

TOM HOMANN LAW ASSOCIATION NEWSLETTER

San Diego's Gay, Lesbian, Bisexual & Transgender Bar
"Championing equal rights through education, advocacy and fellowship"

Volume 11, Issue 1

April 2003



Co-President's Column

Behind the Scenes

By Ted Roberts



Let me take the opportunity to wish everyone a belated Happy New Year in this, my first Co-President column of the year. It's hard to believe that we're already one-quarter through – and a busy quarter it has been. Much activity has taken place "behind the scenes," as my title suggests.

First off, sadly, our friend and colleague Richard Van Cleave passed away on February 23, 2003. Richard was active in numerous nonprofit organizations throughout San Diego as an event planner and fundraiser. He took on much of the planning for the THLA annual dinners in 2002 and 2003, and will be greatly missed.

The other activity consuming much energy is the ongoing work of THLA's amicus committee.

Believe it or not, many cases with issues important to our community are being litigated right here in San Diego, with statewide implications for the civil rights of the LGBT community.

"What kind of organization would you like to see THLA become? "

The amicus committee currently has three high profile cases either under review or in which it is actively participating, along with another case awaiting oral argument in the California Supreme Court. This committee has established a rather impres-

sive (in my view) record in the past several years, contributing excellent scholarship and advocacy that has impacted important decisions. They would welcome additional help with legal research, drafting, and the other essentials of putting together a brief. Law students in particular could gain valuable experience in the "real world" (read – hard work) of appellate advocacy, and of course, experienced practitioners are always welcome.

Contact Bob Lynn at (619) 233-9464, or Darin Wessel at (213) 996-8363.

Finally, don't forget to join us for the THLA 10th Annual Dinner on May 8, 2003, featuring the Honorable Victoria Sigler as the guest speaker.

10th Annual THLA Dinner

The 10th Annual Tom Homann Law Association Annual Dinner will be held on Thursday, May 8, 2002 at the Wyndham Emerald Plaza hotel in downtown San Diego. The evening will begin with a pre-dinner reception at 5:30 pm, followed by the dinner and THLA annual awards presentation at 6 pm. Attendee tickets are \$85, attorneys/paraprofessionals employed by public interest and government organizations are \$70 and student tickets are \$49. The speaker is Honorable Victoria Sigler, Florida's first openly lesbian Circuit Court Judge. Hon. Sigler was recently appointed to the Circuit Court by Gov. Jeb Bush in 2000. However, Hon. Sigler was the first out lesbian or gay candidate in Florida elected to office in 1992 and was subsequently reelected to the Miami-Dade County Court. While serving on the county and circuit courts, she has been active in judicial education in Florida, developing statewide training on sexual orientation issues in the courtroom.

To purchase tickets and for the schedule of events, please see page 2 of this newsletter.

TOM HOMANN LAW ASSOCIATION**MAILING ADDRESS**

1010 University Ave.
No. 137
San Diego, CA 92103

WEBSITE

www.thla.org

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Schedule of Events

May 8, 2003:

THLA 10th Annual Dinner
Featuring the Hon. Victoria
Sigler as the guest speaker
At the Wyndham Emerald Plaza
400 W. Broadway, San Diego

5:30 Cocktails (no host) &
hors d' oeuvres

6:30 Dinner & awards
presentation

Ticket prices:

\$49 Law Students

\$70 Attorneys & Paraprofessionals
employed by public interest
and government organizations.

\$85 Attendees

Make checks payable to:

THLA

1010 University Ave. PMB 137
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JONATHAN SCHNEEWEISS (CHAIR).....619/255-4620

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JAMES PONTES.....PONTESJD@TJSL.EDU

GREG CHOAT.....ZHPAGE@HOTMAIL.COM

U.S. Supreme Court Hears Lambda Legal's Case Challenging Texas's "Homosexual Conduct" Law

The Lawrence v. Texas, (02-102) case began in 1998 when a neighbor tricked police with a false report of a black man "going crazy" in John Geddes Lawrence's apartment. Police pushed their way in and found Lawrence having anal sex with another man, Tyron Garner. Although Texas rarely enforced its anti-sodomy law, officers decided to book the two men and jail them overnight on charges of "deviate sexual intercourse with another individual of the same sex." They were each fined \$200 plus court costs.

On March 25, 2003, the U.S. Supreme Court heard the oral argument. As reported by CNN, Lambda & HRC, the court appeared deeply divided over a Texas law that makes it a crime for gay couples to engage in sex acts that are legal for heterosexual couples. The court was widely criticized for a ruling 17 years ago that upheld a similar sodomy ban.

"States should not be able to single out one group and make their conduct illegal solely because the state dislikes that conduct," Lambda cooperating lawyer Paul Smith (Jenner & Block, Washington D.C.) argued for the Texas men. "There is a long history of the state making moral judgments," retorted Justice Antonin Scalia. "You can make it sound very puritanical," but the state may have good reasons, Scalia added. "Almost all laws are based on disapproval of some people or conduct. That's why people regulate," Chief Justice William H. Rehnquist added dryly. However, Justice Stephen Breyer challenged Houston prosecutor Charles Rosenthal to justify why the state has any interest in peeping into the bedrooms of gay people. "Why isn't that something the state has no business in, because it isn't hurting anybody?" Breyer asked. The state has an interest in protecting marriage and family and promoting the birth of children, Rosenthal replied. "Texas can set bright line moral standards for its people."

A large crowd stood in line outside the court before the oral arguments in hopes of getting a scarce seat for one of the court's biggest cases this year. A knot of protesters stood apart, holding signs that read "AIDS is God's revenge," "God sent the sniper" and other messages.

State anti-sodomy laws, once universal, now are rare. Those on the books are infrequently enforced but underpin other kinds of discrimination, lawyers and gay rights supporters said. "We truly hope the Supreme Court in its wisdom will remove this mechanism that has been used for so long to obstruct basic civility to gay and lesbian people," said Elizabeth Birch, executive director of the Human Rights Campaign. In 1986, a narrow majority of the court upheld Georgia's sodomy law in a ruling that became a touchstone for the growing gay rights movement. Even then the court's decision seemed out of step and was publicly unpopular, said Harvard law professor Laurence Tribe, who argued on the losing side of the case. "We're now dealing with a very small handful of statutes in a circumstance where the country, whatever its attitudes toward discrimination based on sexual orientation, (has reached) a broad consensus that what happens in the privacy of the bedroom between consenting adults is simply none of the state's business."

As recently as 1960, every state had a sodomy law. In 37 states, the statutes have been repealed by lawmakers or blocked by state courts. Of the 13 states with sodomy laws, four -- Texas, Kansas, Oklahoma and Missouri -- prohibit "deviate sexual intercourse," or oral and anal sex, between same-sex couples. The other nine ban consensual sodomy for everyone: Alabama, Florida, Idaho, Louisiana, Mississippi, North Carolina, South Carolina, Utah and Virginia.

An unusual array of organizations is backing the two Texas men. In addition to a long list of gay rights, human rights and medical groups, a group of conservative Republicans and the libertarian Cato Institute and Institute for Justice argued in friend of the court filings that government should stay out of the bedroom. "This case is an opportunity to confirm that the constitutional command of equal protection requires that gays be treated as equal to all other citizens under the law, subject to neither special preferences nor special disabilities," the brief for the Republican Unity Coalition said. On the other side, the Texas government and its allies say the case is about the right of states to enforce the moral standards of their communities. "The states of the union have historically prohibited a wide variety of extramarital sexual conduct," Texas authorities argued in legal papers. Nothing in that legal tradition recognizes "a constitutionally protected liberty interest in engaging in any form of sexual conduct with whomever one chooses," the state argued. Conservative legal and social organizations, religious groups and the states of Alabama, South Carolina and Utah back Texas in the case.

Mentors Needed

THLA's law student mentoring program is in need of additional attorneys to volunteer time as mentors to LGBT law students at the three San Diego area law schools. Mentors are asked to provide guidance and support in career development, coping with law school, and providing contacts and experiences to help students bridge the gap from law school to actual practice. Mentors are needed in all areas of practice. To volunteer, or for additional information, contact Julius DeGuia at (619) 531-4072.

Unity Breakfast

The Ethnic Relations and Diversity Committee will be hosting the annual Unity Breakfast on Tuesday, April 29th at 7:30 am, at the San Diego County Bar Association headquarters. *Guest speaker is Bonnie Dumanis.*

For tickets, contact the SDCBA at (619) 231-0781.

AB 205

The Center's Public Policy Department is organizing grass-roots support for AB 205 (Goldberg) recognizing the rights and needs of California's same-sex couples and their families. On April 1, AB 205, the most comprehensive domestic partner rights bill in the nation will come up for its first major vote. AB 205 changes California's laws regarding family so that domestic partners have access to state laws governing family members relations, rights, and responsibilities.

For more information regarding Domestic Partnership or AB 205, please visit the Public Policy Department's webpages at <http://www.thecentersd.org/policy.htm> or contact: AJ Davis-DeFeo, Public Policy Coordinator , adavisdefeo@thecentersd.org, 619.692.2077 ext 212.

Do you have multimedia skills?

THLA is looking for someone to help put together a multi-media presentation on the life and work of Tom Homann. We have a lot of memorabilia that we would like to organize into a documentary. If you are experienced in multimedia production and would like to head or assist this project, please contact Ted Roberts at (619)699-5111.

Lambda Alert Lambda Alert Lambda Alert SB 85

Please Support Death Benefits and Optional Retirement Allowances or
Survivor's Allowances For Domestic Partners!

Dear Friends, today we ask you to write to the members of the California Senate in support of SB 85. The vote in the Senate Public Employment and Retirement Committee on March 24, 2003 was 3-2 in favor, but we need support to get it passed in the Senate on April 3, 2003 so please send your letters soon. This is another big LGBT rights bill and the opposition from conservatives will be fierce.

Under the County Employees Retirement Law of 1937, any death benefits, optional retirement allowances, or survivor's allowances accorded to a spouse, as specified, may be accorded to a domestic partner in San Mateo County, Los Angeles County, Santa Barbara County, and Marin County, subject to approval by the county board of supervisors. This bill would make those provisions applicable to all counties in California.

Continued on page 5....

JOB ANNOUNCEMENT JOB ANNOUNCEMENT JOB ANNOUNCEMENT**EQUAL RIGHTS ADVOCATES DIRECTOR OF LITIGATION**

Equal Rights Advocates is one of the country's oldest and most respected women's law centers. ERA's mission is to protect and secure equal rights and economic opportunities for women and girls through litigation and advocacy. ERA seeks a committed feminist attorney to direct the organization's legal department. Superb leadership skills, vision, sensitivity to and knowledge of issues relating to women of color and low-income women are attributes sought by this civil rights organization. The Director of Litigation oversees all aspects of ERA's litigation program. The Director participates in litigation and manages the work of ERA's lawyers, a law fellow, law student interns, and other legal support staff. The ideal candidate has a minimum of eight years of progressively responsible experience as a lawyer as well as exceptional managerial skills. The candidate will possess a record of professional achievement that includes significant litigation experience.

Salary is dependent on experience. ERA provides generous benefits, including medical, dental, life, and disability insurance; three weeks vacation in the first year, increasing to four weeks thereafter; twelve paid holidays. All inquires will be treated with utmost confidentiality. Apply immediately. Applications will be accepted until the position is filled.

More information about ERA, the management and litigation expectation as well as the minimum qualifications are available on their website, www.equalrights.org and <http://www.equalrights.org/about/jobs.htm>.

Send cover letter and resume to: Jennifer Basler Cameron Office Administrator Equal Rights Advocates 1663 Mission St., Suite 250 San Francisco, CA 94103

Lambda Alert Lambda Alert Lambda Alert - SB 85

Continued from page 4...

Thus, any county in the state would be allowed to offer these benefits to the domestic partners of their employees. Actually, before 2002 no counties were permitted to offer these benefits to the domestic partners of their employees. Up until that date, only the spouses of employees could get them. In 2001 SB 1049 was passed, allowing San Mateo County to offer the benefits to domestic partners. Last year, AB 2777 was passed. That bill allowed Los Angeles, Marin, and Santa Barbara Counties to offer the benefits. SB 85 simply says, let's get it over with and give all counties the authority to offer the benefits to domestic partners. Please note, however, the bill allows the counties to offer the benefits. It does not require them to do so. Nonetheless, passage of this bill would be a major leap forward in civil rights for our community.

Here are some examples of the benefits that would be made available if SB 85 passes. Under current law, upon the death of a retired county employee 60 percent of his or her retirement allowance, if not modified in accordance with one of the optional settlements available to retirees, would go to the employee's spouse for the rest of his or her life. If SB 85 passed, and the County Board of Supervisors agreed, this benefit would go to domestic partners as well. As an alternative the county employee, upon retirement, can elect any of several payout options for his or her retirement check. These make available a number of various options on what amount the spouse will get if the retiree dies first. SB 85 would make these options available to the employee and his or her domestic partner as well.

Also under current law, if a county retiree dies, the counties can provide a survivor's benefit to the spouse of the retiree. The allowance would be a one time payment of 65% of the retiree's monthly retirement check. (However, the amount of this benefit might be different if the retiree had chosen one of the other retirement options discussed above.) SB 85 would make this benefit available to the domestic partners of county retirees.

These death benefits and optional retirement allowances have proven to be a good tool with which county employees can assure the economic security of their families if the retiree dies first. It has been good for traditional families. It is good for families led by domestic partners as well. You may see a copy of SB 85 by directing your browser to either of the following links: http://www.leginfo.ca.gov/pub/bill/sen/sb_0051-0100/sb_85_bill_20030123_introduced.pdf or http://www.leginfo.ca.gov/pub/bill/sen/sb_0051-0100/sb_85_bill_20030123_introduced.html



Tom Homann Law Association
1010 University Avenue, #137
San Diego CA 92103

Upcoming Forum with Attorney General Bill Lockyer

The SDDC, The MLK Democratic Club, the NAACP, ACLU, Earl B. Gilliam Bar Association, BAPAC, SEUI and Pride at Work, among others, are sponsoring a forum with Attorney General Bill Lockyer. The topics are the University of Michigan Affirmative Action Case, to be argued at the Supreme Court on Tuesday, April 1st, and the so-called Racial Privacy Initiative which could be on the ballot as soon as this fall.

Tuesday, April 1st5:30 p.m.....Malcolm X Library.....5138 Market Street (just east of Euclid)
You may RSVP at: sddemoclub.org or (858)496-3312.

Featuring: Attorney General Bill Lockyer (who will address a brief he filed supporting the University of Michigan) and Dale Kelly Bankhead of the ACLU and Mshinda Nyofu of BAPAC (Black Political Action Committee) on the Racial Privacy Initiative. The SDDC, along with the other groups listed above, are part of the San Diego coalition opposing the Ward Connerly-sponsored "Racial Privacy Initiative," which is scheduled to appear on the ballot in either November or March. The RPI would forbid public entities from collecting demographic data, including race, needed to effectively deliver public services. Opposing this initiative is one of the SDDC's legislative priorities this year.

NEWSLETTER SUBMISSIONS WELCOME

THLA encourages all members to submit articles, ideas, upcoming events or announcements to the THLA newsletter! Please submit to the Newsletter Chair, Jonathan Schneeweiss, at SchneeweissJ@aol.com or by calling him at (619)255-4620.

Send us your articles!!