

# Fighting for Fatherhood



Gary Day with his children, who are being denied insurance benefits because of antigay discrimination.

Being a father isn't easy. Being gay doesn't make it easier. But apparently, the challenges don't dissuade the many gay couples choosing to pursue fatherhood. In an August 2008 article on CNN.com, titled "More gay men are becoming daddies," the Associated Press reported that fertility clinics and surrogacy programs are receiving an ever-increasing amount of interest from gay men. The article profiles couples who are using surrogates and adoption agencies — and who may face an uphill battle. Says one couple who received an antigay response from a South Carolina adoption agency before succeeding with an L.A.-based surrogacy program, "Our journey to parenthood was not easy, cheap or fun. The result, however, has been the most amazing experience in the world: being called Daddy and Dad by our loving daughter."

**"As a parent," Gary said, "it is my job to provide for my children. Unfortunately, the SSA is standing in the way."**

Lambda Legal has been supporting gay and lesbian parents for decades in their struggle to assert rights for themselves and their children. Two new cases on our docket specifically involve gay fathers asserting their right to parent and protect their families.



In a civil rights complaint against ParentProfiles.com, Rosario Gennaro and Alexander Gardner, a couple registered in New York as domestic partners in 2005 and married in 2008, are taking on antigay adoption discrimination. Rosario and Alex knew they wanted children, and they chose adoption as the best course for them. They found ParentProfiles.com to be affordable

and trusted by couples seeking to adopt as well as by birth parents seeking adoptive parents. But the company refused to do business with gay and lesbian couples. The Arizona-based internet company was already being sued in California for violating

nondiscrimination laws, which eventually led to its being unable to conduct business there. But they were still advertising in New York, violating the state's nondiscrimination laws by soliciting business while not intending to offer services equally. Happily, Rosario and Alex were able to adopt a daughter through other means, but the prominence and affordability of ParentProfiles.com would aid in the process of adopting a second child. Lambda Legal seeks a decision against the company that will enforce the laws and policies protecting same-sex couples in New York and remind companies that nondiscrimination laws apply to web-based businesses as well as those operating out of brick-and-mortar storefronts.

In another recent Lambda Legal case, a gay father has been denied equal access to insurance benefits for his children. In *Gary Day v. Social Security Administration (SSA)*, we are suing the SSA on behalf of disabled gay father Gary Day in Tampa, Florida. Gary had completed all necessary steps to obtain child insurance benefits for his children by filling out appropriate paperwork and repeatedly following up with the agency after extensive delay. Citing unspecified "legal questions and policy issues," the SSA failed to respond to his application for more than two years. The SSA also failed to respond to a letter that Lambda Legal sent requesting action. After Lambda Legal filed a federal lawsuit seeking to compel the SSA to do its job, Gary finally received his answer. The SSA denied his children benefits, claiming simply that each of his children "were not your child for the purposes of child insurance benefits." Lambda Legal is representing him in his administrative appeal while pursuing a federal lawsuit to ensure compliance with the SSA's own procedures. SSA benefits are critical in ensuring that children are provided for if their caretaker is disabled. "As a parent," Gary said, "it is my job to provide for my children. Unfortunately, the SSA, which is supposed to help during a time of need, is standing in the way."

Gary, Rosario and Alex have all devoted themselves to providing their children with love and support. Lambda Legal will continue to do our part by taking on legal challenges for them and all others around the country who rejoice in sharing that most distinguished title: Dad. **L**