

MEMORANDUM

TO: Ritu Bhasin, GLBT Section Board Liaison
Fred Thrasher, Deputy Director, NALP
FROM: Andrew Chapin, GLBT Section Chair
CC: Mike Gotham, President, NALP
DATE: October 30, 2008
RE: **GLBT Section 2nd Quarterly Report**

SUMMARY: These pages contain GLBT Section activities and projects being worked on July through October 2008 only.

Work Groups:

ANNUAL EDUCATION CONFERENCE WORK GROUP

Andrew Chapin is collaborating with Dana Morris, Chair of the Diversity Section to invite Eric Holder to speak at the Diversity Reception.



Eric Holder (Covington & Burling) is a former Deputy Attorney General of the United States and a senior legal advisor to Barack Obama, the Junior U.S. Senator for Illinois, and his campaign for the presidency. Along with Caroline Kennedy and Jim Johnson, he served on Obama's vice presidential selection committee. Holder was born in 1951 in The Bronx, New York, to parents who had emigrated from Barbados. He grew up in Queens. After graduating from Columbia Law School in 1976 Holder worked in the U.S. Justice Department as a trial attorney in the Public Integrity section from 1976 to 1988. He was then appointed by President Ronald Reagan to serve as an Associate Judge of the Superior Court of the District of Columbia. In 1993 Holder was appointed U.S. Attorney for the District of Columbia by President Bill Clinton. Clinton also nominated him to serve as Deputy Attorney General in 1997. Holder was the first African American to serve in each of those positions.

LAVENDER LAW COLLABORATION WORK GROUP





PROGRAMS

“**Out in the Workplace**” panel (above) – Eric Stern, Berkeley Law moderated; introduced by Skip Horne.
Lisa Damon (Seyfarth Shaw LLP)
David Nathan-Allen Sims (Saveri & Saveri)
Matthew Coles (ACLU)
Susan Belinda Christian (San Francisco District Attorney's Office)

“**1 on 1 Career Counseling**” – Eric Stern, Berkeley Law coordinated.

Panel (at left) not coordinated by NALP GLBT Section but featuring Jim Leipold. **From FAIR (v. Rumsfeld) to Equal: The Top Five Things Law Students Can Do to**

Address the Discrimination Inherent in the Solomon Amendment This workshop is a "where we go from here" discussion regarding the Supreme Court's 2006 decision in *FAIR v. Rumsfeld* upholding the constitutionality of the Solomon Amendment. As a national constituency of advocates-in-training with a long-standing commitment to nondiscrimination in recruiting and a history that includes achieving a partial Congressional repeal of the Solomon Amendment in 1999, law students are uniquely situated to accelerate the effort to repeal "Don't Ask, Don't Tell." Law students will return home from this practical workshop with concrete tools to advocate for the repeal of "Don't Ask, Don't Tell," using traditional methods, such as face-to-face lobbying and letter-writing campaigns, and more creative vehicles. Students will also leave understanding how to integrate these efforts into broader law school ameliorative efforts. Speakers:

James Leipold (National Association for Law Placement)
Kara Suffredini (Family Equality Council)
Aaron Tax (Servicemembers Legal Defense Network)
Professor Diane Mazur (University of Florida Levin College of Law)
Professor Elizabeth Hillman (Rutgers School of Law Camden)

See **Attachment One** (3 pages) with more Lav Law & NALP participation detail (produced by Shawn Beem, Capital U).

NALP GLBT Section will propose programs for Lav Law 2009 (Brooklyn NY, Sept 10-12). Possibilities include:

- Out in the Workplace panel.
- 1on 1 counseling.
- 3 GLBT & career development sessions [general session, all gay all day for pay, public sector session, private sector session].
- Student advocacy & your opportunity to make a difference!

NALP FORM GLBT DATA REPORTING WORK GROUP

NALP's GLBT Section has been working on equality in the workplace for 10 years with increasing success. Of primary importance to GLBT equality in the workplace is achieving real GLBT visibility. Employers that cannot quantify GLBT attorneys among their valued attorneys, have significantly less business reason to invest time and money in being GLBT inclusive and equal. Such invisibility quietly and subtly permits inequality and/or discrimination to remain in place hurting GLBT employees. We hope NALP chooses to be a leader in changing this.

A decade of NALP employer education efforts which have included numerous GLBT Section produced conference panels, numerous GLBT Section written NALP Bulletin articles, and presenting at a NYC Recruiters Meeting, has increased the number of employers collecting and reporting openly-GLBT attorney demographics, though 11% of NALP member employers still do not participate. The increases in recent years have been slight and we believe that a more direct communication with a few of the largest non-participating firms will yield more immediate and positive results, beneficial to all NALP members and the entire legal community.

NALP's GLBT Section asks Board support for co-signing the attached letter which is being mailed to the small number listed below selected because they all are NALP members, have a NYC office (NYS anti-discrimination laws include sexual orientation as a protected category), are a national firm employing more than 100 attorneys, and currently report "Do Not Collect" in their NALP form openly GLBT attorney demographics.

This letter is already co-signed by:

NY County Lawyers Association LGBT Issues Committee,
Lesbian, Gay, Bisexual and Transgender Law Association of Greater New York (LeGaL)
National Lesbian Gay Bisexual & Transgender Lawyers Association (NLGLA - produces Lavender Law),
Fordham Law Outlaws,
NYU Law Outlaws,
Society of American Law Teachers LGBT Committee,
Chicago-Kent Lamdas,
John Marshall Law School Gay & Lesbian Legal Alliance.

and is under consideration by:

Columbia Law Outlaws
Georgetown Law SBA
NYS Bar Association GLBT Committee
NYC Bar Association GLBT Committee,
ABA GLBT Section,
ABA Commission on Sexual Orientation & Gender Identity.

We anticipate this letter will persuade many of these 14 law firms in favor of obtaining and publishing openly GLBT attorney demographics. Note that Wilson Sonsini has already done so when they learned about this letter via subscription to NALP's GLBT

Section list serve and discovered they had overlooked putting in numbers that they had already obtained.

The letter will be mailed to the following firms in time for them to discuss and collect data for publication in NALP's Employer Directory 2009:

Allen & Overy
Baker & Hostetler
Blank Rome
Davies Ward
Dorsey & Whitney
Epstein Becker
Ernst & Young
Frommer Lawrence
Howrey
Hughes Hubbard
Jackson Lewis
Katten
Sedgwick
Thompson Hine
Wilson Sonsini (has already contacted us and complied)

Text of the letter has been reviewed by the NALP GLBT Section list serve – several replies offered suggested edits (which were largely adopted) and all were in support of the letter. Edits to the letter will be considered though it is intended to be provocative enough to elicit a response (hopefully adopting the policy but at worst beginning a dialogue).

We urge the NALP Board to support NALP GLBT Section cosigning this letter. See **Attachment Two (letter)**. “The only thing necessary for the triumph of evil is for good men to do nothing.” - Edmund Burke

In discussion of this proposal a few issues have been mentioned to be considered:

- 1) the Board should have input and approve/disapprove significant correspondence from a Section.
 - NALP by-laws do not inform Section activities beyond their responsibility to update the Board on the Section's activities on a quarterly basis through this report to our liaison.
 - NALP by-laws do not inform either limits of Section activity or requirement of Board approval.
 - Question: Is it in the best interests of NALP as a whole to limit all Sections' opportunity to take prompt industry benefiting independent actions on occasions when Board approval might not be desired or too late to be effective?
- 2) a NALP Section has not previously sent a letter to a group of members noting / urging / scolding - NALP hasn't identified particular members.
 - “previously sent a letter”because something has not been done is not sufficient reason in itself that it is not a good thing to do. As opposed to

maintaining the status quo, industry progress is much more commonly made by new action being taken. There are no existing by laws that discourage such an action. NALP has taken unique and significant action before (*amicus brief* for example in *FAIR v Rumsfeld*) that may not have been thought a positive action by all NALP members – but NALP did so (I believe) because it was on the side of NALP best practices and non-discrimination.

- NALP's mission (“...facilitating...recruitment and retention...”) supports this action. See text of letter.
- 3 of NALP's 4 Core Objectives (“To provide vision and expertise in research and education for legal career counseling and planning, recruitment, employment...; To cultivate ethical practices and fairness in legal career...”; “To advocate for diversity...”) also support such an action. . See text of letter.
- “noting/urging/scolding”.....noting and urging seem the accurate verbs. This letter states facts encouraging a “best practice” beneficial to the NALP member and the legal profession; nowhere in the letter is there any judgment about an employer or their actions. The letter does inform the reader what some top legal talent does consider. See text of letter.
- “particular members” the member-wide approach has been in practice for nearly a decade. It now makes sense to try a directed approach with those members for which this remains problematic to determine if further progress can be made on the issue. To continue to hope that the “free market” approach where these employers will have their own “aha moment” to make progress this issue means that we may not see GLBT workplace equality before the end of our careers. How many more years should NALP members be expected to wait for equality?

GLBT WEB RESOURCES UPDATE WORK GROUP

1. Review of current web pages and update is underway by Mitchell Weitz, Fordham Law.
2. Update of GLBT Ambassadors underway by Andrew Chapin Fordham Law.

NALP BULLETIN WORK GROUP

1. *In Profile: Three Openly GLBT Lawyers* share their openly GLBT career story. Published October 2008 issue. Profiles submitted by D’Arcy Kemnitz, NLGLA; Adriana Vito, American U Law; Cristobal Modesto, Davis Polk & Wardwell. Conference call July 16, 2008.
2. *For December edition: Profile of Lavender Law 2008* being co-written by Carlos D Davila-Caballero, Tulane Law; Eric Stern, Berkeley Law; Sandra Magliozzi, SCU Law, Shawn M Beem, Capital Law; Skip.Horne, Latham & Watkins. Conference call September 22, 2008.

ENVIRONMENTAL SCANNING

1. From Jim Leipold: **Why Just One Wedding Isn't Enough For Some Gay Couples**
<http://online.wsj.com/article/SB122531715603381673.html?mod=djemITP>
2. From Andrew Chapin: **92 law firms have earned 100% scores on the Human Rights Campaign Corporate Equality Index.** See who they are:
http://www.hrc.org/issues/workplace/search.asp?form=private_quick_search.aspx
select "detailed search" with parameters: Industry=Law Firms. CEI Rating= 100 to 100
3. From Eric Stern: **Study: Cost of domestic partner benefits could be limited.** By Alyssa Rosenberg October 3, 2008. It would not cost the government much to extend domestic partnership benefits to federal employees, according to a recent report from a Washington think tank.
www.governmentexecutive.com/story_page.cfm?articleid=41133&dcn=todaysnews
4. From Eric Stern: **OPM opposes domestic partnership benefits bill.** By Alyssa Rosenberg September 24, 2008. A top official at the Office of Personnel Management told a congressional panel on Wednesday that extending federal health and retirement benefits to the domestic partners of same-sex couples could lead to insurance fraud.
http://www.govexec.com/story_page.cfm?articleid=41044&dcn=e_gvet
5. From James Leipold: an extraordinary article in today's **NYT about transgender issues in the workplace...and how far things have come!**
<http://www.nytimes.com/2008/09/04/fashion/04WORK.html?ei=5070&emc=eta1>
6. From Andrew Chapin: **Discrimination Is Bad for Business** The American Political Science Association (APSA) has changed its policy for siting annual conventions, and will now look unfavorably on those states that discriminate against same-sex couples. The new policy will have decision-makers determine whether a potential host city can provide adequate assurances of legal safety. APSA consulted Lambda Legal's Safety Scale, which ranks states based on legal respect for same-sex relationships, among the materials it reviewed to reach a decision. Visit Lambda Legal's Safety Scale for APSA's resolution and more.
7. From Eric Stern: **Checkbooks Come Out for Prop 8 Fight.** Cheryl Miller at The Recorder August 14, 2008. The multimillion-dollar fight over California's Proposition 8 heated up this week, with both sides reporting huge contribution totals fueled by wealthy individual donors, labor and corporate groups and, increasingly, lawyers.
<http://www.law.com/jsp/article.jsp?id=1202423784413>

8. From Andrew Chapin:
<http://amlawdaily.typepad.com/amlawdaily/2008/08/women-in-law--1.html>
August 12, 2008 6:49 AM **Best Law Firms Report Examines Female Workforce Issues**

9. From Eric Stern: The Obama for America campaign today announced a significant expansion of its National LGBT Steering and Policy Committee, as well as its grassroots infrastructure (Obama Pride)...**Eric Stern named as one of five national co-chairs of Obama Pride.**

10. From Andrew Chapin: **Gay Associate Who Sued Sullivan & Cromwell for Bias Lands New NY BigLaw Gig.** New York Lawyer July 29, 2008

Two attachments follow these pages.

MEMO

From: Shawn M. Beem, Capital University Law School
To: Eric Stern, University of California, Berkeley School of Law
Santee Magliozzi, Santa Clara University School of Law
Andrew Chapin, Fordham University Law School
Carlos Davila-Caballero, Tulane Law School
Skip Horne, Latham & Watkins
Date: Friday, September 19, 2008
Re: Lavender Law 2008 – Counseling Project Summary

I have reviewed all of the counseling note forms from each of the 2008 Lavender Law counselors. The following is a summary of significant information noted by counselors.

PARTICIPANT SUMMARY

• Counselors	<u>15</u>
• US Schools	<u>38</u>
• Canadian Schools	<u>2</u>
• Students/Attorneys	<u>88</u>
○ 2L ¹	<u>55</u>
○ 3L	<u>27</u>
○ Attorneys	<u>4</u>
○ Female	<u>46</u>
○ Male	<u>42</u>
○ Self-Identified Transgendered	<u>3</u>

COMMON QUESTIONS

The following questions were frequently noted on counselor note forms.

- How to deal with grades/low GPA/law school's national ranking
- How to deal with lack of experience (specifically as a part-time student)
- How to find a summer job when OCI has not been successful
- How to maximize job fair experience including how to network, approach employers, and follow-up
- How to transition from public interest jobs to private practice jobs
- Resume advice

ADDITIONAL TOPICS

These topics were not frequently noted but are worth mentioning.

- Questioning sexuality
- How to be out at the office

¹ Not every student's class year was noted.

Additional topics, continued

- Dealing with gender reassignment at work
- Dealing with age discrimination
- How to become partner quickly
- Tools for relocating
- How to write a Thank You
- How to follow-up with resume collect employers
- Question: "If I'm not out on my resume, am I lying to the employer?"
- Question: "What I don't want to be a lawyer? What do I do?"
- How to look for employment when in a relationship with another law student
- How to explain transfer to another law school

AREAS OF INTEREST

Areas of legal interest frequently noted.

- Bankruptcy
- Criminal
- Environmental
- Government
- Health
- Immigration
- International Law
- Legislative
- Patent
- Public Defender

SCHOOLS REPRESENTED

Not every student shared the name of their law school. The number in parenthesis represents the approximate number of students from that particular school that met with a counselor.

- American University Washington College of Law (1)
- Boston University School of Law (1)
- Brooklyn Law School (6)
- California Western School of Law (6)
- Cardozo School of Law (1)
- George Washington University Law School (1)
- John F. Kennedy University School of Law (3)
- Loyola Law School (3)
- Massachusetts School of Law (2)
- McGeorge School of Law, University of the Pacific (2)
- McGill University Faculty of Law (1)
- New York University School of Law (3)
- Ohio State University Moritz College of Law (2)
- Saint Louis University School of Law (2)
- Seattle University School of Law (3)
- Southwestern University School of Law (1)
- Suffolk University Law School (1)
- Temple University Beasley School of Law (1)

- Thomas Jefferson School of Law (1)
- Thomas M. Cooley Law School (2)
- University of British Columbia Faculty of Law (1)
- University of California, Davis School of Law(2)
- University of California, Los Angeles School of Law (1)
- University of Connecticut School of Law (2)
- University of Houston Law Center (3)
- University of Illinois College of Law (2)
- University of Maryland School of Law (1)
- University of Minnesota Law School (1)
- University of Oregon School of Law (3)
- University of San Diego School of Law (4)
- University of San Francisco School of Law (2)
- University of Utah S.J. Quinney College of Law (3)
- University of Virginia School of Law (1)
- University of Wisconsin Law School (3)
- Valparaiso University School of Law (3)
- Vermont Law School(2)
- Washburn University School of Law (1)
- Western New England College School of Law (2)
- Whittier Law School (1)

December 1, 2008

Groups already
signed-on are in bold

Fordham Outlaws

Columbia Outlaws

NYU Outlaws

Georgetown Student
Bar Association

National Association
for Law Placement
GLBT Section

**NY County
Lawyers
Association LGBT
Issues Committee**

NYC Bar
Association GLBT
Committee

ABA GLBT Section

NYS Bar
Association GLBT
Committee

**Lesbian, Gay,
Bisexual and
Transgender Law
Association of
Greater New York
(LeGaL)**

**Society of
American Law
Teachers LGBT
Committee**

**National Lesbian,
Gay, Bisexual &
Transgender Law
Association**

**John Marshall Law
School Gay and
Lesbian Legal
Alliance**

**Chicago-Kent
Lambdas**

ABA Commission
on Sexual
Orientation
and Gender Identity

Dear [hiring partner, hiring committee, legal recruiting, gay attorney],

We want to bring to your attention a way for [name of employer] to better attract and retain top legal talent, as well as clients: offering your attorneys the opportunity to self-identify as openly GLBT. Leading firms such as Wachtell Lipton, Skadden Arps, Cravath, Cleary Gottlieb, Latham & Watkins, Cahill Gordon, and many, many others have been realizing benefits of this simple action for nearly a decade. According to your firm's profile in the 2008-09 NALP Directory of Legal Employers, your firm is not yet taking advantage of this opportunity.

Here are some key facts about the value of this action:

- it is accomplished by a simple annual email to all attorneys & incoming summer associates;
- model language used by many firms is now available on NALP's website;
- top legal talent values this diversity action & diversity data;
- non-GLBT legal talent refers to your diversity data as an indicator of good management, a demonstration of your commitment to diversity, & the reality of the culture of your firm;
- not doing so is interpreted by some top legal talent as poor management, and/or superficial commitment to diversity, and/or suggests an employer may even be anti-GLBT.

For all of the above reasons we ask you to give your attorneys & summer associates the opportunity to self-identify as openly-GLBT.

If you have any questions or concerns about this issue, Andrew Chapin, Chair of NALP's GLBT Section, as coordinator of this coalition, would welcome your phone call or letter. The model language, and other discussion about this topic, is available at <http://www.nalp.org/content/index.php?pid=31>

Please let us know if your firm will join the more than 89% of NALP's leading employers who are benefiting from this simple diversity promoting action. If you choose to not participate, we hope you will share with us your reason(s) so that we may better understand obstacles employers are encountering concerning this valuable data.

On behalf of the groups named at left,

Andrew Chapin
2008-2009 Chair, NALP GLBT Section
Fordham Law School
140 West 62 Street
New York, NY 10023
Phone: 212-636-7849
Email: achapin@law.fordham.edu