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# **FEATURE: EVOLVING PERSPECTIVES AND TRANSFORMING LAW: WHY EVERY (SUB)URBAN CENTER NEEDS A GAY BAR ASSOCIATION**

February, 2012

## **Reporter**

54 Orange County Lawyer 28 \*

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## **Text**

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The Orange County Lavender **Bar Association** is the newest affiliate of the OCBA. Our mission states that we seek to provide leadership, visibility, and networking opportunities for the **LGBT** and allied community in the legal profession through education, advocacy, and participation in civic and social activities. We believe this mission is particularly important in Orange County, and particularly important now.

The last few years have brought some of the most rapid political and legal advancements in the American gay rights movement since its formal inception sixty years ago. Same-sex marriage is now legal in six states plus the District of Columbia, including bellwether state Iowa, where the Iowa Supreme Court struck down state prohibitions on same-sex marriage in 2009. The same year, an all-star legal team introduced *Perry v. Schwarzenegger*, a federal constitutional challenge to California's Proposition 8, and one year later a U.S. District Court struck it down for violating the Due Process and Equal Protection Clauses in the U.S. Constitution. The case is now pending before the Ninth Circuit.

Last year saw some major developments as well. The Clinton-era "Don't Ask, Don't Tell" policy prohibiting gays and lesbians from serving openly in the military was repealed by Congress and, in response to a number of legal challenges to the so-called Defense of Marriage Act (DOMA), President Obama directed the U.S. Department of Justice to stop defending DOMA in court. And in May 2011, we discovered that individual Americans' opinions about same-sex marriage had also evolved: Gallup released the first nationwide poll ever to reflect majority support for same-sex marriage (53% as of May 2011).

With so many changes occurring across the country in law and perspectives, it's striking that until recently, Orange County--a major center of law and business--was without an official **association** of **lesbian, gay, bisexual, and transgender (LGBT)** attorneys. Our neighbors in Los Angeles and San Diego have had **LGBT bar associations** for decades, as do San Francisco and Sacramento. And although Orange County no longer has an **LGBT** neighborhood--or even a street--resembling West Hollywood or the Castro in San Francisco, there is a vibrant **LGBT** community that includes lawyers and law students. In early 2010, a small group of Orange County lawyers, law professors, and law students gathered around a conference table to fill a void. A few months later, the Orange County Lavender **Bar Association** (OCLBA) held its "Coming Out" party on the Sky Garden of The Michelson in Irvine. The term "lavender"--an historic gay rights symbol representing the mix of blue and pink, the colors

associated with the male and female genders--was chosen for the organization because of its uniquely inclusive connotation.

The reasons for establishing an LGBT bar association are many. One important reason that has driven the growth of OCLBA is the opportunity to facilitate meaningful interactions between members of the bar and laypeople, both gay and straight. At a time when the gay rights movement has involved increasingly legal complexities, few institutions by their nature are better equipped than an LGBT bar association to bring expert analysis and insight to the community. For example, OCLBA's relationship with Gibson Dunn, the organization's chief underwriter, has enabled OCLBA to keep its finger on the pulse of the Prop. 8 challenge (Gibson Dunn partner Ted Olson, along with New York lawyer David Boies, is lead counsel for the plaintiffs challenging Prop. 8). Key attorneys from the Gibson Dunn legal team have presented analysis from the field to OCLBA members and friends, and OCLBA leaders have spoken to lay organizations throughout the county about the status of the case.

OCLBA has also leveraged its relationships with local and statewide allies to bring leading legal and political experts from around the country to Orange County for meet-and-greet sessions with OCLBA members. Shannon Minter, Legal Director for the National Center for Lesbian Rights and lead counsel from the landmark *In re Marriages California* Supreme Court case, met with OCLBA members in Laguna Beach not long after OCLBA was launched to share his experience and insights into the courtroom battles for marriage equality. Just a few months ago, Steve Cohen, former chief of staff to New York Governor Andrew Cuomo, joined members for cocktails in Costa Mesa to share the "inside scoop" on the successful fight for marriage equality in New York.

Recent developments have also increased the need among LGBT people to access legal [\*29] counsel from professionals with specialized knowledge about how laws affect the LGBT community differently. A prime example emerged in December 2010, when the IRS issued revised Publication 555. Although same-sex couples may not file a joint federal tax return, Publication 555 nevertheless now requires each individual in a legally-recognized same-sex relationship to report half of the couple's combined community income on a separate tax return. In California, a community property state that recognizes same-sex domestic partnerships and some 18,000 same-sex marriages that were entered into prior to Prop. 8's passage, Publication 555 has created extraordinary need for same-sex couples to access specialized tax advice. In response, OCLBA co-sponsored an LGBT tax forum with Chapman Law School and the Orange County Equality Coalition (a local LGBT rights organization) to make professional resources available to the community.

Of course, tax is not the only area of law that presents LGBT individuals with unique challenges. Trusts & estates, adoption, medical care, divorce, and immigration, among other areas, are similarly complex, and continue to evolve. For example, in June 2011, 20 federal bankruptcy judges in Los Angeles joined an opinion declaring DOMA unconstitutional as it applies to joint bankruptcy filings. And last August the Department of Homeland Security issued new deportation guidelines that have unclear applications to bi-national same-sex couples. OCLBA, like its counterparts across the country, is critical in helping our community access the counsel they need to navigate these dynamic, complicated areas of law.

*"... a gay bar association is critical to any significant legal community because it promotes tolerance, inclusiveness, and new alliances."*

Gay bar associations are also important because they can enable broader cooperation among diverse groups in responding to attacks from common foes. In this, OCLBA has quickly become a leader. Frequent meetings among the leadership of Orange County's minority bar associations have led to collaborative efforts to defend the FAIR Education Act, recently enacted California legislation that added critical nondiscrimination language to the state's education code. OCLBA and the Orange County Hispanic Bar Association recently joined forces in hosting an educational rally about the new law that featured presentations by local teachers and by Dolores Huerta, co-founder of the United Farm Workers of America. Although the FAIR Education Act is specifically aimed at ensuring that LGBT and disabled historical figures are accurately presented in educational materials, OCLBA reached out to the Hispanic Bar Association for support because we recognize that people from all walks of life will benefit from an educational curriculum that promotes [\*30] tolerance and presents positive role models for our youth. Similarly, because OCLBA recognizes that LGBT youth, like Jewish youth and so many others, are at heightened risk to be

targets of bullying, OCLBA members have joined the Orange County Jewish **Bar Association** and the Anti-Defamation League for expert trainings in anti-bullying initiatives.

OCLBA is also keenly aware of the importance of supporting pro-equality candidates for the bench. In this, OCLBA has joined in a statewide initiative to promote inclusiveness of **LGBT** candidates for judicial appointment. We are also developing our own endorsement process to support local pro-equality candidates for the bench and for elected legal office.

Perhaps more than anything, a gay **bar association** is critical to any significant legal community because it promotes tolerance, inclusiveness, and new alliances. OCLBA has been particularly blessed in this respect. A large number of businesses and organizations have stepped up to support the institution. Similarly, a number of area organizations and law schools have partnered with OCLBA. OCLBA will be a leader in the Orange County **bar** because of the partnerships that enabled its formation and sustain its existence.

The **LGBT** community is facing unprecedented legal challenges and opportunity. We may even be at a watershed moment. The coming years will require sophisticated navigation of a rapidly changing legal, political, and regulatory environment. In all of this, one leader, if young, that Orange County can now count on is the Lavender **Bar Association**.

The Orange County Lavender **Bar Association**, an affiliate of the Orange County **Bar Association**, is the official organization of **lesbian, gay, bisexual, and transgender (LGBT)** attorneys in Orange County. OCLBA welcomes all members of the OC community to join us at our monthly mixers and educational events. For more information, please visit [www.oclba.org](http://www.oclba.org).

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