

## Lambda helps win protection for employees with HIV

by Kathy Strieder  
Special to Q-Notes

LOS ANGELES—A California appeals court April 10 affirmed the right of people who seek disability payments after losing a job to challenge the firing as discriminatory.

In *Bell v. Wells Fargo Bank*, the court ruled that Andrew Bell, an HIV-positive man who worked for Wells Fargo Bank in San Francisco, could pursue an anti-discrimination lawsuit against his former employer even though he had applied for disability benefits.

"This ruling vindicates the right of people with disabilities to challenge discrimination after employers refuse to make reasonable accommodations for them," says Myron Dean Quon, staff attorney for Lambda and co-author of Lambda's friend-of-the-court brief in the case. "Wells Fargo failed in its attempt to distract the court from the real issue of its conduct."

The court found that a person with HIV who applies for disability benefits is still protected by California's Fair Employment and Housing Act (FEHA) prohibiting employment discrimination.

Bell was able to keep his job and his health benefits for the two years during which Wells Fargo Bank permitted him to work a four-day week, one from home via telecommunication. While working under these accommodations, Bell was promoted from bank examiner to vice president. He also received consistently positive evaluations throughout his tenure.

However, when new management revoked the arrangement — which Bell asserts was needed due to his HIV-related illness — he was

unable to continue working and he filed for disability benefits. Bell also filed suit against Wells Fargo Bank under FEHA, claiming that the schedule accommodation was required due to his disability and that revoking the accommodation forced him out of his job.

The appeals court recognized that the original schedule and telecommuting accommodation not only had allowed Bell to do his regular work, but to excel at it. The court noted that Bell's later application for disability benefits should not be a "death sentence" for his claim that Wells Fargo's arbitrary revocation of that accommodation was discriminatory.

"The ability to seek and maintain flexible work arrangements that allow people with disabilities to be productive members of society is particularly important to people living with HIV, as developing drug therapies make it possible for more people to return to work," said Catherine Hanssens, Lambda's AIDS project director.

Wells Fargo Bank had persuaded the trial court to dismiss Bell's claim based on the assertion that his receipt of disability benefits amounts to a concession that he could not do his job under any circumstances. That court invoked a doctrine called "judicial estoppel," intended to prevent litigants from taking mutually exclusive positions in related court proceedings. Lambda's friend-of-the-court brief on appeal argued that the doctrine barring totally inconsistent positions does not apply to *Bell* and similar cases where the facts allow a conclusion that the person with disability was able to do his or her job at the time they were forced to leave. ▼

## GLAAD Awards are a record success

by Bill Horn  
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NEW YORK—The Gay & Lesbian Alliance Against Defamation (GLAAD) set record attendance at their 9th Annual Media Awards, honoring the best and brightest media representations of the lesbian and gay community over the past year. The Media Awards were held at three events in New York (March 30), Washington, DC (April 4) and Los Angeles (April 19). Overall, the Media Awards were attended by more than 3500 people. The \$1.4 million raised will be used in GLAAD's continuing efforts to honor those whose work exemplifies the tremendous improvements that have been made in the media coverage of the lesbian and gay community.

At the final ceremony in Los Angeles, special guests and presenters included Jennifer Aniston, Jamie Lee Curtis, Dana Delany, Fran Drescher, Gregory Hines, Larry King, Howie Mandel, Garry Marshall, Joni Mitchell and Jeffrey Tambor. Dionne Warwick and the Captain & Tennille performed for the sold out crowd.

Cher accepted GLAAD's Vanguard Award at the Los Angeles bash. The honor is presented to a member of the entertainment or media community who has made a significant difference in promoting equal rights for lesbians and gay men.

In Washington, DC presenters and special guests included Margarethe Cammermeyer, Dorothy Hajdys Holman, David Kopay, Mary Louise Parker and Bob Smith. Attendance at the event doubled from the previous year.

Judith Light was honored in DC with the Vision Award, presented to an individual that has had a long-term vision and commitment to making a significant difference in society by promoting equal rights for lesbians and gay men.

In New York presenters and special guests included Kate Clinton, Phil Donahue, Michael Douglas, Christopher Durang, Cherry Jones, Ricki Lake, Cristina Saralegui, Marlo Thomas, Sigourney Weaver and the women of *The View*. The sold out event included performances by Lea Delaria and Tony Bennett.

Co-chairmen of Miramax Films Bob and Harvey Weinstein were honored with the Excellence in Media Award. This award is given to individuals in the entertainment and media industries who have included lesbians and gay

men in their work, furthering the visibility and greater understanding of the community. Also at the event, k.d. lang accepted the Vito Russo Entertainer Award, presented to an openly lesbian or gay individual who has achieved excellence in a specific area of media and has furthered the visibility and understanding of the community through his/her work.

1998 GLAAD Media Award Winners  
Excellence In Media Award: Bob and Harvey Weinstein

Stephen F. Kolzak Award: Ellen DeGeneres  
Vanguard Award: Cher  
Vision Award: Judith Light  
Vito Russo Entertainer Award: k.d. lang  
Outstanding Film (Wide Release): *In & Out*  
Outstanding Film (Limited Release): *Ma Vie En Rose (My Life in Pink)*

Outstanding Documentary: *Paul Monette: A Brink of Summer's End*

Outstanding TV Comedy Series: *Ellen* (ABC)

Outstanding TV Movie: *Any Mother's Son* (Lifetime)

Outstanding TV Drama Series: *NYPD Blue* (ABC)

Outstanding TV Individual Episode: *The Simpsons* "Homer's Phobia" (Fox)

Outstanding TV Talk: *Oprah Winfrey Show* "Ellen's Coming Out" Episode

Outstanding Daytime Drama: *All My Children* (ABC)

Outstanding TV Journalism: *Entertainment Tonight* (syndicated)

Outstanding Music: Janet Jackson *The Velvet Rope*

Outstanding Magazine Article: "Yep, I'm Gay" *Time* magazine

Outstanding Magazine Overall Coverage: *Advertising Age*

Outstanding Newspaper Article: "What A Difference A Modem Makes" by Matthew McAllester (*Newsday*)

Outstanding Newspaper Column/Columnist: "Outlooks" (*Miami Herald*)

Outstanding GLBT Print Media: *Gay People's Chronicle* (Cleveland, Ohio)

Outstanding Comic: "For Better or For Worse"

Outstanding Interactive Media: GLORadio

Outstanding LA Theater Production: *Mountains*

Outstanding NY Theater Production: *Gross Indecency: The Three Trials of Oscar Wilde* ▼



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