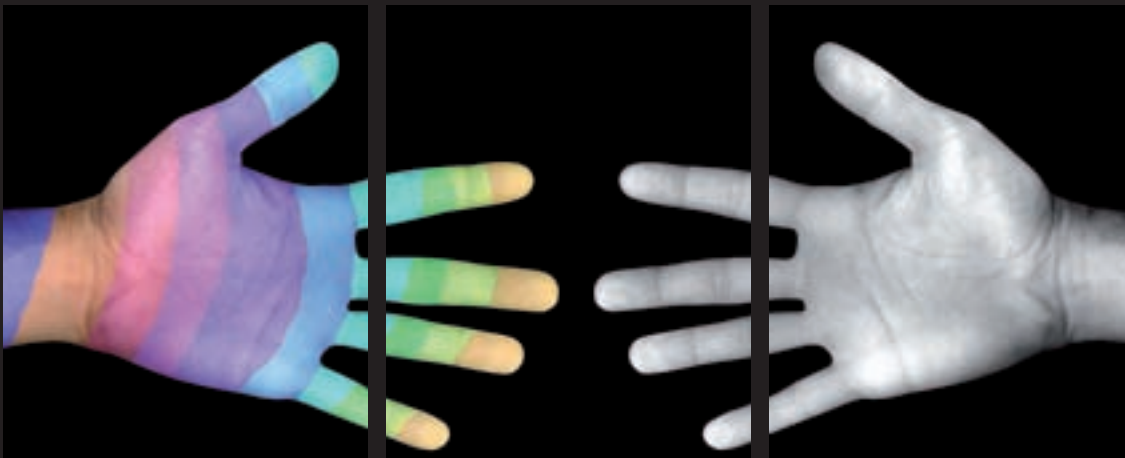


# Attracting, Advancing and Retaining LGBT Lawyers

LISA A. LINSKY AND AMY S. BEARD



## Attracting, Advancing and Retaining LGBT Lawyers

is published by Ark Group



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ISBN: 978-1-906355-66-1

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LISA A. LINSKY AND AMY S. BEARD





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# Executive summary

ALTHOUGH LESBIAN, gay, bisexual and transgender (LGBT) individuals have made significant progress toward equality in many social arenas, countless LGBT employees still face negative stereotypes, harassment and bias in the workplace. With clients, law students and lateral candidates increasingly focused on diversity, law firms must examine their workplace policies, procedures and cultures to encourage and embrace diversity and ensure that all lawyers experience a respectful and collegial working environment.

Creating diverse workplaces makes good business sense, as many law firms have already discovered. Clients often expect their outside legal counsel to have inclusive workplace policies and diverse client service teams, as demonstrated by initiatives such as the 2004 Call to Action (an ongoing pledge in which over 100 corporate general counsels have called for more diversity in law firms and refused to work with firms that do not demonstrate a commitment to diversity). Mirroring and even exceeding clients' and potential clients' diversity policies and initiatives can aid law firms in retaining these clients and attracting new business.

Creating cultures where diversity is valued and respected also makes for better working environments within law firms. Lawyers who feel valued and respected, rather than marginalised because of their sexual orientation or gender identity or expression, experience greater job satisfaction and tend to be more productive and loyal to their employers, thus reducing

costly attrition. Likewise, heterosexual lawyers who support diversity in the workplace tend to seek out firms that foster inclusive environments and welcome LGBT talent.

*Attracting, Advancing and Retaining LGBT Lawyers* is intended to be a practical guide for human resource, recruiting and diversity professionals, and partners with management responsibility. This publication will also be of value to law students and lateral candidates looking to investigate LGBT-friendly firms, as well as law school career placement professionals. The guide highlights challenges LGBT lawyers still face in the workplace and addresses why law firms should encourage diversity and implement strategies to create welcoming and supportive environments for LGBT lawyers, through initiatives such as diversity committees, formal and informal mentoring, LGBT *pro bono* initiatives and domestic partner and other same-sex partner benefits.

Part One of the guide provides a comprehensive overview exploring challenges that LGBT lawyers face in the legal workplace; initiatives that law firms can use to recruit LGBT lawyers; and strategies lawyers and law students can use to locate LGBT-friendly firms and programmes. It also discusses ways in which firms can make their workplaces more welcoming to LGBT lawyers.

The second section of the guide consists of more detailed examinations of these topics from a variety of contributors who are diversity leaders in the legal profession. The contributors to Part Two have each

provided a more detailed discussion on one of the many issues touched on in Part One. Contributors explore challenges facing LGBT lawyers, the need for law firms to encourage diversity, and the many methods by which law firms can become more diverse and create cultures of inclusion to attract and retain top LGBT legal talent. Topics here include retaining LGBT lawyers by implementing employee benefits policies that cover spouses *and* domestic partners, implementing *pro bono* and community service initiatives with LGBT-oriented organisations, and mentoring LGBT lawyers to advance their careers and create firm leaders.

## About the authors

Lisa A. Linsky, Esq. is a partner in the New York Trial Department of McDermott Will & Emery LLP, with a practice focused on complex litigation, mass and toxic tort, business investigations, trials and civil rights. Ms. Linsky is also McDermott's first partner-in-charge of firm-wide diversity and the chair of McDermott's firm-wide LGBT Diversity Committee. In 2007, Ms. Linsky was appointed to the Board of Directors of Lambda Legal, and currently serves as board secretary. Ms. Linsky is a sought-after public speaker who presents nationally on a range of topics including law firm diversity and *pro bono* initiatives. In 2009, Ms. Linsky was named a 'Mover & Shaker' by the Minority Corporate Counsel Association for her contributions to diversity within the legal profession. She is also a 2009 recipient of the 'Safe Haven' Award, presented to her by Immigration Equality for her work on behalf of LGBT asylum-seekers. Ms. Linsky is a former career prosecutor who specialised in the investigation and trials of crimes involving child abuse, domestic violence, sex crimes and homicides.

Amy S. Beard, Esq. is an associate in the New York Trial Department of McDermott Will & Emery LLP. In addition to her commercial civil litigation work, Ms. Beard has an active *pro bono* practice focused on immigration issues, primarily asylum cases, and LGBT civil rights. Ms. Beard is a 2009 recipient of Immigration Equality's 'Safe Haven Award', presented for her work on behalf of LGBT asylum-seekers. Ms. Beard is a 2007 graduate of the New York University School of Law, where she served as the Moot Court Board casebook editor and was a member of the Trial Advocacy Society. Ms. Beard is a member of the Order of the Barrister and of the academic honour societies Phi Beta Kappa and Phi Alpha Theta. She received her BA *summa cum laude*, with High Honors in her major, from Clark University.



# Acknowledgments

WE WOULD like to take this opportunity to thank all those who supplied articles for this report, as well as those who agreed to be interviewed and who otherwise contributed time and advice over the course of this project: C. Elaine Arabatzis, Esq. (*Dickstein Shapiro LLP*), Anna Bosworth (*Simmons & Simmons*), Petra Braybrook (*Simmons & Simmons*), Denise Brogan-Kator, Esq. (*Rainbow Law Center PLLC*), Mary Gallagher (*Simmons & Simmons*), Marla Hassner, Esq. (co-chair, *Empire State Pride Agenda's Pride in My Workplace* programme), James Holmes, Esq. (*Sedgwick, Detert, Moran & Arnold LLP*), D'Arcy Kemnitz, Esq. (*National LGBT Bar Association*), Leigh Kirmssé, Esq. (*Howrey LLP*), James Leipold (*National Association for Law Placement*), Gail H. Morse, Esq. (*Jenner & Block LLP*), Aaron Myers, Esq. (*Howrey LLP*), Laura Olch (*Boston University School of Law*), Todd Solomon, Esq. (*McDermott Will & Emery LLP*), Brian Tiemann, Esq. (*McDermott Will & Emery LLP*), Gabe Verdugo (*University of Washington School of Law*), Dr. Jillian T. Weiss (*Jillian T. Weiss & Associates*), Melvin White, Esq., Daniel Winterfeldt, Esq. (*Simmons & Simmons*), Jeffrey Wolf, Esq. (*Williams Kastner*), and Ann Young (*New York Law School*).

It has truly been a pleasure working with such successful and talented people who are dedicated to enhancing diversity within the broader legal profession.

## Disclaimer

The opinions and statements expressed in the articles within this guide are solely those of their respective authors and do not necessarily represent the opinions of the publishers, any law firm, non-profit organisation, bar association or other institution.



# Foreword: A personal perspective

By Lisa A. Linsky of McDermott Will & Emery LLP

I RECENTLY attended a Katy Perry concert with my soon-to-be 13-year-old daughter. Amidst the screaming teenagers and inflated giant plastic strawberries that Katy tossed into the crowd to be batted about like beach balls, I was struck by the lyrics of one of her hit songs. As Katy and her throng of young fans sang together, “I kissed a girl and I liked it,” I could not help but think about how the times have changed since I was a kid.

As a teenager, it would have never entered my mind to express such a desire – that is, to kiss a girl – let alone talk about or act on it. When I started my legal career in 1984, I still felt the same: I was completely closeted about my sexual orientation. The thought of being ‘found out’ as a lesbian was frightening, and I feared that such a disclosure would have surely derailed my rising career as a trial lawyer. At that time, coming out professionally was simply not an option.

It felt dangerous to be openly gay in the 1980s. A number of states criminalised same-sex relations and required convicted ‘homosexuals’ to register under state sex offender laws. Anti-gay lobbying efforts caught the attention – and often the support – of many. Singer Anita Bryant had been waging passionate anti-gay campaigns, such as ‘Save Our Children’, since the late 1970s. She and her supporters lobbied against equality under the law for

homosexuals, whom Ms. Bryant referred to as “human garbage”. In 1978, nearly ten years after the Stonewall Riots in New York City touched off the modern gay rights movement, Harvey Milk, the first openly gay man to be elected to public office in the State of California, was brutally gunned down by a fellow San Francisco Board Supervisor. Harvey Milk’s killer had the public sympathy of the prosecutor assigned to the case, as well as many San Francisco police officers. In such a volatile and often hostile social and political milieu, lesbians, gays, bisexuals and the transgendered had every reason to be afraid of being open about their sexual orientation and gender identity, and no reason to believe that they would be treated with respect if they came out to their employers and colleagues.

Twenty-five years makes a significant difference in the evolution of a culture. In 1984, Ronald Reagan was President, a staunch Republican who once, in a speech opposing Medicare, said that “you and I are going to spend our sunset years telling our children... what it once was like in America when men were free.” Today, Barack Obama leads America and is at the forefront of the fight for universal healthcare. In 1984, Vanessa Williams was forced to relinquish her title of Miss America amid a media scandal, following the unauthorised publication of her nude modelling photos in *Penthouse* magazine. Today, nude photos of celebrities are rarely cause for much concern, and celebrities have posed nude

on the covers of mainstream magazines, such as *Vanity Fair*, without harming their careers. In 1984, a gallon of gasoline was approximately US\$1.10; Apple introduced the Macintosh personal computer; and Michael Jackson, now deceased, received eight Grammy Awards for his historic album, *Thriller*. And it was in 1984 that scientists discovered that the mysterious condition called AIDS ravaging the gay community was caused by a single virus, then called HTLV-III and now known as HIV. Although many homophobic individuals and conservative groups in the 1980s publicly claimed that gay people brought this horrific and destructive epidemic on themselves, today it is widely recognised that AIDS is not a 'gay disease', as it was once called. Although the disease remains a major health concern, especially in developing nations, medical advancements and breakthroughs in treatments, particularly those available in wealthy countries, have greatly improved the quality of life and life expectancy of those who suffer from the disease.

It was against the backdrop of the 1980s that I first came out to a professional colleague. I can remember the day clearly: one of my co-workers took me to lunch because she wanted to 'talk' with me. As we settled in for our meal, my colleague looked me in the eyes and asked, "Are you gay?" While initially terrified, I found some courageous spirit within me to answer her question honestly. I replied simply, "Yes." My co-worker immediately assured me that my sexual orientation would not have a negative impact on our relationship, nor, in her opinion, would it hurt my career. At that point, I had been practising law for five years and had already established a reputation as a competent, fair-minded prosecutor and skillful young trial lawyer. From that day forward, nothing in my life was the same.

I felt a certain relief making this disclosure to my colleague. No longer would I have to hide what I had done on the weekends when my co-workers gathered to chat, nor would I have to use gender-neutral pronouns when referring to people with whom I was socialising. Following this initial disclosure, I found that I grew increasingly comfortable telling others about my sexual orientation. Looking back on this time, the words of author and diarist Anais Nin come to mind: "There came a time when the risk to remain tight in the bud was more painful than the risk it took to blossom."

In the years following that initial 'coming out', wondrous things did indeed happen to me: my career flourished; I developed deeper relationships with my co-workers, many of whom remain among my closest friends; and I evolved into a more passionate advocate, better able to serve my clients. While my professional coming-out story may or may not be typical, it did make me realise the role that I had in creating my career, and how being inauthentic – at work and in the rest of my life – short-changed me and others.

Creating this guide, *Attracting, Advancing and Retaining LGBT Lawyers*, has been an exciting and rewarding project, and in some ways, a catharsis. My colleagues and I have undertaken a comprehensive journey from the beginning of the modern gay rights movement to examine the issues attendant to workplace diversity and inclusion for LGBT people and, along the way, explain why these issues matter. We found that there were myriad topics to discuss and analyse, and the guide reflects the collective experiences and wisdom of all those who generously assisted with this project.

Many of the individuals who have contributed to the guide are leaders in their firms and organisations, and in the broader

legal and LGBT communities. In connection with my diversity work at McDermott Will & Emery LLP, I have had the good fortune to meet many of the contributors to this guide and develop friendships with them. I have spoken publicly with some of our contributing authors on topics of importance to the legal profession, and I am continuously impressed by the tireless work of these and others with whom my path has crossed. Undoubtedly, partnering with individuals who are committed to expanding our perspectives and enhancing the richness of our professional experiences through the sharing of their stories, has been a gift. It is because of such committed people that our workplaces have improved. The creation of workplace cultures that reinforce values of respect, collegiality and compassion makes us professionals better able to serve our clients, and human beings better able to serve one another.

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Manhattan, New York  
August 2009



# Glossary of commonly-used terms and concepts

## **Gender expression**

Gender expression is “all of the external characteristics, behaviors and mannerisms that are socially defined as either masculine or feminine, such as dress, hairstyle, speech patterns and name. The term refers to the way people present their masculinity and/or femininity to the world” (Empire State Pride Agenda, ‘Pride in my Workplace Best Practices Guide’, 2nd edition).

## **Gender identity**

Gender identity is “a person's innate, deeply felt psychological identification as male or female, or not specifically male, female, which may or may not correspond to the person's body or assigned sex at birth” (‘Pride in my Workplace Best Practices Guide’).

## **HRC (Human Rights Campaign)**

HRC is an American civil rights organisation that works to achieve lesbian, gay, bisexual and transgender equality.

Since 2002, HRC has carried out an annual survey of diversity among US employers, and the HRC Foundation publishes the **Corporate Equality Index** based on the results. Organisations are scored out of 100, facilitating easy benchmarking. Law firms have made an increasing appearance in the index, with more than 100 participating in the 2009 survey.

## **LGBT**

Throughout this guide, the acronym LGBT is used to encompass gay, lesbian, bisexual, asexual, intersexed, transgender and questioning individuals.

## **NALP (National Association of Law Placement)**

NALP is a non-profit association dedicated to the development of legal professionals in the United States. It has a particular focus on advocating diversity and equality in the legal profession.

NALP carries out an annual survey of law firms and the results are published as the **Directory of Legal Employers**, widely used by job-seekers to find out key information (including diversity statistics) about potential employers.