

# LAYING DOWN THE LAW

**Lambda attorney discusses current court climate**

by Jim Radosta

**L**awyers might be the ongoing butt of nasty jokes, but thanks to the work of Lambda Legal—a national organization dedicated to advancing the civil rights of sexual minorities and people with HIV/AIDS—someday that might be a thing of the past.

Myron Quon serves as deputy director of its Los Angeles-based Western Regional Office, which covers Oregon, Washington, Alaska, Arizona, California, Hawaii, Idaho, Nevada, New Mexico and Utah. He focuses particular attention on Latino, Asian-Pacific Islander and rural communities and reaches out to clergy as part of Lambda's Marriage Project.

During a recent visit to Portland, Quon spoke with *Just Out* about the current court climate. Here are some excerpts from the conversation:

**Jim Radosta:** Are any issues on the horizon that Lambda is keeping an eye on?

**Myron Quon:** In California there's this grandparent custody visitation case going on where there are no lesbian moms involved. But that case we're working on because we're worried that the California Supreme Court may say the wrong thing—parents have total say over what can be done with their kids, end of discussion.

Obviously, we don't want that as an answer, because there are so many gay dads and lesbian moms out there, usually one of whom if you're lucky is either biologically related or has done an adoption, but the other one hasn't quite gotten to that stage yet. They've been together for four or five years and then all of a sudden they break up.

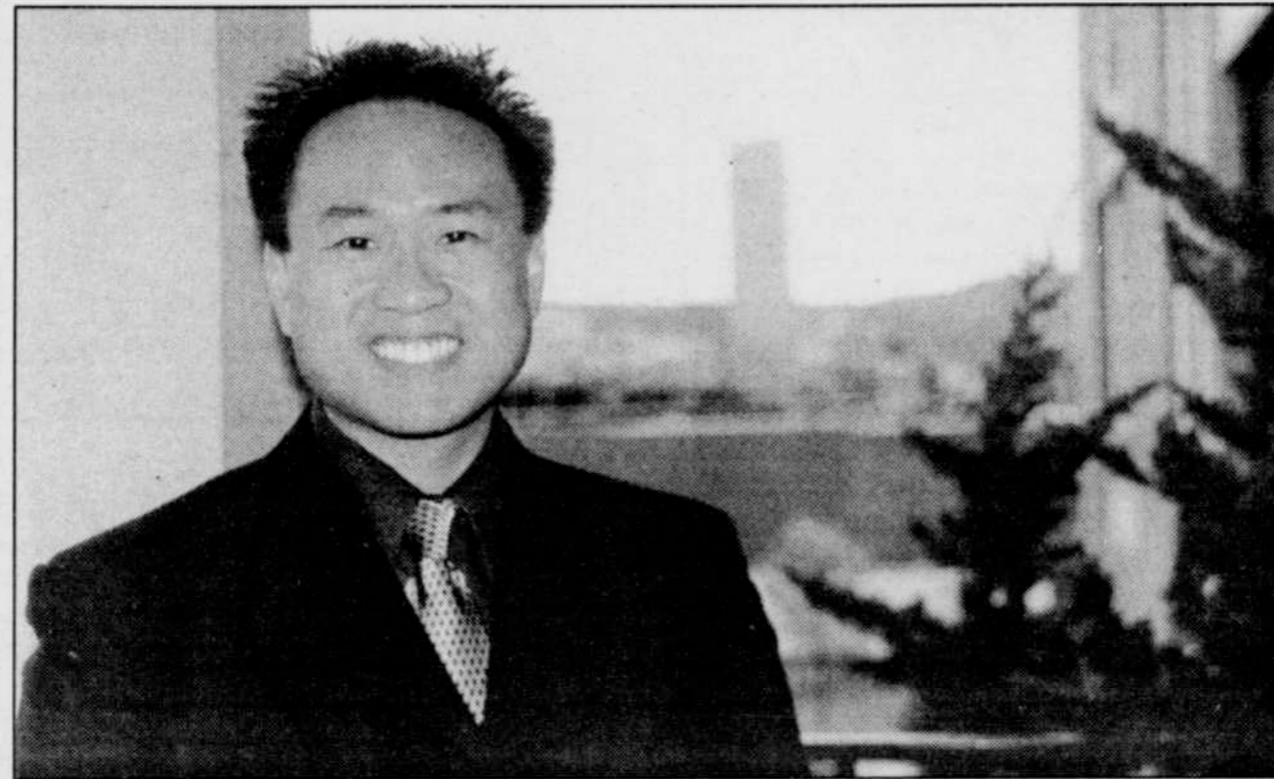
And the court will say: "So sad, too bad. Since you didn't do anything legal, you're a stranger to your child in the eyes of the law." It doesn't make any sense, but it's something we're seeing around the country unfortunately.

**JR:** How does Lambda decide whether to take on a case?

**MQ:** In general, we pick it up if it's an appellate court decision. If it's just at trial level—like before a family court judge or a family court mediator—we would hope that the parties can resolve it immediately on their own and we won't have to get involved.

**JR:** Are you overwhelmed with requests for help? Do you take on some cases that you know you have little chance of winning but that are worth the visibility?

**MQ:** We definitely get lots of requests for assistance. Whenever we do take a case it has to be breaking new ground. We try to find the one case that'll talk about a certain legal issue that



Myron Quon sees the tide slowly turning in courtrooms across the country

we've established is really important.

In terms of the other aspect, yeah, we often take on cases for public education. We represented Brandon Teena's mom in her lawsuit against Richardson County [Neb.] for their failure and neglect of protecting her child from all sorts of abuse. It's not really creating new law, because it's essentially tort action trying to say who's to blame and is there blame.

The sheriff's department was trying to say, "We didn't do anything wrong," which is not true. There was great public education value to it, talking about...hate crimes, about what gender-nonconforming and transgender people face, law enforcement practices that are unfair to LGBT people.

**JR:** Right now there's a big push to distinguish between sexual orientation and gender identity, which obviously is important to trans people. But does this end up creating problems in which sexual orientation protection doesn't apply to them?

**MQ:** That's an interesting question. The answer is, unfortunately, yes. The law currently does not see sexual orientation and gender identity as being the same.

We recognize that sexual orientation, gender identity and gender diversity are related in terms of discrimination that people face. If a butch

woman or a feminine man is beat up or harassed or discriminated against...is it because the person has a same-gender partner or is it because the person is not conforming to society's norms of gender and sex? It could be a mix of both, it could be one, I don't know.

But in terms of sexual orientation discrimination in Oregon, you have the Tanner [vs. Oregon Health Sciences University] decision. You also can potentially rely upon the federal Equal Protection Clause [of the 14th Amendment to the U.S. Constitution], and that's really it.

You clearly cannot rely upon Title VII [of the Civil Rights Act of 1964]. The weird thing is that the law looks at transgender people differently. Sex stereotyping and discrimination against people who are non-gender-conforming may be protected by Title VII.

**JR:** Can you think of any recent setbacks that have been especially disappointing for Lambda?

**MQ:** Probably the Boy Scouts decision. That was very crushing to lose.

That decision was, essentially, the Boy Scouts of America is an anti-gay discriminatory agency, and they can do that if they want to do it. That was the Supreme Court's ruling.

And it's been quite amazing...to see the outpouring of rage by our nongay allies, by straight parents who are so pissed off at the Boy Scouts that they're yanking their kids out of the program, cities and counties and even police departments and other agencies from around the country refusing to associate with the Boy Scouts of America and doing more stuff with...other youth programs.

**JR:** What would you say is Lambda's biggest success story?

**MQ:** There definitely are some trends. One is the survivorship issue, especially post-9/11. Lambda has been highly involved in that issue. I think that's one area where—because of the tragedy, because of the nature of the harm, because of the complete injustice that people who were living together...and yet either private or government agencies are trying to treat them as strangers again and give their compensation to blood family members who may be totally anti-gay and estranged from the victim—we have made a lot of headway in that, and I think that's really encouraging.

I think also encouraging is our work in relationship recognition. It's still very difficult to get civil unions passed in any state, but because of all this litigation around the country, when state legislators say, "We want to have a civil unions bill in our state," people don't look at them like, "What's a civil union?" Instead it's more like, "No, we oppose it because it's too much like marriage."

And then the spillover effect is it's really a lot easier now...for us to get domestic partner registries passed, and then the following year—following the California example—giving it some benefits to government employees. And the following year finally giving some true teeth to the domestic partnership registry.

And the last area I guess is probably the safe schools issue, both in terms of legislation we pass around the country as well as school administrators taking much more seriously name calling and anti-gay...harassment. It seems like because of the education and teachers' rights litigation we've done in the mid- to late '90s...it's really helped the administrators. I think the climate is very different from back then. ☐

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—Myron Quon

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