

GLAD Briefs SUMMER '16

A Watershed Moment Decades in the Making: Advancing Transgender Rights in 2016

- 2000 Massachusetts Superior Court rules schools must allow transgender girls to wear any clothes allowed to any other female student (*Doe v. Yunits*)
- 2009 GLAD files suit against the operator of Denny’s restaurants in Maine, resulting in a policy that transgender customers have access to the restroom consistent with their stated gender identity (*Freeman v. Denny’s*)
- 2010 U.S. Tax Court rules treatments for gender transition-related care qualify as deductible medical care under the Internal Revenue Code (*O’Donnabhain v. Commissioner of Internal Revenue*)
- 2014 Maine high court rules that exclusion of a transgender girl from the girls’ restroom at school violates non-discrimination law (*Doe v. Clenchy*)
- 2016 President Obama announces his support for transgender student restroom policy for which GLAD has been fighting for years.

At the midway point in the year, it’s already clear that 2016 marks a watershed moment for transgender rights.

From the national rallying cry against North Carolina’s HB2, to the Obama Administration’s guidance to all public schools on full inclusion of transgender students including use of bathrooms and locker rooms, to — as we go to

press — finally being on the verge of securing full, express gender identity protections in public accommodations in Massachusetts — it’s truly a remarkable moment.

At GLAD, we know that this moment did not just magically occur. The building blocks for the advances we’re seeing this year were set in motion by earlier victories, like the ones highlighted above.

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From the Executive Director Janson Wu

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I recently celebrated my tenth anniversary at GLAD.

As I reflect on that decade of work, I am so inspired by the positive change we have made together.

We defeated the discriminatory federal Defense of Marriage Act, brought marriage equality from one state to the entire nation, and are in the midst of seeing years of foundational litigation, policy advocacy, personal storytelling and community organizing bring us to a transformational moment on transgender rights.

GLAD has a new, more inclusive name, to reflect and welcome all of the communities we fight for. We've deepened our work on behalf of LGBTQ youth and older adults, and our newly adopted strategic plan "Justice 2020" (see page 5) seeks to do the same for LGBTQ communities of color and low-income individuals.

Even amidst all that change, there are things that remain the same.

With all we've gained, our movement still faces the kinds of attacks and opposition we have seen for a decade and more, though they may be dressed in different clothing. This year over 65 bills were introduced across the country seeking to undermine or preempt LGBTQ anti-discrimination protections in the name of religion. And while public support for the rights of transgender people is undeniably growing, the fight over restroom access is also in high gear, with anti-transgender legislation introduced not only in North Carolina, but in 12 other states, and counting.

But also unchanging, for the nearly four decades since GLAD's founding and for the decades to come, is our commitment to settle for nothing less than true justice for all in our community.

I am so proud of all I've seen you help GLAD achieve in my ten years here, and optimistic for all we can accomplish together going forward. Our next decade of victories will be just as hard fought. To keep winning for the next ten years, we will sharpen the tools we have used for nearly forty years, and develop new ones to match our opponents' new tactics.

With our entire GLAD community in the game, I am confident that on my twentieth anniversary, I will get to describe an even more LGBTQ-inclusive and affirming world that we could never have imagined today.

Towards Justice,

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**LEGAL ADVOCATES
& DEFENDERS**

for the LGBTQ Community

Our Movement, A Key Moment: Getting it Right After *Obergefell*

Mary L. Bonauto, Civil Rights Project Director

Photo: InfinityPortraitDesign.com



Mary L. Bonauto with Jim Obergefell outside the U.S. Supreme Court following oral argument in the national marriage case *Obergefell v. Hodges*

In this transformative year since the Supreme Court ruled that the same freedom to marry and same equal right to marry applies to LGBTQ people and same-sex couples, many families are more secure, with more peace of mind, in every community of the country. The ruling spoke to all of us by definitively ending our legal otherness, wrapping us into the larger community, and vindicating our “liberty to define and express [our] identity.”

As in every justice movement, with victories come the inevitable push back. As much as we have changed hearts, minds and the law, there are those who remain dedicated to the proposition that LGBTQ people are different, deficient and less deserving. While the Constitution guarantees our “equal dignity,” it is ours both to cherish and also to defend and illuminate in our day-to-day lives, and in the legal, legislative and cultural contests forced upon us.

In this crucial period, as we develop the new normal that could affect the next few decades of our shared work, it is so important that we get it right! For one, we cannot slacken in our engagement with our larger communities. We’ve come to better understandings of who LGBTQ people are, and more support for our participation in all walks of life, through that engagement. We must deepen our partnerships to sustain each other in the continuing journey to justice. Couples exercising their freedom to marry must enjoy the full measure of security and opportunity promised rather than suffer any penalty for taking on that commitment. We have to name discrimination for what it is. The big picture is that we must resist any attempt to replace the architecture of relationship discrimination with new laws or renewed stereotypes enshrining discrimination against LGBTQ people because of who we are, whether in the guise of bathrooms, employment and housing, families and parenting, or religion.

Despite the current pushback, we must continue fighting for national standards of justice. Challenges are also opportunities, and we are

clearly at a teaching moment, and an accountability moment, regarding the common humanity of the transgender community. As we go to press, GLAD is in the thick of the battle to pass the transgender public accommodations non-discrimination law in Massachusetts and is part of the larger legal efforts to bring down the noxious HB2 law in North Carolina. We are also doing groundwork for the introduction and passage of a transgender non-discrimination law in New Hampshire in 2017. In sight is a New England region where all states ban discrimination based on sexual orientation and gender identity.

GLAD is also part of the work for nationwide non-discrimination rules, including the vital effort to prevail on our arguments that sexual orientation discrimination and gender identity discrimination are already impermissible sex discrimination under federal law. GLAD has a class action lawsuit pending against Walmart that seeks to advance the sexual orientation argument. The argument as applied to gender identity has helped us persuade State insurance authorities in Connecticut, Massachusetts, Rhode Island and Vermont to eliminate coverage restrictions for transgender persons in state-regulated insurance policies.

In family law, GLAD is determined to protect all of our children and all of our families regardless of the adults’ marital status. When unmarried, different-sex parents have children and separate, state laws typically provide a means for both adults who brought them into the world or raised them from birth to become legal parents. These child protective laws apply because the adults neither adopted the children nor married each other. We seek the same protection for children brought into the world by non-marital same-sex couples. Especially where so many of our families are created with the use of assisted reproduction (as are many single-parent and different-sex families), legal preferences for marital status and biological relationships as the deciding factors for what counts as a family devastate the very real

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Phill Wilson, Black AIDS Institute Founder & President, Will Receive the 2016 Spirit of Justice Award

When Phill Wilson had swollen lymph nodes in 1981, he happened to have a doctor who connected it with what was going on across the country with gay men: a mysterious and mostly fatal disease that was ripping through the community.

Phill didn't retreat; he didn't crawl into bed and pull the covers over his head. He jumped right into the fray of AIDS activism and embraced the hard work of providing AIDS services. Today, he is President and Chief Executive Officer of the Black AIDS Institute, which he founded in 1999. GLAD is proud to announce that Phill Wilson will be the recipient of the 2016 Spirit of Justice Award in October.

"I realized early on that the way to save my life and the lives of people I loved was to get involved aggressively in advocacy and in policy work, and really change the systems and the structures to be responsive to this disease," says Wilson.

The Black AIDS Institute is the only national HIV/AIDS think tank focused exclusively on Black people, with a mission to stop the AIDS pandemic in Black communities by engaging and mobilizing institutions and individuals in efforts to confront HIV. The Institute interprets public and private sector HIV policies, conducts trainings, offers technical assistance, disseminates information and provides advocacy mobilization from a uniquely and unapologetically Black point of view.

"Phill's lifetime dedication to ending the epidemic and improving the lives of people



living with HIV — particularly Black people — makes him supremely worthy of the Spirit of Justice award," says Janson Wu, GLAD's Executive Director.

"We commend and share Phill's belief in systemic change," adds Wu, "and in sustaining and adapting our community's commitment to HIV work, by using both new and long-standing tactics to combat stigma and discrimination."

Most recently, GLAD litigated on behalf of the AIDS Support Group of Cape Cod to enable them to keep their life saving needle distribution program open. GLAD is also representing a man taking Truvada as PrEP who was denied long-term care insurance precisely for

taking steps to safeguard his health. And following a unanimous affirmative vote by the Massachusetts state senate this winter, we continue to work for final passage of a bill mandating coverage of treatment for HIV-related lipodystrophy.

In addition to his work with the Black AIDS Institute, Wilson has served as the AIDS Coordinator for the City of Los Angeles, the Director of Policy and Planning at AIDS Project Los Angeles, and co-chair of the LA County HIV Health Commission. He has organized sessions at the 12th, 13th, 14th, 15th, and 16th International AIDS Conferences. Wilson also co-founded the National Black Lesbian and Gay Leadership Forum and the National Task Force on AIDS Prevention.

GLAD's Spirit of Justice award is presented annually to an individual or group whose work and achievements reflect a profound dedication to our ideal of a just society free of discrimination based on gender identity and expression, HIV status and sexual orientation. Spirit of Justice Award recipients both inspire and energize us for the ongoing work to ensure that every person is treated equally under the law.

The 2016 Spirit of Justice Award dinner will take place in Boston on October 28, 2016. See glad.org/events for more details. ■

GLAD Now Stands for GLBTQ Legal Advocates & Defenders

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In February, GLAD rolled out our new name, a name that reflects all of the communities we fight for.

When GLAD was formed in 1978, we proudly called ourselves Gay & Lesbian Advocates & Defenders, so that we could say out loud words that had never before been spoken in the courts.

We educated the legal system while fighting for justice.

As we continue our ground-breaking work changing the law and lives, we want to say out loud all of the communities and individuals we fight for — from the bisexual worker to the transgender parent or the homeless lesbian; from the queer

student to the gay man living with HIV. GLAD now stands for GLBTQ Legal Advocates & Defenders.

Our movement for justice strives to ensure that all of our identities are celebrated as a positive and vital component of our diverse society, even while they are irrelevant to our opportunities in life.

That is what justice is, and that is what GLAD is here to create.

We've been thrilled with the incredibly warm and thoughtful responses we've received to the new name from across our community, and thank everyone who has taken the time to send us your feedback.

Justice 2020: GLAD's Strategic Vision

Justice 2020 is GLAD's newly completed strategic plan. Developed in collaboration between GLAD's board and staff over 8 months, it outlines a vision and charts a course for the organization's next four years of fighting for justice.

"Time and again GLAD has broken through resistance and prejudice to make real progress in the world," says Executive Director Janson Wu. "We've done so with marriage equality, HIV protections, transgender rights and more. We're committed to staying on the cutting edge of LGBTQ rights — not only protecting our hard-won gains from attack, but focusing on making justice more real for all."

Using impact litigation, advocacy, and public education — and ensuring LGBTQ voices are heard in all branches of government — GLAD will achieve legal progress on the broad range of challenges facing New England and the nation, including:

- Ending discrimination at work, at home, and in public spaces
- Blocking the counter-movement, including improper religiously-based discrimination
- Expanding protections for all families, no matter how they are formed
- Fighting HIV discrimination and stigma
- Increasing legal rights and protections for transgender people
- Promoting the safety and well-being of all LGBTQ youth
- Ensuring that LGBT older adults are treated with fairness and respect

Recognizing that we are at a paradoxical time for the LGBTQ community — experiencing thrilling victories side by side with sobering realities and unfinished business — GLAD will plan and implement projects that expand the circles of equality and justice.

By convening and supporting state and local movement leaders to set a shared public policy agenda, we will make New England a model of what true equality can look like for all, even as we continue to act on the national stage when the situation demands.

And even as we dismantle discriminatory laws and pass new, affirming policies, we recognize that not all members of our community are equally lifted by our victories. Our priorities going forward will include:

Racial Justice: LGBTQ youth of color are disproportionately targeted by police. LGBTQ undocumented immigrants seeking asylum in the U.S. are re-traumatized in detention facilities. Half of black gay and bisexual men may contract HIV in their lifetime. GLAD will lift up our commitment to racial equity with concrete action, including intentional, sustained partnerships with LGBTQ communities of color, strategic interventions that challenge discriminatory policies and practices, and coalition engagement with allied social justice movements.

Access to Justice: Laws need to be given meaning in people's daily lives. GLAD will increase enforcement of existing LGBTQ legal rights by expanding our community's access to the justice system. GLAD will use new models to make our GLAD Answers legal information service more mobile and more accessible. We will expand our outreach to marginalized members of our community, and help build LGBTQ-competent legal services and representation throughout New England.

GLAD has started this work by partnering with the Connecticut Women's Education and Legal Fund and the Connecticut Trans Advocacy Coalition on a pilot project to bring legal services to the community, rather than asking the community to come to our legal services. GLAD first trained 12 local attorneys on updating gender markers on birth certificates, and then set up a drop-in clinic at the Transgender Lives Conference, where more than 25 transgender youth and adults met one-on-one with a GLAD-trained attorney or GLAD's Public Information Manager.

As we reflect on nearly 40 years since GLAD's founding, we couldn't be more energized by the incredible progress our community has made, or more committed to the work ahead to ensure that progress is expanded to include everyone in our LGBTQ community. ■



See what people like Alisha and Hema have to say about GLAD's new name at glad.org/forall

“As the director of an organization serving sexual and gender minority youth, I am delighted to see this change. Your name now reflects not only the work you have always been doing, but explicitly includes those of us who have often been left out — specifically those who identify as bisexual, transgender or queer.”

— Robin P. McHaelen, *True Colors Connecticut*

Advancing Transgender Rights

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For years, courageous transgender people have been speaking out, often at great risk to themselves. Organizations across the country have been advocating with businesses, the community at large, and at all levels of government. And GLAD and other LGBTQ legal organizations have been doing critical foundational work both in the courts and in public policy, resulting in victories that build upon one another and guide strategy going forward.

In 2000, GLAD won a landmark ruling at the Massachusetts Superior Court in *Doe v. Yunits*, brought on behalf of middle school student Trina Harrington, that schools cannot interfere with a student's education by enforcing stereotypes of how boys and girls should look. This case stood as the single case in the country, for many years, establishing protections for transgender students in schools.

In 2009, GLAD filed suit on behalf of Brianna Freeman, a transgender woman who was told by the manager of a Denny's restaurant in Maine that she could not use the women's restroom. Through the testimony presented in that case, the restaurant group came to understand the absurdity of a policy that would require Brianna to use the men's room, resulting in a substantial breakthrough in fair access to public accommodations for transgender people. Denny's revised policy became a model for other businesses to follow.

In 2010 GLAD won a landmark ruling on behalf of Rhiannon O'Donnabhain that treatment related to gender transition is deductible medical care under the Internal Revenue Code. This victory served as a key building block to eradicating barriers to health insurance coverage for gender transition by private and public insurers who claimed such care was cosmetic or experimental, including the elimination of the national Medicare exclusion on coverage for transition-related surgeries. The decision also influenced the federal government's interpretation, released this year, of the non-discrimination provisions of the Affordable Care Act which prohibit the exclusion of care for transgender people when provided for others.

And in 2014, GLAD's case, *Doe v. Clenchy*, on behalf of Nicole Maines resulted in a momentous breakthrough – the first-ever state high court ruling that transgender students may not be excluded from using the bathrooms that match who they are. Through the legal arguments, evidence and, perhaps most importantly, Nicole's story and photos, the court really got it: a transgender girl is a girl and must be treated as such in all respects, including using the girls' restroom.

Insights learned in these cases shaped the amicus strategy GLAD spearheaded in the case of 15-year-old transgender student Gavin Grimm. They also influenced our own brief (submitted jointly with the National Center for Lesbian Rights), in which we presented social science data showing that being able to use the same bathroom as other students at school is critical for the healthy development of transgender adolescents. In April this year, the U.S. Fourth Circuit Court of Appeals ruled in Gavin's favor, marking the first time a federal appeals court has affirmed that Title IX, a federal law that prohibits sex discrimination in education, covers discrimination on the basis of a student's gender identity.

Similarly, the guidance sent to public schools by the Obama administration this May cites and closely tracks the approach of the Massachusetts Department of Elementary and Secondary Education (DESE), which GLAD worked to develop in partnership with DESE, the Commission on Lesbian, Gay, Bisexual, Transgender, Queer & Questioning Youth and others. The DESE guidance has become the model to which other state and local school districts look when drafting their own trans-inclusive policies.

There's been tough news this year for sure. Anti-transgender bills have been introduced so far in at least thirteen states, and in late March the North Carolina legislature convened a special session in order to pass one of the worst, HB2. With provisions banning local non-discrimination ordinances and explicitly requiring people to use public bathrooms consistent with their sex designated at birth, this is a hurtful, dangerous, and we believe unconstitutional law that singles out transgender people for discriminatory treatment.

But HB2 has also galvanized a response the likes of which we haven't seen before – from not only within the transgender and wider LGB community, but from businesses, elected officials across the country, and the federal government, which has taken a clear stand that HB2 violates federal civil rights laws.

It was especially stirring to hear Attorney General Loretta Lynch's remarks directed to the transgender community during a press conference announcing the Department of Justice's filing of a civil rights lawsuit against the state:

We see you; we stand with you; and we will do everything we can to protect you going forward. Please know that history is on your side.

History is indeed on our side. But we haven't arrived at this moment by accident.

Our work for true equality for transgender people remains unfinished. But each victory paves the way for the next, whether it is in the courtroom, in moving legislators and policy-makers to act, or in the stories of brave pioneers like Trina, Brianna, Rhiannon, Nicole, and Gavin who have shown people all across the country the reality of transgender people's lives. ■



Nicole Maines (second from left) with her family and GLAD attorneys following argument in her case at the Maine Supreme Court

Nonsense: The Best Way to Be a Change Maker Is to Help Everybody

Photo: InfinityPortraitDesign.com



The Boston Order of the Sisters of Perpetual Indulgence with Edie Windsor at the 2015 Summer Party

GLAD will honor the Boston Order of the Sisters of Perpetual Indulgence at this year's Summer Party in Provincetown July 30.

In 1979, three San Francisco roommates were feeling frustrated by the burgeoning mainstreaming of gay culture in the Castro. Wanting to shake things up, one of them suggested the idea of adopting — and adapting — the nun habit to go out and do good in the community.

They started out as cheerleaders, rallying the local community, and were an instant hit. Then when a major earthquake hit South America later that year, they did their first bucket drive to raise funds for the victims. It was a success, and The Sisters of Perpetual Indulgence were born.

As often happens with new ideas, they didn't realize where it would lead. But people began to respond to them much as they might real nuns, sharing their stories and needs, asking for help. The Sisters began to realize that they could be a real force for change.

The idea began to spread, and orders started to form in other parts of the country and the world. Then in 2009 Sisters Eunice X and KrisTall Mighty (two of the founding members) relocated to Boston and began laying the groundwork for The Boston Sisters Convent of the Commonwealth.

Since 2010 the Boston Sisters have supported GLAD at our annual Summer Party — and a GLAD event was their first Boston-based event, a fact they are incredibly proud of.

"Every time I go to the Summer Party it reminds me how lucky I am to be here in New England and to have GLAD as a resource, and that the rest of the community has GLAD," Sister Lida Christ says. "It is fuel for my year. When I am in the darkness of winter I look forward to the Summer Party and the people I will see there."

The Boston Sisters spend an average of 20 hours per month — though often it's as many as 60 — helping raise money for organizations within the LGBTQ community and beyond. Beyond GLAD, The Sisters have worked with the AGLY network, support the Provincetown

soup kitchen, and sponsor kids to attend Camp Lightbulb.

Sister Lida Christ first discovered the Boston order right around the time of the historic marriage equality victory in Massachusetts. "I love when I hear: 'We are not done!' Because we are leading the fight. I am not leaving behind my trans friends. We are making things happen, and it is going to happen fast with all of us working together."

Most of the Sisters describe their continued participation as a calling. "Some of us call it the Nonsense — once you know how to see the public you know what is happening and who needs help, wherever you are. The nun does not leave you."

GLAD's 35th annual Summer Party will take place Saturday, July 30 in Provincetown. We're thrilled this year to be honoring the Boston Order of the Sisters of Perpetual Indulgence for the amazing work they do throughout the greater Boston community. ■

Tickets and more information are available at www.glad.org/events

Docket Update

Blatt v. Cabela's Retail Inc. The federal district court in the Eastern District of Pennsylvania heard argument December 10 in this case challenging the constitutionality of the exclusion of Gender Identity Disorder (GID) from the definition of disability in the federal Americans with Disabilities Act (ADA). The hearing marked the first opportunity for the constitutional arguments for striking the transgender exclusion written into the ADA to be fully laid out in court. GLAD submitted an amicus brief and is providing ongoing consultation in the case. We are currently awaiting a ruling from the district court.

Cote v. Walmart GLAD and co-counsel are now in mediation in our class action lawsuit against retail giant Walmart, which alleges that Walmart violated Title VII of the federal Civil Rights Act by discriminating against our client Jacqueline Cote and other employees with same-sex spouses when it denied them spousal health insurance.

Held v. Colvin The Social Security Administration (SSA) issued a new policy April 30 that should allow individuals receiving Supplemental Security Income (SSI) benefits who are married to someone of the same sex, but whose marriages were not recognized by SSA when they should have been, to receive forgiveness of any resulting overpayment of benefits. This resolution comes as a result in part of *Held v. Colvin* filed by GLAD, Justice in Aging and Foley Hoag LLP, which charged that SSA discriminated against individuals married to someone of the same sex by not recognizing their marriages following the 2013 Supreme Court ruling finding DOMA unconstitutional. In October 2015, 39 Senators and 82 members of the House of Representatives, led by Senator Elizabeth Warren and Rep. Mark Takano, also sent SSA a letter asking the agency to waive recovery of overpayments and implement the Supreme Court's decision.

For more information, see www.glad.org/ssi

Missouri v. Johnson GLAD joined an amicus brief submitted by The Center for HIV Law and Policy (CHLP) and the Missouri ACLU on behalf of Michael Johnson, a former Missouri college student sentenced to more than 30 years for violating Missouri's HIV transmission and exposure statute. The brief argues that Missouri's criminal HIV law is irrational and at odds with federal law that prohibits singling out a group of people for uniquely punitive treatment based on their identity or health status.

In the Matter of Deborah Munson and Coralee Beal GLAD and the ACLU of New Hampshire have submitted an amicus brief in a case before the NH Supreme Court concerning the fair distribution of property in a divorce between two women who were in a 20+ year committed relationship, and joined in a civil union/married for four of those years. In deciding the property distribution, the trial court considered only the period of civil union/marriage, and found the relationship to be short-term. The court then relied on that finding to allocate the bulk of marital property to one spouse, treating the couple as though they had no interdependent relationship prior to their first opportunity to enter into a legal relationship in 2008. The brief

argues it was objectively unreasonable to characterize the 20+ year relationship as short-term, as well as contrary to relevant principles of NH law and policy which support the recognition of premarital cohabitation periods. Oral argument took place in May.

Partanen v. Gallagher The focus of this case is to ensure that the two parents who brought two children (ages 4 and 7) into the world remain their parents even though the adults have now separated. Our nation decided long ago that children should not pay the price if their parents do not marry or take other steps to secure their legal relationships. That same principle applies to the children in this case. GLAD is representing Karen Partanen, the non-biological parent of the two children. Mary Bonauto argued the case at the Massachusetts Supreme Judicial Court April 5, emphasizing that the children were born to both Karen and (ex-partner) Julie through assisted reproduction, and that they must have the same rights as other non-marital children. This is particularly true when parents have cared for the children and created a substantial parent-child relationship.

Sinnott v. Peck GLAD is representing Sarah Sinnott in this parentage case involving a lesbian couple who raised two adopted children together for over ten years. Following the dissolution of their relationship and after jointly parenting for an additional three years, the adoptive mom began limiting Sarah's contact with the children. When Sarah filed a Petition to Establish Parentage with the Vermont Superior Court's Family Division in August 2015, the court declined to accept her filing. The court said it was disinclined to hear parentage actions from "third parties" where there has been no adoption, marriage or civil union, ignoring the parent-child relationship established between Sarah and the two children. The argument before the Vermont Supreme Court seeks to establish Sarah's right to be heard in family court, as a non-marital partner who jointly raised the children with her former partner. Jennifer Levi presented oral argument at the Court on May 24.

Amicus Briefs at the U.S. Supreme Court

Fisher v. University of Texas at Austin et al In this case, a white law school applicant Abigail Fisher has challenged the formula used by the University of Texas at Austin to ensure a diverse student body. Arguments were heard in December 2015. The National Women's Law Center approached GLAD and Lambda Legal about collaborating on its amicus brief about diversity as a way to break down stereotypes and enhance the functioning of educational institutions. The brief argues that racial and ethnic disparities can be diminished when stereotypes are confronted by reality — the daily contacts and differing perspectives offered by students of varying backgrounds — with a particular focus in the brief on women of color and LGBT people of color.

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Settlement Reached with Catholic High School That Fired Married Gay Man

Photo: InfinityPortraitDesign.com



Matt Barrett (center right) with his husband Ed Suplee and GLAD attorneys Gary Buseck (left) and Bennett Klein (right)

GLAD has reached a successful resolution in our suit against Fontbonne Academy, a Catholic girls' high school that fired a food services manager, Matt Barrett, when its Head of School learned that Matt is married to a man.

The settlement follows a first-of-its-kind ruling from the Massachusetts

Superior Court that Fontbonne discriminated against Matt on the basis of sexual orientation and sex, in direct violation of state non-discrimination laws. The court rejected Fontbonne's claims to an exemption based on its religious beliefs, citing the state's "compelling interest in prohibiting discrimination against historically disadvantaged people," particularly in the employment context.

Fontbonne elected not to appeal the ruling, and in May we reached a settlement on damages for Matt, the amount of which is confidential under the terms of the agreement.

"I'm very happy, not just for myself, but for anyone else who may ever lose their job simply because of who they are," says Matt. "The humiliation that I went through should not be experienced by anyone."

"Non-discrimination laws are vitally important to our civil society," says Bennett Klein, Senior Attorney at GLAD. "It is my hope that the consequences for Fontbonne's conduct will provide clarity for other institutions attempting to use religious belief to justify illegal discrimination, and move them instead toward treating LGBTQ people with the respect and dignity that everyone deserves." ■

Advocating for Transgender Youth to Get the Health Care They Need

When transgender youth come out, they deserve to be treated equally and with dignity in school, to have access to the health care they need, and to be supported by parents and other adults in their lives. While laws, policies and public opinion are starting to change to make this a more frequent reality, too often young people are still confronted with obstacles, rather than support.

GLAD recently helped a transgender teen in Rhode Island advocate for himself in court and win the ability to live his truth.

Li came out as transgender before high school and he and his mother were referred to Dr. Michelle Forcier, a well-respected gender specialist and endocrinologist in Providence, to talk about Li's health care. Dr. Forcier worked with Li to develop a plan that made sense for him.

Li's parents are divorced and have joint custody, and while Li's mother was supportive of Li getting the health care he needed, his father withheld consent. Without agreement of both his parents, Li's care could not proceed without court intervention. Faced with this barrier to treatment, Li and his mother reached out to GLAD, who connected them with local attorney Laura Pisaturo and worked with her in arguing to the Court that Dr. Forcier's prescribed treatment was essential medical care. In the end, the Court agreed and ordered that Li be able to access the medical care he needed.

Through the process of advocating for himself, Li also became a public voice for transgender students in Rhode Island. Earlier this year he and his mother worked with Cumberland High School, where Li had

experienced bullying as a former student, to advocate for a transgender/gender non-conforming inclusion policy, the first of its kind in the state. The policy passed with a unanimous vote this spring.

"Once I was on the right track to get what I needed to help with my transition, I didn't forget my past experiences," says Li. "I got involved with Cumberland's school policy this year because they contacted me as a former student for my input on an inclusive policy to protect transgender students at CHS."

Li is proud to have helped Rhode Island take a step forward on the right side of history, and advises people to always work for what they believe in. GLAD is proud to have played a part in helping Li advocate for his own rights, and to become such a powerful advocate for others. ■

Welcome New Board

Edward F. Byrne is the Student Diversity Programs Coordinator in the Cambridge Public Schools, serving as an advisor to school and city leaders on equity and inclusion issues. He has held positions as Aide to the Mayor of Cambridge, MA for education and equity initiatives, Project Manager, Sametz Blackstone Associates and Managing Director, Project 10 East. Edward served two terms as vice-chair of the MA Commission on GLBT Youth, serves on the New Leaders Council Boston Board of Directors and previously served on the Board of Visitors at Fenway Health. He holds a Master of Public Policy from Simmons College.

Kyle Yvonne Faget is Senior Corporate Counsel at immuno-oncology company Jounce Therapeutics. Her prior experience includes serving on the corporate and compliance legal teams at Sanofi and Boston Scientific, and as a government enforcement defense attorney with Ropes & Gray LLP. She has a J.D. from University of Michigan Law School, an A.B. from Smith College, serves on the Board of Visitors at Fenway Health, and is a mother of twin boys.

Benjamin Franklin is an Assistant District Attorney in Suffolk County. He is currently assigned to the Juvenile Unit, where he works to divert young offenders from further contact with the criminal justice system; his previous assignments include prosecuting a wide variety of cases in the Boston Municipal Court and assisting in the administration of a specialty court focused on defendants with significant mental illness. Ben has served on GLAD's Spirit of Justice Award Dinner Committee for four years, and co-chaired the 2014 and 2015 events. He is a graduate of the University of Mary Washington and Boston University School of Law.

Joseph Metmowlee Garland is the Medical Director of the Infectious Diseases and Immunology Center at the Miriam Hospital in Providence, Rhode Island, and a Clinical Assistant Professor of Medicine at the Alpert Medical School of Brown University. His focus is on clinical HIV care for low-income individuals. He is a Board Certified physician in Infectious Diseases and Internal Medicine, and a Practicing HIV Specialist of the American Academy of HIV Medicine. Prior positions include serving as a Clinical Assistant Professor of Medicine in the Infectious Diseases Division at the University of Pennsylvania, and as a staff physician at a federally qualified health center, Philadelphia FIGHT. He holds a Doctor of Medicine from Harvard Medical School.

George Hastie, MPH has been a passionate HIV and GLBTQ community organizer, advocate and educator for over 25 years, cultivating extensive networks in these communities and in the nonprofit sector. George manages a project with Community Research Initiative's HIV Drug Assistance Program, providing training to health care and social service providers across Massachusetts to ensure that more people living with HIV have comprehensive health insurance coverage and access to medications. As Principal of Hastie Consulting he provides capacity building training, including GLBTQ cultural competency, to nonprofits. George holds a Master of Public Health from Boston University, a BA from Harvard College, and co-chairs the GLAD-led coalition working to pass legislation in Massachusetts requiring insurance coverage to treat HIV-associated lipodystrophy.

Deborah Heller is co-founder of consulting firm HellerCunningham, with 35+ years of strategic organizational consulting for clients such as the American Psychiatric Association, Brigham and Women's Hospital, L.L. Bean, State Street, Boston Architectural College and the American Red Cross. As Chair of Fenway Health's Board of Directors, she founded the Fenway Women's Dance, and has served on the boards of organizations ranging from The New Fund, Girl Scouts of Eastern Mass to the WGBH Advisory Board. Currently she is also a member of The Leadership Circle at Fenway Health. Deborah holds Master and Doctorate degrees in Social Systems from Boston College. She has had a lifelong commitment to social justice, human rights and community service.

Marlene B. Seltzer recently retired after 10 years as President and CEO of Jobs for the Future (JFF), a national nonprofit that is focused on improving education and economic mobility for low income communities and individuals. She consults and speaks on systemic education reform and innovative workforce development practices and policies aimed at improving education systems and labor market outcomes. Prior to JFF, Marlene held a number of prominent positions in nonprofit management, government and workforce development. She has served on numerous national and nonprofit boards over her career and currently serves on several boards aimed at improving economic and social mobility. Marlene holds an M.A. in labor economics from Northeastern University.

Welcome New Staff



Lydia Marik, Operations Assistant

Lydia's background in civic engagement includes action for affordable housing with Bike & Build, for refugee integration with Cambridge Support for Syrian Refugees, and against mass incarceration with the Petey Greene Program. Lydia moonlights as a political philosopher and a portrait painter. She has a B.A. in Cross-Culture Communication from UNC-Chapel Hill.

Rachael Smith, Legal Assistant

Rachael graduated from Mount Holyoke College with a B.A. in Politics and Theatre Arts. While in college, Rachael held an internship in GLAD's Public Affairs & Education department and a self-designed internship in collaboration with the Elton John AIDS Foundation and Point Foundation. Rachael's senior honors thesis analyzed the structures of and strategies employed by two different grassroots organizations during the beginning of the HIV Crisis.

Docket Update

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US v. Texas This immigration case involves both undocumented people with children who are U.S. citizens, and undocumented people who entered the United States as children. The Obama administration's policies of DAPA (Deferred Action for the Parents of Americans) and expanded DACA (Deferred Action for Childhood Arrivals) would prevent the deportation of these categories of people, and the breaking up of families. The implementation of DAPA and DACA, challenged by 26 states, was stopped by a federal district court in Texas, and that order was upheld by the Fifth Circuit. Late last year the federal government appealed the case to the Supreme Court. GLAD joined a coalition of 326 immigration, civil rights, labor, and social service groups in an amicus brief which tells many heartbreaking stories of people who are impacted by the interruption of DAPA and DACA.

V.L. v. E.L. In a victory for LGBTQ families, the U.S. Supreme Court reversed an Alabama Supreme Court's decision in which it refused to recognize a lesbian mother's Georgia adoption of her three children. GLAD and Foley Hoag LLP submitted an amicus brief to the Court

on behalf of Equality Alabama Foundation, Equality Federation, Georgia Equality, the Human Rights Campaign, Immigration Equality, the National Black Justice Coalition, the National Center for Transgender Equality, the National LGBTQ Task Force, PFLAG, the Stonewall Bar of Georgia, and the Southern Poverty Law Center.

Whole Women's Health v. Cole This case concerns the new, extensive, and onerous requirements on abortion providers imposed by the state of Texas. Our colleagues at the National Center for Lesbian Rights (NCLR) spearheaded a brief, which GLAD signed onto, arguing that when fundamental liberties are at stake, courts must carefully examine the justifications given by the state, especially those involving health and safety, and not take them at face value. Our brief, which was signed by racial justice and health equity groups, as well as LGBTQ groups, details how people of color, women and LGBTQ people have suffered losses of liberty based on so-called "scientific rationales." The brief makes a very compelling argument that when courts are confronted with threats to liberties, the court is required to kick the tires of the proffered justifications. ■

Getting it Right After Obergefell

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parent-child relationships and the children involved. GLAD is currently arguing before the high courts of Vermont and Massachusetts, seeking the legal recognition of our clients as the parents their children know them to be. We are pushing back against "gay-only" rules, as with the position of some judges in Rhode Island that a same-sex couple seeking adoption must give notice by publication to their anonymous donors.

Our new normal also has to focus on our youth to guarantee that they grow up – in school, in their homes, and in our social service system when "out-of-home" – with a sense of dignity and belonging. The challenges

are myriad, from fighting bullying and harassment, to curtailing the disproportionate punishment of LGBTQ youth, particularly youth of color, to interrupting the school-to-prison pipeline. GLAD is currently challenging a Massachusetts high school that has reported a student as a person guilty of child neglect and abuse because he told his guidance counselor that he had had sex with another young man of the same age, and helping a 6th grade Maine girl who was told she could not read her paper on the LGBTQ movement to her class. We also recently worked with the mother of an African-American queer high school student when school administrators failed to respond to anti-LGBTQ taunts, racial slurs, and threats from other students, assisting the family in filing a complaint and advocating for training for school staff. And, we helped lead the amicus effort in a winning case in federal court in Virginia to defend the right of a transgender student to use the appropriate bathroom at his school.

We also have to re-energize the fight against HIV. GLAD is litigating the denial of long-term care insurance to an HIV-negative gay man who identified on his application that he is

taking Truvada as a pre-exposure prophylaxis, or PrEP. GLAD is also beginning to work on the question of making PrEP available to young men who would benefit from the treatment but who are not yet legally adults. According to CDC data, youth aged 13-24 accounted for 22% of all new HIV diagnoses in 2014, with a disproportionate impact seen among young gay and bisexual men of color.

LGBTQ-specific issues are only one facet of our community's larger concerns and the U.S. civil rights struggle. Every civil rights issue touches people who are LGBTQ. GLAD's work contributes to advancing rights we all care deeply about. This year we have filed or joined amicus briefs in the U.S. Supreme Court around important cases involving the future of reproductive justice, immigration, and affirmative action in higher education.

This moment we are in matters enormously. We must not flinch, even as we help others work through their concerns as they wrestle through "new" garbs for the same old discrimination. We are excited about, and committed to, the work moving forward - and we know you will be by our side in the fight ahead. Thank you. ■



**LEGAL ADVOCATES
& DEFENDERS**

for the LGBTQ Community

30 Winter Street, STE 800, Boston, MA 02108

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INFO

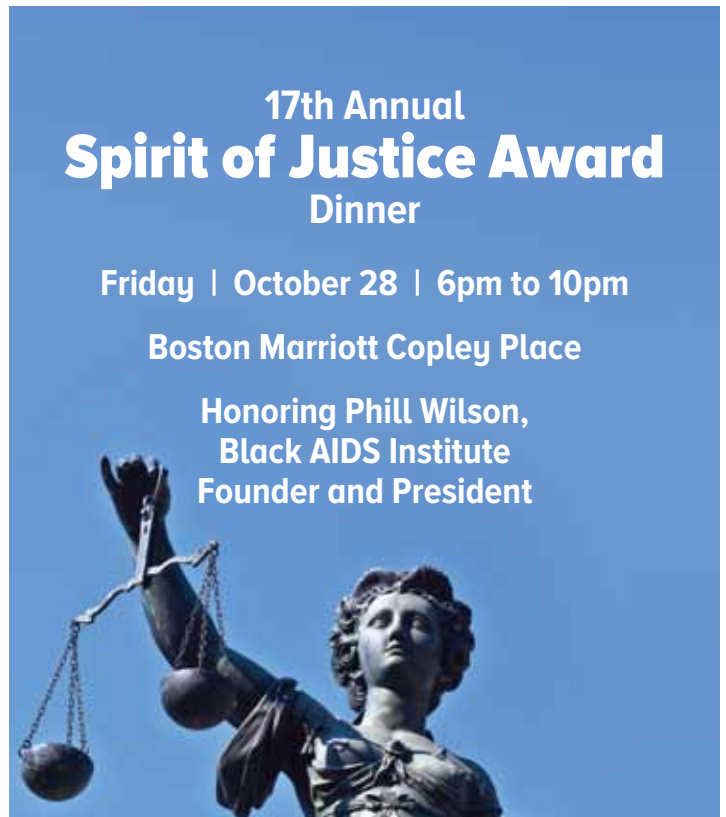
RSVP and Learn More About Our 2016 Signature Events at glad.org/events



**35th ANNUAL
SUMMER PARTY**
Saturday | July 30 | 4pm to 7pm

Pilgrim Monument &
Provincetown Museum

Honoring the
Boston Sisters of
Perpetual Indulgence



**17th Annual
Spirit of Justice Award
Dinner**

Friday | October 28 | 6pm to 10pm

Boston Marriott Copley Place

Honoring Phill Wilson,
Black AIDS Institute
Founder and President