



# FALL Briefs 2003

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## Waiting for Historic **SJC** Ruling

**OVER THE SUMMER**, the heat had risen in expectation of a Supreme Judicial Court ruling in GLAD’s challenge to Massachusetts’ discriminatory marriage laws. Based on the Court’s internal rules of procedure, a decision had been anticipated by July 14. However, since the Court extended that deadline, we really have no way to tell when the decision will be issued.

GLAD will send an email on the day of the decision to let everyone know the result as well as details for events planned to mark the occasion. Please be sure that we have your email address—email Beth Grierson at [bgrierson@glad.org](mailto:bgrierson@glad.org).

At oral argument in the Goodridge case on March 4, 2003, the Court was fully engaged and knowledgeable about the issues and closely questioned both sides. All seven plaintiff couples were present and answered questions at a

lively press conference when the arguments concluded. Whatever the outcome—a win ending the exclusion of same-sex couples from marriage; a Vermont-style remedy establishing rights but leaving the specifics to the legislature; or a loss—the couples have put a public face on the issue of marriage throughout cities and towns in Massachusetts. Their efforts to talk for the last two years in plain terms about their families’ needs for the protections of marriage with a wide range of media outlets, including a *Newsweek* cover story, *ABC Nightly News*, *CNN* and many others, have been making a real difference. An April *Boston Globe* poll showed 50% of Bay Staters favoring “gay marriage” with 42% opposed. Without a doubt, this issue is here to stay. ▼



Tony Barreto-Neto and his daughter Sarah

## GLAD Fights for Transgender Police Officer

**GRADUATING FIRST IN HIS CLASS** from the police academy at Manatee Technical College in Florida, Tony Barreto-Neto’s career in law enforcement spanned 17 years and was recognized for excellence time and time again. Taking on a variety of roles as a police officer, including fitness instructor, firearms specialist, Elderly Abuse Investigator and Field Training Officer, the Hillsborough County Sheriff’s Office (HCSO) awarded Barreto-Neto its first departmental excellence in teaching citation and, in 1994, decorated Barreto-Neto with a Life-Saving Medal. “I believe the day the Sheriff pinned the medal on me was one of the proudest moments of my life. Serving has always been my first priority” said Barreto-Neto.

Tony identifies as transgender. After 45 years living as a lesbian, and eight years on the force, the native Floridian began the process of transitioning from female to male after hearing transgender activist and speaker Dallas Denny at a conference. “It took me 1/10th of a second to know I had to have the [surgery],”

*continued on page 5*

## A Time Like No Other



MAINFRAME PHOTOGRAPHICS 2011

GLAD's Executive Director  
Gary Buseck, Esq.

**THE LAST FEW MONTHS HAVE BEEN A TIME LIKE NO OTHER.** We have seen incredible advances for our community take place. First was the ruling in Ontario that same-sex couples have the right to marry, with the first marriages taking place that day. Later, the Canadian Prime Minister announced that he would propose a bill codifying equal marriage rights across the country.

This groundbreaking ruling was followed by the U.S. Supreme Court's Lawrence decision striking down the Texas sodomy law and all remaining sodomy laws across the country in a case filed and won by Lambda Legal and closely watched around the country.

Now, GLAD is waiting for a ruling from the Massachusetts Supreme Judicial Court (SJC) in our marriage case, seeking marriage licenses for seven same-sex couples across the Commonwealth. Like everyone else, we had been prepared for the decision to be issued in early July, in accordance with the SJC's own rule to issue decisions within 130 days of oral argument, which took place on March 4th. However, on July 14, the SJC called us to let us know that they were suspending the 130-day rule (as happens in approximately 10% of their cases). So, we wait and work to prepare the public for the decision.

GLAD's case could result in Massachusetts being the first state to protect all of its citizens by allowing full, equal marriage for same-sex couples. We have done everything we could possibly do to make this a reality. We have made the case on constitutional, legal, social science, and historical grounds that this is the just and fair decision to make. Our democracy provides for the courts to remedy injustices, and, regardless of what ruling the SJC ultimately renders, GLAD will be ready to take the next steps to secure equality throughout New England in the courts and in the court of public opinion.

We appreciate all your continued support and goodwill as we watch history in the making.

A handwritten signature in black ink that reads "Gary Buseck". The signature is fluid and cursive.

Gary Buseck, Esq.

## Adultery in New Hampshire?

In New Hampshire, if a spouse can prove adultery, that spouse can get a favorable distribution of marital assets in divorce. GLAD filed a friend-of-the-court brief in a divorce case where the husband alleged that his wife was involved in an extra-marital relationship with a woman. The wife and her lesbian partner argued that the statute excludes same-sex relationships since they do not involve male-female intercourse. The family court judge rejected this argument and the partner appealed to the New Hampshire Supreme Court.

GLAD's brief argues that same-sex relationships are comparable to different-sex ones with regard to their impact on a marriage and, therefore, as a matter of policy, the adultery statute should include same-sex relationships. GLAD's purpose in submitting this brief is to ensure that the Court is respectful of gay and lesbian relationships and makes a positive statement about their value and worth.

Obviously, we would not ordinarily seek to take a position in opposition to a gay or lesbian person going through a divorce. However, GLAD is concerned that this case could set back our community in New Hampshire if the Court were to rule that same-sex relationships lack significance.

At the oral argument, both sides referenced GLAD's brief and the questions from the justices clearly evidenced some familiarity with the issues raised in our brief. In particular, one of the justices pressed both sides to answer the question of why, as a matter of public policy, an extra-marital same-sex relationship ought to be taken less seriously than an extra-marital different-sex relationship. The clear implication of the inquiry was that same-sex relationships matter and, since they do, they ought to be taken as seriously as different-sex relationships with respect to the threat they pose to a marital relationship. ▼

# GLAD's Cutting-Edge Work as Legislative Lawyers

## Advising our Allies Working in State Legislatures

A Rhode Island woman is killed in a car crash, but her partner has no standing to sue the driver of the other car. A Connecticut transgender man is assaulted on the street, but the police won't treat the assault as a hate crime. An aging Maine couple faces death, only to find out that their 32-year relationship means nothing regarding inheritance. A Massachusetts public employee dies, and his sister, whom he hasn't seen in 30 years, not his partner, receives his pension benefits.

All of these situations could happen tomorrow, and have happened in the past, but courts have not been able to provide relief because the laws, as they exist, do not permit it. To remedy this, GLAD works to shape and advance legislation that will provide greater protections for LGBT individuals and families and for those living with HIV, as well as fighting against legislative measures that seek to incorporate further discrimination into the law books.

GLAD's legislative legal work focuses on protecting same-sex couples and families, ensuring access to insurance, keeping LGBT people safe from violence, working to end employment discrimination and strengthening needle exchange programs.

## Protecting Families

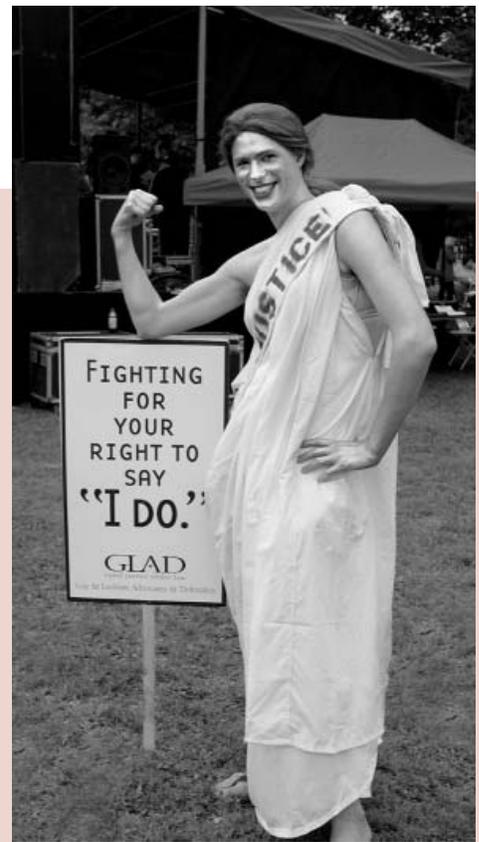
GLAD has joined forces with the Gay and Lesbian Labor Activist Network (GALLAN) in Massachusetts on bill H.3071, that would allow public employees to designate their partners as beneficiaries of their pension plans and that would grant death benefits to the surviving partners of public employees killed on the job. We have worked extensively providing draft language and engaging with LGBT community partners on marriage, civil union and domestic partnership bills that have been introduced in the Massachusetts, Rhode Island and Connecticut Legislatures. GLAD also prepared drafts of bills in Rhode Island giving a same-sex partner the ability to sue if his or her partner dies due to the wrongful acts of another person.

Having passed a bill last year in Connecticut granting limited protections to same-sex couples in areas relating to medical decision-making, victim's rights, serious injury and death, this year the Connecticut Legislature considered a marriage bill as well as a comprehensive domestic partnership bill that would have allowed same-sex couples to register as domestic partners and receive all of the 588 state protections and responsibilities of marriage. Several Defense of Marriage Act (DOMA) bills have been introduced in Connecticut and Massachusetts, which define marriage as only between one man and one woman. GLAD has worked hard to defeat these hateful measures through testimony at the hearings and analysis of the bills and strategy development with our community partners.

In another effort to protect same-sex couples, GLAD, along with cooperating attorney Pat Peard, has been working with the Maine Lesbian and Gay Political Alliance on legislation in Maine to amend the intestacy laws to allow same-sex partners to inherit their partners' estates.

## Keeping LGBT People Safe from Violence

GLAD has been working to make sure that hate crimes protections include



Lady Justice: GLAD's own Public Education Director, Gavi Wolfe.

## There are many ways to support GLAD including

- Asking Your Employer About Matching Gifts
- Transferring Appreciated Stock (with added benefits to you)
- Becoming an Ongoing Monthly Donor
- Including GLAD In Your Will
- Becoming a GLAD Partner (\$1200) or Associate (\$600) and receiving special benefits
- Volunteering at Events or in the office
- Hosting a House Party
- Asking for donations to GLAD in lieu of gifts for commitment ceremonies, birthdays, anniversaries and other occasions

For more information on how you can help support GLAD please contact Janet Lawn, Director of Development, at 617.426.1350 or e-mail us at [gladlaw@glad.org](mailto:gladlaw@glad.org).

*continued on page 7*

# Victory in Boy Scouts Case

A federal appeals court ruled on July 10 that the State of Connecticut may exclude the Boy Scouts of America from the State Employee Charitable Campaign because of the Boy Scouts' anti-gay policy. This ruling confirms that as long as the Boy Scouts retain their anti-gay policy, they may not receive special privileges from the state. GLAD is pleased that Connecticut has, in this case, consistently stood behind its non-discrimination law and, in so doing, protected all its citizens, including and especially gay youth.

The case resulted after the Connecticut Comptroller, who oversees the charitable campaign, took action to exclude the Boy Scouts following the United States Supreme Court ruling that the organization has the right to discriminate against gay leaders in the case of *Dale v. BSA*. The motivation behind the Comptroller's action excluding the Boy Scouts was to ensure "proper and robust" administration of the state Gay Rights Law, a law that prohibits use of state facilities to further discrimination, including discrimination based on sexual orientation. The federal district court upheld the exclusion and the appeals court agreed.

This case has been a particularly important and contentious one. Since the BSA has established their right to discriminate, GLAD and other organizations have focused on ensuring that they no longer receive special privileges and improper access to governmental facilities that they have long enjoyed. The Boy Scouts have, unsurprisingly, fought hard in response. As part of their defense of this case, they even deposed GLAD's attorney Jennifer Levi in an effort to cast aspersions on the Connecticut Commission on Human Rights and Opportunities (CHRO) arguing that the CHRO had formed a special relationship with GLAD and was not acting fairly in its role enforcing the non-discrimination law.

The Court of Appeals rejected the Boy Scouts' argument that the CHRO had acted in any way improper stating that "[t]he initiation of the inquiry by the head of the CHRO and the CHRO's contacts with anti-discrimination groups are evidence not of viewpoint discrimination, but of the CHRO's dual statutory role as both advocate and adjudicator," *BSA v. Wyman et al.*, 2003 WL 21545096, at \*11 (2nd Cir. (Conn.)).

GLAD hopes that other state charitable campaigns will follow suit by taking steps to exclude the Boy Scouts as long as they retain their anti-gay policy. ▼

## The GLAD Docket

### Protecting Insurance Benefits for People with HIV—Rhode Island

GLAD is representing a Rhode Island man whose disability insurer is threatening to cut off his benefits, even though his doctors and an independent medical consultant say he remains unable to work due to severe fatigue and side effects from medications. The insurance company even hired a private detective to secretly videotape our client's daily activities. As people with HIV are living longer, we are seeing insurers resort to these unfair tactics more frequently. Check out [www.glad.org](http://www.glad.org) for our new publication "Private Disability Benefits: What People With HIV and their Doctors Need to Know about Getting Coverage and Taking the Right Steps to Keep It."

### 9/11 Compensation—New Hampshire

GLAD has been continuing its representation of Nancy Walsh, a New Hampshire resident who is the surviving partner of Carol Flyzik who died on September 11 aboard American Airlines Flight 11. The tragedy Nancy suffered was compounded by the fact that she and Carol were regarded as legal strangers to one another. On that day, she wasn't even able to learn the most basic information from the airline: whether Carol was on the flight or not. Since that day, she has faced many legal hurdles simply

trying to administer the most basic matters relating to Carol's estate and wishes. Despite these obstacles, GLAD has been instrumental in helping Nancy through a very difficult time. Along with Beth MacDonald with the New Hampshire firm of Donahue, Tucker & Ciandella, we successfully assisted Nancy in becoming the co-administrator of Carol's estate. As such, she was able to tend to key financial matters and carry out some of Carol's wishes. We are currently working on preparing an application on Nancy's behalf to the Federal 9/11 Victim's Compensation Fund and are cautiously optimistic that Nancy's long-term committed relationship with Carol will be respected and that, consistent with the purpose of the fund, the family they jointly created will receive benefits.

### Parenting Rights—Maine

GLAD is waiting for a ruling from the Maine Supreme Judicial Court (Law Court) in a case seeking recognition of de facto parent status in a lesbian relationship. The case asks that a woman be allowed to be the full parent according to law that she is in fact in the life of her now 9-year-old son. C.E.W. and D.E.W. decided to have a child together while they were in a committed lesbian relationship. D.E.W. was the bio mom and C.E.W. has had the primary responsibility for caring for him for most of

*continued on page 6*

## Transgender Police Officer

continued from page 1

Tony says. “Marjorie,” — Tony’s partner of 18 years and legal wife since 1996 — “knew I was committing passive suicide every day that I was forced to live as a female.”

Tony and Marjorie were raising Marjorie’s niece at the time of the transition. After Tony founded the non-profit group Transgender Officers Protect and Serve (T.O.P.S.), *ABC’s 20/20* picked up Tony’s story and their family began attracting publicity and hostility. Their house was shot at, officers who previously had “tolerated” Tony as a lesbian became openly antagonistic, and their seven-year-old suffered at school. “One day she came home from school upset,” Tony recalls. “I told her then that if my being so visible was hurting her that I would stop, but she said ‘It’s okay, Daddy, you are good at what you do and you save lives. Besides I just told them that you couldn’t help it and that it could happen to them as well.’”

After a few more years on the job, Barreto-Neto and his family moved to Hardwick, Vermont, and Tony soon found work as an officer. “It was wonderful,” he says. “Like finally being on a level playing field. I was well received for the kind of police officer I am, just to be able to be me and treated like a ‘normal’ human being.”

Sadly, that was all to change. After an anonymous phone call informed the Hardwick town manager that Tony had been ascribed the sex of female at birth, information private to Tony became common knowledge. “I can’t say it was a picnic when I transitioned in Florida, but it was so much better than in

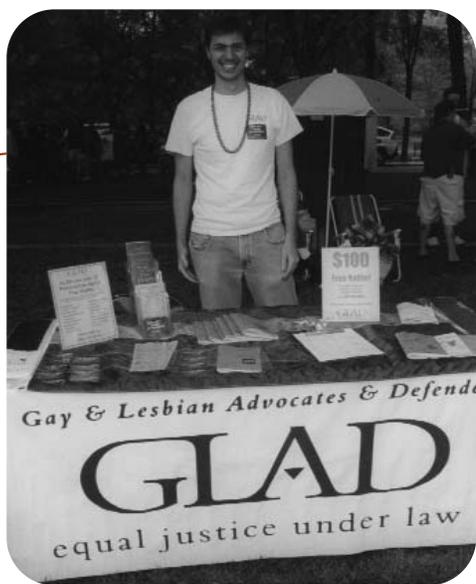
Hardwick. The treatment I faced at Hardwick made me start to think that I was a bad cop, or worse yet, that I was a bad person.”

Tony was forced out of the Hardwick Police Department after his transgender status became known. GLAD is advising him about how to proceed legally to redress the discrimination he faced when fellow officers and superiors learned that he is transgender.

“I can’t tell you how I felt the day I got the call from Jennifer Levi, GLAD’s Senior Staff Attorney, and she actually listened to me, not

only to what I was saying but to how ‘I’ felt. My own community and some of the very organizations I had helped found had been less responsive. I am so overwhelmed by all the work GLAD has put into the trans community. The fact that GLAD is on the front lines, is willing to take the chances and take to court cases that many would say haven’t a chance. I believe everyone in our communities looks to GLAD as the cutting edge. They are fighting the good fight for the right reasons.” ▼

GLAD has been working throughout New England to ensure that transgender people are protected against discrimination. Like gay and lesbian employees, transgender employees face serious and pervasive discrimination when co-workers and employers learn that they are transgender. GLAD has had some major successes in doing this work including securing interpretations from human rights commissions in Massachusetts and Connecticut stating that existing laws protect transgender people. We were also instrumental in moving Rhode Island to become the second state (there are now four) in the country to explicitly add transgender people to state non-discrimination laws.



Advancing the banner of Civil Rights in the public eye. Connecticut Pride, New Haven

## GLADpride



GLAD was honored to be chosen as Grand Marshal of Boston Pride, June 2003



Auctioneer  
Lisa Drapkin  
pumps up  
the crowd



Presidential candidate Howard Dean and Dan Gerace

## Enjoying the **Summer Party**



Thom and  
Chris Theara



GLAD Civil Rights Project Director  
Mary Bonauto and her family

### **The GLAD Docket**

*continued on page 4*

his life, especially in recent years. While they worked out shared parenting for a number of years after their separation, C.E.W. went to court seeking a declaration of her parental rights only after D.E.W. sought to end their legal co-guardianship over the child. Maine law acknowledges that a person may become a de facto parent but has yet to clarify the exact terms of that doctrine.

In addition, the Maine Supreme Judicial Court has never addressed the rights of gay and lesbian parents in any way. Joining GLAD in this effort is cooperating attorney Patricia A. Peard of Bernstein, Shur, Sawyer and Nelson. In addition, the firm of Mittel Asen Hunter and Cary also submitted an amicus brief on behalf of the Maine Psychological Association, the Maine Chapter of the National Association of Social Workers, and the Maine Children's Alliance setting out the scientific consensus that children raised by gay and lesbian parents are developmentally on par with children raised in heterosexual homes.

### **Co-Guardianship of Children—Maine**

GLAD has fully briefed to the Maine Supreme Judicial Court a case seeking full co-guardianship rights for two women who are a family and are raising their son together. In the absence of second-parent adoption, co-guardianship allows people to assume many parental rights and responsibilities vis-à-vis their children. A number of years ago, Probate Court judges in Maine began ordering only limited guardianships thereby limiting the security of the families who need full guardianship protections. A Probate Court Judge in Kennebec County who was favorably inclined to GLAD's position reported this case to the state supreme court. The Law Court is deciding the case based on the legal briefs. GLAD is working with cooperating counsel Patricia A. Peard of Portland and Judith Berry of Gorham. ▼

# Faces of GLAD



## JENNIFER LEVI MOVES WEST

Jennifer Levi, GLAD's senior staff attorney, has moved to Western Massachusetts to become a professor at Western New England College School of Law. We are thrilled that Jennifer will be able to continue her work with GLAD on a part-time basis. Jennifer has brought an incredible commitment and knowledge to GLAD, particularly in advancing and solidifying our work with the transgender community. Her intellect, sense of humor and friendly presence in the office will be greatly missed. We wish her and her family the best and look forward to her continuing contributions to GLAD's work.

## WELCOME STAFF

GLAD is pleased to welcome three new members of our staff: **Peter Basso**, Legal Assistant; **Dan Delgado**, Special Events Coordinator; and **Cristina Parra**, AIDS Law Project Educator/Advocate. Peter joined GLAD in February, 2003 after graduating from Brandeis University in 2002 with a B.A. in Politics and History.

Dan will be working on GLAD's many events (over 20 each year!) He most recently worked on Fenway Community Health's Men's Event and the Dinner Party and also brings his experience as a journalist.

Cristina comes to GLAD as a 2003 graduate of Brown University with a B.A. in International Relations. At Brown, among other things, she spent two years as an English/Spanish teacher.



Peter Basso, top  
Dan Delgado, left  
Cristina Parra,  
bottom



## WELCOME BOARD MEMBERS

We are pleased to welcome three new members to GLAD's Board of Directors:

**Peter J. Epstein** is an attorney in private practice in Boston specializing in telecommunications law primarily representing municipalities. He is a graduate of George Washington University and Suffolk University Law School.

**Ann L. Hartstein** is Assistant Secretary of the Massachusetts Executive Office of Elder Affairs and has served as Executive Director of the Needham Council on Aging in Needham, MA. Ann received her Master of Gerontology in 1996 from the University of Massachusetts, Boston, her Master in Management of Human Services in 1983 from Brandeis University and her Bachelors degree from the University of Kansas in 1975.

**Peter E. Kassel** received his BA from the University of California at Los Angeles and his Psy.D. from the University of Denver in 1988. He is a clinical psychologist and holds academic, hospital and health care appointments, including Harvard Medical School and Massachusetts Institute of Technology Medical Center. He currently serves on the Governor's Commission on Gay and Lesbian Youth. ▼

## Legislative Lawyers

*continued from page 3*

crimes motivated by anti-gay and anti-transgender animosity. GLAD helped to lay the groundwork in Connecticut for legislation by participating in educational forums with legislators and the public and by providing testimony.

In addition, GLAD has been strategizing with other lgbt advocacy groups around the country on ways to help pass federal hate crimes legislation that is inclusive of both sexual orientation and gender identity and expression.

## Ensuring Access to Insurance

GLAD is working in coalition to defeat a bill that would allow life insurers to cancel the policies of people with chronic illnesses even after the death of the policyholder.

## Working to End Employment Discrimination

GLAD is helping to shape the federal Employment Non-Discrimination Act to ensure the most comprehensive and effective protections for the lgbt community. While non-discrimination legislation is common in New England, only fourteen states across the country prohibit sexual orientation discrimination, and only four states have statutes that explicitly prohibit transgender discrimination.

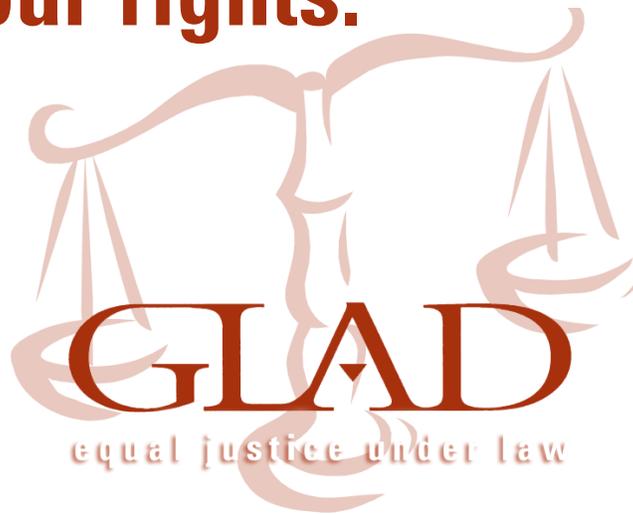
In a similar vein, GLAD drafted language for a Boston ordinance to amend the city's existing non-discrimination provisions to include protections based on gender identity and expression and provided testimony for a hearing on the ordinance, which passed in late 2002.

## Strengthening Needle Exchange Programs

Having helped secure a victory in the Supreme Judicial Court of Massachusetts ensuring that participants in needle exchange programs can possess needles throughout the state, GLAD is now working with AIDS Action Committee, the American Civil Liberties Union of Massachusetts, and others to pass better syringe access laws. Despite scientific proof that needle exchange programs and the sale of sterile syringes at a pharmacy without a prescription prevent transmission of HIV and hepatitis C virus, Massachusetts lags behind virtually every state in having responsible syringe access laws. ▼

visit us at  
[www.glad.org](http://www.glad.org)

# Know your rights.



**Tell Someone Your Story ▼ Learn Your Rights ▼ Fix The Problem.**

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**[www.glad.org](http://www.glad.org)**



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