

# GLAD BRIEFS

WINTER '15

GAY & LESBIAN ADVOCATES & DEFENDERS

## GLAD Sues Walmart on Behalf of Lesbian Employee Denied Spousal Health Coverage

**GLAD** has filed a charge of discrimination against Walmart, the world's largest public corporation, with the Equal Employment Opportunity Commission (EEOC) on behalf of Jacqueline (Jackie) Cote. Jackie, a Walmart employee, was denied spousal health insurance for her wife, Diana (Dee) Smithson, who is currently battling ovarian cancer. That refusal, GLAD alleges, violates both state and federal law prohibiting sex discrimination in employment.

"All that Jackie wanted was to be treated like other Walmart employees and to take care of her spouse," says Gary Buseck, GLAD Legal Director. "Instead, Walmart chose to discriminate against its gay and lesbian employees."

Jackie works as an associate in the Swansea, MA Walmart store. She and Dee have been

together for 23 years and were married almost as soon as they could be – on May 22, 2004, in Provincetown. "We wanted to show our commitment to each other," Jackie says.

Starting in 2006 and continuing through 2012, Jackie also tried to show her commitment by adding Dee to her insurance during Walmart's open enrollment periods, trying to access a benefit available to other married Walmart employees. Jackie was particularly concerned about health insurance because of her wife's health history – Dee had a previous bout of cancer in 1997.

But when Jackie entered her spouse's gender as

"female," the online system would stop her from proceeding further. When she called Walmart's home office to investigate further, she was told that Walmart did not offer health insurance coverage to same-sex spouses.

"I felt like a second-class employee," says Jackie. "But I had to keep trying. I wouldn't give up."

By the time Walmart ultimately announced that it would change its policy in 2013 (which went into effect on January 1, 2014), Jackie and Dee had racked up medical bills topping \$100,000, been hounded by bill collectors, and lost many nights' sleep to worry.

The EEOC complaint was cross-filed with the Massachusetts Commission Against Discrimination on September 18, 2014. Walmart has filed a response, and we are in the process of preparing our reply as we go to print. ■

LGBT LEGAL ADVOCATES  
**GLAD**  
EQUAL JUSTICE UNDER LAW



Dee Smithson and Jackie Cote

## From the Executive Director Janson Wu

Photo: InfinityPortraitDesign.com



I am so happy and humbled by the opportunity to lead an organization that I care so passionately about.

When I began here eight years ago as an attorney, I quickly learned that GLAD is all about daring to dream big and then making those dreams a reality. From employment protections to marriage equality, GLAD has achieved what so many at the time considered to be pipe dreams.

GLAD continues to dream big and to imagine an even more just world: a world where LGBTQ youth can grow up fully affirmed by their families, guardians, teachers and peers; a world where same-sex parents no longer have to adopt their own children but are considered legal parents from the moment of birth; a world where LGBT elders need not go back into the closet to age with dignity.

In other words, a world where we are not just tolerated, but celebrated.

GLAD has won incredible victories in the past year. From the gains made in access to transgender health care in Massachusetts, Connecticut and Vermont to parentage protections in New Hampshire to asylum for a prominent Ugandan gay activist, GLAD's work has impacted New England and beyond.

But amid all these victories is a truth that cannot be denied – equality is not a reality for everyone in our diverse LGBT family. That is why our work is still so important. Elders, youth, and transgender individual – remain vulnerable to discrimination and unequal treatment. And even though same-sex couples can now marry in 35 states and counting, they are still being fired based on religious objections to their marriages.

We must keep working until we have achieved equality for all in our community. And then, we must lead the way beyond equality and toward equal justice under law.

I look forward to doing the work it takes – and to working with you – to realize our dreams. ■

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# I Want to Live As the Whole Person I Am

## How 75-Year-Old Army Veteran Denee Mallon Took on Medicare – and Won

**D**enee Mallon is tenacious.

Whether building model airplanes as a kid – “If something wasn’t working, I’d just keep at it until they’d fly,” says the 75-year-old army veteran – fighting, with her local chapter of Veterans for Equal Rights, for an end to Don’t Ask Don’t Tell, or pursuing every possible avenue to challenge Medicare’s denial of coverage for her health care, she refuses to give up.

That refusal has paid off. Denee was finally able to have gender affirmation surgery this past October – the first person to have her surgery covered by Medicare – after a nearly 60-year wait. After all the waiting and effort, the procedure and recovery were the easy part for Denee, who now describes feeling a sense of wholeness and completeness for the first time.

Denee attributes her willingness to keep fighting to “the tenaciousness of the woman inside me. No matter how society tried to stamp her out she persisted.”

She adds, “Now I’m all of her – and I’m curious to see where I go with her.”

But Denee’s successful challenge to Medicare will have an impact far beyond her. The agency’s announcement earlier this year that it would eliminate its categorical exclusion of transition-related surgery from coverage is a significant advancement in health care access for transgender people.

Denee first sought coverage in 2012, and was denied. With “a loose-leaf binder full of research,” and the assistance of her private counsel Mary Lou Boelcke, she appealed that denial at every level within the Centers for Medicare and Medicaid Services (CMS).

“It was a very long, slow, deliberate process,” Denee says. “I think a lot of people just drop out because it’s so difficult. I just kept with it, after each refusal, we went on to the next step.”

Refusing to drop out was for Denee a matter of achieving the sense of congruence she had been seeking since she was a child. “I first realized in 1952 or ‘53 that I could do something about these feelings that I was a girl,” she says, “but it’s taken me this long to be able to do it. It’s a deep-seated thing that requires expression, no matter how you try to stamp it out.”

When Denee and Mary Lou hit the end of the line, they reached out to GLAD, the American Civil Liberties Union (ACLU), and the National Center for Lesbian Rights (NCLR).

“At the time, I didn’t think of myself as taking on a big endeavor,” Denee says of spearheading this advocacy with CMS. “I just ran out of options.”



GLAD, ACLU and NCLR collaboratively sought review of the reasonableness of the existing exclusion, which was based, in part, on some very old and questionable science dating back to 1981, as well as on prejudice and misunderstanding about transgender people’s lives. That word “reasonableness” is the legal standard by which CMS must justify exclusions from Medicare coverage, such as the exclusion found in the “transsexual surgery” national coverage determination (NCD). The organizations submitted key studies and expert affidavits demonstrating that gender affirmation surgery is effective and essential medical care.

On May 30, the Department Appeals Board of the Department of Health and Human Services, an independent reviewing body, issued a decision that the Medicare exclusion is not valid under the standard of reasonableness.

“I was elated,” Denee says of hearing about the decision. “I was in Walmart standing in the check

out line, and I burst out with ‘Yay! We won!’ NBC interviewed me that day and put that ‘Yay!’ as the lead in to the 5 o’clock news.”

There was still work to be done following the Department Appeals Board decision, however, before Denee could finally schedule her surgery. When her primary care physician submitted a surgery pre-authorization, her care group, Presbyterian Senior Care, still turned it down. But this time, a call to CMS resulted in a directive that the procedure should be covered.

When people ask Denee whether she wasn’t “too old to have this surgery” – which she says does happen from time to time – she has a very clear answer: “Your life doesn’t end just because you’re 75. I may live another 20 years. I want to do it as the whole person I am.”

That person is a woman very involved in her community. President of her local Veterans for Equal Rights chapter, she proudly marches each year in the Albuquerque Veterans Day Parade. And she volunteers with her local transgender center, particularly with transgender youth, who she sees as fortunately having more options open to them than she did as a child.

Having the option to start the process of transitioning earlier can mean a more complete life, Denee says. But more importantly, she adds, “I like helping young people decide what the right decision is for them.

I see my role as helping people discover who they are, whether it’s what I would do or not.” ■

# Marriage Update

Ten years ago, GLAD secured the first freedom to marry victory in the U.S. with our landmark *Goodridge v. Department of Public Health* win in Massachusetts. Last year, when the Supreme Court ruled DOMA unconstitutional, we had 13 states and the District of Columbia. Since that ruling in *Windsor*, there have been 50+ pro-equality rulings in state and federal courts, and there are now 35 states and counting where same-sex couples can wed.

GLAD is committed to ensuring this momentum keeps building until every same-sex couple who chooses to marry can do so. To that end, we have consulted with private attorneys and our LGBT legal colleagues. We created and coordinated the strategy for friend-of-the-court briefs submitted following Utah's victory, and then in several other Courts of Appeals reviewing marriage bans. GLAD also submits our own *amicus* brief addressing rational basis review with invaluable assistance from attorneys at WilmerHale.

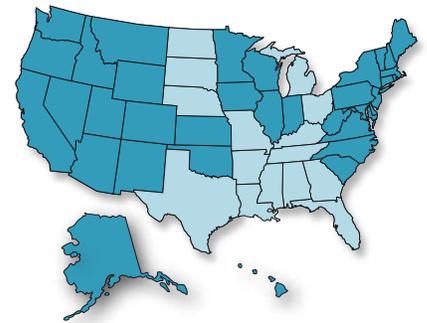
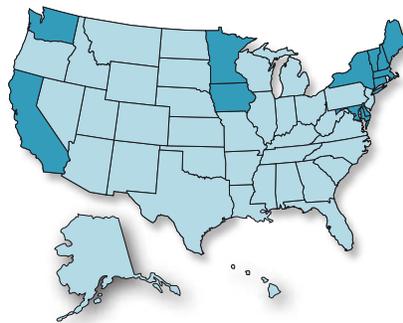
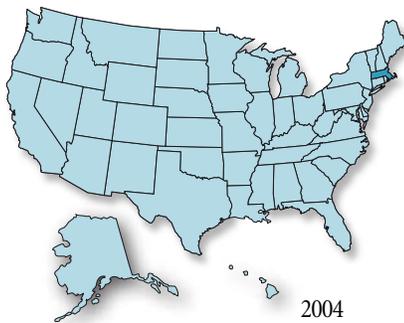
GLAD's Civil Rights Project Director Mary Bonauto has also re-joined the legal team of *DeBoer v. Snyder* in Michigan as the Supreme Court decides

whether to take up marriage bans in this term. In the third ever marriage trial, GLAD helped secure expert witnesses for the *DeBoer* team. In March, the team won a stunning ruling in U.S. District Court that there is no rational basis for denying marriage, let alone any valid concerns about how children will turn out, which had been the lynchpin of Michigan's argument.

The U.S. Court of Appeals for the 6th Circuit, however, reversed that ruling on November 6, along with similar rulings out of Ohio, Tennessee and Kentucky. Bonauto and Michigan attorneys Carole M. Stanyar, Kenneth Mogill, Dana M. Nessel, and Robert A. Sedler filed a petition for *certiorari*, and Michigan has also submitted a brief arguing for Supreme Court review. Petitions are also pending in the other cases, and we expect to learn whether the Court will hear one or more of them by mid-January. Whatever the Court's action, we will continue working with our allies across the country to ensure the freedom to marry becomes a reality for all. ■

## Momentum for the Freedom to Marry

In just a decade we've gone from 1 state with the freedom to marry to 35 and counting



## Beyond Marriage:

### Securing Legal Respect and Protections for the Broad Range of LGBT Families

Marriage, birth and adoption are traditional markers for defining a "family," and while we continue making enormous progress toward securing these protections regionally and nationally, our work goes deeper and wider to acknowledgement and fair treatment for the full range of LGBT families.

Long before the *Goodridge* victory set us on the road to nationwide marriage equality, GLAD was fighting for LGBT families. We have fought for the ability to foster and adopt children, to adopt as second and third parents, to secure parentage judgments, and to eliminate LGB and T bias in parental rights determinations.

Protecting adult relationships apart from marriage has also been part of our work, including advancing and defending domestic partner programs from right wing attacks, seeking insurance and death benefits based on

economic interdependence, and ensuring couples can divide property equitably at the end of a relationship. We continue to do so today.

GLAD resists the relegation of our families to second-class status and seeks a society where all our families are valued and respected.

That work is vast. It includes:

- Ensuring equal treatment of all married employees rather than perpetuating discriminatory rules for those married to someone of the same sex ([see our cover story on our suit against Walmart, and the Docket Update on page 10 for the latest on our suit against Brookdale Senior Living](#)).
- Continued advocacy with state and federal governments so that marriage-based benefits are fully and fairly extended to same-sex couples and their children ([see page 11 for the story on our suit against the Social Security Administration](#)).

*continued on next page*

# Facing Down Stigma In the Fight Against HIV

Ben Klein, AIDS Law Project Director

A few years ago, I was at a Boston Celtics playoff game when an intoxicated fan in the men's room shouted loud enough for everyone to hear: "Chris Bosch [a star opposing player] has AIDS. I know it for a fact." There are, of course, other highly stigmatized health conditions, but you would never hear as a slur that an opposing player has epilepsy or bipolar disorder.

As GLAD's AIDS Law Project completes its 30th year, HIV remains the most stigmatized health condition in America. HIV/AIDS has been unique because it combines a fear of the "other" — gay men, people of color, and intravenous drug users who have a disease associated in the public's mind with Africa — with the fear of contagion. And the powerful role of race in HIV stigma cannot be ignored. Would that fan have used "AIDS" as a slur about a white player? We'll never know, but I doubt it.

The recent Ebola panic underscores what we've seen from the first days of the HIV epidemic: it is very difficult for people to grasp the true likelihood of transmission of an infectious disease, especially when, as in the case of HIV and Ebola, it is linked to stereotypes about Africa. The mandatory quarantine in New Jersey and Maine of a nurse returning from caring for patients with Ebola in Sierra Leone, even though

## As GLAD's AIDS Law Project completes its 30th year, HIV remains the most stigmatized health condition in America.

— Ben Klein

she was not infectious, or the sanitization of a building in New York where a doctor later diagnosed with Ebola had gone bowling, for no reason other than to accommodate public fear, reflect precisely the type of public health illiteracy that harms so many people with HIV today.

As one stark example, GLAD is working with a young woman who was charged with attempted murder after she bit a police officer who was improperly restraining her. Attempted murder! Never mind that she had an undetectable viral load, that the police officer was wearing gloves, and that the risk of HIV transmission through biting, even absent those circumstances, is virtually zero. The prosecutor even had the gall to request that she be held without bail. Would such prosecutorial aggression have occurred — as our client rightly points out — if she had not been someone who presents as a black teenager?

In another matter that recently came across our radar, a dental assistant was fired after he disclosed his HIV status. The employer raised concerns about whether his fingers should be in a patient's mouth.

Stigma also factors heavily in our ongoing effort to pass legislation in Massachusetts to require insurers to cover treatment for lipodystrophy, a disfiguring side effect of HIV medications. We hear from countless people with lipodystrophy, especially facial wasting, that it is a public disclosure of their HIV status resulting in stares, rejection, ostracism, and public harassment. That harm is compounded by the discrimination of insurers who cover restorative procedures for the side effect of many other conditions, such as breast reconstruction for cancer, but not for the disfigurement caused by HIV-associated lipodystrophy.

From the earliest days of the HIV epidemic, GLAD's guiding principle has been the right of people with HIV to the highest possible quality of life. But we have not achieved that goal as long as people with HIV experience blatant employment discrimination; are charged with crimes for biting and spitting; or become severely depressed, suicidal, or live as shut-ins because they are denied necessary medical care. ■

## Beyond Marriage:

*continued from page 4*

- Ensuring that a parent who makes the choice to bring a child into the world and acts as a parent is viewed by law as a parent, and resisting the notion that genetics can be played as a trump card to exclude another parent who lacks a genetic connection. New Hampshire took an important step this year with the passage of legislation to expand parentage by allowing gestational carrier agreements and including same-sex couples in existing protections for parentage established by consent and intent. *(Also see the Docket Update on page 10 for news of our precedential victory at the New Hampshire Supreme Court).*

GLAD has also been working for two years with a Maine committee in overhauling parentage laws to create that state's first-ever laws on assisted reproduction, as well as pathways to parentage based on parental responsibility and existing parent-child relationships rather than on genetics, marital status or gender.

- Creating sensible protections for families of choice apart from the marital frame. Like different-sex couples, many same-sex couples do not and will not marry, and forty percent of children are born to single individuals or unmarried couples nationwide. We are fighting to retain and expand the non-marital protections that already exist in law.

For example, this year we led advocacy in Maine against an attempt to gut the domestic partnership registry and the valuable inheritance and decision-making rights it confers on partners. Instead, joining with the state's leading elder, LGBT, and justice groups, we persuaded officials to seek expansion of domestic partner protections throughout the entire probate code. That bill will be considered in the new legislature in 2015.

Whether in state courts, the U.S. Supreme Court, state legislatures or administrative agencies, GLAD will not stop fighting until all families are protected and respected. ■

# We Don't Know What May Happen Down the Road

## Steve Avruch & Ed MacLean on Sustaining the Fight for LGBT Equality

“Gay and lesbian people are the best people to tell our own stories.” Ed MacLean says he learned that lesson during the hard-won fight to preserve marriage equality in Massachusetts following the 2003 *Goodridge* decision.

Ed and his partner – now husband – Steve Avruch, were very involved in that fight.

“Marriage wasn’t part of our initial thinking,” Ed says. “That really evolved over time.” But following the decision that made Massachusetts the first state in the U.S. to allow same-sex couples to marry, they both saw how crucial it was to protect that victory.

“We didn’t know at the time if it was going to remain legal. It wasn’t a certainty,” says Steve. “There was a lot of pressure to overturn the decision, portraying Massachusetts as on the fringe, that the sky was going to fall.”

“We attended rallies, had meetings at the State House, and had those important conversations with our friends, family members and co-workers,” says Ed. “The marriage fight empowered more people to tell our own stories. And people found they were stories with great compassion and respect. It was a stressful time, but it was also exhilarating and rewarding.”

Steve, a corporate attorney with a Cambridge-based biotechnology company, and Ed, owner of Potted Up, a landscape design firm focused on urban landscapes, met 21 years ago at what the couple describe as a “group blind date” – a dinner arranged by mutual friends – and were married in 2008.

Both consider themselves lifelong Bostonians – or at least Boston-adjacent. Ed, who grew up in Quincy and Weymouth, attended UMass and has lived in Boston for the last 25 years. He combined his childhood love of gardening with his love of Boston in building Potted Up, which he says “specializes in city gardening, focusing on what does well in the city, given the specific environmental factors.”

Steve grew up in Newton and – except for the 4 years he spent in New Hampshire attending college – has lived in the greater Boston area his entire life. He attended Boston College Law School and has been practicing law in the Boston area for almost 30 years.

Steve is also the son of a local Boston celebrity, Frank Avruch, who from 1959 – 1970 was the local and nationally syndicated personification of Bozo the Clown. Many Bostonians also remember him as the host of the Channel 5

late night movie show, “The Great Entertainment.”

“Some people’s fathers were doctors, some were lawyers, others were clowns,” says Steve, who expresses great pride in his father’s career, particularly as he became a goodwill ambassador for UNICEF, traveling the world with the message that laughter is a universal trait for children.

Ed and Steve have been supporters of GLAD, individually and then together, since the late 1980s. Ed, whose career prior to Potted Up was as an event planner, including work with Fenway Community Health, connected with GLAD through its work on HIV issues, while Steve’s role on the board of the Massachusetts Lesbian & Gay Bar Association (now MA LGBTQ Bar) resulted in a close affiliation with the organization.

Their own involvement in the fight to preserve the freedom to marry in Massachusetts led them to a close-up appreciation of GLAD’s key role in that victory, and of the organization’s potential for what Ed considers “national and international impact.”

“We value GLAD as a local, Boston-based, regionally-focused organization that makes a real difference in the lives of LGBT people,” says Steve. “We know the people at GLAD, and we know the impact of where our donations go. It makes it an easy decision to give.”

Ed adds, “I like that [GLAD] is not a glitzy organization. It’s an organization that’s carefully doing its work every day. The work is very substantive. It speaks volumes and people respond to it.”

Following their own years of work for equality, telling the stories of LGBT people and continuing the fight for equal justice are now family matters for Ed and Steve.

“We have two gay nephews in their early 20s, and they can’t even understand that there was a time when there wasn’t marriage equality,” says Steve. “Our support for GLAD becomes a family and a next generation issue. We want to sustain GLAD, and the fight to support issues that will be important to our nephews, friends and family in coming years.”

Some of those important issues include equality in the workplace and equal rights for transgender people. But, Steve adds, “We don’t even know what may happen down the road. That’s why it’s so important to have an organization like GLAD that’s ready to stand up and fight for issues that are going to be important to LGBT people that we aren’t even thinking of.” ■



Steve Avruch and Ed MacLean

## Janson Wu is GLAD's New Executive Director

After a six-month, national search, GLAD's Board of Directors named Janson Wu the organization's new executive director. The former deputy director and senior staff attorney began his new duties on December 1st.

"We are thrilled and proud to name Janson our new executive director at such an important and forward-looking time for the movement and for GLAD," says Board President Dianne Phillips. "Beyond his deep knowledge of GLAD, the movement, and the issues facing our community both in New England and nationally, Janson brings to the table vision, impressive leadership abilities, and the strategic thinking of a successful litigator."

Wu is a graduate of Harvard Law School who worked at a private law firm and an anti-poverty non-profit before coming to GLAD as a staff attorney in 2006. He has worked on a variety of litigation and legislative matters at GLAD, including being part of the DOMA legal team, the team representing asylum seeker John Abdallah Wambere, and lead counsel in *In re Madelyn B.*, in which he argued successfully before New Hampshire's high court that a lesbian non-birth mother is a parent. He played key roles in the legislative pushes for marriage equality in New Hampshire and Rhode Island. During the past year, Wu has served as GLAD's deputy director, playing an essential role on the leadership team following former executive director Lee Swislow's retirement.

His efforts have earned national recognition: in 2012, Wu received the David Carliner Award from the American Constitution Society, and in 2011 he was named one of the Best LGBT Lawyers under 40 by the National LGBT Bar Association. He was a 21st Century Fellow with the Pipeline Project, which is dedicated to cultivating leadership among LGBT people of color.



Photo: InfinityPortraitDesign.com

"With all of the gains that GLAD has brought to New England, we now have a unique and exciting opportunity going forward," says Wu. "We are positioned to show the rest of the country what the next stage of our movement could look like if we dream big and keep our eyes on the prize – equal justice under law. I am both happy and humbled to have this chance to play a leadership role for our community."

Some of the challenges now facing the LGBT and HIV communities are long-standing, like eradicating HIV, securing legal protections for families regardless of how they are formed, guaranteeing access to health care for the transgender community, and ensuring our movement's goals and gains are inclusive of and accessible to LGBT people of color. Other important issues include ensuring that the growing number of LGBT elders are not met with discrimination, addressing the needs of LGBT youth for safe schools and authentic, rewarding lives, and fighting the improper use of religion to defeat non-discrimination protections for LGBT people.

Wu has served on the Sexual Orientation and Gender Identity/Expression Commission of the American Bar Association and as a member of the legal committee

of the World Professional Association for Transgender Health (WPATH). He has also served on the boards of Marriage Equality Rhode Island (MERI) and Standing Up for New Hampshire Families. He lives in Boston with his husband, Dr. Adam Levine, and their dog Oreo. ■

# Shelter for All Genders: Making Shelters Truly Accessible for Transgender People

Winter in New England is hard on people without homes, and hard in specific ways for people who are transgender and seeking shelter. GLAD is working with the Massachusetts Transgender Political Coalition (MTPC) on an outreach plan to both inform shelters of how to be welcoming to transgender and gender non-conforming guests, and to educate the transgender community on their rights when accessing services.

To help shelters better serve transgender guests, GLAD and MTPC are promoting “Shelter for All Genders,” a best practices guide developed by MTPC, accompanied by a model policy that GLAD developed with a shelter in Lynn. A press release about the guide and policy was accompanied by a blog post written by a youth that GLAD has worked with on his experience with discrimination in a shelter. “No one should be deciding to stay on the streets because being in a shelter is even more dangerous, not just for their physical well-being but for their emotional well-being, too,” writes the formerly homeless youth, who asked to remain anonymous.

**“No one should be deciding to stay on the streets because being in a shelter is even more dangerous.”**

As part of our community education plan, GLAD is creating a wallet card to let transgender and gender non-conforming people know their rights in shelters. Written in English and Spanish, the card explains that everyone, of any gender identity or expression, has the right to be treated with respect and dignity when accessing shelter services, and provides contact information for GLAD Answers should someone feel their rights have been violated. We are also partnering with local organizations that serve homeless and marginally housed people to present workshops for their staff. We hope that through these workshops and outreach tools, some of the most vulnerable members of our community will be able to safely access the shelters they need. ■

## Rhode Island and Massachusetts Update the Process for Changing Gender on Birth Certificates

Having the wrong name and gender on identification documents can have dire consequences for transgender individuals. While every state allows you to legally change your name without any medical requirements, until recently changing gender on identification documents required gender affirmation surgery. Although the surgical requirement has been removed for changing gender on most New England drivers' licenses (with the exception of New Hampshire), as well as for passports and Social Security, this outdated requirement remains for birth certificates in most of the country.

New England helped lead the way in updating birth certificate policies in 2012, when the Vermont legislature removed the surgical requirement. GLAD is now working hard in other New England states and is pleased to announce significant changes in both Rhode Island and Massachusetts. In Rhode Island, the Department of Public Health recently revised its regulations for changing gender on a birth certificate by removing the surgical requirement. The process now involves submitting an affidavit from the person seeking the change and from a physician, certified nurse practitioner or physician's assistant who has treated or evaluated the person. Those affidavits should attest that that the person has had medical treatment appropriate to that individual for the purpose of gender

transition, based on contemporary clinical standards, and is no longer the gender recorded on the birth certificate. GLAD has created a tool kit for changing gender and name on a Rhode Island birth certificate at [www.glad.org/rights/toolkits](http://www.glad.org/rights/toolkits)

In Massachusetts, while there is more work to do to remove the surgical requirement altogether, the Department of Public Health has recently taken steps in modernizing its approach to getting gender markers changed on birth certificates. With this clarification, all that is needed is an affidavit from the person seeking the change and one from a physician who has treated or evaluated the individual (it doesn't need to be a surgeon), attesting that the person has completed surgical treatment for the purpose of sex reassignment and is no longer the gender recorded on the birth certificate. Neither affidavit should indicate what surgery the person had. GLAD has created a tool kit with step-by-step instructions for changing gender and name on a Massachusetts birth certificate at [www.glad.org/rights/toolkits](http://www.glad.org/rights/toolkits)

GLAD continues to work hard throughout New England to ensure that all identification documents accurately reflect our true selves. If you have questions or would like further information, contact GLAD Answers at [www.GLADAnswers.org](http://www.GLADAnswers.org). ■

# 15th Annual Spirit of Justice Award Dinner Honoring Urvashi Vaid

October 24, 2014

Thank you to all who came to our 2014 Spirit of Justice Award Dinner honoring Urvashi Vaid! The generous support of our donors, sponsors, volunteers and community members make GLAD's work for equal justice possible.

*Photos: InfinityPortraitDesign.com*



*Kyra Matthews-Davis, John "Longjones"  
Aballah Wambere and GLAD board member  
Jo Davis*



*Eric Huang with Craig Robbins of Macy's*



*GLAD board member Alix L. L. Ritchie with Marty Davis  
and fellow board member Trina L. Soske and board president  
Dianne R. Phillips*



*Honoree Urvashi Vaid with sponsors Samuel and  
Andrew Pang of LGBT Services at IVF New England*



*Event co-chairs Joyce Kauffman and Benjamin Franklin*



*Supporters from State Street and friends enjoy the event*

# Docket Update

For further information on any of these matters, visit [www.glad.org/work/cases](http://www.glad.org/work/cases)

**Barrett v. Fontbonne Academy** GLAD is pursuing a complaint against Fontbonne Academy, a religiously affiliated college preparatory school in Milton, MA, after the school terminated Matthew Barrett, who they had just hired as Food Services Director, upon learning he was gay and married to another man. The complaint was originally filed with the Massachusetts Commission Against Discrimination (MCAD) on January 30, 2014, and was subsequently moved on May 28 to Massachusetts Superior Court. We have begun taking the depositions of key witnesses and expect to file legal briefs in the spring.

**Bradford v. Group Insurance Commission (GIC)** Victory! GLAD filed a complaint September 29 with the Massachusetts Commission Against Discrimination on behalf of state employee Kathy Bradford, who was denied coverage for gender transition-related health care. The complaint alleged discrimination in denial of medically-necessary treatment and differential employment benefits, on the basis of sex and gender identity. This matter has now been settled with the GIC, and Bradford will be able to receive coverage for gender reassignment surgery.

**Considine v. Brookdale Senior Living** In late summer 2014, the federal Equal Employment Opportunity Commission (EEOC) determined that there was reasonable cause to believe that Brookdale Senior Living discriminated against our client Kerry Considine on account of her sex by denying her the right to put her wife, Renee, on her employer-provided health plan. Considine received a "Right to Sue" letter from the EEOC on October 1, and we are now pursuing the matter in federal court.

**In Re Rikki Bates** Victory! GLAD represented Bates in her appeal to MassHealth after they denied her request for coverage of transition-related care. We were awaiting the outcome of an April 15 hearing when, on June 20, Massachusetts announced that it would remove barriers to health care coverage for transgender people in both private insurance and in public programs. We are continuing to work with Bates to ensure her case is fully and satisfactorily resolved.

## Report to Our Community

GLAD is pleased to announce the release of our 2013-2014 Annual Report. This publication takes a wide-ranging look at GLAD's recent work, addressing victories, exciting changes, and the dreams we continue to pursue. For more information or to read or download this report, please visit [www.glad.org/annual-report](http://www.glad.org/annual-report) ■

**In Re Madelyn B.** Victory! In an important precedent for LGBT families, the New Hampshire Supreme Court ruled July 2, 2014 that our client Susan B. is a legal parent to the daughter she chose to bring into the world and co-parented for eleven years with her now ex-partner Melissa D. Twelve-year-old Madelyn now has the opportunity to be reunited with a parent she's known her whole life but hasn't seen in over a year. GLAD and New Hampshire co-counsel Kysa Crusco represented Susan in her effort to establish her legal role as Madelyn's parent after Melissa, Madelyn's birth mother, cut off contact between them.

**In Re Wambere** Victory! GLAD, working with Boston immigration attorney Hema Sarang-Sieminski, successfully secured asylum in the U.S. for Ugandan LGBTI advocate John "Longjones" Abdallah Wambere. Wambere came to the U.S. in February, 2014 as part of his work advocating for Uganda's LGBTI community, which has faced escalating public, political, and physical attack in recent years. Wambere made the difficult decision to seek asylum following the signing into law of the Anti-Homosexuality Act on February 24, which put him at even greater risk of imprisonment or death should he return to Uganda. Wambere is now able to continue his work on behalf of the Ugandan LGBTI community from the United States, where he will be free from arrests and incarceration because of his sexual orientation and bold activism.

**Individual Complainant v. The R.O.S.E. Fund, Inc.** The GLBTQ Domestic Violence Project (GLBTQ-DVP) and GLAD are pursuing a complaint on behalf of a gay male survivor of domestic violence who was denied access to facial reconstruction surgery by The R.O.S.E. Fund, which stated that it does not provide medical referrals to male survivors. Briefing on the case was completed at the end of May and we are awaiting a final decision from the Massachusetts Commission Against Discrimination.

## Congratulations Mary!

On behalf of the GLAD staff and board, we congratulate Civil Rights Project Director Mary L. Bonauto on being named a 2014 MacArthur Foundation Fellow. ■



*Photo: Courtesy of the John D. & Catherine T. MacArthur Foundation*

# Social Security Administration Adjusts Rhode Island Recognition Date

## Disabled Widow Receives Her Benefits

After the fall of DOMA, federal agencies went to work integrating married same-sex couples into their marriage-related programs. The Social Security Administration's (SSA) implementation has presented numerous challenges, and many couples and widows have struggled to obtain the benefits to which they are entitled.

One such widow, represented by GLAD, is Deborah Tevyaw of Rhode Island. On December 1, after a three-year-long battle with SSA, Deb finally received the disabled widow benefits to which she's been entitled since her wife Patricia Baker's death in 2011.

Deb and Pat, Rhode Island residents, married in Massachusetts in 2005. Pat was diagnosed with stage 4 lung cancer and died in August 2011. Her great concern in her final months was Deb's financial stability. But SSA repeatedly denied survivor benefits to Deb, claiming that Rhode Island would not have recognized Pat and Deb's marriage at the time of Pat's death.

"Nothing can bring back my wife and my best friend, but at least now Pat can rest in peace knowing that I will be protected by the same safety net that is there for all other widows and widowers," says Deb. While awaiting this outcome, Deb was living on an income of \$723 a month and was forced to sell her home of 38 years to survive.

The SSA, unlike most other federal agencies, has adopted a requirement that the marriages of same-sex couples must be recognized by the state where they live in order to be eligible for Social Security benefits.

"We are thrilled that the SSA has finally acknowledged that Rhode Island would have recognized Pat and Deb, and other married couples, as validly

married at the time of Pat's death in 2011," says Mary Bonauto, GLAD Civil Rights Project Director. "GLAD is continuing to work with SSA to ensure all married couples and surviving spouses receive the benefits they are due." ■



*Pat Baker and Deb Tevyaw*

## Welcome New Staff

### **Nikki Lanshaw, Development and Operations Assistant**

Nikki has a degree in Political Science with a minor in Women's and Gender Studies from Cal Poly San Luis Obispo. At Cal Poly she served as Treasurer of the Triota Feminist Activism Community and URGE Chapter Leader, and managed reproductive justice campaigns prioritizing the needs and perspectives of LGBTQ students. Nikki also held a position as the Box Office Associate Supervisor at the Cal Poly Performing Arts Center.

### **Stephanie Lowitt, Assistant Director of Development**

Stephanie's background includes serving as Senior Development Officer for Combined Jewish Philanthropies, Development Coordinator for Keshet and Director of Professional Services at the North Shore Women's Center. She has volunteered with numerous social justice and advocacy organizations in the greater Boston area, including Ganei Beantown: Boston Jewish Gardens, NARAL Pro-Choice Massachusetts, and GLSEN MA. Stephanie earned a B.A. in Psychology from Florida State University and an M.S.W. in Macro Social Work from Boston University.

### **Louisa "Weezie" Lauher, Foundation Officer**

Prior to joining GLAD, Weezie worked in fundraising, events, and individual giving with BPE, a nonprofit dedicated to achieving educational equity in the Boston Public Schools, and supported the program department at the MHSA, a public policy advocacy organization committed to ending homelessness in Massachusetts. She graduated from Bryn Mawr College in 2010 with a B.A. in History and a minor in Gender & Sexuality Studies.

### **Annie Sloan, Legal Assistant**

A graduate of Tufts University with a B.A. in American Studies and Education, Annie was a Tisch Scholar for Citizenship and Public Service and wrote her capstone research project about LGBT school bullying. Throughout college, she enjoyed internships with Governor Deval Patrick's office, Elizabeth Warren's Senate campaign, and MassEquality.

### **Ethan Walker Smith, Public Affairs Assistant**

A graduate of Berklee College of Music with a B.M. in Music Business/Management & Marketing and a minor in Spoken Word Poetry, Ethan first came to GLAD as a Public Affairs & Education intern focused on social media and outreach. As a performance poet, he writes on gender identity, transgender issues, and sexuality.

### **Michelle Weiner, Legal Assistant**

Michelle graduated from Bowdoin College with a B.A. in Sociology and Government & Legal Studies and a minor in Gender & Women's Studies. At Bowdoin, Michelle was a founder of Fostering Female Leadership in Youth (FFLY) and The Sex Project. She was also an active member of the Bowdoin Queer/Straight Alliance and the Alliance for Sexual Assault Prevention.

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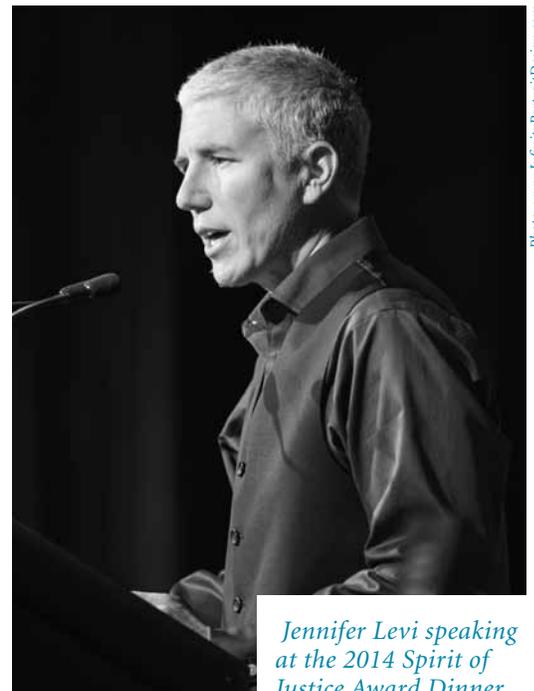
## Dream Big Jennifer Levi, Transgender Rights Project Director

When GLAD was founded in 1978, same-sex couples could not marry anywhere in the world, violence against LGBTQ youth was egregious, transgender medical care was excluded in all or nearly all health insurance plans, and statutes still existed criminalizing same-sex intimacy.

It's incredible to see how far we've come. In just the past year alone the number of states that allow same-sex couples to marry has grown to 35 and counting, gender transition surgery exclusions have been struck from Medicare and MassHealth plans, and the MA Department of Youth Services adopted the most progressive policy of its kind in the country – stating that the gender identity and sexuality of all youth in state care have to be affirmed.

These successes realize dreams that, decades ago, seemed distant and unreachable. But much work remains. The world we strive for must dignify all types of families, ensure basic health care rights and coverage to all transgender individuals who desire it, and make sure that all LGBTQ youth – particularly our most marginalized, who are out-of-home, homeless, or in foster care – are supported, loved, and celebrated.

In the words of the great organizer and civil rights leader Ella Baker, “the power of imagination makes us infinite.” We at GLAD will keep fighting and struggling until we secure the world that we can only dream of today. *Your support will help GLAD make those dreams a reality. When we work together, there are no limits to what we can achieve. Thank you!* ■



*Jennifer Levi speaking  
at the 2014 Spirit of  
Justice Award Dinner*