

INSIDE THIS ISSUE:



Lawsuit Challenges Tennessee Discrimination Law

See Page 3



NCLR and SPLC Demand Justice in Minnesota School District

See Page 4



NCLR Works on Federal Policy and Rules that Affect You

See Page 5



Elder Law Project Makes Significant Achievements

See Page 5



Stan Wright, Chely Wright, Judge Donna Hitchens, Lisa Howe, Kate Kendell, Kye Allums, and Kate Clinton.

Photo by Trish Turney | www.trishturney.com

NCLR Celebrates 34 Years of Fierce Advocacy

When Donna Hitchens founded the Lesbian Rights Project 34 years ago to address the overlooked discrimination faced by lesbians, her vision was clear: provide fierce advocacy.

It's through that unwavering commitment to equality and justice that the National Center for Lesbian Rights grew, benefiting every member of the diverse lesbian, gay, bisexual, and transgender community through its work.

And on May 21, 2011, more than 1,300 people helped celebrate the commitment to achieving equality and justice that's engrained into every aspect of NCLR's DNA at its 34th Anniversary Celebration in San Francisco, California. Humorist Kate Clinton served as host once again.

This year, NCLR honored five trailblazers in the movement for LGBT equality who each embody the organization's spirit, becoming role models for thousands of people by standing up for what's right.

The awards and honorees:

- **Voice & Visibility Award:**
Openly lesbian country music star Chely Wright and her father, Stan Wright.
- **Justice Award:**
Former Belmont University soccer coach Lisa Howe.
- **Spirit Award:**
First openly transgender Division I basketball player Kye Allums.
- **Founder's Award:**
NCLR founder and retired San Francisco Superior Court Judge Donna Hitchens.

NCLR's special guests were clients Desiree "Dez" Shelton and Sarah Lindstrom, out high school lesbians, who successfully challenged their Minnesota school district in January 2011 so they could walk together as part of the royal court of their school's winter formal.

"Each of our honorees and special guests are our true role models," said NCLR Executive Director Kate Kendell. "They stood up for their beliefs, not only changing history, but helping positively change the lives of thousands of LGBT people across the country for years to come—making them champions in our movement for equality and justice."

Family and acceptance were the empowering—and often emotional—themes of the celebration's speeches, with Kate telling the crowd about coming out to her mother, a Mormon who immediately gave Kate her support. But it wasn't until decades later, after Kate's mother passed away, that Kate stumbled upon her mother's diary, and learned not only about the full scope of her mother's support, but the extent of her love.

Chely and Stan continued the theme, receiving the Voice & Visibility Award. Stan has stood beside Chely through every step of her coming out journey, showing his unconditional love, an example for LGBT people who may fear losing their family's loving support by living authentically.

It was about a year ago that Chely became the first major country music star to come out as gay.



a message from

**EXECUTIVE DIRECTOR
KATE KENDELL**

There's Much to be Proud of this Pride Season

Pride season is always a time to celebrate how far we've come in the movement for lesbian, gay, bisexual, and transgender equality, embracing our accomplishments and our victories.

And we had the tremendous opportunity at the 34th Anniversary Celebration on May 21, 2011 to honor a true pioneer in the movement—NCLR's founder, the Honorable Donna Hitchens, whose vision has transformed the legal landscape for each and every member of the LGBT community, our families, and our allies.

Back in 1977, fresh out of law school, she saw an enormous need for legal advocacy directed squarely at the issues confronting lesbians in this country, and started one of the first legal organizations devoted to justice for our community. It's because of people like her, and the four others we honored at the Anniversary Celebration, that we've come so far.

Their principles are the foundation for our movement, and the bedrock for NCLR's day-to-day work that includes advising federal agencies on implementing policy and regulatory changes that protect LGBT people in such areas as housing, employment, and healthcare.

This is an incredible time for our movement, with so many accomplishments for us to be proud of—from advancements for equality made by our Anniversary Celebration honorees, to President Obama's announcement that Section 3 of DOMA, as applied to legally married same-sex couples, fails to meet standards of equality and is therefore unconstitutional. And then there's Proposition 8, which may well be gasping its final breaths.

We have come a long way in our journey, and as we look ahead, we know our work is not yet done. But for now, be proud.

Very truly yours,

BOARD OF DIRECTORS

Angela Berry
 Tamika Butler, Esq.
 Stacey Camillo, J.D. - *Co-Chair*
 Elizabeth Deeley, Esq.
 Erin Dominguez, Esq.
 Emily Duskow, Esq.
 Dorothy Fernandez, Esq. - *Co-Chair*
 Thelma Garza, J.D.
 Kate Kendell, Esq. - *Executive Director*
 Kelly McCown, Esq.
 Leigh Morgan
 Michelle Ortiz
 Maya Philipson
 Minna Tao

STAFF

Jennifer Barth
Office Manager
 Stephen Berge, Esq.
Public Interest Associate
 Leanna Blankenship
Data and Development Systems Manager
 Noemi Calonje
Immigration Project Director
 Helen J. Carroll
Sports Project Director
 Azael Chávez Laría
Project Assistant

Joshua Delgado
Senior Legal and Project Assistant
 Iain Finlay
Manager of Finance and Administration
 Muna Hawatmeh
Legal Assistant
 Kris Hermanns
Deputy Director
 Melissa Higuchi
Senior Development Assistant
 Kate Kendell, Esq.
Executive Director
 Kari Kussmann
Communications Associate
 Jody Marksamer, Esq.
Staff Attorney & Youth Project Director
 Shannon Price Minter, Esq.
Legal Director
 Erik Olvera
Director of Communications
 Eleanor Palacios
Events Manager
 Daniel Redman, Esq.
Del Martin Memorial LGBT Elder Advocacy Initiative Fellow
 Melanie Rowen, Esq.
Staff Attorney
 Maya Rupert, Esq.
Federal Policy Director

Cathy Sakimura, Esq.
Staff Attorney & Family Protection Project Director
 Christopher Stoll, Esq.
Senior Staff Attorney
 Ilona Turner, Esq.
Staff Attorney
 Amy Whelan, Esq.
Senior Staff Attorney
 Jaan Williams
Policy Assistant
 Ming Wong, Esq.
Helpline Attorney
 Dena Zaldúa-Hilkene
Assistant Director of Development

2011 LAW CLERKS

Emily Cordell
 Kelly Densmore
 Stephanie Duggan
 Elliot Kennedy
 Elizabeth Kim
 Meghan Maury
 Ashley McGovern
 Sirivath Mu
 Erika Scibelli
 Bill Stewart

2011 C. EDWIN BAKER CLERKS

Sam Ames
 Irene Ross

INTERNS

Colleen Fitzpatrick
 Alyssa Linares

NATIONAL ADVISORY BOARD

Kate Clinton - NY
 Fiona Martin - CO
 Yesenia Leon - FL
 Deborah Ortega, PhD. - CO
 Barbara Russo - NY
 Eileen Scallen, Esq. - MN
 Jill Schlesinger - NY
 Sarah M. Schmidt, Psy.D. - IL

NATIONAL ADVISORY COUNCIL

Roberta Achtenberg, Esq. - CA
 Carol Alpert - NY
 Susan A. Gore - TX
 Joyce Hunter - NY
 Phyllis Lyon - CA
 Lory Masters - TX
 Raquel Matas, Esq. - FL
 Nancy Polikoff, Esq. - D.C.
 Ruthann Robson, Esq. - NY
 Abby R. Rubinfeld, Esq. - TN
 Carmen Vazquez - NY

Challenging the Latest Assault on LGBT People in Tennessee

NCLR is teaming up with renowned Nashville attorney Abby Rubenfeld and the law firm of Morrison & Foerster to challenge a new Tennessee law that prohibits local municipalities and counties, including local school districts, from enacting local laws or school policies that protect lesbian, gay, bisexual, and transgender people against discrimination.

On June 13, 2011, the legal team filed a lawsuit on behalf of local officials, individuals, and organizations, challenging the new law that prohibits localities from protecting any group not already protected under state law, including veterans and people with disabilities, among others. Gov. Bill Haslam signed the law last month, just weeks after Nashville added sexual orientation and gender identity to an existing local anti-discrimination law.

According to the complaint: "HB600 embodies an animus toward gay and transgender people so strong that the Tennessee legislature was willing to repeal policies protecting students against bullying

and harassment and to make other groups suffer as well, merely to prevent gay and transgender citizens from obtaining needed protections."



"This law is contrary to core Tennessee values," said Abby R. Rubenfeld, the suit's lead attorney. "Tennessee is the volunteer state—we help each other, we don't single out certain Tennesseans who are deemed unworthy of help. Our legislators abused their power by preventing localities

TENNESSEE—CONTINUED ON PG 4

Historic Prop 8 Ruling Rejects Effort to Disqualify Judge Walker for Being Gay

After hearing the Proposition 8 supporters' motion to disqualify former U.S. District Court Chief Judge Vaughn Walker and invalidate his August 2010 ruling striking down Prop 8, Chief Judge James Ware of the federal district court in San Francisco on June 14, 2011 issued an inspiring defense of the integrity of judges everywhere. Judge Ware, who was appointed by President George H. W. Bush, ruled that Judge Walker had no reason to recuse himself from hearing the case just because he is gay and in a relationship. Judge Ware saw right through the smokescreen the defenders of Prop 8 had thrown up, holding that a decision that Judge Walker could not rule impartially "would come dangerously close to holding that minority judges must disqualify themselves from all major civil rights actions."

Judge Ware's ruling today was a well-deserved vindication for Judge Walker, who presided over the Prop 8 trial with integrity, balance, and poise. He was scrupulously fair to both sides throughout the trial, permitting the defenders of Prop 8 to cross-examine witnesses at length and offer all the evidence they could muster in defense of the initiative—which turned out to be essentially nothing.

Echoing the arguments made by civil rights groups who had filed friend-of-the-court briefs on this issue, Judge Ware incisively stated the central problem with the Prop 8 supporters' challenge to Judge Walker. "In our society," Judge Ware explained, "a variety of citizens of different backgrounds coexist because we have

constitutionally bound ourselves to protect the fundamental rights of one another from being violated by unlawful treatment. Thus, we all have an equal stake in a case that challenges the constitutionality of a restriction on a fundamental right." As Judge Ware recognized, no judge has more of an interest that any other judge in these broad constitutional values, and to decide otherwise would mean that minority judges would automatically be disqualified from ruling on a vast array of cases affecting important civil rights.

One of the legal tests that applied to the motion asks whether a "reasonable person" would question whether a judge was impartial. Here again, Judge Ware knocked it out of the park:

"A well-informed, thoughtful observer would recognize that the mere fact that a judge is in a relationship with another person—whether of the same or the opposite sex—does not ipso facto imply that the judge must be so interested in marrying that person that he would be unable to exhibit the impartiality which, it is presumed, all federal judges maintain. To assume otherwise is to engage in speculation about a judge's motives and desires on the basis of an unsubstantiated suspicion that the judge is personally biased or prejudiced."

This is a victory for common sense. It is gratifying to see such a strong reaffirmation, from yet another Republican-appointed judge, that sexual orientation has no bearing on anyone's ability to do their job, including a federal judge.

News & Announcements

Want to be in a NCLR Promo?

Want to be in a promo for the National Center for Lesbian Rights? We are proud to announce our "I am NCLR..." photo campaign, designed to reflect and showcase our clients and supporters who fight alongside us everyday to ensure that every lesbian, gay, bisexual, and transgender person can live with dignity and security.

Through March 31, 2012, we would like your photos—your portraits, snapshots and special moments—with a homemade poster or sign in which you fill in the sentence, "I am NCLR, and I am..." telling us how you reflect our groundbreaking work.

Learn more at NCLRights.org.

Support NCLR through eScrip!

Looking to support the National Center for Lesbian Rights 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?

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.

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 identification number: 500022336.

Stay Up-To-Date with NCLR!

NCLR is committed to fighting for your rights, and keeping you informed of all the legal decisions and key policies that impact your lives, as well as the lives of your family and friends.

You may have noticed that our legal team over the past few months has busily been providing you with comprehensive analysis of important legal developments, breaking down and interpreting complicated issues for you, and, in the process, answering your questions about how issues affect your lives.

Log on, and stay tuned-in to all of our latest work and LGBT news.

 NCLRights.org

 Facebook.com/NCLRights

 Twitter.com/NCLRights

 YouTube.com/NCLRights

 NCLRights.WordPress.com

NCLR and SPLC Demand that Minnesota School District Repeal Discriminatory Gag Policy and Address Anti-LGBT Harassment

Lesbian, gay, bisexual, and transgender students in Minnesota's largest school district for years have suffered under a shockingly hostile environment, encouraged by the district's official "gag policy"—put in place at the urging of anti-gay extremists—that prevents teachers from discussing any issues related to LGBT people and prevents schools from taking effective steps to prevent anti-LGBT bullying.

Last month, NCLR and the Southern Poverty Law Center (SPLC) sent a letter to Minnesota's Anoka-Hennepin School District demanding that the District immediately repeal the gag policy, and take immediate action to address the pervasive bullying and harassment of LGBT students in the District.

As made abundantly clear in the District's own guidance about the policy, the gag policy singles out a vulnerable and disfavored minority—LGBT students—and prevents teachers and other district employees from supporting, or even effectively protecting, those students within the classroom. The mandatory silence imposed by the policy leaves teachers without tools to handle anti-LGBT bullying, and creates an atmosphere in which LGBT students are isolated and feel unprotected.

The letter from NCLR and SPLC warns the District that the gag policy violates the Equal Protection Clause of the United States Constitution. "This fundamental constitutional guarantee prohibits school district officials

from singling out any group of students for disfavored treatment based solely on their membership in an unpopular minority," the letter states. "The gag policy singles out LGBT students by denying them and them alone any affirmation of their identity and by categorically precluding any meaningful classroom discussion about history, literature, current events, or any other relevant lessons



Dez Shelton and Sarah Lindstrom.

involving LGBT people. The policy imposes a stigma on LGBT students as pariahs, not fit to be mentioned within the school community, a message that comes across loud and clear both to LGBT students and their peers, and which has grave repercussions for the psychological and emotional development of LGBT students."

The letter was prompted after a number of present and past District students

requested that SPLC and NCLR investigate the serious verbal and physical harassment they have experienced based on their actual or perceived sexual orientation or gender expression at District schools. The ongoing investigation has found that the gag policy contributes significantly to the lack of safety of LGBT students and students perceived as LGBT within the District. The investigation revealed that time after time, school officials either ignored or responded ineffectively to student reports of anti-LGBT bullying.

The letter calls for the prompt repeal of the gag policy and immediate action to address and prevent the bullying of LGBT students and those perceived as LGBT. The letter warns the Anoka-Hennepin School District that without meaningful action to remedy the current hostile environment, the organizations intend to file a federal lawsuit on behalf of their clients against the District.

In January 2011, NCLR and SPLC, along with the Minneapolis law firm of Faegre & Benson LLP, brought a lawsuit in federal court for an emergency injunction against the same district when it threatened to cancel the traditional royalty court procession for the Snow Days winter formal dance at Champlin Park High School in order to prevent two lesbian students, Dez Shelton and Sarah Lindstrom, from walking together. That lawsuit was successfully resolved in mediation and the District agreed to allow the girls to walk together.

TENNESSEE—CONTINUED FROM PG 3

from assisting their own citizens. Rather than considering what is best for our state, they passed a law based on disapproval of gay and transgender people, which the Tennessee and U.S. Constitutions do not permit."

"Fifteen years ago, in fact—in a case quite similar to this one—the U.S. Supreme Court ruled that, 'if the constitutional conception of 'equal protection of the laws' means anything, it must at the very least mean that a bare... desire to harm a politically unpopular group cannot constitute a legitimate governmental interest,'" said Rubinfeld, citing *Romer v. Evans*, which struck down a Colorado constitutional

amendment that barred localities or the state from passing laws to prohibit discrimination against gay people.

No individual businesses went on record in support of HB600, and some of Tennessee's largest employers, including Nissan, Alcoa, FedEx, AT&T, Whirlpool, and Comcast, opposed the bill. In addition, the Tennessee Chamber of Commerce issued a public statement in opposition to the bill on the day it was signed into law by Gov. Haslam.

"Under the very thin guise of protecting businesses and commerce, Tennessee passed a law specifically intended to encourage discrimination against lesbian, gay, bisexual, and

transgender members of the community," said Shannon Minter, Legal Director of the National Center for Lesbian Rights. "This law is part of a larger, national strategy to attack cities and counties that attempt to protect their citizens from discrimination based on characteristics that bear no relationship to job performance, talent, or one's ability to contribute to society."

Plaintiffs' claims are based on the equal protection guarantees of the United States and Tennessee Constitutions. The lawsuit, which will proceed in state court, seeks injunctive relief to stop the enforcement of HB600 and an order from the Court declaring the law unconstitutional.

NCLR Continues to Advance LGBT Policy at the Federal Level

By Maya Rupert, Esq.

Federal Policy Director

Things are really heating up in Washington D.C. this summer. And we're not just talking about the weather.

Following the Obama administration's game-changing decision to stop defending the discriminatory so-called Defense of Marriage Act, there has been significant momentum in D.C. moving federal lesbian, gay, bisexual, and transgender issues forward. And NCLR has made sure to capitalize on that momentum to help achieve some important victories. In addition to our work advancing our priorities on the legislative level, NCLR has helped in a number of important advancements on the administrative level.

NCLR has identified a strong need to address the violence that plagues transgender women and girls, and we are actively working at the federal level to partner with agencies and work together to combat the problem. Recently, NCLR was invited to host a brown bag lunch presentation for the Department of Justice (DOJ) to educate key staff about the prevalence of this violence and what DOJ can do to address it. We have also met with the White House Council for Women



and Girls, where the project was received extremely positively.

NCLR continues to partner closely with the Department of Housing and Urban Development (HUD) as it extends increased protections against housing discrimination to the LGBT community. In particular, we and played a key role in its most recent proposed rule that makes several changes to HUD regulations to ensure equal access to several housing programs to LGBT people. NCLR participated in several roundtables and conferences along with John Trasviña, Assistant Secretary for Fair Housing and Equal Opportunity, to discuss the rule and how it should be revised prior to becoming final. NCLR was also the lead drafter on public comments for the rule that were joined by over 30 other organizations. Most

recently, NCLR organized and facilitated a meeting with key members of HUD staff and LGBT advocates to talk specifically about the housing needs of the transgender community.

Finally, we have also played an important role in several health policy advancements, particularly in ensuring equal access to LGBT patients and their families in hospital settings. In addition to having played a part in advocating for the final hospital visitation regulations, NCLR will present a workshop at the Gay and Lesbian Medical Association conference this fall, using our expertise on the regulations to educate healthcare providers of their changing responsibilities under the new rule. NCLR had strongly urged the Department of Health and Human Services (HHS) to address the related issue of medical decision-making, which was originally outside the scope of what they expressed interest in doing. HHS recently announced that it will soon issue guidance on medical decision-making. NCLR is once again the lead drafter in comments that will be joined by other organizations providing analysis to HHS on how best to craft regulations that will serve the LGBT community.

Elder Law Project Makes Significant Achievements

By Daniel Redman, Esq.

NCLR Elder Law Project Fellow

NCLR's Elder Law Project enjoyed an exciting year, with great advances in litigation, legislative advocacy, and outreach.

In courts, administrative agencies, and at the settlement table, NCLR has seen win after win. Alongside co-counsel in Sonoma County, we won a \$600,000 settlement for Clay Greene after Sonoma County officials separated him from his partner Harold, put him in a nursing home against his will, and deprived the couple of the chance to spend their final weeks together before Harold's death.

After months of delay, NCLR won Medicare benefits for Jamie Wyatt—a transwoman in California—whose benefits had been held up solely because of her gender identity. In the South, we helped an elder lesbian with disabilities avoid appointment of a guardianship, so she could leave the nursing

home and go home to live with her partner after state officials had kept them apart on wrongful pretenses. In the year to come, NCLR will continue to pursue an aggressive litigation strategy in state, federal, and administrative courts.

Policy work sets the law, and we've been deeply involved in crafting new statutes to protect LGBT elders at both the state and federal level. Currently, we're working with a California state senator's office on a bill that would mandate cultural competency training as part of continuing education. When Rep. Tammy Baldwin proposed an Omnibus LGBT Aging Bill to remedy provisions in the federal code discriminating against LGBT elders, NCLR reviewed and provided comments.

In addition, NCLR is working with LGBT elder advocates across the state of California to push for the full implementation of AB2920 and SB1729—laws that mandate full inclusion of LGBT elders in Area Agency on Aging

planning and require cultural competency training for nursing home personnel.

In the coming year, the Del Martin Initiative will delve into additional federal work, pushing agencies to revise anti-LGBT (and especially anti-trans) policies, partnering with the Department of Housing and Urban Development on issues affecting low-income elderly households, and working to ensure that older LGBT individuals will be recognized as a vulnerable population for the purposes of the Older Americans Act's funding priorities.

With our funding renewed for another year by the Pride Law Fund, NCLR will continue to build on these successes and accomplishments. With strong court-based advocacy, an understanding of the legislative process, and innovative publications, we will find newer and better ways of serving the LGBT elder community.

NCLR Active Cases

U.S. SUPREME COURT

Christian Legal Society v. Wu

 **Victory!** | California

Like many public schools, the University of California - Hastings College of the Law requires funded student groups to comply with Hastings' policy on non-discrimination. In 2004, the Christian Legal Society (CLS) filed a lawsuit arguing that this requirement violated CLS' First Amendment right to discriminate against LGBT and non-Christian students. NCLR and Paul Smith of Jenner & Block LLP, represented Outlaw, the LGBT student group at Hastings, which intervened to defend the University's policy.

On June 28, 2010, the United States Supreme Court upheld public universities' rights to require funded student groups to comply with non-discrimination policies. This case is important not only because of its impact on student groups, but because the Supreme Court put a stop to CLS' and other far right religious groups' efforts to undermine non-discrimination laws by establishing a First Amendment "right to discriminate" even when a group is receiving public funds.

Doe v. Reed

 **Victory!** | Washington State

In this case, anti-gay groups asked the U.S. Supreme Court to overturn a court order disclosing the names of 138,000 people who signed petitions supporting an anti-gay ballot initiative in Washington State. In November 2009, Washington voters rejected this attempt—Referendum 71—and preserved the state's domestic partnership law.

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, defended open government laws requiring public disclosure of individuals who support state ballot initiatives. The brief refutes the false claim that supporters of anti-gay initiatives have been subjected to "systematic intimidation" by the LGBT community. In fact, it is LGBT people who 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.

On June 24, 2010, the United States Supreme Court decisively rejected the challenge to the disclosure requirement. The case is pending on remand in the Western District of Washington.

PARENTING

Charisma R. v. Kristina S.

 **Victory!** | California and Texas

After being together for six years, Charisma R. and Kristina S. had a child. Kristina gave birth in 2003, and Charisma was the primary caretaker. When their child was only a few months old, Kristina abruptly separated from Charisma, taking the child with her. A court initially denied Charisma visitation, but the California 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 review.

Kristina moved to Texas and tried to challenge the California rulings there, but the Texas court denied Kristina's petition.

Charisma is represented pro bono by Amanda List and Deborah Wald, with assistance from NCLR. In Texas, Charisma was represented pro bono by Debra Hunt and Connie Moore. Charisma was previously represented by Amy Rose of Squire Sanders & Dempsey, LLP, Algera Tucker, and Rachel Catt.

Ex Parte ARR

 **Pending** | Puerto Rico

ARR and CCV are a lesbian couple who have been together for more than twenty years. They had a child together through assisted reproduction, with CCV giving birth, and ARR has always acted as an equal parent to their daughter. Their daughter recognizes both of them as her mothers, and has a strong bond with both women.

The lower court held that Puerto Rico's adoption statute did not permit the couple to obtain a second-parent adoption to protect ARR's relationship with their daughter.

On appeal, NCLR and the ACLU of Puerto Rico filed an *amicus* brief with the Puerto Rico Supreme Court arguing that the statute discriminates against same-sex couples and unconstitutionally disadvantages children with unmarried same-sex parents by denying them a legal relationship with both their parents.

Florida Department of Children and Families v. M.J.H.

 **Victory!** | Florida

V.A., a lesbian who lives in Florida with her partner, has been raising a baby boy, E.L.A.—a relative of V.A.'s—since nine days after he was

born. After Florida's Department of Children and Families ("DCF") terminated the parental rights of E.L.A.'s birth mother, V.A. applied to adopt E.L.A. During a hearing, numerous witnesses testified that V.A. was a loving mother and that the adoption would be in E.L.A.'s best interests. DCF withheld its consent to the adoption solely because Florida law prohibits "homosexuals" from adopting. The trial court granted the adoption, holding that the adoption ban violates Florida's constitution and DCF appealed.

V.A. was represented by Alan Mishael and Elizabeth F. Schwartz. With pro bono help from Cristina Alonso at the law firm of Carlton Fields, NCLR submitted an *amicus* brief to the Court of Appeal explaining the historical context of the adoption ban, which passed in 1977 during Anita Bryant's hateful anti-gay campaign, and showing that the ban unfairly targets lesbian, gay, and bisexual people while allowing all other groups individualized consideration. The brief argued that the law is unconstitutional under the Florida constitution's prohibitions of bills of attainder and special laws, and its equal protection requirement.

On October 28, 2010, the Court of Appeals affirmed the trial court's decision allowing V.A. to adopt E.L.A.

Debra H. v. Janice R.

 **Partial Victory** | New York

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, Debra and Janice lived together and parented the 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 years old. A trial court awarded Debra visitation, and Janice appealed that decision, arguing that Debra should have no parental rights.

New York's highest court, the Court of Appeals, held on May 4, 2010 that Debra is a legal parent because New York must recognize the Vermont civil union for purposes of parentage. Unfortunately, the Court declined to overrule a similar, earlier case, *Alison D. v. Virginia M.*, which held that non-biological and non-adoptive parents cannot seek custody or visitation, leaving many families without legal protection.

NCLR, joined by LGBT advocacy organizations from around the country, wrote an *amicus* brief. Wilson Sonsini Goodrich & Rosati assisted with the brief pro bono.

Smith v. Quale**Victory! | California**

Kim Smith and Maggie Quale were in a committed relationship for over two years. They had children together using a friend 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 Kim's contact with the twins. Kim filed a parentage action in Santa Cruz County, 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. The court granted Kim joint custody in preliminary hearings. On February 18, 2010, Kim and Maggie settled the case so that both women are considered legal parents.

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

Karen Atala Rizzo v. Chile**Victory! | Inter-American Commission on Human Rights**

On May 31, 2004, a Chilean Court ordered Karen Atala, a judge in Chile, to relinquish custody of her three children to her estranged husband because she is a lesbian living with her partner. The Supreme Court of Chile based its decision on the long-discredited and unsupportable notion that lesbian parents are harmful to children. Atala took her case to the Inter-American Commission on Human Rights (IACHR) in Washington, D.C. NCLR, the New York City Bar Association, Human Rights Watch, International Gay and Lesbian Human Rights Commission, International Women's Human Rights Law Clinic at the City University of New York, Lawyers for Children, Inc., Legal Aid Society of New York, and Legal Momentum filed an *amicus* brief in support of Atala, arguing that the Court's decision is contrary to the weight of international authority.

The IACHR determined in 2009 that Chile "violated Karen Atala's right to live free from discrimination" when it revoked Atala's custody. The IACHR urged Chile to make reparations and to adopt "legislation, policies and programmes" to prohibit and eradicate discrimination based on sexual orientation.

In September 2010, the IACHR determined that Chile had not taken steps to address the

discrimination against Atala and her daughters or to eliminate discrimination based on sexual orientation. The case is pending before the IACHR in Costa Rica to determine Chile's liability under the American Convention of Human Rights.

MARRIAGE & RELATIONSHIP RECOGNITION**Jackson v. D.C. Board of Elections and Ethics****Victory! | Washington, D.C.**

NCLR is part 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. Covington & Burling represents the Campaign. On December 15, 2009, the D.C. City Council passed "The Religious Freedom and Civil Marriage Equality Amendment Act of 2009," permitting same-sex couples to marry. Mayor Adrian Fenty signed the measure, which took effect on March 3, 2010.

Opponents of marriage equality unsuccessfully attempted to halt the implementation of D.C.'s marriage equality laws in court, which NCLR helped oppose as part of the Campaign. When those efforts failed, opponents of marriage equality sought to put the new D.C. marriage law to a popular vote. The D.C. Board of Elections and the lower courts rejected that effort, ruling that the D.C. Human Rights Act prohibits initiatives that seek to deny rights to a minority group. The District's highest court issued a final ruling on July 15, 2010, affirming the rulings of the Board and the lower courts. The initiative's backers filed a petition for certiorari with the U.S. Supreme Court, but on January 18, 2011, the Supreme Court denied that petition.

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 California law requiring the state to grant all the rights and benefits of marriage to same-sex couples married in other states or countries after November 5, 2008, she asked her employer to add her wife to 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, and educated them about their responsibilities under SB 54, CalPERS modified their guidance to comply with SB 54. The Alameda County Fire Department then added Nancy's wife to all of her employee benefit plans.

Perry v. Brown**Victory! Appeal Pending | California**

On May 22, 2009, two same-sex couples filed suit in federal court challenging Proposition 8, which amended the California Constitution to prohibit marriage by same-sex couples. NCLR, the ACLU, and Lambda Legal filed an *amicus* brief in the case, arguing that Proposition 8 violates the federal Constitution. On August 4, 2010, Judge Vaughn Walker ruled that Proposition 8 violates the federal Constitution's guarantees of due process and equal protection.

The Ninth Circuit Court of Appeals stayed Judge Walker's ruling pending appeal by the proponents of Proposition 8. The Ninth Circuit asked the parties to address whether the Proposition 8 proponents have "standing" – that is, whether they have the legal right to appeal the case. NCLR, the ACLU, Lambda Legal, and Gay & Lesbian Advocates & Defenders (GLAD) filed another *amicus* brief arguing that it should uphold Judge Walker's decision. The Ninth Circuit heard oral argument in the case on December 6, 2010. Shortly thereafter, the Ninth Circuit asked the California Supreme Court to clarify whether California law gives ballot initiative sponsors the power to override the litigation decisions of the Attorney General and the Governor. NCLR, Lambda Legal, and Equality California filed an *amicus* brief with the California Supreme Court.

On April 25, 2011, Proposition 8's proponents filed a motion seeking to vacate Judge Walker's decision, arguing that because he is gay and in a long-term relationship, he was unfairly biased. NCLR, Lambda Legal, and the ACLU filed an *amicus* brief arguing that it would be discriminatory to exclude gay judges from ruling on all LGBT-rights issues. The district court's hearing on that motion took place on June 13, 2011.

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 sought to invalidate



Kathy Reynolds and Dawn McKinley

Reynolds and McKinley's marriage in court. NCLR successfully defended Reynolds and McKinley before the Cherokee high court. Two days later, various members of the Cherokee Nation Tribal Council sought again 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 marriage. NCLR is now defending Reynolds and McKinley's marriage against this third challenge. NCLR asked the court to dismiss the case and is waiting for a ruling.

ELDER LAW

Greene v. County of Sonoma et al.

Victory! | California

NCLR clients Clay Greene and the estate of Harold Scull, Greene's deceased partner of 20 years, reached a settlement on July 22, 2010 resolving their lawsuit against the County of Sonoma and other defendants. Greene and Scull's estate will receive more than \$600,000.

Greene and Scull lived together for 20 years and had executed mutual powers of attorney for medical and financial decisions and wills naming each other as beneficiaries. In April 2008, County employees separated the couple after Scull fell outside their home. County officials then ignored the couple's legal documentation, unlawfully auctioned their possessions, terminated their lease, and forced Greene into an assisted living facility against his will. The County did not consult Greene in Scull's medical care and prevented the two from seeing one another. In August, 2008, before the partners were reunited, Scull passed away.

In August, 2009, Greene and the representative of Scull's estate filed a lawsuit against the County. In addition to agreeing to pay a substantial sum, the County has changed or

modified a number of important policies in its Public Guardian's Office, including requiring County employees to follow protocols before seizing private property, preventing County employees from relocating elders or others against their will, and prohibiting County employees from backdating information in their guardianship database. NCLR represented Greene and the estate of Scull along with The Law Office of Anne N. Dennis and Stephen O'Neill and Margaret Flynn of Tarkington, O'Neill, Barrack & Chong.

Jamie Wyatt (Medicare Benefits)

Victory! | Federal

NCLR client Jamie Wyatt applied for Medicare Part A and qualified for coverage. Because she is a transgender woman, the Social Security Administration delayed her benefits for months while it debated whether it would recognize her pre-transition marriage for purposes of qualifying for benefits. During the delay, Ms. Wyatt had to pay over \$300 per month out of her fixed income. NCLR advocated on her behalf with Medicare officials, arguing that Ms. Wyatt clearly qualified for benefits, her marriage should be recognized, and that she deserved both premium-free Medicare and a full reimbursement of the money she paid. In February 2011, the Social Security Administration awarded the benefits.

ANTI-DISCRIMINATION

Ghiotto v. City of San Diego

Partial Victory | California

After being ordered to drive a fire engine in the 2007 San Diego LGBT Pride Parade as paid employees, a group of firefighters sued the City for sexual harassment and violation of their rights to free speech because they objected to the message of inclusion and support for LGBT rights. The firefighters lost on their freedom of speech claim but prevailed on the sexual harassment claim in the trial court. NCLR filed an *amicus curiae* brief in the California Court of Appeal to defend the importance of Pride parades and to make clear that public employees do not have a constitutional right to refuse needed emergency services to LGBT people or to refuse to participate as representatives of the city to promote goodwill between city departments and the LGBT residents they serve. On October 14, 2010, the Court of Appeal affirmed the trial court's ruling rejecting the firefighters' free speech claims, but upheld the judgment against the city on the sexual harassment claims.

SPORTS

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

Pending | Washington State

NCLR clients Steven Apilado, LaRon Charles, and Jon Russ had played in the San Francisco Gay Softball League and attended 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. During the championship, another team challenged D2's eligibility based on a tournament rule limiting each team to 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. A panel then voted on whether each player was "gay" or "non-gay." The predominantly white panel 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 the same answers as Jon—were gay.

The committee disciplined Steven, LaRon, and Jon, their team, and the San Francisco Gay Softball League and forced their team, D2, to forfeit their second-place win. Despite its policy of welcoming all players regardless of their sexual orientation, the North American Gay Amateur Athletic Association (NAGAAA), which organizes the Gay Softball World Series, refused to change the discriminatory rule that excludes players based on sexual orientation or to stop interrogating players about their sexual orientations. NCLR and Suzanne Thomas and Peter Talevich of K & L Gates LLP represent Steven, LaRon in federal court in the Western District of Washington. On May 31, 2011, the Court ruled that NAGAAA is subject to Washington anti-discrimination laws as a "place of public accommodation." Trial is set for August 1, 2011.

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 served as the

team's Director of Basketball Operations for over eight years. Despite successfully leading the women's basketball program at the community college, Mesa officials discharged both coaches at the end of the 2007 academic year after 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 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 Sulpizio in a jury trial in San Diego. On December 3, 2009, NCLR won a favorable jury verdict for Sulpizio on her retaliation claims. The 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.

TRANSGENDER LAW

Adams v. Federal Bureau of Prisons et al.

 Pending | Massachusetts

Vanessa Adams, a transgender woman, sought medically necessary treatment for Gender Identity Disorder (GID) while she was incarcerated in federal prison. Ms. Adams was diagnosed with GID in 2005 and made at least 19 requests for hormone treatment for GID. Prison officials repeatedly denied the requests because Ms. Adams had not received treatment for GID prior to incarceration. Because of those denials, Ms. Adams attempted suicide multiple times and eventually removed her own genitals in an attempt to live consistently with her gender identity.

NCLR, Gay & Lesbian Advocates & Defenders, Florida Institutional Legal Services, and Bingham McCutchen LLP, filed a lawsuit in February 2009

against the Federal Bureau of Prisons seeking to enjoin the Bureau from subjecting Ms. Adams to unconstitutional treatment and seeking to abolish its GID policy. The Bureau filed a motion to dismiss the lawsuit in September 2009, which a U.S. district court judge in Massachusetts denied on June 7, 2010.

In re M.

 Pending | California

M. is a transgender man with physical disabilities that prevent him from cleaning, preparing food, and other life activities. He applied for services to help him around his home, but was denied those services after he came out as transgender. We are currently representing him in his appeal.

V.'s case

 Pending | Illinois

V. is a transgender woman employed by a large company. She is afraid to change her name and gender markers because the company has threatened to withhold benefits for her wife if she does. We are currently working with her and the company to resolve this problem.

YOUTH

In re D.B.

 Victory! | Ohio

In Ohio, a 12-year-old boy was charged and prosecuted for statutory rape—a first degree felony—for intimate conduct with an 11-year-old male friend. After finding that D.B. had engaged in voluntary conduct with his friend, the court sentenced D.B. to indefinite probation, prohibited him from any contact with his friend, and ordered that he attend counseling and group therapy for sex offenders. If the boy violated any of these conditions, he could be incarcerated until age 21. NCLR, the National Juvenile Defender Center, and the Juvenile Law Center filed an *amicus* brief in August of 2010 arguing that it was unconstitutional to apply this law to a child under 13 – a member of the very class the law was designed to protect. The brief argued that giving prosecutors discretion to bring such charges against either participant was unfair and could be used to target youth who are perceived as gay. The brief also argued that the consequences of a conviction as a sex offender for a child are severely disproportionate to the conduct, including the fact that the conviction can never be expunged from the child's juvenile record and that he would have to register as a

sex offender if he moved to some other states.

On June 8, 2011, in a unanimous decision, the Ohio Supreme Court agreed that the law was unconstitutional as applied to any child under 13, and reversed D.B.'s conviction. Brooke Burns, from the Juvenile Division of the Office of the Ohio Public Defender argued the appeal on behalf of D.B.

Anoka-Hennepin School District

 Pending | Minnesota

NCLR, the Southern Poverty Law Center (SPLC), and Faegre and Benson LLP represent a group of current and former students from the Anoka-Hennepin School District in Minnesota who experienced pervasive verbal and physical harassment based on their actual or perceived sexual orientation or gender expression. The hostile environment for LGBT students stems in part from the District's "gag policy" that prevents teachers from discussing issues related to LGBT people. The gag policy discriminates against LGBT people and, also isolates and fails to protect LGBT students. That hostile environment has serious consequences for LGBT youth. At least four LGBT students within the District have died by suicide since November 2009.

On May 24, 2011, NCLR and SPLC sent a letter to District officials demanding that they repeal the gag policy and take action to address the frequent bullying and harassment of LGBT students. If District officials fail to comply, NCLR and SPLC will file a lawsuit.

Shelton v. Anoka-Hennepin School District

 Victory! | Minnesota

Desiree "Dez" Shelton and Sarah Lindstrom were girlfriends and seniors at Champlin Park High School in the Anoka-Hennepin School District, north of Minneapolis. They were elected by their classmates to the royalty court for their school's winter formal dance in January 2011 and they planned to walk together in the procession just like any other couple. Days before the procession, school officials told the girls that they could not walk together because other students might be "uncomfortable." NCLR and the Southern Poverty Law Center (SPLC) worked with the Minnesota law firm of Faegre & Benson LLP and sent a demand letter outlining the District's violations of the girls' rights under the First Amendment, the Equal Protection Clause, and the Minnesota Human Rights Act. The District refused to back down, so NCLR and our co-counsel sought an emergency court

injunction ordering the school to allow the girls to participate as a couple at the event. The judge scheduled a mediation the next day, during which the District agreed to allow Dez and Sarah, and any other same-sex couple, to walk together in the procession.

Doe v. Vermilion Parish School Board

Partial Loss | Louisiana

In the fall of 2009, the Rene A. Rost Middle School in Vermilion Parish, Louisiana implemented mandatory sex-segregated classes, without offering equivalent co-ed classes for students or parents who objected. The ACLU sued the school district in federal court, arguing that the mandatory single-sex classes violated the federal law against sex discrimination in education, Title IX. The district court ruled for the school and the plaintiffs appealed to the Fifth Circuit Court of Appeals.



NCLR joined an *amicus* brief in support of the plaintiffs, filed on June 6, 2010, written by the National Women's Law Center and Morrison and Foerster LLP. The brief argued that the school's mandatory sex segregation policy violated both Title IX and the equal protection clause of the U.S. Constitution because it discriminated against students based on sex and relied on gender stereotypes to create different classes for boys and girls.

On April 6, 2011, the Fifth Circuit affirmed the district court's denial of a preliminary injunction but remanded the case to the district court for further consideration of plaintiffs' claims.

IMMIGRATION

In re Maria G.

Pending | Mexico

Maria G. is a lesbian from Guerrero, Mexico who suffered constant verbal and physical abuse by her father and male siblings. In one incident, at the age of 8 or 9, her father threw her against the wall so hard that she lost consciousness. Her mother thought her father had killed her. His hatred towards her stemmed from her gender identity and perceived sexual orientation.

As she grew older, school mates, relatives, strangers, and gang members verbally and physically abused her as well. In one vicious attack, gang members stabbed her after being ordered to "get rid of the dyke in town." After this horrendous attack, Maria G. fled to the United States. In the U.S., Maria was at a party with her partner and friends when a stranger started harassing her girlfriend. To avoid further problems, they left the party but were followed by the man and his friends, who attacked Maria outside. The police then arrested Maria and her attackers. Although she was the victim and no charges were filed against her, ICE picked her up and detained her. She was released under the Intensive Supervision Appearance Program (ISAP) and was referred to Immigration Court. NCLR helped her apply for asylum in February 2010 and her hearing is in December 2011.

In re Fernando

Victory! | Honduras

Fernando is a young gay man from Honduras. His first memories of his life are of relatives calling him derogatory names. His mannerisms made him an easy target at school where he was isolated, humiliated, and beaten. During one attack, several boys in the school beat him and broke one of his teeth. The school never punished the boys. When he was 11 years old, his mother moved to the United States to earn money to support her three kids. After his mother left, Fernando was constantly beaten and belittled at home. One evening, he witnessed several men savagely attack a gay man in his neighborhood. The police later told the victim he was beaten because he was a 'fag'.

Fernando fled to the United States in 2006. After four years in the U.S., Fernando returned to Honduras because his grandmother was terribly ill, despite the danger he would have to face. He remained in Honduras for a short period of time and returned to the U.S. in February 2010 after experiencing more violence. NCLR filed his asylum application in February 2011 and his asylum was granted in March 2011.

In re P. T.

Pending | Mexico

P. T. is a transgender woman from Mexico. Due to her effeminate behavior, she was verbally and physically abused at home, in school, and out on the streets. Her stepfather also sexually abused her for years and her mother did nothing to protect her. In high school, male students constantly beat and harassed her, yet she kept up with her studies. When she confronted her mother as an adult about the sexual abuse she

had suffered, her mother became very angry and told her she never wanted to see her again. She knew then that her family would never accept her as a transgender woman. There was no refuge for her and she fled to the United States in September 2002.

Upon arriving to the U.S., she started an abusive relationship that lasted many years. She was constantly belittled, isolated, and beaten. It wasn't until she found the support at Tom Waddell Clinic that she started to make some positive choices for herself. NCLR submitted her asylum application in January 2011 and her case is pending.

In re Izel R.

Pending | Mexico

Izel, a transgender woman, faced constant discrimination, harassment, and violence because of her gender identity and sexual orientation. From a very young age, she was rejected at home and school because she did not behave like a typical boy and suffered verbal, physical, and sexual abuse. She was once jailed by the police because someone accused her of stealing a dress that she had simply touched. She was only 11-12 years old, yet was put in a cell with adult males who harassed her. When her sister came to pay her bond, the officers did not want to release her. Her sister had to plead with the chief of police to release her because she was still a minor.

As she grew older, the abuse and violence increased. When her father attempted to kill her with his machete, Izel fled to the United States. For the next few years, she lived in total isolation and fear of being attacked, detained, and deported to Mexico. She struggled with her gender identity and it wasn't until 2008 that she heard the word "transgender" in a class. In 2010, she found the El/La Para Trans Latinas program in San Francisco and found the support there that she had never before received. El/La referred her to the Tom Waddell Clinic where she started her hormonal treatment. NCLR helped her file an asylum application, which is still pending.

In re V. R.

Pending | Guatemala

V. R. is a Guatemalan gay man who was relentlessly teased as a child. As he grew older, he was often isolated from his group of peers and frequently beaten. V.R. studied to become a teacher, but when his parents started spreading rumors about his sexual identity, he was fired from his job. In 1995, he fled to the U.S. to seek refuge, but had to return in 2000 when his father fell gravely ill. Upon his return to Guatemala, he

found that things had not changed in his country. He had several encounters where the police refused to help him and his friends because of their sexual orientation. While walking on the street one night, V.R. and his friends were verbally harassed and savagely beaten by a group of men. V. R. fled to the United States. In 2009, V.R. landed in ICE custody after a police encounter. NCLR collaborated with the Lawyers' Committee for Civil Rights' pro bono attorney David Tsai in representing V.R. His asylum application was submitted in August 2009 and his next hearing is in July 2011.

In re G. R.

Victory! | El Salvador

G.R. is a transgender woman from El Salvador who experienced serious verbal and physical abuse from her family and community. After her father attempted to drown her, G.R. cut off all communication with him. When she was 15, she became involved in youth groups through her church and obtained a religious visa to enter the United States. She attended high school in the U.S. and wanted to pursue a career in nursing. As she started presenting herself more as a female, it became harder and harder to obtain employment. She eventually became homeless and, in late 2009, arrived in San Francisco. The El/La Program for Trans Latinas put her in touch with Lyon-Martin Health Services for hormonal treatment, and she was later referred to NCLR for legal help. NCLR helped her file for asylum in October 2010 and her asylum was approved in February 2011.

J.G. v. Holder

Victory! | Mexico

J.G. is a gay man from Mexico who suffered repeated sexual and physical assaults because of his sexual orientation. He fled to the United States in 1999. In 2004, after a notario offered to get him a work permit, J.G. found himself in an interview with an asylum officer. When the officer asked him if he was gay, he admitted that he was, but he was so unprepared and anxious that he did not mention the serious abuse he suffered in Mexico.

His case was then referred to the immigration court, and he found an attorney to represent him. That attorney failed to make several basic arguments or introduce key evidence about his eligibility for asylum. The attorney then resigned from practicing law without notifying J.G. He eventually found his way to NCLR's Immigration Project.

NCLR took on his appeal to the Ninth Circuit Court of Appeals and filed a motion to reopen

his case with the Board of Immigration Appeals (BIA) based on the ineffective assistance of his previous counsel. On March 30, 2011, the BIA granted the motion and remanded his case back to the immigration court to restart the asylum proceedings. We then filed a motion to dismiss the Ninth Circuit appeal. The hearing on remand at the Immigration Court is scheduled for December 7, 2011.

In re S.K.

Victory! | Pakistan

S.K. is a gay Pakistani man seeking asylum and withholding of removal because he fears persecution based on his sexual orientation and HIV status. Under Pakistani law, being gay is punishable by death and LGBT people are forced to live in secrecy and constant fear. 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 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 has been postponed and is currently scheduled for May 15, 2013.

Doe v. Gonzales

Victory! | 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, consensual adult sexual conduct. The Immigration Judge and Board of Immigration Appeals (BIA) denied his application. NCLR and the International Gay & Lesbian Human Rights Commission filed

an *amicus* brief with the Third Circuit Court of Appeals in support of Doe's eligibility for withholding of removal and relief from removal under the U.N. Convention Against Torture.

In December of 2007, the Third Circuit reversed the rejection of Doe's application for asylum and remanded the case to the BIA to fully consider the relevant facts. The court directed the BIA to consider whether the treatment of gay citizens in Egypt has deteriorated since 2001. In March of 2010, Doe was granted withholding of removal, which allows him to stay in the U.S.

In re Vicky

Victory! | Mexico

Vicky is a young transgender woman from Mexico. Throughout her childhood, Vicky's family and the people in her town attacked her for being feminine. When she was 16, her parents 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 tried to find 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 opened was destroyed. She returned to the United States and applied for asylum in 2005 with the help of NCLR and pro bono attorneys at Hanson Bridgett LLP. On July 2010, Vicky's asylum application was granted.

In re S.H.

Victory! | Bosnia

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. While vacationing with her girlfriend, a group of men found out that they were lesbians and raped them. The police initially took a report but then told the two women 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, but her mother refused to talk to her. At the same time, her father kept her in their home so that S.H. could not see her girlfriend. He also wanted her to marry a man. After a second rape attempt, S.H. fled her country. She learned about an exchange program and left 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. In December 2010, S.H. was granted asylum in Immigration Court. NCLR worked with pro bono attorney Cara Jobson of Wiley and Jobson on her case.

FIERCE ADVOCACY—CONTINUED FROM COVER

She also wrote a memoir, *Like Me*, about her life as a closeted lesbian that was released at the same time.

"I cannot believe how much my friendships mean to me now, because they're real," Chely told the crowd. "There's no doubt that it gets better because of you here in this room."

Lisa Howe, the Justice Award winner, attended the celebration with her partner, Wendy Holleman. Lisa, a former soccer coach at Belmont University, put a face on the continued need to fight employment discrimination across the country. After coaching at Belmont for 6 years, in November 2010, Lisa shared the news with her team that she and Wendy were expecting a baby.

Despite having no other issues at work, within a month of mentioning Wendy and their pregnancy, Lisa was no longer at Belmont. She and the university had come to a "mutual understanding" to separate. The couple—who welcomed daughter, Hope, in May—helped transform the hearts and minds of her community and colleagues, inspiring them to launch an unprecedented public discussion about the place of openly LGBT people in private Christian colleges and universities, and prompting Belmont to change its non-discrimination policy to include sexual orientation.

During his speech, Kye Allums, recipient of the Spirit Award, thanked his mother for standing beside him since he came out as the first Division I basketball player to publicly announce that he's transgender, demonstrating extraordinary bravery and character in living genuinely and unapologetically as a transgender man.

"I am truly humbled that NCLR honored me with the Spirit Award," he said. "The love and support from my

friends and family has made my coming out experience an unforgettable one."

But perhaps the most evocative introduction was for the organization's founder, Judge Hitchens—recipient of the Founder's Award—who retired in November 2010 after 20 years with the San Francisco Superior Court.

"The lives of thousands have been improved because Donna's commitment was and is unparalleled," Kate said. "Her unflinching commitment to justice and equality continued in her role as one of the nation's most well-respected judges, whose innovative leadership has redefined how the family court system operates in San Francisco. Her legacy is expansive and extraordinary, and she's truly a living icon."

Fresh out of University of California, Berkeley's Boalt Hall School of Law in 1977 and eager to make a difference, she started the Lesbian Rights Project, one of the first legal organizations in the country to focus primarily on issues encountered by lesbians, such as custody, adoption, access to public accommodations, and employment.

In 1988, the Project became independent and was renamed the National Center for Lesbian Rights. And today, Judge Hitchens' pioneering spirit and unwavering commitment to advancing LGBT justice and equality continues, with NCLR staff helping more than 5,000 LGBT people and their families each year through litigation, public policy advocacy, and public education.

"I sometimes feel like I have three kids instead of two, and NCLR is my oldest child," she joked. "I am so honored to be recognized with Chely and Stan and such incredible clients, who are my true role models. Their courage and willingness to stand up for what is right is and always has been the real foundation of this organization. I have been lucky to be a part of it from the beginning, and to see NCLR turn 34 is truly amazing."

Contact Us

tel 415.392.6257
fax 415.392.8442
toll free 800.528.6257
Info@NCLRights.org
NCLRights.org

National Office

870 Market Street
Suite 370
San Francisco, CA 94102

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.

 Printed using vegetable-oil based inks on 100% recycled paper with 100% post-consumer content.

DON'T MISS OUR 35TH ANNIVERSARY CELEBRATION!

SAVE THE DATE!

**MAY 5, 2012
IN SAN FRANCISCO**



NATIONAL CENTER FOR LESBIAN RIGHTS

Check out www.NCLRights.org for your updates.