

# GLADBRIEFS

GAY & LESBIAN ADVOCATES & DEFENDERS

WINTER '12

## A Banner Legislative Year for the TRP Jennifer Levi, Director, Transgender Rights Project

**O**n November 16, I watched from the gallery as the Massachusetts Senate voted on final enactment of the Transgender Equal Rights Bill. It was all over — the bill had passed the House the night before and was headed to Gov. Deval Patrick, who signed it into law a week later.

Massachusetts is now the 16th state to provide nondiscrimination protections to transgender people, and the fifth of the six New England states to do so (New Hampshire is the holdout). In other words, New England comprises a third of all states that have added transgender protections nationally.

After the vote, Sen. Sonia Chang-Diaz, a lead sponsor of the bill, invited all of the supporters onto the Senate floor to hear some final remarks. She talked poignantly about longtime activists Ken and Marcia Garber's son CJ, who died too young partly because of his long struggle for acceptance as a transgender person. Everyone — senators, aides, clerks — rose to applaud the Garbers and all the activists and advocates who spent countless hours on Beacon Hill to get the bill passed. It was an amazing day. I knew it and could feel it in my heart and exhausted body.

The passage of the Transgender Equal Rights Bill capped a year of victories for GLAD's Transgender Rights Project (TRP) and New England's transgender community.

In Maine, we were an integral part of the coalition that defeated LD 1046, which would have cut out from that law protections for transgender people in public restrooms and locker room facilities. The bill was, in part, a backlash to our lawsuit *Doe v. Clenchy*, in which we represent a teen who was bullied and discriminated against at school because she is transgender. I was proud to deliver the opposition's expert testimony at a public

hearing on LD 1046 in April. In June, the bill was soundly defeated by a Republican-controlled legislature.

In Connecticut, Gov. Dannel Malloy signed into law HB 6599, a transgender nondiscrimination bill, in July. In response to legislators' desire to define "gender identity and expression" as concretely as possible, the TRP was instrumental in developing bill language specifying that a gender-related identity can be shown by providing evidence in various ways, including (1) medical history, (2) care or treatment of the gender-related identity, (3) consistent and uniform assertion of such an identity, or (4) any other evidence that the identity is sincerely held, part of a person's core identity, or that the person is not asserting such an identity for an improper purpose. Although the law includes these as examples, they need not be shown in every case and are illustrative and not exclusive. That means that any one of these is sufficient but not necessary to state a claim of discrimination.

That language turned out to be pivotal in getting the Massachusetts bill to move out of the committee in which it had languished for nearly 6 years. We hear that it may also be influential in other states.

Unlike Connecticut, where transgender people have full protections under state antidiscrimination law, the Massachusetts victory was bittersweet. The Massachusetts law, which takes effect in July 2012, includes essential protections: hate crimes protections to combat violence, and the prohibition



Jennifer Levi testifies in support of the MA transgender rights bill in June 2011.

*Photo: Marilyn Humphries.*

of discrimination in employment, housing, credit, lending, and in our K-12 public schools. But it omits important protections for transgender people in the public sphere. Because too many legislators were not yet ready to deal with the full reality of our lives, the Joint Committee on the Judiciary removed the public accommodations protections despite strong efforts by advocates to keep the bill intact.

Contrary to popular belief, public accommodations protections aren't solely about bathrooms and locker rooms (which are important, to be sure).

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# From the Executive Director

## Lee Swislow



Photo: InfinityPortraitDesign.com

Lee Swislow was on leave from GLAD from March 11 to October 3, 2011, hiking the Appalachian Trail—2181 miles from Georgia to Maine.

**O**n December 7, I went to see *La Cage aux Folles*. Perhaps that's why, as I think about learnings from my Appalachian Trail adventure, songs from musicals keep coming to my head. The loudest, not surprisingly, is *La Cage's* "I Am What I Am."

Until the weather got too warm, I wore my GLAD hat every day on the trail, proudly emblazoned with *Gay & Lesbian Advocates & Defenders* and *Equal Justice Under Law*. My trail name was "Glad Gal." Coming out was not a question; I simply was out.

As a life-long Northerner, I confess to having had some concern about being so out down South, as the trail goes through Georgia, North Carolina, Tennessee and Virginia. I was also very aware of the two lesbians who were killed on the trail in 1996 in what is believed to have been a hate crime.

Yet my experience could hardly have been more positive. Not everyone was quite as enthusiastic as the former soldier who proclaimed, "Well good for you. I don't see why everyone shouldn't be able to marry whoever they want," but just about everyone I met expressed some level of support. The few who didn't simply nodded quietly. I never experienced any negativity about being gay.

This experience reinforced what we've been saying for years — there is nothing more important than being out. And as acceptance of LGBT people increases, as we see affirmed by regular national polls, the space in which it is safe to be out is ever larger.

The other song that is particularly dominating is "I Can't Do It Alone" from *Chicago*. I could never have completed the trail were it not for all the trail angels I met along the way — people who gave me rides, left cold drinks along the trail, set up at road crossings with grills to feed hungry hikers. And then there was the community of thru-hikers, who supported all of us in our shared belief that we actually could do this amazing thing and complete the trail.

I returned to find GLAD in great shape. Led by Gary Buseck, interim ED, and the entire senior team, everyone stepped up to ensure that our work continued without pause and without problem. Fortunately, I didn't have to build a team as I prepared for my leave. GLAD has always been a place where people work together, pushing each other's thinking and inspiring each of us to do our best work.

Now that I'm back at GLAD, I don't get to spend all day outdoors hiking and I don't get to eat everything I possibly can and still lose weight! But I do get to be part of a community with an ambitious but achievable goal — full equality for all LGBT people and people living with HIV/AIDS. And, as this year ends, I am so very grateful for the adventure I had and for the life I get to lead here at home. ■

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# Ensuring Anti-Bullying Laws Protect Students

"Kill yourself, please. This world would be better off without you."

"Why are you not dead?"

"You are a fucking faggot. No one likes you. Seriously, do everyone a favor and drop dead."

These are just a few of the hateful messages that greeted "K," a high school student in New Hampshire, when he visited the social networking site Formspring in September 2010. K spent hours responding to these hateful posts, made by classmates, in an effort to defend himself. He had to face the very students who had posted these hateful things in school everyday. It took an emotional toll on him and made it nearly impossible for him to pay attention to his schoolwork.

The cyberbullies also tormented him on Facebook at the same time. One of his classmates created a fake profile with a girl's name, which was then used by several students to post derogatory

remarks directed at K. While K is not gay, this was a homophobic attack, with comments such as "I never said anything to you except called you a fag cuz you obviously made a fake girl facebook to have dudes hit on you cuz your gay."

A month later, another student posted on their own Facebook page "Ok, 'K' says only 20 people hate him, and I'm sure there's more than that so like this if you do." Almost 50 people, mostly classmates, "liked" the post.

GLAD won an important victory recently on K's behalf after the school repeatedly failed to address this vicious and targeted cyberbullying campaign.

When K's father learned about the cyberbullying, he immediately placed calls and sent emails to the school's vice principal. But school officials offered no real response, saying only that they had talked to the student who had created the fake Facebook profile. Things only escalated from there, with more Facebook and Formspring posts directed at K. Rather than deal with the bullies, the vice principal forced K to meet alone with one of his tormentors in a closed room for 30 minutes.

K's father continued to ask school officials to create a plan to deal with the bullies and protect his

son. But the school repeatedly failed to respond. School officials and the school board refused to acknowledge what was happening as bullying.

GLAD, along with co-counsel Neil Jacobs, MJ Edwards and Brian Boyle of WilmerHale, pursued the family's case to the Board of Education. In response to the school district's motion, the hearing officer assigned to the case dismissed the claim, agreeing with the school district's argument that the Board had no jurisdiction to hear this case. However, with GLAD and WilmerHale's representation, the family appealed to the Board of Education, which agreed unanimously with GLAD's position that the inability to pursue a case like this would cut the legs out from under the anti-bullying statute.

This win is especially important as it upholds the efficacy of New Hampshire's anti-bullying statute. "If the Board of Education had dismissed this case, as the school and the school board asked them to do, it would have essentially rendered the state's anti-bullying law meaningless," says GLAD Staff Attorney Janson Wu. "Anti-bullying laws can't do what they're supposed to do — protect students — if they can't be enforced." ■

## Transgender Rights Project

*continued from page 1*

The legal term "public accommodations" refers to any facility — theaters, restaurants, malls, etc. — that opens itself up to the public to provide goods or services. And, like the employment, education, housing, credit, and anti-violence portions of the law, those provisions are also essential to the community. We fought unsuccessfully to keep the bill intact as it emerged from the Judiciary Committee, and continued to work with our legislative allies to get public accommodations protections put back in as the bill progressed from House to Senate. We now all know the outcome — a great and imperfect legislative victory.

As I drove home after the Senate vote in the pouring rain, a verse from Deuteronomy repeated in my mind over and over again. "Justice, justice, you must pursue. Justice, justice, you must pursue." The year 2011 turned out to be a banner year for transgender rights throughout New England. And yet, much work remains. A legislative ally who by her own description is more comfortable quoting politicians than scripture, wrote to me recently to remind me of something Edward Kennedy said: "The work goes on, the cause endures, the hope still lives, and the dream shall never die."

We've come far this year but not hardly far enough. Much work remains, and the Transgender Rights Project stands ready and prepared to do that work. ■



*Photo: Chris Riley.*

**Members of the MA Transgender Equal Rights Coalition:** Arline Isaacson, Jennifer Levi, Carly Burton, Gavi Wolfe, Rep. Carl Sciortino, Gunner Scott and Kara Suffredini.

# Experts Weigh In On DOMA

*Some of our Gill v. OPM plaintiffs: Beatrice Hernandez and Melba Abreu (top); Nancy Gill and Marcelle Letourneau; Jim Fitzgerald and Al Koski; Bette Jo Green and Jo Ann Whitehead; Herb Burtis; Jonathan Knight and Marlin Nabors.*



Photos: InfinityPortraitDesign.com

**O**n November 3, just a week after GLAD filed our First Circuit brief defending our win in *Gill v. Office of Personnel Management*, experts from a range of fields filed 11 friend of the court briefs with the First Circuit. (Visit [www.glad.org/doma/documents](http://www.glad.org/doma/documents) to see all 11 briefs.)

The brief of 130 Members of Congress rightly attracted rave reviews. It is rare for Members of Congress to say that its laws are unconstitutional or a Member's vote was irrational. The forceful description of how DOMA imposes burdens and costs on businesses in the "Business Brief" of 70 state and national employers and trade organizations led a Forbes Magazine columnist to suggest Congress "throw in the towel" on DOMA.

Although less noticed, the other briefs all speak to important issues in the litigation or to arguments raised by the 15 *amici* supporting DOMA's constitutionality.

The nation's leading historians of marriage and the family, led by Harvard's Nancy F. Cott and Indiana's Michael Grossberg, show that there

is no novelty in marriage for same-sex couples requiring a "federal" response and Congressional line-drawing. Controversial disagreements among the states about marriage and divorce have been a staple of American marriage law — marrying across the color line being only the most obvious example. Until the 1996 passage of DOMA, Congress never before assumed the power to override state definitions of marriage and impose a single, federal definition of the married couple.

A brief of Professors of Family Law demonstrates that DOMA is not just another in a line of federal laws using family terminology. To the contrary, DOMA is the first and only federal law to exclude a class of state-conferred marriages from all of federal law. Every other federal law mentioning families is different, accepting state-created marriages while at times, for example, adding additional criteria for specific benefit eligibility (e.g. duration of marriage to deter fraud).

A brief of Professors of Family and Child Welfare Law responds to the argument that DOMA is justified by Congress's desire to promote

male-female marriage and thereby supposedly foster more procreation within marriage and with the "optimal" biological, different-sex parents. Among other things, the professors show that federal laws touching on children demonstrate a commitment to children's welfare regardless of how they were conceived and that DOMA works against its purported goals of helping children: It changed nothing for heterosexual married persons — they were eligible for federal protections and responsibilities before and after DOMA; but it undermines our children's welfare by denying their families the federal marital protections other married families depend upon.

The nation's leading child-welfare experts — the American Psychological Association, the American Medical Association, the American Academy of Pediatrics, the American Psychiatric Association, and the National Association of Social Workers — address the notion that a married mother and father provide the best family model for raising a child and demonstrate that children raised by gay and lesbian parents are as healthy as >

# When Love Doesn't Make a Family

other children. In fact, 50 years of data shows that the factors that positively affect children's adjustment are the same in families of all stripes: (1) the relationship of the child to the parent(s), (2) the relationship of the parents to one another (if more than one), and (3) the social and economic resources available to the family.

The remaining briefs pick up on the theme that DOMA works against itself or other federal laws. For example, a brief of 19 major labor organizations noted DOMA's imposition on business and labor, and its effect of ensuring that all workers married to a same-sex spouse earn less money, are taxed more on their wages and benefits, and have available to them less valuable benefits and less economic security than their counterparts in other marriages. The Citizens for Responsibility and Ethics brief explains how DOMA undermines numerous ethical provisions that promote transparency and avoid conflicts of interest, and that DOMA is particularly irrational because it results in a net loss to the public fisc, as detailed in a 2004 Congressional Budget Office Report. The brief from the Anti-Defamation League and various religious organizations argues that DOMA is a codification of moral views about gay people rather than neutral lawmaking.

Finally, a brief of the Massachusetts Bar Association, Boston Bar Association, and a wide variety of minority bar associations and civil rights organizations nationwide argues that it is time for the First Circuit to rule that laws that distinguish based on sexual orientation should be subjected to close review by the courts under federal equal protection law. When the government makes distinctions involving groups of people that have historically been discriminated against and are without sufficient power to protect themselves in the political process — the courts look carefully at the government's justifications. Gay people easily satisfy this test. The Obama Administration has examined those precedents and now agrees.

*Oral argument in the Gill v. OPM and Commonwealth of Massachusetts cases is tentatively scheduled for February.  
Stay tuned!*

No one can doubt the devastation wrought when a parent loses a child. The image that comes to mind is an untimely death, but for the LGBT parents who have lost a relationship with their child because of hostile courts and/or ex-partners, the death of the relationship is just as acute.

That's why GLAD, the National Center for Lesbian Rights (NCLR), and NCLR's National Family Law Advisory Council recently published an updated and revised version of GLAD's 1999 document: *Protecting Families: Standards for LGBT Families*. These 10 guidelines remind us how vitally important it is to protect legally the families LGBT people create and caution us against wielding gaps in the law or specific anti-LGBT laws to gain an advantage over another parent should the parents separate. As GLAD's Mary L. Bonauto writes in her introduction to the Standards, "Even in the midst of the emotional upheaval that inevitably accompanies the end of the adult relationship, families can do a great deal in advance, and at the time of separation, to resolve their differences in a manner that puts their children first."

Custody battles began to emerge in the 1990s that alerted GLAD to the need for the Standards. These cases aren't just devastating to the children and the parents who are cut out of their lives, they create bad case law, thus setting back the whole LGBT movement and parenting rights in general. The disputes persist because separating is difficult (for everyone), but gaps and inconsistencies in state family laws allow a disgruntled parent to use the law's preference for biology and adoption as a trump card to cut the other parent out of their child's life. Typically, a couple together creates a family through assisted reproduction or adoption, and then shares the work and joy of parenting, holding themselves out to the world as a two-parent family — even when their home state doesn't recognize their relationship or allow both parents to create a legal relationship with the child via joint guardianship, second-parent adoption and the like.

However, when the adult relationship sours, there can be a strong temptation to cut off contact between the other parent and child and justify it by re-interpreting the family and parenting relationships in line with laws that were not created with same-sex couples in mind. This inevitably prompts legal proceedings by the other parent to secure contact, setting the stage for high stakes battles over who counts as a parent in a context where same-sex relationships are invariably discounted. Even more, at stake is whether a child will be able to continue to rely on one of the parents the child has counted on in life, or whether that person will be stripped away as a "non-parent" with no more connection to the child than a babysitter.

In one of the most notorious cases, GLAD represented Janet Jenkins, whose ex-partner Lisa Miller — now an evangelical Christian and self-described "ex-gay" — has waged a nasty battle to keep Janet from their daughter, Isabella. GLAD has represented Janet in the Vermont Supreme Court three times and fended off two petitions for U.S. Supreme Court review as well. When the Vermont courts finally awarded Janet custody after years of Lisa's blocking contact with Janet, Lisa kidnapped Isabella and fled the country. She remains at large.



The Standards plead with the LGBT community to take advantage of existing laws, and to enter into agreements reflecting their joint parenting. It is possible to do something in every state, says Bonauto, even if what exists is not ideal. These guidelines are reminders to LGBT people. They range from "respect and honor your family relationships in the best interest of the children involved, regardless of legal labels" (#2) to "come to a voluntary resolution of your custody dispute" (#5) and "treat litigation as a last resort." (#9). Even in the midst of a painful divorce, the Standards (#10) ask people not to resort to homophobic and/or transphobic law or sentiments. ■

*See the back of this newsletter to take the pledge to uphold these standards*

# Improving Advocacy for Transgender Clients

COMING IN 2012

## TRANSGENDER FAMILY LAW

A GUIDE TO EFFECTIVE ADVOCACY

Edited by

Jennifer L. Levi &  
Elizabeth E. Monnin-Browder

**W**hen Leslie Swanson\* sought custody of her 4-year-old grandchild a few years ago, her lawyer's advice about whether to disclose to the family court judge that the child is transgender wasn't very reassuring. "The first attorney was telling us to hide Catherine's\* gender identity, to not tell anyone, that it would negatively affect our case, and that we would be blamed for Catherine being transgender," Leslie recalls.

But hiding Catherine's gender identity just wasn't an option. Though she was born male, Catherine has identified as a girl since she was 2 and spent an enormous amount of energy repeatedly correcting anyone who referred to her as a boy. "We had a child who, though identified as a male at birth, was a girl. There was no way we could or would keep her from letting other people know who she is," says Leslie. "The first attorney we contacted didn't understand that."

The guardian ad litem, (GAL) the person appointed by the court to evaluate Catherine's interests in the proceedings, also displayed little understanding of transgender issues. She filed a report with the court in which she characterized Catherine as "gender neutral," and repeatedly referred to her as "he/she" or by both her male name, which Catherine had rejected, and her female name. More concerning, the GAL recommended that Leslie and her son — Catherine's father — share legal custody with Catherine's mother, who refused to acknowledge Catherine's gender identity. As the case went on, it became clear that few in the legal system knew much, or anything, regarding transgender people's lives beyond the myths or stereotypes they may have heard or seen in the media.

Transgender people often have unique needs and vulnerabilities in the family law context. As a result, they require effective and culturally competent representation to protect themselves and their families. GLAD's Transgender Rights Project (TRP) aims to equip family law attorneys who want to more effectively advocate for their transgender clients with resources and practical guidance available in the forthcoming book *Transgender Family Law: A Guide to Effective Advocacy*, slated for release in early 2012.

Edited by TRP Director Jennifer Levi and former GLAD staff attorney Elizabeth E. Monnin-Browder, *Transgender Family Law* includes chapters

written by attorneys from across the country with expertise in both family law and advocacy for transgender clients that address a broad range of topics. To name just a few: recognition of name and sex, relationship recognition and protections, protecting parental rights and custody disputes involving transgender children.

Had Leslie been able to hand such a book over to her lawyer and Catherine's GAL, the custody proceedings might have gone more smoothly and Catherine's interests would have been apparent sooner. Instead, Leslie shared her concerns about her legal representation with Levi, who referred her to Elizabeth Roberts, an attorney at Todd & Weld and an active member of the Massachusetts LGBTQ Bar Association. Elizabeth immediately understood what was at stake. "Elizabeth said, 'This case is about protecting a transgender child — that's the crux,'" Leslie says. "She understood that for a kid like Catherine, there are huge safety issues, safety and well-being — meaning physical and psychological."

With guidance from the Transgender Rights Project along the way, Elizabeth negotiated a final agreement with which her clients are very satisfied.

Catherine, now 7, is thriving in her grandmother's care. Her father is active in her life and she sees her mother regularly. "She is a brilliant child and I'm not saying that just because I'm biased, which I am," says Leslie. "She's really brilliant and a natural leader. Catherine is going to be our first transgender president. I promise you." ■

\*Names have been changed

## 2011 Spirit of Justice Award Dinner



2011 Spirit of Justice Award Dinner Plaintiff Speakers Nicole and Wayne Maines (center), with GLAD Attorneys Bennett Klein (left) and Janson Wu.

# Two Victories in Access to Health Care

## Access to the HPV Vaccine for Young Gay Men

When GLAD heard from a Boston pediatrician that two of the state's largest insurers were covering the human papillomavirus (HPV) vaccine for girls, but not boys, it seemed unconscionable to us to withhold from young gay men a measure clearly proven to prevent death. We also saw a key opportunity to highlight the resistance of many policy makers, doctors and insurers to recognizing and embracing gay male sexuality, especially among our youth, as well as the importance of policies that promote sexual health and the need to understand that certain health conditions have a more severe impact on people with HIV. The resulting victories demonstrate how legal claims and public education work so effectively together.

While HPV has received the greatest public attention as the cause of cervical cancer in women, gay men and people with HIV are at significantly higher risk for developing HPV-related anal cancer. People with HIV are also more likely to suffer from severe, difficult to treat cases of HPV-related genital warts. In order to give the vaccine before sexually transmitted infection occurs, the FDA approved it for use in both girls and boys ages 9–26.

In May GLAD sent demand letters to Blue Cross/Blue Shield of Massachusetts and Neighborhood Health plan asserting that their exclusion of boys and young men from the HPV vaccine was both sex and sexual orientation discrimination and that their "limitation of coverage to women reflects a disregard for the sexual health needs of young gay men and those living with HIV." Neighborhood Health Plan, to its credit, replied that it would cover the vaccine for boys and young men in order "to provide equal care to our gay/bisexual population." Blue Cross/Blue Shield, however, held to its earlier

position, claiming the vaccine had only been provisionally recommended by the United States Center for Disease Control and Prevention (CDC).

We decided this issue was important enough to bring to the public's attention and brought the story to the *Boston Globe*. After legislators and other policy makers weighed in, Blue Cross relented and this life-saving vaccine became available to its members. Since that time, the CDC has added the HPV vaccine for boys to its universal vaccine recommendation list.

## Massachusetts Medicaid Coverage for Lipodystrophy

GLAD's AIDS Law Project has focused particular attention on removing barriers to insurance coverage for treatment of lipodystrophy, a side effect of HIV medications that can cause disfigurement and physical and psychological debilitation. Last year we successfully pursued a claim against a private insurer, Harvard Pilgrim Health Care. In July we represented a man who was denied coverage for liposuction by MassHealth (the state Medicaid agency) to remove a painful fat pad on his neck that caused his head to pitch forward resulting in headaches and back pain. MassHealth's reason: Liposuction is a categorical exclusion. GLAD argued in a request for rehearing that refusing coverage for the sole treatment available for our client's condition violates the federal Medicaid Act. In essence, GLAD claimed that Medicaid was "stereotyping" a medical procedure by arbitrarily assuming that liposuction's only purpose is to beautify. MassHealth agreed and now liposuction will be widely available for many people with HIV previously denied this medically necessary treatment. ■



2011 Spirit of Justice Honoree Governor Deval Patrick (center) with Peter Epstein (left) and Board Member Sean Eldridge.



2011 Spirit of Justice Honoree Katherine Patrick with Logan Ferraro.

Photos: InfinityPortraitDesign.com

## Welcome New Board Members

**Sean Eldridge** is the President of Hudson River Ventures and a Senior Advisor at Freedom to Marry. He previously served as Communications Director of Freedom to Marry and then as Political Director, a role in which he was instrumental in winning the freedom to marry in New York. Sean resides in Garrison, NY with his partner Chris Hughes, a co-founder of Facebook. He and Chris support progressive organizations and candidates across the country, and together founded the Telos Foundation in 2011. They were featured on the cover of *The Advocate's* Forty under 40 issue in May 2011, honoring 40 LGBT "leaders and newsmakers." Sean also serves on the board of Scenic Hudson, the largest environmental group focused on the Hudson River Valley. He served as a youth organizer for Obama's 2008 Presidential campaign and was one of the early architects of the campaign's national student movement. Sean received his B.A. in Political Philosophy from Brown University.

**Anderson Clark** is a biologist and director of oncology research at EMD Serono. A transgender activist, he is a member of the Founders Circle of GLAD's Transgender Rights Project and past coordinator of transmasculine programming and co-chair for First Event, an annual Boston-area transgender conference. Originally from Illinois, Anderson has lived in Massachusetts since 1998. He earned his B.S. and M.S. from the University of Illinois and his Ph.D. from Pennsylvania State University.

**Ralph Freidin** is a physician and father of a lesbian daughter. He has been published in the *New England Journal of Medicine*, the *Journal of American Medical Association*, and the *Annals of Internal Medicine*. Currently a staff member at Mt. Auburn Hospital in Cambridge, Ralph earned his AB from Columbia College and his MD from Washington University in St. Louis. A volunteer with GLAD's InfoLine and the National Association of Free Clinics, he serves on the National Advisory Board for the Human Rights Campaign (HRC) and has served on the Board of Directors for Greater Boston PFLAG and HRC's Board of Governors. Ralph got involved with the LGBT community to advocate for his daughter and make the world better for LGBT youth.

**Keplin Allwaters** is a lawyer, currently serving as in-house counsel for the Massachusetts Port Authority. He is admitted to practice law in the Commonwealth of Massachusetts and the United States District Court for the District of Massachusetts. Since 2006, Keplin has served as a moot court judge for the New England School of Law's Appellate Advocacy course. During law school, he interned at Ropes & Gray, LLP and has volunteered at the Boston Living Center and the Boston Rescue Mission. Originally from St. John's, Antigua and Barbuda, he has lived in Boston since 1997. Keplin received his BA from Boston University, and his JD from the New England School of Law.

## Welcome New Staff

**Anna Kurtz, Legal Assistant** Anna joined GLAD in the summer of 2011. She holds a bachelor's degree in political science from Brown University, where she focused her studies on the intersection of law, politics, and the rights of minorities. During college, Anna interned for the Honorable Jeffrey S. Brown of the NY State Supreme Court, and volunteered with Marriage Equality Rhode Island. She was also heavily involved with her campus' Sexual Assault Task Force, a student group devoted to raising awareness surrounding issues of sexual violence, improving relevant university policies, and creating a safe environment for survivors. Anna is thrilled to be able to combine her interest in law and her firm commitment to LGBT equality as part of the team at GLAD.

**Maryse Pearce, Public Affairs and Education Assistant** Maryse joined GLAD in September 2011. She received a bachelor's degree from Washington University in St. Louis, where she majored in History and minored in Theater. As Co-President of Wash U's Pride Alliance, Maryse spearheaded initiatives to foster LGBT community and led campaigns to ensure the safety and comfort of LGBT students. She served as a Safe Zones Educator and led workshops on queer issues for campus faculty, staff, and students, and directed a production of *The Vagina Monologues* to raise money for a St. Louis women's shelter. Maryse is fluent in French, and spent a year teaching English in Paris to French elementary school students. A native New Yorker, Maryse is thrilled to be working for LGBT equality at GLAD.



*The Patrick Family accepts the 2011 GLAD Spirit of Justice Award.*

*Photo: InfinityPortraitDesign.com*

# Docket Highlights

**Adams v. Bureau of Prisons:** A settlement was announced September 30, 2011 in the case of Vanessa Adams, a Federal Bureau of Prisons (BOP) inmate at FMC Butner in North Carolina who has gender identity disorder (GID). Ms. Adams sued BOP in order to receive appropriate treatment for her GID. In what marks a significant change in the BOP's policy, a May 2011 memorandum distributed throughout the BOP and publicly available states: "In summary, inmates in the custody of the Bureau with a possible diagnosis of GID will receive a current individualized assessment and evaluation. Treatment options will not be precluded solely due to level of services received or lack of services, prior to incarceration." In addition, the settlement secured transition-related medical care for our client including voice therapy and hair removal, among other treatment.

**A.E.H. v. M.R.:** GLAD is serving as lead appellate counsel in a case before the Massachusetts Supreme Judicial Court (SJC) concerning the parentage rights of a non-birth mother whose child was born into a California registered domestic partnership (RDP). The Massachusetts Probate and Family Court ruled that our client is an equal legal parent and awarded her primary physical custody. GLAD will continue to argue in the appeal before the SJC that Massachusetts should respect the legal spousal status granted by the RDP and recognize that, as with any spousal relationship, children born during its duration have two legal parents.

**ASMR v. Gilsum:** In 2008 GLAD's AIDS Law Project successfully sued the Town of Gilsum, New Hampshire on behalf of AIDS Services for the Monadnock Region (ASMR) after the Town placed illegal zoning restrictions on a group home for people with HIV and Hepatitis C. Then in 2010 ASMR was a few days late applying for a non-profit exemption from property taxes, and the Town asserted the right to take the home. However, other nonprofits in Gilsum, such as the Congregational Church and the American Legion, have never filed this paperwork and yet the Town has granted them the exemption. This is a textbook violation of the constitution's guarantee of equal protection. After GLAD sued and filed a motion for preliminary injunction in July, the Town agreed that it would not take the home while the lawsuit is pending. We expect to be filing motions for a permanent resolution of this case shortly.

**CHRO and Dana Peterson v. City of Hartford:** GLAD is participating in the case of Dana Peterson, a police lieutenant who was denied a coveted position as a canine handler because she is transgender. The Connecticut Superior Court found that the Connecticut Commission on Human Rights (CHRO) ignored serious evidence of discrimination in its finding against Peterson. The City of Hartford appealed the Superior Court's ruling. GLAD filed an *amicus* brief both in the Superior Court (where GLAD appeared and argued) as well as with the Connecticut appeals court. Argument on the appeal took place on November 29 and we are awaiting a decision in the case.

**Doe v. Clenchy:** GLAD is representing a transgender teenager who suffered harassment and bullying at her Orono, Maine, school which lasted over two school years. Not only did the school not stop the bullying, it exacerbated it by limiting the student's use of the girls' restroom and other school facilities and restricting her participation in school activities – rather than disciplining

the bully who had targeted her. GLAD filed a complaint in Penobscot Superior Court outlining counts of discrimination in education and public accommodation, harassment, and infliction of emotional distress. The school unsuccessfully sought to have the claims dismissed arguing in part that the state law does not protect a student's right of access to a gender appropriate restroom. Discovery in the case is now complete. A trial could take place either sometime in 2012 or early 2013. Lewiston attorney Jodi L. Nofsinger of Berman & Simmons, P.A. is also representing the girl.

**T.E.W. v. R.E.:** GLAD is preparing to argue before the Massachusetts Supreme Judicial Court (SJC) in a case regarding the validity of a marriage entered by a party with an undissolved civil union to another person. When our client, R.E., married T.E.W in 2005, T.E.W. already had a legal spousal relationship with another man — a civil union from Vermont — that had never been dissolved. When our client discovered this in the middle of their pending divorce, he sought to have the divorce action dismissed on the grounds that he and T.E.W. had never been legally married. The Probate and Family Court granted the motion to dismiss, and the case is now awaiting argument at the SJC. GLAD will continue to argue that because T.E.W. already had a legal spouse, the parties' marriage violated Massachusetts law prohibiting multiple marriages and was thus void from its inception.

**Name Change:** The Transgender Rights Project worked in collaboration with attorney Laura Pisaturo to secure a name change for a transgender Rhode Island man. Our client filed papers on his own for a name change, completing all of the legal requirements. When he showed up for his court hearing, the judge told him that he would not grant the name change until the client underwent gender affirmation surgery. Typically, name changes are granted as long as they are not sought for the purposes of deceiving others or for evading legal obligations. In this case, as with others GLAD has followed around the country, the judge imposed a unique requirement on a transgender litigant with no legal basis. GLAD was able to successfully reverse the special burden imposed on our client. While we were able to help this individual at the Probate Court level, we remain concerned about this issue and would welcome hearing from any other transgender people who face the same problem in Rhode Island or elsewhere. ■

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