



# SacLEGAL EX PARTE

The Newsletter of the Sacramento Lawyers for the Equality of Gays and Lesbians

Spring 2011

## SacLEGAL Celebrates 15th Anniversary by Honoring LGBT Veterans

By Patrick Holstine  
SacLEGAL Co-Chair

Sacramento Lawyers for the Equality of Gays and Lesbians (SacLEGAL) celebrated its 15<sup>th</sup> Anniversary in November by hosting a dinner to celebrate on Veterans Day. The event took place at Casa Garden Restaurant in Sacramento and featured special guest speaker Ty Redhouse, President of the Sacramento Valley Veterans which is an LGBT veterans group.

Redhouse spoke about serving in the military under the “Don’t Ask, Don’t Tell” policy and the difficulties the policy caused for him as an LGBT individual who had to hide his identity in order to keep his job. Redhouse was honorably discharged after serving in the United States Air Force for eight years, but decided not to reenlist because of the “Don’t Ask, Don’t Tell” policy.

Redhouse was honored with an award at the event for his military service and his work with LGBT veterans. SacLEGAL chose Redhouse as the guest speaker and Veterans Day as the date of the celebration to bring attention to the efforts to repeal the “Don’t Ask,

*Continued on Page 2*



PHOTO: PATRICK HOLSTINE

Ty Redhouse, President of the Sacramento Valley Veterans, addresses SacLEGAL members and friends at the SacLEGAL 15th Anniversary Dinner.

## SacLEGAL and SCBA Bring CLE Event on Registered Domestic Partners to Mulvaney's

By Penny Brown  
SacLEGAL Board Member

SacLEGAL and the Sacramento County Bar Association – Tax Section teamed-up to bring its members a very important and timely tax presentation on February 28, 2011, at Mulvaney's B&L. The topic being the “Taxation of Registered Domestic Partnership Community Property: The Recent IRS Shift & the Unanswered Questions,” with nationally known speaker Professor Patricia A. Cain.

Professor Cain, who is a national

expert in federal tax law and sexuality and the law, with a specialty in taxation and estate planning for same-sex couples, came armed with a great outline, an insight into the IRS, and a great sense of humor. The topic was informative for all attendees, who included attorneys, certified public accountants, and financial advisors, and especially for those who work closely with registered domestic partners.

In summary, Professor Cain walked the audience through the

*Continued on Page 2*

## Don't Forget...

- SacLEGAL’s Spring Social: April 21, 2011, at Azul Mexican Food & Tequila Bar. Visit [www.saclegal.org](http://www.saclegal.org) for more information.
- Renew your membership at [www.saclegal.org/join.html](http://www.saclegal.org/join.html)
- You can follow us on Twitter at [www.twitter.com/saclegal](http://www.twitter.com/saclegal) and on Facebook at [www.facebook.com/saclegal](http://www.facebook.com/saclegal)

## What's Inside...

Superior Court Notes	3
Prop 8 Update	4
SacLEGAL Holiday Party	5

## SacLEGAL CLE on RDPs is Informative, Thought Provoking

*Continued from Page 1*

legal reasons as to why Private Letter Ruling 201021048 is applicable to all registered domestic partners in California and not just to the couple who applied for the Private Letter Ruling, based on *Poe v. Seaborn*, 282 U.S. 101 (1930), which is a case that reaffirms state property rights. She informed us that the IRS holds "that all community income should be split 50/50 for income tax reporting and that the creation of community property, even if attributable to the earnings of one partner, is not a transfer for gift tax purposes." We were told that our registered domestic partner clients could amend their prior returns for years 2007 through 2009, but had only until April 15, 2011, to do so. We learned that the IRS updated the Form 1040 Instructions to reflect the change, but the instructions are without the necessary detail or mechanics on how to file.

Although Professor Cain left the audience with answers to questions, she also left the audience with more questions to ponder regarding the IRS's position under other tax provisions that affect registered domestic partners, such as estate tax issues, innocent spouse exemption, community property with right of survivorship, just to name a few.

Professor Cain raised many issues for those professionals working with registered domestic partners or those who are registered domestic partners to be aware of when it comes to filing their 2010 income tax return.

Many thanks to those who attended the CLE luncheon and to those who supported both SacLEGAL and the Tax Section in this very informative and timely co-sponsored luncheon.

*Penny Brown is Of Counsel at BoutinJones, Inc.*

## Anniversary Dinner Celebrates US Vets and SacLEGAL's 15 Years



McGeorge Professor Larry Levine (left) accepts a plaque honoring his role in founding SacLEGAL. Co-Chair Trish Eichar (right) presented the plaque.

Below: Attendees chat and mingle before and after the ceremonies.

*Continued from Page 1*

"Don't Tell" policy.

More than 80 people attended the celebration, making this the largest event in SacLEGAL's 15-year history. Attendees included SacLEGAL members, members of other Sacramento County Bar Association (SCBA) affiliates, local law students, and several LGBT veterans including some currently on active duty.

One of the founders of SacLEGAL, Pacific McGeorge Professor Larry Levine, was also honored at the celebration for his role in bringing the group into existence.



# News and Notes from the Sacramento County Bench

**By Hon. Steve White**  
Presiding Judge  
Superior Court of California,  
County of Sacramento

A major challenge for the courts is the Governor's proposed \$200 million permanent reduction in funding for the Judicial Branch. Reductions in funding for the Judicial Branch last fiscal year were covered in part by a one-time transfer of \$130 million in reserves that are not available this year. The net result is a \$330 million shortfall in funding for the Judicial Branch. These cuts may only be the beginning however, as they are dependant upon voter approval of maintaining certain tax rates for five years. Should the Legislature fail to place the tax measure on the June ballot, or the voters reject it, larger cuts are likely.

If these cuts are allocated under the formula previously used by the Administrative Office of the Courts, the Sacramento Superior Court will lose approximately 10% of our annual budget. We are reviewing options for accommodating such cuts. Our goal is keeping our courthouses open. The options are not pretty. Under even the best scenarios there will be calendar delays, even longer lines to file documents, and fewer civil cases getting out to trial. We will keep you informed as we move

through the budgetary process, and welcome your comments and suggestions.

## EXPEDITED JURY TRIAL

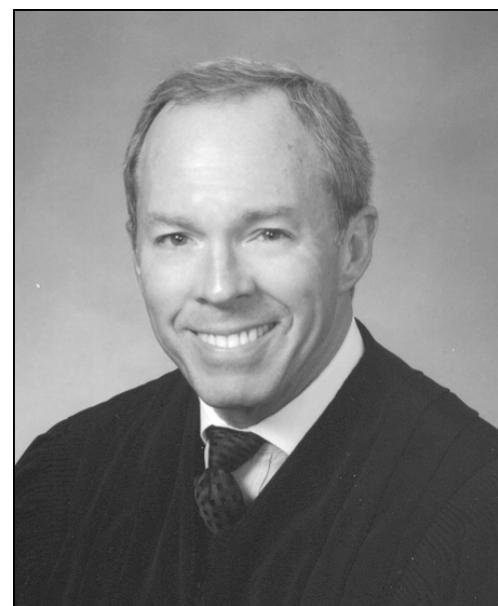
Effective January 1, 2011, California provides significant new procedures for expedited jury trials at the parties' request. (Code of Civil Proc. § 630.01 to .12.) Under this program, the case will be heard by 8 jurors, 6 of whom must agree on a verdict. Each side will have 3 hours to present evidence and argue their case. Jury selection will be completed in 45 minutes. Appeal rights are generally limited to cases of Judicial or jury misconduct.

Parties wishing to participate initiate the process by filing a Consent Order, which may be obtained from the Court's website at:

<http://www.saccourt.ca.gov/forms/forms.aspx#jury-trial>

Judge Hight will then assign the case to either Judge Earl, Hom or himself. The trial judge will meet with counsel to establish a trial date and briefing schedule for Motions in Limine. Jury instructions and all evidentiary issues will be decided before the start of trial.

The program is modeled upon the successful experience other states have had using similar programs to quickly and efficiently re-



**Judge White is the Presiding Judge of the Sacramento County Superior Court.**

solve appropriate cases. The Legislation creating this program was supported by both the plaintiffs' bar and insurance industry. We encourage the civil bar to seriously consider using this process for appropriate cases, and welcome any inquiries.

## DEMURRER PROGRAM

The Sacramento Superior Court is addressing its backlog in demurrer settings. Beginning March 4, a special demurrer calendar will be heard each Friday by a regular civil judge in the Gordon Schaber Courthouse. The court will also increase the number of demurrers set on its regular law and motion calendars by adding demurrers to the Wednesday calendars in each department. Taken together these two measures will increase the number of demurrers heard each week in Sacramento County by approximately 33%. These additional settings should allow the court to significantly reduce delay in scheduling demurrers. Hearing dates for all demurrers will continue to be reserved in accordance with the procedure set forth in Sacramento County Superior Court Local Rule 3.20.



PHOTO: CHRIS LEE

# Proposition 8 and Perry v. Brown: Where Do We Stand?

By Trish Eichar

SacLEGAL Co-Chair

On August 4, 2010, Chief Judge Vaughn Walker issued an opinion that Proposition 8 violated the Due Process and Equal Protection Clauses of the Fourteenth Amendment to the United States Constitution. On August 16, 2010, the Ninth Circuit Court of Appeals ordered the judgment stayed pending appeal.

The Ninth Circuit, in an expedited schedule, heard oral arguments on December 6. A significant percentage of the time allotted to oral arguments was centered around standing and procedure. For example, the judges seemed particularly vexed that the Clerk of the County of Imperial was not a party to Imperial County's appeal. Rather, the appeal was by the Deputy Clerk. Judge Smith also raised questions regarding whether the County Clerk could even be considered a state officer, with authority to represent the interests of the State. In the end, on January 4, 2011, the 9<sup>th</sup> Circuit dismissed Imperial County for lack of standing. In late February, the newly elected County Clerk filed a new motion to intervene in Perry v. Brown (so renamed to substitute the current governor).

The oral arguments on the standing of ProtectMarriage.com became a sticky mess, resulting eventually in counsel to ProtectMarriage.com admitting that there was no existing case that supported their contention that ProtectMarriage.com, as proponents of Proposition 8, had standing to defend the proposition in court. Although the lack of a case on point does not immediately invalidate the claim, it does make this a novel question that the judges seemed to be grappling with. Ultimately, on January 4, 2011, the 9<sup>th</sup> Circuit panel certified as a question to the Supreme Court of the State of California:



PHOTO: TRISH EICHAR

**Protesters march outside of the California State Capitol building after the Prop 8 Decision is overturned in November 2008.**

*Whether under Article II, Section 8 of the California Constitution, or otherwise under California law, the official proponents of an initiative measure possess either a particularized interest in the initiative's validity, which would enable them to defend the constitutionality of the initiative upon its adoption or appeal a judgment invalidating the initiative, when the public officials charged with that duty refuse to do so.*

Although the 9<sup>th</sup> Circuit had accepted the appeal on an expedited schedule, sending a certified question to the California Supreme Court will require moving on the California Supreme Court's schedule. In the briefing schedule set by

the California Supreme Court,

*The opening brief on the merits is to be served and filed on or before Monday, March 14, 2011. The answer brief on the merits is to be served and filed on or before Monday, April 4. A reply brief may be served and filed on or before Monday, April 18.*

The California Supreme Court issued a statement that it would hear oral arguments "as early as September 2011," nearly three years after the rights of same-sex couples to marry were taken away. As of today, the California Supreme Court has refused to expedite the schedule.

---

**Trish Eichar** is an attorney at Orrick, Herrington & Sutcliffe LLP

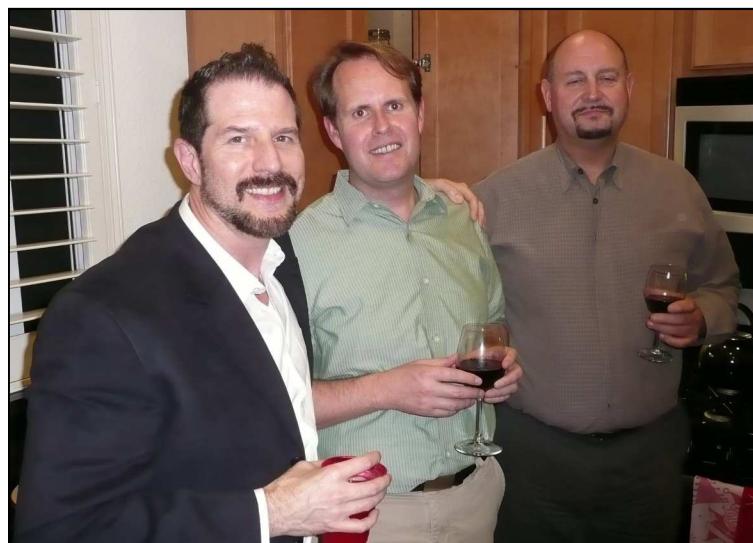
# SacLEGAL Celebrates the Holidays and Another Successful Year

**By Patrick Holstine**  
SacLEGAL Co-Chair

In early December, SacLEGAL Treasurer Jeff Bedell hosted the annual holiday party at his house in Midtown. Nearly two dozen SacLEGAL members attended, and were especially honored by the presence of Contra Costa County Superior Court Judge Christopher Bowen and 2010 Sacramento County Bar Association President Todd Vlaanderen.

Everyone shared in abundant food, drinks and warm holiday atmosphere in what proved to be a great networking opportunity as well. Thanks again to Jeff for opening up his home and making us all feel so welcome!

And if you enjoyed the SacLEGAL social events in 2010, you will be happy to know there are more on the way in 2011 including our Spring Social at Azul, the SacLEGAL Summer Party, and more. Stay tuned for more details – coming soon!



PHOTOS COURTESY OF PATRICK HOLSTINE

## More Photos from the SacLEGAL Holiday Party



**SacLEGAL**  
1017 L Street #515  
Sacramento, CA 95814

### Officers:

Patrick Holstine—Co-Chair  
Trish Eichar—Co-Chair  
Robert Boucher—Secretary  
Jeff Bedell—Treasurer

### Board of Directors:

Sarah Asplin  
Jeff Bedell  
Robert Boucher  
Penny Brown  
Trish Eichar  
Patrick Holstine  
Chris Lee  
Ted Lindstrom  
Steve Muni  
Tina Poley

### Organization Representatives:

Travis Clark, Student, McGeorge  
Theo Cuison, Student, UC Davis

**SacLEGAL is a professional association of attorneys**, legal professionals, and legislative advocates, affiliated with the Sacramento County Bar Association. Our mission is to promote equality for members of the lesbian, gay, bisexual and transgender, queer, questioning, intersex, and ally (LGBTQQIA) community. We will accomplish our mission through strong leadership, legislative advocacy, education, and participation in civic and social activities within the legal community and community at large.