

## WinterBriefs

Winter 2006

## GLAD Staff

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*Hotline Coordinator*

**Brianna Boggs**  
*Development Assistant*

**Mary Bonauto**  
*Civil Rights Project Director*

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## Moving Ahead in Maine

When George O'Brien was threatened at work by co-workers because he is gay, his supervisor wouldn't intervene. When other high school students made Adam Flanders's life a misery because he is gay, administrators did nothing. When Marty Ripley was fired from his sales job because he is gay, he had no recourse. When Marty Hagglund was turned down for a loan at bank because she is transgender, there was nothing she could do.

Now that's changed. On November 8, 2005, Maine's voters acted to give its citizens protection from discrimination based on sexual orientation and gender identity. They voted to uphold the state's new anti-discrimination law, which had been placed on the ballot by right-wing groups hoping to repeal it. The repeal was rejected by a margin of 55% to 45%, and the anti-discrimination law goes into effect December 28, 2005. This is the first time in the nation that any state's voters have upheld a non-discrimination law put out on the ballot.

"We are thrilled at this historic victory," said GLAD Executive Director Lee Swislow. "Many of us at GLAD worked very hard with our partners in Maine to make this day a reality. Now we stand ready to see that Mainers know about their new rights and that the law is implemented and enforced."

GLAD has updated its publication "Maine: An Overview of Legal Issues for Gay Men, Lesbians, Bisexuals, and Transgender People" to reflect the new law (and other changes in Maine law concerning family issues, hate crimes and other issues). It is now available at [www.glad.org](http://www.glad.org) and is also being distributed throughout Maine. GLAD Hotline Coordinator Bruce Bell is recruiting new Maine-based attorneys to the agency's Lawyer Referral Service, and promoting the hotline via LGBT, social service, and legal organizations in the state.

"We want people to know that discrimination should not be a barrier as they pursue job opportunities, education, housing, and other services," said Mary Bonauto, GLAD's Civil Rights Project Director and a Maine resident. "Anyone who runs into problems should call GLAD's Legal Information Hotline and let us know what's going on." ▶

### Maine Legal Resources

#### GLAD's Hotline: 1-800-455-GLAD

GLAD's hotline, open from 1:30 – 4:30 pm Monday through Friday, can answer questions about the law, provide resources, and make referrals to attorneys.

**Maine:** An Overview of Legal Issues provides information to both lawyers and lay people about LGBT law in Maine, including anti-discrimination, family law, hate crimes, and students' rights. It is available at [www.glad.org](http://www.glad.org)

**me.glad.org** has a host of information on cases litigated by GLAD in Maine, stories of discrimination suffered by Mainers, and other resources.



## From the Executive Director **Lee Swislow**

Our November 18 forum on the connections and differences between the movement for African-American civil rights and the movement for LGBT civil rights and marriage equality was an important GLAD event. On the first anniversary of *Goodridge*, we celebrated the decision. Now, two years later, we focused on looking more deeply and thoughtfully at some of the issues raised by our work on marriage equality.

By removing barriers once thought immovable, marriage equality has transformed people's vision of what true equality means. But our work for marriage equality has also raised many important issues. People ask if we're spending too much time on marriage, if we're making the right arguments, if the right people are involved. At GLAD, we constantly ask ourselves the same questions as we move forward in our work.

At the forum, we began a conversation on one of the many critical issues to address—the relationship between the movement for African-American civil rights and the

movement for marriage equality and LGBT civil rights. Our panelists discussed similarities and differences in the history and social context of the two movements, as well as raising questions about the role of religion, diversity (or lack thereof) in leadership positions, and reaching out to diverse communities (see accompanying article for more detail).

For GLAD, this forum is part of our on-going work on diversity. We all know the richness of the variety of the LGBT community—in every dimension. Although probably no one organization can ever reflect that full spectrum, it is important to continually work towards that goal. This year, the GLAD board approved a plan to guide and better focus our work in this area.

We are both proud of what we have done and humble about how much remains. This is not work that ever ends, but work that we are committed to. With the help and support of our community, I know we will make progress. Our fight for equal justice under law demands that we are all equally involved. ▶

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## **Mike Tackett** Volunteer Profile



Hotline volunteer  
Michael Tackett.

When Mike Tackett moved to Boston seven years ago to start a doctoral program in molecular biology at MIT, "I knew Boston was such a Democratic place, I thought there would be no need for political activism – that was a down side!" But in the spring of 2004, marriage equality grabbed his attention. "I started going out going to a candlelight vigil at the State House, then went to a protest, and then on the final day of the protest I was there all day long, yelling and screaming and waving a sign," says Mike, "and that's when I decided okay, I need to be more active, I need to stand up for my own rights, and one way to do that was coming to GLAD."

Mike learned about GLAD at those State House protests and joined the Legal Information Hotline as a volunteer in April of 2004. "It was fun being here just as we got that deluge of 'How do I get married?' calls," says Mike. "It was just really fun to feel like you were in the center of what was happening. We had big sheets of paper up in the hotline room of each different town and whether people had found getting married there easy or difficult."

Mike credits the "very well-done and well-organized" hotline training – an intensive, 20-hour program conducted by the Hotline Coordinator and the legal team – as a high point of his volunteer experience. "The information was fascinating, and we could learn about it while having the chance to ask strange and interesting questions of lawyers who actually have the answers," he observes.

When asked whether he's happy to be donating four hours a week to the Legal Information Hotline, Mike answers resoundingly, "It's absolutely worth spending four hours of your week at

Volunteer » continued page 4

PHOTO BRUCE BELL

# Civil Rights and **Marriage Equality**

What do the movements for marriage equality and for African-American civil rights have in common? On November 18, 2005, the second anniversary of the *Goodridge* decision, GLAD hosted a panel discussion that suggested that the two movements have much in common – and there's some work to do to truly unite.

At Old South Meeting House in Boston, an audience of nearly 200 people heard Harvard Law Professor Randall Kennedy, Massachusetts State Representative Byron Rushing, Rev. Irene Monroe, GLAD Civil Rights Project Director Mary Bonauto, and Rev. Traci West discuss law, religion, history, and social justice movements.

"Without a doubt, the movement for LGBT rights has been deeply influenced by the black civil rights movement," said Bonauto. When going to court, LGBT rights lawyers rely on the "architecture of civil rights" created when African-American civil rights lawyers won cases involving public accommodations, voting rights, and education – as well as marriage. "Lawyers often argue by analogy and compare present cases to get at the right rule of law. It is simply a fact that those who came before us had the chance to test what the constitution's promises of equality and liberty mean in cases involving race discrimination and sex discrimination."

Professor Kennedy saw similarities not only in the pro-equality, but also in the anti-equality arguments: "Practically every argument that is made today against *Goodridge* echoes an argument that was made involving racial equality." Many of those arguments rely on ideas of what is "natural" and are religiously based.

Yet Rev. West warned that it would be a mistake to see African-American religious leadership as more anti-gay than white religious leadership. Rather, she said, let's learn a lesson by looking at the leadership of the African-American civil rights movement, where "the strategy of being interracial was so key. And I wonder, what would it mean for the marriage

equality movement to honor that legacy? To strategically make that kind of commitment to being interracial as a movement?"

Rev. Monroe also addressed the need for African-American leadership in the LGBT movement, as well as the need to make marriage equality relevant to African-American concerns. AIDS may be such a connector when black same-sex couples "are raising their

sister's children, their brother's children, because parents in their household have died of AIDS...AIDS is ravaging our families. So when you look at the AIDS epidemic and how it impacts not only just black heterosexual families, but our black queer families, I think you might have us on this battle."

One thing the two movements have in common, said Rushing, is that "All civil rights start with people saying – enough. The end of endurance starts the end of oppression." ▮

*Excerpts from the evening's discussion can be seen at [www.glad.org](http://www.glad.org).*



Panelists (L-R) Harvard law professor Randall Kennedy, GLAD Civil Rights Project Director Mary Bonauto, Rev. Irene Monroe, Rev. Traci West, and State Representative Byron Rushing.

## New Hampshire Commission Recommends **Constitutional Amendment**

New Hampshire's Legislative Commission to Study Same-Sex Marriage and its Legal Equivalents finished its work on December 1, 2005, by recommending that the state adopt a constitutional amendment to restrict marriage to one man and one woman. The commissioners in the minority issued their own report documenting the harms that come to same-sex couples as a result of being denied marriage equality.

"It's a shame that the commission squandered an opportunity to address the lives of New Hampshire's same-sex couples in

a serious way," said GLAD ED Lee Swislow. "But it's important that the conversation has been started, with the minority commissioners taking the lead."

GLAD worked closely with New Hampshire Freedom to Marry throughout the commission's term, helping to recruit experts to testify, doing a review of New Hampshire's hundreds of statutes relating to marriage, offering testimony and consulting on strategy.

The minority report is available at [www.glad.org](http://www.glad.org). ▮

# Spirit of Justice Raises the Bar

Nine hundred friends of GLAD celebrated another year of progress at the 2005 Spirit of Justice Award Dinner on September 30 in Boston. GLAD honored Rev. William G. Sinkford, national president of the Unitarian Universalist Association of Congregations, for his longtime support for LGBT rights. The evening featured a legal update from Mary Bonauto and remarks by Jason Haas, who was assisted by GLAD when he was a middle school student being harassed in Boston public schools. Spurred on by a generous Corners Fund challenge, the event raised a record \$430,000 ▶

Spirit of Justice honoree Rev. William Sinkford with GLAD Executive Director Lee Swislow.



PHOTO MAINFRAME PHOTOGRAPHICS, INC.

## Volunteer » *continued from 2*

GLAD...I just love the fact that I can come here and do something completely unrelated to what I do during the rest of my week. You can do something that's different, and intellectually stimulating, and somebody's life is better by the time you're done – and there aren't too many opportunities to do that." And he adds, with a grin, "With good management!"

Mike has also become active in many other issues GLAD focuses on. Recently, he contacted his legislators in support of the Pharmacy Access Bill, which would permit the sale of needles over-the-counter in pharmacies in Massachusetts and would result in dramatic reductions in HIV infection rates. Mike also donates his time to MassEquality and to the National Gay & Lesbian Task Force.

Mike is also an avid photographer and active in his church, the Harvard-Epworth United Methodist Church. He heard Beth Stroud, the minister recently defrocked for publicly acknowledging her lesbianism, speak on November 16, and said, "Beth is an amazing person who is willing to stand up and use this as a transformative process to talk to her conservative colleagues and help them realize that she is a person of God, she is a person of worth, and they may disagree with her, but at least they can love her."

Mike assures GLAD that "until I have a real job, I'll keep working on the Hotline!" Mike loves Boston and wants to stay in this area even after he graduates. It "depends on a daily basis" whether he wants to become a professor. Academia has at least one perk, he notes, in that "if I become a professor, maybe I can still volunteer at GLAD!" ▶

"It's **absolutely worth spending four hours** of your week at GLAD...I just love the fact that I can come here and do something completely unrelated to what I do during the rest of my week. You can do **something that's different**, and **intellectually stimulating**, and **somebody's life is better by the time you're done** – there aren't too many opportunities to do that."





« Spirit of Justice Co-Chairs David Brown and Nima Eshgi thank GLAD's supporters.

» Featured speaker and former GLAD plaintiff Jason Haas is introduced by Civil Rights Project Director Mary Bonauto



## Girl With HIV Sues MassHealth to Pay for Surgery

In September, GLAD filed a lawsuit in Suffolk Superior Court on behalf of a 16-year-old Boston girl with HIV, Ashley Shaw, and her mother, Liz Shaw. MassHealth, the state's Medicaid program, denied them payment for a medically necessary surgery to cure a painful condition caused by Ashley's HIV medications.

In *Ashley Shaw v. Timothy Murphy and Beth Waldman*, GLAD asks MassHealth to pay the costs associated with the procedure. Timothy Murphy is Secretary of the Executive Office of Health and Human Services and Beth Waldman is the Director of the Office of Medicaid.

Ashley has lived with AIDS since her birth and takes powerful HIV antiviral medications that keep her alive, medications that are highly toxic. One side effect of the drugs is "buffalo hump," an abnormal pad of fat that grew on the nape of Ashley's neck.

The condition resulted in severe headaches and neck pain as well as abnormal posture, which Ashley's doctors concluded would have caused permanent damage if left untreated in a still-growing adolescent. The fat pad also impeded Ashley's ability to take part

in sports and regular teenage activities. "Ashley would cry daily and had trouble sleeping," said her mother Liz.

In 2004, Ashley's HIV doctor at Children's Hospital concluded that surgical removal of the pad was the only effective medical treatment. Literally on the eve of the scheduled surgery, MassHealth denied coverage. Because of her daughter's pain and the risk of long-term damage, Liz made the decision to go ahead with the surgery and then appeal MassHealth's denial.

The surgery was successful, but left Liz, a single mom, with the bill. Then MassHealth ruled in the appeal that by proceeding with the surgery, she had waived her right to payment. The alternative would have been to delay the surgery indefinitely. Said Liz, "It can't make sense to ask a fifteen-year-old to live with a painful, dangerous condition in order to preserve her right to reimbursement."

"This is wrong as a matter of law and common sense," said Bennett Klein, GLAD's AIDS Law Project Director. "The Romney administration can show compassion in its own back yard by making this right." »

# 2006 Preview

## ***Cote-Whitacre v.. Department of Public Health***

GLAD attorney Michele Granda appeared before the Massachusetts Supreme Judicial Court in October 2005, representing eight couples from states other than Massachusetts, who sought to marry here in May 2004. When the state asserted that those marriages were forbidden or invalid, said Granda, they employed a law that “sat on the shelf unused for decades and was dusted off for the express purpose of discriminating against same-sex couples.”

A decision in the case is anticipated in January or February of 2006. The court may decide the case in any number of ways, from allowing couples from all states to marry here, to allowing couples from some states, to denying the couples outright. GLAD is working with partner organizations in other states to prepare for all the possibilities.

To see GLAD attorney Michele Granda argue the case before the court, visit [www.glad.org](http://www.glad.org). »



PHOTO: MARILYN HUMPHRIES

Michele Granda and *Cote-Whitacre* plaintiffs at a press conference following oral arguments before the Massachusetts Supreme Judicial Court on October 6, 2005.



PHOTO: TRACY GILCHRIST

Suzanne and Geraldine Artis, *Kerrigan-Mock* plaintiffs, at July 29, 2005 press conference in Hartford.

## ***Kerrigan & Mock v. Connecticut Department of Public Health***

Filed in August 2004, *Kerrigan & Mock* was initiated on behalf of eight committed Connecticut couples, together from ten years to thirty years, who wish to marry. Since the suit's filing, Connecticut's legislature enacted a civil union law, which went into effect October 1, 2005. In its motion for summary judgment, filed in July 2005, GLAD argues that the civil union law – and the debate surrounding it – strengthen the case for marriage.

“Connecticut's civil union law, which grants same-sex couples every tangible, legal right and benefit of civil marriage that the state can offer, makes a mockery of the argument that the state has any legitimate reason to deny these couples marriage,” said GLAD senior attorney Bennett Klein. “Civil unions establish separation for the sake of separation, exclusion for the sake of exclusion. That's plainly wrong.”

Klein will argue the case before the New Haven Superior Court in the first quarter of 2006, and a decision there could come within three to six months after arguments. Whichever side loses will certainly appeal, and the case will proceed to the state's appellate courts. A final disposition is not expected until 2007; in the meantime, GLAD works with Connecticut's Love Makes A Family and other allies on a legislative route to marriage equality. »

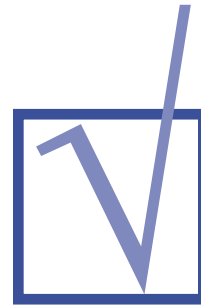
# Massachusetts **Ballot Question**

GLAD will file a lawsuit in January 2006 to challenge the anti-marriage equality ballot question that proponents seek to put before Massachusetts voters in November 2008.

"This question should never have been certified for signature-gathering by the Attorney General, and we will file suit to challenge that certification," said legal director Gary Buseck. "The Attorney General simply got it wrong. Our state constitution does not allow a citizen-initiated petition that seeks 'reversal of a judicial decision.' This petition squarely seeks to reverse the Supreme Judicial Court's *Goodridge* decision."

Although marriage opponents gathered enough signatures to put the question on the ballot, it must pass two further tests before going to the voters. Twenty-five percent of the Commonwealth's 200 lawmakers, sitting in joint session, must vote to approve the measure both in 2006 and in the succeeding 2007-2008 legislative session.

"Time has shown that marriage equality has been good for couples, families, communities, and the state of Massachusetts," said Buseck. "We will continue to work with the large and growing majority of supportive citizens of the Commonwealth to protect same-sex couples and their families." »



## **Docket Report**

### **Non-marital Relationships**

In *Bedford v. New Hampshire Community Technical College System*, GLAD represents two employees who were denied health insurance and leave benefits for their families. After the Human Rights Commission ruled that this denial did not discriminate on the basis of sexual orientation, GLAD appealed to the Superior Court, where the case will be heard some time in early 2006.

### **HIV Disability**

Despite GLAD's 1998 Supreme Court victory in *Bragdon v. Abbott*, some federal courts have become less receptive to disability anti-discrimination claims by people with HIV. For that reason, it is critically important to establish strong protections for people with HIV under analogous state disability anti-discrimination statutes. GLAD and Lambda Legal jointly filed an amicus

brief with the Second Circuit Court of Appeals in a case that raises the question of whether Connecticut law protects all people with HIV from discrimination, regardless of their symptoms or the stage of their disease.

### **Pharmacy Access**

A bill allowing the over-the-counter sale of syringes in pharmacies recently passed the Massachusetts House by a veto-proof margin. The Senate will take up the bill during its 2006 session. GLAD continues to work closely with AIDS Action and others in this effort.

### **Family Leave**

In *D'Amico v. Cranston School Department*, GLAD represents a Rhode Island teacher who was denied family leave to care for her partner despite a collective bargaining agreement that extends leave to immediate family "or additional persons in the immediate household."

GLAD has filed a complaint of sexual orientation discrimination with the R.I. Human Rights Commission.

### **Military recruitment**

GLAD signed on to a friend of the court brief authored by the ACLU asking the United States Supreme Court to strike down the Solomon Amendment, a federal law denying funding to colleges or universities that exclude the military from recruiting on their campuses because of its anti-gay policy. *FAIR v. Rumsfeld* was argued before the U.S. Supreme Court on December 6, 2005, and a decision is expected in 2006.


### **Trans/IRS**

GLAD represents Rhiannon O'Donnabhain, a trans woman who claimed a medical deduction for the expenses from her sex reassignment surgery (SRS) on her federal income taxes. The IRS audited her, and thereafter refused

to allow the deduction based on their assertion that SRS is cosmetic, and not medically necessary. Having exhausted the IRS appeals process, GLAD will file suit early in 2006.

### **Custody Battle**

GLAD is waiting for a decision from the Vermont Supreme Court in the case of *Miller-Jenkins v. Miller-Jenkins*. In the course of a civil union dissolution proceeding, the Vermont Family Court granted visitation of the couple's child to the non-biological mom. The biological mom moved to Virginia with the child, then sought and received a competing ruling from Virginia court declaring her the sole parent. She also appealed the Vermont visitation order. GLAD attorney Jennifer Levi argued on behalf of the non-biological mom, seeking a relationship with her child, before the Vermont Supreme Court in September. »



Save these dates for  
**GLAD events** in 2006

**Winter Party, Boston** March 19

**Summer Party, Provincetown:** July 29

**Spirit of Justice, Boston:** October 27

Watch [www.glad.org](http://www.glad.org) for details!

## Welcome New Staff

**Eva Boyce**, part-time Chief Financial Officer, has twenty years' experience in public accounting and non-profit management. She has been a core trainer for the Women of Color Fundraising Institute, and has run her own company, ENB Financial Management.

**Jayson Cooley**, Public Affairs Assistant, studied political science at Indiana

University-Purdue University Indianapolis. He served as a Legislative Intern with the Indiana House of Representatives and as a Finance Intern with the Vi Simpson for Indiana Governor Campaign.

Litigation Assistant **Brian Distelberg**, a recent graduate of Harvard University, previously volunteered for GLAD's Legal Information Hotline. »

## Welcome New Board Members

**GLAD's Board of Directors recently welcomed four new members:**

**David Brown**, owner and president of Guidance Mortgage, has co-chaired GLAD's Spirit of Justice dinner for the past two years. He is a supporter of local community-based groups including the Community Research Initiative, South End Historical Society, and Youth Shines. He has served on the board of the Boston Buyers Club.

**Jo Davis**, a senior vocational counselor with the Massachusetts Rehabilitation Commission, chairs the Coalition of 100 Black Women's Sister-to-Sister Mentoring Program. She has also served as the board president for the Women of Color AIDS Council.

**Lisa J. Drapkin** is a Vice President with Coldwell Banker. She is an active member of Arlington Street Church, a Federal Club member of the Human Rights Campaign and a volunteer mediator in the small claims court system. She lives in Cambridge with her wife, Debbie Lewis.

**Jane Hiscock** is a producer with Tapestry Networks, which brings global business leaders together for strategic dialogues about economic, social, and organizational change. She recently headed up the Boston Immigration Group for Lesbians and Gays, now called Immigration Equality. »



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