

affirmative obligation to combat bias.”

THLA: Why did you decide to take the case?

PSR: When Joey and Megan and their moms first came to us, we believed we would be helping to get the attention of the Superintendent who would get the attention of the school administrators. We hoped that with a couple of meetings, some protections could be worked out so they could continue their high school education. (They were in their junior year at the time.) When the Superintendent sent us a dismissive and insulting response, we felt we had no choice but to file.

THLA: Do you think that this type of harassment is common?

PSR: Unfortunately, I think it is all too common. Today, as anyone who has been to a mall recently knows, the epithet of choice for teens is “faggot”. The same is true at schools. What was interesting to learn was the checkerboard nature of schools with regard to harassment. The kids are really clear that they cannot use that kind of language in some teachers’ classrooms or in their presence and then there are all of the others who just turn a blind eye. It all goes back to training something which is sorely lacking in the schools for faculty, staff and students.

THLA: What should school districts be doing when faced with complaints of discrimination against GLBT students?

PSR: They should do what they do with every other type of complaint: investigate, do their best to find the culprits and then teach them what to do and what not to do - what is acceptable

behavior and what is not. In this case, they ignored nearly all of the complaints submitted by Joey and Megan. The principal put them in his drawer, figuratively speaking, and did nothing with them. We won because the jury decided that the school had been “deliberately indifferent” to the complaints being made by Joey and Megan. Schools must understand that they can never be indifferent to complaints of harassment or discrimination.

THLA: What is the legal basis for cases like this?

PSR: Ultimately, the legal theories that went to the jury were 1) whether the District had violated Plaintiffs’ rights under California Education Code Sections 200, et seq. by failing to take immediate and appropriate corrective action in response to the harassment and 2) whether the individual defendants had violated Plaintiffs’ rights under 42 U.S.C. Section 1983 (U.S. Constitutional Equal Protection) by being deliberately indifferent to complaints of harassment. These laws exist because, as the principal at Poway High testified, “if you’re not safe, you can’t learn.”

THLA: What advice would you give students who are facing this type of discrimination?

PSR: Bring it to the attention of the authorities on campus and put the complaints in writing. Be sure to keep a copy of the complaints because, in this case, a number of the written complaints were lost by the school after they were filed by Plaintiffs. If they do not pay attention to you, have your parent(s) send something in writing to the school principal, keeping a copy of it. If that does not work, you will have to go to the District administrators. ■

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

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Tom Homann Law Association

Newsletter for San Diego’s Gay, Lesbian, Bisexual & Transgender Bar

Spring

www.thla.org

2006

Meet The Members

Gregg St. Cyr



1. What do you do?

My practice areas include tax, estate planning, probate, and business formation. “Nothing in this world is certain, but death and taxes.” - Benjamin Franklin. At Conway & St. Cyr, we like to say we help people prepare for life’s certainties. We do tax compliance (preparation) in addition to planning.

2. Why do you do it?

I enjoy helping people proactively avoid problems as well as deal with any current issues they may have. Tax is such a strange animal, especially when it comes to GLBT income, gift and estate tax issues. I help acquaint the GLBT community with this animal.

3. Tell us something about yourself that we’d never guess...ie. I like to leap over tall buildings in a single bound.

I’m training for my first marathon, the Rock n’ Roll marathon, with Team in Training (an organization that raises funds for the Leukemia and Lymphoma society to donate: (<http://www.active.com/donate/tntsdh/GStCyr>).

4. Single/married?

Partnered to my wonderful Brian Burnett.

6. Favorite movie?

Toss up between The Crow and The Cell

8. Favorite food?

Peanut butter.

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Co-President’s Column

Do Tell! THLA to Hear from SLDN Executive Director at Annual Dinner

By Lilys McCoy

The 2006 Annual Dinner is shaping up to be a gala affair with a great keynote speaker and a brand new venue.

The dinner will be on May 4, 2006 at the Solamar Hotel in San Diego’s Gaslamp District. At the dinner, our members and guests we will hear from the National Executive Director for the Servicemembers Legal Defense Network, C. Dixon Osburn, about the work of SLDN. C. Dixon Osburn is the co-founder and Executive Director of SLDN. Viewed as a national leading authority on government accountability and the “gay ban,” Mr. Osburn has appeared on ABC, CBS, NBC, CNN and National Public Radio, among others. Mr. Osburn has published ten annual reports on “Don’t Ask, Don’t Tell, Don’t Pursue, Don’t Harass” and the Survival Guide, a handbook to assist service members with the rules of survival under the policy. In addition, he has published chapters in seven books, authored a law journal article, and written or co-written opinion editorials for The New York Times, USA Today and the Legal Times. He earned his A.B. with distinction from Stanford University and holds an M.B.A. and J.D. from Georgetown University. In 1998, Osburn was named by The Advocate magazine as one of the Top 10 National Gay Leaders.

In addition to hearing Mr. Osburn speak, we will be honoring SLDN with our Outstanding Organization Award. SLDN’s policy efforts have included passing a law requiring the Pentagon to provide Congress data on the reasons for all military discharges, including gay discharges, obtaining groundbreaking Pentagon and Service policies on anti-gay harassment, securing an Executive Order on hate crimes in the military and an Executive Order providing, for the first time, a limited psychotherapist privilege in the armed forces. SLDN’s clients include twelve veterans from the war on terrorism who are currently seeking reinstatement through a constitutional challenge to “Don’t Ask, Don’t Tell” filed by SLDN in federal court. Openly gay, Republican Arizona State Representative

Steve May, a former THLA Keynote Speaker, was another client who was recalled to the active reserves by the Army only to face discharge for having made comments about being gay on the floor of the state legislature. SLDN, along with private counsel, succeeded in having the Army drop its case against May.

We will also be honoring Randall Clark of Sempra Energy and Bridget Wilson of Rosenstein, Wilson & Dean, APLC with the Co-Presidents Award. Ms. Wilson has been tremendously active in the San Diego gay community for many years and is well known and well respected in that community. She graduated from Creighton University and the University of San Diego School of Law and her practice includes general civil litigation and military law. Ms. Wilson is a veteran of the US Army Reserve and currently serves as a judge advocate in the California State Military Reserve. Ms. Wilson is also consulting counsel for the Servicemembers Legal Defense Network and is a frequent speaker on the military’s “Don’t Ask, Don’t Tell” policy. She authored the section regarding the “Don’t Ask, Don’t Tell” policy in the Clark, Boardman, Callaghan Practice Manual on Sexual Orientation and the Law. Ms. Wilson has successfully represented and advised numerous clients in military cases, at administrative proceedings and courts-martial and before the discharge review and corrections boards. Ms. Wilson is a Co-Founder and past Co-President of the Tom Homann Law Association.

Randy Clark is Senior Corporate Counsel with Sempra Energy. Mr. Clark graduated summa cum laude from Pepperdine University and with honors from Duke University School of Law. His practice is focused in the areas of international corporate transactions, securities law, mergers and acquisitions and corporate governance. His work frequently takes him to places across the globe, including Europe,

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Save The Date!

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San Diego, CA 92103

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May 4, 2006
Annual Dinner at Solamar Hotel
Individuals are \$100.00/person,
RSVP by May 1, 2006
Cocktails are at 5:30pm, Dinner at 7pm

June 1, 2006, 5:30 pm
THLA Monthly Board Meeting
At Higgs, Fletcher & Mack,
401 West A Street, Suite 2600
**Following the meeting the board
invites members to join them at The
Beach at the Hotel W for social hour.*

July 6, 2006, 5:30 pm
THLA Monthly Board Meeting
At Higgs, Fletcher & Mack,
401 West A Street, Suite 2600
**Following the meeting the board invites
members to join them at The Beach at
the Hotel W for social hour.*

August 3, 2006, 5:30 pm
THLA Monthly Board Meeting
At Higgs, Fletcher & Mack,
401 West A Street, Suite 2600
**Following the meeting the board invites
members to join them at The Beach at
the Hotel W for social hour.*

September 7, 2006, 5:30 pm
THLA Monthly Board Meeting
At Higgs, Fletcher & Mack,
401 West A Street, Suite 2600
**Following the meeting the board invites
members to join them at The Beach at
the Hotel W for social hour.*

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Co-President's Column continued

Central and South America. He and his partner Michael are the proud fathers of twins born last June.

Mr. Clark served for many years as secretary on the Tom Homann Law Association's Board of Directors and was also an officer and on the Board of Directors of the National Lesbian and Gay Law Association, the American Bar Association's LGBT affiliate. Most recently, he co-chaired the 2005 Lavender Law Conference which was locally sponsored by the Tom Homann Law Association and held here in San Diego. He worked tirelessly to bring together a diverse group of people and organizations from thorough the country and made the 2005 LavLaw one of the most successful ever. Mr. Clark also possesses several hidden talents: he sang with the San Diego Gay Men's Chorus for several seasons and, according to his twins, makes a mean fruit and cereal combo.

THLA will also present Professor Julie Greenberg with the friend of the Community Award. Professor Greenberg received her J.D. and B.A. from the University of Michigan, *cum laude*. She is an internationally recognized expert on the legal issues relating to gender, sex, sexual identity and sexual orientation. Her path-breaking work on gender identity has been cited by a number of state and federal courts, as well as courts in other countries. Her work has been quoted in more than 100 books and articles and she has been invited to speak at dozens of national and international conferences on the subject. She has published more than a dozen articles on LGBT issues, including: *What Do Scalia and Thomas Really Think About Sex? Title VII and Gender Nonconformity Discrimination: Protection for Transsexuals, Intersexuals, Gays and Lesbians*, 24 Thomas Jefferson Law Review 149 (2002); *When is a Same-Sex Marriage Legal? Full Faith and Credit and Sex Determination*, 38 Creighton Law Review 289 (2005); and *You Can't Take it With You: Constitutional Consequences of Interstate Gender Identity Rulings*, 20 Washington Law Review 819 (2005) (with Marybeth Herald); and *Defining Male and Female: Intersexuality and the Collision Between Law and Biology*, 41 Arizona Law Review 265 (1999). Professor Greenberg joined the Thomas Jefferson faculty in 1990 and was the Associate Dean for Faculty Development from 2003-2005. She serves on a number of nonprofit organizations' boards of directors and has also been involved in a variety of community service projects relating to sexual identity, sexual orientation and gender issues.

Please don't be shy: ask and tell everyone you know about the 2006 Annual Dinner and make your reservations today by calling or emailing Ted Roberts at troberts@sempra.com/619-699-5111. ■

meet the members continued

9. Best thing about being a lawyer is?
The appreciation received from clients that I have helped. It could be as simple as giving basic advise at the AIDS clinic or as complex as eliminating an outstanding tax debt through proper amendment of a return,the appreciation is always large.

10. Best thing about being on the THLA Board is?
The camaraderie and support of the Board Members. We really are a great team that works hard at not only maintaining but improving both the organization and the community at large. ■

Interview with Paula Rosenstein

By Lilys McCoy

Last year, THLA past Presidents Paula Rosenstein and Bridget Wilson scored a \$300,000 jury verdict against the Poway Unified School District for depriving students Megan Donovan and Joseph Ramelli of a safe and equal educational environment because they are gay and lesbian.

Both Ms. Donovan and Mr. Ramelli were physically and verbally harassed and discriminated against while they were students at Poway High School. The environment was so bad that they were forced into a home study program for their senior year of high school.

Much of the harassment was brought to the administrators' attention on several different occasions not only by Megan and Joey but also by teachers and counselors. The principal, Scott Fisher, denied remembering that he had received the reports. The vice-principal, Ed Giles, directly harassed Mr. Ramelli and was completely non-responsive to Mr. Ramelli's problems and complaints.

By bringing this action Rosenstein and Wilson, and their clients, sought to eliminate the hostile and intolerant climate within the PUSD and Poway High School through reforms to change the policies and practices within PUSD schools and to compel PUSD officials to respond appropriately to complaints of harassment by students who are gay or lesbian or who are perceived to be gay or lesbian.

The case was tried over a five-week period and the jury was asked to determine the District's liability under the Education Code and the individuals' liability under 42 USC §1983.

The jury returned a verdict of \$300,000 on June 7, 2006, \$125,000 for Megan and \$175,000 for Joey against the District, Principal Scott Fisher and Asst. Principal Ed Giles. Subsequently, Ms. Rosenstein and Ms. Wilson were awarded their attorneys' fees and costs. Defendants have appealed the judgment.

I asked Ms. Rosenstein about her experience trying this significant case. Here is what she had to say:

THLA: What was the most rewarding part of the case?

PSR: Working for such great kids and parents and feeling like we contributed, just a little, to the advancement of the safe schools issue.

THLA: What was the most difficult part of the case?

PSR: Figuring out how to communicate to the jury that these teenagers were truly hurt by the harassment they experienced and the loss of their senior year at high school - even though they weren't physically beaten up. And also overcoming the perception that "kids will be kids" and "high school is tough for everyone."

THLA: What do you think the long term impact of the case will be? In San Diego? In California?

PSR: We can only hope that it will serve to open the eyes of school administrators who are charged with protecting all of the children at school. Schools receive money to deal with campus climate issues, including sexual orientation harassment and discrimination. Maybe this will encourage them to use those dollars rather than roll them over year to year as Poway USD does. Maybe schools will learn that they have to comply with California law which gives them "an

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