What’s in a Name?

On November 13th, the Women’s Motorcycle Contingent formally won the legal right to trademark “DYKES ON BIKES.” Over the past year, the United States Trademark Office twice rejected the group’s application on the grounds that the name “DYKES ON BIKES” is offensive to lesbians. In reality, Dykes on Bikes is perhaps the most boisterous collection of women kicking off LGBT pride parades across the country, raucously revving their bikes and cheering the crowd. Within our community, it seems impossible to imagine them as anything but loud and proud.

NCLR worked closely with the brilliant and dedicated Brooke Oliver Law Group and Townsend and Townsend and Crew to submit more than two dozen expert declarations from scholars, linguists, psychologists, and activists demonstrating how the word “dyke” has evolved in our community. What was once a slur is now an unapologetic symbol of pride. Experts submitted declarations detailing how as the women’s movement developed during the sixties, “dyke” became a loaded term: feminists were dismissed as “dykes” in an effort to intimidate and silence activists for social change. Many responded to this tactic by appropriating the very words designed to shame them into silence. Since the seventies, the word “dyke” has increasingly been embraced, and currently it is safe to say it is a welcome synonym for “lesbian.” And now the name “DYKES ON BIKES” belongs to its proper owner, the Women’s Motorcycle Contingent.

Names can be tricky. The name “National Center for Lesbian Rights,” for example, just hints at part of our organization’s overall work. NCLR is the national LGBT civil rights legal organization that is lesbian-led and committed to justice, equality, and legal protections for all LGBT individuals and their families. Our lesbian leadership informs every aspect of our work on behalf of the entire community. Through a lesbian feminist lens, we select cases which will have the most impact, we analyze the intersection of oppressions, and we represent clients holistically—always putting them first.

Thirty years ago, NCLR was started by a few just-out-of-law-school attorneys who dared to believe that the promise of opportunity should extend to lesbian moms. They also had the perseverance to make that promise a reality. Today, our attorneys show the same audacity and perseverance in fighting for all LGBT people. In the early eighties, NCLR successfully defended the parental rights of an HIV-positive dad while the stigma of AIDS was rampant. We succeeded in winning asylum for countless individuals who were being persecuted in their countries of origin because of their sexual orientation or gender identity. And NCLR is a national leader in the fight to have our relationships protected by law.

NCLR was honored to represent the Women’s Motorcycle Contingent in their pursuit to secure their entitled name. To quote Ralph Waldo Emerson, “We do what we must, and call it by the best names.”
TURNING THIRTY

I vaguely remember when I turned 30. I finally felt like a real adult (of course then as now, I studiously avoid acting like one). It seemed to me that being 30 conveyed a greater sense of purpose and mission and seriousness. I’m not alone. Culturally, we treat reaching a new decade as a milestone, whether it’s a birthday or an anniversary and whether it is personal or institutional. The National Center for Lesbian Rights is 30 and that’s a big deal. A big deal because when we were founded in 1977 by now Superior Court Judge Donna Hitchens, even she couldn’t imagine us reaching this landmark anniversary. “Not in a million years,” Donna told me recently, “we were totally in the here and now, we weren’t thinking a year ahead, let alone three decades.” It is testament to the critical need for NCLR’s work and the commitment of Donna and co-founders Roberta Achtenberg and Nancy Davis that we are not only here 30 years later, but thriving and growing.

This past year has seen a marked increase in the demand for our legal expertise and vision. This past year our case load has increased 30% in all areas of our work—family law, immigration and asylum, elder law, youth in juvenile justice and foster care and our sports work. Our helpline continues to get over 5,000 calls per year and on all sorts of topics affecting the lives of the LGBT community. This fall in Indianapolis we convened our first ever Sports Think Tank, co-sponsored by the NCAA and held at its headquarters. The meeting was attended by some of the most influential figures in college athletics—each one committed to changing the stifling culture of homophobia in much of the sporting world. On the day I write this we filed our Petition for Review in our marriage equality case in California asking the California Supreme Court to agree to review the erroneous ruling from the Court of Appeal issued in September. In that decision the Court held that because the right to marry had always been denied to same-sex couples, continuing this exclusion was not a violation of the California Constitution. We are very hopeful that the California Supreme Court will take the case and reverse the Court of Appeal.

A history of discrimination should never be an approved justification for continuing discriminatory treatment. To paraphrase Lawrence v. Texas, the U.S. Supreme Court case that overruled Bowers v. Hardwick, excluding lesbian and gay couples from the right to marry was wrong then and it is wrong now.

The strides we have made over the past 30 years and the progress we have all witnessed is breathtaking. As we enter a new decade of maturity, effectiveness, and sense of purpose, we will need you more than ever. We don’t want to have to be here for another 30 years. We need to make lasting change on a much more ambitious timetable. It is time to stop the pain and trauma of bigotry and discrimination, and do it now. With our 30-year track record and your increased investment, we know we can.

A Message from Executive Director
Kate Kendell

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NCLR thanks Orrick, Herrington & Sutcliffe LLP for their generous support of our law clerks in 2006.

The NCLR newsletter is published by the National Center for Lesbian Rights.
New Staff News

Please join us in welcoming...

Kendra Presswood, Esq.
Managing Attorney

NCLR is delighted to welcome Kendra Presswood to the new position of Managing Attorney. Kendra came to NCLR in August with over fifteen years of experience as a litigator. She will oversee the day-to-day aspects of NCLR’s litigation and assist NCLR’s Legal Director in supervising NCLR’s growing legal staff.

Kendra is Board Certified by the Florida Bar in Labor and Employment Law. As a civil rights attorney, Kendra has litigated hundreds of race, gender, age, and disability discrimination cases, as well as sexual harassment and whistle-blower cases. As an NCLR cooperating attorney, Kendra represented NCLR client Peter Coyne in a same-sex sexual harassment suit against his former employer in Pasco County, Florida. She has extensive experience in state and federal courts at both the trial and appellate levels.

After graduating from Stetson University College of Law in 1991, Kendra received an Appellate Clerkship for The Honorable Judge Emerson R. Thompson, Jr., of the Fifth District Court of Appeal in Daytona Beach, Florida.

Prior to opening her own office, Kendra worked as an associate with Fowler, White, Gillen, Boggs, Villareal & Banker in Tampa, Florida, as an appellate public defender for the Tenth Judicial Circuit of Florida, and as an associate with Kunkel Miller & Hament.

Cathy Sakimura, Esq.
Equal Justice Works Fellow

NCLR is pleased to announce new Equal Justice Works Fellow, Cathy Sakimura. She will be spearheading NCLR’s newest program, the Family Protection Project, which will improve access to family law services for low-income same-sex parent families, with a focus on increasing services to families of color. She received her J.D. from UC Hastings College of the Law in 2006. During law school, she worked with Legal Services for Children, the ACCESS Self-Help Center of the San Francisco Superior Court, and NCLR. Prior to law school, she worked at Children of Lesbians and Gays Everywhere, organizing programs for children of same-sex parents. She was also the Program Director at Gay-Straight Alliance Network, where she empowered young people to combat harassment in their schools and participated in a multi-organization project linking work against homophobia with work against racism.

Melissa Higuchi
Development Assistant

NCLR welcomes Melissa Higuchi to the position of Development Assistant, where she oversees NCLR’s sustainer and membership programs, and assists in data and record management. Melissa received a bachelor’s in Art History from Johns Hopkins University in 1995. Prior to joining NCLR, Melissa lived in Washington D.C. and worked in development at the National Low Income Housing Coalition for five years.

Family law has been the cornerstone of NCLR’s legal work since our inception. Over the past three decades, we have partnered with talented attorneys across the nation to advance the rights and protections of LGBT families. In 2003, NCLR convened a group of experienced family law and estate planning attorneys from around the country to discuss family formation and protection issues, evaluating national trends and state-by-state cases. The meeting proved to be invaluable to both NCLR and private practitioners in addressing the ever-evolving legal challenges LGBT families face. The group has continued to grow and meet annually, and NCLR is pleased to announce the formal formation of the National Family Law Advisory Council.

The Council met in San Francisco in November, with thirty-two attorneys present from more than fifteen states, including Alaska, Arizona, California, Illinois, Maryland, Massachusetts, New Jersey, New Mexico, New York, Pennsylvania, Tennessee, Texas, Utah, Virginia, Washington D.C., Washington state, and Wisconsin. As Founding Chair, San Francisco attorney Deborah Wald will lead the Council. A teacher as well as a lawyer, Ms. Wald uniquely blends a practitioner’s experience with national and historical perspectives. She has been an adjunct professor at Golden Gate University and the University of San Francisco law schools, where she recently designed and taught “Topics in Contemporary Family Law,” covering a broad range of cutting-edge family law issues. Her law review article is expected for publication in 2007. In 1999, she was named a “Lawyer of the Year” by California Lawyer for her groundbreaking work establishing legal parenthood for lesbian mothers under the Uniform Parentage Act.

“The Council is an invaluable resource for attorneys,” Wald said. “I am currently involved in litigation in Hayward, California, on behalf of a lesbian mother who has been denied contact with her daughter since the baby was just a few months old. During the course of this litigation, the other mother has moved to Texas, and she is now being represented by the right wing Liberty Counsel, who appear at our hearings by telephone from Virginia. This is just one example of how our struggles as LGBT families to be treated fairly by the courts have become nationalized. Because of the National Family Law Advisory Council, I have attorneys in Virginia and Texas on my side too, ready to assist me at any time I need them.”
Luke Itano graduated summa cum laude from Amherst College with degrees in Philosophy and the unique discipline of Law, Jurisprudence, and Social Thought. Before coming to Stanford for law school, where he is a Public Interest Fellow, Itano was a police officer for six years, and worked as a robbery-homicide detective and patrol lieutenant. His two main areas of interest in the law are progressive prosecution and gay rights impact litigation. This past summer he worked for the San Jose Branch of the United States Attorney’s Office for the Northern District of California, Criminal Division, where he regularly made his own appearances in federal district court on behalf of the United States. In addition to general criminal work, he is an extern law clerk at the National Center for Lesbian Rights (NCLR). He was recently admitted to the United States Supreme Court Litigation Clinic for Spring 2007, arguably the most prestigious program at any American law school.

When NCLR Legal Director Shannon Minter needed someone from the office to take his place on a panel at the Castro Senior Center—the topic was going to be legal issues confronting transgender elders—I decided to volunteer. I saw this as a unique opportunity to interact and share an experience with people whose identities lie at the intersection of two of the most marginalized subgroups of our community. I wanted to test my progress and knowledge of a rather complex area of the law, and to try on my own new identity of LGBT legal advocate and problem-solver from somewhere other than behind the safety of my law clerk desk.

After graduating from college, I became a public safety officer-in-training in October 1999. As a lowly police recruit in San Jose Police Department Academy Class #1, I stood at attention as Sergeant Carr read a memo from Chief Lansdowne about a distinguished San Jose police detective who was beginning a new journey of his, or rather, her own. In its crisp, matter-of-fact, police memorandum style, it announced to this 1,400 officer department (which had never in its history even had an openly gay male officer) that effective on this date, Officer ____ will begin disability leave and will return to active line duty in April 2001, that she shall be known and addressed as Officer Julie M ___, and that she will use a certain particular locker room, and return to her previous assignment in the detective bureau.

There are approximately 160 known transgender law enforcement officers in the United States, according to Transgender Community of Cops and Sheriffs (TCOPS), the support group that Julie founded after her on-the-job transition from male to female. Her experience of becoming a woman in law enforcement highlights this decoupling of sexual orientation and gender in the culture of policing. She writes, “In October of 1999 I began a journey. I had been in law enforcement for some 19 years at that time, and had been through many work-related trials, adventures, and hardships, but they all paled in comparison to the events which were unfolding before me.” In an open letter to the department, she wrote, “I make no assertions that I can easily pass as a woman; however, it is preferred that you use ‘she’ and ‘her’ rather than ‘he,’ ‘him’ or ‘his.’ This simple thing would help me to no end. The most important thing that I would like to convey is that I am the same person inside. The way I look is different, but you will find the same hard working cop and caring friend, as in the past.”

In many officers’ minds, sadly, Julie was not the outstanding and impressive cop that she had been as a man. Even though word had spread like wildfire throughout the county when my own sexual orientation was revealed a few months later, other officers felt comfortable talking about it with me because, even while I was gay, as a masculine man, I wasn’t ‘Other’ like she was. To this day, Julie’s former detective partner of eleven years, with whom she had worked various undercover and high intensity assignments before transitioning, will not speak to her.

Julie has said that after her transition, her voice was no longer heard in meetings. As a woman, she could no longer speak with the authority she had as a man, and was no longer entitled the respect “he” had always been accorded. “Any opinion that I would express had little or no weight,” she has explained. “I had been a detective of some renown, and was often asked for my opinions and expertise. I’ve had to change how I do business. I have to work behind the scenes and feed information and ideas to others, who many times pass them off as their own. As one of my female friends, a lieutenant, told me, ‘Welcome to my world.’”

A few years after Julie transitioned on the job, I remember arresting someone for theft at a Safeway, something that I would usually get rid of with a citation, thumb print, and stern lecture. But we could only release someone on a citation with sufficient proof of identity. As one might expect, people in trouble lie to cops about who they are all the time—we call it “playing the name game.” I started playing the name game with this guy, and tried explaining in every way I could that there was nothing more I wanted than to give him a ticket and get him on his way, but that I couldn’t do that unless he told me who he really was.

Unable to match him in the various systems police use to verify someone’s claimed identity—based on name, sex, and date of birth—I had no choice but to take him into physical custody and book him for what I thought to be a very petty crime and an enormous waste of my time and resources. After dragging him into the jail, I began my thorough search of his person and clothing, the first stage in the booking process. Officers and prisoners are supposed to be state-of-nature equals while inside the jail, neither...
I had a stack of forms that demanded an answer: male or female? On the first pat search, I had felt some protrusion in the groin area — after lifting his shirt, I thought, if these are breasts, then what I felt down there must be contraband. If he had a female body, then we couldn’t even be standing where we were. I needed to comply with department and Department of Justice regulations regarding the segregation of prisoners in a licensed Temporary Holding Facility — females cannot be housed with males, even temporarily, and have to be transferred to the main county facility in San Jose immediately. Also, I hadn’t been notifying dispatch of my mileage and time during transport, which is also required when an officer and prisoner are of different sexes. I was angry. I felt like he had deceived me, and now I wasn’t talking.

In the hope of restoring some karmic equilibrium, and out of an appreciation for how fearful, vulnerable, and violated he must have felt as we proceeded to have our questions answered, I take responsibility for not reflecting until this very moment on the trauma that he was likely experiencing. I wasn’t cruel, but I reacted as if it was a question of an act or accidental attribute, not one of essence. I didn’t ever apologize for the indignity and pain the process caused — even though it was my job, and I had done it by the book. I should have let him know that the book I was following was wrong.

Informed by these experiences, the idea of representing NCLR on a panel dealing with the intersection of gender identity and aging intrigued me. I’d had quite a few transgender-related intakes on the NCLR Legal HelpLine and was becoming comfortable with the usual questions — in addition to the unique question of changing one’s gender marker on government documents, they touched on a wide array of more familiar legal doctrines including name changes, immigration, housing, domestic violence, relationship recognition, employment discrimination, parenting, employment benefits, and incarceration. Armed with a stack of handouts on transgender and general LGBT legal issues, I was ready.

I parked and ran with my binder and handouts to the senior center and met the social worker who organized the event, who waived me toward my seat on the panel while addressing the group of about thirty elders. As I sat down, a man in a suit to my left and two elder women in their late fifties to my right, one of the women was sharing her personal narrative. I had had no clue who else was going to be on this panel. I then read the flyer for our event: “As a lesbian, gay, or bisexual person, you will be interested to hear what it means to age as a transgender person. For transgender seniors, this is an opportunity to focus on the T in LGBT and to discuss issues and resources.” I wanted to come here to talk — to contribute to the discussion about issues and resources focused on the T — but more than that, I wanted to listen, observe, and learn.

As I listened to the panelists share their journeys, I looked out at the faces in front of me. I began to share myself and engage in dialogue. I was proud to represent NCLR in public in the same way that I had been proud to put on my police uniform and hit the street. The last time I stood in front of a group of seniors like this was, in fact, in uniform. But that was a very different group of seniors — primarily wealthy, loved, and cared for elders at the multi-million dollar, fully-staffed and programmed Sunnyvale Senior Center, and a very different topic: how to use something called a “Vial of Life” to assist paramedics should any of them ever need to dial 911 in a medical emergency. This, clearly, was different.

I’ve known for a while that my vocation is to serve the community, but on this day I was blessed to be serving mine. Here in this parish basement, the organizers had called people from isolation to community, and me from searching to awakening, from indifference to concern, from selfishness to meaningful service. I had several other awakenings that morning, one being that I’d lost my appreciation for how relatively easy it is to be an out, gay, non-binary person to talk with, compared to what they had unknowingly given me.

At the end of that week, I was walking to the NCLR office. There she was! As I started to cross the street I saw Gloria, my new best friend, walking toward me from the other corner — head down and arms folded. I turned and looked at her, trying to establish eye contact until she got within greeting distance. As before, she was wearing a dress and had her hair down, but a face that some might mistake for a stranger, as I spoke with her and as she opened up, relaxed and lost her shyness and self-consciousness, I saw her completely as a woman. As I left that gathering in the church basement and made my way back to the office, I reflected on how little I had to teach them, compared to what they had unknowingly given me.

The event did not know about some of the basic resources available to them or that it was possible to do some incredibly significant and meaningful things to facilitate their legal transitioning. For example, one person asked if you could really change your name to one not associated with your biological sex, and almost fell out of her chair when I talked about the various processes for changing your gender marker on different federal and state government records as well. “You can’t do that!” she said. I looked at this aging woman — who had spent a lifetime fighting to be who she was — no one had told her, and she had not asked because she thought it beyond her most far-fetched fantasy that one could actually change the gender marker on one’s birth certificate. The room was soon full of raised hands. Some had important questions they wanted answered, but many just wanted an opportunity to talk to other people who were listening, and taking them seriously.
First-of-its-kind Think Tank on Homophobia in Sport

National Sports Leaders Gathered to Discuss “Negative Recruiting” at NCAA Headquarters

Helen Carroll, Sports Project Director

I had the privilege of participating in an event which will transform college athletics forever by taking initial steps to eradicate a prevalent, damaging, and discriminatory practice. NCLR and the National Collegiate Athletic Association (NCAA) co-hosted an inaugural Think Tank on Homophobia in Sport, the first event of its kind, of national experts and policymakers to address “negative recruiting,” the practice of playing on irrational stereotypes to deter recruits from going to rival schools based on allegations that a rival coach or team members are lesbian or gay.

The Think Tank took place this fall in Indianapolis, Indiana at NCAA headquarters. Top sports leaders from across the country, including NCAA staff, athletic directors, coaches and athletes, conference commissioners, researchers, and coaching organization representatives, came together with a shared vision of eliminating negative recruiting. This group of key leaders explored solutions and developed concrete action steps to establish a positive environment for LGBT student-athletes and their teammates, as well as coaches and athletic directors, which will profoundly change the climate for all involved in collegiate sports.

As a former NCAA Athletic Director and National Championship Basketball Coach, I know firsthand the importance of addressing discrimination in college athletics. Putting an end to negative recruiting is critical not only to protect lesbian, gay, bisexual, and transgender players and coaches, but also to attract and retain the best, most qualified coaches. As long as any athlete or coach can be harmed by being tagged with the “lesbian” or “gay” label, the goal of achieving true equality in sports will remain out of reach.

In 2007, NCLR will continue to work closely with the NCAA to develop effective strategies to overcome discriminatory behavior. The event couldn’t have been more perfectly timed. Early next year, the NCAA will conduct its first-ever national campus climate survey—the beginning of a process of change that will transform the environment of intercollegiate athletics. Other initial steps include:

- A subcommittee consisting of the NCAA, NCLR, and other participants will develop a “Best Recruiting Practices” paper discouraging unethical practices based on negative recruiting.
- Student-athletes will report the outcome of the Think Tank to their national NCAA Student Advisory Committees.
- The NCAA Committee on Women’s Athletics will suggest an audit NCAA of legislation and make any needed revisions to bylaws and regulations to address discrimination issues.
- The NCAA Coaching Academies and the National Association for Collegiate Women Athletic Administrators will include discussion of negative recruiting in their course curriculums.

These actions will go a long way toward changing the climate in sports to be more affirming and inclusive.

Stay on top of your civil rights! programs and nation-wide events:
‘Til Death Do Us Part:

A Marriage Update from NCLR Legal Director Shannon Minter

In the past year, we have made great strides in our pursuit of marriage equality. NCLR is proud to work closely with our partner organizations, the ACLU, Lambda Legal, Equality California, Our Family Coalition, and truly remarkable private practitioners like Heller Ehrman LLP, and the Law Office of David C. Codell. While we were disappointed by high court losses in Washington State and New York, and the heartbreaking passage of anti-marriage amendments in Colorado, Idaho, South Carolina, South Dakota, Tennessee, Virginia, and Wisconsin, we ended the year with significant victories and a renewed hope that equality and fairness will triumph.

NCLR is lead counsel in California’s In re Marriage Case, and we were joined by more than 250 religious and civil rights organizations, who stood with us by filing amicus briefs supporting marriage equality for same-sex couples. When I argued before the California Court of Appeal, I did so with the support of such groups as the California NAACP, Mexican American Legal Defense and Educational Fund, California Council of Churches, Asian Pacific American Legal Center, and National Black Justice Coalition. I felt the strength of our shared values, and while the Court rejected our challenge to discriminatory marriage law, Justice Anthony Kline wrote a profound dissent: “The inescapable effect of the analysis the majority adopts is to diminish the humanity of the lesbians and gay men whose rights are defeated. The right to marry is of fundamental importance for all individuals.” This month, we submitted a petition to review before the California Supreme Court. I am hopeful they will hear the case and confident that justice on this issue will ultimately prevail.

Just days after the California Court of Appeal issued its divided ruling, New Jersey’s high court unanimously held that excluding same-sex couples from marriage violates the equality guarantee of the New Jersey Constitution. In unflinching language, the Court made clear that lesbian and gay people are entitled to full equality under the New Jersey Constitution. The next month in mid-term elections, Arizona was the first state ever to defeat a proposed anti-marriage amendment. The election was historic, and as we move towards the 2008 elections, we do so with newfound hope we can put an end to the right wing’s attempt to destroy our nation’s promise of full equality under the Constitution.

We start the coming year with an unwavering commitment to a broader vision of how the world should be that includes social justice for all people. Bringing an end to marriage discrimination is an essential step in our struggle to be seen and treated as fully human. All people share the ability to love; it is one of the most profound things we all have in common and one that bridges the gap across other differences, some real, and some perceived. Winning the right to marry will not end all discrimination against LGBT people. Nor will it bring an end to economic inequality, sexism, racism, religious bigotry, or many other serious problems. But it will go a long way to removing the stigma associated with being in love with a person of the same sex. And it will make an enormous difference in the security and economic well-being of millions of LGBT people and their families.

For the complete docket, including information on all our cases, go to: www.nclrights.org

Get email updates and announcements about our legal www.nclrights.org and click on ‘Get Email Updates’
The National Center for Lesbian Rights (NCLR) is a national legal organization which was founded in 1977, with headquarters in San Francisco and regional offices in Florida and Washington, D.C. Each year we serve more than 5,000 people in all fifty states. Through impact litigation, public policy advocacy, public education, collaboration with other social justice organizations and activists, and direct legal services, we advance the legal and human rights of lesbian, gay, bisexual, and transgender people and their families across the United States.