

LGBT LAW 2014 YEAR IN REVIEW CLE

WEDNESDAY, JANUARY 21, 2015 | 6:00 - 8:00 P.M.

DAVIS POLK & WARDWELL LLP | NEW YORK, NY

A CLE PROGRAM PRESENTED BY THE LGBT BAR ASSOCIATION OF GREATER
NEW YORK IN COLLABORATION WITH THE DAVIS POLK LGBT AFFINITY GROUP

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LGBT LAW 2014 YEAR IN REVIEW

Presented by LeGaL & the Davis Polk LGBT Affinity Group

Wednesday, January 21, 2015, 6:00 p.m. to 8:00 p.m.

Davis Polk & Wardwell LLP | New York, NY

AGENDA

- I. Introduction, 6:00-6:05 (Skinner)**
- II. Overview of recognition for same-sex relationships nationwide, 6:05-6:20 (Stein)**
- III. Developments for marriage in the U.S. Supreme Court, 6:20-7:00 (Panel)**
 - a. Stay decisions and October 6, 2014 certiorari denials (Leonard)
 - b. Sixth Circuit decision and January 16, 2015 certiorari grant (Sommer)
 - c. Where we are headed (Panel)
- IV. Other Significant Family Law Developments, 7:00 - 7:15 (Stein)**
- V. Beyond Marriage: Continuing Challenges, 7:15 – 7:30 (Sommer)**
- VI. Developments for the Transgender Community, 7:30-7:45 (Leonard)**
- VII. Q&A / Glimpses of 2015, 7:45 – 8:00 (Panel)**

LGBT Law 2014 Year In Review

Faculty Bios

Professor Arthur S. Leonard

Professor Leonard of New York Law School graduated from Cornell University (1974) and Harvard Law School (1977). He started the LGBT Bar Association of Greater New York in 1978 and served as its first formally elected president from 1984 to 1988. He edits and largely writes the Association's monthly substantive newsletter, *Lesbian/Gay Law Notes*, which circulates directly to nearly one hundred law schools across the country and has an international readership by subscription and online. A monthly podcast discussing leading cases reported in *Law Notes* can be found in iTunes or at legal.podbean.com. Professor Leonard writes for *Gay City News*, a NYC community newspaper, and is co-editor of the first law school casebook on AIDS and a casebook on Sexuality Law (2nd edition published July 2009). He provides timely commentary on LGBT and HIV-related legal issues on his blog, <http://www.artleonardobservations.com/>.

Professor Leonard has been a director or trustee of Lambda Legal Defense & Education Fund, The Center for Lesbian and Gay Studies at City University of NY, The Society of American Law Teachers, Congregation Beit Simchat Torah (the world's largest LGBT synagogue), The Jewish Board of Family and Children's Services, and Howard House Owners Corporation (a New York City co-operative apartment building). At the New York City Bar Association, he is past chair of the Committee on Sex and Law and was a founding co-chair of the Special Committee on Lesbians and Gay Men in the Legal Profession (predecessor to the present-day LGBT Rights Committee), and served for many years on the Association's Special Committee on AIDS. He has also served as a member of the Task Force on Children, Youth and Families at UJA-Federation of New York from 2005 to 2011.

His courses at New York Law School have included Contracts, Torts, Labor Relations Law, Employment Law, Employment Discrimination Law, Professional Responsibility, and Sexuality & the Law, and he has published widely in law journals and other media on lesbian and gay law, AIDS law, and labor and employment law.

He and his partner of more than three decades, Tim Nenno, married in Connecticut in 2009.

Susan Sommer, Esq.

Susan Sommer is Senior Counsel and Director of Constitutional Litigation for Lambda Legal, the oldest and largest national legal organization committed to achieving full recognition of the civil rights of lesbians, gay men, bisexuals, transgender people, and people with HIV.

Sommer handles groundbreaking litigation and also oversees the work of several attorneys in all areas of Lambda Legal's work, including fighting for equal recognition of same-sex relationships, fighting for the rights of lesbian and gay parents, and battling antigay discrimination in employment, housing, public accommodations, and law enforcement.

Sommer was the lead attorney on Lambda Legal's New York marriage litigation seeking the right to marry in New York and recognition of out-of-state marriages of same-sex couples and also has worked extensively in the area of parenting rights of lesbian and gay New Yorkers. Outside of her New York work, she played a key role in *Lawrence v. Texas*, Lambda Legal's landmark U.S. Supreme Court case that struck down Texas' "Homosexual Conduct" law, participated at the U.S. Supreme Court and lower court levels in litigation to strike down

Section 3 of the federal Defense of Marriage Act, and is part of the team handling one of the Ohio marriage recognition cases that the U.S. Supreme Court recently accepted for review.

A seasoned litigator, Sommer came to Lambda Legal from Lankler Siffert & Wohl in New York, where she specialized in commercial, securities, antitrust, not-for-profit federal and state civil litigation, white collar criminal defense, and regulatory and attorney disciplinary proceedings.

Earlier, Sommer taught at Brooklyn Law School and was a litigation associate at Davis Polk & Wardwell. Sommer clerked for U.S. District Court Judge William Schwarzer in the Northern District of California. A 1986 graduate of Yale Law School, Sommer served as notes editor at the *Yale Law & Policy Review*. She received her bachelor's degree in American Studies from Yale, graduating Phi Beta Kappa and summa cum laude.

Professor Edward Stein

Ed Stein is Professor of Law and Director of the Gertrud Mainzer Program in Family Law, Policy, and Bioethics at the Benjamin N. Cardozo School of Law in New York City, where he previously also served as Vice Dean for five years. He is the author of *The Mismeasure of Desire: The Science, Theory and Ethics of Sexual Orientation* and *Without Good Reason: The Rationality Debate in Philosophy and Cognitive Science* both published by Oxford University Press, as well as the editor of *Forms of Desire: Sexual Orientation and the Social Constructionist Controversy*. He has also written numerous articles, chapters, and essays on topics relating to sexual orientation, family law, ethics, philosophy, science, evolution, cognitive science, bioethics, and lesbian and gay studies. He previously was a professor of philosophy at NYU and Yale University, among other schools, a summer associate at Davis Polk in 1999, and a law clerk for a federal appeals court judge. He holds a Ph.D. in philosophy from M.I.T. and a J.D. from Yale Law School.

Matthew Skinner, Esq. (Moderator)

Matthew Skinner is Executive Director of LeGaL - The LGBT Bar Association of Greater New York, a bar association and related foundation dedicated to serving the local LGBT legal community and the public. In his role as Executive Director, Matt oversees all of LeGaL's pro bono clinics, continuing legal education programs, advocacy efforts, associated fundraising, and other activities. Prior to assuming his current position with LeGaL, Matt litigated at Proskauer Rose LLP and clerked for the Honorable Richard K. Eaton at the U.S. Court of International Trade. He graduated magna cum laude from Albany Law School and the University of Notre Dame.

LGBT Law 2014 Year in Review©
January 21, 2015

Compiled by Prof. Arthur S. Leonard, New York Law School
Based on reporting in *Lesbian/Gay Law Notes*

*Prepared for a CLE program presented by
LeGaL — The LGBT Bar Association of Greater New York in collaboration with the Davis Polk
LGBT Affinity Group*

This compilation focuses mainly on appellate decisions of particular interest for LGBT law, with selective inclusion of particularly noteworthy trial court opinions. It is not an exhaustive list of all LGBT-related decisions from 2014, and in certain cases includes developments from the first two weeks of 2015.

I. Marriage Equality Developments

A. *Chronology of Developments from 2014 through the beginning of 2015*

[As of July 15, 2014 – 19 marriage equality states + D.C. = almost 44% of the US population living in marriage equality jurisdictions. As of January 6, 2015 – 36 marriage equality jurisdictions + D.C. = more than 70% of U.S. population living in marriage equality jurisdictions. Significant merits rulings are in bold print.]

2014:

January 6 – Utah — U.S. Supreme Court stays Utah district court marriage ruling, *Kitchen v. Herbert*, 961 F. Supp. 2d 1181 (D. Utah Dec. 20, 2013), without explanation, pending appeal to the 10th Circuit. See 134 S. Ct. 893. During 2014, Supreme Court grants every stay request in a pending marriage equality case until October 6, when it denied petitions for certiorari in marriage equality cases from three circuits, after which it denied every stay request in a pending marriage equality case through the end of the year.

January 14 – Oklahoma — *Bishop v. United States*, 962 F. Supp. 2d 1252 (N.D. Okla.) – District Judge Kern rules ban on same-sex marriage unconstitutional, but stays decision pending 10th Circuit appeal in light of S. Ct. stay in *Kitchen v. Herbert*.

January 21 – 9th Circuit — *Smithkline Beecham Corp. v. Abbott Laboratories*, 740 F.3d 471 (9th Cir.) – in case involving preemptory challenge to gay juror, 9th Circuit panel rules that Windsor established a heightened scrutiny standard for sexual orientation discrimination claims, requiring that any strike against a gay juror must be for cause.

January 29 – West Virginia — *McGee v. Cole*, 993 F. Supp. 2d 639 (S.D. W.Va. 2014) – District Judge Chambers denies motion to dismiss marriage equality suit in West Virginia.

February 10 – Attorney General Holder announces that Justice Department will recognize same-sex marriages using place of celebration rule for all purposes, including testimonial privileges.

February 10 – Nevada — Governor Brian Sandoval and attorney general announce that they will not defend state’s marriage ban on the merits in pending 9th Circuit case of *Sevcik v. Sandoval*, leaving defense to intervenors.

February 12 – Kentucky — *Bourke v. Beshear*, 996 F. Supp. 2d 542 (W.D. Ky.) – Judge John Heyburn (appointed by George H.W. Bush, 1992) rules state ban on recognition of same-sex marriages unconstitutional, decision eventually stayed pending appeal to 6th Circuit.

February 13 – Virginia — *Bostic v. Rainey*, 970 F. Supp. 2d 456 (E.D. Va., Feb. 13, 2014, amended Feb. 14, 2014) – Judge Allen rules Virginia same-sex marriage ban unconstitutional, decision stayed pending appeal to the 4th Circuit.

February 20 – Oregon Attorney General announces that in light of Windsor state will make no substantive defense in pending marriage equality lawsuit.

February 21 — *Lee v. Orr*, 2014 U.S. Dist. LEXIS 21620 (N.D. Ill.) – Judge Coleman rules that Cook County Clerk must immediately begin issuing marriage licenses, regardless of medical necessity, due to likely constitutional infirmity of existing marriage ban in light of Windsor and enactment of marriage equality law.

February 26 – Texas — *De Leon v. Perry*, 975 F. Supp. 2d 632 (W.D. Tex.) – Judge Garcia rules Texas same-sex marriage ban unconstitutional, stayed pending appeal to 5th Circuit.

March 14 – Tennessee — *Tanco v. Haslam*, 7 F. Supp. 3d 759 (M.D. Tenn.) – Judge Trauger found Tennessee’s ban on recognition of same-sex marriages unconstitutional; her denial of stay for plaintiff couples was reversed by 6th Circuit on April 25.

March 21 – Michigan — *DeBoer v. Snyder*, 973 F. Supp. 2d 757 (E.D. Mich.) – Judge Friedman finds Michigan marriage equality law unconstitutional after merits trial, findings state’s expert witnesses not credible, decision stayed pending appeal by 6th Circuit after hundreds of couples initially marry.

April 10 – Indiana — *Baskin v. Bogan*, 12 F. Supp. 3d 1137 (S.D. Indiana) – Judge Young issue temporary restraining order requiring state to recognize same-sex marriage contracted out of state of one of the plaintiff couples in pending marriage equality suit due to medical emergency; state seeks stay and appeals to 7th Circuit.

April 10 – 10th Circuit hears oral argument in Utah marriage equality case.

April 14 – Ohio — Henry v. Himes, 14 F. Supp. 3d 1036 (S.D. Ohio) – Judge Black rules Ohio must recognize same-sex marriages for purposes of birth certificates and all other purposes; stayed in part pending 6th Circuit appeal.

May 8 – Indiana – Baskin v. Bogan, 983 F. Supp. 2d 1021 (S.D. Ind.) – U.S. District Judge J Richard L. Young – Preliminary injunction in marriage recognition case – state is seeking stay from 7th Circuit.

May 9 – Arkansas — Wright v. State of Arkansas (not officially published) — Pulaski County Cir. Judge Chris Piazza (elected in non-partisan election 1990) –right to marry and recognition — stayed by Arkansas Supreme Court after hundreds of couples had married.

May 13 – Virginia — 4th Circuit Argument in Bostic v. Schaefer & Harris v. Rainey – Virginia marriage case appeal by clerks.

May 13 – Idaho – Latta v. Otter, 19 F. Supp. 3d 1054 (D. Idaho) – U.S. Magistrate Judge Candy Wagahoff Dale (appointed by District Court in 2008) – recognition & right to marry — stayed by 9th Circuit pending appeal – Gov. Otter subsequently petitioned 9th Circuit to go directly to en banc review, which was denied.

May 14 – Arkansas – State Supreme Court denies motion for emergency stay of Judge Piazza’s ruling in Wright v. State.

May 19 – Oregon – Geiger v. Kitzhaber, 994 F. Supp. 2d 1128 (D. Ore.) – U.S. District Court Judge Michael McShane (openly gay Obama appointee, 2013) –right to marry and marriage recognition – no appeal by state – NOM, denied intervenor status, is appealing and seeking stay from S. Ct. after 9th Cir. turned them down, 2014 WL 2566885 (9th Cir.) – couples began marrying the same day.

May 19 – Utah – Evans v. State of Utah, 21 F. Supp. 3d 1192 (D. Utah) – U.S. District Court Judge Dale Kimball (Clinton appointee 1997 – senior status) – State must recognize marriages performed before S. Ct. issued stay on Jan. 6 – Temporary 21-day stay.

May 20 – Pennsylvania – Whitewood v. Wolf, 992 F. Supp. 2d 410 (M.D. Pa.) – U.S. District Court Judge John E. Jones (George W. Bush appointee, 2002) – right to marry and marriage recognition — no appeal by state, decision went into effect quickly.

June 1 – Illinois marriage equality law officially took effect statewide (marriages already available in Cook County under federal court order and some other clerks had been issuing licenses).

June 4 – Oregon – National Organization for Marriage v. Geiger, 134 S. Ct. 2722 – Supreme Court denied motion by National Organization for Marriage to stay the Oregon marriage ruling

while it appealed the district court's denial of its motion to intervene to defend the state's marriage ban.

June 6 – Wisconsin – Wolf v. Walker, 9 F. Supp. 3d 889 (W.D. Wis.) – Senior U.S. District Court Judge Barbara B. Crabb (Jimmy Carter appointee, 1979) – right to marry and marriage recognition – fundamental right, but would not survive rational basis review – decision stayed on June 13 after hundreds of couples had married, 2014 U.S. Dist. LEXIS 82242 – State appealed to 7th Circuit.

June 24 – 9th Circuit – No en banc review in SmithKline Beecham v. Abbott Laboratories, 759 F.3d 990 – heightened scrutiny established as circuit precedent for 9th Circuit, applicable to pending appeals from Hawaii, Nevada and Idaho, and pending lawsuits in Montana, Alaska and Arizona; Dissent bemoans significance for pending marriage cases and claims circuit has misconstrued U.S. v. Windsor.

June 25 – Indiana – Baskin v. Bogan, 12 F. Supp. 3d 1144 (S.D. Ind.) – Chief U.S. District Court Judge Richard L. Young (Bill Clinton appointee, 1998) – right to marry and marriage recognition – fundamental right and equal protection – decision stayed pending appeal – State appealed to 7th Circuit.

June 25 – 10th Circuit – Utah – Kitchen v. Herbert, 755 F.3d 1193 – right to marry and marriage recognition – 14th Amendment fundamental rights case – staying pending S. Ct. appeal – Attorney General Reyes announced he would file a cert petition.

July 1 – Kentucky – Love v. Beshear, 989 F. Supp. 2d 536 (W.D. Ky.) – U.S. District Court Judge John G. Heyburn II – expands prior recognition ruling to full right to marry – equal protection case, class-based discrimination – sexual orientation is suspect classification, but court find no rational basis for ban – decision stayed pending appeal — State to appeal to 6th Circuit.

July 9 – Colorado – Brinkman v. Long, 2014 WL 3408024 (D. Colo., not officially published) – Colorado Adams Co. District Ct., Judge C. Scott Crabtree – fundamental right to marry found, no compelling state interest advanced – no rational basis so there is also equal protection violation – no injunction issued, but declaratory judgment stayed pending appeal.

July 9 – Colorado – Boulder Clerk Hillary Hall started issuing licenses upon 10th Circuit ruling – People ex rel Suthers v. Hall – Colorado Boulder Co. District Ct. – Judge Andrew Hartman refuses to enjoin issuance of licenses – state to appeal to Colorado S. Ct. – following ruling, clerks in Denver and Pueblo Counties also started issuing licenses.

July 11 – Utah — 10th Circuit – Evans v. State of Utah – 10th Circuit refuses to grant stay pending appeal of district court order requiring Utah to recognize marriages contracted prior to

Supreme Court stay in *Kitchen v. Herbert*, gives state until July 21 to petition Supreme Court for stay. State petitioned Supreme Court on July 16.

July 17 – Florida – Monroe County Circuit Court – *Huntsman v. Heavilin*, 21 Fla. L. Weekly Supp. 916a — Judge Luis M. Garcia found Florida marriage ban unconstitutional in suit for marriage license by same-sex couple.

July 18 – Utah – *Herbert v. Evans*, 135 S. Ct. 16 – Supreme Court stays 10th Circuit’s decision requiring Utah to recognize same-sex marriages performed prior to Jan. 6 stay, pending state’s cert petition seeking review in the Supreme Court.

July 18 – Oklahoma — 10th Circuit – *Bishop v. Smith*, 760 F.3d 1070 – 10th Circuit rules that Oklahoma marriage ban violates fundamental right in violation of 14th Amendment, but stayed effect pending appeal to Supreme Court.

July 23 – Colorado – U.S. District Court – *Burns v. Hickenlooper*, 2014 WL 3634834 (D. Colo., not published in F. Supp.) – U.S. District Judge Raymond P. Moore found that Colorado’s marriage ban violates the 14th Amendment, and temporarily stayed ruling to give state an opportunity to apply to 10th Circuit for a stay.

July 23 – Colorado – Boulder County District Court – *State of Colorado v. Hall*, No. 2014CV30833 — Judge Andrew Hartman denied state’s motion to order county clerk to stop issuing marriage licenses, affirmed July 24 by Colorado Court of Appeals.

July 25 – Florida – Miami—Dade Circuit Court – *Pareto v. Ruvin*, 21 Fla. L. Weekly Supp. 899a — Judge Sarah Zabel found Florida marriage ban unconstitutional in suit for marriage licenses by same-sex couples.

July 28 – 4th Circuit – *Bostic v. Schaefer*, 760 F.3d 352 – 4th Circuit rules that Virginia marriage ban violates fundamental right in violation of 14th Amendment, but stayed effect pending motion for stay.

July 29 – Colorado Supreme Court – *State of Colorado v. Hall* – Ordered county clerk to stop issuing marriage licenses pending state Supreme Court’s review of trial court marriage equality rulings.

August 4 – Florida – Broward County Circuit Court – *Brassner v. Lade*, 21 Fla. L. Weekly Supp. 920a — Judge Dale Cohen found Florida ban on recognizing out—of—state same-sex marriages unconstitutional in case seeking dissolution of Vermont civil union. (Opinion subsequently vacated for reconsideration after state moved to intervene.)

August 6 – 6th Circuit Court of Appeals heard oral argument in marriage equality cases from Ohio, Michigan, Kentucky, and Tennessee.

August 5 – Supreme Court – Herbert v. Kitchen – Utah files petition for certiorari to review 10th Circuit ruling.

August 5 – Florida – Palm Beach County – Estate of Frank C. Bangor, Case No. 50214CP001857XXXXMB – Judge Diana Lewis – Recognition ban was unconstitutional as applied to appointment of Estate Representative based on out-of-state same-sex marriage.

August 5 – Tennessee – Roane County Circuit Court – Borman v. Pyles-Borman, No. 2014CV36 (not officially published) – Circuit Judge Russell E. Simmons, Jr. held Baker v. Nelson controls and court may not assert jurisdiction in divorce action due to state’s ban on marriage recognition; no equal protection violation because Tennessee statute denies recognition to all marriages that could have been performed within state, not just same-sex marriages, so there is no disparate treatment and disparate impact is not a recognized cause of action under the equal protection clause.

August 8 – Supreme Court – Petition for certiorari filed by State of Virginia in Bostic v. Schaefer (4th Circuit Virginia case).

August 13 – 4th Circuit – 2-1 vote to deny motion for stay pending further appellate review in Bostic v. Schaefer (Virginia).

August 19 – Indiana – U.S. District Court – Bowling v. Pence, 2014 WL 4104814 (S.D. Ind.) – District J. Richard L. Young ruled state refusal to recognize out-of-state marriage was unconstitutional and restored Governor Pence as a defendant, characterizing as “troubling” the governor’s representation that he had nothing to do with enforcing marriage laws in order to get dismissed in this and other cases.

August 19 – Idaho — 9th Circuit Court of Appeals – Latta v. Otter – Denied motion by Idaho Governor Butch Otter to bypass panel and hold en banc hearing in marriage equality case.

August 20 – Supreme Court – Supreme Court issues stay of mandate in Bostic v. Schaefer, sub nom McQuigg v. Bostic, 135 S. Ct. 32 (Virginia).

August 21 – Florida — Brenner v. Scott, 999 F. Supp. 2d 1278 (N.D. Fla.) — Judge Robert L. Hinkle ruled that Florida marriage ban violates 14th Amendment, but stayed ruling for state’s anticipated appeal to the 11th Circuit.

August 21 – 10th Circuit Court of Appeals – Stayed Colorado District Court’s ruling in Burns v. Hickenlooper to be consistent with stays issued in Utah and Oklahoma cases.

August 22 – Supreme Court – Petition for certiorari filed by Norfolk Clerk George Schaefer in Bostic v. Schaefer (4th Circuit Virginia case).

August 26 – 7th Circuit Court of Appeals heard marriage equality arguments in cases from Indiana and Wisconsin.

August 27 – Florida – 2nd District Court of Appeal – Shaw v. Shaw, 2014 WL 4212771 (not officially published) – Certifying to Florida Supreme Court question whether Florida Marriage Amendment deprives trial court of jurisdiction to hear divorce action for same-sex couple married out-of-state.

August 29 – 9th Circuit Court of Appeals – Geiger v. Kitzhaber – Rejected motion by National Organization for Marriage to intervene as defendant—appellant in Oregon marriage equality case.

August 29 – Supreme Court – Petition for certiorari filed by Prince William Clerk McQuigg in Bostic v. Schaefer (4th Circuit Virginia case).

September 3 – Louisiana – Robicheaux v. Caldwell, 2 F. Supp. 3d 910 (E.D. La.) – Judge Martin Feldman – rejected marriage equality challenge applying rational basis review, finding rational the state’s interest in connecting children with their biological parents, but mainly emphasizing federalism concerns and respect for democracy.

September 4 – 7th Circuit (Indiana & Wisconsin) – Baskin v. Bogan, 766 F.3d 648 – Opinion by Richard Posner – marriage and recognition bans violate Equal Protection Clause; heightened scrutiny applies, but states have provided no rational basis for refusing to let same-sex couples marry or to recognize their marriages from elsewhere.

September 5 – Florida Supreme Court refuses to take a direct appeal certified by the 2nd District Court of Appeal in a marriage equality case. Several appeals from state court marriage equality rulings are pending before the 3rd District Court of Appeal, and Attorney General Pam Bondi wants them to remain “on hold” until the Supreme Court decides on pending cert petitions from the 4th and 10th Circuits.

September 8 – 9th Circuit hears oral argument in marriage equality cases from Idaho (appeal by state), Nevada (appeal by plaintiffs), and Hawaii (appeal by plaintiffs; Hawaii issue is whether case is moot and district court opinion should be vacated due to enactment of Hawaii marriage equality law that went into effect in December 2013).

September 9 – Supreme Court – Petitions for certiorari filed by Indiana and Wisconsin in Baskin v. Bogan.

September 12 – Arizona – U.S. District Court – Majors v. Jeanes, 2014 WL 4541173 (D. Ariz., not officially published) – U.S. District Court Judge John Sedwick – Temporary restraining order issued requiring Arizona officials to issue a death certificate recording George Martinez as married to Fred McQuire at the time of his death. Same-sex couple married in California in July 2014 and Martinez died August 28.

September 22 – Louisiana — Costanza v. Caldwell, No. 2013—0052 D2 (15th Judicial Dist.) – State District Court Judge Edward B. Rubin rules that Louisiana must recognize a

California same-sex marriage in order to approve a same-sexco—parent adoption of a child conceived through donor insemination.

Oct. 3 – Missouri (8th Cir.) – Barrier v. Vasterling, 2014 WL 4966467 — State Circuit Judge J. Dale Youngs (Jackson County) rules state must recognize out of state same-sex marriages, and state says it won't appeal. Several right to marry cases are still pending at the end of the month.

Oct. 6 – U.S. Supreme Court denies certiorari in marriage equality cases from Utah & Oklahoma (10th Circuit), Virginia (4th Circuit), and Wisconsin & Indiana (7th Circuit). All stays lifted in those states, increasing marriage equality states from 19 to 24. No publicly registered dissents from denials of cert.

Oct. 7 – Colorado Supreme Court (in 10th Circuit) lifts stay of state court's marriage equality decision at request of Attorney General John Suthers, ruling goes into effect, State #25.

Oct. 7 – 9th Circuit — Latta v. Otter, 771 F.3d 456 — strikes marriage bans in Nevada and Idaho – stays denied by end of the week, including by U.S. Supreme Court, States #26 & #27. Coalition to Protect Marriage in Nevada and state of Idaho subsequently filed petitions for en banc review, but the 9th Circuit panel ruling was not stayed. Judge Stephen Reinhardt for the panel: sexual orientation discrimination applying heightened scrutiny; concurrence by Reinhardt on due process grounds; concurrence by Marsha Berzon on sex discrimination grounds.

Oct. 7 – Kansas – Chief Judge Kevin P. Moriarty in the Kansas Tenth Judicial District state court issued Administrative Order 14—11 directing that District Court Clerk Sandra McCurdy issue marriage licenses to same-sex couples. Attorney General Derek Schmidt rushes to state Supreme Court for an order halting licenses.

Oct. 7 – W. Va. (4th Circuit) – U.S. District Court Judge Robert Chambers lifts stay of proceedings in pending Lambda Legal case, McGee v. Cole, leading Attorney General and Governor to concede that ban is unconstitutional on Oct. 9 and licenses started issuing on Oct. 10. State #28.

Oct. 8 – South Carolina – District Judge J. Michelle Childs lifts stay on proceedings in Bradacs v. Hailey and sets things in motion for consideration of summary judgment motions.

Oct. 9 – South Carolina Supreme Court (4th Circuit) – orders a local magistrate to stop issuing licenses while pending federal marriage cases in South Carolina are being decided.

Oct. 10 – Kansas — State ex rel. Schmidt v. Moriarity, No. 112,590 – Kansas Supreme Court halts issuance of licenses temporarily upon application of attorney general, while indicating likelihood of ruling for respondent clerk, who wants to issue licenses.

Oct. 10 – North Carolina – General Synod of the United Church of Christ v. Resinger, 12 F. Supp. 3d 790 – U.S. District Court Judge Max O. Cogburn, Jr., on his own motion, grants summary judgment to plaintiffs. Attorney General Roy Cooper, who had previously announced he would not defend the state ban that after the 4th Circuit’s ruling, announced statewide effect of Cogburn’s decision, making North Carolina State #29.

Oct. 10 – 9th Circuit (Hawaii) – Jackson v. Abercrombie, 585 F. App’x 413 — Hawaii’s enactment of a marriage equality law in 2013 mooted the pending appeal of a 2012 adverse district court decision, ordering the decision vacated and the appeal dismissed.

Oct. 12 – Alaska — Hamby v. Parnell, 2014 U.S. Dist. LEXIS 145876, 2014 WL 5089399 – U.S. District Court Judge Timothy M. Burgess granted a surprise Sunday summary judgment to plaintiffs, temporarily stayed by 9th Circuit while the state unsuccessfully sought a stay from Supreme Court.

Oct. 14 – North Carolina – Fisher—Borne v. Smith, 14 F. Supp. 3d 695 (M.D. N.C.) — District Judge William L. Osteen, Jr. grants summary judgment to plaintiffs and allows state legislative leaders to intervene if they want to appeal in separate opinion, 14 F. Supp. 3d 699. Legislative leaders would presumably seek en banc review in the 4th Circuit, since any 3-judge panel would be bound by prior ruling.

Oct. 16 – Arizona – Connolly v. Jeanes, 2014 WL 5320642 (D. Ariz.); Majors v. Horne, 14 F. Supp. 3d 1313 (D. Ariz.) — District Judge John W. Sedwick grants summary judgment to plaintiffs in two pending marriage cases; Attorney General Tom Horne announces that appeal to 9th Circuit would be futile and so state complies; State #30.

Oct. 17 – Alaska – U.S. Supreme Court denies stay in Hamby v. Parnell, 135 S. Ct. 399; ruling goes into effect, but state files an appeal in the 9th Circuit; State #31.

Oct. 17 – Colorado – Burns v. Hickenlooper, 2014 WL 5312541(D. Colo.), made preliminary injunction requiring marriage equality permanent in light of Supreme Court’s denial of certiorari in Herbert v. Kitchen.

Oct. 17 – Wyoming – Guzzo v. Mead, 2014 U.S. Dist. LEXIS 148481, 2014 WL 5317797 – District Court Scott Skavdahl grants summary judgment to plaintiffs, stayed until Oct. 23 or until state certifies it won’t appeal to the 10th Circuit (appeal there would be futile).

Oct. 17 – Attorney General Holder announces federal government will recognize same-sex marriages in Utah, Oklahoma, Colorado, Virginia, Indiana, Wisconsin, and Nevada.

Oct. 21 – Wyoming certifies it will not appeal decision in Guzzo v. Mead, and stay is lifted, State #32.

Oct. 21 – Puerto Rico – Conde-Vidal v. Garcia-Padilla, 2014 U.S. Dist. LEXIS 150487, 2014 WL 5361987 (D. P.R.) – U.S. District Court Judge Juan M. Perez-Gimenez dismissed marriage equality case, claiming to be bound by Baker v. Nelson, whose continuing viability as precedent had been asserted by 1st Circuit in its 2012 DOMA opinion. Lambda Legal announced appeal to 1st Circuit.

Oct. 22 – Lambda Legal sues Social Security Administration, *Murphy v. Colvin* (D.D.C.), for refusing to recognize legal same-sex marriages in non-equality states for purposes of spousal death and survivor benefits.

Oct. 25 – Attorney General Holder announces federal government will recognize same-sex marriages in Alaska, Arizona, Idaho, North Carolina, West Virginia, and Wyoming.

Nov. 4 – Kansas – Marie v. Moser, 2014 U.S. Dist. LEXIS 157093, 2014 WL 5598128 (D. Kansas) – U.S. District Court Judge Daniel Crabtree rules that Kansas’ ban on same-sex marriage violates the 14th Amendment, staying his decision until November 11 to give the state a chance to seek a stay from the 10th Circuit or the Supreme Court pending appeal. The Kansas Supreme Court put off its hearing in *State ex rel. Schmidt v. Moriarty*, leaving a stay in place while the federal case was appealed to the 10th Circuit and/or the Supreme Court.

Nov. 5 – Missouri — State of Missouri v. Florida, 2014 WL 5654040 (November 5, 2014) – City of St. Louis, Missouri, Circuit Judge Rex M. Burlison ruled that Missouri’s ban on same-sex marriage violates the 14th Amendment and refused to stay his decision. Attorney General Chris Koster announced that the state would appeal, but that he would not seek a stay. The decision directly affected only St. Louis, whose recorder of deeds was the defendant in a separate case brought by the state to stop her from issuing licenses.

Nov. 5 – U.S. District Judge Robert Hinkle ruled that the stay of his ruling on the Florida marriage ban, *Brenner v. Scott*, would remain in effect until January 5 to give the state a chance to appeal to the 5th Circuit and seek a stay pending decision from that court.

Nov. 6 – 6th Circuit – DeBoer v. Snyder, 2014 U.S. App. LEXIS 21191, 2014 WL 5748990 – Ruled 2-1 that the same-sex marriage bans and/or denials of recognition of same-sex marriages in Ohio, Michigan, Tennessee and Kentucky were constitutional, reversing rulings by six federal district courts. Majority opinion by Judge Jeffrey Sutton said that Baker v. Nelson remains controlling, but then in dicta stated that the states had a rational basis for not extending the right to marry to same-sex couples. A dissent by Judge Martha Craig Daughtrey argued that the majority opinion would’ve made a better “TED Talk” and the court should’ve followed the rulings by the 4th, 7th and 10th Circuits that had been denied review by the Supreme Court on Oct. 6. Counsel for all plaintiffs conferred on Nov. 7 and agree not to file motions for rehearing en banc, instead seeking Supreme Court review.

Nov. 7 – West Virginia – McGee v. Cole, 2014 WL 5802665 – U.S. District Court Judge Robert C. Chambers ruled that West Virginia’s ban on same-sex marriage violates the 14th Amendment, finding the decision dictated by the 4th Circuit’s ruling in Bostic. Because the state had already begun issuing marriage licenses shortly after the Supreme Court denied review of the Virginia case on Oct. 6, this ruling was mainly a formality.

Nov. 7 – Kansas – 10th Circuit denied state’s petition for a stay in Marie v. Moser, Kansas marriage equality case.

Nov. 7 – Missouri – Lawson v. Kelly, 2014 U.S. Dist. LEXIS 157802, 2014 WL 5810215 — U.S. District Judge Ortrie Smith ruled that Missouri’s ban on same-sex marriage violated the Due Process and Equal Protection clauses, and that the 8th Circuit’s 2006 ruling rejecting a challenge to the Nebraska marriage amendment, Citizens for Equal Protection v. Bruning, was not precedential on the 14th Amendment questions presented, because the plaintiffs in that case brought their challenge on a different theory and were not asking the court in that case to declare a right of same-sex couples to marry. Judge Smith’s order was directed only to the Jackson County Recorder. Thus, Missouri became only a partial marriage equality state, as licenses were available in two counties and one city as a result of state and federal decisions as to which the state did not request a stay.

Nov. 12 – Kansas — Supreme Court denied motion for a stay in Marie v. Moser, 135 S.Ct. 511. Controversy ensued about the scope of the district court’s order as the state noticed appeal on the merits to the 10th Circuit.

Nov. 12 – South Carolina – Condon v. Haley, 2014 WL 5897175 (D. S. Car.) — U.S. District Judge Richard Mark Gergel ruled that South Carolina’s ban on same-sex marriage violates the 14th Amendment, but stayed his decision until Nov. 20 to give the state an opportunity to seek a stay from the 4th Circuit or the Supreme Court. Neither the 4th Circuit nor the Supreme Court would grant the state’s request for a stay, so the decision went into effect a few days later, although the state filed an appeal with the 4th Circuit on November 13. This completed the sweep of the 4th Circuit for marriage equality.

Nov. 14 – South Dakota — Rosenbrahn v. Daugaard, 2014 U.S. Dist. LEXIS 160340, 2014 WL 6386903 (D.S.D.) — denied the state’s motion to dismiss marriage equality case, finding that plaintiffs’ challenge to South Dakota’s ban of same-sex marriage was not precluded by Baker v. Nelson or Citizens for Equal Protection v. Bruning, and otherwise stated a valid claim under the 14th Amendment.

Nov. 14 – Petition for Certiorari filed in Supreme Court by plaintiffs in Henry v. Hodges & Obergefell v. Hodges, Ohio marriage equality cases, seeking review of 6th Circuit’s decision in DeBoer v. Snyder.

Nov. 14 – Petition for Certiorari filed in Supreme Court by plaintiffs in *Tanco v. Haslam*, Tennessee marriage equality case, seeking review of 6th Circuit’s decision in *DeBoer v. Snyder*.

Nov. 17 – Petition for Certiorari filed in Supreme Court by plaintiffs in *DeBoer v. Snyder*, seeking review of 6th Circuit’s decision.

Nov. 17 – Petition for Certiorari filed in Supreme Court by plaintiffs in *Love v. Beshear*, seeking review of 6th Circuit’s decision in *DeBoer v. Snyder*.

Nov. 18 – South Carolina – *Bradacs v. Haley*, 2014 WL 5840153 — U.S. District Judge Michelle Childs ruled that South Carolina’s refusal to recognize the plaintiffs’ out-of-state same-sex marriage violated the 14th Amendment.

Nov. 18 – Alaska — 9th Circuit denied Alaska’s request to take its appeal of *Hamby v. Parnell* directly to an en banc panel and set a briefing schedule that will put off oral argument of the appeal until February 2015 at the earliest.

Nov. 19 – Montana – *Rolando v. Fox*, 2014 WL 6476196, 2014 U.S. Dist. LEXIS 164112 (D. Mont.) — U.S. District Judge Brian Morris ruled that Montana’s ban on same-sex marriage was unconstitutional, providing that his injunction would take effect immediately. The state did not seek a stay from the 9th Circuit, but noticed its appeal on the same date. Montana completed the sweep of the 9th Circuit for marriage equality.

Nov. 20 – Louisiana — Lambda Legal files certiorari petition in Supreme Court in *Robicheaux v. George*, asking the Court to bypass the 5th Circuit and reverse the district court’s adverse marriage equality decision in Louisiana.

Nov. 24 – Utah – *Evans v. State of Utah* — U.S. District Judge Dale Kimball made permanent his injunction requiring the state to recognize marriages contracted prior to the U.S. Supreme Court’s January 6, 2014 stay in *Kitchen v. Herbert*, which was lifted by the denial of certiorari in that case.

Nov. 25 – Arkansas — U.S. District Judge Kristine G. Baker ruled in *Jernigan v. Crane*, 2014 WL 6685391 (E.D. Ark.) that Arkansas’s ban on same-sex marriage was unconstitutional, but stayed her ruling pending the state’s anticipated appeal to the 8th Circuit.

Nov. 25 – Mississippi – *Campaign for Southern Equality v. Bryant*, 2014 WL 6680570 (S.D. Miss.) — U.S. District Judge Carlton W. Reeves ruled that Mississippi’s ban on same-sex marriage was unconstitutional, granting the state a two-week stay to appeal to and obtain a stay from the 5th Circuit Court of Appeals.

Nov. 26 – Kansas — ACLU of Kansas filed an amended complaint in *Marie v. Moser*, adding several state-wide department heads seeking to broaden district court’s order to make marriage

equality available throughout the state. Although Kansas is in the 10th Circuit and thus its federal courts are bound by that circuit's affirmative marriage equality rulings in cases from Utah and Oklahoma, the district court had limited its affirmative relief to the county clerks sued by the plaintiffs, and the state has resisted applying the ruling statewide while it seeks to appeal to the 10th Circuit.

Nov. 26 – Missouri — District Judge Smith in Missouri refused to lift the stay of his decision in *Lawson v. Kelly*, noting the pendency of the state's appeal to the 8th Circuit, which had not yet ruled in a marriage equality case.

Dec. 2 – Louisiana – State officials respond to petition for certiorari before judgment in *Robicheaux v. George* by telling the Supreme Court that they believe the district court's ruling against marriage equality was correct, but that the petitioners “are right that the extraordinary mechanism of cert before judgment is appropriate here,” contending that the Louisiana ruling would provide the best vehicle for the Supreme Court to consider the marriage equality issue.

Dec. 2 – Kansas — 10th Circuit denies a motion by Kansas defendants for direct en banc review of the district court's marriage equality ruling in *Marie v. Moser*. The state had argued that because a three-judge panel would be bound by the Circuit's prior rulings on marriage equality, it made no sense to have their appeal heard by the usual three-judge panel.

Dec. 3 – Florida — 11th Circuit denies a motion by Florida to stay the district court's injunction in *Brenner v. Armstrong* pending a decision of Florida's appeal, announcing that the injunction would go into effect at the end of the day on January 5, 2015.

Dec. 4 – Mississippi – *Campaign for Southern Equality v. Bryant*, 773 F.3d 55 (5th Circuit) — grants Mississippi's motion for a stay of the district court's order pending appeal, and also grants appellee's motion to expedite appeal by assigning the case to the same panel that would hear the Texas and Louisiana appeals on January 9, 2015.

Dec. 8 — Florida – Broward County Circuit Court – *Brassner v. Lade* — Judge Dale Cohen ruled for the second time that Florida must recognize a same-sex marriage performed out-of-state for purposes of a divorce proceeding. Cohen had rescinded his earlier ruling when the Attorney General argued that it had not been properly notified that the state's marriage ban was being challenged in the case and afforded an opportunity to intervene. Cohen subsequently granted the requested divorce.

Dec. 8 – Kentucky — Governor Steve Beshear files a brief supporting plaintiff's petition for certiorari in *DeBoer v. Snyder*, arguing that the case presents a question of “exceptional importance” and pointing out that trial courts in 44 states have now ruled that bans on same-sex marriage are unconstitutional.

Dec. 9 – Missouri — Jackson County Circuit Judge J. Dale Youngs rejected a motion by state legislative rulers seeking a stay of his earlier ruling requiring the state to recognize same-sex marriage performed in other jurisdictions.

Dec. 10 – Missouri — Plaintiffs’ counsel in marriage equality cases pending before the 8th Circuit from Missouri, *Lawson v. State of Missouri* and *Lawson v. Kelly*, ask the 8th Circuit to lift the federal district court’s stay, noting that same-sex couples are obtaining marriage licenses in some counties due to state court rulings and that the U.S. Supreme Court has not stayed any marriage equality rulings since Oct. 6, when it denied cert petitions in marriage equality cases from three other circuits.

Dec. 12 – Supreme Court — Arguing that “the present status quo is unsustainable,” Ohio responds to petitions for certiorari by plaintiffs in the Ohio marriage recognition case by notifying the Supreme Court that it agrees that the petition for certiorari should be granted in *DeBoer v. Snyder*.

Dec. 15 – Florida — Attorney General Pam Bondi applies to the Supreme Court for an extension of the district court’s temporary stay in *Brenner v. Scott*, which expires at 5 pm on January 5.

Dec. 15 – Tennessee – State files an opposition to the petition for certiorari in *Tanco v. Haslam*, one of the cases consolidated with *DeBoer v. Snyder* in the 6th Circuit, arguing that the Supreme Court need not review the 6th Circuit’s ruling despite the split with other circuits.

Dec. 15 – Idaho — Governor Butch Otter filed an “amicus brief” in response to the pending petitions for certiorari that seek review of *DeBoer v. Snyder*, asking the Court to refrain from making a decision on certiorari until Idaho has filed its petition for review of the 9th Circuit’s ruling in *Latta v. Otter*, which it will do if the 9th Circuit denies his petition for en banc reconsideration of that case. By the end of December, both Otter and Idaho’s Attorney General, also a named defendant, had filed petitions asking the Supreme Court to grant certiorari to review the 9th Circuit’s marriage equality decision, even though the 9th Circuit had not yet announced its decision to deny en banc review.

Dec. 15 – North and South Carolina — The 4th Circuit Court of Appeals consolidates appeals by the attorneys general of North and South Carolina from district court marriage equality rulings in *Bleckley v. Wilson* and *Bradacs v. Wilson*, and puts both cases “in abeyance” pending a ruling by the Supreme Court on the petitions for certiorari seeking review of the 6th Circuit’s decision in *DeBoer v. Snyder*.

Dec. 18 – Kansas — U.S. District Judge Daniel Crabtree denies a renewed motion to intervene in the pending marriage equality case, *Marie v. Moser*, by the Westboro Baptist Church. Judge Crabtree reiterated his conclusion that the defendants and the prospective intervenor “share an ultimate objective” and thus intervention is not necessary to defend Westboro’s interests.

Dec. 19 – Florida – *Armstrong v. Brenner*, 2014 WL 7210190 — U.S. Supreme Court denied motion by Florida Attorney General Pam Bondi to extend the stay issued by U.S. District Judge Robert Hinkle in *Brenner v. Scott* past 5 pm on January 5. This is the first time that the Supreme Court has refused to stay a marriage equality ruling by a district court within a circuit that has not yet ruled on marriage equality.

Dec. 19 – Idaho — U.S. Magistrate Judge Candy W. Dale awards plaintiffs \$397,300.00 in attorney fees and \$4,363.08 in expenses against defendants in the Idaho marriage equality case, *Latta v. Otter*. Otter filed a motion for en banc review by the 9th Circuit of the magistrate’s order, and asked the Supreme Court to wait for Idaho’s petition for certiorari before deciding whether to grant cert in *DeBoer v. Snyder*.

Dec. 20 – Missouri — Advising the 8th Circuit of the Supreme Court’s denial of a stay in the Florida marriage equality case, counsel for plaintiffs in pending Missouri marriage appeal argues in letter to the court that “a stay of final judgment in this case, where no stay has been requested [by the state], is inappropriate.” The federal district court had stayed its ruling on its own motion pending appeal.

Dec. 30 – Idaho – State defendants petition Supreme Court for review of 9th Circuit’s decision in *Latta v. Otter*.

2015:

January 1 – Florida — U.S. District Judge Robert Hinkle issued an Order in *Brenner v. Scott*, clarifying that all county clerks in the state are bound by the Constitution to issue marriage licenses to same-sex couples when the District Court’s stay expires.

January 5 — Florida – Miami—Dade Circuit Court – *Pareto v. Ruvin* — Judge Sarah Zabel ended the stay she had issued of her decision holding the Florida same-sex marriage ban unconstitutional, and the Miami-Dade County Clerk began issuing licenses to same-sex couples.

January 5/6 – Florida – County clerks throughout Florida began issuing marriage licenses to same-sex couples, although some counties ceased holding any marriage ceremonies at courthouses to avoid requiring objecting employees from performing same-sex marriages, making Florida the 36th marriage equality state.

January 8 – Georgia – U.S. District Judge William S. Duffey, Jr., denied the state’s motion to dismiss the Equal Protection claim in *Inniss v. Aderhold*, 1:14-cv-01180-WSD (N.D. Ga., Atlanta Div.), but granted the motion to dismiss the Due Process claim, finding that Supreme Court precedents did not recognize a fundamental right of “same-sex marriage;” ruled that state’s motion to dismiss Equal Protection claim did not allege facts that would necessarily meet rational basis test.

January 9 – 5th Circuit Court of Appeals — Held oral arguments in *Robicheaux v. Caldwell* (Louisiana), *Campaign for Southern Equality v. Bryant* (Mississippi), and *DeLeon v. Perry* (Texas).

January 9 – Idaho – 9th Circuit denied Idaho’s motion for en banc review of *Latta v. Otter*, 2015 WL 128117, with extensive dissenting opinion by Judge O’Scannlain joined by two other circuit judges.

January 12 – Louisiana — Supreme Court denied petition for certiorari before judgment in *Robicheaux v. George*, 2015 WL 133500, which was argued before the 5th Circuit on January 9.

January 13 – South Dakota – *Rosenbrahn v. Daugaard*, 2015 WL 144567 (D. S.D.) – U.S. District Judge Karen E. Schreier held that the state’s ban on same-sex marriage is unconstitutional because it deprives same-sex couples of access to a fundamental right.

January 16 – Petitions for certiorari seeking review of the 6th Circuit’s decision in *DeBoer v. Snyder* consolidated and granted by the Supreme Court. The parties are ordered to argue two questions in briefing: whether the Fourteenth Amendment requires a state to license a marriage between two people of the same sex and whether the Fourteenth Amendment requires a state to recognize a marriage between two people of the same sex when their marriage was lawfully licensed and performed out-of-state. The tight briefing schedule set should result in oral arguments the last week of April and a decision by the end of June.

B. Table of Significant Marriage Equality Appellate Rulings During 2014

Armstrong v. Brenner, 2014 WL 7210190 (U.S. Fla., Dec. 19, 2014) — denying Florida’s motion to stay trial court’s order in *Brenner v. Scott*, 999 F. Supp. 2d 1278 (N.D. Fla. 2014) (state’s ban on same-sex marriage violates the 14th Amendment; first time Supreme Court had allowed a district court marriage equality ruling to go into effect in a circuit where the court of appeals had not ruled on a marriage equality case).

Baskin v. Bogan, 766 F.3d 648 (7th Cir., Indiana, Wisconsin, Sept. 4, 2014), cert. denied sub nom. *Bogan v. Baskin*, and *Walker v. Wolf*, 135 S. Ct. 316 (Oct. 6, 2014) (states’ denial of marriage to same-sex couples violates Equal Protection Clause of 14th Amendment).

Bishop v. Smith, 760 F.3d 1070 (10th Cir., Oklahoma, July 18, 2014), cert. denied, 135 S. Ct. 271 (Oct. 6, 2014), stay lifted sub nom, *Bishop v. Barton*, 2014 WL 4960523, 2014 U.S. App. LEXIS 19305 (10th Cir., Oct. 6, 2014) (state’s denial of marriage to same-sex couples violates Due Process Clause of 14th Amendment).

Bostic v. Schaefer, 760 F.3d 352 (4th Cir., Virginia, July 28, 2014), cert. denied, sub nom *Rainey v. Bostic*, 135 S. Ct. 286 (Oct. 6, 2014), sub nom *Schaefer v. Bostic*, 2014 WL 4230092 (Oct. 6,

2014) (state's denial of marriage to same-sex couples violates the Due Process Clause of 14th Amendment).

DeBoer v. Snyder, 2014 U.S. App. LEXIS 21191, 2014 WL 5748990 (6th Cir., Michigan, Ohio, Kentucky, Tennessee, Nov. 6, 2014) (states' denial of marriage to same-sex couples did not violate the 14th Amendment; lower federal court barred from ruling on the merits due to Supreme Court's dismissal of appeal in Baker v. Nelson), cert. granted, 2015 WL 213650 (Jan. 16, 2015).

Jackson v. Abercrombie, 585 F. App'x 413 (9th Cir., Hawaii, Oct. 10, 2014) (Hawaii's enactment of marriage equality legislation mooted pending lawsuit challenging state's denial of marriage to same-sex couples; vacating district court's decision that had rejected the plaintiffs' marriage equality claims).

Kitchen v. Herbert, 755 F.3d 1193 (10th Cir., Utah, June 25, 2014), cert. denied, 135 S.Ct. 265 (Oct. 6, 2014), stay lifted, 2014 WL 4960471 (10th Cir., Oct. 6, 2014) (state's denial of marriage to same-sex couples violates Due Process Clause of the 14th Amendment).

Latta v. Otter, 771 F.3d 456 (9th Cir., Idaho, Nevada, Oct. 7, 2014), Idaho's motion for stay denied, 135 S. Ct. 345 (Oct. 10, 2014), petitions for certiorari filed by Idaho defendants (Dec. 30, 2014) (states' denial of marriage to same-sex couples violates the Equal Protection Clause of the 14th Amendment under the heightened scrutiny standard recognized for sexual orientation discrimination in the 9th Circuit).

II. Federal & State Constitutional Law (excluding Marriage Equality Cases)

Bronx Household of Faith v. Bd. of Educ. of City of New York, 750 F.3d 184 (2d Cir. Apr. 3, 2014) (NYC Board of Education's policy against renting school facilities for the holding of religious worship services does not violate the 1st Amendment) (note – Petition for Certiorari is on file with the Supreme Court).

Doe v. Christie, 2014 WL 3765310, 2014 U.S. Dist. LEXIS 104363 (D.N.J., July 30, 2014) (granted motion to dismiss constitutional challenge to statutory ban on sexual orientation change efforts [“conversion therapy”], denied plaintiffs' motion for preliminary injunction, and granted motion by Garden State Equality, New Jersey's state-wide LGBT rights advocacy organization, to intervene).

Elane Photography v. Willock, 309 P.3d 53 (N.M. 2013), cert. denied, 134 S. Ct. 1787 (Apr. 7, 2014) (Supreme Court refused to review New Mexico Supreme Court ruling that state did not violate 1st Amendment Free Speech rights of wedding photographer held liable for refusing to provide services for lesbian commitment ceremony).

Fabrizio v. Providence, 2014 R.I. LEXIS 158 (Rhode Island Supreme Ct., Dec. 19, 2014) (city did not violate free exercise of religion rights of fire fighters by requiring them to staff fire

engine participating in Gay Pride Parade; routine assignment was not forcing the fire fighters to engage in expressive activity of approval).

King v. Governor of the State of New Jersey, 767 F.3d 216 (3rd Cir., Sept. 11, 2014), affirming King v. Christie, 981 F. Supp. 2d 296 (D. N.J. 2013), petition for certiorari filed (rejecting First Amendment free speech and free exercise of religion challenges to a New Jersey statute that prohibits licensed counselors from engaging in “sexual orientation change efforts” (SOCE), also known as conversion therapy, on clients less than 18 years old).

Pickup v. Brown, 740 F.3d 1208 (9th Cir., Cal., Jan. 29), cert. denied, 134 S. Ct. 2871 (June 30, 2014) (amended opinion issued in ruling rejecting 1st Amendment challenge to state law prohibiting licensed health care providers from engaging in “sexual orientation change efforts” with minors; rejecting petition for en banc review, denied review by Supreme Court).

ProtectMarriage.com-Yes on 8 v. Bowen, 752 F.3d 827 (9th Cir., May 20, 2014) (state did not violate 1st Amendment rights of donors to the Proposition 8 campaign by keeping their names on a publicly accessible website long after the vote on the Proposition was taken).

SmithKline Beecham Corp. v. Abbott Labs., 740 F.3d 471 (9th Cir. Cal. 2014), rehearing en banc denied, 759 F.3d 990 (9th Cir., June 24, 2014) (because sexual orientation discrimination claims merit heightened scrutiny in light of U.S. v. Windsor, litigants could not use peremptory challenge to exclude a gay man from a jury).

Vivid Entertainment v. Fielding, 2014 U.S. App. LEXIS 23560, 2014 WL 7332764 (9th Cir., Dec. 15, 2014) (municipal ordinance requiring use of condoms in adult films depicting anal or vaginal intercourse did not violate 1st Amendment rights of filmmakers).

III. Statutory Discrimination Cases (and Claimed Religious Exemptions from Compliance with Discrimination and Other Statutes)

Bennefield v. Mid-Valley Healthcare, 2014 U.S. Dist. LEXIS 116554, 2014 WL 4187529 (D. Or., Aug. 21, 2014) (not officially published) (lesbian former employee could sue a hospital under Title VII for retaliatory discharge even though the complaints she claims to have made before her discharge concerned sexual orientation discrimination).

Boutillier v. Hartford Public Schools, 2014 WL 4794527 (D. Conn., Sept. 25, 2014) (district court denied motion to dismiss lesbian teacher’s Title VII claim, finding adequate allegations that employer may have engaged in gender stereotyping).

Brito v. Walcott, 115 A.D.3d 544, 982 N.Y.S.2d 105 (N.Y. App. Div., 1st Dept., March 20, 2014) (discharge was disproportionate discipline for lesbian teacher found to have engaged in sexual activity with another teacher in a classroom after regular school hours).

Burns v. The Ohio State University College of Veterinary Medicine, 2014-Ohio-1190, 2014 Ohio App. LEXIS 1101 (Ohio Ct. App., 10th Dist., March 25, 2014) (sexual orientation discrimination by school against graduate student would not violate Ohio statutory discrimination law or common law public policy).

Burwell v. Hobby Lobby Stores, 134 S. Ct. 2751 (June 30, 2014) (holding that federal Dictionary Act's definition of "person" to include corporations applies to Religious Freedom Restoration Act; thus closely-held corporate employer whose owners have religious objections to contraception coverage requirements under the Affordable Care Act are entitled to a religiously-based exemption because the mandated coverage funded by the employer is not the "least restrictive alternative" for the federal government to achieve its policy goal of contraceptive coverage).

Carmichael v. Galbraith, 574 F. App'x 286 (5th Cir., June 19, 2014) (reversed the dismissal of a Title IX sex discrimination claim against the Joshua Independent School District brought by the parents of a thirteen-year-old student who committed suicide after unremitting harassment by other male students).

Craig and Mullins v. Masterpiece Cakeshop, Inc., Case No. CR 2013-0008 (Colorado Civil Rights Commission, May 30, 2014) (affirming ruling by ALJ that bakery violated public accommodations law by refusing to make wedding cake for gay male couple).

DeMoss v. Norwalk Board of Education, 21 F. Supp. 3d 154 (D. Conn., May 9, 2014) (gay teacher's sexual orientation discrimination and retaliation complaint survives summary judgment motion; school's purported reason for discharge was pretextual).

Giudice v. Red Robin Int'l, Inc., 555 F. App'x 67 (2d Cir., Feb. 13, 2014) (2nd Circuit hasn't determined yet whether a gay employee can bring a sexual orientation retaliation claim under Title VII).

Hall v. BNSF Railway Company, 2014 U.S. Dist. LEXIS 132878, 2014 WL 4719007, 124 Fair Empl. Prac. Cas. (BNA) 1419 (W.D. Wash., Sept. 22, 2014) (rejecting motion to dismiss discrimination claim against railway for failure to extend benefits coverage to same-sex spouses of employees).

Mendoza v. Western Medical Center Santa Ana, 222 Cal.App.4th 1334 (Cal. 4th Dist. Ct. App., Jan. 14, 2014) (in state discrimination law retaliation case, plaintiff has burden of showing that unlawful motivation was substantial factor in discrimination).

New York State Division of Human Rights v. Liberty Ridge Farm, LLC, 10157952, NYLJ 1202666939841, at *1 (NYSDHR, July 2, 2014) (rural wedding venue violated the state's Human Rights Law by its policy against same-sex weddings because of owners' religious objections).

Salemi v. Gloria's Tribeca Inc., 115 A.D.3d 569, 982 N.Y.S.2d 458 (N.Y. App. Div., 1st Dept., March 20, 2014) (upholding damages for lesbian employee on harassment and constructive discharge claim, finding retaliation for refusing to participate in employer's "prayer meetings").

TerVeer v. Billington, 2014 WL 1280301 (D.D.C. Mar. 31, 2014) (not published in F. Supp. 2d) (refusing to dismiss gay man's Title VII sex discrimination claim even though he is not overtly gender—non—conforming; accepting argument that boss's belief that being gay was not appropriate for a man is sufficient to invoke gender-stereotyping theory of sex discrimination)

IV. Transgender Law Decisions, Statutes and Administrative Rulings

A. Court Opinions

D.F. v. Carrion, 43 Misc.3d 746, 986 N.Y.S.2d 769 (N.Y. Sup. Ct., N.Y. Co., March 21, 2014) (New York City Administration for Children's Services obligations for health care for foster children includes obligation to pay for sex reassignment surgery for transgender youth).

Doe v. Regional School Unit 26, 86 A.3d 60014 (Maine, Jan. 30, 2014) (transgender girl attending a Maine public school is entitled to use the restroom consistent with her gender identity).

Finkle v. Howard County, Md., 2014 WL 1396386 (D. Md. Apr. 10, 2014) (refusing to dismiss transgender plaintiff's Title VII sex discrimination claim).

In re Change of Birth Certificate, 2014 Ind. App. LEXIS 589, 2014 WL 6843414 (Indiana Ct. App., Dec. 4, 2014) (trial court has jurisdiction to order a change of gender designation on birth certificate upon credible petition of transgender individual).

Ingram, In re (Okla. Ct. Civ. App., March 21, 2014) (unreported) (trial court erred in denying name-change petition for transgender applicant based on judge's view that DNA at birth is permanently determinative of gender).

Kosilek v. Spencer, 2014 WL 7139560 (1st Cir., en banc., Dec. 16, 2014) (Massachusetts Department of Correction was not obligated under 8th Amendment to provide sex reassignment surgery (SRS) for inmate serving life sentence for murdering her wife, relying on different of "expert" opinion concerning whether SRS was medically necessary and DOC security concerns about housing this inmate post-operative) (3-judge panel decision to the contrary, 740 F.3d 733 (1st Cir., Jan. 17, 2014), vacated by grant of rehearing en banc, 2014 U.S. App. LEXIS 2660 (Feb. 12, 2014)).

Kothmann v. Rosario, 558 F. App'x 907 (11th Cir., March 7, 2014) (right of transgender inmate to receive hormone treatment is sufficient established to refute qualified immunity claim by prison officials sued under 8th Amendment for denying treatment).

Norsworthy v. Beard, 2014 U.S. Dist. LEXIS 41519, 2014 WL 1477401 (N.D. Calif., March 26, 2014) (pro se transgender inmate may have valid constitutional claim to sex reassignment surgery).

Talipov v. Holder, 2014 WL 6462653, 2014 U.S. App. LEXIS 22047 (Nov. 19, 2014) (not published in F.3d) (rejecting appeal of administrative determination that petitioner, an Uzbeki woman claiming to be transgender, lacked credibility due to inconsistencies and omissions in the applications for asylum, withholding of removal and protection under the Convention Against Torture).

B. Statutes

Arizona — Tempe City Council voted 7-0 to add sexual orientation and gender identity to the city law banning discrimination in employment, housing, and public accommodations.

Arkansas — Voters in Fayetteville repealed a Civil Rights Ordinance in a special election, repudiating the City Council's August 2014 vote to ban discrimination, including on the basis of sexual orientation and gender identity.

District of Columbia — Mayor Vincent Gray announced that all health insurance policies provided or regulated by the District of Columbia would be required to cover medical services for gender transition.

Florida — Miami-Dade County Board of Commissioners voted to add gender identity as a prohibited ground of discrimination in housing, employment and public accommodations under the county's non-discrimination ordinance. * * * The Atlantic Beach City Commission voted to enact an ordinance prohibiting discrimination in employment, housing, financial services, and public accommodations because of sexual orientation or gender identity. * * * The Orlando City Council voted to add gender identity to the city's anti-discrimination ordinance.

Idaho — The Town of Victor and the Lewiston City Council both voted to adopt ordinances that ban discrimination in housing, employment, and public accommodations because of gender identity or expression.

Kansas — Topeka City Council voted add gender identity to prohibited grounds for discrimination in city employment and hiring practices.

Maryland amended its law civil rights law to add "gender identity and expression" to the list of prohibited grounds of discrimination in employment in various areas, including employment, housing, credit, and public accommodations.

Massachusetts — Salem amended its anti-discrimination ordinance to add protection against discrimination in places of public accommodation because of gender identity or expression. (When Massachusetts added gender identity or expression to its state anti-discrimination law

several years ago, it excluded coverage for public accommodations based on the mythology widely asserted by conservative politicians that such coverage would lead to men posing as women sexually assaulting women in public restrooms, a phenomenon that has not been shown to occur in any jurisdiction where such laws are in effect.)

Michigan — Wayne County Executive Robert Fricano signed an executive order adding sexual orientation and gender identity to the county's anti-discrimination policy. * * * Macomb County Commissioners voted to amend the county's anti-discrimination policy to add "sexual orientation" and "gender identity" as prohibited grounds for discrimination against county employees.

Mississippi — City of Oxford's Board of Alderman voted to approve a resolution adding sexual orientation and gender identity to the city's diversity statement; other municipalities also passed policy statements along these lines.

Missouri — The Springfield City Council approved a bill to add sexual orientation and gender identity to the city's non-discrimination ordinance. Sufficient petition signatures were submitted to require a repeal referendum in the spring of 2015 if the Council does not repeal the measure.

Montana — Butte—Silver Bow County Commissioners voted 10-2 to approve an ordinance that bans discrimination in housing, employment, or public accommodations because of sexual orientation or gender identity. * * * Bozeman City Commissioners voted to adopt an ordinance prohibiting discrimination in employment, housing, and public accommodations because of sexual orientation or gender identity.

New Mexico – Otero County Commission voted to amend the county's personnel policy to add all state and federally-protected classifications, including sexual orientation, gender identity, and disability.

New York – A New York City ordinance protecting unpaid interns from discrimination includes as prohibited grounds sexual orientation and gender identity * * * New York City Council approved a bill that will make it easier for transgender people to obtain accurate birth certificates, updating current policies to dispense with onerous medical requirements that had previously been imposed, including the requirement of surgical transition.

North Carolina – The Raleigh City Council voted unanimously on October 21 to add protection against discrimination because of gender identity to the city's human rights ordinance, which has long prohibited sexual orientation discrimination.

Ohio — Toledo City Council voted to strengthen hate crimes ordinance to specifically protect transgender people.

Pennsylvania — City Council of Philadelphia approved a bill that would make it a crime to injure somebody because of sexual orientation, gender identity, or disability.

South Carolina –Latta Town Council voted to pass an ordinance forbidding discrimination in municipal employment because of sexual orientation or gender identity.

Texas — Dallas City Council voted approved resolution constituting a “comprehensive statement of support” for the city’s LGBT employees, and the voters subsequently approved a charter amendment to protect municipal employees from discrimination because of sexual orientation, gender identity, and other specified characteristics. * * * Houston enacted an ordinance forbidding discrimination because of sexual orientation or gender identity. * * * Plano City Council revised ordinance prohibiting discrimination because of a resident’s sexual orientation or gender identity, but the ordinance exempts religious and political groups and non-profit organizations from any obligation to comply with this prohibition, and allows private businesses a religious exemption as well.

Virginia — Virginia Governor Terry McAuliffe issued Executive Order No. 1 – Equal Opportunity, prohibiting discrimination in state employment and services based, inter alia, on sexual orientation and gender identity.

Wisconsin — Milwaukee County Board voted to add sexual orientation and gender identity and expression to the county’s anti-discrimination ordinance. * * * Cudahy Common Council voted to adopt a ban on discrimination because of gender identity or expression.

C. Administrative Rulings

President Barack Obama signed Executive Order 13672 on July 21, 2014, amending Executive Order 11478, which forbids employment discrimination in the executive branch of the federal government, to add “gender identity” to prohibited grounds of discrimination, and Executive Order 11246, which forbids discrimination by federal contractors, to add “sexual orientation” and “gender identity” as prohibited grounds of discrimination by government contractors. EO 11246 amendments to take effect with new federal contracts issued beginning in the spring of 2015, after issuance of regulations by Labor Department.

U.S. Department of Education issued Guidelines making clear that Title IX of the Education Amendments Act prohibits gender identity discrimination (as a form of sex discrimination) against students in schools that receive federal financial assistance.

U.S. Department of Health and Human Services – The Department of HHS Departmental Appeals Board – Appellate Division ruled that the existing “National Coverage Determination” (NCD) dating from 1981 is no longer valid and its provisions “are no longer a valid basis for denying claims for Medicare coverage of transsexual surgery, and local coverage determinations (LCDs) used to adjudicate such claims may not rely on the provisions of the NCD.” NCD 140.3, Transsexual Surgery; Docket No. A-13-87, Decision No. 2576, May 30, 2014).

U.S. Department of Justice issued a Guidance document under the Violence Against Women Act clarifying that violence directed at transgender women should be included within the coverage of Domestic Violence programs that received federal financial assistance.

U.S. Department of Justice – Attorney General Eric Holder distributed a memorandum to federal law enforcement officials announcing that DOJ now considered discrimination because of gender identity or expression to be a violation of Title VII of the Civil Rights Act and other federal statutes prohibiting sex discrimination.

U.S. Department of Labor – The DOL published regulations for enforcement of President Obama’s Executive Order banning discrimination because of gender identity or sexual orientation by federal contractors at 79 Fed. Reg. 72,985.

Illinois – State’s Department of Insurance issued a bulletin to private insurers advising that under Illinois law, as well as the federal Affordable Care Act, insurers may not discriminate because of gender identity in the coverage scope of their policies.

New York – Health Insurance policies sold in the state must cover sex reassignment surgery and other medical treatment required for gender transition under new policy announced by Governor Andrew Cuomo * * * The New York State Department of Health changed its long-standing position and announced that transgender New Yorkers will no longer be required to present proof of gender reassignment surgery or hormone treatments in order to change the gender marker on a birth certificate.

Oregon – The Health Evidence Review Commission voted to amend the list of covered conditions under the Oregon Health Plan, the state’s Medicaid program, to add hormone therapy and surgical healthcare for transgender residents.

Rhode Island – The Department of Health has put new regulations in place that remove the requirement that transgender people have sex reassignment surgery as a prerequisite to getting a substitute birth certificate showing their desired gender.

Washington – The Washington State Insurance Commissioner issued a statement on June 25 that all health insurance policies, both public and private, must cover gender transition-related care, and cannot discriminate because of gender identity in the provision of coverage.

School Districts in several jurisdictions have adopted Transgender Policies that allow transgender students to use restroom and locker room facilities consistent with their gender identity and to compete in athletic competition in their preferred gender under certain circumstances.

V. Asylum, Withholding of Removal and Convention Against Torture Cases

Codner v. Attorney General, 550 F. App'x 124, 2014 U.S. App. LEXIS 537 (3rd Cir. January 10, 2014) (remand for reconsideration of Jamaican's evidence regarding his sexual orientation).

De Los Santos v. Holder, 551 F. App'x 182, 2014 U.S. App. LEXIS 354 (Jan. 8, 2014) (being sexually abused by a relative is not grounds for relief under the CAT).

F.A. v. Holder, 565 F. App'x 603 (Mem) (9th Cir. Mar. 20, 2014) (State Department country report did not support claim that gay man would be subject to government persecution in Jordan).

Gutierrez v. Attorney General, 576 F. App'x 81 (3rd Cir., Aug. 12, 2014) (deportable gay HIV+ Mexican failed to show he could not receive adequate medical care in Mexico or that he would be subject to persecution due to his sexual orientation).

J.T. v. Sealed Respondent, 567 F. App'x 231 (5th Cir., May 6, 2014) (despite horrendous situation for gay people in Jamaica, asylum denial upheld due to petitioner's criminal record in the U.S.).

Kanin v. Holder, 2014 U.S. App. LEXIS 22357 (9th Cir., Nov. 26, 2014) (remanding for further fact-finding proceedings of gay Russian man's asylum claim).

Konou v. Holder, 750 F.3d 1120 (9th Cir., May 9, 2014) (affirmed BIA's denial of relief under Convention Against Torture for gay man from Marshall Islands who was convicted in the U.S. of assault with a deadly weapon against his boyfriend; record supported BIA's conclusion that there was no documentation that a gay man in Marshall Islands was likely to be tortured because of his sexual orientation).

Lin v. Attorney General, 556 F. App'x 138 (Feb. 24, 2014) (unpublished disposition) (record does not support pattern or practice of discrimination against homosexuals in China).

Lomeli v. Holder, 561 F. App'x 630 (Mem) (9th Cir. Mar. 11, 2014) (efforts by Mexican government to protect gay people from assault or discrimination undermine petitioner's attempt to seek CAT protection).

Malu v. U. S. Attorney General, 764 F.3d 1282 (11th Cir., Aug. 19, 2014) (a lesbian who clearly suffered heinous acts in the Congo had to have contested her status as an aggravated felon in an expedited removal proceeding, as prerequisite to raising the issue before the court of appeals).

Masiko v. Holder, 562 F. App'x 469 (6th Cir. Apr. 14, 2014) (refusal to review denial of asylum to allegedly gay man from Uganda, where case turned on IJ's credibility determination and record showed numerous inconsistencies in petitioner's testimony).

Petrosyan v. Holder, 583 F. App'x 683 (9th Cir., July 16, 2014) (factual inconsistencies in the record undermined credibility of Armenian lesbian asylum petitioner).

Sanchez-Cacatzun v. Holder, 558 F. App'x 434 (5th Cir. Mar. 14, 2014) (petitioner failed to make a factual record supporting claim of anti—gay persecution in Guatemala).

Soriano v. Holder, 2014 U.S. App. LEXIS 1454 (Jan. 24, 2014) (not designated for publication) (forget CAT claims from El Salvador).

Sudakova v. Holder, 563 F. App'x 36 (2d Cir. Apr. 18, 2014) (refuses to review merits of Board of Immigration Appeals' ruling reversing Immigration Judge's grant of asylum to lesbians from Russia, finding that appeal went to BIA's factual findings, not questions of law).

Talipov v. Holder, 2014 WL 6462653, 2014 U.S. App. LEXIS 22047 (Nov. 19, 2014) (not published in F.3d) (rejecting appeal of administrative determination that petitioner, an Uzbeki woman claiming to be transgender, lacked credibility due to inconsistencies and omissions in the applications for asylum, withholding of removal and protection under the Convention Against Torture).

Tian v. Holder, 564 F. App'x 242 (7th Cir., July 28, 2014) (Immigration officials, Immigration Judges and the Board of Immigration Appeals are not required to accept as true the uncorroborated testimony of those seeking refugee status that they are gay; at least, that is the clear message of the 7th Circuit's unsigned opinion).

Vukaj v. U.S. Atty. Gen., 560 F. App'x 856 (11th Cir. Mar. 20, 2014) (petitioner's difficulty in coming to terms with his sexual orientation did not excuse delay of more than a year by gay Albanian in filing asylum petition).

VI. LGBT Family Law Rulings (Apart from Marriage Equality)

Appling v. Walker, 853 N.W.2d 888 (Wis., July 31, 2014) (domestic partnership status created by Wisconsin legislature in 2009 for same-sex couples was constitutionally permissible despite 2006 state constitutional amendment banning any "legal status identical or substantially similar to that of marriage").

Arriaga v. Dukoff, 2014 WL 7332764 (N.Y. App. Div., 2d Dept., Dec. 24, 2014) (birth mother judicially estopped from denying parental status of former partner in custody/visitation litigation, as she had previously asserted such parental status successfully in an action for child support).

Bassett v. Snyder, 2014 U.S. Dist. LEXIS 159253, 2014 WL 5847607 (E.D. Mich., Nov. 12, 2014) (Michigan's Public Employee Domestic Partner Benefit Restriction Act, Public Act 297 violates the Equal Protection Clause of the 14th Amendment by targeting same-sex couples for denial of partner benefits for no rational reason).

Berwick v. Wagner, 2014 WL 4493470, 2014 Tex. App. LEXIS 10182 (1st Dist. Ct. App., September 11, 2014) (affirmed ruling appointing former same-sex partner of father whose child was born through surrogacy to be sole managing conservator and biological father as possessory conservator of the minor child).

Blumenthal v. Brewer, 2014 Ill App (1st) 132250, 2014 Ill. App. LEXIS 904 (App. Ct. Ill., Dec. 19, 2014) (former same-sex partner can sue for equitable division of real property asset upon dissolution of partnership; old contrary precedent has been superceded by developments in the law concerning LGBT rights).

Davis v. Blackstock, 2014 Ala. Civ. App. LEXIS 83 (Ala. Civ. App., May 9, 2014) (father's religious objection to mother leaving child on occasion with lesbian aunt was not grounds for change of custody).

Eldredge v. Taylor, 2014 Okla. 92, 2014 WL 5839981 (Nov. 12, 2014) (lesbian co-parent had standing to seek enforcement of co-parenting agreement upon dissolution of same-sex union).

Hall v. Hall, 134 So. 3d 822 (Miss. Ct. App., March 25, 2014) (affirming change of custody from lesbian mother to father; trial court's citation of mother's "moral fitness" did not taint its ruling, in light of changed circumstances and problems with mother's performance as a custodial parent).

Harris v. Millennium Hotel, 330 P.3d 330 (Alaska Sup. Ct., July 25, 2014) (surviving same-sex partner of a hotel employee who was shot and killed while at work may qualify to receive spousal death benefits under Alaska's Workers' Compensation Law).

In re Doe, 326 P.3d 347 (Idaho, Feb. 10, 2014) (construing Idaho adoption law to allow second-parent adoptions).

In the Estate of Araguz, 443 S.W.3d 233 (February 13, 2014) (validity of marriage of transgender person turns in legal gender status at the time of the wedding).

In re Guardianship of Madelyn B., 98 A.3d 494 (N.H., July 2, 2014) (adopting a gender-neutral interpretation of the state's paternity laws, held that a lesbian co-parent was entitled to pursue parental rights of a child born during her relationship with her former partner, and that if her parental rights were established, she could intervene to oppose adoption of the child by her former partner's husband).

Jackson v. Jackson, 2014 Miss. App. LEXIS 638 (Miss. Ct. App., Nov. 4, 2014) (husband's homosexual activities, together with one incident of sexual assault of a minor boy, combined to constitute cruel and inhuman treatment of his wife, making the marriage repugnant to her when she learned about these activities, thus justifying the divorce decree).

K.A.F. v. D.L.M., 96 A.3d 975 (N.J. App. Div., Aug. 6, 2014) (consent of only one legal parent is necessary to the determination whether a third party has formed a relationship with a child sufficient to meet the requirements of the “exceptional circumstances” doctrine as a psychological parent).

Kristin L. v. Benjamin W., 2014 Alas. LEXIS 111, 2014 WL 2716842 (Alaska S. Ct., June 11, 2014) (not reported in P3d) (affirmed superior court’s decision in favor of a father in a custody dispute stemming from mother’s adverse reaction to her son identifying as female).

In re Adoption of J.J., 44 Misc.3d 297 (N.Y. Fam. Ct. Apr. 3, 2014) (New York’s ban on surrogacy contracts does not present an impediment to consideration of an adoption petition from the same-sex spouse of a man whose twins were conceived and born through a gestational surrogacy contract with a woman in India).

Matter of Adoption of D.P.P.; G.P. v. C.P., 2014 WL 2109130 (Fla. Ct. App., 5th Dist., May 21, 2014), rev. denied, 148 So.3d 769 (Fla., Aug. 11, 2014) (woman was estopped from invoking the jurisdiction of the circuit court to void the adoption of her child by her former same-sex partner).

Matter of Seb C-M, NYLJ 1202640083455 (N.Y. County, Surrogate’s Court, Jan. 6, 2014) (Held that a married lesbian had no need to adopt the child born to her same-sex spouse conceived through donor insemination, due to marital presumption).

Moreau v. Sylvester, 2014 Vt. 31, 95 A.3d 416 (Vermont Supreme Court, April 4, 2014) (rejected “de facto parent” theory for purposes of custody/visitation disputes involving unmarried partners).

Mueller v. Tepler, 312 Conn. 631, 95 A.3d 1011 (July 16, 2014) (woman whose same-sex partner was misdiagnosed with the wrong kind of cancer when it was too late for effective medical treatment can assert a claim for damages for loss of consortium if she can show that women would have married had they not been prevented from doing so by state law).

N.J. Division of Child Protection and Permanency v. P.M., 2014 WL 1394179 (N.J. Appellate Division, April 11, 2014) (unpublished opinion) (upholding decision to remove lesbian teen from custody of mother who threatened, cursed, degraded and belittled the child, making her “feel angry, sad, unloved, unwanted, worthless and misplaced”).

Q.M. v. B.C. and J.S., 995 N.Y.S.2d 470 (N.Y. Supreme Ct., Monroe Co., October 21, 2014) (Biological father who had affair with married lesbian could bring a paternity action, since marital presumption would not apply to hold that lesbian’s same-sex spouse was the parent of the child).

Roe v. Empire Blue Cross Blue Shield, 2014 U.S. Dist. Lexis 61345 (S.D.N.Y., May 1, 2014), aff’d, 2014 U.S. App. LEXIS 24247 (2nd Cir., Dec. 23, 2014) (an employee who is lesbian-identified could not sue her hospital employer, St. Joseph’s Medical Center (St. Joseph’s), nor its

administrator, Empire Blue Cross and Blue Shield (Blue Cross) under ERISA for refusing to enroll her wife in the employee health insurance plan).

S.M. v. E.C., 2014 Cal. App. Unpub. LEXIS 4574 (Cal. Ct App, 5th Dist., June 27, 2014) (Unpublished disposition) (new statute allowing for a child to have more than two legal parents can be retroactively applied; remand to determine whether sperm donor should be designated a legal parent of child conceived for lesbian couple through donor insemination, while upholding trial court's finding that lesbian co-parent of birth mother was a legal parent of the child.)

State of Alaska v. Schmidt, 323 P.3d 647 (Alaska, April 25, 2014) (Alaska Marriage Amendment does not preclude claim by same-sex couples to equal treatment under state tax laws).

Walsh, In re Domestic P'ship (Walsh v. Reynolds), 335 P.3d 984 (Wash. App., Div. 2, Sept. 30, 2014) (Superior Court correctly applied equitable division principles concerning property of a lesbian couple who had registered as domestic partners in Washington in 2009 after having been registered as domestic partners in California, their previous state of residence, since 2001; but trial judge erred in dating the women's "equity relationship" back only to 2005, the year California domestic partnership was expanded to provide virtually all state law rights of marriage, finding that under Washington common law the court should have considered the relationship going all the way back to the beginning of the women's cohabitation as potentially qualifying for the application of community property principles).

Wendy G-M. v. Erin G-M., 2014 WL 1884486 (N.Y. Sup. Ct., Monroe County, May 7, 2014) (New York common law presumption that a child born during a marriage is the legitimate child of both parents applies to a married lesbian couple and can override the lack of an acknowledgement on a consent form authorizing donor insemination).

VII. Criminal Law

Burke v. Commonwealth, 2014 Ky. App. Lexis 123 (Ky. Ct. App., July 18, 2014) (plaintiff unsuccessfully challenged the constitutionality of Kentucky's hate crime statute, KRS 532.021).

Commonwealth v. Taman, 2014 MP 8, 2014 N. Mar. I. LEXIS 13, 2014 WL 4050021 (Aug. 14, 2014) (Supreme Court of the Commonwealth of the Northern Mariana Islands rejected a criminal defendant's argument that her prosecution for prostitution activities was precluded by the U.S. Supreme Court's ruling in Lawrence v. Texas).

J.O. v O.E., 100 A.3d 478 (D.C. Ct. App., Oct. 2, 2014) (trial judge's decision improperly relied on a defendant's testimony about his sexual orientation, claiming that he is heterosexual, as proof that he did not commit a sexual assault on another male).

People v. Davis, 117 A.D.3d 749, 986 N.Y.S. 2d 488 (N.Y. App. Div., 2nd Dep't, May 7, 2014) (jury could have believed that male defendant engaged in erotic asphyxiation play with male

partner did not intend to cause his death, justifying reduction of conviction from second degree murder to manslaughter, as only evidence in the trial record on motive was testimony of the defendant to that effect).

People v. DeLee, 2014 N.Y. LEXIS 3323, 2014 WL 6607357, 2014 NY Slip Op 08212 (N.Y. Ct. App., Nov. 24, 2014) (Appellate Division had correctly reversed hate crime manslaughter conviction of Dwight R. DeLee, who was charged in the murder of a New York transgender woman named Lateisha Green, because the jury's verdict was inconsistent in acquitting DeLee on charge of manslaughter but convicting on charge of manslaughter as a hate crime; remand for new trial on charge of manslaughter as a hate crime).

Perry v. Berguis, 2014 WL 3500386, 2014 U.S. Dist. LEXIS 95110 (W.D. Mich., July 14, 2014) (not officially published) (rejecting a claim in the context of a habeas corpus proceeding that a man was unconstitutionally convicted of incest for having consensual, private sex with his adult niece).

Saunders v. Commonwealth, 62 Va. App. 793, 753 S.E.2d 6022 (Court of Appeals of Virginia, Feb. 4, 2104) (sodomy law could still be applied constitutionally to a man who had sex with a minor).

State of Idaho v. Hamlin, 324 P.3d 10062014 WL 1687137 (Id. Ct. App., April 30, 2014) (Lawrence v. Texas decision did not bar the prosecution of a man with mild mental retardation for initiating sex with another man suffering more severe retardation).

State of Kansas v. Franco, 319 P.3d 551 (Kan. Ct. App. 2014) (because of Lawrence v. Texas, consensual sodomy cannot be prosecuted as a lesser-included-offense in a case of rape or sexual assault).

State of Tennessee v. Hogg, 2014 WL 4748096 (September 25, 2014) (rejecting an HIV-positive man's appeal of a virtual life sentence imposed on him for having unprotected sex with a fifteen-year-old boy without disclosing his HIV status, even though there is no evidence that HIV was transmitted to the boy).

State of Washington v. Mercado, 181 Wash. App. 624, 326 P.3d 154 (Wash. Ct. App., 3rd Div., June 5, 2014) (in order to require a person who pleads guilty to possession of a controlled substance to submit to HIV testing, trial court must find that defendant's use of controlled substance involved hypodermic needles).

Toghill v. Commonwealth, 2014 WL 545728 (Feb. 11, 2014) (not officially published) (sodomy law could still be applied constitutionally to a man who had sex with a minor).

United States v. Bates, 2014 WL 5421846, 2014 U.S. App. LEXIS 20564 (Oct. 27, 2014) (not selected for publication in F.3d) (vacating a child pornography conviction after concluding that

the trial judge erred by denying defendant's request that potential jurors be questioned about their attitudes concerning homosexuality).

United States v. Delgado-Marrero, 744 F.3d 167 (1st Cir. 2014) (introduction of evidence of defendant's sexual orientation in a criminal trial for drug and gun charges was improper but was a harmless error).

United States v. Dunton, 2014 CCA LEXIS 333, 2014 WL 3510236 (U.S. Navy-Marine Corps Ct. Crim. App., May 29, 2014) (affirming court-martial conviction of gay corporal who had a tendency to get drunk and then put the moves on men of the same or lesser rank when they were also inebriated and not capable of giving consent).

United States v. Gutierrez, 2014 CCA LEXIS 110 (U.S. Air Force Ct. Crim. App., Feb. 25, 2014) (14th Amendment protection for consensual private sex does not extend to group sex situations).

United States v. Sutton, 2014 CCA LEXIS 610 (U.S. Air Force Ct. Crim. App., Aug. 21, 2014) (An openly gay service member who was convicted at a court martial of wrongful sexual contact and sentenced to 30 days confinement, reduction in grade, and a bad conduct discharge, was not entitled to have excluded from the jury an officer who stated that she believed homosexual conduct could be perceived as immoral and who belonged to a church that condemned homosexual conduct on moral grounds, or to have excluded evidence that he had engaged in similarly uninhibited conduct in the past).

Williams v. State of Alabama, 2014 Ala. Crim. App. LEXIS 42, 2014 WL 2677722 (June 13, 2014) (holding that pursuant to Lawrence v. Texas the state could not convict a man of sexual misconduct for an act of consensual anal sex with another man).

VIII. Trusts & Estates Law (including Tax Issues)

Estate of Frappolli v. Director, Division of Taxation, 2014 WL 2567138 (N.J. Tax Ct., June 5, 2014) (tax benefits provided for same-sex couples under the New Jersey Domestic Partnership Act could not be applied to lesbian partners because they never legally registered as domestic partners and failed to file an Affidavit of Domestic Partnership as required by statute).

Estate of Langman, 2014 WL 2708758, 2014 Cal. App. Unpub. LEXIS 4189 (Cal. Ct. App., 6th Dist., July, 2014) (held that Superior Court correctly resolved a battle for appointment as administrator for the Estate of Kirk Langman between Langman's father and a man claiming to have been his domestic partner).

In the Matter of Ranftle, 22 N.Y.3d 1146, 7 N.E.3d 500, 984 N.Y.S.2d 287 (March 27, 2014), cert. denied sub nom. Ranftle v. Leiby, 135 S. Ct. 270 (Oct. 6, 2014) (rejecting contention that decedent was domiciliary of Florida upon his death, which would have required court to ignore

his Canadian same-sex marriage in determining disposition of Florida property in the estate and to notify his surviving siblings of the probate proceeding).

In the Matter of Scavullo, 2014 N.Y. Misc. LEXIS 3219, 2014 N.Y. Slip Op 31848 (U) (N.Y. Co. Surrogate's Court, July 14, 2014) (Surrogate construed will to increase gay fashion designer's bequest to his mother as opposed to his same-sex partner).

IX. Prisoner Rights (excluding transgender and AIDS cases listed elsewhere)

Saintal v. Cox, 2014 U.S. Dist. LEXIS 93765, 2014 WL 3421558 (D. Nev., July 10, 2014) (rejecting challenge to Nevada prison regulation that forbids inmates from forming domestic partnerships, holding that rule was reasonable application of Nevada domestic partnership statute that required couple to share a "common residence" at least "part-time" where one was incarcerated at time of application).

White v. Hodge, 2014 WL 1304937, 2014 U.S. Dist. LEXIS 44075 (S.D. Ill., Apr. 1, 2014) (gay prisoner stated a claim for denial of Equal Protection when prison denied him access to jobs because his sexual orientation made him "vulnerable").

Wright v. Miller, 561 F. App'x 551 (7th Cir., April 14, 2014) (reversing summary judgment, reinstating 8th Amendment claim of vulnerable gay prisoner whose request for protective custody was denied).

X. Legislative & Administrative Developments (United States)

President Barack Obama signed Executive Order 13672 on July 21, 2014, amending Executive Order 11478, which forbids employment discrimination in the executive branch of the federal government, to add "gender identity" to prohibited grounds of discrimination, and Executive Order 11246, which forbids discrimination by federal contractors, to add "sexual orientation" and "gender identity" as prohibited grounds of discrimination by government contractors.

U.S. Food & Drug Administration announced that it would modify regulations on blood donation to end the lifetime ban on donations by men who had sex with other men any time since 1977. Under new proposal, only men who had sex with other men within a year of the date of donation would be deferred. Anybody infected with HIV would be deferred.

U.S. Centers for Medicare and Medicaid Services issued a memorandum stating that an health insurer that provides coverage to opposite-sex spouses may not deny coverage to same-sex spouses, citing 45 CFR 147.104(e), which provides that non-grandfathered group or individual health insurance coverage cannot employ marketing practices or benefits designs that discriminate on the basis of, inter alia, sexual orientation.

U.S. Department of Justice – Attorney General Holder distributed a memorandum to federal law enforcement officials announcing that DOJ now considered discrimination because of gender

identity or expression to be a violation of Title VII of the Civil Rights Act and other federal statutes prohibiting sex discrimination.

U.S. Department of Labor – The DOL published regulations for enforcement of President Obama’s Executive Order banning discrimination because of gender identity or sexual orientation by federal contractors at 79 Fed. Reg. 72,985.

U.S. Internal Revenue Service — On April 5, 2014, the IRS released “Application of the Windsor Decision and Rev. Rul. 2013-17 to Qualified Retirement Plans,” Notice 2014—19, 2014 WL 1334128. This specifies changes to plans required to comply with federal recognition of same-sex marriages.

Arizona — Tempe City Council voted 7-0 to add sexual orientation and gender identity to the city law banning discrimination in employment, housing and public accommodations. Subsequently 69% of the voters approved new law in a repeal referendum. * * * Glendale City Council voted to approve a Unity Pledge proposed by the human rights group One Community, asking business and government entities to support equal treatment in housing, employment, and hospitality for LGBT people.

Arkansas — Voters in Fayetteville repealed a Civil Rights Ordinance in a special election, repudiating the City Council’s August 2014 vote to ban discrimination, including on the basis of sexual orientation and gender identity.

California – New laws enacted during 2014 that go into effect during 2015: Respect after Death Act (death certificates for transgender people will record their lived identities, not their recorded gender at birth); A.B. 2501 (prohibits the use of the “gay panic” defense in criminal proceedings to reduce murder charges to manslaughter); A.B. 496 (expands existing cultural competency training requirements in continuing medical education curriculum to include a discussion of LGBT—specific issues); A.B. 1678 (expands a Supplier Diversity Program applicable to public utilities so that LGBT-owned businesses will enjoy the same treatment as businesses owned by women, disabled veterans or minorities); AB. 2344 (simplifies the use of reproductive technology in ways that should be helpful to same-sex couples seeking to have children); A.B. 966 (mandating the Department of Corrections to develop a plan for condom distribution in state prisons; S.B. 1306 (provides that all laws relating to rights and responsibilities of marriage apply equally to same-sex and different-sex marriages).

District of Columbia — All health insurance policies provided or regulated by the District of Columbia would be required to cover medical services for gender transition. * * * Licensed health-care professionals are forbidden from practicing “sexual orientation change efforts” on minors under a new ordinance patterned on statutes enacted in California and New Jersey.

Florida – Pembroke Pine’s Commissioners voted to extend benefits to employees in domestic partnerships. * * * Punta Gorda City Council voted to approve a domestic partnership law

extending to unmarried gay and straight couples some of the same legal rights under local laws enjoyed by married couples. * * * The Atlantic Beach City Commission voted to enact an ordinance prohibiting discrimination in employment, housing, financial services, and public accommodations because of sexual orientation or gender identity. * * * The Palm Beach City Commission voted to require city contracts to carry an obligation for the contractor to provide equal family benefits to all employees, including those in same-sex relationships. * * * The Boynton Beach City Commission voted to allow employees to enroll their domestic partners in the city's insurance plan. * * * The Hillsborough County Commission voted to approve a domestic partnership registry.

Georgia – Although Georgia does not allow or recognize same-sex marriages, the Marietta City Council in Marietta voted to recognize such marriages for purposes of city employee retirement benefits.

Idaho – Town of Victor approved an ordinance that forbids discrimination in employment, housing, and public accommodations because of sexual orientation or gender identity. * * * Lewiston City Council voted to adopt an ordinance that bans discrimination in housing, employment, and public accommodations because of sexual orientation, gender identity or expression, and familial status.

Iowa responded to litigation about criminal liability for exposure to HIV by revising the statute to be more sensitive to up-to-date facts about the effect of medication on transmissibility, and to establish penalty levels sensitive to issues of intent.

Kansas — Topeka City Council voted to establish a municipal domestic partnership registry, open to both same-sex and different-sex couples, and to make a good faith effort to contract to provide health coverage for registered domestic partners of city employees. The Council also voted to add gender identity to prohibited grounds for discrimination in city employment and hiring practices.

Maryland amended its law civil rights law to add “gender identity and expression” to the list of prohibited grounds of discrimination in employment in various areas, including employment, housing, credit, and public accommodations.

Massachusetts – The state enacted “An Act Relative to Bullying in Schools” which requires inclusion of LGBT students as vulnerable to bullying in school prevention policies and activities. * * * The state announced that its Medicaid program would henceforth cover medical expenses of gender transition. * * * Salem amended its anti-discrimination ordinance to add protection against discrimination in places of public accommodation because of gender identity or expression. (When Massachusetts added gender identity or expression to its state anti-discrimination law several years ago, it excluded coverage for public accommodations based on the mythology widely asserted by conservative politicians that such coverage would lead to men

posing as women sexually assaulting women in public restrooms, a phenomenon that has not been shown to occur in any jurisdiction where such laws are in effect.)

Michigan — Wayne County Executive Robert Fricano signed an executive order adding sexual orientation and gender identity to the county’s anti-discrimination policy. * * * Macomb County Commissioners voted to amend the county’s anti-discrimination policy to add “sexual orientation” and “gender identity” as prohibited grounds for discrimination against county employees.

Minnesota – Enacted legislation to strengthen measures against bullying in schools directed at LGBT students.

Mississippi — Mississippi Religious Freedom Restoration Act was enacted, protecting religious objectors from having to provide goods or services that offend their religious beliefs. * * * The city of Oxford’s Board of Alderman voted to approve a resolution adding sexual orientation and gender identity to the city’s diversity statement. * * * Several municipalities adopted resolutions affirming the right of all citizens to equal treatment and freedom from discrimination, but many refrained from spelling out prohibited grounds of discrimination. The debates over these resolutions made clear that they were responsive to the recent passage of the Mississippi Religious Freedom Restoration Act, to signal these municipalities’ opposition to the idea that businesses should be allowed to discriminate against LGBT citizens.

Missouri — The Springfield City Council approved a bill to add sexual orientation and gender identity to the city’s non-discrimination ordinance. Sufficient petition signatures have been filed to require a repeal referendum in the spring of 2015 unless the Council repeals the measure.

Montana — Butte-Silver Bow County Commissioners voted 10-2 to approve an ordinance that bans discrimination in housing, employment or public accommodations because of sexual orientation or gender identity. * * * Bozeman City Commissioners voted to adopt an ordinance prohibiting discrimination in employment, housing, and public accommodations because of sexual orientation or gender identity.

Nevada — Nevada Division of Child and Family Services revised its regulations so that HIV-positive people are no longer categorically excluded from being licensed to be foster parents.

New Mexico – Otero County Commission voted to amend the county’s personnel policy to add all state and federally-protected classifications, including sexual orientation, gender identity, and disability.

New York – The New York City Council enacted an ordinance protecting unpaid interns from discrimination that includes as prohibited grounds sexual orientation and gender identity

Ohio – Cincinnati City Council approved a domestic partner registry bill intended to provide a mechanism for city agencies and private employers to extend formal recognition to same-sex partners.

Pennsylvania — City Council of Philadelphia approved a bill that would make it a crime to injure somebody because of sexual orientation, gender identity, or disability.

South Carolina – Latta Town Council voted to pass an ordinance forbidding discrimination in municipal employment because of sexual orientation or gender identity

Tennessee – Chattanooga residents voted against adoption of an ordinance that would have banned discrimination because of sexual orientation or gender identity and extended benefits to same-sex partners of city employees.

Texas — Bexar County Commissioners voted to extend county employee benefits to include domestic partners of employees. * * * The Dallas City Council voted approved resolution constituting a “comprehensive statement of support” for the city’s LGBT employees, and the voters subsequently approved a charter amendment to protect municipal employees from discrimination because of sexual orientation, gender identity, and other specified characteristics * * * Houston enacted an ordinance forbidding discrimination because of sexual orientation or gender identity * * * Plano passed an anti-discrimination ordinance, but included broad religious exemptions likely to shelter the most discriminatory businesses from liability.

Virginia — Virginia Governor Terry McAuliffe issued Executive Order No. 1 - Equal Opportunity, prohibiting discrimination in state employment and services based, inter alia, on sexual orientation and gender identity. * * * Responding to continuing litigation under the state’s unconstitutional sodomy law, the legislature approved a revision that decriminalizes consensual same-sex activity between adults in private.

Wisconsin — Milwaukee County Board voted to add sexual orientation and gender identity and expression to the county’s anti—discrimination ordinance

XI. AIDS Law Court Cases (United States) (Legislative & Administrative Policies Listed Separately under Legislative & Administrative Developments (United States) and International Developments otherwise)

Doe v. Griffon Management LLC, 2014 U.S. Dist. LEXIS 171779 (E.D. La., Dec. 11, 2014) (allowing HIV-positive plaintiff to proceed anonymously as Jane Doe in housing discrimination claim).

Gorrell v. Haynes, 567 F. App’x 818 (11th Cir., May 28, 2014) (holding that an HIV+ inmate who claimed a prison nurse, physician and warden violated his civil rights because he did not

receive his medication three times over a five-week period, found that each defendant was entitled to qualified immunity because the law did not clearly establish a prisoner's right to medication within such a short time).

Gutierrez v. Attorney General, 576 F. App'x 81 (3rd Cir., Aug. 12, 2014) (deportable gay HIV-positive Mexican failed to show he could not receive adequate medical care in Mexico).

C.E. v. Prairie Fields Family Med. P.C., 287 Neb. 667, 844 N.W.2d 56 (2014) (plaintiff could maintain tort action for emotional distress on charges that medical practice had not preserved confidentiality of her HIV-related information).

In re John R. Bradley, 2014 WL 2612482, 2014 Bankr. LEXIS 2557 (D. Mass., June 11, 2014) (a woman who contracted HIV from her husband during their honeymoon and who subsequently won a California state court judgment against him for negligence, negligent infliction of emotional distress, intentional infliction of emotional distress and fraud, awarding total damages of \$12.5 million, had not met statutory requirements for excepting this judgment from discharge in her ex-husband's subsequent bankruptcy proceeding).

Lundy v. Phillips Staffing, 2014 U.S. Dist. LEXIS 26532, 2014 WL 811544 (D.S.C., March 3, 2014) (not officially published) (refusing to dismiss discrimination suit brought by HIV-positive man who was discharged for failing to disclose his HIV-status on post-employment medical questionnaire).

Nolan v. Getty Images (US), Inc., 2014 N.Y. Misc. LEXIS 981, 2014 NY Slip Op 30564(U) (N.Y. Sup. Ct., N.Y. County, Mar. 6, 2014) (rejected a motion by an "image distributor" to dismiss a model's lawsuit seeking compensatory and punitive damages for the unauthorized publication of her picture in a public service advertisement placed in print media by the New York State Division of Human Rights to inform people living with HIV about legal protection from discrimination).

Nunes v. Massachusetts Department of Correction, 766 F.3d 136 (1st Cir., Sept. 12, 2014) (rejecting challenge to state's modification of prison medication procedures to require all HIV prescriptions to be dispensed in person at pharmacy window [the "HIV line"] despite potential harm to confidentiality of inmates with HIV).

People v. Kuzma, 2014 WL 783578 (Mich. Ct. App. Feb. 25, 2014) (unpublished disposition) (upholding conviction of HIV-positive man who did not disclose serostatus to sleeping sexual partner before penetrative sex).

People v. Presa, 2014 Il. App. (3d) 130255, 2014 Ill. App. LEXIS 900 (App. Ct. Ill, 3rd Dist., Dec. 18, 2014) (holder of valid identification card in needle-exchange program could not be prosecuted for possession of hypodermic works).

People v. Scott, 2014 Cal App. Unpub. LEXIS 3669 (Cal. Ct. App., 6th Dist., May 22, 2014) (trial court had appropriately imposed an AIDS testing requirement on a man who was convicted of performing oral sex on female minors).

Robinson As Adm'x of the Estate of Faith Denise Whitcomb v. Huskins, 2014 U.S. Dist. LEXIS 174627 (W. D. Ark., December 16, 2014) (rejecting qualified immunity claims of prison officials defending 8th Amendment wrongful death suit concerning HIV+ inmate who was deprived of appropriate treatment).

State of Ohio v. Bean, 2014—Ohio—908, 2014 WL 1350772 (Ohio Ct. App., 9th Dist., March 21, 2014) (affirming conviction of HIV-positive woman for two violations of state law requiring disclosure of HIV status prior to sexual intercourse, even though there was no proof she transmitted virus to either of her sexual partners and record contained no evidence concerning risk of transmission of HIV from woman to man during sexual intercourse).

State of Tennessee v. Hogg, 2014 WL 4748096 (September 25, 2014) (rejecting an HIV-positive man's appeal of a virtual life sentence imposed on him for having unprotected sex with a fifteen-year-old boy without disclosing his HIV status, even though there is no evidence that HIV was transmitted to the boy).

State of Washington v. French, 2014 Wash. App. LEXIS 2896 (Wash. App., Div. 3, Dec. 16, 2014) (in absence of evidence that drug defendant used drugs requiring injection, he could not be compelled to submit to HIV testing).

State of Washington v. Mercado, 181 Wash. App. 624, 326 P.3d 154 (Wash. Ct. App., 3rd Div., June 5, 2014) (in order to require a person who pleads guilty to possession of a controlled substance to submit to HIV testing, trial court must find that defendant's use of controlled substance involved hypodermic needles).

Rhoades v. State, 848 N.W.2d 22 (Iowa, June 13, 2014) (in light of the "great strides in the treatment and prevention of the spread of HIV from 2003 to 2008" there was not a sufficient factual basis for the district court to accept the plea of Nick Rhoades, an HIV-positive Iowan who pled guilty to criminal transmission of HIV in 2009; decision led to legislative reform of HIV exposure statute, and prosecutor decided not to pursue the case on remand).

Riley v. State, 2014 Tex. App. LEXIS 2830, 2014 WL 1016240 (Tex. Ct. App., 10th Dist., March 13, 2014) (affirming conviction of HIV-positive man for aggravated sexual assault of a child with a deadly weapon for having unprotected sex with a 15 year old boy met through Craigslist without disclosing his HIV status, even though he did not infect the boy).

U.S. v. Pinkela, 2014 CCA LEXIS 852 (U.S. Army Ct. Crim. App., Nov. 14, 2014) (affirming the conviction of officer who lied about his HIV status and initiated unprotected anal sex, on charges of willful disobedience of a superior commissioned officer, abusive sexual contact,

aggravated assault, conduct unbecoming an officer and reckless endangerment, and the sentence of dismissal and confinement for one year).

XII. International Legal Developments

European Court of Justice - A, B, C v. Staatssecretaris, Joined Cases C-148/13 to C-150/13 (ECJ, Dec. 2, 2014) (limiting the nature of investigation into sexual orientation of asylum claimants on grounds of sexual orientation).

Australia – In NSW Registrar of Births, Deaths and Marriages v. Norrie, [2014] HCA 11 (April 2, 2014), the court ruled that a person could have a “non-specific gender designation” on official documents, if this accorded with their gender identity. * * * Refugee Review Tribunal, noting recent revival of sodomy by Supreme Court of India, granted asylum to a gay man from India. * * * New South Wales abolished the “gay panic” defense for cases involving non-violent sexual solicitations. * * * The states of Victoria and New South Wales, which decriminalized homosexual acts in 1981 and 1984, respectively, enacted statutes which provide a mechanism for the expungement of convictions for sodomy.

Austria Constitutional Court, VfGH 10.12.2013, G 16/2013, G 44/2013, par. 36, January 17, 2014 (ban on donor insemination services for lesbian couples is unconstitutional).

Botswana – The government is appealing a High Court ruling that would require providing anti-retroviral therapy to prison inmates who are not citizens of Botswana. * * * The High Court ruled on November 14 that the Minister of Labour and Home Affairs erred in refusing to register a gay rights organization, LEGABIBO, as a legitimate and legal organization authorized to operate in the country. Rammoge v. The Attorney General of Botswana, MAHGB-000175-13.

Britain – Marriage equality for Britain and Wales went into effect March 29. Later in the year same-sex couples who had registered civil partnerships became eligible to convert their partnerships into marriages.

Brunei — Sultan of Brunei, Hassanal Bolkiah, announced that as of May 1 the state would begin enforcing Sharia penal law, which includes severe punishment (death by stoning) for such acts as adultery, rape, and same-sex sexual activity.

Canada –Saskatchewan amended its human rights code to add protection against discrimination because of gender identity.

Colombia – The Constitutional Court ruled that a lesbian could adopt her long-time partner’s daughter, who was conceived through donor insemination.

Costa Rica — The social security system will extend medical benefits to same-sex couples.

Croatia – The parliament enacted a Civil Partnership Law open to same-sex couples granting most of the rights of marriage, but not adoption rights.

Denmark – Denmark provided a formal process for legal recognition of gender transition and lowered the age at which people could transition from 21 to 18.

Ecuador – Beginning on September 15 same-sex couples in Ecuador could register their union on their national identity cards in civil registry offices, and be regarded as having the same status as “common law” marriages among heterosexual couples.

Estonia — The government approved a cohabitation bill that regulates finance, inheritance, care, and visitation rights for cohabiting couples regardless of sex.

Finland –The Parliament voted 105-92 to approve a citizens’ petition to open up marriage to same-sex couples, in an equal status for all legal purposes, but final legislation is not expected to be approved and go into effect until 2017.

France – The Council of State, the country’s highest administrative court, ruled that consular officials in Morocco committed a “serious and manifestly illegal breach of the fundamental right to marry” when they denied a short-term entry visa to a Senegalese man who wanted to enter France in order to marry his French gay partner. * * * The nation’s highest appellate court, the Court de Cassation, decreed that babies born due to assisted reproductive technology to lesbian couples may be adopted by the co-parent.

Gambia – President Yahya Jammeh signed into law a bill that authorizes life imprisonment for some homosexual acts.

Georgia – Constitutional Court of Georgia ruled that the Minister of Labor, Healthcare and Social Protection violated the constitutional rights of gay Georgians by adopting a ban on homosexuals donating blood. * * * A new law prohibits discrimination because of sexual orientation and gender identity.

Germany — A new law allows registered partners to adopt their same-sex partner’s children. * *
* The High Court ruled that a German male couple who had a child through surrogacy in California, and who are registered and recognized as the child’s parents under California law, must have their family recognized by German authorities as well as a matter of comity, even though Germany does not allow such procedures domestically.

Gibraltar – Enacted a Civil Partnership Act open to both same-sex and different-sex couples, carrying most of the rights and responsibilities of marriage.

Greece –The parliament voted to expand the country’s hate speech law to include gender identity, having previously included sexual orientation.

India – In *National Legal Services Authority v. Union of India*, Writ Petitions (Civil) No. 400 of 2012 and No. 604 of 2013 (April 15, 2014), the Supreme Court ruled that transgender individuals are entitled to recognition of their gender identity by the government and protection against discrimination. *** The Supreme Court is considering a petition to reconsider its *Naz Foundation* ruling that rejected a constitutional challenge to the sodomy law, which had been declared unconstitutional several years ago by the Delhi High Court.

Israel – Enacted a bill prohibiting discrimination in schools against students because of sexual orientation or gender identity. The inclusion of gender identity was a first occurrence for Israel statutory anti-discrimination law.

Italy – Continuing litigation over recognition of same-sex marriages contracted elsewhere, bouncing between courts and local officials on the issue of whether such marriages can be entered into official registries. * * * *A.B. & A.T. v. Minister of Interior*, Const. Court (It.), No. 170/2014 (June 11, 2014), better known as the *Bernaroli* case (on which see Court of Cassation, No. 14329/13, June 6, 2013.) (*Bernaroli* and her wife had an interest to maintain their legal relationship, but nevertheless they could not remain married after gender reconstruction surgery because their union would lead to a same-sex marriage, which is currently not regulated by the law). * * * A court in Turin ruled that in order to be recognized as a woman by the government, a person identified as male at birth had to undergo complete sex reassignment procedures, and not just be “psychologically certain he belongs to the female sex.” * * * A court in Rome approved Italy’s first second-parent adoption by the same-sex partner of a child’s legal parent.

Kenya – Kenya’s High Court ordered the Kenya National Examinations Council to change the name of transgender activist *Audrey Mbugua* on her academic certificates.

Lebanon – A trial judge ruled that a criminal ban on “unnatural sexual intercourse” did not apply to private, consensual same-sex conduct between adults.

Luxembourg –The Parliament voted on June 18 for a marriage equality bill said to be the most fundamental revision of the country’s marriage laws since 1804, and will go into effect early in 2015.

Malaysia – A three-judge appeals court panel has ruled that a state law banning men from cross-dressing as woman is unconstitutional, as it “deprives the appellants of the right to live with dignity.”

Malta — Parliament voted to recognize same-sex partnerships on a legal par with marriage, and then voted to amend the constitution to ban discrimination because of gender identity.

Mexico — The Supreme Court ruled January 26 that the *Instituto Mexicano de Seguro Social*, the ministry that oversees pensions and health benefits, must accord to same-sex couples who are married or registered in civil unions the same benefits as different—sex couples receive. * * *

Coahuila has become the first Mexican state to formally approve a marriage equality statute, on September 1. The only other jurisdiction to have previously legislated marriage equality was Mexico City. * * * Mexico City legislators approved a measure allowing transgender people to legally change their gender without a court order.

Netherlands – Under new rules both members of a married lesbian couple will be considered the legal parents of a child born to one of them; gay male couples using surrogates to have children will still have to adopt because a formal proceeding must cancel the marital status of the birth mother.

Nigeria – On January 7, President Goodluck signed into law the Same Sex Marriage Prohibition Bill, which imposes criminal penalties for gay—related speech, advocacy and activities.

Northern Cyprus – Repealed Criminal Sodomy Law on January 27.

Philippines – Agusan del Norte has enacted an ordinance prohibiting discrimination because of sexual orientation or gender identity or expression. * * * Quezon City, the Philippines’ largest municipality, adopted a city ordinance banning discrimination on the basis of sexual orientation and gender identity.

Russia – The government adopted a policy that “same-sex couples who are lawfully married in countries that have legal same-sex marriage, or unmarried nationals from these countries” will not be allowed to adopt Russian children. * * * The Constitutional Court rejected a challenge to the controversial law banning “propaganda of non-traditional sexual relations” that has been used by the government to prevent public gay rights demonstrations and to crack down on pro-gay political activity.

Scotland — The Marriage and Civil Partnership (Scotland) Bill was approved by the Scottish Parliament and went into effect in December.

Singapore – The Court of Appeal ruled in *Lim Meng Suang and Kenneth Chee Mun-Leon v. Attorney General*, [2014] SGCA 53 (Oct. 28, 2014), that Singapore’s Penal Code Section 377a, a descendent of the colonial-era “gross indecency” statute used to prosecute men for gay sex, does not violate the Singapore Constitution’s guarantees of equal protection and liberty.

South Africa – The nation’s blood donation policy has been reformed to eliminate the categorical ban on donations by gay men. Those who have been in monogamous relations for 6 months (or celibate for that period of time) may be donors.

Spain – The Andalusian Regional Government adopted a transgender-inclusive anti-discrimination law. * * * Catalonia’s legislature passed a law that imposes fines for attacks carried out against LGBT people.

Taiwan (Republic of China) — The Taipei High Administrative Court ruled in favor of a government agency that refused to register a couple’s same-sex marriage. * * * The legislature’s plenary session approved a measure that will suspend the requirement the transgender people undergo sex reassignment surgery in order to be able to register their change of gender.

Uganda — President Yoweri Museveni signed into law on February 24 the Anti-Homosexuality Act, which drastically increases criminal penalties for homosexual conduct and advocacy. On August 1, the Constitutional Court declared that the recently-enacted law was “null and void” because it was passed without an appropriate quorum of the Parliament having been established prior. Legislators are preparing to introduce a virtually identical bill in hopes of getting it duly enacted. * * * Uganda enacted a new law that criminalizes HIV transmission, authorizing fines and sentences up to ten years for “intentional transmission of HIV” and five years for “attempted transmission of HIV.”

Winning the Freedom to Marry: Progress in the States



- Freedom to Marry
- Pro-marriage court ruling; pending further action.
- Marriage ban, lawsuit filed awaiting ruling
- Anti-marriage federal appellate ruling, seeking SCOTUS review

*The freedom to marry is in effect state-wide while appeal is considered by 11th Circuit.
**Respects marriages legally performed in other states.

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The 12 best quotes from the past year of same-sex marriage decisions

Updated by [German Lopez](#) on September 9, 2014, 11:00 a.m. ET [@germanlopez](#) german.lopez@vox.com

Since the US Supreme Court [struck down](#) the federal ban on same-sex marriages in June 2013, lower courts have ruled [overwhelmingly](#) in favor of same-sex couples' right to marry.

The substance of these decisions have mostly relied on the same legal rationale as the Supreme Court: the Constitution's Equal Protection and Due Process Clauses protect same-sex marriage rights. But in justifying their decisions, federal and state judges have engaged in what at times seems like a competition to get the best word on the issue of same-sex marriage. Here are some of the best quotes from those decisions, in no particular order.

1) **Seventh Circuit Court Judge Richard Posner, in [the September 4 opinion](#) against Wisconsin and Indiana's same-sex marriage bans:** "The harm to homosexuals (and, as we'll emphasize, to their adopted children) of being denied the right to marry is considerable. Marriage confers respectability on a sexual relationship; to exclude a couple from marriage is thus to deny it a coveted status. Because homosexuality is not a voluntary condition and homosexuals are among the most stigmatized, misunderstood, and discriminated-against minorities in the history of the world, the disparagement of their sexual orientation, implicit in the denial of marriage rights to same-sex couples, is a source of continuing pain to the homosexual community."

2) **US District Judge Robert Hinkle, in [the August 21 opinion](#) against Florida's same-sex marriage ban:** "It was 1967, nearly two centuries after the Constitution was adopted, before the Supreme Court struck down state laws prohibiting interracial marriage, thus protecting the liberty of individuals whose chosen life partner was of a different race. Now, nearly 50 years later, the arguments supporting the ban on interracial marriage seem an obvious pretext for racism; it must be hard for those who were not then of age to understand just how sincerely those views were held. When observers look back 50 years from now, the arguments supporting Florida's ban on same-sex marriage, though just as sincerely held, will again seem an obvious pretext for discrimination. Observers who are not now of age will wonder just how those views could have been held."

3) **Fourth Circuit Court Judge Henry Floyd, in [the July 28 opinion](#) against Virginia's same-sex marriage ban:** "We recognize that same-sex marriage makes some people deeply uncomfortable. However, inertia and apprehension are not legitimate bases for denying same-sex couples due process and equal protection of the laws. Civil marriage is one of the cornerstones of our way of life. It allows individuals to celebrate and publicly declare their intentions to form lifelong partnerships, which provide unparalleled intimacy, companionship, emotional support, and security."

4) **US District Judge John Heyburn, in [the July 1 opinion](#) against Kentucky's same-sex marriage ban:** "Sometimes, by upholding equal rights for a few, courts necessarily must require others to forebear some prior conduct or restrain some personal instinct. Here, that would not seem to be the case. Assuring equal protection for same-sex couples does not diminish the freedom of others to any degree. Thus, same-sex couples' right to marry seems to be a uniquely 'free' constitutional right. Hopefully, even those opposed to or uncertain about same-sex marriage will see it that way in the future."

5) **10th Circuit Court Judge Carlos Lucero, in [the June 25 opinion](#) against Utah's same-sex marriage ban:** "Not until contemporary times have laws stigmatizing or even criminalizing gay men and women been felled, allowing their relationships to surface to an open society. As the district court eloquently explained, 'it is not the Constitution that has changed, but the knowledge of what it means to be gay or lesbian.' ... Consistent with our constitutional tradition of recognizing the liberty of those previously

excluded, we conclude that plaintiffs possess a fundamental right to marry and to have their marriages recognized."

6) US District Judge Richard Young, in the June 25 opinion against Indiana's same-sex marriage ban: "In time, Americans will look at the marriage of couples such as Plaintiffs, and refer to it simply as a marriage — not a same-sex marriage. These couples, when gender and sexual orientation are taken away, are in all respects like the family down the street. The Constitution demands that we treat them as such. Today, the 'injustice that [we] had not earlier known or understood' ends."

7) US District Judge Barbara Crabb, in the June 6 opinion against Wisconsin's same-sex marriage ban: "Perhaps it is true that the Wisconsin legislature and voters would choose to repeal the marriage amendment and amend the statutory marriage laws to be inclusive of same-sex couples at some point in the future. Perhaps it is also true that, if the courts had refused to act in the 1950s and 1960s, eventually all states would have voted to end segregation and repeal anti-miscegenation laws. Regardless, a district court may not abstain from deciding a case because of a possibility that the issues raised in the case could be resolved in some other way at some other time."

8) US District Judge John Jones, in the May 20 opinion against Pennsylvania's same-sex marriage ban: "We are a better people than what these laws represent, and it is time to discard them into the ash heap of history."

9) US District Judge Michael McShane, in the May 19 opinion against Oregon's same-sex marriage ban: "Where will this all lead? I know that many suggest we are going down a slippery slope that will have no moral boundaries. To those who truly harbor such fears, I can only say this: Let us look less to the sky to see what might fall; rather, let us look to each other ... and rise."

10) US District Court Magistrate Candy Dale, in the May 13 opinion against Idaho's same-sex marriage ban: "The Plaintiffs are entitled to extraordinary remedies because of their extraordinary injuries. Idaho's Marriage Laws withhold from them a profound and personal choice, one that most can take for granted. By doing so, Idaho's Marriage Laws deny same-sex couples the economic, practical, emotional, and spiritual benefits of marriage, relegating each couple to a stigmatized, second-class status. Plaintiffs suffer these injuries not because they are unqualified to marry, start a family, or grow old together, but because of who they are and whom they love."

11) US District Judge Terence Kern, in the January 14 opinion against Oklahoma's same-sex marriage ban: "The Bishop couple has been in a loving, committed relationships for many years. They own property together, wish to retire together, wish to make medical decisions for one another, and wish to be recognized as a married couple with all its attendant rights and responsibilities. Part A of the Oklahoma Constitutional Amendment excludes the Bishop couple, and all otherwise eligible same- sex couples, from this privilege without a legally sufficient justification."

12) Judge Robert Shelby, in the December 20, 2013 opinion against Utah's same-sex marriage ban: "In his dissenting opinion [of the Supreme Court [decision](#) that struck down the federal ban on same-sex marriage], the Honorable Antonin Scalia recognized that this result was the logical outcome of the Court's ruling in Windsor: 'In my opinion, however, the view that this Court will take of state prohibition of same-sex marriage is indicated beyond mistaking by today's opinion. As I have said, the real rationale of today's opinion ... is that [the federal ban on same-sex marriages] is motivated by 'bare ... desire to harm' couples in same-sex marriages. How easy it is, indeed how inevitable, to reach the same conclusion with regard to state laws denying same-sex couples marital status.' The court agrees with Justice Scalia's interpretation of Windsor. ... And Justice Scalia even recommended how this court should interpret the Windsor decision when presented with the question that is now before it."