she began to live as a woman, but she still suffered frequent harassment and violence. In one instance, Barbara and her boyfriend were viciously beaten outside of a club. Barbara was kidnapped and taken to an isolated area where she was physically and sexually assaulted. After the kidnapping and assault, Barbara lived in constant fear, and finally fled to the U.S. She applied for a visa, but her application was denied. Her case manager at the Mission Neighborhood Health Center put Barbara in touch with NCLR. With NCLR's help and the expertise of pro bono attorney Chelsea Haley-Nelson, Barbara successfully secured asylum in September 2008.

In re Alejandra

 Victory! | Guatemala

Alejandra is an 18-year-old transgender woman from Guatemala who struggled for her family's acceptance from a very young age. When Alejandra's father found out that she identified as a girl, he abandoned the family, leaving Alejandra's mom to support two kids alone. Alejandra also faced daily verbal and physical attacks. When local leaders decided she should be killed before she could "contaminate the community," Alejandra's mother put her daughter on a bus out of

Guatemala. Fearing for her life, she headed for the United States, walking most of the way and not resting until she reached U.S. soil. With the help of El/La for Trans Latinas, she found her way to NCLR's doorstep. With the assistance of Cara Jobson, attorney of counsel to NCLR, Alejandra was granted asylum in September 2008.

John Doe v. Alberto Gonzales

 **Pending | Egypt**


John Doe, a gay man from Egypt, applied for asylum based on anti-gay persecution he suffered in Egypt, where gay men are frequently arrested and subjected to brutal physical mistreatment for private, non-commercial, consensual adult sexual conduct. The immigration judge and Board of Immigration Appeals denied his application. NCLR and the International Gay & Lesbian Human Rights Commission filed an *amicus* brief in support of Doe's eligibility for withholding of removal and relief from removal under the United Nations Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.

In re Vicky

 **Pending | Mexico**

Vicky is a young transgender woman from Mexico. Throughout her childhood, Vicky's family and the people in her small town attacked her for her femininity. When she was 16, Vicky came home from school to find that her parents had abandoned her. She fled to the United States in 1994. In 1997, she began living as a woman. In 2003, she was detained by the Phoenix police and deported to Mexico. Vicky sought out her family, hoping for reconciliation, but instead her brothers beat her. Vicky remained in Mexico for eight months, but she was often beaten, ridiculed, and threatened, and a fruit stand she had opened was destroyed. She returned to the United States and applied for asylum, with the help of NCLR and pro bono attorneys at the law firm of Hanson Bridgett LLP. As of 2009, Vicky has been waiting for her asylum decision for over three years.

In re M.Q.

 **Victory! | Mexico**

M.Q. is a native and citizen of Mexico. When M.Q. was a child, his father often accused him of being a "sissy," and as he grew up, M.Q. was physically assaulted many times by his family, peers, and police because he was gay. One gang of teenage boys who had beaten M.Q. threatened him and told him that


if they ever saw him again, they would kill him. In December 2003, M.Q. encountered them again and barely escaped alive. M.Q. fled Mexico and arrived in the U.S. in January 2004. Although he was afraid to return to Mexico, M.Q. went back once in May 2005 to see his eldest sister, who was dying. M.Q. re-entered the United States in August 2006, and applied for asylum with help of NCLR. After two years of waiting, M.Q. was granted asylum in September 2008.

In re E.G.

 **Pending | Uganda**

E.G. is a young gay man who came to the United States in order to pursue higher education from Uganda, where being gay, lesbian, bisexual, or transgender is criminalized. In Uganda, he was often verbally abused by his family members for being gay, and he had to hide his feelings for fear of being arrested by the police on the basis of his sexual orientation. He eventually moved to the United States, but a family friend in the U.S. found out about his sexual orientation and told his family, who were then questioned by the Ugandan police. The police threatened his family and warned them that if E.G. returned to Uganda, he will be arrested. E.G. is currently proceeding with his asylum application, which is currently pending.

In re Marta

 **Victory! | Mexico**

Marta is a transgender woman from Mexico who suffered unthinkable verbal, physical, and sexual abuse because of her sexual orientation and gender identity. The abuse began in her youth when she was abducted by a group of armed men. When her brother came to rescue her, he was shot to death in front of her. When the police arrived, Marta was arrested for refusing to give them the names of the men who had abducted her. She was put in jail for several days where she was raped by the police. After that, she became a frequent target of the police, and when placed in jail for not paying a bribe, she was detained for days at a time and repeatedly raped while imprisoned. In 2001, Marta applied for asylum, withholding of removal, and relief under the Convention against Torture. After hearing her testimony, the immigration judge found her credible and granted her applications for withholding of removal and relief under the Torture Convention. U.S. Citizenship and Immigration Services appealed to the Board of Immigration, arguing that she was subject to reinstatement, drawing out an already difficult legal procedure. While the case was pending,

she reported regularly to Department of Homeland Security (DHS) pursuant to an Order of Supervision. In November 2008, DHS took Marta into custody in order to reinstate the prior removal order against her. NCLR and pro bono attorney Cara Jobson represented Marta in Immigration Court. Marta remained in custody for four months until she was granted withholding of removal and asylum in the United States in February 2009.

In re M.G.

 **Pending | Mexico**

M.G. is a gay man from Mexico who came to the United States fleeing physical abuse from gangs and extortion by the police. When his mother died when he was 17, M.G. faced more physical violence from his father and his oldest brother because of his sexual orientation. Feeling desperate, he moved out and was homeless until he was eventually taken in by a neighbor in his small town of Mixquiahuala de Juarez. This neighbor treated him like a son and gave him shelter, food, and protection. Nevertheless, her sons were unhappy about M.G. staying there and would not allow him to eat at the table with them or enter their homes. By the time he was 20, he left and headed for the capital, where he found a job in an auto shop. He also lived in the shop because he could not afford to pay rent. While living in the capital, he was attacked several times by a gang for being gay and was being extorted by the police. He decided to flee to the United States and apply for asylum with the help of NCLR. His application was submitted in September 2009.

In re R.F.

 **Victory! | Honduras**

R.F. is a young gay man from Honduras who is seeking asylum in the United States. Growing up, R.F. was physically and emotionally abused by his grandmother and uncles because he didn't conform to gender stereotypes. At school he was also targeted by older children, and when he would try to seek help from his teachers or the principal, he was told that he needed to behave more like a "man" so that the other kids would stop harassing him. By the time he was 13-years-old, his neighbors perceived him as gay and physically assaulted him in public, and he was not safe at home with his family. When he was 17-years-old, he left his home town for the capital, hoping to find a safe environment; instead, he encountered even more violence. There was a particular police officer who would frequently arrest him and then take him to an isolated area, beat him, and rape him. After months

of this abuse, R.F. fled his home country and after months of travel, finally arrived in San Francisco where a friend referred him to NCLR. His application was granted in April 2009.

In re R.T.

 **Victory! | Peru**

R.T. is a gay man from Peru who fled to the United States because he was the victim of severe harassment and violence in his home country. While in Lima, Peru, he was physically assaulted several times in public, and was subjected to sexual abuse as well. The persecution started when he was young, with verbal and emotional abuse that eventually led to physical abuse. As he grew older, the abuse and harassment only worsened. After being stripped naked at his workplace by co-workers who constantly harassed and physically abused him, he fled to the United States fearing for his life. Neither the Peruvian authorities nor his employer would protect him from the other employees who harassed and assaulted him. With the guidance of a Peruvian friend residing in San Francisco, R.T. obtained a visa to come to the U.S. where he found NCLR and was able to apply for asylum. His application was granted in July 2009.

In re S.H.

 **Pending | Bosnia Immigration Court**

S.H. is a lesbian from Bosnia who came to the United States in 2006 to escape the oppressive and abusive conditions she faced because of her sexual orientation in her home country. While vacationing with her girlfriend in another town, a group of men found out that they were lesbians and raped them. The police initially took a report but later that night told the two women that they had to leave town. The police blamed the women for the assault and accused them of trying to cause problems in a small town. After the rape, S.H. told her mother about her sexual orientation, and her mother turned her back on S.H. and refused to talk to her. At the same time, her father kept her secluded in their home so that S.H. would be unable to see her girlfriend, and was determined to marry her to a man. Her situation was oppressive, but it wasn't until a second rape attempt that she decided to flee her country. She learned about an exchange program and was able to leave Bosnia in 2006. She submitted an asylum application on her own, but was referred to the Immigration Court. Her hearing began in June 2009 but was continued until 2010. NCLR is working with pro bono attorney Cara Jobson of Wiley and Jobson on her case.

In re V.R.

 **Victory! | Mexico**

V.R., a gay man from Mexico, had been taunted, harassed, and assaulted for most of his life. His stepfather was particularly abusive and attempted to "make a man" out of V.R. and "correct" his sexual orientation. V.R. was also subject to constant verbal and physical harassment at school, which only worsened as he got older. He suffered physical, sexual, and emotional abuse at the hands of classmates, family members, and people in his neighborhood. He eventually left his home town of San Jose Chiltepec when he was 25 after suffering several public attacks. He moved to Tijuana where his situation improved slightly, but deteriorated when his neighbors discovered his sexual orientation. His home and his car were constantly vandalized, and he would wake up to find graffiti on the walls of his home and the tires of his car slashed. He called the police to report the vandalism but they would not respond to his calls. When he was attacked by four men who threatened his life and assaulted him with a knife, he tried to contact the police again, but they still refused to help him. He knew that he had no other choice but to flee his country. When he arrived in the United States, V.R. was referred to NCLR by his friends in San Francisco. His application was submitted in September 2008 and was granted in June 2009.

In re Y.G.

 **Victory! | Mexico Immigration Court**

Y.G. is a transgender woman from Mexico, who, from a young age was subject to verbal and physical abuse because of her gender identity and sexual orientation. As she got older and her gender identity became more pronounced, the violence against her became more pervasive. After a group of gang members attacked her and two other friends in broad daylight and left them beaten, they went to the police to file a report. However, once in the police station they were harassed by the officers, who taunted and insulted them. The police accused them of having done or said something that upset these men. No report was taken and no arrests occurred. Y.G. was referred to NCLR by El/La for Trans Latinas in San Francisco. We started working on her case in January 2009. However, she was picked up by Immigration Customs and Enforcement in February 2009. She was held in detention in a male prison in Yuba. NCLR and pro bono attorney Cara Jobson of Wiley and Jobson represented Y.G. at her immigration hearings. Y.G. was granted asylum in July 2009.

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