

Expert Report of Russell K. Robinson

I. QUALIFICATIONS AND ENGAGEMENT

I have been retained as a consultant by Plaintiffs' counsel in this litigation. My background, experience, and list of publications from the past 10 years are summarized in my curriculum vitae, which is attached as Exhibit A to this report.

I am a Professor of Law at the University of California Los Angeles. Currently I am a Visiting Professor at the University of California Berkeley School of Law.

I graduated with honors from Harvard Law School in 1998. Before beginning my academic career, I was a law clerk for Judge Dorothy Nelson of the Ninth Circuit Court of Appeals (1998-99) and for Justice Stephen Breyer of the U.S. Supreme Court (2000-01). I have also worked for the U.S. Department of Justice, Office of Legal Counsel (1999-2000).

My scholarly and teaching interests have included antidiscrimination law, race and sexuality, law and psychology, constitutional law, and media and entertainment law. A primary focus of my research and writing has been the interdisciplinary study of race and sexual orientation and the intersection between these two categories in various social and legal contexts.

My scholarship builds on a theory called "intersectionality," which was developed by Kimberlé Crenshaw. Kimberlé Crenshaw, *Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics*, 1989 U. CHI. LEGAL F. 139; Kimberlé Crenshaw, *Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color*, 43 STAN. L. REV. 1241 (1991). Intersectionality examines how multiple identities overlap to produce distinct forms of oppression. Whereas Crenshaw focused on black women, my scholarship concentrates on non-heterosexual men of color. Sites of inquiry for examining these questions of intersectionality include the gay rights movement, HIV/AIDS, and government policies that classify on the basis of sexual orientation. My scholarship seeks to reveal the complex experiences of sexual and gender minorities and challenge constructions of "gay" and "LGBT" identities that ignore race, gender and class. For example, one of my current projects investigates a special unit of the Los Angeles County Men's Jail that is set aside for gay and transgender inmates and expressly excludes bisexuals. I interviewed numerous former inmates, law enforcement officers, government officials, lawyers, and advocates to illuminate how the jail identifies gay and trans inmates and the extent to which the identification process was shaped by popular stereotypes of gay, bisexual and transgender

identities. The article based on this research, *Masculinity as Prison*, will be published by *California Law Review* in October 2011.

In the past four years, I have not testified as an expert at trial or by deposition. For my work in preparing this report, I am being paid a fee of \$2000. If I am called to testify at trial or by deposition, I will be compensated at a rate of \$200 per hour plus reimbursement of expenses. My compensation does not depend on the outcome of this litigation, the opinions I express, or the testimony I provide.

II. SUMMARY

If the Plaintiffs call me to testify as an expert in this matter, I currently expect that my testimony will relate to the nature and intersection of race and sexual orientation, including bisexuality, as well as the effects on people of color of rules requiring disclosure of one's sexual orientation or the compulsory adoption of labels such as "gay" to describe one's sexual orientation or attractions.

In preparing to write this report and to testify in this matter, I have reviewed the materials listed in Exhibit B. I may rely on those documents, in addition to any materials cited in the body of this report, in support of my testimony. I have also relied on my years of experience studying race and sexual orientation, as set out in my curriculum vitae, and on the materials listed therein. I may additionally rely on materials discussed or cited in my previous writings on this subject. In connection with my anticipated testimony, I may use portions of this report or the references cited herein as exhibits. In addition, I have reviewed the declarations of the Plaintiffs in this litigation and have begun to review certain documents produced by the parties as well as the depositions taken in this case to date. I may use these documents to the extent they refer or relate to the matters discussed in this report. I may also create, or assist in the creation of, demonstrative exhibits or summaries of my findings to assist me in testifying.

I may testify as an expert concerning additional matters not addressed in this report, including (1) rebutting or responding to positions that the Defendant takes, including testimony of its experts and materials it discusses or relies upon; (2) issues that arise from any future orders issued by the Court; (3) issues that arise from any documents or discovery that the Defendant has not yet produced; or (4) responding to witness testimony that is given at trial.

I reserve the right to supplement or amend this report based on (1) any future orders of the Court, (2) documents or discovery that the Defendant has not yet produced; or (3) witness testimony that has not yet been given.

III. RACE AND SEXUAL ORIENTATION

Scholars tend to define sexual orientation based on three measures: (1) identity; (2) sexual conduct; and/or (3) attraction. See, e.g., Ritch C. Savin-Williams, *Who's Gay? Does it Matter?*, 15 CURRENT DIRECTIONS IN PSYCHOL. SCI. 40 (2006) (discussing competing definitions of gay identity). These measures often do not overlap. For example, there are many men who do not identify as "gay" or "bisexual" but have engaged in sex with men and/or experienced attraction to men. There are several reasons why a man who has engaged in sex with men and/or experienced attraction to men might refuse to identify as gay. For some, the stigma of homosexuality prevents them from identifying as "gay." But a person might also be in the process of questioning his identity and be hesitant to embrace a fixed label while going through that process. In addition, some men of color regard the term "gay" as an identity for white men and do not feel that it speaks to their experiences.

Most people regard attraction and conduct as more important than identity in defining sexual orientation. See Kenji Yoshino, *The Epistemic Contract of Bisexual Erasure*, 52 STAN. L. REV. 353, 373 (2000). For example, a man who is married and secretly has sex with men would not be regarded as heterosexual, but as a closeted gay or bisexual man. Because heterosexuality requires a constant lack of desire for men, and lack of desire cannot be observed, it is impossible to prove that a man is heterosexual. He may perform all the traits associated with heterosexual men, including expressing desire for women, and yet conceal a secret desire for men. By setting up a system that requires it to ferret out heterosexuals, NAGAAA has set up an unattainable task. In my opinion, the lack of any reliable standards for proving heterosexuality creates a strong possibility that intuitions, including implicit racial stereotypes, will shape NAGAAA's determinations of sexual orientation.

Studies suggest that there are just as many, if not more, bisexual Americans as there are gays and lesbians. See William D. Mosher et al., *Sexual Behavior and Selected Health Measures: Men and Women 15–44 Years of Age, United States, 2002*, 362 ADVANCE DATA FROM VITAL & HEALTH STAT., (Nat'l Ctrs. for Health Statistics), Sept. 15, 2005, at 1, 13 (finding that about 2% of men and women identify as "bisexual" and similar numbers identify as "homosexual"); Yoshino, *supra*, at 377–85 (reviewing studies of self-reports of sexual desire and concluding that "the incidence of bisexuality was greater than or comparable to the incidence of homosexuality"). Despite the relative parity in numbers, bisexuals are much less visible than gays and lesbians. To illustrate, searches in news and scholarly databases reveal that there are many more mentions of "homosexuality" than "bisexuality." See Yoshino, *supra*, at 368 (finding that during a ten-year period, the *Los Angeles Times* used the word "homosexuality" 2790 times and "bisexuality" just 121 times). Some of this invisibility is due to factors other than discrimination. For example, people tend to assume that the sex of one's current partner defines his sexual orientation. Thus, if a man introduces a man as his partner, others are likely to

perceive the men as gay, even if one or both of them identify as bisexual and have been married to women.

In addition, however, various social forces stigmatize and erase bisexuality. Some studies have suggested that bisexuals are more stigmatized than homosexuals. *See, e.g.,* Gregory M. Herek, *Heterosexuals' Attitudes Toward Bisexual Men and Women in the United States*, 39 J. SEX RES. 264, 268 tbl.1 (2002) (reporting results of national survey demonstrating that public attitudes toward bisexuals were lower than any other stigmatized group listed in the survey, except drug users, and that bisexual men were especially despised). Kenji Yoshino argues that heterosexuals and homosexuals find bisexuals threatening and thus have incentives for either denying that they exist or excluding them as legitimate members of the LGBT community. *See generally* Yoshino, *supra*. First, heterosexuals and homosexuals have an interest in stabilizing sexual orientation categories, and they tend to regard bisexuals as blurring the boundaries of sexual orientation in a disturbing fashion. Second, because bisexuals find men and women attractive, they are regarded as de-emphasizing the importance of sex, which heterosexuals and homosexuals may find distressing. Third, bisexuals have been stereotyped as promiscuous, and some heterosexuals and homosexuals see them as a threat to norms regarding monogamy.

Common techniques of bisexual erasure include claiming that people who identify as bisexual are "closet cases" who are in denial about their actual gay identity. The *New York Times* published an article that purported to use scientific evidence to show that bisexual-identified men are really only attracted to men. *See* Benedict Carey, *Straight, Gay or Lying? Bisexuality Revisited*, N.Y. TIMES, July 5, 2005, at F1 (describing a scientific study suggesting that bisexuality in men does not exist). *But see* Russell K. Robinson, *Racing the Closet*, 61 STAN. L. REV. 1463, 1488-90 (2009) (revealing methodological problems with the study). Within LGBT movements, some have hesitated to embrace bisexuals because they are seen as dishonest about their orientation and likely to defect from the movement and return to heterosexual privilege. Yoshino, *supra*, at 368, at 399 (stating that the "gay community abounds with negative images of bisexuals as fence-sitters, traitors, cop-outs, closet cases, people whose primary goal in life is to retain 'heterosexual privilege,' [or] power-hungry seducers who use and discard their same-sex lovers") (quoting Lisa Orlando, *Loving Whom We Choose*, in *BI ANY OTHER NAME: BISEXUAL PEOPLE SPEAK OUT* 223, 224 (Loraine Hutchins & Lani Kaahumanu eds., 1991)). Two of my current research projects involve instances of bisexual erasure or stigmatization. First, the Los Angeles County Men's Jail maintains a special unit said to protect gay and transgender inmates from sexual assault. However, the Jail categorically excludes bisexual-identified men from this protective unit based on a stereotype that bisexuals are dominant and duplicitous and likely to take advantage of gay and trans inmates. Second, I am currently studying *Perry v. Schwarzenegger*, the federal same-sex marriage case. The plaintiffs in the case frame the class of people seeking the right to marry as "gays and lesbians"—repeatedly excluding bisexuals. *See generally* Plaintiffs' Trial Brief, *Perry v.*

Schwarzenegger. These are just two recent illustrations of a broader dynamic in which bisexuals tend to be relegated to the margins of LGBT communities and face stigma from heterosexuals and homosexuals.

Men of color generally have a complicated relationship to gay and bisexual identities. Public health studies have consistently shown that men of color are less likely to disclose their sexual identity and more likely to reject conventional sexual labels. A study by the CDC asked respondents if they identified as “heterosexual,” “homosexual,” “bisexual” or “something else.” Mosher, *supra*, at 13. Nearly 4% of the male respondents picked “something else”—which was almost twice as many men as identified as “homosexual” (2.3%) or “bisexual” (1.8%). Among men of color, “something else” was much more popular. The authors concluded that “[i]t is noteworthy that 7.3 percent of Hispanic or Latino men, and 7.5 percent of black men, reported that their sexual orientation was ‘something else,’ and another 3-4 percent of each group did not report an answer to the question.” *Id.*

Unlike white men, men of color struggle with racial discrimination, and the expectation that they “come out” as gay or bisexual asks them to embrace a second, overlapping stigma. Some people in communities of color regard homosexuality/bisexuality (or at least “out” homosexuality/bisexuality) as a white phenomenon and thus regard men of color who come out as rejecting their racial identity. See, e.g., Devon W. Carbado, *Black Rights, Gay Rights, Civil Rights*, 47 UCLA L. REV. 1467, 1477 (2000). In addition, popular images of LGBT people in media and politics continue to be overwhelmingly white. *Id.* at 1499, 1506 (arguing that mainstream LGBT groups construct icons of victimization that “convey[] the idea that to be black is to be heterosexual; to be homosexual is to be white”); Allan Bérubé, *How Gay Stays White and What Kind of White It Stays*, in THE MAKING AND UNMAKING OF WHITENESS 234, 236 (Birgit Brander Rasmussen et al. eds., 2001) (noting the discrepancy between the racial demographics of the population of gay men and the whiteness of the out gay men who purport to represent the larger group). While movies and TV shows such as *Brokeback Mountain*, *Ellen* and *Will & Grace* were groundbreaking for white LGBT people, they made little space for LGBT people of color. See Robinson, *Racing the Closet*, *supra*, at 1509. These dual forces—exclusion from white LGBT spaces and homophobia from communities of color—push LGBT people of color to the margins of both communities.

Bisexual men of color face a distinct form of prejudice in that black and Latino men who have sex with men and women have been blamed for increasing HIV rates among black women and Latinas. Numerous media sources, including the *New York Times Magazine*, *Essence* magazine and *The Oprah Winfrey Show*, have made this claim. I critiqued this media discourse on so-called “down low” men in my article *Racing the Closet*. See Robinson, *Racing the Closet*, *supra*, at 1464-1500. The public health literature does not support this claim that bisexual men of color are a “bridge” spreading HIV from gay men to straight women. See, e.g., Chandra L. Ford et al.,

Black Sexuality, Social Construction, and Research Targeting 'The Down Low' ('The DL'), 17 ANNALS OF EPIDEMIOLOGY 209 (2007). Whether one defines sexual orientation based on conduct or identity, men of color are more likely to be categorized as bisexual than white men. See, e.g., Gary Goldbaum et al., *Differences in Risk Behavior and Sources of AIDS Information Among Gay, Bisexual, and Straight-Identified Men Who Have Sex with Men*, 2 AIDS & BEHAV. 13, 16 (1998) (finding that black men at gay public sex venues were more likely to identify as bisexual or straight than white men); Gregorio Millett et al., *Focusing "Down Low": Bisexual Black Men, HIV Risk and Heterosexual Transmission*, J. NAT'L MED. ASS'N, July 2005, at 52S, 53S ("Studies clearly show that black MSM [men who have sex with men] are more likely than MSM of other races and ethnicities to identify themselves as bisexual and to be bisexually active."); J.P. Montgomery et al., *The Extent of Bisexual Behaviour in HIV-Infected Men and Implications for Transmission to Their Female Sex Partners*, 15 AIDS CARE 829, 831 (2003) (reporting that the following percentages of HIV-positive MSM reported sex with women in the last five years: 34% black, 26% Hispanic, 19% Asian/Pacific Islander, 13% American Indian/Alaska Native, and 13% white).

IV. EFFECTS OF COMPULSORY DISCLOSURE OR LABELING OF SEXUAL ORIENTATION, ESPECIALLY ON PEOPLE OF COLOR

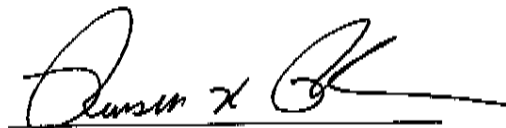
The exclusion of bisexuals from the Gay Softball World Series and the expectation that members announce a sexual identity and submit to an interrogation when challenged are likely to deter men of color from participating in the GSWS. First, as noted by the studies cited above, men of color are disproportionately bisexual in identity and behavior, when compared to white men. Thus, NAGAAA's exclusion of bisexual members makes its membership whiter. Second, the NAGAAA rule permitting no more than two heterosexuals per team imposes a requirement that every member or potential member announce his sexuality or be prepared to do so if challenged. The CDC study discussed above demonstrated that men of color are likely to gravitate toward a vague label like "something else" instead of "homosexual" or "bisexual." NAGAAA's rules likely deter men of color who are questioning their sexuality and averse to labels from joining because they expose each member to the perpetual risk that someone will challenge his orientation and require him to defend it at a public tribunal.

This policy is also likely to invite observers to deploy racial stereotypes, which contributes to a racially disparate effect. Because we rarely know what a man is or is not doing sexually in private, most people use gender non-conformity to identify men as gay or bisexual. See, e.g., Francisco Valdes, *Queers, Sissies, Dykes, and Tomboys: Deconstructing the Conflation of 'Sex,' 'Gender,' and 'Sexual Orientation' in Euro-American Law and Society*, 83 CAL. L. REV. 1, 72 (1995). Studies suggest that black men are perceived as more masculine as white men. See

Phillip Atiba Goff et al., *"Ain't I a Woman?": Towards an Intersectional Approach to Person Perception and Group-Based Harms*, 59 SEX ROLES 392, 396, 401 (2008). This racial stereotype means that even out black members are particularly likely to be have their sexual orientation challenged because observers will regard them as more masculine and hence more likely to be heterosexual. NAGAAA's rules require men of color to manage the constant threat of having their sexuality challenged and being subjected to a racial stereotype. This racially disparate monitoring undermines NAGAAA's goal of creating a "safe space" for all members.

The personal impact of being challenged and rejected by NAGAAA is likely to be severe for men of color. This is probable because NAGAAA's exclusion is just one of many rejections that men of color often face in gay spaces. My empirical study of racial preferences on a gay male dating website found that black and Asian profiles received significantly fewer emails than white profiles. See Russell K. Robinson, *Structural Dimensions of Romantic Preferences*, 76 FORDHAM L. REV. 2787, 2813-14 (2008). A recent study of gay men in San Francisco found that black men were the most socially isolated. Non-black men ranked black men as the least desirable as romantic partners and the least likely to be part of their friendship networks. See H. Fisher Raymond & Willi McFarland, *Racial Mixing and HIV Risk Among Men Who Have Sex with Men*, 13 AIDS AND BEHAVIOR 630 (2009). Gay clubs and bars have also been known to discriminate against men of color by making it harder for them to enter. For instance, the San Francisco Human Rights Commission determined that the nightclub Badlands routinely discriminated against black potential patrons by requiring them to show multiple forms of identification. See, e.g., Niels Teunis, *Making Badlands Good: Still confronting racism in the Castro*, available at http://nsrc.sfsu.edu/article/making_badlands_good_still_confronting_racism_castro (as visited on Feb. 16, 2011). This pattern of isolation and rejection provides an important backdrop for understanding the injury that men of color in NAGAAA may suffer and their reluctance to subject themselves to a potential challenge to their sexual orientation in the future.

Dated: March 15, 2011



Russell K. Robinson

Exhibit A

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EDUCATION

J.D., Harvard Law School, 1998, *cum laude*; Note Editor, *Harvard Law Review*
B.A., Political Science, Hampton University, 1995, *summa cum laude*

EMPLOYMENT

Visiting Professor of Law, UC Berkeley Law, 2010-2011
Professor of Law, UCLA School of Law, 2009-
Acting Professor of Law, UCLA School of Law, 2004-2009
Visiting Professor of Law, Fordham Law School, 2003-2004
Associate, Akin, Gump, Strauss, Hauer & Feld, Los Angeles, 2001-2002
Law Clerk, Justice Stephen G. Breyer, U.S. Supreme Court, 2000-2001
Attorney-Advisor, U.S. Department of Justice, Office of Legal Counsel, 1999-2000
Law Clerk, Judge Dorothy W. Nelson, Ninth Circuit Court of Appeals, 1998-1999

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Articles

Masculinity as Prison, forthcoming 2011, CAL. L. REV.
Racing the Closet, 61 STAN. L. REV. 1463 (2009)
Perceptual Segregation, 108 COLUM. L. REV. 1093 (2008)
Structural Dimensions of Romantic Preferences, 76 FORDHAM L. REV. 2787 (2008)
Uncovering Covering, 101 NW. U. L. REV. 1809 (2007)
Casting and Caste-ing: Reconciling Artistic Freedom and Antidiscrimination Norms, 95 CAL. L. REV. 1 (2007)
In the Case of Lyle v. Warner Bros. Television Productions: A Brief Amicus Curiae, 12 UCLA ENT. L. REV. 169 (2005)
Note, *The Constitutionality of Proposition 209 as Applied*, 111 HARV. L. REV. 2081 (1998)
Case Comment: *Glickman v. Wileman Bros. & Elliott, Inc.*, 117 S.Ct. 2130 (1997), 111 HARV. L. REV. 319 (1997)
Recent Case: *Brown v. Hot, Sexy & Safer Prods., Inc.*, 68 F.3d 525 (1st Cir. 1995), 110 HARV. L. REV. 1179 (1997)

INVITED LECTURES, MEDIA APPEARANCES, AND SIMILAR ACTIVITIES

Panelist, *The Family and its Others*, Family Law Camp, Harvard Law School, July 2009

Interview, CNN, *Judge Sotomayor's Remarks*, Lou Dobbs Tonight, CNN, May 29, 2009

Faculty Organizer/Moderator, *The FDA Ban on "Gay" Blood*, Critical Race Studies Program, UCLA School of Law, March 2009

Panelist, *California Marriage*, Williams Institute Annual Update: The Global Arc of Justice: Sexual Orientation Law around the World, March 2009

Moderator, *3rd Annual Critical Race Studies Symposium - Race in Colorblind Spaces*, UCLA School of Law, March 2009

Faculty Organizer/Moderator, *The Aftermath of Prop 8: Is Gay Really the New Black?*, Critical Race Studies Program, UCLA School of Law, November 2008

Panelist, *Identity Politics and Political Identities: Race to the White House*, Critical Race Studies Symposium, UCLA School of Law, October 2008

Panelist, *Local Interaction, Constitutive Community, and the Role of Law: The Place of Identity*, Law and Society Ass'n, 2008 Annual Meeting, May 2008

Panelist, RACE, SEX, & POWER: New Movements in Black & Latina/o Sexualities, University of Illinois-Chicago, April 2008

Faculty Organizer/Commentator, *2nd Annual Critical Race Studies Symposium - Race, Sexuality & the Law: Abercrombie, Imus & Beyond*, UCLA School of Law, March 2008

Moderator, *Beyond Anti-discrimination Legislation*, Williams Institute Annual Update on Sexual Orientation Law and Policy, February 2008

Panelist, *AALS Law and Humanities Section*, AALS Annual Conference, January 2008

Panelist, *Forty Years of Loving: Confronting Issues of Race, Sexuality, and the Family in the Twenty-First Century*, Fordham Law Review, November 2007

Panelist, *dis/organized pleasures—Changing Bodies, Rights and Cultures*, Lima, Peru, June 2007

Panelist, *Intersectionality and Interdisciplinarity*, Critical Race Studies Symposium, UCLA School of Law, April 2007

Moderator, *Bringing It Home: Recent Developments in the U.S.*, Williams Project Annual Update on Sexual Orientation Law and Policy, February 2007

Interview, CNN, *Celluloid Ceiling*, Paula Zahn Now, Jan. 24, 2007 (regarding my article on casting discrimination in film industry)

Scott Martelle, *Casting Calls May Violate Federal Law*, L.A. TIMES, Nov. 30, 2006, at E14 (reporting findings of my examination of casting discrimination)

Dave McNary, *Minorities Have Legal Ground to Sue Studios*, VARIETY, Nov. 30, 2006 (reporting findings of my examination of casting discrimination)

Panelist, *Are Gay Rights Black Rights?*, NAACP Convention – California Conference, October 2006

Panelist, *Whither the Court - A Review of the Supreme Court Term*, UCLA School of Law, August 2006

Panelist, *Race, Media, and Reconceptualizing Regulation and the First Amendment*, Rethinking the Discourse on Race Symposium, St. John's University School of Law, April 2006

Moderator, *Looking at Lawrence*, Williams Project Annual Update on Sexual Orientation Law and Policy, February 2006

Panelist, *Hate Speech Dichotomies*, Comparative Hate Speech Conference, Cardozo School of Law, November 2005

Panelist, *Casting out of Type—The Title VII Debate*, Ethics of Entertainment Conference, Arizona State University, October 2005

Presenter, *Changing Popular Opinion about Law and Rights*, Law and Society Ass’n, 2005 Annual Meeting, June 2005

Panelist, *Sexual Harassment or Creative Freedom?*, UCLA Entertainment Law Review/Critical Race Studies Concentration, April 2005

Moderator, *Strange Fruit* Film Forum, UCLA Williams Project/Critical Race Studies Concentration, April 2005

Panelist, *Image Is Everything: The Business of Marketing and Sales of Minority Images in Film & Television*, NAACP Hollywood Bureau Diversity Symposium, March 2005

Panelist, *Government Discrimination*, Southwestern University Law Review Symposium on LGBT Issues and the Civil Rights Agenda, January 2005

Panelist, *Art Law Panel*, AALS Annual Meeting, January 2005

Panelist, *Race and the Race to the White House*, Critical Race Studies Program, November 2004

Panelist, *Did the Gay Vote Matter?*, Williams Project, November 2004

Presenter, *On Caste and Casting*, Critical Race Studies Program, October 2004

Commentator on book by DAVID E. BERNSTEIN, *YOU CAN’T SAY THAT: THE GROWING THREAT TO CIVIL LIBERTIES FROM ANTIDISCRIMINATION LAWS*, Fordham Law School, September 2003

Panelist, *The U.S. Supreme Court and Intellectual Property Law*, Eleventh Annual Conference on International Intellectual Property Law and Policy, Fordham Law School, April 2003

Interview, Andrew Wallenstein, *HOLLYWOOD REPORTER*, *USA’s New ‘Kojak’ Pushes International Boundaries*, Mar. 28, 2005

Interview, CNN, *Paula Zahn Now*, Feb. 20, 2004: interviewed regarding legal obstacles to the recognition of same-sex marriages granted in San Francisco

Interview, Bob Egelko, *Supreme Court Leans to the Left: Conservatives Can No Longer Rely on Justices Marching to Their Tune*, S.F. CHRON., June 29, 2003, at A1

Interview, CNN, *American Morning*, June 25, 2003: interviewed regarding Supreme Court decisions in Lawrence v. Texas and Nike v. Kasky

Interview, BET, *BET Nightly News*, June 25, 2003: interviewed regarding Grutter v. Bollinger and Gratz v. Bollinger

AWARDS, HONORS, COMMENDATIONS

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Earl Warren Scholar, NAACP Legal Defense and Educational Fund

Exhibit B

Allan Bérubé, *How Gay Stays White and What Kind of White It Stays, in THE MAKING AND UNMAKING OF WHITENESS* 234 (Birgit Brander Rasmussen et al. eds., 2001)

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Kenji Yoshino, *The Epistemic Contract of Bisexual Erasure*, 52 STAN. L. REV. 353 (2000)