

An Open Invitation

To the Editor:

I write in response to the opinions expressed by Mr. Fifelski and Mr. Belej in their letters published in the Opinion and Dissent section of the March 2012 issue of the *Michigan Bar Journal*. Their letters criticized the *Journal* for publishing an article entitled “The Invisible LGBT Family” by Jay Kaplan in the January 2012 issue, which focused on diversity and inclusion in the legal profession.

Diversity of identity is not always something that can be clearly seen in a driver's license photo or the spelling of a last name on a business card. I believe the intersection of lesbian, gay, bisexual, and transgender (LGBT) rights and family law is one of the most compelling legal issues facing our bar today. For that reason, I am honored to be the current president of the Michigan Stonewall Bar Association, a special-purpose bar organization that serves LGBT attorneys and their allies throughout the state. Unlike attorneys in many of the other special-purpose bar organizations, most of the members of the Stonewall Bar Association cannot marry, cannot adopt, and cannot seek custody of the children they raise with their partners.

Mr. Fifelski and Mr. Belej both deride Mr. Kaplan's article as too controversial to warrant publication in the *Journal* and a “propaganda piece rather than a thoughtful discussion of an actual legal issue.” In a *Journal* issue specifically devoted to finding ways to promote inclusion in the legal profession for attorneys like the members of the Stonewall Bar Association, it is disheartening that Mr. Fifelski would think it inappropriate to include any reference to issues affecting those colleagues simply because he

finds the subject personally uncomfortable. And while the issue may be controversial to some, I strongly disagree with Mr. Belej's assessment that it was not a discussion of an actual legal issue.

In my own practice, I have seen concrete examples of the way in which children are harmed by the current state of LGBT family law. I recently represented a lesbian mother of two small boys who were born during my client's valid out-of-state marriage to her partner. Because Michigan law offered no protection for children conceived during a valid same-sex marriage, the children were deprived of support from the ex-spouse

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(whose annual salary was in excess of six figures) and the burden of supporting the children fell on the taxpayers of the state of Michigan.

In another case, a client who had been in a long-term lesbian relationship and had helped her partner with the assisted reproduction process and gone through Lamaze classes was barred by her ex-partner (the biological parent) from attending the soccer games of the teenaged daughter she had raised from birth. With no rights to custody or parenting time available to my client, the daughter lost her right to a relationship with one of her parents because of the unilateral actions of a bitter ex-partner.

In both of the foregoing cases, allowing the nonbiological mother to adopt would have offered some protection for the children. Whether the state of Michigan moves quickly or slowly to support equality of marriage rights for same-sex couples, denying those couples the right to legally adopt the children they jointly raise puts these chil-

dren at significant risk. Furthermore, the burden of supporting those children may ultimately fall to Michigan taxpayers, whose elected representatives have the power to change the situation.

Whether Mr. Fifelski and Mr. Belej approve or not, same-sex couples are raising children and will continue to do so. Now that eight states and the District of Columbia have approved same-sex marriages, along with Canada and several other foreign countries, more and more couples will believe that a valid marriage offers some protection to the children they choose to raise together. If there is a controversy in addressing the rights of LGBT families, I believe the most controversial issue is that Michigan does not afford equal protections for the children of those families.

While Mr. Kaplan's article implies there is a compelling need for changes to be made to Michigan law, I find it disturbing that Mr. Fifelski reports he is “appalled that Bar member funds have been used to propagate ideas such as Mr. Kaplan's.” I recently attended the State Bar of Michigan 2012 Celebrating Our Diverse Bar mixer at Fishbone's in downtown Detroit in my capacity as president of the Stonewall Bar Association, and had the opportunity for many lively debates with colleagues and judges who both support and oppose changes to LGBT rights, but not one of them questioned the propriety of the State Bar's diversity initiative. Moreover, the event highlighted the need for our bar to support inclusion in our membership for attorneys of diverse backgrounds and be prepared to serve the needs of an increasingly diverse client base. Perhaps my own practice in family law draws this issue into sharper focus for me than for Mr. Fifelski and Mr. Belej, but silencing discussion because the issue is “very controversial” does a disservice to the many Michigan family law practitioners who are, or soon will be, representing clients facing these very problems.

To Mr. Fifelski and Mr. Belej, I extend a standing invitation to contact me or attend one of our regular Stonewall Bar Association meetings so they can hear about the issues facing LGBT attorneys and clients, and have the opportunity for an open and honest discussion about Michigan's law and public policy as it affects that community.

Tim Cordes, Grosse Pointe

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