



35 YEARS OF  
FIGHTING  
WORKPLACE  
DISCRIMINATION

# It's a Hard Job, But We Can Do It



“So, what do you do?”

It's a simple enough question, a building block of small talk and getting-to-know-you conversations. It's open-ended — most people “do” a lot of things — but most of us will answer in similar ways: “I'm a teacher,” “I work for an insurance company,” “I'm a police officer.”

But for LGBT people and people living with HIV, getting and keeping a job is not always a simple matter. When Lambda Legal opened its doors in 1973, there were no state or federal statutes that expressly prohibited discrimination on the basis of sexual orientation, gender identity and expression.

Discrimination on the job has always been one of the most common and harmful dangers faced by LGBT people and people with HIV. It is still the number one issue brought to Lambda Legal's Help Desk, with 1000 callers seeking help and legal information on the subject in 2007 alone.

Progress in passing laws that prohibit discrimination on the job has been steady. In 1982, Wisconsin was the first state to enact a “gay rights” law prohibiting

employment discrimination on the basis of sexual orientation. Fifteen years ago there were seven states; 10 years ago there were 10; and within the last five years, Colorado, Illinois, Iowa, Maine and Washington have followed. Today we have 20 states plus the District of Columbia with express sexual orientation antidiscrimination laws, 12 of which also expressly cover gender-identity discrimination.

Lambda Legal has been making the case for equality on the job for 35 years, fighting against discrimination on the basis of sexual orientation in the private and public sector, including the military; fighting against discrimination on the basis of HIV status; and fighting against discrimination on the basis of gender identity and expression. As we celebrate our anniversary, we offer a look back on the work we've accomplished. As a continued leader in the LGBT and HIV civil rights movements, we also look ahead to the work still required to both safeguard the protections we've won and to expand these protections for everyone in our communities.



## EQUAL PAY FOR EQUAL WORK

When LGBT employees are denied the same benefits given to married heterosexual co-workers, they are not getting equal

compensation for their work. Lambda Legal has fought for equal benefits for LGBT employees and won. In 1993 a Lambda Legal lawsuit resulted in a settlement requiring New York City to provide identical benefits to domestic partners and dependent children of city employees as those given to married different-sex spouses and their children.

Similarly, in 2007, in our *deGroen v. City of Bellevue* case in Washington, we argued for equal family benefits as a basic issue of fairness. We represented city firefighters and paramedics, including Larry deGroen (pictured), and after we made the case for equality, the city council voted to provide equal benefits.

In a 2007 Ohio case, ultraconservative legislator Thomas Brinkman threatened Miami University's domestic partner benefits program. Lambda Legal intervened on behalf of professors whose families stood to lose their medical coverage. We won and the university was able to continue their benefits program for all employees.



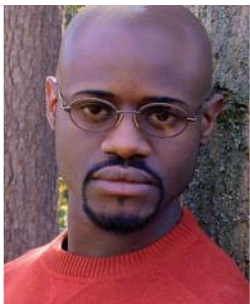
## COMBATING HIV STIGMA ON THE JOB

Lambda Legal's vital role in protecting the civil rights of people with HIV began in the early years of the epidemic. Not only did we litigate cases for employees

with HIV, we fought stigma and discrimination by reinforcing their ability to work and educating the public on what it was like to live with the disease.

Our historic federal disability discrimination case *Cusick v. Cirque du Soleil* argued that the organization had no right to fire Matthew Cusick, a gymnast with HIV. Lambda Legal argued that Cusick did not pose a health risk or safety threat to himself or anyone else. Following a determination by the federal Equal Employment Opportunity Commission that Cirque had likely engaged in illegal discrimination, Lambda Legal reached a record \$600,000 settlement with the company — the largest ever for an HIV-discrimination complaint.

In 2003 Lambda Legal client Lorenzo Taylor (pictured) challenged the U.S. State Department's ban on hiring people with HIV for the Foreign Service. We fought back against stigma and outdated, blanket assumptions about people with HIV when we made the case for Taylor's ability to work. In February 2008, less than two weeks before our trial date, the U.S. State Department adopted new hiring guidelines and lifted the ban against hiring HIV-positive Foreign Service Officers.



## WHEN PRIVATE LIVES LEAD TO PINK SLIPS

Early on, discussing or disclosing one's sexuality or gender identity in the workplace was almost always dangerous. In 1978, we helped a gay university professor in

Pennsylvania get his job back with pay for lost time after he was fired for being an "admitted homosexual." Stories like these were all too common.

Lambda Legal fought on behalf of two gay Michigan teachers when the school demanded the removal of their gay history display. The school was ordered to apologize for its misconduct in violating the First Amendment and engaging in sexual orientation discrimination.

Lambda Legal represented Kevin Dunbar (pictured), a man who experienced severe antigay harassment at the South Carolina Foot Locker stores where he worked and was then

fired after complaining. Assisted by a massive postcard campaign from Lambda Legal members, we obtained a settlement from Foot Locker where Dunbar received a cash payment and the company committed to training all of its employees around sexual orientation harassment and discrimination.

In one of our most recent cases, we defended Cheryl Bachmann, a 25-year-old high school teacher who disciplined a student using antigay language in her classroom. Bachmann experienced workplace discrimination as a straight ally who promoted a zero-tolerance policy for antigay harassment. When her tenure was threatened, Lambda Legal stepped in to defend her rights. By taking on Bachmann's case, we were able to make schools safer for LGBTQ students as well as protect our allies when stepping up to homophobia in their professional capacity.

## LEARNING TO USE THE RIGHTS WE HAVE

Case by case and state by state, Lambda Legal and others have been building protections against workplace discrimination. Every worker and every job-seeker needs to know what his or her rights are and how to promote fairness at work.

In addition to our litigation, Lambda Legal educates and publicizes the need for firm laws and policies around workplace discrimination. We produce resources like the popular *Out at Work: A Toolkit for Workplace Equality*, a 56-page booklet that offers

invaluable information to LGBT and HIV-positive employees on their rights and recourse in case of discrimination; our community educators use this resource, published in English and Spanish, in their outreach work. Our Clock-In For Equality campaign has been a phenomenal success two years running as a national day of action to promote awareness and grassroots activism around workplace equality for everyone. And our Help Desk specialists talk to nearly 1,000 callers every year who are facing discrimination on the job.



### GENDER IDENTITY ON THE JOB

Lambda Legal has also taken strong legal action to defend the rights of transgender people in the workplace. Izza

Lopez (pictured), a 26-year-old transgender woman, was given a job at a medical imaging office and then had the offer revoked when they learned that she was transgender. The employer claimed that she “misrepresented” herself as a woman. Lambda Legal claimed that the employer illegally discriminated against Lopez and violated Title VII, a federal law that bans sex discrimination in the workplace. The court issued a favorable ruling in the case, and we promptly attained a settlement.

And this summer we filed a lawsuit on behalf of Vandy Beth Glenn, a transgender woman who was fired from her job as a legislative editor at the Georgia General Assembly. We are seeking justice for Glenn under the equal protection guarantee provided in the U.S. Constitution.

### ENDA in Sight

The work is far from done. In the majority of states in our country, there is still no explicit law prohibiting employers from firing or refusing to hire LGBT people. Until Congress and the President enact a comprehensive Employment Non-discrimination Act (ENDA), there is no standard law to prohibit discrimination across the country. We need good laws, like an inclusive ENDA protecting against both sexual orientation and gender expression-based discrimination, so that Lambda Legal has stronger tools to continue to fight for workplace equality. Of course, even after passage of ENDA, important cases will arise that affect how the new law would protect people in their everyday lives. Lambda Legal will be there.

In 35 years, we have made enormous progress. Until every person in every state is free from discrimination on the basis of sexual orientation, gender identity and expression and HIV-status, we won't stop making the case for equality. **L**