



Transgender Dad Wins Unprecedented Victory

Court Issues Historic Marriage and Custody Decision

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Title IX Under Attack

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NCLR client Michael Kantaras with his very supportive parents

February 21, 2003 was a wonderful day for NCLR client Michael Kantaras and his children. On that day, Judge Gerard O'Brien of Clearwater, Florida handed down his long awaited decision in the landmark case of Kantaras v. Kantaras. Judge O'Brien ruled that Michael, a female-to-male transsexual, is legally male and was legally married to his former wife, Linda Kantaras. Judge O'Brien also awarded Michael primary custody of the couple's two children, ages 13 and 11. "I'm so relieved," said an exhausted Michael Kantaras. "Now my kids and I can breathe a sigh of relief knowing that our family won't be torn apart."

Judge O'Brien's decision ended a grueling court battle that brought national attention to the marriage and custody rights of transgender people when *Court TV* devoted much of its airtime to the three and a half week trial in February 2002. After listening to days of expert testimony about transgender people, Judge O'Brien took a full year to issue an 809 page decision that sets a groundbreaking precedent for the rights of transgender parents and their children.

"The court recognized that the two children in this case have a devoted, loving father and need to maintain a relationship with both their parents," said NCLR Staff Attorney Karen Doering, co-counsel in the case. "The court recognized that Michael's transgender status has nothing to do with his ability to be a good parent. Michael is a loving, responsible father who also happens to be transgender."

Michael and Linda married in 1989, several years after Michael had completed his gender transition. Linda was fully aware of Michael's transgender status prior to the marriage and permitted Michael to adopt her then three-month old son. The couple later had a second child.

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A Message from Kate Kendell

Of Lesbians and the Rest of the World

Photo: Jan E. Watson



I've been having a lot of conversations with all sorts of folks lately that go something like this: Me—"How are you?", Them: "I'm ok, except for the fact that this country is going to hell in a hand basket." The two of us then proceed to discuss our very real fears and concerns over the unrelenting attack on civil liberties in this country and the impending, globally unpopular, war. (As I write this I'm chilled by the awareness that by the time you read this we may be at war.)

In the midst of such overwhelming and distressing national and world events it can sometimes feel trivial to focus so much of our attention, energy and resources on the struggle of lesbian, gay, bisexual and transgender folks for basic justice and security. But of course, that is why NCLR exists. Our very *raison d'être* is to alter the national legal landscape to bring to lesbians, and others marginalized by sexual orientation of gender identity fairness, equality and protections for ourselves, our families and our relationships. But even in the midst of our dogged commitment to lesbian lives we remember the words of Audre Lorde, who articulated best the sentiment we bring to our work, "there is no such thing as a single-issue struggle because we do not live single-issue lives."

In the twenty-six years that NCLR has engaged in radical advocacy on behalf of lesbians, we have become acutely attuned to the myriad ways in which oppression works. Race, class, ability, sexual orientation, gender, and ethnicity may at any given time all intersect in the lives of the people we serve. And now in this global moment, world events demand that we see our struggle in an even broader context. Our work will always be first and foremost about lesbians and our lives. But of course, at its core, that very work is about social, racial and economic justice. We will lend our voice and our passion to the thousands of voices committed to justice for all, secure in the knowledge that real, sustained change only happens when we refuse to remain silent. We stand with those opposed to the savaging of our constitution and with those opposed to unilateral aggression in an already highly destabilized region of the world. We stand for peace at the same time our primary work and resources are devoted to justice and security for lesbians and our families. ❖

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Board Co-Chairs' Deep Links to NCLR

La Presidencia de la Junta Directiva Tiene Lazos Profundos con NCLR

We are honored to serve our community as Co-chairs of the Board of Directors of NCLR. Each of us has a long and very personal connection to NCLR that began with answering the phones. I (Courtney) remember the days in the late '70s and early '80s when lesbians were losing custody of their children to their husbands when they came out and calling NCLR in desperation. In fact, that almost happened to my own partner. NCLR founder Donna Hitchens wrote the groundbreaking "Lesbian Mothers Litigation Manual" to help these women go to court and keep their kids. Sadly, not everyone won those battles. I (Nancy) answered NCLR's legal assistance line in the late '80s and I still remember the incredible relief of the callers when they realized we were really listening and taking them seriously.



*Nancy Otto (l) and Courtney, NCLR Board Chairs
Nancy Otto (izquierda) y Courtney*

As we grow with NCLR, we are amazed, but not surprised, that our intimate organization that was family to us 25 years ago has grown exponentially to serve thousands of people every year. As a direct result of listening to your concerns, we have continued to focus on family law and have also expanded to serve LGBT youth, elders, immigrants and athletes. While we are no longer quite so small, we are just as warm and responsive to every single individual who connects with us in search of legal help. We know the legal system is intimidating and it's difficult to know how you, as one individual, can fight the injustice you experience. But you can. And NCLR is here to listen and to help.

We want to make our free assistance accessible to every lesbian, gay, bisexual and transgender person who may need our help. Because we know that many people learn about us from people they know and trust, we ask that you tell your friends, family and co-workers to call us if they need any kind of legal assistance, or if they are just wondering how they can better protect themselves and their families. We also welcome your suggestions on how to get the word out to your community.

Es nuestro honor servir a nuestra comunidad como Coordinadoras de la Junta Directiva del Centro Nacional de Derechos Lésbicos (NCLR). Cada una de nosotras ha tenido una conexión personal de muchos años con NCLR la cual se inició de una manera peculiar - contestando los teléfonos. Yo, Courtney, me acuerdo de los días de los años 70 y los primeros años de los 80s cuando las lesbianas perdían la custodia de sus hijos cuando ellas optaban salir del "closet" y sus esposos se enteraban de que eran lesbianas.

Ellas llamaban a NCLR en un estado desesperante. Por cierto, esto es algo que le ocurrió a mi compañera. La fundadora de NCLR en ese entonces era Donna Hitchens y ella escribió un libro innovador titulado "Manual de Litigación para las Madres Lesbianas". Este libro fué de un valor increíble ya que sirvió para motivar y ayudar a muchas mujeres a ir a las cortes y no perder a sus hijos. Desafortunadamente, no todas ganaron esas batallas.

Durante los años 80, yo, Nancy, contestaba la línea de asistencia legal de NCLR y todavía me acuerdo del alivio de esas personas que nos llamaban cuando de daban cuenta que alguien les estaba escuchando atentamente y que las estaban tomando en serio.

A medida que vamos creciendo con NCLR, estamos asombrados, pero no sorprendidos, que nuestra pequeña organización que era una familia para nosotros hace 25 años atrás, a crecido de manera exponencial para servir a miles de personas cada año. Porque hemos puesto cuidado a tus preocupaciones, seguimos poniendo todo nuestros esfuerzos en la área de la Ley de Familia y también hemos expandidos nuestros programas para servir a la juventud homosexual, lesbiana, bisexual y transgénero, a las personas mayores de edad, a los inmigrantes y atletas. Aunque ya no somos tan pequeños, seguimos ofreciendo nuestros servicios con amabilidad y respeto. Entendemos que el sistema legal es atemorizante y es difícil saber como cada uno de nosotros, individualmente, podemos combatir las injusticias que se nos presentan. Pero sí se puede. Y NCLR esta aquí para escucharte y ayudarte.

Queremos que nuestro asistencia sean accesible a todas las personas lesbianas, homosexuales, bisexuales y transgéneras. Porque sabemos que muchas personas se enteran de nuestros servicios por medio de la gente que concocen y que le tienen confianza, te pedimos que por favor informes a tus amistades, familia y compañeros(as) del trabajo acerca de nosotros y nuestra organización. Diles que si tienen alguna pregunta o si necesitan ayuda legal o si tal vez sólo necesitan información para protegerse a ellos mismos o su familia que nos contacten. También te agradeceríamos mucho tus sugerencias en cómo podríamos esparcir nuestra información en tu comunidad.

Here's how to reach us:

For free assistance in English and Spanish, 5 days a week:
(415) 392-6257 or (800) 528-6257 or info@NCLRights.org
To learn about our latest legal cases and events, and download publications about your rights: **www.NCLRights.org**
To sign up for our free monthly email newsletter send an email message to **NCLRUpdateslist@benjaminco.com**

Nos puedes contactar de las siguientes maneras:

Para asistencia gratis en Inglés y Español, 5 días a la semana:
415-392-6257 o 800-528-6257 o info@NCLRights.org
Para informarte sobre nuestros últimos casos, eventos, y poder hacer un "download" de nuestras publicaciones: **www.NCLRights.org**
Para inscribirse a nuestro boletín electrónico mensual: por favor manda un email a **NCLRUpdateslist@benjaminco.com**

Know Your Board Members

Meet Ces Rosales, Heather Hiles and Akaya Windwood



Ces Rosales, Board member and Chair of Board Nominations Committee

There was a time in my life when I seriously considered being a nun. Little did I know that my concern for the poor and less fortunate would lead me to years of political activism. I dedicated most of my non-working hours supporting liberation movements in the Philippines, Chile, El Salvador, Nicaragua, Guatemala, South Africa, Palestine, Eritrea, Ethiopia and Ireland. My personal needs seemed puny compared to these struggles. My fellow activists implied that fighting for lesbian and gay rights was a "petty bourgeois" concept and was too narrow a vision. "We

have to think of the whole, and not just of the few," they said. They believed that after "The Revolution" lesbian and gay rights would naturally fall into place.

The idea sounded great but it fed my own internalized homophobia. Fear prevented me from coming out. Ironically, I could stand up against a phalanx of heavily armed military men without fear for my life during the heady days of student demonstrations in the Philippines; but when it came to saying the word "lesbian," I simply couldn't. The word would freeze at the tip of my tongue and eventually lodge as a lump at the back of my throat.

I devoted so much of my time working for change that my relationships were secondary to everything. Losing several relationships forced me to recognize that my personal needs are as important as the next social justice issue. When my partner and I decided to celebrate ten years of our loving relationship, I mustered up the courage to invite my parents to our celebration. My father, without hesitation said, "Yes, I'll be there." My mother did not say a word and did not show up; instead, she sent me a letter telling me

that she would pray for my salvation. It did not matter that my mother had known my partner for as long as I had been with her and had always seemed to like her a lot. Suddenly she was "persona non-grata" because we decided to openly acknowledge our relationship.

That was my "aha!" moment — belated, but about time. If my family, who I know really loves me, still believed that lesbians and gays need "saving," then how will all the revolutionary rhetoric in the world change their belief? Racism, imperialism, immigrant rights, war, environmental destruction, abortion rights, AIDS, death penalty, corporate corruption and every other crucial issue continues to exist. These issues are all linked, including the fight for gay and lesbian rights. That is why I decided to accept the invitation to be on the NCLR board. I finally realized that my personal issues are as important as any other political issue out there. I don't think I can change the whole world, but if I can change my family's opinions and beliefs about lesbians, then it is a fight worth taking. I feel proud standing with NCLR as we work together towards a just, kind and loving world.



Heather Hiles, Board member and National Advisory Board Liaison

I'm a mixed-raced woman whose personal and professional experiences have given me an appreciation for the complexity of our times, our cultures and our history. I'm a lesbian parent who has confronted many of the challenges facing non-biological mothers and non-heterosexual families. I'm a friend to women whose lives have been circumscribed by racism, poverty and lack of opportunity. And I am proud that NCLR does not shy away from tackling the intricate nexus of race, gender, sexual orientation, economic status and societal roles.

NCLR speaks out for what I believe. Serving on the Board allows me to exer-

cise my skills and resources to achieve equal rights for lesbians — and thereby advance civil and human rights for all.

Having run one non-profit organization and provided technical assistance to dozens of others, I am always impressed at how well NCLR is run and how wisely it is being developed. It is a privilege to be able to work for an organization that is so strong at every level — from the communities we serve, to our volunteers, to the staff and the Board of Directors. I believe that organizations like NCLR are creating a vision and a world of justice and equality for all people. I am thrilled to be doing my part.



Akaya Windwood, Board Secretary/Treasurer

I became a member of the Board because I have always appreciated NCLR's bold stance on social justice. As a long-time activist, (I started speaking on lesbian panels while in college back in 1976) I am firmly committed to making this a safe, inclusive and joyful world for everyone.

As a relatively new Board member, I have been impressed with our express commitment to racial justice. In a time when lesbians are systematically disenfranchised from equal protection under the law, and lesbians of color even more so, it is of crucial importance that we work to insure that no lesbian, regardless of race, culture, class, ability, religious expression, age, gender, or nationality – be left behind. I truly believe that what is good for lesbians is good for women. And what is good for women is good for children and men. Therefore, what is good for lesbians is good for everyone on this planet.

I make my living consulting to non-profits on issues of leadership, diversity, management and teambuilding. I also volunteer as a hospice respite worker, and at the animal shelter petting and socializing cats and rabbits. While this may seem like a strange mix of activities, the com-

mon thread is caring for those who don't have much access to social and political power – non-profits, animals, dying people and lesbians. NCLR and consulting is my head and heart work, hospice and animals is my heart and hands work. It's a good balance.

Dr. King teaches us that none of us is free until all of us are free. I know that my security and freedom is inextricably connected to yours, and everyone else's. And I believe that we at NCLR are doing our part to insure that there is justice and freedom for everyone. ❖

Meet Dena Zaldúa



Dena Luna Zaldúa, our newest Development Associate, is proud to join the NCLR staff. She was initially attracted to NCLR because of its mission, which recognizes that social justice is only achievable when a hierarchy of oppression is eradicated. Currently, Dena serves on the board of Lyon-Martin Women's Health Services, a San Francisco non-profit health clinic that provides healthcare and support services to women and transgender people who lack access to quality care because of their sexual or gender identity, regardless of their ability to pay. She is also a volunteer fundraiser for Proyecto

ContraSIDA Por Vida, a sex-positive, neighborhood-based, multigender Latina/o bisexual, lesbian, transgender and gay community building organization located in San Francisco's Mission district. Dena also serves on the board of Williams BiGLATA, the Williams College LGBT alumni group. In her free time, Dena worships Madonna, loves to sing, and is planning her eventual career as a pop star.

Law Clerks Today

We asked two former law clerks how their time at NCLR shaped their law careers. Here's what they have to say.

Sharon McGowan

I was particularly excited to work at NCLR because of its unique focus on the needs of LGBTQ women and its particularly strong commitment to communities of color. During my time at NCLR, I worked on a wide range of issues affecting LGBT youth and assisted in an appeal of a homophobic custody decision in Virginia against a lesbian parent. I was also involved in community and public education events. At a very early stage of my legal education, I witnessed a superb model of how impact litigation can be matched with community development and public education. Ever since that time, I use NCLR as a benchmark against which to measure other organizations with which I have been involved. My experience at NCLR confirmed my desire to work on LGBT issues as a long-term career goal. Shannon Minter was a wonderful mentor to whom I will always be grateful. Likewise, I am constantly inspired by the amazing work done by Courtney Joslin, who, in addition to being a brilliant lawyer, is a dear friend of mine from law school.

Sharon clerked at NCLR in 1998, and now works at Jenner & Block in Washington, DC.

Kirstin Gulling

I very much wanted to work on LGBT legal issues. I chose NCLR because of its proven commitment to excellence and its focus on lesbian legal issues. My experience was very good. Liz Hendrickson, the Executive Director at the time, showed herself to be a first-rate mentor and I was able to immerse myself in LGBT fields of the law in a way I was not able in law school. And, of course, one of the best parts of being at NCLR is that I got to clerk with the fabulous Shannon Minter!

I gained a vast set of tools while working at NCLR such as research, networking, and increased knowledge about our issues. I also learned that I didn't have to work for a major organization to make law and change peoples' lives. Most of the work that was needed in our community came from the everyday practitioner. That is why I decided to open my own practice out of law school.

Congratulations to NCLR!

Kirstin clerked at NCLR in 1992, and now works at her law firm, Scurti and Gulling, PA in Baltimore, Maryland. ♦

Kantaras Custody Decision

(Continued from cover)

When Michael and Linda divorced in 1998, Linda attempted to deny Michael's



Michael Kantaras with Janet Reno and NCLR Florida Staff Attorney Karen Doering

parental rights by arguing that their marriage was not valid because he was not legally male. For Michael, the three and a half week trial was a grueling ordeal. In addition to the terrible threat of losing his children, he endured repeated assaults on his dignity and privacy from Linda and her attorney, who disparaged his identity and forced him to answer invasive questions about his anatomy. Fortunately, Michael's enormous strength as a person and his deep commitment to his children enabled him to persevere.

"I know there are many other parents

fighting to maintain their relationships with their children in the face of great prejudice," said Michael. "I am grateful to be with my children and grateful to NCLR for their tireless efforts to protect our families."

"This is not only a victory for the transgender community, it's a victory for the Kantaras children who deserve to have their loving father remain a part of their life," said Equality Florida Executive Director Nadine Smith. "We all benefit when gender stereotypes and bigotry are defeated." ♦

OntheDocket

The National Center for Lesbian Rights' docket pursues the agenda of lesbian civil rights in courts across the nation. Our advice and counseling service, providing free assistance to callers from across the country and technical assistance to attorneys, is a key component of NCLR's litigation program. In addition to litigating impact cases through direct representation and amicus briefs, NCLR joins in briefs on issues of importance to lesbians that are authored by other organizations, and serves as co-counsel with firms at both the trial and appellate levels. Attorneys interested in providing pro bono assistance can contact NCLR Executive Director, Kate Kendell, Esq.

RELATIONSHIP RECOGNITION

Smith v. Knoller et al

California

VICTORY! – Settlement reached with landlord, trial pending against dog owners

NCLR is co-counsel for Sharon Smith, the surviving partner of Diane Whipple. Diane was tragically killed on January 26, 2001 as a result of a brutal attack by neighbors' dogs. Smith is also represented by Michael Cardoza and Robert Lazo and the law firm of Heller Ehrman White & McAuliffe LLP.

On August 9, 2001, San Francisco Superior Court Judge A. James Robertson II held that Sharon Smith can bring a lawsuit for the wrongful death of her partner, Diane Alexis Whipple. This ruling marks the first time a court anywhere in the country has held that excluding all same-sex partners from the right to bring a wrongful death suit violates the constitutional principle of equal protection. In his ruling, Judge Robertson stated, "Reading the wrongful death statute to exclude plaintiff would unduly punish her for her sexual orientation. Such a reading has no place in our system of government, which has as one of its basic tenets equal protection for all."

The dog owners, Marjorie Knoller and Robert Noel, also faced criminal charges and are currently serving sentences for involuntary manslaughter. In November 2002, Sharon reached a confidential settlement with the

building owners. Her lawsuit against the dog owners is still pending and has been continued until they are released from prison.

– NCLR case

Mashburn v. Tampa Fire & Police Pension Fund et al

Florida

Writ pending

On July 6, 2001, Tampa police officer Lois Marrero was killed in the line of duty. She had been a police officer for 19 years. Lois was survived by many family members including her partner of 11 years, Mickie Mashburn.



NCLR client, Mickie Mashburn, accepting an award at Tampa Bay Pride.

In August, Mickie was denied Lois's pension amounting to several hundred thousand dollars. Had the two been legally married Mickie, like every other legal spouse of a murdered officer, would have received the pension. NCLR is representing Mickie in her lawsuit challenging the pension board's decision to deny her Lois's pension.

– NCLR case

Whitmire v. Arizona

Ninth Circuit

VICTORY!

NCLR and Martha Matthews of the ACLU of Southern California represented Karl Whitmire in his challenge to an Arizona Department of Corrections policy prohibiting people of the same sex (other than immediate relatives) from embracing and kissing during visiting hours at the facility. The prison argued that the policy was necessary to protect inmates who, they claimed, would be in physical danger if they were seen hugging someone of the same sex. The Ninth Circuit rejected the Department's argument. In a decision issued on August 12, 2002, the Ninth Circuit held that the policy lacked any commonsense rationale, especially in the case of prisoners who are already openly gay and thus whose sexual orientation is already known. The ACLU of Arizona has agreed to represent Karl on remand.

– NCLR case

PARENTING RIGHTS

Fulk v. Fulk

Mississippi

VICTORY!

In 2001, a Mississippi trial court awarded custody of Rhonda Fulk's four-month old son to Rhonda's ex-husband, despite the fact that the husband had been convicted of domestic violence and resisting arrest and had locked Rhonda in the house with a padlock while she was pregnant. The trial court gave Rhonda only one hour of supervised visitation per week, which had to take place at 8 a.m. on Sunday mornings, in the parking lot of a local McDonald's, and under the "supervision" of Rhonda's ex-husband. The trial court made this decision because Rhonda had been in a relationship with another woman, stating, "it is unacceptable for any child to be around this type of behavior."

In a victory for all lesbian and gay parents in

Mississippi, the Mississippi Court of Appeal reversed on all counts in a decision issued in late 2002. The Court of Appeal ordered the case back to the trial court and held that, at a minimum, Rhonda should be granted unrestricted, overnight visitation.

– NCLR case

Janis C. v. Christine T. **New York** **Motion for reargument pending**

NCLR and Joan Iacono, a family law attorney in New York, are representing Janis C., a non-biological mother seeking to maintain visitation with her two children. Janis' former partner, the children's other mother, attempted to sever Janis' relationship with the children after the couple separated. The trial court granted Janis visitation, finding that she and the children have a close parental bond, and that continued contact with Janis was in the children's best interest. Janis is appealing an intermediate court decision reversing the trial court on the ground that a non-biological parent has no standing to request visitation. The intermediate court relied on a 1991 decision by the highest court in New York, which denied visitation to a non-biological lesbian parent. This case presents the high court in New York with an opportunity to clarify its 1991 decision. Lambda Legal and the ACLU Lesbian and Gay Rights Project filed an amicus brief supporting the application for review, as did a number of children's rights organizations. In a crushingly disappointing decision, on December 17, 2002, the Court of Appeals indicated that it would not review the case. In January 2003, NCLR and Iacono filed a motion for reargument, urging the Court of Appeal to reconsider its denial.

– NCLR case

McGriff v. McGriff **Idaho** **Appeal pending**

NCLR is representing Theron McGriff, a gay father in Idaho who lost joint legal and physical custody of his two children because of his sexual orientation. Prior to the divorce, Theron was the primary caretaker of the two children. After the divorce, which was initi-

ated by Theron's ex-wife, the parties agreed to share custody of the children fifty-fifty. This arrangement continued until Theron became involved with a male partner, at which point his former wife petitioned for and received sole custody, based solely on her argument that the children would be harmed by living with a gay father. To add insult to injury, the trial court also held that Theron can only have visitation with his children if he does not live with his partner. The Idaho Supreme Court has agreed to review the decision, which is expected to be heard this summer. In the meantime, the same trial court judge who issued the custody and visitation decision has ordered Theron to pay all of his wife's attorney fees on the appeal. For more information on the case, see www.idahodad.org.

– NCLR case

D.D. v. J.D. **Alabama** **Appeal pending**

NCLR and Melody Pate, a family law attorney in Albertville, Alabama, are representing a lesbian mother in her appeal of an Alabama visitation order prohibiting her from visiting with her child in the presence of her partner. The expert witness in the case testified that it would not be detrimental for the child to have contact with the mother's partner. Despite this evidence, the trial court held that "practicing homosexuality in Alabama is illegal" and that "it is not the child's best interest to expose her to illegal conduct that is also considered immoral by most citizens of this State." The Alabama Court of Appeal is reviewing the trial court decision and is expected to issue a decision this spring.

– NCLR Case

Kove v. Naumoff **Pennsylvania** **VICTORY!**

In a precedent-setting decision that received widespread national attention, the Pennsylvania Superior Court held that a non-biological lesbian mother who had joint legal custody of five children she had raised with her former partner must also pay child sup-

port, the same as any other parent in her situation would be required to do. NCLR, Tiffany Palmer of the Center for Lesbian and Gay Civil Rights, and Philadelphia attorney Mark Momjian represented Lisa Kove, the children's biological mother. After separating in 1997, the non-biological mother was granted joint legal custody and visitation. Lisa, the biological mother, was awarded primary physical custody. Later, Lisa instituted an action for child support. At trial, the non-biological mother argued that, despite asking for and receiving joint custody, she was not a parent and therefore could not be required to pay child support. The trial court held that she was a parent and ordered her to pay child support. The Pennsylvania Superior Court affirmed the trial court's ruling, stating: "equity mandates that H.A.N. cannot maintain the status of in loco parentis to pursue an action as to the children, alleging she has acquired rights in relation to them, and at the same time deny any obligation for support...to protect the best interest of the children involved, both parties are to be responsible for the emotional and financial needs of the children."

– NCLR case

Fritz v. SSA **California** **Administrative appeal pending,** **victory in related proceeding**

NCLR is representing a lesbian mother whose child was denied social security benefits after the death of the mother's partner. Prior to her death, a court held that the deceased partner was a legal parent under the California Uniform Parentage Act. In a shocking display of homophobia and insensitivity to this grieving family, the Social Security Administration is refusing to honor the court's judgment, based on the homophobic argument that a child cannot have two legal parents of the same gender. The Social Security Administration is taking this position despite the fact that federal law requires the Administration to defer to state law with regard to who is a legal parent. In a separate action, the deceased woman's parents filed for visitation and custody of the woman's biological child despite the fact that the parents had cut off all contact with

their daughter fourteen years ago and had never met their grandchildren. In January, 2003, the trial court dismissed all of the grandparents' claims and ordered them to pay the surviving mother's attorney fees.

– *NCLR case*

SECOND PARENT ADOPTIONS

Sharon S. v. Superior Court of San Diego County **California** **Appeal pending**

The decision in this case will determine whether second-parent adoptions continue to be granted in California. In addition to filing an amicus brief supporting second-parent adoption with other LGBT organizations, NCLR coordinated a statewide amicus effort involving adoption and child welfare experts.

– *Amicus brief filed*

Kantaros v. Kantaras **Florida** **VICTORY!**

In a groundbreaking decision released on Friday, February 21, 2003, Florida Circuit Court Judge Gerard O'Brien ruled that Michael Kantaras, a transgender man, is legally male and was legally married to his former wife Linda Kantaras, stating that "the Court has carefully reviewed all the pleadings, record evidence, expert medical testimony, lay witness testimony and the appropriate statutory authority for marriage in Florida and concludes the overwhelming weight of evidence favors declaring the marriage valid." Final Judgment at pp. 806-07. The court also awarded Michael primary custody of the two children he and Linda raised together during their marriage.

This Clearwater, Florida custody case was televised last February on *Court TV*. It is one of the first in the country to determine whether a transgender man has the right to marry and be a parent. Michael Kantaras was

born female. He completed sex-reassignment in 1987 and married Linda Kantaras two years later. During their nine-year marriage, Michael and Linda raised two children together. The children are now 11 and 13 years old. Linda was aware that Michael is transsexual before she married him. At trial, however, Linda asked the court to invalidate the marriage and to deny Michael any parental rights, solely because he is transgender. Collin Vause, a family law attorney in Clearwater, is co-counsel on the case. The judgment, which is detailed in an over 800 page opinion, is a tremendous victory for transgender people across the nation. Additional information about this case is available at: www.courtstv.com/trials/kantaros/index.html.

– *NCLR case*

Butler v. Harris **California** **Appeal pending**

The issue in this case is whether California's grandparent visitation statute unconstitutionally infringes on the rights of parents. NCLR filed an amicus brief with the ACLU of Southern California, the ACLU of San Diego, Legal Services for Children, and Professor Joan Hollinger urging the California Supreme Court to take same-sex parent families into consideration when deciding the constitutionality of the California grandparent visitation statute.

– *Amicus brief filed*

In re: RBF and RCF **Pennsylvania** **VICTORY!**

In a landmark decision on August 20, 2002, the Pennsylvania Supreme Court unanimously held that second-parent adoptions are permissible under the Pennsylvania adoption statutes. Pennsylvania is now the seventh jurisdiction in which an appellate court has held that second-parent adoptions are permissible, including: Washington DC, Illinois, Massachusetts, New Jersey, New York, and Vermont. In addition, Vermont and Connecticut have statutes explicitly permitting

second-parent adoptions. The parties in this case were represented by Christine Biancheria and Sandra Gail Edwards Gray. NCLR joined an amicus brief filed by Lambda Legal.

– *Amicus brief joined*

EMPLOYMENT

Rene v. MGM Grand Hotel **Ninth Circuit** **VICTORY! Cert. Petition pending**

In a victory for LGBT employees, the Ninth Circuit held that a gay man who was severely harassed by male co-workers had stated a valid claim of sex discrimination under Title VII, a federal law prohibiting sex discrimination in private employment. The employee, Medina Rene, who is openly gay, worked as a butler for MGM Grand Hotel. Mr. Rene's co-workers repeatedly grabbed him from behind, touched his body, grabbed his genitals, taunted him by calling him feminine names and endearments, and ridiculed him for walking in a feminine manner. The Ninth Circuit issued the decision en banc, meaning that it was decided by the entire court.

The original Ninth Circuit opinion had rejected Mr. Rene's claim on the ground that he was harassed because of his sexual orientation, not because of his gender. On appeal, the Ninth Circuit reversed in a 7-4 decision with multiple opinions. Five judges agreed that Mr. Rene should be given an opportunity to prove his case at trial, because he had alleged that he was singled out because of his sex and subjected to sexually harassing conduct that was sufficiently severe or pervasive to be actionable under Title VII. Three other judges held that Mr. Rene presented evidence of actionable gender stereotyping harassment. The four dissenting judges agreed that Title VII prohibits harassment on the basis of gender non-conformity, but did not believe that Mr. Rene had raised or presented sufficient evidence to support this claim.

NCLR filed an amicus brief on the petition for rehearing, along with the ACLU of Southern California, the ACLU of Nevada, and the Employment Law Center. Mr. Rene is represented by Richard Segerblom of Las Vegas,

Nevada. Following the Ninth Circuit decision, the MGM Grand Hotel filed a cert. petition with the U.S. Supreme Court, which is still pending.

– *Amicus brief filed*

YOUTH

Massey v. Banning Unified School District

California
Case pending

School officials at a public middle school in California prohibited Ashly Massey, an eighth-grade lesbian student, from attending P.E. class because the P.E. teacher thought it was inappropriate for a lesbian student to be in the locker room with other girls. In December 2002, Ashly filed suit in



Kicked out of her junior high gym class by the teacher because she was a lesbian, Ashly Massey fought back. She is now an NCLR client in a California case asserting the teacher, principal and district administrators violated state law. Based on her courage Ashly has been selected as the recipient of NCLR's Justice Award at our 26th Anniversary Celebration, May 24, 2003 in San Francisco.

federal court against the district as well as individual school officials for their conduct, alleging violation of the Equal Protection Clause, as well as various state claims including violation of California Student Safety and Violence Prevention Act of 2000 (AB 537). NCLR and Martha Matthews, an attorney with the ACLU of Southern California, are representing Ashly.

– *NCLR case*

Youngblood v. School Board of Hillsborough County et al

Florida
Appeal pending

NCLR is representing Robinson High School Senior Nikki Youngblood in a federal lawsuit against the Hillsborough County School District, Florida for creating and enforcing an illegal senior portrait policy that required all female students to wear an ultra-feminine scoop neck drape for their senior portraits, while allowing male students to wear a jacket and tie. Nikki and her mother informed school officials that Nikki did not feel comfortable wearing stereotypically feminine attire and requested that Nikki be permitted to wear a jacket and tie. The school refused to honor her request. As a result, Nikki's picture did not appear in the High School yearbook alongside those of her classmates. The suit alleges violations of both state and federal sex discrimination laws, as well as federal and state constitutional violations of Youngblood's right to free expression and equal protection. The case is on appeal to the Eleventh Circuit.

– *NCLR case*

Flores v. Morgan Hill Unified School District

Ninth Circuit
INITIAL VICTORIES!
Appeal pending

NCLR, the ACLU of Northern California, and cooperating attorneys Diane Ritchie, Leslie Levy, and Jim Emory of the law firm of Kecker & Van Nest, LLP are suing the Morgan Hill Unified School District (MHUSD) in federal district court in San Jose, California on behalf of six former MHUSD students. For years, each of the plaintiffs was subjected to a daily barrage of anti-LGBT epithets, slurs, derogatory sexual comments, threats of physical violence and/or actual physical assaults because of their gender and real or perceived sexual orientation. The lawsuit is seeking to hold MHUSD liable for its indifference to this harassment and its failure to take any meaningful remedial action to protect these students or to provide them with an equal educational opportunity.

In February 2000, in a tremendous initial victory for the students, the district court denied MHUSD's motion for summary judgment on the issue of qualified immunity on the student's Equal Protection Clause claims and held that all six plaintiffs are entitled to proceed to trial. This decision was vacated and remanded by the Ninth Circuit to be reevaluated in light of a recent decision from the U.S. Supreme Court. On remand, the district again denied MHUSD's motion for summary judgment in December 2001. In January 2002, the school district again appealed the decision to the Ninth Circuit. We expect a decision on this issue sometime in 2003.

– *NCLR case*

SODOMY CHALLENGES

Lawrence and Garner v. Texas

U.S. Supreme Court
Cert. petition pending

Lambda Legal is representing two men arrested, jailed, and criminally convicted under a Texas statute prohibiting "Homosexual Conduct" for having consensual sex in a private home. The Texas Court of Appeal upheld the constitutionality of the statute, and the Texas Supreme Court refused to review that decision. In January, 2003, the U.S. Supreme Court agreed to hear the case, marking the first time the Court has considered the constitutionality of a sodomy statute since the Court's 1986 decision in *Bowers v. Hardwick*. NCLR joined an amicus brief with a number of other civil rights groups supporting Lambda's position in the case. To read the brief NCLR joined, see www.hrc.org/publications/eu/letters/lawrence_brief.pdf.

– *Amicus brief joined*

REPRODUCTIVE RIGHTS

NOW v. Scheidler

In a landmark victory for reproductive freedom, the National Organization for Women won the first-ever nationwide lawsuit against violent harassment of abortion clinics. Earlier this year, NCLR joined the NARAL Pro-Choice America and other groups in an amicus brief urging the Supreme Court to affirm the district court's order enjoining anti-abortion groups from using force, violence, threats, and fear in an effort to put abortion clinics out of business. The Court's decision is expected this summer.

– Amicus brief joined

MARRIAGE

Goodridge v. Dept. of Health

**Massachusetts
Appeal pending**

Gay and Lesbian Advocates and Defenders (GLAD) represent seven same-sex couples who are seeking the right to marry in Massachusetts. A state Superior Court judge ruled against the plaintiffs in May, 2002, which prompted GLAD to appeal to the Massachusetts Supreme Judicial Court. The case is expected to be heard by the Court this spring, and decided in the summer of 2003. NCLR joined an amicus brief supporting the couples' right to marry.

– Amicus brief joined

For updates on NCLR's docket please visit our Web site:

www.NCLRrights.org

For free assistance in English and Spanish, call us at: (415) 392-6257 or (800) 528-6257



NCLR ON THE PHONE

9:59 am

Elder Law Project Coordinator Joyce Pierson gets a call from a woman whose partner of 46 years has Alzheimer's and she might have to go into a skilled nursing facility. She had an accident and is now in the hospital. "We have a will and a house in joint tenancy, but no one knows we are lesbians -- we thought we had everything in order. I got your number from the Nursing Home Ombudsman." After an initial telephone consultation, Joyce makes a home visit to provide support and information that results in a referral to an elder law attorney. This couple is not registered as Domestic Partners, which complicates their joint property and MediCal eligibility for the hospitalized partner and the surviving partner's future needs. Joyce addresses the problem by explaining the benefits of California's Domestic Partnership law AB25.

10:13 am

A Massachusetts lawyer contacts Public Education Director Marta Donayre seeking assistance on a case of a Brazilian woman seeking asylum based on her sexual orientation. Being an asylee from Brazil herself, Marta understands that the woman needs help on two fronts: as a lesbian and as a woman. She immediately puts the lawyer in touch with the International Gay and Lesbian Human Rights Commission, and Flavio Alves, a Brazilian asylum activist in New York City. She contacts Love Sees No Borders and arranges for two affidavits for the case — one from NCLR and the other from Love Sees No Borders.

12:33 pm

A lesbian soccer coach calls. She is being harassed by the male football staff. Homophobia in Sports Project Coordinator Helen Carroll advises her to elicit support from her college coaching peers and then meet with the athletic director to discuss her physical safety and her hostile working environment. Helen calls the athletic director to speak on the coach's behalf. He says that he will speak to the staff, remove the offending coach, and place the harassed coach in a safer situation.

2:51 pm

Legal Assistant Noemi Calonje receives an e-mail from a mother who fears that her child may be taken away from her because she is a lesbian. Noemi explains to her that in Oklahoma this cannot be done. She e-mails the NCLR fact sheets on custody cases and asks the mother if she has an attorney comfortable with these issues. The woman e-mails back thanking Noemi for the prompt response. ♦

FACES OF NCLR



Kate Kendell goes back to her home state of Utah and joins over 150 NCLR friends and supporters at a fundraiser hosted by Jane and Tami Marquardt. Among the guests enjoying a marvelous evening were, (l-r), former University of Utah basketball star Julie Kromennhoek, former ACLU of Utah Executive Director Carol Gnade, Salt Lake City Mayor Ross "Rocky" Anderson, Kate Kendell, long-time donor Peggy Tomsic, and WNBA San Antonio Silver Stars standout forward Natalie Williams.



Planning committee for 2002 LGBT Elder Conference in Oakland, CA. NCLR's Elder Law Project reaches hundreds of LGBT elders who need practical advice, information and resources to protect themselves and their relationships. Our Elder Law workshops are always wildly successful and much appreciated.



NCLR Executive Director Kate Kendell enjoyed a great trip to Florida in February. Kate and staff attorney Karen Doering attended successful and fabulous house parties in Tampa, Ft. Lauderdale and Miami. Here Kate, National Advisory Board Liaison and Board Member Heather Hiles, People's Court Judge and NCLR supporter Marilyn Millian, and long-time National Advisory Board Member Raquel Matas bask in the warmth of our terrific Miami house party hosted by Raquel and her partner Carla Lupi.



Public Education Director Marta Donayre with John Vezina, lobbyist for the Human Rights Campaign working on the Permanent Partners Immigration Act (PPIA) and Marta Ames, Executive Director, Pride At Work, meeting in Washington DC late last year.



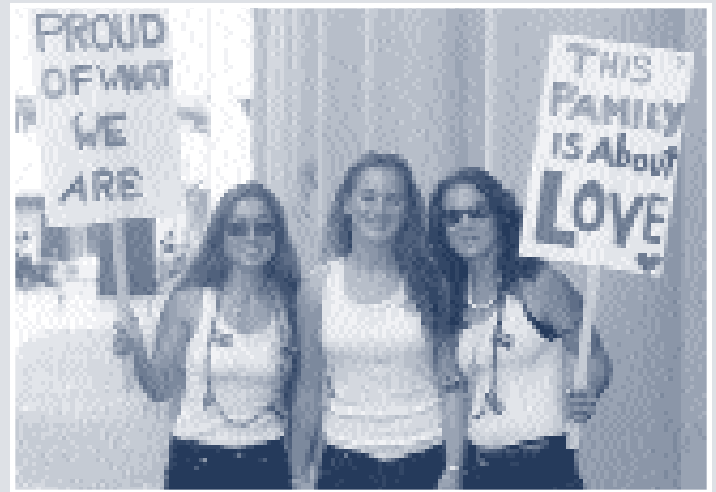
NCLR staff attorney Courtney Joslin and colleagues creating some change of their own at NGLTF's Annual Creating Change Conference in Portland, Oregon, Fall 2002.



NCLR Florida staff attorney Karen Doering with summer interns Jihi Bustamonte and Lisa Balfour.



NCLR Staff Attorney Karen Doering (l), who is also a consultant with Equality Florida, and legislative lawyer for NGLTF's Transgender Civil Rights Project, Lisa Mottet, worked with "Save Dade" and other Florida activists last fall to defeat a right-wing attempt to remove protections for LGBT people from Dade County's Human Rights Ordinance.



NCLR is providing assistance to San Mateo family Ramona, Arzu and Marina Gatto.



Planning for the May 24, 2003, 26th Anniversary Event is in high gear. The Event is always spectacular largely due to the involvement of our dedicated event committee volunteers. Three of these wonderful women are (l-r) Kristina Militante and Lillian Shiiba, Co-chairs of our Raffle, and Victoria Gonzalez, one of our Table-Captain Co-chairs.



Client Nikki Youngblood (center), with her girlfriend (l) and actress Sharon Gless (r).



Title IX Under Attack

Title IX Recommendations Threaten Opportunities and Safety of Girls and Women in All Schools

Title IX, the groundbreaking federal law that gave women and girls unprecedented opportunity in sports and athletics, is under attack by the Bush administration. Through our Homophobia in Sports Project we are helping to raise the alarm and assure that the important protections and fundamental equality embodied in Title IX are not gutted.

*“Without Title IX,
I’d be nowhere.”*

– Cheryl Miller, Olympic athlete,
Outstanding member of 1984 gold
medal women’s basketball team



NCLR Homophobia in Sports Coordinator Helen Carroll (center), with San Francisco Chronicle Columnist Joan Ryan (left), and Real Sports Magazine Founder Amy Love at NCLR co-sponsored event, “When Girls Got the Gym: Title IX at Age 30.” Helen is joined by her twin daughters Savannah and Mica, future beneficiaries of Title IX.

Last month the Commission on Opportunity in Athletics, appointed by Department of Education Secretary Roderick Paige, submitted a majority report to the Department that poses an unprecedented threat to the viability of Title IX. The Commission’s majority recommendations would weaken key provisions of the law by permitting schools to disregard the law’s mandate of equal opportunity. Title IX, passed by Congress in 1972, bans sex discrimination in schools, academics and athletics. Title IX states:

“No person in the U.S. shall, on the basis of sex be excluded from participation in, or denied the benefits of, or be subjected to discrimination under any educational program or activity receiving federal aid.”

Title IX has greatly increased the opportunities for girls and women to participate in interscholastic and intercollegiate athletics. In 1971, before passage of this groundbreaking law, fewer than 300,000 high school girls played interscholastic sports. Today, that number is 2.4 million.

While much of Title IX’s success has been in the area of athletics, its gains in increasing educational opportunities are also notable. Before Title IX, many schools saw no problem in refusing to admit women or having strict limits. The statistics tell the story:

- In 1994, women received 38% of medical degrees, compared with 9% in 1972.
- In 1994, women earned 43% of law degrees, compared with 7% in 1972.
- In 1994, 44% of all doctoral degrees to U.S. citizens went to women, up from 25% in 1977.

Even with all these gains we all know that women and girls continue to suffer discrimination and harassment. We know that many lesbian and bisexual girls participate in athletics, and if Title IX is weakened, these young women will lose valuable opportunities to gain self-confidence and self-esteem. Given the pervasive harassment and discrimination faced by lesbian and bisexual girls in schools, the loss of these opportunities would be particularly devastating.

Title IX made women like Mia Hamm, Sheryl Swoopes and hundreds of other standout professional athletes the stars they are. Title IX required an equality of opportunity that has transformed the playing field and the workplace. We have all been beneficiaries of the mandates of Title IX. Please do not allow the law to be gutted. Go to www.SaveTitleIX.com for action steps you can take to help protect this important civil rights law. You can also call President Bush at 202-456-1111 and Secretary Paige at 202-401-3000 and tell them to reject the Commission’s proposals. ❖

NCLR ON THE ROAD!

NCLR believes that education helps advance our rights. These are some of the places our staffers are traveling. Check out www.NCLRights.org for our most up-to-date happenings!

March

True Colors X Conference -
West Hartford, CT

The National Gay & Lesbian Athletics Conference -
Cambridge/Boston, MA

Speech at The University of Michigan Law School -
Ann Arbor, MI

Legal Issues Facing Lesbian, Gay, Bisexual, Transgender Elders - Chicago, IL

Lesbian, Gay, Bisexual, Transgender Caregivers: Expanding the Community of Care - San Francisco, CA

Bay Area Old Lesbians Organizing for Change (OLOC) -
San Francisco, CA

April

Women's Basketball Coaches Association Conference -
Atlanta, GA

Winning Women, Gay and Lesbian Victory Fund -
Atlanta, GA

National Black Lesbian Conference - Los Angeles, CA

Exclusion & Asylum, Immigration Sexuality and the Law Conference - Los Angeles, CA

Reception at Seattle University Law School - Seattle, WA

Speech at Williams College -
Williamstown, MA

Gay & Lesbian Alliance of the Central Coast/LGBT Legal Issues Workshop - San Luis Obispo, CA

May

Equality Forum, The Global LGBT Event - Philadelphia, PA

California NOW Conference -
Los Angeles, CA

Association of Family and Conciliation Courts: LGBT Institute - Ottawa, Canada

June

Orlando Gay Days - Orlando, FL

July

North American Gay Amateur Athletic Association - softball -
Kansas City, MO

Save the Date:

May 24th, 2003

26th Anniversary Gala in San Francisco

(see back cover for details)



Gala Co-chairs Betsy Allen (l), and Lesley Weaver



NCLR National Office
870 Market Street, Suite 570
San Francisco, CA 94102

NCLR Regional Office
3708 W. Swann Avenue
Tampa, FL 33609

(415) 392-6257 [T]
(415) 392-8442 [F]
(800) 528-6257

info@NCLRights.org
www.NCLRights.org

Founded in 1977 and headquartered in San Francisco, NCLR is a national, lesbian, feminist, non-profit law firm. Our mission is to create a world in which every lesbian can live fully, free from discrimination. Through impact litigation, public policy advocacy, public education, and direct legal services, we advance the legal and human rights of lesbians, gay men, and bisexual and transgender individuals across the United States. Each year we serve more than 3,500 clients in all fifty states.

Celebrating more than a quarter century of legal advocacy

NATIONAL CENTER FOR LESBIAN RIGHTS LIBERTY WEEKEND MAY 23 - 25, 2003

Jump on it.

MEMORIAL DAY WEEKEND AND MAKE IT LIBERTY WEEKEND IN SAN FRANCISCO WITH NCLR

Save

26th Anniversary Gala Dinner Dance
May 24th, 6 pm - Midnight
Moscone Center Ballroom, San Francisco
Emcee: Kate Clinton
Awardees: Barbara Gittings,
Ashly and Amelia Massey, Ana Oliveira

TICKETS: \$200
TABLES: \$2,000/\$2,500/\$5,000/\$10,000
DISCOUNTED TICKETS FOR VOLUNTEERS!

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Call 1.800.433.1790 and mention Starfile number A5353AK
for discounted rates for NCLR's Liberty Weekend.

FRIDAY, 4:30 PM - 6 PM
Welcome Reception at Mecca

SATURDAY, 10 AM - 1 PM
Treasure Island Brunch Cruise

SATURDAY, 10 AM - 2 PM
Walking Tour of The Castro

SATURDAY, 6 PM - 12 AM
Anniversary Gala Dinner Dance

SATURDAY, 12 AM - 2 AM
After-party at The Cherry Bar

SUNDAY, 10 AM - 2 PM
Walking Tour of The Castro

SUNDAY, 3 PM - 8 PM
Salsa Dance Party at El Rio

ALL WEEKEND

Shopping + spa discounts at Nordstrom
Salon discounts at Cinta Salon
Hotel Discounts at Hotel Rex

For all questions other than the Gala
Dinner Dance, call 415.392.6257 x 311 or email
LibertyWeekend2003@NCLRights.org.

All venues are wheelchair accessible.

