

## New York City Workers and Retirees Get Equal Health Benefits

by Peter Freiberg

**O**n October 30, 1993, Lambda Legal Defense and Education Fund settled one of our longest-running and most important employment discrimination cases — a groundbreaking lawsuit on behalf of the Lesbian and Gay Teachers Association against the New York City Board of Education, demanding that equal health benefits be extended to lesbian and gay employees and retirees, including the ability to obtain health insurance for partners and family members. The following article regarding this victory appeared in the November 5, 1993 issue of *The Washington Blade*, a gay and lesbian paper published in Washington, D.C., and is excerpted here with the kind permission of the author and *The Blade*.

we must then value all families. Today, New York City shines like a beacon for the rest of the country, and we hope that many other cities and localities can soon follow our steps."

Dinkins, a Democrat, narrowly lost the election to Republican-Liberal candidate Rudolph Giuliani. During the campaign, and after the settlement was announced, Giuliani questioned whether the city could afford to offer domestic partner health benefits to its work force of 230,000 people. The settlement [took] effect January 1, Giuliani's first day in office.

But Evan Wolfson, senior attorney for Lambda Legal Defense and Education Fund, a national gay civil rights group that

represented the plaintiffs, and city Corporation Counsel Peter Sherwood said the settlement they negotiated could not be overturned by Giuliani.

"[Mayor Giuliani] could always resist [the settlement] and be hauled into court," said Wolfson, "but the city is legally bound by this agreement." Wolfson noted that the settlement was formally approved November 2 by state Supreme Court Justice Karla Moskowitz, who had been scheduled to pre-

match a \$15 million city contribution over an initial 30-month period — a \$30 million total that Wolfson believes is a "grossly inflated" cost projection.

Wolfson, who led the Lambda negotiators, was elated by the settlement, which he notes will apply to all unmarried couples, gay or straight.

"Today, New York becomes the largest provider of domestic partner health benefits in the nation, possibly on the planet," [Wolfson] told the news conference. "The city is saying to lesbians and gay men, the disabled, seniors, and others, 'Your families are a part of our family. Your health and the health of your loved ones is part of our city's health.'"

In an interview, Ruth Berman, a retired guidance counselor who was one of the [Lambda] plaintiffs with her longtime partner, Connie Kurtz, said, "We're excited, but I will tell you this: My champagne bottle is not opening until I get my new health plan card with Connie's name on it."

Ron Madson, an art teacher who was a plaintiff, said, "We're overjoyed. What we've gotten is exactly what we've been aiming for, which is to have our families recognized as equal and to have the benefits available to legally married people."

The settlement, which came at 4:30 a.m., October 30, after a 16-hour negotiating session between Lambda and city representatives, ends a battle that began with [Lambda's] filing of the lawsuit in 1987.

The city, then led by Mayor Edward Koch, opposed granting the benefits and sought to have the lawsuit thrown out. Two years later, in his successful mayoral campaign, Dinkins pledged to give health benefits to domestic partners of city employees.

But once in office, Dinkins flip-flopped, saying the city could not afford the benefits. He angered gay activists, most of whom had supported his election, by continuing the city's opposition to the lawsuit despite court rulings that the denial of benefits might violate civil rights laws.

Dinkins sought to mollify the anger by creating a Domestic Partnership Working Group of city officials and gay representatives. [In January 1993], he established a Domestic Partners Registry and expanded visitation and other non-monetary rights for registered partners.

*continued on page 11*



Malcolm Pinckney

**Senior Staff Attorney Evan Wolfson (second from left) standing next to NYC Mayor David N. Dinkins after announcing the settlement of the Gay Teachers case. Also pictured (at the far right) are our plaintiffs Ruth Berman and Connie Kurtz, and Richard Dietz and Ron Madson.**

After four years of resistance, the Dinkins Administration signed a court settlement Saturday, October 30, that [made] New York City the largest municipality in the country to offer health benefits to domestic partners of city employees.

The settlement, which resolves a lawsuit filed by [Lambda on behalf of] three Board of Education employees, their partners, and the Lesbian and Gay Teachers Association, came just three days before the November 2 election in which Mayor David Dinkins was avidly seeking gay votes in his bid for a second term.

In announcing the settlement, which followed intense pressure from Dinkins' gay supporters, the mayor told a news conference, "If we are really for family values,

side over the trial.

"There is an agreement to settle the lawsuit, and essentially the reality is that these benefits are going to be there," Sherwood said. If the city changes its health benefits over time, those changes would apply equally to everyone, he said.

"Whatever benefits everybody else gets, the domestic partners get," Sherwood said.

The settlement covers not only the city's current work force, but its thousands of retirees as well. The agreement was ratified by the Municipal Labor Council, which includes all the city's civil service unions, as part of the Council's collective bargaining agreement.

Although no one knows how much the benefits will cost, the unions agreed to

*"Equal Benefits" continued from page 7*

But he insisted that the city could not provide domestic partner benefits because of a state Insurance Department ruling that he said barred insurers from offering these benefits. Lambda countered that the state ruling did not eliminate the city's obligation to provide benefits.

As the case moved slowly to trial, and Lambda held sporadic settlement talks with the city, the election drew near and was projected to be a very close race between Dinkins and Giuliani.

With Dinkins desperately trying to galvanize his key constituencies — including [the lesbian and gay community] — the Empire State Pride Agenda (ESPA), a statewide gay political group, told him in September that it was not yet ready to endorse him until he pledged to settle the lawsuit....

On September 29, the day before he was to address an ESPA dinner, Dinkins made public a reinterpretation from Governor Mario Cuomo's superintendent of insurance, Salvatore Cuirale. The new interpretation said insurers could provide health benefits to domestic partners. Cuomo, also a Democrat, was a strong supporter of Dinkins' re-election bid. The new state ruling, said Dinkins, meant he could now settle the lawsuit and offer partner benefits to all city employees. ESPA then endorsed Dinkins for re-election.

Even so, talks to settle the lawsuit went slowly. It was not until about 11 days before the election, following more pressure from openly gay elected officials, activists, and fundraisers for Dinkins, that negotiations got really serious.

"I think it's fair to say that the election helped focus the mayor's attention that he had an important promise to this community that he had not yet fulfilled," said Wolfson, "I do also believe he wanted to do this."

Wolfson, who was aided in the negotiations by Lambda Legal Director Beatrice Dohrn and Cooperating Attorney James Hough, said Lambda's key goal was a settlement that was "part of a binding legal agreement that would stand no matter who was elected mayor."

He and other activists credit George Daniels, the mayor's counsel, with being instrumental in hammering out a settlement....

Wolfson said two unions — the United Federation of Teachers and District Council 37, American Federation of State, County and Municipal Employees — were especially helpful in winning the agreement

## DEVELOPMENT DIRECTOR'S UPDATE

by William A. Peters

**I** am extremely excited to be joining the nation's premier lesbian and gay legal organization as Development Director. The breadth and effectiveness of Lambda's efforts allow me to come



**William A. Peters**  
Development Director

Tom Tyburski

on board with great inspiration and pride. I hope to bring my years of experience to bear as Lambda begins its third decade, and as we work to become an even more effective institution advocating on behalf of our many communities nationally.

As a Lambda supporter, you know how remarkably devoted our membership is to our work. Because you recognize the significant investment you make in our community's future each time you give to Lambda, I start my work ahead of the game.

My position will give me a tremendous opportunity to work closely with Lambda's dedicated Board of Directors and other volunteers across the

country. As Development Director, I hope to expand the corps of those inspired to give their valuable time and energy to Lambda, and to assist national volunteers as they strengthen our presence throughout the many regions we serve.

As you can see by our listing of fall and winter fundraising activities, we have produced an exciting and diverse "docket" of events. From Carnegie Hall to private homes, from large and glamorous productions to casual and intimate gatherings, from Chicago to Raleigh-Durham and Los Angeles to Philadelphia, from theater extravaganzas to moving testaments by Lambda plaintiffs, our events this season have covered the gamut and brought in more people in more places than in any other period in Lambda's history.

All our hard work, including that of our dedicated volunteers, in organizing these activities across the country would not mean anything unless dedicated supporters like you continued to support and attend our events. So for that we thank you, and as I acquaint myself with Lambda's base of friends and supporters, I look forward to meeting you, our membership. ▲

of the Municipal Labor Council, which includes police and fire unions that have never been sympathetic to gay interests.

Under the agreement, which [took] effect January 1, domestic partners and their dependent children will be able to choose the same health coverage from the same insurers that are available to married spouses and their dependent children.

The city [is seeking] bids for insurance plans that include a domestic partner benefit component.

"One of our goals in this lawsuit has been to harness the city's market clout to crack open the insurance industry," said Wolfson. This would presumably make it easier for private corporations and groups to offer domestic partner benefits.

To qualify for health benefits, employees must be registered domestic partners under the city's program. They are then given two ways of proving their relationship, options that Wolfson said were designed to "work for more than just

the middle class."

Under one option, a couple demonstrates financial interdependence by signing a Joint Declaration of Financial Interdependence stating they have responsibility for each other's basic living expenses. They do not have to show a joint checking account or other proof.

The other option allows the establishment of financial interdependence by producing two forms of proof, such as a joint credit card or bank account....

New York now joins a number of other municipalities, among them Washington, D.C. and Seattle, that have offered health benefits to domestic partners of their employees (D.C.'s have currently been blocked by Congressional action). A small but growing number of corporations and associations are also providing health benefits. At least a dozen cities offer non-monetary domestic partner benefits, such as sick and bereavement leave.... ▲