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NCLR Legal Director Shannon Minter at the Court of Appeal

Behind the Scenes

As NCLR turns thirty, many are familiar with the groundbreaking work we do in the courtroom. From our first cases in the late 1970s taking on laws that refused to recognize LGBT parent families, to earlier this April when we filed, as lead counsel for same-sex couples, our brief before the California Supreme Court in the struggle for fairness in marriage, NCLR continues to make headlines as a stalwart of civil and human rights. But there’s a majority of our work that goes quietly unnoticed, and sometimes we need to keep it that way. **Until now.** In this newsletter, we offer a special peek behind the scenes into what truly makes NCLR the leader in LGBT civil rights.

Each year NCLR communicates with more than 5,000 people looking for help with anything from how to start a gay-straight alliance in high school, to how to remain in the U.S. for fear of persecution back home. Senior citizens call wondering how they can stop discrimination in their retirement communities; college athletes wonder how they can stop it in their locker rooms. Every day NCLR’s legal department puts a stop to that wondering.

“We spend most of our time advising individuals on an array of LGBT issues before they are embroiled in litigation,” says Legal Director Shannon Minter. “Our goal is to help people solve their problems and keep them out of court,” he adds.

Fielding such a diverse array of questions and concerns – and preventing issues from going to court – is a large portion of our non-case work, but another piece that most people don’t know about is that even in actual litigation, NCLR plays a huge role that is largely invisible to the outside world.

“Sometimes if we’re in a hostile court, we know that standing up next to a client could actually

hurt their case,” explains Executive Director Kate Kendall. “We provide very substantial and time-consuming assistance to local counsel, particularly in anti-LGBT parts of the country, and we never seek – or even wish for – any acknowledgment of our role.”

That assistance includes finding expert witnesses, framing the legal arguments, and sometimes, even helping to write the briefs.

A key part of this behind-the-scenes strategy is NCLR’s unique leadership role in creating a network of LGBT and LGBT-friendly attorneys across the country – through our National Family Law Advisory Council, our cooperating attorney database, and our Family Protection Project. Minter says that although it would be great, NCLR can’t be in all 50 states at once.

“What we have to do instead is create a network of private attorneys who are linked both with NCLR and with one another, so that it can be as if NCLR is in every town every day. Creating this dynamic national network has been equally as important as our actual litigation.”



a message from
EXECUTIVE DIRECTOR
KATE KENDELL

Dear NCLR Champion:

By the time you read this, NCLR will have just celebrated our 30th Anniversary at our Gala on May 12th in San Francisco. This is a milestone many never dreamed we would reach: 30 years of legal advocacy targeting some of the most critical issues in our community. The changes we've witnessed take our collective breath away.

In virtually every area of our work we were early pioneers, the first national legal organization to represent lesbian and gay parents, the first to launch a Youth Project, the first to create an Immigration Project, the first to aggressively work on transgender issues, the first to begin addressing the ravages of our homophobic sports culture on all LGBT athletes and coaches. In every area there are great successes and you read about them in each issue of this newsletter and in our letters and emails. Your investment, support, faith, and commitment have been the key to every step forward. So this 30th anniversary is also about you. Thank you so much for helping us to get here!

These past few months have certainly been a rocket ride. We settled our lawsuit on behalf of Jennifer Harris against Penn State and its now former women's basketball coach Rene Portland, we filed our opening brief in the California marriage litigation, we represented wrongly terminated Largo City Manager Steve Stanton in his public hearing to appeal his firing by the City Commission after he disclosed his intention to transition on the job, and those cases barely begin to address the full scope of our work over these past months. In every arena we have made and are making steady gains.

But there is still so much left to be done. The recent appalling and unforgivable comments of rightly disgraced radio shock jock Don Imus have everything to do with racism, sexism, misogyny, AND anti-lesbian bias. I have no idea if any of the Rutgers players are lesbian, bisexual, or transgender, but Imus' comments betray his true feelings, among them that real, "cute" women do not have tattoos and do not play hard and tough. Forty-three years after the 1964 Civil Rights Act, rampant racism is alive and thriving, and Don Imus is only the most recent manifestation. This plain and painful fact is why the foundation of our legal advocacy is built on a commitment to social justice. Our clients are not just lesbian or gay or bisexual or transgender; many are also poor or working class, of color, and live in areas of the country that are rife with injustice and homophobia. Our community is made up of every segment and strata of the human family.

If the long march for racial justice in this country is any guide, we still have many miles to go. But with 30 years of meeting and conquering every challenge, we feel more than up to the trek. Thank you for believing.

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Staff Updates

Vanessa Eisemann, *Staff Attorney*

Vanessa H. Eisemann joins NCLR after three years with Traber & Voorhees, a public interest civil rights law firm in Pasadena, California, and two years with the Los Angeles office of Manatt, Phelps & Phillips. Before entering private practice, Eisemann served as a law clerk to the Honorable Gary L. Taylor in the Central District of California. Eisemann earned her bachelors degree from the University of Pennsylvania in 1997 and her law degree from the University of Southern California Law School in 2000, where she was a Notes Editor of the *Southern California Law Review*. She received the National Association of Women Lawyers' Outstanding Woman Law Graduate Award and USC's Lambda Alumni Association's Professional Role Model Scholarship. Eisemann authored "Protecting the Kids in the Hall: Using Title IX to Stop Student-on-Student Anti-Gay Harassment," *Berkeley Women's Law Journal*, Volume 15 (2000), which received the 2000 Berkley Women's Law Journal Writing Award, and "Striking a Balance of Fairness: Sexual Orientation and Voir Dire," *Yale Journal of Law and Feminism*, Volume 13 (2001). Eisemann served as co-president of the Lesbian and Gay Lawyers Association of Los Angeles in 2004 and as a member of its Board of Governors from 2001 through 2006. In 2005 and 2006, she was named a "Rising Star" in *Southern California Super Lawyer* magazine.

Melanie Rowen, *Staff Attorney*

Melanie Rowen comes to NCLR from the San Francisco office of Latham & Watkins, where she was an NCLR cooperating attorney. At Latham & Watkins, she participated extensively in *pro bono* work, including advocating on behalf of the homeless and defending the housing rights of individuals with HIV/AIDS. Rowen received her J.D. from the University of Chicago Law School in 2004. While in law school, she represented low-income children in the Cook County criminal courts as a participant in the Criminal and Juvenile Justice

Project at the Mandel Legal Aid Clinic. Rowen also received the law school's Stonewall Scholarship, given to the student most likely to advance the cause of civil rights for LGBT people.

Shelbi Day, *Staff Attorney*

Shelbi Day joins NCLR's Southern Regional Office after two years at Southern Legal Counsel, Inc. (SLC), a Florida-based non-profit civil rights law firm, where she was a cooperating attorney with NCLR. Prior to her work at SLC, she served as a law clerk to the Honorable Charles R. Wilson of the United States Court of Appeals for the Eleventh Circuit. In 2002, Day received her J.D. with high honors from the University of Florida Levin College of Law. Subsequently, she received an M.A. in Latin American Studies from the University of Florida's top-ranked Center for Latin American Studies and was inducted into the Phi Kappa Phi National Honors Society. She co-authored *Property, Wealth, Inequality and Human Rights: A Formula for Reform*, 34 *Indiana L. Rev.* 1213 (2001)(with Berta Hernandez-Truyol) and *Afterword—Straightness as Property: Back to the Future—Law and Status in the 21st Century*, Symposium: Liberalism and Property Rights, 12 *U. Florida J.L. & Pub. Pol'y* 71 (2000)(with Berta Hernandez-Truyol). Prior to her advanced studies, Shelbi graduated *magna cum laude* from Missouri State University.

Emilie Cole, *Communications Assistant*

Emilie brings five years of media experience within the National Public Radio network, a degree in journalism, and an overall passion for NCLR's work. At NCLR, she assists with all communications endeavors, focusing on NCLR's online marketing and communications initiatives, including NCLR's website. Prior to joining NCLR, Emilie worked at KQED Public Radio in programming and online information. She graduated from Syracuse University in 2003 with a degree in journalism and political science, was a four-year Army ROTC cadet, and a Division 1 cross-country runner.

Welcome to the National Advisory Board

Jill Schlesinger

Jill Schlesinger, CFP®, is Executive Vice President and Chief Investment Officer of StrategicPoint Investment Advisors, where she has been a partner since 1996.

She is a graduate of the Certified Financial Planner Program at the College of Financial Planning and is a Certified Financial Planner™ certificant. A 1987 graduate of Brown University, Jill's resume includes extensive trading experience, highlighted by her five-year membership on the Commodities Exchange of New York.

Jill co-hosts a weekly financial talk show, "Making Money", airing in Rhode Island and south eastern Massachusetts. "Making Money" is also syndicated in New Hampshire and Worcester, Massachusetts.

Jill is "Ms. Money" on numerous Clear Channel New England stations, and appears as a regular guest on Rhode Island's NBC10's

"Sunrise Show with Frank Coletta." Jill is a featured guest nationally on Fox News Channel's "Studio B with Shep Smith," "Your World with Neil Cavuto," "Bulls & Bears," and "Cavuto on Business." She writes monthly columns for *Providence Business News*, *East Side Monthly* and *The Westerly Sun*, as well as other various local and regional publications. Jill holds the Series 4, 7, 24, 63 and 65 securities licenses.

Barbara Russo

Barbara began her professional career as an entrepreneur in New York City. From 1975 to 1987, she owned and operated two successful discotheques: SAHARA, a women-owned and operated lesbian club, and MOONSHADOW, a women-owned gay men's club. These venues became platforms for political and social action and served as a springboard for Barbara's political and social interests. Ever since, Barbara has served on community boards, political campaign committees, and professional organizations advocating on behalf of the LGBT community.

You Ought to Be in Pictures: Share Your NCLR Photos and Stories



Kristina Militante and Lisa Ravaoli

Part of NCLR's new website brings your stories, photos, and memories front and center in our celebration of thirty years. Visit our Photos and Stories site to share your favorite memories of NCLR, or simply tell others what NCLR means to you.

Longtime supporters Lisa Ravaoli and Kristina Militante tell Photos and Stories, "We give to NCLR because it's one of the few organizations truly dedicated to fighting LGBT discrimination at all levels and ensuring every citizen has the same basic civil rights. How could we not give? We love their passion, energy and commitment, and we've been hooked ever since our first Gala event."

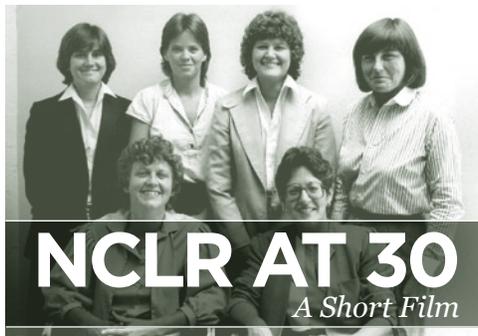
Visit www.nclrights.org/photosandstories for more and to share your own.

Welcome to the Blogosphere

NCLR has a new look, website, and now, blog! Check in with Executive Director Kate Kendell every week as she shares her thoughts on everything from NCLR's direct work to other LGBT current events. Believe us, Kate's got a lot to say! Now you can participate in the conversation at Out for Justice: Kate's Blog. Click the link on our site, www.nclrights.org, to check it out.

And for all you digital socialites, check out Kate's OurChart.com blog. From the creators of Showtime's *The L Word*, OurChart.com is the new lesbian social networking site where you can meet friends, make connections and now, check in with Kate.

Lights, Camera, & 30 Years of Action: NCLR's 30th Anniversary Film



This year's Gala is a gala of firsts: Our first time on the San Francisco waterfront, our first time wearing our new logo and look, and our first time showing our new 30th Anniversary retrospective short film!

Sundance Award-winning filmmaker Melissa Regan has teamed up with NCLR to produce a short film looking back on the past three decades of NCLR's progress, and highlighting where NCLR will go in the next three. Hear

from NCLR staff, clients, and supporters, and join us in remembering all the milestones: from the humble beginnings as the Lesbian Rights Project to Rev. Jerry Falwell agreeing with Kate on CNN.

Melissa Regan has produced several short documentaries about poverty, gender equality, and water scarcity in Africa, and produces an interactive video multimedia series for the Stanford University Graduate School of Business. Her 2001 film about three nieces following their uncle's transition to a woman, *No Dumb Questions*, won numerous awards and was featured on PBS and HBO.

This amazing retrospective had its world premiere at our 30th Anniversary Gala on May 12th. Be on the lookout for showings in cities near you, and for sales of the DVD so you can keep NCLR's 30 years of memories with you always.

30th Anniversary Giving Campaign is Most Successful Ever!

It is not every year that NCLR celebrates such a milestone as our 30th anniversary. To mark this momentous occasion, NCLR's generous donors broke all previous giving records and set a new one with their giving to the 30th Anniversary Giving Campaign, which targeted major gifts of \$1,500 or more. With a very lofty and stretch goal of \$1.7 million—\$400,000 more than had ever been raised in a

The importance of gifts from individuals to NCLR cannot be overstated: 70% of NCLR's annual budget comes from individual donors.

single giving campaign, our wonderful family of Anniversary Circle major donors stepped up to the challenge and helped NCLR meet that goal.

The importance of gifts from individuals to NCLR cannot be overstated: 70% of NCLR's annual budget comes from individual donors. Major gifts make up a huge portion of that 70%.

NCLR could not possibly do our life- and law-changing work without this vital source of revenue, and we thank our wonderful 30th Anniversary Giving Campaign Co-chairs,

Angela Padilla and Sonni Zambino, our stellar Campaign Committee of solicitors, and, most of all and most deeply, we thank you. Thank you for your support, in all the ways you give it. Thank you for your faith and belief in us. Thank you for partnering with us to forge a new path towards our own vision of freedom. Truly, you are helping to change the world.

30th Anniversary Giving Campaign Committee

Angela Padilla, *Co-chair*
Sonni Zambino, *Co-chair*

- | | |
|-------------------|--------------------|
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| Ginny Merrifield | |

Honoring Martina and Her Visionary Rainbow Card & Endowment

Honoring

MARTINA



photo by Annie Leibovitz

“Martina was one of the first professional sports figures to come out. Her honesty cost her millions of dollars in endorsements, but her tremendous courage and commitment to live a full and open life transformed the world of sports. She is both a pioneer for human rights and a role model for future generations.”

“We could think of no one better to honor at our milestone Gala,” says Executive Director Kate Kendell of this year’s Gala honoree, Martina Navratilova.

“Martina was one of the first professional sports figures to come out. Her honesty cost her millions of dollars in endorsements, but her tremendous courage and commitment to live a full and open life transformed the world of sports. She is both a pioneer for human rights and a role model for future generations.”

Martina’s tennis career is indeed legendary, but many are unaware of her remarkable philanthropic work. Inspired by the incredible strength and solidarity she witnessed during her participation at the 1993 March on Washington, Martina wanted to find a way to harness the economic power of the LGBT community and really make a difference. Within two years she had launched the Rainbow Card Affinity Credit Card Program®, a fundraising tool that empowers individuals to contribute to the LGBT community through the simple act of using a credit card. With every Rainbow Card purchase, a portion of that

transaction goes directly to the Rainbow Endowment and back out into the LGBT community. With less than two percent of private philanthropic dollars devoted to our issues and little coming from government sources, you and other NCLR donors know: funding LGBT litigation, education, advocacy, and services will always fall most heavily on us, our friends, and our families. The Rainbow Endowment does just that and has contributed nearly \$2 million so far in its existence.

In honoring Martina, NCLR is also honoring her philanthropic vision, her work, and that of the Rainbow Card itself. Our gratitude truly comes full circle as NCLR is proud to be one of the Rainbow Endowment’s largest grant recipients, which makes presenting Martina with our *Voice and Visibility Award* truly an honor for this organization.

To learn more about the Rainbow Card and the non-profit Rainbow Endowment which it supports, visit www.rainbowcard.com.

NCLR's Latest Case Travels Down the Information Highway



Michael and Rich Butler

Leading a New Era in Adoption Law

Adoption has changed significantly in the three decades since NCLR started fighting for second-parent rights in the mid-70s, and our latest case in this realm of family law reflects just that. Adoption.com is an Internet-based adoption agency which gives couples looking to adopt a way to post online profiles made available for biological mothers wishing to put their children up for adoption. The company's current policy prohibits same-sex couples to use this adoption-related profiling service. NCLR is representing San Jose couple Michael and Rich Butler in their case against Adoption.com, which alleges that the online service violates California law by refusing

to let same-sex couples post profiles as potential adoptive parents.

In early April, a federal court ruled that the Butlers are entitled to bring a trial against the Arizona-based company officially known as Adoption Profiles LLC.

"We believe this case is not just about us," says Richard Butler. "It's about protecting everyone from discriminatory business practices."

NCLR is proud to stand alongside the Butlers in their fight for equal treatment as customers and potential parents, and will head into trial with not only a thirty-year successful track record in adoption and family law, but also the strength and audacity that has gotten us this far.

Elder Law Project Teams Up With Old Dyke Awards for Pat Bond Memorial

The Seventh Biennial Pat Bond Memorial Old Dyke Awards Benefit is a wonderful

"A remarkable lesbian who in her fifties began her stage career."

Bay Area lesbian cultural event held in the memory of beloved comedienne,

monologist, and playwright Pat Bond, a remarkable lesbian who, in her fifties,

began her stage career. With the intent to keep lesbian history alive and to recognize contributions that lesbians age 60+ have achieved in their lifetime, the Old Dyke Awards were born in 1992 and have since honored 22 women. Presented by the Pat Bond Committee under the auspices of the National Center for Lesbian Rights, this year's nominations are now open to out lesbians, age 60+ who are residents of

the Bay Area. If you would like to submit a nomination, call Elder Law Project Consultant Joyce Pierson at 415.365.1312. All contributions are used to cover the costs of the event, including a cash award to each Old Dyke. For more information, visit www.patbondaward.com.

BEHIND THE SCENES—CONTINUED FROM PG 1

Panels, Presentations, and Public Education

Outside of the office (but still not in the courtroom), NCLR project directors have their own supporting roles. In the past decade, the sporting world has moved beyond Title IX and is now also addressing homophobia in sports. The juvenile justice and foster care systems are finally recognizing the needs of LGBT youth. And immigration reform as a national policy debate has come to include a related discussion on LGBT immigrants seeking asylum within our borders.

While not always taking center stage along with these issues, NCLR still works in the eye of the storm: leading important dialogues on legal panels, presenting the perspective of LGBT

people within broader national discussions, and conducting numerous workshops and training sessions all across the country.

Youth Project Director and NCLR staff attorney Jody Marksamer regularly meets with national organizations working on juvenile justice issues. He says that connecting and collaborating with key allies often leads to dramatic policy changes.

"You don't necessarily get your name on the policy, but the fact that we directed them in how to create it is what matters. In a way, you're providing technical assistance for the larger victory."

This technical assistance transcends age and national origin, too. In 2005, the once-in-a-decade White House Conference on Aging for the first time conducted national hearings to

learn more about the issues facing LGBT seniors. Elder Law Project Consultant Joyce Pierson was instrumental in the Bay Area hearings, and the following year helped establish a separate council to directly address these issues on a national scale. Similarly, Immigration Project Director Noemi Calonje rarely goes a week without at least one community training or workshop (if not many), and bringing the discourse of LGBT people into the limelight.

Kendell says that while NCLR works to make these issues visible, NCLR itself does not always need to play a visible role: "We understand that sometimes in a civil rights struggle on behalf of a community that is often victimized and vilified, to crow too loudly would actually mean an undoing of everything we've worked to achieve."

To follow some of NCLR's behind-the-scenes work, visit our website.

NCLR Active Cases

MARRIAGE, DOMESTIC PARTNERSHIP AND OTHER RELATIONSHIP PROTECTIONS

Woo v. California

 Appeal Pending | California

NCLR is lead counsel in *Woo v. California*, a lawsuit seeking marriage equality on behalf of eleven same-sex couples, Equality California, and Our Family Coalition. In April 2005, San Francisco Superior Court Judge Richard A. Kramer ruled in favor of the couples, holding that California's exclusion of same-sex couples from marriage discriminates on the basis of sex and violates the fundamental right to marry.



City Attorney Dennis Herrera and NCLR's Shannon Minter with clients and co-counsel at San Francisco City Hall

On November 13, 2006, the California Court of Appeal overturned Judge Kramer's ruling in a 2-1 decision, saying that California may continue to bar same-sex couples from marriage. On December 20, 2006, the California Supreme Court unanimously granted review. Oral argument is expected late in 2007 or early 2008.

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

Kerrigan & Mock, et al. v. Connecticut Department of Public Health

 Pending | Connecticut

Same-sex couples in Connecticut are suing to end Connecticut's exclusion of lesbian and gay couples from marriage, 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. The case is currently pending before the Connecticut Supreme Court. NCLR filed an amicus brief with other civil rights groups supporting the couples' right to marry.

Reynolds and McKinley

 Initial Victories! Third Appeal Pending | Cherokee Nation



Kathy Reynolds and Dawn McKinley

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. 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.

Strong v. BOE

 Initial Victory! Appeal Pending | California

Under California law, when a spouse dies and the other spouse inherits the couple's home, the state will not reassess the tax value of the couple's home. In 2003, the California Board of Equalization (BOE) adopted a rule that extended a similar protection to same-sex couples. When several counties filed a lawsuit challenging this rule in 2005, NCLR, Lambda Legal, and the law firm of Munger, Tolles & Olson, LLP, represented Equality California and three same-sex couples to defend the rule's validity. On March 17, 2006, a Sacramento Superior Court Judge rejected the counties' challenge and affirmed the rule. The California Legislature then codified the BOE Rule by enacting Senate Bill 565, which became effective January 1, 2006. The case is now before the California Court of Appeal.

Knight v. Superior Court

Thomasson v. Schwarzenegger

 Victory! | California

Shortly after AB 205—the California Domestic Partner Rights and Responsibilities Act of 2003—was signed into law, two rightwing groups filed lawsuits seeking to prevent the law from going into effect. On April 4, 2005, the Third Appellate District upheld the state's domestic partnership law. This decision was reaffirmed in two related appeals on January 27, 2006 and again on March 16, 2006. On April 12, 2006, the California Supreme Court declined any further review of the decision. NCLR defended AB 205 on behalf of 12 same-sex couples and Equality California along with lead counsel David C. Codell of the Law Office of David C. Codell. The ACLU and Lambda Legal also served as counsel.

Koebke v. Bernardo Heights Country Club

 Victory! | California

Birgit Koebke and Kendall French, a lesbian couple who have been domestic partners for 12 years, 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 because of their sexual orientation. In August 2005, the California Supreme Court held that the state's civil rights law requires businesses in California, including country clubs, to treat registered domestic partners the same as married couples. Lambda Legal represented Koebke and French. NCLR, the Women's Sports Foundation, and the California Women's Law Center filed an amicus brief describing the history of discrimination against women by private golf clubs.

EMPLOYMENT, PUBLIC ACCOMMODATIONS, AND OTHER TYPES OF DISCRIMINATION

Stanton v. City of Largo

 Loss | Florida

NCLR represents Steve Stanton, who was threatened with termination from his longtime position as the City Manager for the City of Largo, Florida after his employer learned that he is transgender and will be undergoing sex reassignment. Despite Stanton's 17 years of dedicated service to the City of Largo, the City Commission voted on February 28, 2007 to begin the legal process of firing Stanton, who informed the Commission that he is transgender after learning that a



Steve Stanton Fields Questions from the Media

local newspaper was going to disclose the information to the public. Stanton received strong support from the Mayor of Largo and many residents of Largo, who did not want to lose a valuable city employee solely because of irrational bias. NCLR assisted Stanton in his efforts to educate the City Commissioners and to persuade them to retract their unlawful action. On March 23, 2007, after a six-hour public hearing, the City Commission voted to fire Stanton, despite the overwhelming support for Stanton shown by Largo residents who attended the hearing.

Adoption.com

 **Victory! | California**



Rich and Michael Butler

NCLR is suing Adoption.com and a number of related parties, which describes itself as the largest adoption-related Internet business in the United States, on behalf of Rich and Michael Butler, a same-sex couple who have been together over twelve years. Rich and Michael attempted to post a profile as potential adoptive parents on one of Adoption.com's websites. A company spokesperson told the Butlers the company does not allow same-sex couples to use their services. Represented by NCLR and the law firm of Orrick, Herrington & Sutcliffe LLP, the Butlers are challenging this anti-gay policy under California law, which prohibits businesses from discriminating on the basis of sexual orientation. In a landmark ruling, on March 30, 2007, federal district court Judge Phyllis Hamilton held that the defendants are subject to California law, rejected the defendants' argument that they have a First Amendment right to engage in discriminatory conduct, and held that the Butlers' case can proceed to trial.

Dykes on Bikes

 **Trial and Appeals Board Victory! | U.S. Trademark & Patents Office**

NCLR and the Brooke Oliver Law Group represented the San Francisco Women's Motorcycle Contingent in an action to register the name "Dykes on Bikes" with the U.S. Trademark and Patents Office (USPTO). The USPTO initially rejected the application on the ground that the term "Dykes on Bikes" is disparaging to lesbian, gay, bisexual, and transgender people. NCLR and the Brooke Oliver Law Group then submitted extensive documentation from activists, community members, and scholars from across the



Dykes on Bikes

country, demonstrating that the LGBT community considers the name "DYKES ON BIKES" to be a positive, empowering and affirming term. Despite this evidence, the USPTO again rejected the trademark application on the grounds that "the term dyke is considered vulgar, offensive and/or disparaging."

After bringing in additional assistance from Gregory Gilchrist, Leigh Kirmsse and Gia Cincone of the law firm of Townsend and Townsend and Crew and Anne-Marie Dinius of DLA Piper Rudnick, the San Francisco Women's Motorcycle Contingent appealed the denial. In a decision issued December 6, 2005, the Trademark Office reversed itself and finally granted the application.

Christian Legal Society v. Kane

 **Appeal Pending | U.S. Ninth Circuit Court of Appeals**

Like many public schools, the University of California - Hastings Law School permits law students to organize student groups that are eligible to apply for university funding for group-related events. To be recognized as an official student group, all student groups must abide by the Hastings' policy on nondiscrimination. In 2004, the Christian Legal Society (CLS) filed a lawsuit against Hastings

alleging that the nondiscrimination policy violated the group's First Amendment right to discriminate against LGBT and non-Christian students. NCLR and the law firm of Heller Ehrman, White & McAuliffe are representing Outlaw, the LGBT student group at Hastings, which has intervened to defend the University's policy. The University is represented by Ethan Schulman of Howard Rice Nemerovski Canady Falk & Rabkin.

On April 17, 2006, United States District Court Judge Jeffrey White ruled in favor of Hastings and Outlaw, rejecting the Christian Legal Society's arguments that the school's policy violates its rights to freedom of speech, religion, and association. The Court explained: "(Hastings' policy) affects what CLS must do if it wants to become a registered student organization - not engage in discrimination - not what CLS may or may not say regarding its beliefs on non-orthodox Christianity or homosexuality." The decision is now pending before the Ninth Circuit.

Benitez v. North Coast Women's Care Medical Group

 **Pending | California**

Guadalupe "Lupita" Benitez was denied infertility treatment by her Southern California health care providers because she is a lesbian. The trial court rejected the doctors' claim that they should be exempt from California's anti-discrimination statute because they have religious objections to serving lesbian patients. On December 5, 2005, the Court of Appeal reversed and held that the doctors must be given an opportunity to demonstrate that their refusal to treat Benitez was based on their religious-based objections to treating unmarried women, rather than on anti-gay animus. Benitez appealed the decision to the California Supreme Court, which has agreed to hear the case. Along with medical, civil rights, and community based organizations, NCLR filed an amicus brief in support of Benitez, who is represented by Lambda Legal.

PARENTING

Jones v. Boring **Victory!** | Pennsylvania

Ellen Boring and Patricia Jones had twin children together in the context of a long-term committed relationship. When the couple separated, Boring tried to cut off Jones' contact with the children. After hearing extensive evidence, a trial court awarded custody to Jones. Boring appealed, arguing that she automatically should be given custody because she is the birth mother. The appellate court rejected the argument that biology alone should determine custody, holding that the primary focus must always be on the best interests of the child. The Pennsylvania Supreme Court rejected Boring's petition seeking appeal. NCLR represented Jones, along with Lambda Legal, The Center for Lesbian and Gay Civil Rights and local counsel Maureen Gatto of Dorian, Goldstein, Wisniewski & Orchinik in Bensalem, Pennsylvania.

Riley v. Sica **Trial pending** | California

Charisma Riley and Kristina Sica had a child together while they were in a committed relationship. Shortly after the child was born, Sica abruptly left the couple's home and took their daughter with her, refusing to permit Riley to see the child. After being directed by an appellate court to do so, the trial court applied the test set forth by the California Supreme Court in *Elisa B.*, holding that Riley is her daughter's parent and has a right to seek custody and visitation. Represented by NCLR cooperating pro bono attorneys Deborah Wald and Rachel Markel, Riley is now litigating the issue of custody and visitation in the trial court. Sica is represented by an anti-gay organization.

R.S. v. A.S. **Appeal Pending** | Virginia

In a custody dispute between A.S., a lesbian mother, and her ex-husband, the trial court denied custody to A.S. because of her sexual orientation and also prohibited A.S. from having overnight visits with her children when her partner is spending the night in the house. A.S. is appealing the custody and visitation order and is being represented pro bono by the law firm of Davis Wright Tremaine LLP, with NCLR's assistance.

Margaret K. v. Janice M. **Appeal Pending** | Maryland

Margaret K. and Janice M. adopted a daughter during their committed relationship of 17 years. Because they adopted their daughter from India, which does not allow unmarried couples to adopt, only Janice adopted the child, but she and Margaret raised their daughter together. When their daughter was 7, Margaret and Janice separated, and Janice refused to allow Margaret to see their daughter. An intermediate appellate court found that Margaret has a parent-child relationship with her daughter and granted visitation, but did not find that Margaret could be eligible to receive full custody. Janice appealed the visitation order, and Margaret appealed the custody order. The case is currently pending before Maryland's highest court, the Court of Appeals. NCLR is submitting an amicus brief supporting Margaret on behalf of itself and the University Of Baltimore School of Law Family Law And Family Mediation Clinics.

Application of W. **Final Decision Pending** | California

L.W. and K.R. raised their child, A.W., together from the time that K.R. gave birth to him. After the couple split up, L.W. became the child's sole caregiver. L.W. obtained a parentage judgment from a California court establishing that she is his legal parent. L.W. is disabled and receives Social Security Disability Insurance (SSDI) benefits. The Social Security Act provides benefits for the children of people who receive SSDI, and L.W. applied for A.W. to receive benefits as her child. A.W.'s application was initially denied because the Administration refused to recognize L.W. as his parent. NCLR, along with cooperating attorney Jona Saxby represented A.W. at his administrative hearing appealing the initial decision. A final decision is pending.

Goodson v. Castellanos **Victory!** | Texas

Elizabeth Goodson and Adelina Castellanos adopted a child from Kazakhstan. Shortly after returning from abroad, they filed a joint petition to allow Castellanos to adopt the child and create a legal relationship with the child. The petition was granted and the women co-parented the child for several years, until their relationship ended. Goodson then challenged the adoption in court, asserting that the judgment was invalid because a child cannot have two mothers. The Trial Court held that the adoption decree was valid and the Court of Appeals affirmed that decision.

Castellanos was represented by Woody Jones and Craig Lusk of Austin, TX, with the assistance of NCLR.

In re T.L.H. **Victory!** | Texas

Julie Ann Hobbs and Kathleen Van Stavern had a child together using artificial insemination. After their child was born, they petitioned the court to terminate the parental rights of the sperm donor and to allow Van Stavern to adopt the child. The court granted the petition. When the child was five, the relationship between the women ended. Hobbs filed an action to void the adoption, which the trial court denied. The case was appealed to the Court of Appeals, which agreed that the adoption was valid and that both women were legal parents of the child. Van Stavern was represented by Daryl L. Moore with the assistance of NCLR.

Palazzola v. Mire **Victory!** | Louisiana

Angela Palazzola and June Mire had been in a committed relationship for 17 years when they had a child through artificial insemination. Living in California at the time, the couple elected to complete a second parent adoption to secure the parental rights of Palazzola, the non-biological mother. After moving to Louisiana, the couple separated, and Mire cut off all contact between Palazzola and the child. Palazzola filed suit for contact with the child and Mire attempted to have the adoption judgment from California declared void. The Louisiana Court ruled in favor of Palazzola, holding that the California adoption judgment must be respected under the Full Faith and Credit Clause of the US Constitution. Palazzola was represented by M. Suzanne Montero and Deborah Henson with assistance from NCLR.

Denise B. v. Beatrice R. **Loss | New York**

Denise B. and Beatrice R. were in a committed relationship for 12 years. Midway through their relationship, they adopted a child from China, which does not allow same-sex couples to adopt. Although Beatrice was the only adoptive parent, the parties parented together equally for the next five years. After the couple separated, Beatrice kept Denise from seeing their child, forcing Denise to file an action for custody and visitation. The trial court dismissed Denise's petition, which she then appealed. The intermediate appellate court ruled against Denise and New York's highest court declined to hear the case, allowing the lower court decision to stand. Denise is represented by NCLR, Jaime Santos and Josh Selig of the law firm of Heller Ehrman, and Professor Suzanne Goldberg.

Jones v. Barlow **Loss | Utah**

In a decision issued on February 16, 2007, the Utah Supreme Court reversed three decades of Utah case law holding that courts may protect children's relationships with non-biological parents. Keri Jones and Cheryl Barlow had a child together in Utah using alternative insemination. After they separated, Barlow tried to keep Jones from having any contact with their child. In 2004, a Utah trial court granted Jones visitation. Barlow, who is represented by an anti-gay legal organization, appealed this decision to the Utah Supreme Court. In a shocking decision, the Utah Supreme Court reversed the trial court decision and abolished protections for all children with non-biological parents rather than provide these protections equally to children with lesbian parents. NCLR's co-counsel is Lauren Barros, a private family law attorney in Salt Lake City.

ELDER LAW**Burrows v. ILWU** **Initial Loss | California**

Marvin Burrows and William Swenor were together for 51 years and did everything within their power to demonstrate their commitment to each other, including registering as domestic partners. When Swenor suddenly passed away in March 2005, Burrows submitted a claim for Swenor's pension benefits. Despite their long and committed relationship, the company rejected Burrows' claim. NCLR, with the assistance of attorney Teresa Renakar,

filed an initial appeal letter, which the company also rejected. NCLR is pursuing an additional administrative appeal.

IMMIGRATION**John Doe v. Alberto Gonzales** **Pending | Third Circuit**

John Doe, a gay man from Egypt, applied for asylum based on persecution he suffered in Egypt because of his sexual orientation as well as fear of future persecution if he were forced to return to Egypt. The Immigration Judge and Board of Immigration Appeals denied his application. In Egypt, gay men are frequently arrested under accusations of private, non-commercial, consensual, adult sexual conduct. For example, on May 11, 2001, following Doe's departure from Egypt, the Cairo Vice Squad raided the Queen Boat, a discotheque on a cruise vessel moored in the Nile attended by gay men. The men arrested that night were collectively charged with the habitual practice of debauchery (fujur), among other offenses. All were brutally tortured, and many were sexually assaulted while in police custody. Twenty-three of the men were convicted in a trial before an Emergency State Security Court. NCLR along with 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.

W.K. v. Gonzales **Loss | Eighth Circuit**

The 8th Circuit denied a petition for reconsideration of its prior decision denying asylum to W.K., a gay man from Zimbabwe. As a teenager in Zimbabwe, W.K. was imprisoned for being gay and suffered harassment and abuse from local authorities and neighbors, including being shocked with an electric wire. Robert Mugabe, the current President of Zimbabwe, is one of the most notoriously anti-gay leaders in the world. He has called lesbians and gay men "worse than dogs and pigs" and promised that he will do "everything he can" to eliminate them from Zimbabwean society. An immigration judge denied W.K.'s petition for asylum and ordered him removed to Zimbabwe. The 8th Circuit affirmed the decision. On January 31, 2006, NCLR and co-counsel David Chapman and Benjamin Casper petitioned the court to reconsider its decision. On March 23, 2006, the Court denied W.K.'s petition for reconsideration, making his order of removal to Zimbabwe final.

Amnesty International, Human Rights Watch, the American Immigration Lawyers Association, the Minnesota Advocates for Human Rights, Immigration Equality, the International Gay & Lesbian Human Rights Commission, Heartland Alliance Midwest Immigrant and Human Rights Center, and Lambda Legal filed amicus briefs supporting W.K.'s petition.

Soto Vega v. Ashcroft **Victory! | California Ninth Circuit**

On July 24, 2002, Jorge Soto Vega filed for asylum based on persecution he suffered in Mexico because of his sexual orientation. As a child in Mexico, Soto Vega suffered abuse, harassment, and ridicule from family members and classmates because he was perceived to be gay. As a teenager, Soto Vega was severely beaten by officers of the Mexican police force upon suspicion that he was gay. The officers yelled derogatory slurs at Soto Vega as they threatened to kill him in order to "rid the streets of fags." An immigration judge denied Soto Vega's application for asylum, based on the judge's view that Soto Vega does not "look gay." The Board of Immigration Appeals affirmed the immigration judge's ruling. Lambda Legal filed a petition for review of the Board's denial with the Ninth Circuit Court of Appeals. NCLR and the ACLU filed an amicus brief on his behalf. On June 2, 2006, the Court granted the petition for review and remanded the case to the Board in order to allow the agency to determine, based on the credible demonstration of past persecution, whether the government has rebutted the presumption of Soto Vega's well founded fear of future persecution. On January 30, 2007, the Board granted Mr. Vega's application.

INTERNATIONAL**Karen Atala Riffo v. Chile Inter-American Human Rights Commission** **Pending**

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 unfounded speculation that the daughters would eventually suffer psychological harm from living with Atala and her partner. With no recourse left in Chile, 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 Atala's case, arguing that the Court's decision is contrary to the weight of international authority. Atala's case is pending before the Commission.

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

 **Pending | International**

The Constitutional Court of Colombia is deciding whether a Colombian law, la Ley 54 de 1990, defining "domestic partnership" as existing between a man and woman is contrary to fundamental rights guaranteed by the Colombian Constitution - most importantly, the right to equal protection of the law (Artículo 13). The Constitutional Court previously addressed this question in 1996. Although the law was upheld at that time, that decision said the question could be reexamined in the event that social and legal circumstances significantly changed over time. Since 1996, a number of foreign constitutional courts, international human rights bodies and legislatures have considered similar matters relating to the recognition of equal economic rights for partnerships regardless of sexual orientation. Their decisions demonstrate the significant social and legal changes that have occurred on this issue. NCLR 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 filed an amicus brief to provide the Court with an overview of the international judgments other courts and adjudicative bodies have reached when faced with similar questions.

TRANSGENDER

Etsitty v. Utah Transit Authority

 **Appeal Pending | Tenth Circuit**

Despite having a spotless employment record, Krystal Etsitty, a transgender woman, was fired from her job as a public bus driver by the Utah Transit Authority (UTA), solely because UTA feared that members of the public might be offended by Etsitty's transgender identity. A federal district court in Utah dismissed Etsitty's case, holding that federal laws prohibiting sex discrimination do not protect transgender

people. Etsitty is appealing this decision to the Tenth Circuit. NCLR, Lambda Legal, and the ACLU filed an amicus brief supporting Etsitty's claim.

Idaho Department of Corrections

 **Pending | Idaho**

NCLR is suing the Idaho Department of Corrections (IDOC) on behalf of three transgender women who are being denied appropriate treatment for Gender Identity Disorder (GID). Pursuant to a court order, IDOC has a protocol for the diagnosis and medical treatment of transgender inmates. Although each of the three women has written numerous requests for evaluation and treatment for GID, IDOC has failed to follow its own protocol and has shown deliberate indifference to these women's' medical needs.

NCLR, the law offices of Sheryl Musgrove, and the law firm of Morrison & Foerster LLP have filed cases on their behalf, alleging violations of the 8th Amendment of the US Constitution prohibiting cruel and unusual punishment.

YOUTH

Mariah L. v. Administration for Children's Services

 **Appeal Pending | New York**

Mariah L. is a 20 year old male-to-female transgender youth who is a foster child in the custody of the New York Administration for Children's Services (ACS), which has a duty to provide and pay for all necessary medical care and treatment for children placed in NYC foster care. Although all of Mariah's medical providers agreed that surgery is medically necessary for her particular needs, ACS refused to provide it. Mariah filed a petition with the court asking for an order requiring ACS to provide her with sexual reassignment surgery. The family court granted her petition in January of 2006 and ACS appealed. NCLR, Sylvia Rivera Law Project, Transgender Legal Defense & Education Fund, Lambda Legal, and Morrison and Foerster, LLP filed an amicus brief on behalf of a group of doctors and health clinics in support of Mariah.

On August 24, 2006, the Appellate Court held that SRS is the generally recognized and successful treatment for GID, but remanded the case to ACS to articulate a specific reason for their denial of Mariah's request. On February 21, 2007, Judge Sheldon Rand of the NY Family Court ordered ACS to provide Mariah with sex reassignment surgery. Judge Rand dismissed ACS' unsubstantiated

arguments that SRS is not medically necessary, holding that "the Commissioner's unsupported denial of coverage for SRS reflects inadequate solicitude for this young woman's diagnosed condition, the treatment prescribed by her physicians and the accumulated knowledge of the medical community and is therefore irrational and unreasonable." ACS has appealed this decision. NCLR is writing an amicus brief in support of Mariah. Oral arguments are scheduled for May 2007. Mariah L. is represented by the Juvenile Rights Division of the Legal Aid Society of New York.

SPORTS

Jennifer Harris v. Maureen Portland, Penn State University, and Timothy Curley

 **Settled! | Pennsylvania**

The National Center for Lesbian Rights (NCLR) and co-counsel Sharon McKee of Hangle, Aronchick, Segal and Pudlin, reached a settlement agreement on behalf of NCLR client Jennifer Harris with Penn State and its women's basketball coach Rene Portland and athletic director Tim Curley. This groundbreaking lawsuit was filed in Federal District Court in the Middle District of Pennsylvania. Harris alleged discrimination based on race, gender, sexual orientation and invasion of privacy. The specific terms of the settlement agreement are confidential.

"I'm proud to have brought this case, and I'm thrilled that we have been able to resolve it," said Harris. "I look forward to putting this matter behind me and focusing on being the best student and basketball player I can be." Harris, a former star player for the Penn State Lady Lion basketball team, is currently a member of the women's basketball program at James Madison University, but has been sidelined this season with a persistent ankle injury. Harris underwent ankle surgery in mid-January, 2007. The surgery was successful, but Harris is unlikely to return to play this season.

Penn State announced Coach Portland's resignation on March 22, 2007.

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The National Center for Lesbian Rights is a national legal organization committed to advancing the civil and human rights of lesbian, gay, bisexual, and transgender people and their families through litigation, public policy advocacy, and public education.

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