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Crowd Reacts to Prop 8 Ruling

One Year Later

Equality Denied, Justice Yet To Come

On May 26, 2009, a majority of justices on the California Supreme Court upheld Proposition 8, an initiative enacted by a bare 52% of California voters last November in order to change the California Constitution to bar same-sex couples from marriage. In a bittersweet victory, the Court also unanimously ruled that the more than 18,000 marriages that took place between June 16 and November 4, 2008 are fully valid and will continue to be recognized and respected in all respects by the state of California.

All 7 of the justices also affirmed the Court's prior holding that, with the exception created by Prop 8, sexual orientation is subject to the highest level of protection under the California Constitution. Those positive aspects of the Court's ruling are important, but they cannot make up for the devastating blow of its decision to uphold Prop 8. With a stroke of the pen, the Court crushed the dreams of countless LGBT Californians who were hoping against hope their status as equal citizens would be restored. In the years ahead, the damage inflicted upon the principles of equality and justice by the Court's decision will become apparent, as will the real harms to families, couples, and individuals who have been stripped of their inalienable right to equal protection of the laws.

By upholding such a blatantly discriminatory measure, the Court has diminished its legacy as a champion of equality. No minority group should have to defend its right to equality at the ballot. And yet, that is exactly what the Court has now required our community to do. Even worse, because the Court refused to limit the enactment of additional discriminatory measures in the future,

the Court's decision has jeopardized not only LGBT people, but every minority group. In a strongly worded dissent, Justice Carlos Moreno wrote, "The rule the majority crafts today not only allows same-sex couples to be stripped of the right to marry that this court recognized in the Marriage Cases, it places at risk the state constitutional rights of all disfavored minorities. It weakens the status of our state Constitution as a bulwark of fundamental rights for minorities protected from the will of the majority."

NCLR was lead counsel in the Prop 8 challenge along with Lambda Legal, the ACLU, David C. Codell, Munger, Tolles & Olson LLP, and Orrick, Herrington & Sutcliffe LLP. We filed our challenge the day after Prop 8 was enacted, on November 5, arguing that the Court must invalidate the measure because the California Constitution does not permit the fundamental rights of a minority to be selectively stripped away by a simple majority vote.

We were joined by an unprecedented number of other individuals and organizations. A total of 43 friend-of-the-court briefs, representing hundreds



a message from

EXECUTIVE DIRECTOR

KATE KENDELL

Dear NCLR Champion:

One year ago, we were at what we believed then was the pinnacle of our struggle. We had just won a landmark and historic marriage equality victory at the hands of the California State Supreme Court, and the Court had even declared that sexual orientation was entitled to the highest level of constitutional protection. Since that moment of great hope and elation we have experienced many more moments of disappointment and grief. The Court's ruling on May 26 upholding Prop 8 was a devastating capstone to the events of the year. And yet, even in the midst of this serious setback, as a community, we have won a series of transformative victories.

This moment is not about last year, but about the years to come.

When I began working for NCLR as Legal Director in 1994, lesbian, gay, and bisexual parents routinely lost custody of their children based on sexual orientation, and in very few states was it even possible to do second-parent adoptions. You could list on one page the corporations and municipalities in the country that provided domestic partner benefits. There was no statewide recognition for any of our relationships. And certainly no one was even considering federal legislation that would include the LGBT community.

That was only 15 years ago. Not even a generation. All of that has changed in 15 short years.

Even with the incredible highs and paralyzing lows of this last year, I am struck by the privilege it is to be a witness to this history. From March to May, we have seen incredible progress from Iowa, to New Hampshire, to Washington D.C., and Nevada. And while we have lost California temporarily, make no mistake, we are not done.

A year ago we thought we were at our strongest, but it was an illusion. Fire tempers steel, and struggle tempers spirit. Having been tested, we stand now with more leaders, more allies, more partners, and more soldiers in the fight for equality than we have ever had before.

So now we ask ourselves, where do we want to be one year from now?

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NCLR's Federal Advocacy Work: Our Niche Role

There is change in the air in Washington D.C., and progress feels more attainable than ever. NCLR has long played a niche role in national advocacy in Congress, participating in key conversations where our unique expertise based on our legal and advocacy work helps inform decisions, alongside our colleagues at other national LGBT groups and allies. We join in education and advocacy efforts as needed, helping frame issues by determining what arguments and evidence will be most effective, by contacting Hill offices on an as-needed basis, and more. And we are working to keep you better informed about what is happening on Capitol Hill.

Hate Crimes Legislation

The Local Law Enforcement Hate Crimes Prevent Act/The Matthew Shepard Act passed the House of Representatives by a vote of 249 - 175. Now the bill is heading to the Senate, where a vote is expected soon. Over the past decade, NCLR has been advocating alongside our colleagues to include language necessary to protect the **entire** LGBT community. On the eve of consideration of the bill in the House Judiciary Committee, NCLR Director of Projects & Managing Attorney Liz Seaton wrote about the hate crime murder of Angie Zapata for the American Constitution Society for Law and Policy blog, arguing that this vicious crime and others like it highlight the need for national leadership and a federal hate crimes law. The article highlights the need particularly for gender identity protections, given the frequency and deadly violence of hate crimes targeting transgender people. Passage of the hate crimes bill is not only important in its own right, but is seen by many on Capitol Hill as a necessary step towards passing inclusive workplace legislation that would ban discrimination against LGBT people. President Obama has indicated that he strongly supports quick passage of hate crimes legislation.



Workplace Protections

Ending workplace discrimination against LGBT people remains a huge priority for the LGBT community. The Employment Non-Discrimination Act (ENDA) is still needed and long-overdue. NCLR is committed to ensuring that ENDA is enacted into law. We are a founding member of United ENDA and serve on the United ENDA Steering Committee, where we recently co-hosted conference calls for all United ENDA coalition groups to help spur on grassroots activism. In our Washington, D.C. office, Jaan Williams, NCLR's full-time field organizer for transgender equality, is helping to secure key support and reaching out proactively to key communities to help build grassroots support for ENDA. As we move this legislation forward, please be proactive and contact your elected officials today and ask them to support passage of an inclusive ENDA. Members of Congress tell us that constituent contact is essential to winning an ENDA that protects the entire LGBT community. We can pass this legislation, but we need your help!

Immigration Legislation

NCLR helped draft the original bill that was the precursor to the Uniting American Families Act (UAF)—then called the Permanent Partners Immigration Act. On June 3, 2009—for the first time in United States Senate history—the Senate Judiciary Committee scheduled a hearing on an immigration reform bill that includes members of the lesbian, gay, bisexual, and transgender (LGBT) community—the Uniting American Families Act (UAF). Additionally, the Reuniting Families Act (RFA)—the first multi-issue immigration reform bill that includes the LGBT community is currently pending in the House of Representatives.

Because of our legal advocacy on behalf of LGBT immigrants and asylum seekers, NCLR often speaks to policymakers about the devastating effect of U.S. immigration policy on LGBT people, including same-sex bi-national couples who are treated as legal strangers under current law and who often are unable to live together in this country. We follow the lead of our partners at Immigration Equality, who are working every day to make sure that our families are included in efforts to reform immigration laws and policies. Although UAF would alleviate one of the most wrenching forms of discrimination against same-sex couples, it is only one part of a

larger national movement for comprehensive immigration reform. NCLR strongly supports immigrant rights and the need to adopt a more just immigration system.

Next Generation Bills

Imagining equality under the law? So are we! These are busy times, because we need to enact overdue legislation while also looking ahead to new possibilities and what comes next. Ending both government and private discrimination against LGBT people is a top priority. We know that both LGBT individuals and our families need protection.

You can find out more about our work on federal legislation at www.nclrights.org/federallegislation.

Council on Global Equality and International Human Rights



While the LGBT community has made considerable gains in the past decade, in many areas of the world, LGBT people live under threats to their safety, and even their lives, simply because of their sexual orientation or gender identity or expression. NCLR is a member of the Council on Global Equality, a coalition effort that encourages a clearer and stronger American voice on international LGBT human rights concerns. In March, the Obama Administration announced that the U.S. would—finally—sign a U.N. declaration calling for the worldwide decriminalization of same-sex intimacy and recognizing that LGBT people are entitled to human rights. It is time that the United States joins a chorus of other countries in calling for equality for all people and ending the violence and hate against LGBT people. While this is an important (and long overdue) step forward, much remains to be done. Part of the Council's recent work has been to call on the U.S. State Department and U.S. officials in Baghdad to investigate reports suggesting that there has been an alarming wave of extrajudicial executions targeting Iraqi men who are perceived to be gay.

Youth Project Update

Permanency Plans for Transgender Youth in Foster Care

All youth in foster care deserve to have loving, safe, and permanent homes. In fact, federal law requires child welfare workers to develop “permanency plans,” but transgender youth in foster care are often placed in group homes with little focus on placing them in a permanent family setting. In April, NCLR's Youth Project Director Jody Marksamer published “Permanency for Transgender Youth” in the Center for Advanced Studies in Child Welfare's publication, *Child Welfare 360 - Permanency or Aging Out: Adolescents in the Child Welfare System*. This article urges child welfare professionals to reunify transgender youth with their family of origin, identify other adults who can provide permanency if necessary, and reduce group home placements of transgender youth.

Best Practices for Protecting LGBT Youth

Many of our country's LGBT youth who are homeless face discrimination and abuse when trying to access services. NCLR's Youth Project recently announced the release of the “National Recommended Best Practices for Serving LGBT Homeless Youth,” the first-ever set of LGBT best practice recommendations for agencies serving homeless youth. Developed by NCLR, the National Alliance to End Homelessness, the National Network for Youth, and Lambda Legal, these best practices provide detailed guidance to intake workers, case managers, social workers, and others. LGBT homeless youth can thrive and succeed when given the opportunity, and these best practice recommendations can make a huge difference in the lives of LGBT youth. Visit www.nclrights.org to download this publication free of charge.

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

Proyecto Poderoso Project Update

Proyecto Poderoso | Project Powerful Meets with EEOC Officials to Urge Improved Civil Rights Enforcement

In April, NCLR *Proyecto Poderoso* Director Lisa Cisneros met with top federal law enforcement officers at the Equal Employment Opportunity Commission (EEOC) to discuss the need for greater enforcement of anti-harassment and discrimination laws where LGBT employees are targeted based on their gender—particularly for LGBT employees in rural communities who have had great difficulties in filing complaints. Through advocacy work with *Proyecto Poderoso* | Project Powerful, Lisa has helped resolve cases where the EEOC was reluctant to investigate complaints of discrimination by pointing to protective aspects of existing federal law. Cisneros urged the EEOC to improve internal directives and trainings.

You can find out more about our *Proyecto Poderoso* work at www.nclrights.org/proyectopoderoso.

Proyecto Poderoso | Project Powerful Reaches Out to California Central Valley LGBT Residents

Since *Proyecto Poderoso* | Project Powerful began, a central goal has been to raise awareness about LGBT legal rights and humanize the experiences of LGBT people in rural, low-income communities. *Proyecto Poderoso* Community worker Diana Oliva works daily to reach into the heart of California's Central Valley, attending community fairs, house meetings and more, leading workshops, giving speeches, and sharing legal information. In the past few months, she reached more than 1,000 people directly, and reached even more through bi-lingual media efforts. Project Director Lisa Cisneros provides legal information, and sometimes legal counsel or representation to those in need. For example, one Fresno-area resident attended a community outreach event at which *Proyecto Poderoso* was present, and later sought legal assistance related to HIV and privacy rights. *Proyecto Poderoso* is a partnership between NCLR and California Rural Legal Assistance, Inc.

Elder Law Project Update

NCLR RELEASES *Planning With Purpose: Legal Basics for LGBT Elders*



Information is power, and to empower LGBT elders, NCLR has just released a major new resource called *Planning with Purpose: Legal Basics for LGBT Elders*, a comprehensive manual written for older LGBT people and those who assist or care for them, published in partnership with Services and Advocacy for GLBT Elders (SAGE). LGBT elders face distinct challenges and may find themselves at a disadvantage due to discriminatory laws. *Planning with Purpose* aims to help. Topics include relationship recognition, finances, health care, long term care, elder

abuse, planning for the care of minor or disabled children, and inheritance. It focuses particularly on problems of discrimination on the basis of sexual orientation and/or gender identity and expression in the context of aging services and elder care, and deals with family issues as well. NCLR also continues to distribute our popular publication, *Lifelines: Documents to Protect You and Your Family*. **Both publications are available for download free of charge on our website at www.nclrights.org.**

NCLR staff educates service providers and others about the legal problems that LGBT elders face and advocate for solutions. This winter, Elder Law Project Consultant Joyce Pierson and staff attorney Melanie Rowen spoke in January at a day-long institute and a workshop on LGBT Aging at the Task Force's Creating Change conference in Denver, and in March at a legal training workshop about health care advocacy for lesbians age 55 and older at the Lesbian Health Summit held at the University of California – San Francisco.

NCLR participated in the first LGBT-focused symposium with AARP's Diversity and Aging Conference, "New Dimensions in 21st Century Diversity: Legal and Ethical Issues Serving LGBT Elders," on June 9, 2009 in Chicago. The session was moderated by NCLR's Joyce Pierson, and speakers included *Proyecto Poderoso* Director Lisa Cisneros.

NCLR's Elder Law Project also participates in the National LGBT Aging Roundtable, led by SAGE /NY and the National Gay and Lesbian Task Force and comprised of 35 LGBT elder groups from across the country. The Roundtable's goals include amending the Older Americans Act to include LGBT elders as a vulnerable constituency in data collection and to raise the visibility of LGBT needs through the National Family Caregivers Support Act.

You can find out more about our Elder Law work at www.nclrights.org/elderlaw.

ONE YEAR LATER—CONTINUED FROM PG 1

of religious organizations, civil rights groups, and labor unions, and numerous California municipal governments, bar associations, and leading legal scholars, were filed in the case, urging the Court to strike down Prop 8 as a shameful stain on the California Constitution. In addition, we saw a tremendous outpouring of community and ally support from all over the country.

Last May, the same Court issued a thoughtful and compelling decision authored by Chief Justice Ronald George, which declared that "in light of the fundamental nature of the substantive rights embodied in the right to marry—and their central importance to an individual's opportunity to live a happy, meaningful, and satisfying life as a full member of society—the California Constitution must be interpreted properly to guarantee this basic civil right to all individuals and couples, without regard to their sexual orientation." It's difficult to fathom that a mere year later, such a

significant part of that historic decision would be undone by the voters and upheld by the very Court that had so forcefully and recently held that a separate status can not provide true equality. Now that the legal challenge is over, it is clear that we must return to the ballot. In just 10 short years, our community and allies moved nearly 15% of the population to support full equality for same-sex couples in California. And we have seen an incredible shift in national support for marriage equality. Six states now recognize the right of same-sex couples to marry: Massachusetts, Connecticut, Iowa, Maine, New Hampshire, and Vermont. And more state legislatures are poised to do so in the months ahead.

The road ahead in California will be challenging, but the potential gains are enormous—and by no means limited to marriage. We must continue to build visibility, forge strong coalitions with allies and support other progressive causes, and reach out to those who do not yet fully support us. If we do, we have an opportunity to do

what no state has ever done before. Not only will California be the first state to overturn a constitutional marriage ban at the ballot box—paving the way for similar victories in the 29 other states that have enacted similar bans—but in the process, we will have forged lasting coalitions and relationships that enable us to achieve a broad range of progressive goals, from health care reform to safe schools to improved conditions for prisoners, immigrants, workers, women, and people of color. The ultimate goal of our movement—and of NCLR's work—is to build a world in which we can be our full, authentic selves in every aspect of our lives, without fear of violence and discrimination on any basis. By doing the work that the reversal of Prop 8 will require, we will be laying a foundation for lasting social change.

As we recover from our loss in Prop 8 and renew our commitment to justice, we must remember: our most powerful victories are yet to come.

NCLR Sports Project

Negative Recruiting Report

This year, NCLR and the It Takes a Team Initiative of the Women's Sports Foundation released *The Positive Approach: Recognizing, Challenging and Eliminating Negative Recruiting Based on Actual or Perceived Sexual Orientation*. The publication provides a comprehensive analysis of negative recruiting based on actual or perceived sexual orientation, and recommends practices and policies to eliminate it. Negative recruiting is the practice of using homophobic stereotypes to deter recruits from joining rival athletic programs by alleging or implying that a rival coach or team members are lesbian, gay, bisexual, or transgender. This resource is being used by the National Collegiate Athletics Association (NCAA) Coaching Academies and the National Association of Collegiate Women Athletic Directors (NACWAA). In October, the report will be presented to college athletic directors from across the country at the national NACWAA conference in Denver, Colorado.

An Annual Conversation on Seeking Common Ground

Building upon last year's groundbreaking conference, on April 7 in St. Louis, Missouri at the largest women's basketball conference in the U.S., NCLR participated in a session titled "Seeking Common Ground in Athletics: A Conversation Among Lesbians, Christians and Lesbian Christians." NCLR Sports Project Director Helen Carroll joined Pat Griffin of the Women's Sports Foundation's It Takes a Team Initiative, Donna Noonan of the Fellowship of Christian Athletes, and Debbie Halliday of Athletes in Action to lead coaches and athletes to seek and identify common ground among groups with different perspectives on sexuality and religion in athletics. The conference focused on how coaches and athletes of different races, religious faiths, and sexual orientations can establish a climate of respect and inclusion. Plans are underway to continue this conversation at the 2010 Final Four conference in San Antonio, Texas.

These conferences are crucial for establishing common ground, and these conversations about equal opportunity in athletics based on sexual orientation and gender identity have international applications. On March 20, 2009, a session called "Politics and Policies: Replacing Homophobia and Transphobia with Humanism in Sport Settings" was held at a conference on Sport, Sexuality, and Culture at Ithaca College, New York. International sport leaders spoke about the importance of bringing lesbian, gay, bisexual, and transgender student-athletes to the sports world. Those present learned about innovative programs to educate traditional sports leaders in both Canada and the United States; countries worldwide will implement these practices at the Outgames in Copenhagen in 2010.

You can find out more about our Sports Project work at www.nclrights.org/sports.

Immigration and Asylum Project

The demand for assistance from NCLR's Immigration project is steady and unrelenting. NCLR currently represents 10 clients in asylum claims from Mexico, Honduras, Uganda, Saudi Arabia, Peru, and El Salvador. We represent a range of clients from a lesbian from Bosnia who is in deportation proceedings to two transgender women currently being detained in a male prison by the Yuba Sheriff's Office in Marysville, California.



Noemi Caljone
Immigration Project Director

NCLR's Immigration Project Director Noemi Caljone is a fierce advocate for the rights of LGBT immigrants and provides assistance and information to countless LGBT immigrants and providers. NCLR regularly

contributes *amicus* briefs in significant asylum appeals so that courts can have the benefit of our expertise in LGBT immigration issues. For instance, in April, NCLR submitted a joint *amicus* brief along with Immigration Equality in an important asylum case before the Ninth Circuit Court of Appeals. We urged the court to reconsider its recent decision in which it denied asylum to a gay man who had experienced serious persecution in Guatemala, who was then afraid to reveal his sexual orientation in his initial asylum application and thus had submitted a false political opinion asylum claim. In March, we helped a lesbian activist from Honduras win her asylum case on appeal before the Board of Immigration Appeals.

To serve as many people as possible, NCLR sponsors regular legal clinics and works with a wide network of pro bono counsel. Currently, for example, we are assisting pro bono attorneys who represent a transgender client under Immigration and

Customs Enforcement (ICE) supervision who faces the possibility of deportation to her country of origin, where she would face violence and persecution.

In March, Project staff presented a workshop on how to prepare asylum claims at the Defending the Human Rights of LGBT and HIV-Positive Immigrants & Refugees Conference sponsored by the National Immigrant Justice Center in Chicago. NCLR also participated in the 4th National Grassroots Immigrant Strategy Conference sponsored by the National Immigrant Solidarity Network in Chicago, addressing key issues such as family reunification, paths to citizenship for undocumented immigrants, and stopping detentions and deportations.

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

NCLR Champions of Justice

A Conversation with Members of the NCLR Family: **Arthur S. Leonard**



“I give to NCLR because I believe strongly in supporting the infrastructure of our LGBT legal movement, and NCLR is an important part of that.”

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 Art Leonard, one of NCLR’s longest-standing donors—he has been giving to us consistently and continuously, almost solely to our direct mail appeals, for 25 years! Art is a professor of law at New York Law School and is the editor of their *Lesbian/Gay Law Notes*.

When and how did you first hear about NCLR?

ART: I first heard about NCLR when attending meetings of the Lambda Roundtable back in the 1980’s.

What inspired your first gift, and why do you continue to support NCLR?

ART: I give to NCLR because I believe strongly in supporting the infrastructure of our LGBT legal movement, and NCLR is an important part of that. My longtime primary identification is with Lambda Legal, whose board I served on during the 1980s, and with whom I remain a faithful donor. But I also try to give a little bit to the other LGBT legal groups, because I think it is important that we have diverse organizations with their own geographical and subject matter specialties

and expertise. NCLR has carved out an important niche in the movement, and does top-rate work.

How has supporting NCLR helped you?

ART: Supporting NCLR helps me to express the importance of pushing forward the struggle for LGBT rights.

What is your greatest hope for our LGBT movement?

ART: The ultimate achievement of true equality for LGBT people.

What has been your view of the LGBT movement over the years?

ART: There is not really one LGBT movement, but actually several movements.

I have been closest to the legal movement, which I think has accomplished remarkable things. In the space of 35 years, we have come an incredible way, achieving decriminalization of gay sex, protection against discrimination in many settings, and making a big start towards marriage equality. We still have worlds to conquer, but we have momentum and dedication and will get there.

What do you think has been the biggest or most noteworthy achievement or accomplishment in regards to the LGBT movement?

ART: *Lawrence v. Texas* [the landmark 2003 U.S. Supreme Court case that invalidated sodomy laws] and winning marriage equality in several states.

No Cash? How to Leave a Legacy to NCLR Anyway

Linda Scaparotti, Esq. & Linda Jacobs, RIA, AIF

One of the easiest and most beneficial ways to leave a legacy to NCLR, even if you do not have great wealth or much in the way of investments, is to establish an Irrevocable Life Insurance Trust (ILIT) as part of your estate plan. In the last newsletter, you read about the million dollar legacy that NCLR supporter Chris Hawkins left to NCLR, which will go a long way toward ensuring the future success and longevity of this organization. Chris was able to accomplish her charitable goals, as well as her family goals of providing for the care of her mother who had significant health issues, through the proper structuring and funding of an ILIT.

While many people may make a direct gift of their life insurance (or retirement, etc.) to a non-profit, for those in particular who want to make sure they have enough funds to care for a family member as well as provide a legacy to NCLR, this can be accomplished by setting out specific terms for the use of the money. The proceeds of the policy can be used for the health care, or other living expenses, of a family member first, then the remainder left to the non-profit. In some cases the full amount of the policy will end up going to the non-profit anyway, such as when providing for an elderly parent who will most likely predecease

the insured. But the insured has the relief of knowing she has provided for her parent (or other person in need), as well as supporting her favorite non-profit.

The ILIT is an irrevocable trust, meaning the person establishing it (“trustor”) can never have control of the life insurance, cannot be the trustee, cannot borrow against the life insurance policy, and cannot change the terms of the trust once it has been signed and notarized. However, this giving up of control allows for an incredible benefit: all life insurance placed in the trust completely avoids estate/inheritance taxation! The larger the life insurance policy, the more significant the tax savings, e.g., saving at least 45% of a million dollar policy.

The greatest benefit comes when the ILIT actually purchases the life insurance policy, that is, the trustee—and not the trustor/insured—signs the application for insurance, purchases the policy, and pays the premiums. The insured can never pay the premiums directly, but she can gift an amount every year to the trust (greater than the amount of the annual premiums), which the trustee can use to pay the premiums. If these instructions are followed exactly, and the trust is drafted properly, the full

death benefit of the policy will avoid taxation immediately. You may also transfer existing life insurance to an ILIT. However, the IRS has a three-year “look back” period. If the insured/trustor dies before the end of the three-year period, the life insurance will be included in the estate of the trustor, and will also be subject to taxation depending on the overall value of the estate.

You may also express your wishes for what programs or services you wish the proceeds of the insurance policy to be used, or you may leave that up to NCLR itself. Either way, you have helped to ensure the future success and longevity of one of the most important and accomplished non-profits in our community.

Linda Scaparotti, Esq., has been providing estate planning and family law services to the LGBT community for 29 years throughout the Bay Area, as well as donating in all ways to our community organizations.

Linda Jacobs, Financial Planner, RIA, AIF, has been doing comprehensive financial planning for 25 years. She takes a “holistic” approach to planning, which includes co-coordinating one’s personal, social and financial goals to one’s life and investments.

NCLR is profoundly grateful to the unprecedented array of civil rights and religious groups, labor unions, businesses, municipalities, and legal scholars that submitted friend-of-the-court briefs in our legal challenge to Prop 8.

AMICI CURIAE IN SUPPORT OF PETITIONERS IN PROP 8 LEGAL CHALLENGE (PARTIAL LISTING)

MORE THAN 50 CIVIL AND HUMAN RIGHTS GROUPS

including the Anti-Defamation League, Asian Pacific American Legal Center, California State Conference of the NAACP, Chinese for Affirmative Action, Equal Justice Society, Human Rights Watch, Mexican American Legal Defense and Educational Fund, NAACP Legal Defense and Education Fund, Inc., and Southern Christian Leadership Conference of Greater Los Angeles

NEARLY 900 CLERGY AND RELIGIOUS GROUPS

including the California Council of Churches, General Synod of the United Church of Christ, Metropolitan Community Church, Muslims for Progressive Values, Union for Reform Judaism, and Unitarian Universalist Association of Congregations

WOMEN’S RIGHTS GROUPS

including California Women’s Law Center, Equal Rights Advocates, Feminist Majority Foundation, and National Organization for Women

BUSINESSES

including Google, Levi Strauss, and the San Francisco Chamber of Commerce

MORE THAN 50 LABOR UNIONS

including the California Federation of Labor, California Faculty Association, California Nurses Association, California Teachers Association, International Longshore and Warehouse Union, National Federation of Federal Employees, Screen Actors Guild, and Unite Here!

THE LEAGUE OF WOMEN VOTERS OF CALIFORNIA

65 MEMBERS OF THE CALIFORNIA LEGISLATURE

including Senate President Pro Tempore Darrell Steinberg, past Senate President Pro Tempore Don Perata, Speaker of the Assembly Karen Bass, and Assembly Speaker Emeritus Fabian Nuñez, and LGBT caucus members Senator Christine Kehoe, Senator Mark Leno, Assemblymember Tom Ammiano, Assemblymember John Pérez, former Senator Sheila Kuehl, and former Assemblymember John Laird.

CHILDREN AND FAMILY ADVOCACY ORGANIZATIONS

including the Children’s Law Center of Los Angeles, COLAGE, Family Equality Council, Legal Services for Children, National Center for Youth Law, Our Family Coalition, PFLAG, and San Francisco Court Appointed Special Advocates

NCLR Active Cases

PARENTING

Demers v. Zupancic

 Pending | 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. But 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. But instead, Marilynn was left with full responsibility for the mortgage that had paid for Dianne's education. At the trial court, Marilynn asked to be compensated for repaying Dianne's school loans. Instead, the trial court ordered Marilynn to pay Dianne the value of her equity in the home. This case is a stark reminder of the difficulties faced by LGBT people whose relationships are not recognized by their government and of the need for equal protection under the law.

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

L.E. v. K.R.

 Victory! | Florida

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

NCLR and local family law attorney Leslie Talbot, of Leslie M. Talbot, P.A., represented L.E. in her custody case in the trial court, which refused to recognize L.E.'s adoption of her daughter. NCLR and pro bono attorneys from Carlton Fields appealed the decision. On May 13, 2009, the Florida Court of Appeals

unanimously reversed a lower court ruling and held that Florida must give full faith and credit to adoptions granted to same-sex couples by other states.

In re J.D.F.

 Victory! | Ohio

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

More amicus briefs were submitted in this case than in any other case ever considered by the California Supreme Court.

CITIES

across California, including Berkeley, Beverly Hills, Cloverdale, Davis, Emeryville, Fairfax, Long Beach, Palm Springs, Sacramento and West Hollywood

35 BAR ASSOCIATIONS

including those from the counties of Alameda, Los Angeles, Marin, Santa Clara, and San Francisco, as well as Bay Area Lawyers for Individual Freedom, California Women Lawyers, Charles Houston Bar Association, Mexican American Bar Association, Minority Bar Coalition, National LGBT Bar Association, Philippine American Bar Association, and San Francisco La Raza Lawyers Association

LEGAL AID ORGANIZATIONS

including AIDS Legal Referral Panel, Bet Tzedek Legal Services, California Rural Legal Assistance, Central California Legal Services, Legal Aid Foundation of Los Angeles, Legal Aid Society – Employment Law Center, and Public Counsel

LGBT COMMUNITY CENTERS ACROSS CALIFORNIA

LGBT RIGHTS ORGANIZATIONS

including Gay and Lesbian Advocates and Defenders, Human Rights Campaign, Log Cabin Republicans, Love Honor Cherish, Marriage Equality USA, National Black Justice Coalition, National Gay and Lesbian Task Force Foundation, Pride at Work, and the Transgender Law Center

MORE THAN 50 LAW PROFESSORS

from schools including Harvard University, Stanford University, Yale University, University of California (Berkeley, Los Angeles, Hastings, Davis, Irvine), University of Southern California, University of Pennsylvania, Rutgers University, University of San Francisco, Loyola Law School, Santa Clara Law School, Chapman University, and Pepperdine University

SPECIAL THANKS TO:

OUR CO-COUNSEL IN STRAUSS V. HORTON

the ACLU, Lambda Legal, Munger, Tolles & Olson, LLP, Law Office of David C. Codell, and Orrick, Herrington & Sutcliffe LLP

OUR CLIENTS

Equality California, Karen Strauss and Ruth Borenstein, Brad Jacklin and Dustin Hergert, Eileen Ma and Suyapa Portillo, Gerardo Marin and Jay Thomas, Sierra North and Celia Carter, and Desmond Wu and James Tolen

THE CITY AND COUNTY OF SAN FRANCISCO

which also filed a challenge to Prop 8, represented by City Attorney Dennis Herrera, Deputy City Attorney Therese Stewart and the law firm of Howard Rice

In June 2008, the Tenth District Ohio Appeals Court ruled that D.F. was not allowed to attack the validity of the shared custody agreement she had with T.L. Soon after, D.F. attempted to appeal to the Ohio Supreme Court, but in December 2008 the Ohio Supreme Court refused to hear the case.

Karen Atala Riffo v. Chile

 Pending | Inter-American Human Rights Commission

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

Johnson v. SooHoo

 Victory! | Iowa

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

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

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

states. These families deserve the same respect and recognition as in their home state.

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

HEALTHCARE

Benitez v. North Coast Women's Care Medical Group

 Victory! | California

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

In a unanimous opinion issued on August 18, 2008, the California Supreme Court reversed the Court of Appeal, and upheld the trial court's original decision. The Supreme Court held that non-discrimination laws regulate discriminatory conduct, not speech or beliefs, and that medical providers cannot violate those laws based on asserted religious objections to providing services to LGBT people.

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

MARRIAGE & RELATIONSHIP RECOGNITION

In re Marriage Cases

 Victory! | California

NCLR was lead counsel on behalf of same-sex couples, Equality California, and Our

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

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

Kerrigan & Mock v. Connecticut Department of Public Health

 Victory! | Connecticut

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

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, filed a third lawsuit challenging the validity of the couple's marriage. NCLR is now defending Reynolds and McKinley's marriage against



Oral Argument on March 4, 2008



Kathy Reynolds and Dawn McKinley

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 (Prop 8 Legal Challenge)

 **Partial Loss** | California

On November 5, 2008, NCLR, the ACLU, Lambda Legal, Munger, Tolles & Olson, LLP, the Law Office of David C. Codell, and Orrick, Herrington & Sutcliffe LLP filed a petition asking the California Supreme Court to invalidate Proposition 8. Our petition argued that Proposition 8 is invalid because the California Constitution does not permit the constitutional rights of a minority to be stripped away by a simple majority vote.

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

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

Varnum v. Brien

 **Victory!** | Iowa

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

The case was brought by Lambda Legal on behalf of six same-sex couples. NCLR submitted an *amicus* brief with co-counsel McGuire Woods LLP and Joseph Barron, Esq. on behalf of several professors of family law in support of the couples, addressing the use of social science research in constitutional cases.

This is the fourth state supreme court to rule that same-sex couples must be permitted to marry under state law.

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

 **Victory!** | Colombia

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

OTHER CIVIL RIGHTS

Christian Legal Society v. Kane

 **Victory!** | California

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

On March 17, 2009, the United States Court of Appeals for the Ninth Circuit ruled in favor of Hastings and Outlaw, rejecting CLS's arguments that the school's policy violates its rights to freedom of speech, religion, and association. The Court explained: "Hastings imposes an open membership rule on all student groups—all groups must accept all comers as voting members even if those individuals disagree with the mission of the group. The conditions on recognition are therefore viewpoint neutral

and reasonable." The Ninth Circuit's decision affirmed an earlier ruling by United States District Court Judge Jeffrey White upholding the nondiscrimination policy against CLS's First Amendment challenge. CLS has filed a petition for certiorari to the U.S. Supreme Court, asking them to review the Ninth Circuit's decision.

Iqbal v. Ashcroft

 **Loss** | U.S. Supreme Court
Remand | Court of Appeals

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

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

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

SPORTS

Sulpizio and Bass v. Mesa Community College**🏀 Pending | California**

Lorri Sulpizio was the Head Women's Basketball Coach at San Diego Mesa College (Mesa), and her domestic partner, Cathy Bass, assisted the team and served as the team's Director of Basketball Operations for over eight years. Despite Sulpizio's and Bass's dedication and demonstrated track record of success



Mesa Community College

leading the women's basketball program at the community college, Mesa officials unlawfully fired both coaches at the end of the 2007 academic year after Coach Sulpizio repeatedly advocated for equal treatment of female student-athletes and women coaches, and following publication in a local paper of an article identifying Sulpizio and Bass as domestic partners. NCLR and the law firms of Boxer & Gerson, LLP and Stock Stephens, LLP are representing Coach Sulpizio and Coach Bass in their lawsuit against Mesa Athletic Director Dave Evans, San Diego Mesa College, and the San Diego Community College District. Recent high profile Title IX jury verdicts and settlements at Penn State, California State University, Fresno, and University of California, Berkeley have raised awareness about systemic gender inequities and homophobia at major colleges and universities. This case is a powerful illustration that similar problems pervade the athletic departments of community colleges as well.

On September 8, 2008, the Office of Civil Rights (OCR) of the United States Department of Education, which investigated Mesa's compliance with Title IX with respect to its treatment of student athletes, found "disparities with respect to the scheduling of games, the provision of locker rooms, practice and competitive facilities, and the provision of medical and training facilities." The OCR concluded that those disparities had "a disparate, negative impact on female athletes"

and "collectively established a violation of Title IX." A jury trial on Sulpizio and Bass's discrimination, harassment, and retaliation claims is scheduled to begin in San Diego Superior Court in September 2009.

TRANSGENDER LAW**Gammett v. Idaho State Board of Corrections****🏆 Victory! | Idaho**

Jennifer Spencer is currently serving a 10-year prison sentence for possession of a stolen car and a failed escape attempt that occurred when she was a teenager. Since she has been incarcerated in Idaho, Spencer, a transgender woman, made repeated requests—75 in total—for treatment for her gender identity disorder (GID), but the Idaho Department of Corrections (IDOC) failed to provide her with any appropriate care. Spencer attempted suicide when she learned that prison doctors would not provide any treatment and eventually removed her own genitals using a disposable razor blade in her prison cell, nearly bleeding to death in the process. This case is pending before the Commission.

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. 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.

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

YOUTH**D.A. v. J.W.****🏆 Victory! | Florida**

Seventeen-year-old J.W. and 18-year-old D.A. had been dating for almost six months when J.W.'s mother, Ms. W., learned about their relationship. Because she disapproved of her daughter dating another young woman, in

December 2007, Ms. W. petitioned a Florida court to get a restraining order to prohibit any contact between the two girls. Ms. W. admitted in court that she was seeking a restraining order only because she did not want her daughter to have a relationship with another girl.

Even though no one argued that there was any violence in the girls' relationship, the trial court issued a restraining order, saying that the mere existence of a consensual relationship between D.A. and J.W. was "dating violence" under Florida law. In January 2008, NCLR filed an appeal on behalf of D.A. asking the court to dismiss the restraining order, and arguing that the trial court could not issue a restraining order where there were no accusations of violence. In June 2008, the appeal's court reversed the trial court's decision and dismissed the restraining order.

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

California Education Committee, LLC, et al. v. Jack O'Connell et al.**🏆 Victory! | California**

In November 2007, anti-LGBT organizations filed a lawsuit in federal court, challenging California's safe schools laws that, among other things, protect students from discrimination based on sexual orientation and gender identity. NCLR clients Equality California and the Gay-Straight Alliance Network got involved in the case in order to defend and protect the anti-discrimination laws. In January 2008, shortly after NCLR and our co-counsel filed an *amicus* brief asking the court to dismiss the lawsuit, the anti-LGBT organizations voluntarily dismissed their federal case. Soon after, in March 2008, the anti-LGBT organizations filed a similar lawsuit in California state court in San Diego, and NCLR and our co-counsel again filed an *amicus* brief supporting the California Attorney General's motion to dismiss the case. Just before the scheduled hearing in that case, in November 2008, the anti-LGBT organizations dismissed that case as well, and re-filed in the California state court in Sacramento.

The California Attorney General filed a motion to dismiss this third case, and on March 19, 2009, NCLR and our co-counsel filed another *amicus* brief supporting the safe schools laws. On June 1, 2009, the Sacramento Superior Court issued a decision affirming that the statutes are lawful and dismissing the lawsuit on all counts.

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

IMMIGRATION

Martinez v. Holder

 Pending | Guatemala

Saul Martinez is a gay man from Guatemala who was beaten, sexually assaulted, and threatened by a Guatemalan Congressman and repeatedly harassed by the Guatemalan police because of his sexual orientation. He fled to the United States and applied for asylum. However, in 1992, when he initially applied for asylum without an attorney, the U.S. had not yet recognized sexual orientation as 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.

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.

In re Angelica

 Victory! | Mexico

Angelica was born in Mexico City to a family that raised her with the expectation that she would get married and have children. Her family was also extremely controlling and abusive. She was not permitted to participate in any activities

outside of the home and was physically abused throughout her childhood. When a rumor spread at her school that she had been spotted kissing a girl, in addition to being terrified of her family's reaction, Angelica began facing regular harassment and even physical assaults by classmates and men from her neighborhood. After a young gay man from the neighborhood was viciously murdered, Angelica fled to the U.S. Eventually, she found her way to a shelter where she got in touch with NCLR, the Women's Building, and *Instituto Familiar de la Raza*. With NCLR's help, she filed for asylum and it was granted in September 2008.

In re Barbara

 Victory! | El Salvador

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

In re Alejandra

 Victory! | Guatemala

Alejandra is an 18-year-old transgender woman from Guatemala who struggled for her family's acceptance from a very young age. When Alejandra's father found out that she identified as a girl, he abandoned the family, leaving Alejandra's mom to support two kids alone. Alejandra also faced daily verbal and physical attacks. When local leaders decided she should be killed before she could "contaminate the community," Alejandra's mother put her daughter on a bus out of Guatemala. Fearing for her life, she headed for the United States, walking most of the way and not resting until she reached U.S. soil. With the help of El/La for TransLatinas, she found her way to NCLR's doorstep. With the assistance of Cara Jobson, attorney of counsel to NCLR, Alejandra was granted asylum in September 2008.

John Doe v. Alberto Gonzales

Pending | Egypt

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

In re Vicky

Pending | Mexico

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

In re M.Q.

Victory! | Mexico

M.Q. is a native and citizen of Mexico. When M.Q. was a child, his father often accused him of being a "sissy," and as he grew up, M.Q. was physically assaulted many times by his family, peers, and police because he was gay. One gang of teenage boys who had beaten M.Q. threatened him and told him that if they ever saw him again, they would kill him. In December 2003, M.Q. encountered them again and barely escaped alive. M.Q. fled Mexico, and arrived in the U.S. in January 2004. Although he was afraid to return to Mexico, M.Q. went back once in May 2005 to see his eldest sister, who was dying. M.Q. re-

entered the United States in August 2006, and applied for asylum with help of NCLR. After 2 years of waiting, M.Q. was granted asylum in September 2008.

In re Eduardo

Pending | Mexico

Eduardo is a transgender man from Mexico. When he was a child, his parents often verbally and physically abused him in an attempt to alter his gender identity. After enduring this physical and verbal abuse, Eduardo left his home town for another city in Mexico. He was able to obtain a degree in order to work as a teacher, but he was often harassed because he presented himself as a male, while his ID identified him as female. In 2003, he left Mexico after receiving death threats from his girlfriend's family. He could not start his transition in the U.S. until recently, when he was able to find the resources that he needed. He will be applying for asylum in the summer of 2009.

In re E.G.

Pending | Uganda

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

In re Marta

Victory! | Mexico Immigration Court

Marta is a transgender woman from Mexico who suffered unthinkable verbal, physical, and sexual abuse because of her sexual orientation and gender identity. The abuse began in her youth when she was abducted by a group of armed men. When her brother came to rescue her, he was shot to death in front of her. When the police arrived, Marta was arrested for refusing to give them the names of the men who had abducted her. She was put in jail for several days where she was raped by

the police. After that, she became a frequent target of the police, and when placed in jail for not paying a bribe, she was detained for days at a time and repeatedly raped while imprisoned. In 2001, Marta applied for asylum, withholding of removal, and relief under the Convention against Torture. After hearing her testimony, the Immigration Judge found her credible and granted her applications for withholding of removal and relief under the Torture Convention. U.S. Citizenship and Immigration Services appealed to the Board of Immigration, arguing that she was subject to reinstatement, drawing out an already difficult legal procedure. While the case was pending, she reported regularly to Department of Homeland Security (DHS) pursuant to an Order of Supervision. In November 2008, DHS took Marta into custody in order to reinstate the prior removal order against her. NCLR and pro bono attorney Cara Jobson represented Marta in Immigration Court. Marta remained in custody for 4 months until she was granted withholding of removal and asylum in the United States.

In re M.G.

Pending | Mexico

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

In re R.F.

Victory! | Honduras

R.F. is a young gay man from Honduras who is seeking asylum in the United States. Growing up, R.F. was physically and emotionally abused

by his grandmother and uncles because he didn't conform to gender stereotypes. At school he was also targeted by older children, and when he would try to seek help from his teachers or the principal, he was told that he needed to behave more like a "man" so that the other kids would stop harassing him. By the time he was 13-years-old, his neighbors perceived him as gay and physically assaulted him in public, and he was not safe at home with his family. When he was 17-years-old, he left his home town for the capital, hoping to find a safe environment; instead, he encountered even more violence. There was a particular police officer who would frequently arrest him and then take him to an isolated area, beat him, and rape him. After months of this abuse, R.F. fled his home country and after months of travel, finally arrived in San Francisco where a friend referred him to NCLR. His application was submitted in February 2009 and it was granted in April 2009.

In re R.T.

 Pending | 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 is pending.

In re S.H.

 Pending | Bosnia Immigration Court

S.H. is a lesbian from Bosnia who came to the United States in 2006 to escape the oppressive and abusive conditions she faced because of her sexual orientation in her home country. While vacationing with her girlfriend in another town, a group of men found out that they were lesbians and raped them. The

police initially took a report but later that night told the two women that they had to leave town. The police blamed the women for the assault and accused them of trying to cause problems in a small town. After the rape, S.H. told her mother about her sexual orientation, and her mother turned her back on S.H. and refused to talk to her. At the same time, her father kept her secluded in their home so that S.H. would be unable to see her girlfriend, and was determined to marry her to a man. Her situation was oppressive, but it wasn't until a second rape attempt that she decided to flee her country. She learned about an exchange program and was able to leave Bosnia in 2006. She submitted an asylum application on her own, but was referred to the Immigration Court. Her hearing is scheduled for the summer of 2009. NCLR is working with pro bono attorney Cara Jobson of Wiley and Jobson on her case.

In re V.R.

 Pending | 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 is still pending.

In re Y.G.

 Pending | Mexico Immigration Court

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

In re N.A.

 Pending | 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. His asylum case is still pending.

NCLR'S 32ND ANNIVERSARY CELEBRATION A HUGE SUCCESS!

On May 30, 2009, NCLR celebrated 32 years of fighting for justice for the LGBT community – and everyone had a blast! More than 2,100 lesbian, gay, bisexual, and transgender people and our allies came together to celebrate NCLR's groundbreaking legal advocacy, raising more than \$150,000 that went directly to NCLR's work fighting for civil and human rights for all LGBT people.

Many thanks to everyone who was able to be there to celebrate with us, and for helping to make the event such a smashing success! Were you there? Check out your glamour shot in one of our photo galleries at www.nclrights.org/2009ann.



Photos by Trish Tunney | www.trishtunney.com

Awardees and Special Guests:

Ilene Chaiken, *Voice & Visibility Award*,
presented by Jane Lynch

El/La for Transgender Latinas, *Community Empowerment Award*,
presented by NCLR Immigration Project Director Noemi Calonje

Lara Embry, *Justice Award*,
presented by NCLR Legal Director Shannon Minter

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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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NATIONAL CENTER FOR LESBIAN RIGHTS

Save the date for
next year:
Saturday, May 1, 2010!