# On The Docket

The **audacity** to fight for justice.

The **perseverance** to win.

**SPRING 2010** 

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Kate Clinton, Jane Lynch, and Kate Kendell

# Celebrating **33 Years** of Fierce Legal Advocacy

Thirty-three years ago Donna Hitchens and Roberta Achtenberg founded the Lesbian Rights Project to secure the parenting rights of lesbian mothers who were losing custody of their kids, which soon expanded to include advocacy for the rights of all LGBT people. The National Center for Lesbian Rights grew out of their commitment and passion for justice for LGBT people and our families. On May 1st, a crowd of over 1,200 members and allies of the lesbian, gay, bisexual, and transgender community celebrated NCLR's founders' dream and 33 years of groundbreaking legal advocacy for LGBT people. The night was a celebration of our history, our future, and the courage of our community.

In addition to celebrating NCLR's legal victories and fierce advocacy, Vicki Randle and Will Phillips were honored for their commitment to advancing the rights of the LGBT community. Legendary musician Cris Williamson awarded Vicki Randle with the *Voice and Visibility Award*. Vicki was the first (and only) female member of the *Tonight Show* Band, starting with host Jay Leno in 1992.

Judy Shepard awarded the *Fierce Ally Award* to Will Phillips, the ten-year-old fifth grader from Arkansas who gained international attention for his refusal to say the United States Pledge of Allegiance at West Fork Elementary School because of its false promise of "liberty and justice for all." In an emotionally stirring speech, Judy Shepard reminded us of the importance of reaching out to allies in the pursuit of justice.

Curve Magazine and Wolfe Video were also honored with NCLR's Outstanding Community Partner Award, which recognizes organizations and companies for their unwavering support of the LGBT community and their long-standing relationship with NCLR. Curve Magazine, from its humble beginnings as a '90s 'zine, has grown into the nation's best-selling lesbian magazine, read by

more women than any other national gay or lesbian publication. Wolfe Video, now in its 25th year, is the oldest and largest exclusive distributor of gay and lesbian films in the world. Together, *Curve Magazine* and Wolfe Video have helped provide our community a voice in print and in film.

In addition to honoring the remarkable achievements of Vicki Randle and Will Phillips, the night was made even more extraordinary by special guests from Mississippi Constance McMillen, Ceara Sturgis, and their attorneys from the ACLU. Constance was unable to attend her prom after her school canceled it rather than let her attend in a tuxedo with her girlfriend. Ceara was told she could not wear a tuxedo in her senior picture and was omitted from her school's yearbook.

With all that Constance and Ceara had endured, NCLR wanted to surround them with the love and support they deserved. Will, Constance, and Ceara represent what is to come—and in their courage and hope, we can find inspiration and strength for the next 33 years. There is much still to be done, and as a leader in LGBT civil rights, NCLR will continue to be at the forefront of the fight for full equality.



a message from **EXECUTIVE DIRECTOR** KATE KENDELL

# Dear NCLR Champion:

Our Anniversary Event is always a much anticipated community celebration. It is always an inspirational and exhilarating evening—and this year's event was no exception. But this year, somewhat without intention, there emerged a theme to the evening: courage.

We honored long-time, openly lesbian African-American musician Vicki Randle with the Voice and Visibility Award. Vicki is a percussionist and musician and has been making beautiful music, proudly and openly, for decades—when doing so came with great risk. Vicki's award was presented by women's music pioneer and legend in her own right Cris Williamson, and together they broke into spontaneous drumming and song, leading the crowd in a moving rendition of "Lean on Me." To hear our NCLR family sing in one voice was incredibly touching because there was truth to their words.

Judy Shepard's grace and power in the face of such a violent and tortuous loss is always a source of incredible humility and inspiration. Judy presented the Fierce Ally Award to Will Phillips, who refused to stand for the Pledge of Allegiance in his 5th grade West Fork, Arkansas classroom, because LGBT people do not have equal rights. Despite being bullied, teased, and ridiculed because of his commitment to equality for all, Will stands strong and he stands tall.

Will is one amazing kid, and so were our special guests, Mississippi high school students Constance McMillen and Ceara Sturgis. We know our enemies are ever more cruel and evil, but rarely have we heard a story of such cruelty as that endured by Constance and Ceara.

These young women have faced widespread and relentless meanness, but like Will Phillips, they have something far more powerful—the courage to stand up proudly, knowing they are beautiful and loved. Thank you ACLU for making sure that they knew they didn't have to stand alone.

Vicki, Cris, Will, Judy, Constance, and Ceara are profiles in courage, they are how change happens.

All in all it was a transformative evening, illustrating how important and embracing community is, and how much we all need connection with these stories from our community. Everyday there is someone somewhere who takes a risk for justice and equality, who stands up to criticism and ridicule to champion a principle or a person or an ideal. And every time someone stands tall, we are all better off.

My personal pledge is to join Will, Constance, Judy, Ceara, Vicki, and Cris and to risk more every day in the struggle for a fairer and more just nation. Please join me and let me know your own stories of courage.

Together we will be the change.

Warmly,

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# Fair Play: NCLR Challenges Discriminatory Practices at the Gay Softball World Series



Steven Apilado (kneeling, second from right), Jon Russ (standing, first player from left in front row), and LaRon Charles (standing, center player in front row) with their team during the 2007 season.

After playing together for years in the San Francisco Gay Softball League, Steven Apilado, LaRon Charles, and Jon Russ traveled with their team, D2, to Seattle for the 2008 Gay Softball World Series. Organized by the North American Gay Amateur Athletic Alliance (NAGAAA), the Gay Softball World Series attracts hundreds of LGBT athletes and their families from all over the United States and Canada. In 2008, D2 had practiced more than ever, and they had high hopes of winning the World Series.

D2's hard work paid off, and they made it all the way to the championship game. But during the championship game their commitment and eligibility were questioned by a team that had lost a previous tournament round to them. Citing a tournament rule that each team could have no more than two straight players, the championship game was interrupted with threats of protest of their eligibility.

The disruption, threats of protest, and increasingly hostile environment wore on the team, and D2 lost the championship in the World Series. The worst was yet to come. Immediately after their loss, five D2 players were summoned to a conference room for a protest hearing. In a crowded room of over 25 people, each player was forced to answer intrusive questions about his sexual orientation and his private life.

The players were interrogated by a NAGAAA protest committee about their sexual orientation and forced to state whether they were "predominantly attracted to men" or "predominantly attracted to women," without the option of answering that they were attracted to both. The committee refused to entertain the idea that the players could be bisexual. In response to a player's statement that he was attracted to both men and women, a NAGAAA member responded, "This is the Gay World Series, not the Bisexual World Series."

The predominantly white committee voted that Steven, LaRon, and Jon—all men of color—were "non-gay," but that the other two players, both white—one of whom had given precisely the same answers as Jon—were gay. The committee voted multiple times on one player's sexual orientation until it was decided that he was "non-gay."

Concluding that D2 had too many "non-gay" players, the committee recommended disciplinary measures against Steven, LaRon, and Jon, their team, and the San Francisco Gay Softball League, including forcing D2 to retroactively forfeit their second-place World Series win.

"When you play softball, you never expect for anyone to corner you and ask you personal questions about who you are and what you do," said LaRon. "It was emotional for me as a coach to go in there and not only get grilled, but watch my team be put in this situation. This had me angry, had me in tears, contemplating whether I even want to be part of the league anymore after being in it since 1999."

"This case shows that bisexual people are an integral part of the lesbian, gay, bisexual, and transgender community. The San Francisco team was truly diverse and welcomed bisexual, gay, and straight players, and they saw each other as not just teammates, but family," said NCLR Sports Project Director Helen Carroll. "We all deserve to be treated with respect no matter what part of the 'LGBT' we are. It damages our community to conduct witch hunts and to exclude people from playing in a sports league for not being 'gay enough.' We wouldn't accept this kind of treatment from a non-LGBT sports organization and we shouldn't do it to ourselves."

Despite its stated policy of welcoming all players regardless of their sexual orientation, the North American Gay Amateur Athletic Association, which organizes the Gay Softball World Series, has refused to change the discriminatory rule that excludes players based on sexual orientation, to apologize to Steven, LaRon, and Jon for the traumatic and humiliating public interrogation they endured, or to disavow the practice of interrogating players about their sexual orientations. NCLR and the law firm of K&L Gates LLP represent Steven, LaRon, and Jon in their challenge to NAGAAA's discriminatory practices, filed in the United States District Court for the Western District of Washington.

Looking to support NCLR in even more ways?

Have a fixed budget with no wiggle room?

Want to get the merchants at which you shop to donate to NCLR too?

# SUPPORT NCLR THROUGH eSCRIP!



eScrip is a simple and free way for you to support NCLR at no cost to you.

All you have to do is register your credit/debit cards and ATM cards with eScrip—then any time you use one of them to shop with a participating merchant, the merchant will donate up to 8% of the purchase amount to NCLR. That's right: you pay for only what you're buying, and the store is the one who donates. Perfect!

Sign up at **www.escrip.com** to make all your regular purchases at over 150 merchants go to work for NCLR.

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

NCLR's Group ID #: 500022336

# NCLR at the United States Supreme Court

The Supreme Court was witness to NCLR's legal advocacy for LGBT rights in *Christian Legal Society v. Martinez* and *Doe v. Reed.* In *Christian Legal Society v. Martinez*, NCLR defended public universities' non-discrimination policies and in *Doe v. Reed*, challenged anti-LGBT groups' false claims of victimization.

On April 19th, the United States Supreme Court heard arguments in *Christian Legal Society v. Martinez*, in which it will consider whether a student organization has a constitutional right to obtain public funds and other government-provided benefits while reserving the right to exclude members on the basis of race, sex, sexual orientation, or any other factor.

In 2004, the Christian Legal Society (CLS) filed a lawsuit against University of California Hastings College of Law, arguing that the school's non-discrimination 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 Greg Garre and Maureen Mahoney of Lathan & Watkins LLP and Ethan Schulman of Crowell & Moring 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 Supreme Court of the United States granted CLS's petition for writ of certiorari and agreed to review the court of appeals' decision. A decision is expected by early July of 2010.



NCLR returned to the Supreme Court for *Doe v. Reed*, joining the nation's leading LGBT legal organizations and the State of Washington in defending open government laws requiring public disclosure of the names of voters who sign petitions supporting state ballot initiatives. On April 28th, the Supreme Court heard arguments in *Doe v. Reed*, in which anti-LGBT groups asked the Court to overturn a decision of the Ninth Circuit Court of Appeals ordering the release of the names

of 138,000 people who signed petitions supporting Referendum 71, a ballot initiative designed to repeal basic protections for same-sex couples in Washington State.

Under Washington's Public Records Act, the signatures on referendum petitions are public in order to prevent fraud and protect the integrity of the lawmaking process. The anti-gay groups are seeking to strike down Washington's law, claiming that supporters of anti-gay ballot campaigns would be exposed to harassment and intimidation by the LGBT community if their names were made public.

"We've seen this tactic before when a minority group is subject to political attack. It is common to claim that the minority is itself the aggressor from which protection is required," said Shannon Price Minter, NCLR Legal Director. "The Petitioners are making false claims to undermine laws that protect the integrity and openness of the political process."

NCLR, with Lambda Legal and Gay and Lesbian Advocates and Defenders, filed a friend-of-the-court brief in the case, vigorously and thoroughly refuting the false claims of harassment presented to the Court by anti-gay groups.

A ruling in *Doe v. Reed* is also expected by early July 2010.

# The National Center for Lesbian Rights Hires New Federal Policy Attorney Maya Rupert



NCLR is pleased to announce that we have added a newly created position, federal policy attorney, to our national legal team. NCLR's new attorney, Maya R. Rupert, is based in the Eastern

Regional Office in Washington, D.C. where she will focus on changing federal policies to end anti-LGBT discrimination and ensure equality for LGBT people under the law.

"This is a critical time for the LGBT community on a federal level, as we face unprecedented legal challenges and opportunities across a tremendous array of issues from employment discrimination to

immigration and asylum to relationship and family recognition," said NCLR Executive Director Kate Kendell. "Since our founding in 1977, NCLR has played an increasingly visible national role in pioneering new legal strategies and policy initiatives to advocate for the most vulnerable members of our community. We are excited to amplify our role in the federal arena, and Maya is a perfect fit for this position."

Before joining NCLR, Maya was an associate with Sidley Austin LLP's Los Angeles office, where she served as public interest fellow with the ACLU Drug Law Reform Project. She is a current columnist with the *L.A. Watts Times*, where she writes on issues of race, gender, and politics. Maya clerked for the Honorable Eric L. Clay of the Sixth Circuit Court of Appeals. She graduated in 2006 from the University of California, Berkeley

School of Law (Boalt Hall), where she was editor-in-chief of the *Berkeley Journal of Gender, Law and Justice* and a notes and comments editor of the *African American Law and Policy Report*. Prior to attending law school, she worked as the program director for the International Bill of Rights Project. Additionally, she served as the research assistant with the Michael D. Palm Center, a research institute of the University of California, Santa Barbara, which promotes the study of lesbian, gay, bisexual, and transgender people in the armed forces.

In her role as NCLR's federal policy attorney, Maya will work to carry out NCLR's mission to advance the civil and human rights of lesbian, gay, bisexual, and transgender people and their families through litigation, public policy advocacy, and public education.

# Comprehensive Immigration Reform Plan Includes LGBT Families



Since the passage of Arizona's harsh and discriminatory immigration law, federal lawmakers have moved swiftly on introducing federal legislation that would reform our current immigration system. On April 29th, United States Senate Majority Leader Harry Reid (D-NV), Sen. Charles E. Schumer (D-NY), and Sen. Robert Menendez (D-NJ) introduced a plan for comprehensive immigration reform.

In addition to provisions on the enforcement of current laws and visa reform, the 26-page outline proposes to end discriminatory practices against LGBT families. Immigration reform, states the plan, "will eliminate discrimination in the immigration laws by permitting permanent partners of United States citizens and lawful permanent residents to obtain lawful permanent resident status."

Current immigration laws cruelly deny samesex bi-national couples any way to protect their relationships and stay together in this country. The Uniting American Families Act, as described in Sens. Reid, Schumer, and Menendez's plan, would put an end to this discriminatory practice and the unnecessary separation of LGBT families.

"This is an important step for a bill that helps everyone, including LGBT immigrants and their families," said Noemi Calonje, NCLR Immigration Project Director. "The Senators' proposal recognizes that no reform is truly comprehensive unless it includes the LGBT community."

The U.S. Conference of Catholic Bishops (USCCB), while recognizing the urgent need for comprehensive immigration reform, fell short of full support of the Senators' efforts. USCCB issued the following statement regarding the inclusion of LGBT families:

"While we support the general direction of the framework, including a legalization of the undocumented and improvements to our employment and family-based immigration systems, we strongly oppose extending marriage-like immigration benefits to same-sex relationships."

USCCB endorsed the March for America, a rally for comprehensive immigration reform organized by diverse communities of faith. Thousands marched in Washington D.C. on March 21st to demand immigration reform based on respect and compassion for immigrants, regardless of documentation, status, or country of origin. Among the thousands were hundreds calling for the passage of the Uniting American Families Act and the end of the cruel separation of LGBT bi-national couples.

NCLR Attorneys Featured in Prominent Anti-Poverty Law Journal

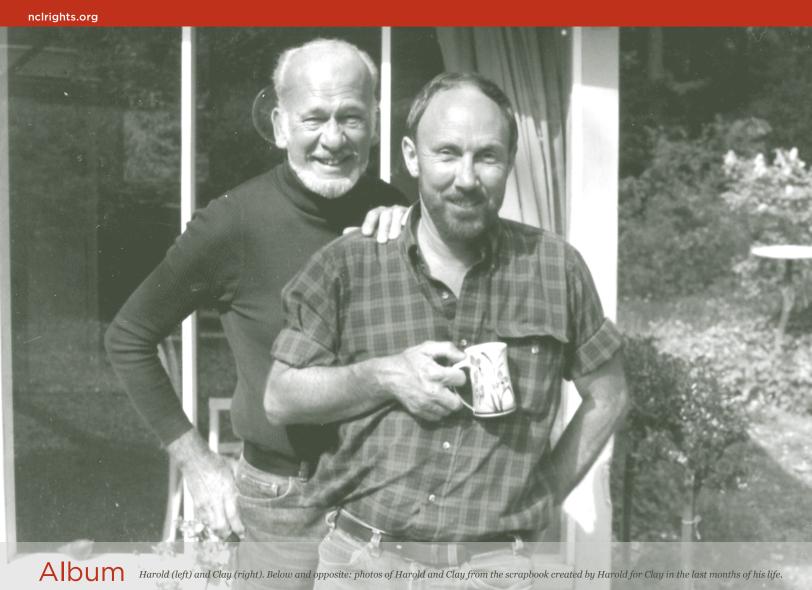


In its March/April edition, *The Clearinghouse Review: Journal of Poverty Law and Policy,* a law journal published by the Sargent Shriver National Center on Poverty Law, featured two articles by NCLR attorneys. These articles highlight NCLR's dedication to improving legal services for the most vulnerable members of our community.

Proyecto Poderoso Director Lisa Cisneros and Family Protection Project Director Cathy Sakimura published "Recognizing and Responding to the Needs of Low-Income Lesbian, Gay, Bisexual, and Transgender Clients." The article speaks to the unique legal challenges faced by low-income LGBT clients, and the information, skills, and strategies that would enable attorneys to effectively advocate for them.

In the same edition, NCLR Staff Attorney Melanie Rowen, with co-authors from Lambda Legal, the Center for Medicare Advocacy, and the William Mitchell College of Law published an article on providing legal aid to LGBT elders. "Asserting Choice: Health Care, Housing, and Property—Planning for Lesbian, Gay, Bisexual, and Transgender Older Adults" discusses how advocates can best meet the needs of low-income LGBT older adults. The article provides advocates with a guide on how to help LGBT older adults arrange their affairs and name beneficiaries to reflect these older adults' wishes and protect their partners.

Copies of the articles are available at www.povertylaw.org/clearinghouse-review.









# A Fragile Balance

From time to time, NCLR takes on a case that touches the hearts of anyone who hears about it. Such is the case involving Clay Greene and Harold Scull, and we are deeply grateful for the outpouring of support for Clay.

In April 2008, Harold Scull, who at the age of 88 was very frail, fell on the front steps of the home he shared with his partner of 25 years, Clay Greene. Harold had endured open heart surgery, was on a number of medications that made him uncomfortable, and was in declining physical and mental health. When Harold fell, he did not want Clay to call an ambulance. But Clay knew that the fall was serious and that medical attention was required. He did what any of us would do—he called the paramedics. When Harold, in a fury, told the paramedics that Clay had pushed him, they reported the allegations, which were found to be unsubstantiated.

Then Harold and Clay's nightmare truly began. Instead of handling Harold and Clay's case appropriately, the County of Sonoma filed for conservatorship of Harold's estate, seeking control of Harold's finances. Without authority, the County auctioned off everything that both Harold and Clay owned. Virtually all of the couple's belongings, including numerous pieces of art, Hollywood memorabilia, and collectibles, were sold at auction or have disappeared. In an early visit by County employees to review the contents of the home, workers remarked on the couple's treasures. with one noting how much his "wife would love" a piece and a second commenting how "great that would look in my house" on another. When Clay objected he was told to "shut up."

County workers also removed Clay from his and Harold's home and placed Clay in a different assisted living facility against his will. Three months after he was hospitalized, Harold died in a nursing home. Because of the County's actions, Clay missed the final months he should have had with his partner of 25 years, and he has been unable to recover his possessions.

The vulnerabilities faced by the elderly in our society know no gender, race, class, or sexual orientation. But when our relationships and lives are not fully understood, embraced, and protected by the larger culture and by common experience, those universal vulnerabilities grow exponentially. In those moments we see how our lives exist in a fragile balance, where a simple fall can cause everything to come crashing down. NCLR is assisting the Law Office of Anne N. Dennis and Tarkington, O'Neill, Barrack & Chong in

representing Clay because we want to make sure that what happened to Clay and Harold does not happen to anyone else.

In 1999, NCLR launched our groundbreaking Elder Law Project, which advocates for policies and legislation to protect the medical and financial rights of LGBT elders, and educates the professionals (health care providers, lawyers, case workers) who are charged with assisting them. Last summer, we released Planning with Purpose: Legal Basics for LGBT Elders, which we strongly urge every member of our community to read. What happened to Harold and Clay is a sobering reminder that we must take extra steps to protect our interests and rights.

This is a case that has touched many hearts. While we can never give Harold and Clay the peace they yearned for in their final days, we will continue to work for justice—not just for Harold and Clay, but for all LGBT elders.



IF YOU WOULD LIKE TO HELP CLAY, A TRUST HAS BEEN SET UP IN HIS NAME AND CHECKS CAN BE MADE OUT TO "THE CLAY GREENE TRUST FUND" AND SENT TO THE FOLLOWING ADDRESS:



The Clay Greene Trust Fund Exchange Bank 720 Gravenstein Hwy. North Sebastopol, CA 95472

You can also contribute online at http://claygreenetrustfund.chipin.com

# **NCLR Champions of Justice**

A Conversation with Members of the NCLR Family: Sandra Blair & Carol Cohen

"We continue to be awed by NCLR's efforts and successes, and have directly benefited from the growth of civil rights for all LGBT people."



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 Sandra Blair and Carol Cohen, two of NCLR's longest-standing and loyal donors.

Sandra and Carol have been together 26 years—they met at NCLR's annual celebration!—and live in Berkeley, California. Carol is a retired psychiatrist and Sandra is a Certified Family Law Specialist in San Francisco.

# When and how did you first hear about NCLR?

Sandi remembers when Donna and Roberta set up the Lesbian Rights Project in 1977 and it later became NCLR. She was a supporter from the very beginning. Carol learned about NCLR through friends, in 1984 when the annual fundraising event was at Davies Symphony Hall in the Wattis Room.

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?

We are inspired by the wonderful work NCLR does, and by the fact that the annual

fundraiser is where we met 26 years ago and started dating. We have been together ever since.

Sandi also knew Donna Hitchens personally and professionally. We continue to be awed by NCLR's efforts and successes, and have directly benefited from the growth of civil rights for all LGBT people: our 23-year-old daughter Hannah has two legal moms; we are legally married; and Sandi is fully recognized by Carol's former employer. In addition, our daughter was an intern at the Human Rights Campaign in Washington D.C., and she and her cohort are continuing to fight against all forms of discrimination.

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

Continued vigilance for protecting our civil rights, including those of transgender people. We see NCLR as at the leading edge of these battles.

#### What do you tell others about NCLR?

That it is a fabulous organization fighting the good fight, that it needs financial support, that it throws great party, and has a fabulous leader!

# **NCLR Active Cases**

#### U.S. SUPREME COURT

# Christian Legal Society v. Martinez Pending | California

Like many public schools, the University of California - Hastings College of the Law allows law students to create student groups that can apply for official recognition and university funding. To be recognized as an official student group, all student groups must abide by Hastings' non-discrimination policy. In 2004, the Christian Legal Society (CLS) filed a lawsuit arguing that the non-discrimination policy violated the group's alleged First Amendment right to discriminate against LGBT and non-Christian students. NCLR and co-counsel Paul Smith of Jenner & Block LLP represent Outlaw, the LGBT student group at Hastings, which intervened to defend the University's policy. Hastings is represented by Greg Garre and Maureen Mahoney of Latham & Watkins LLP and Ethan Schulman of Crowell & Moring LLP.

On March 17, 2009, 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 non-discrimination policy against CLS's First Amendment challenge.

On December 7, 2009, the Supreme Court of the United States granted CLS's petition for writ of certiorari and agreed to review the court of appeals' decision. The Supreme Court heard oral argument in the case on April 19, 2010. A decision is expected by early July of 2010.

## Doe v. Reed Pending | Washington

In this case, anti-LGBT groups are asking the U.S. Supreme Court to overturn a decision ordering the release of the names of 138,000 people who signed petitions supporting a ballot initiative to repeal basic protections for same-sex couples in Washington state. In November 2009, Washington voters rejected this attempt—Referendum 71—and preserved the state's domestic partnership law. The

anti-LGBT groups are seeking to strike down a Washington law requiring disclosure of the petitions as public records, claiming that supporters of anti-LGBT ballot campaigns would be exposed to harassment and intimidation by the LGBT community if their names were made public.

In a friend-of-the-court brief, NCLR, Lambda Legal, and Gay & Lesbian Advocates & Defenders (GLAD), together with the Human Rights Campaign and the National Gay and Lesbian Task Force, joined the State of Washington and others in defending open government laws requiring public disclosure of the names of individuals who sign petitions supporting state ballot initiatives. The brief refutes the false claim that supporters of anti-LGBT initiatives have been subjected to "systematic intimidation" by the LGBT community. In fact, it is LGBT people who continue to suffer serious violence, harassment, and discrimination, along with a 30-year barrage of ballot petitions aimed at stripping LGBT people and other minority groups of basic protections. The Supreme Court heard oral arguments on April 28, 2010. A decision is expected later this year.

#### PARENTING

# Charisma R. v. Kristina S. Victory! | California

Charisma R. and Kristina S. were in a committed relationship for six years. They decided to have children together, and Kristina gave birth to their child in 2003. They started a baby journal and sent out a joint birth announcement. Charisma and Kristina cared for their child together, and Charisma provided the primary care after Kristina returned to work. When their child was only a few months old, Kristina abruptly left their shared home and refused to allow Charisma to have any contact with their baby.

Charisma was initially denied the ability to seek visitation, but the Court of Appeal held that she could be a parent under California law. In 2006, the Family Court held that Charisma is a legal parent and awarded her visitation. The Court of Appeal upheld this decision, and the U.S. Supreme Court refused Kristina's request to review that decision on Feb. 22, 2010.

Charisma is represented pro bono by Amanda List and Deborah Wald, with assistance from NCLR. Charisma has been previously

represented by Amy Rose of Squire Sanders & Dempsey, LLP, Algera Tucker, and Rachel Catt.

#### 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 a child, and each adopted her non-biological child through a secondparent adoption in Washington. The couple moved to Florida, and their relationship ended several years later. They successfully shared equal custody and visitation with both children until K.R. broke their agreement to continue doing so. Although the children had been raised together all of their lives, K.R. decided that they should separate the children, disregard the second-parent adoptions, and each raise only her biological child. K.R. unilaterally cut off all contact between L.E. and her adopted daughter, and 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 initially refused to recognize L.E.'s secondparent adoption. 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.

Counsel for amicus included Lambda Legal, the law firm of Shook, Hardy & Bacon, LLP, the law firm of Latham & Watkins, LLP, and Jon L. Mills of University of Florida Levin College of Law.

# Debra H. v. Janice R.



Debra H. and Janice R. were a same-sex couple living in New York who planned to have a child together and entered a Vermont civil union. After Janice gave birth to a child conceived through alternative insemination, Debra and Janice lived together and parented their child together 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. A trial court awarded Debra visitation, and Janice appealed that decision, arguing that Debra should have no parental rights.

The highest court in New York held on May 4, 2010 that Debra is a legal parent because New York must recognize a Vermont Civil Union for purposes of parentage. Unfortunately, the Court declined to overrule an earlier case, Alison D. v. Virginia M., which held that nonbiological and non-adoptive parents cannot seek custody or visitation, leaving many families without legal protection.

NCLR wrote an amicus brief to the Court of Appeals that was joined by LGBT advocacy organizations from around the country. This brief was filed with the pro bono assistance of Wilson Sonsini Goodrich & Rosati.

#### Smith v. Quale



#### Victory! | California

Kim Smith and Maggie Quale were in a committed romantic relationship for over two years. They held a commitment ceremony before family and friends in January 2008. They decided to have children together and used a friend's boyfriend as a sperm donor. Kim and Maggie paid the donor for his sperm from their joint bank account. They had twins, and raised them together for approximately six months before breaking up. The donor did not meet the twins until they were about a month old, and saw them only sporadically. After the break-up, Maggie severely limited contact between Kim and the twins. Kim then filed a parentage action in Santa Cruz County family court, asserting her parental rights and requesting joint custody. As a defense to Kim's parentage action, Maggie asked the sperm donor to return from a distant state, file a paternity action, and move in with her and the twins.

Kim was granted joint custody of the twins and substantial visitation—by the Santa Cruz County court in preliminary hearings. On February 18, 2010, Kim and Maggie were able to settle their case, in a resolution that recognizes both women as the legal parents of their twins.

Kim Smith is represented by NCLR, Deborah Wald, and local counsel Donna Becker, with pro bono assistance from Robert Depew of the firm Wilson Sonsini Goodrich & Rosati.

### White v. White



# Loss | Missouri

Leslea and Michelle decided to have two children together, and each of them gave birth to one child. The couple raised both children together as a family. When the older child was four-and-a-half years old, Michelle decided that she would raise her biological child by herself, and that Leslea should raise her biological child by herself. Michelle then unilaterally cut off all contact with Leslea and has refused contact

between the children. Leslea sought joint custody for both children and child support. The Court of Appeals held that Leslea was not allowed to ask the court for custody or child support.

With cooperating attorney Arlene Zarembka, NCLR joined an amicus letter by the ACLU of Eastern Missouri, ACLU of Western Missouri, and ACLU Foundation, asking the Missouri Supreme Court to accept the case. Leslea White is represented on appeal by Kutak Rock, LLP and Lambda Legal. The Missouri Supreme Court denied the request on October 6, 2009.

### Karen Atala Riffo v. Chile

# Victory! | Inter-American Human **Rights Commission**

On May 31, 2004, a Chilean Court ordered Atala, herself a judge in Chile, to relinquish custody of her three children to her estranged husband because she is a lesbian and living with her female partner. The Supreme Court of Chile based its decision on the long-discredited and unsupportable notion that being raised by lesbian parents is harmful for children. With no legal recourse left in Chile, Ms. Atala took her case to the Inter-American Human Rights Commission (IAHRC) 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.

The IAHRC recently ruled that "the Chilean state had violated Karen Atala Riffo's right to live free from discrimination" when the Court revoked Atala's custody of her children. The IAHRC urged Chile to make reparations and to adopt "legislation, policies and programmes" to prohibit and eradicate discrimination based on sexual orientation.

#### MARRIAGE & RELATIONSHIP RECOGNITION

#### Demers v. Zupancic



#### Partial Loss | Colorado

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 entire 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. NCLR represented Marilynn on appeal, together with Matthews & Matthews, P.C. In December, 2009, the Colorado Court of Appeal held that because the trial court found that Dianne had contributed more income to the couple's household over the years, the trial court was not wrong to decline to compensate Marilynn for her contribution to Dianne's education. Although the Court of Appeal did not rule in Marilynn's favor based on the facts, the court's ruling did affirm that when resolving property disputes between former same-sex partners, Colorado courts may look to the entire history of the relationship in order to distribute the couple's property in a way that is fair to both parties.

## In re Marriage Cases



### Victory! | California

NCLR was lead counsel on behalf of samesex 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.



Oral Argument on March 4, 2008

This was the first decision to hold that samesex couples have a fundamental right to marry and that LGBT people have the highest level of protection under the California Constitution.

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

## Jackson v. D.C. Board of Elections and Ethics



### Pending | Washington, D.C.

NCLR is a member of the Campaign for All D.C. Families, a diverse coalition working to achieve marriage equality for same-sex couples in the District of Columbia. The Campaign is represented by Covington & Burling LLP. Since July 6, 2009, D.C. has recognized the marriages of same-sex couples performed in other jurisdictions. On December 15, 2009, the D.C. City Council passed "The Religious Freedom and Civil Marriage Equality Amendment Act of 2009," which permits same-sex couples to marry. Mayor Adrian Fenty signed the measure, which took effect on March 3, 2010.

Opponents of marriage equality made several unsuccessful attempts to halt the implementation of D.C.'s marriage equality laws, which NCLR helped oppose as part of the Campaign for All D.C. Families. While those efforts were unsuccessful, opponents of marriage equality are now seeking to put the new D.C. marriage law to a popular vote. The D.C. Board of Elections and the lower courts rejected that attempt, ruling that the D.C. Human Rights Act prohibits initiatives that seek to deny rights to a minority group. Petitioners (who are anti-LGBT activists) have appealed that case to the D.C. Court of Appeals, the District's highest court, which heard the case on May 4, 2010.

# Nancy C. v. Alameda County Fire Department



## Victory! | California

Nancy C. is an emergency dispatcher with the Alameda County Fire Department. Nancy and her wife, a Canadian citizen, were married in Canada in October 2009. When Nancy learned about the passage of SB 54, the new California law requiring the state government to grant all the rights and benefits of marriage to samesex couples who get married in other states or countries any time after November 5, 2008, she asked her employer to add her wife as a beneficiary on her health and retirement plans. The H.R. department initially told her that they could not do so, after CalPERS staff incorrectly advised them that only same-sex couples who registered as domestic partners were eligible for benefits. After NCLR advocated with the fire department, with Alameda County, and with CalPERS on Nancy's behalf, and educated them about their responsibilities under SB 54, CalPERS modified their guidance to comply with SB 54. The Alameda County Fire

Department then agreed to add Nancy's wife as a beneficiary on all of her employee benefit plans.

# 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. In January 2010, a threeweek bench trial was held before Chief Judge Vaughn R. Walker. The trial featured testimony from leading experts in the fields of psychology, history, economics, and political science, who powerfully demonstrated the harm that denial of marriage equality causes for LGBT people and their families.

NCLR, the ACLU, and Lambda Legal filed friend-of-the-court briefs in the case on June 26, 2009, and February 3, 2010, supporting the argument that Proposition 8 violates the federal Constitution. The organizations argue that Proposition 8 represents an unprecedented use of the ballot initiative process to single out same-sex couples and strip them of a previously-established constitutional right, and therefore should be struck down under the federal Constitution's Equal Protection Clause.

Closing arguments in the trial are scheduled for June 16, 2010. Judge Walker is expected to issue his decision in the summer of 2010.

## 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.

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,



Kathy Reynolds and Dawn McKinley

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. The Court further reaffirmed that LGBT people continue to be subject to the highest level of protection under the California Constitution.

# Varnum v. Brien



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 was the fourth state supreme court to rule that samesex couples must be permitted to marry under state law.

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

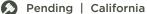


## Victory! | Colombia

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.

#### **ELDER LAW**

# Greene v. County of Sonoma et al.



This lawsuit alleges that Sonoma County violated the rights of an elderly gay male couple by separating them, placing one of the partners in an assisted care facility against his will, and unlawfully auctioning off their possessions. NCLR is providing assistance to the Law Office of Anne N. Dennis and Tarkington, O'Neill, Barrack & Chong, who represent the surviving partner in a lawsuit against the county, the auction company, and the assisted care facility. A trial date has been set for July 16, 2010 in the Superior Court for the County of Sonoma.

#### FEDERAL CIVIL RIGHTS

#### Igbal v. Ashcroft



#### Pending | 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. The U.S. detained Igbal, subjecting him to beatings, 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 Attornev General John Ashcroft violated the constitutional rights of Arab Americans detained in the aftermath of the September 11 attacks.

Justice Souter dissented, joined by Justices Breyer, Ginsburg, and Stevens, saying Iqbal should have been permitted to proceed with his case. An article in the New York Times called this case "the most significant Supreme Court decision in a decade for day-to-day litigation in the federal courts." The Second Circuit Court of Appeals next decides whether to permit Iqbal to amend his complaint and begin anew.

#### **SPORTS**

# Apilado, Charles, and Russ v. North American Gay Amateur Athletic Alliance



#### Pending | Washington

NCLR clients Steven Apilado, LaRon Charles, and Jon Russ had been playing in the San Francisco Gay Softball League and attending the Gay Softball World Series with their team, D2, for years. At the 2008 World Series in Seattle, they made it to the championship game for the first time. But during the championship, D2 learned that their eligibility to play had been challenged based on a tournament rule that each team could have no more than two straight players.

Immediately after the game, five D2 players were summoned to a conference room for a protest hearing. Each player was forced to answer questions about his sexual orientation and his private life in front of a room of over 25 people, most of them strangers. The players were forced to state whether they were "predominantly attracted to men" or "predominantly attracted to women," without the option of answering that they were attracted to both. After each player was interrogated, a panel voted on whether

he was "gay" or "non-gay." Ultimately, the predominantly white committee voted that Steven, LaRon, and Jon, all people of color, were not gay, but that the other two players, both white—one of whom had given precisely the same answers as Jon-were gay. The committee recommended disciplinary measures against Steven, LaRon, and Jon, their team, and the San Francisco Gay Softball League, including forcing their team, D2, to retroactively forfeit their second-place World Series win.

Despite its policy of welcoming all players regardless of their sexual orientation, the North American Gav Amateur Athletic Association (NAGAAA), which organizes the Gay Softball World Series, has refused to change the discriminatory rule that excludes players based on sexual orientation, to apologize to Steven, LaRon, and Jon for the public interrogation they endured, or to disavow the practice of interrogating players about their sexual orientations. NCLR and Suzanne Thomas and Cristin Kent of K&L Gates LLP represent Steven, LaRon, and Jon in their challenge to NAGAAA's discriminatory practices, filed in the United States District Court for the Western District of Washington.

# Sulpizio and Bass v. Mesa **Community College**



### Victory! | 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 their dedication and demonstrated track record of success leading the women's basketball program at the community college. Mesa officials discharged both coaches at the end of the 2007 academic year after Coach Sulpizio repeatedly advocated for equal treatment of female student-athletes and female faculty, and following publication in a local paper of an article identifying Sulpizio and Bass as domestic partners. NCLR and Leslie F. Levy of Boxer & Gerson, LLP and Mattheus Stephens of Stock Stephens, LLP represented Coach Sulpizio in her lawsuit against the San Diego Community College District.

Cathy Bass settled her lawsuit in October 2009. In November 2009, NCLR and their co-counsel represented Lorri Sulpizio in a multi-week jury trial in San Diego. On December 3, 2009 the National Center for Lesbian Rights secured a favorable jury verdict on behalf of Lorri Sulpizio on her retaliation claims. The California State Court jury awarded \$28,000 in damages, which is the equivalent of one year's salary, finding that the District violated Title IX and the California Fair Employment and Housing Act by retaliating against Sulpizio after she complained about gender inequities occurring at Mesa College..

#### TRANSGENDER LAW

## Adams 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 enabling 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 that time 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 November 2009, which is now pending before the federal court in Massachusetts.

# Gammett v. Idaho State Board of Corrections



#### Victory! | Idaho

Jenniffer Spencer served a 10-year prison sentence for possession of a stolen car and a failed escape attempt that occurred when she was a teenager. While she was incarcerated in Idaho, Spencer, a transgender woman, made 75 requests 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. Jenniffer 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. Jenniffer was 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

# California Education Committee, v. O'Connell



Victory! | California

In 2008, anti-LGBT organizations filed a lawsuit in state court in Sacramento.

challenging the provisions of California's safe schools laws that 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 to defend the anti-discrimination laws.

NCLR filed an amicus brief supporting the safe schools laws and rebutting the arguments that such laws are unconstitutionally vaque and violate the privacy rights of students who do not want to share bathrooms or locker rooms with transgender students. 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 were Lambda Legal, the Transgender Law Center, and the Law Office of David C. Codell.

#### **IMMIGRATION**

# Martinez v. Holder



# Loss | 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 a ground 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 because of the persistent persecution he had faced for his sexual orientation. The judge denied him asylum, finding that since he had not told the truth in his initial application. nothing else he said was credible, even though Martinez's life partner testified in court about their relationship. 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. On March 26, 2010, the Supreme Court denied Saul Martinez's petition to review the case.

#### 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.



#### Pending | 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. The hearing on remand is scheduled for May 2011.

# 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 2010, Vicky has been waiting for her asylum decision for four years.

#### In re E.G.



## Victory! | Uganda

E.G. is a young gay man who came to the United States 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 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. was granted asylum in February 2010.

#### 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. Marta fled to the U.S. and in 2001, 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 the Department of Homeland Security (DHS) pursuant to an Order of Supervision. In November 2008, DHS took Marta into custody 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 4 months until she was granted withholding of removal and asylum in the United States in February 2009.

#### In re M.G.



#### Victory! | 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, and his asylum was granted in March 2010.

#### 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.



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. After a second rape attempt, S.H. fled 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 May 2010. NCLR is working with pro bono attorney Cara Jobson of Wiley

#### In re V.R.

and Jobson on her case.



### ✓ 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

Y.G. is a transgender woman from Mexico who suffered severe physical and mental abuse from her family because of her gender identity. Growing up, her family insisted that she act more "masculine," and she was physically abused when she refused. She went to the police, but they ignored her need for protection. In February 2007, Y.G. was badly beaten by gang members who left her bleeding from head wounds. Fearing for her life, she fled to the United States. In February 2009, she was detained by the police and detained in the Yuba County Jail. As a transgender woman, she was housed with male prisoners. It was a very demoralizing situation for her and she often struggled with her decision to remain and fight for her asylum instead of returning to Mexico where she would be in danger. Y.G.'s cousin contacted NCLR in February 2009. With the help of attorney Cara Jobson, NCLR successfully obtained asylum for Y.G. in July 2009.

#### In re N.A.



#### Victory! | Saudi Arabia

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—and he also knew that his family would disapprove or even turn him in 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 while he was living in a society that treated homosexuality as a crime and where LGBT people were 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. N.A. was granted asylum on September 23, 2009.

# 2010 Anniversary Celebration

# THANK YOU FOR 33 YEARS OF SUPPORT FOR NCLR'S WORK!

May 1, 2010 was a night we will not soon forget. It was an amazing celebration of the life- and law-changing work NCLR does every day on behalf of all LGBT people. And it was a party to end all parties!

NCLR's 33 years have been made possible because of you, your fellow supporters, and our sponsors. And our Anniversary Celebration on May 1st wouldn't have been such a blast without our guests! Thank you to all of you.



Photos, left to right: Judy Shepard awarded the Fierce Ally Award to Will Phillips; Cris Williamson and Vicki Randle sing "Lean on Me"; Special guests Ceara Sturgis and Constance McMillen with Kate Kendell; NCLR's amazing Board of Directors and Kate Kendell. Photos by Trish Tunney | www.trishtunney.com

# 33rd Anniversary Awardees and Special Guests:

Vicki Randle, Voice & Visibility Award, presented by Cris Williamson

Will Phillips, Fierce Ally Award, presented by Judy Shepard

Curve Magazine and Wolfe Video, Outstanding Community Partner Award

Constance McMillen & Ceara Sturgis, Special Guests

Kate Clinton, Emcee

WHO SAYS

THE LAW

# **SAVE THE DATE FOR NEXT YEAR:** Saturday, May 21, 2011!



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Support the fight for justice with this great image of Lady Liberty and Lady Justice—and many others.

www.nclrights.org/shop

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