

# LAF/UPDATE



Fall 2007

## From the Board President



Barbara O'Connor

The Legal Advocacy Fund is pleased to introduce its new director, Lauren Kamnik. We anticipate new ideas and initiatives from her and believe her experience and education will strengthen the effectiveness and efficiency of the Legal Advocacy Fund. Kamnik strongly believes in equality for all and plans to work toward advancing equity for women and girls. Specifically, her top priorities include expanding the campus outreach program, improving the AAUW Legal Resource Referral Network, conducting more research projects, and continuing the success of the case support program.

Kamnik was born and raised in Cincinnati, Ohio, and received her bachelor's degree from Tulane University in New Orleans, Louisiana. After graduating from Tulane, she attended law school at American University's Washington College of Law in Washington, D.C. Throughout law school, Kamnik focused her studies on civil rights discrimination. She interned at the Equal Employment Opportunity Commission and clerked at a civil rights law firm that specialized in race and sex discrimination.



Lauren Kamnik

Following law school, Kamnik continued to focus on civil rights discrimination by working in the disability rights section of the civil rights division at the U.S. Department of Justice. After several years, Kamnik decided to return to school to focus on policy and management issues. In May 2007, she completed a master's degree in social work, with a concentration in organizational leadership and social change, from George Mason University. Now, at AAUW, she is ready to embark on her next challenge.

I hope you will join me in welcoming Lauren Kamnik.

Barbara L. O'Connor  
President, AAUW Educational Foundation

## Also in This Edition

- An Interview with Three LAF Plaintiffs
- Plaintiff Travel Grantees at State Conventions
- Latest Case Updates

## Options for Fighting Sexual Harassment

The AAUW Legal Advocacy Fund supports numerous university employees who, having experienced sexual harassment, have decided to seek justice in court. Some of these plaintiffs are successful, but the costs of litigation are high and the rewards are uncertain. In addition to the "nightmarish"<sup>1</sup> financial risks, the emotional, social, and professional consequences can be overwhelming. Sexual harassment charges are often difficult to prove, and retaliation by employers can be subtle but effective. Thus, litigation may not always be the best solution.

Penelope Trunk, author of the advice column *Brazen Careerist*, agrees. Despite statistics indicating that harassment affects as many as 88 percent of women in knowledge-based industries, Trunk warns that a lawsuit in academia may be an even higher risk than in business. "In academia you've spent six years training, without earning much money, for a specific field. If you sue, you risk never working in that field again."<sup>2</sup>

But even when a lawsuit is too risky, women have options for dealing with harassment. "In fact," Trunk suggests, "enduring sexual harassment can be a way to gain power to achieve your long-range [career] goals."<sup>3</sup> LAF receives more than 250 calls every year from individuals experiencing sex discrimination at institutions of higher education. In the vast majority of situations, callers use informal means to end the problem.

One option is to confront the harasser directly. Although your complaints may be dismissed out of hand, there is a chance that the harasser will appreciate your straightforward approach and modify his or her behavior rather than face the hassle of a human resources battle.

Alternatively, you might be able to transfer within your institution. Eager to avoid the bad press and expense associated with a sexual harassment claim, your superiors may

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# An Interview with Three Feather River College Plaintiffs

*It is a powerful indication that something is wrong in an academic community when three former employees bring suits against it alleging different, if related, acts of discrimination. Three LAF-supported plaintiffs are former employees of Feather River College in Quincy, California: Paul Thein, who was the college's athletic director and vice president; Michelle Jaureguito, who directed the Upward Bound Talent Search program; and Laurel Wartluft, the former women's basketball coach.*

## **Legal Advocacy Fund: Could you summarize the events at Feather River College that gave rise to your case?**

**Paul Thein:** “Feather River is a small rural mountain college that uses its athletic program to draw students. I authored sports development plans, and I wanted to make sure that equitable positions were available for men and women. I continually raised Title IX concerns and recommended that we make the women's basketball coach a full-time, tenured position.”



**Michelle Jaureguito:** “My problems began during a summer program for high school students, hosted by Feather River. I received an after-hours call from a residential assistant reporting that a program adviser had allegedly arrived at the dorms intoxicated and provided alcohol to underage high school students. It was alleged that he had made sexual advances to female RAs and female program participants before leaving the premises with students. Paul Thein and I responded to the call and went to the adviser's residence, where we saw him, partially undressed, consuming alcohol with underage program participants. We immediately took the high school students back to the college. The students admitted that they were drinking with the adviser and reported that he had sexually molested them.



“Immediately after reporting these crimes to FRC's president, the director of human resources, and law enforcement, I became the target of harassment, intimidation, and retaliation. Within a few weeks I was informed that I was going to be fired because the adviser had accused me of providing alcohol to minors. The disciplinary action was not kept confidential, in violation of FRC policy and California state law. An investigation determined the allegation against me was false, but FRC did nothing to alleviate the damage to my reputation or career. Eventually, unable to tolerate the harassment, I resigned from my position.”

**PT:** “Life became miserable after we turned the adviser in, because we were under the attack of his father, a prominent faculty member and academic leader. At the same time, we were looking for a women's basketball coach. We had an outstanding candidate, Laurel Wartluft. When the committee ranked her as their second choice, I couldn't believe it—with her credentials and experience she far outweighed everybody else. I convinced the president and dean of instruction to override the committee's recommendation and offer her the position. Immediately after we caught the adviser, his father began to attack my decision to hire the committee's second choice.”

*Wartluft was hired as the head basketball coach for a one-year emergency, non-tenure-track faculty position, with the assurance that she would be hired on a long-term tenure-track job the next year.*

**Laurel Wartluft:** “I was just out there, doing my job, and then there was another search committee, and a lot of things went on that weren't according to the policies and procedures.”



*She was made an offer for the full-time tenure-track position and accepted. Then the FRC president told Thein that she was considering not funding women's basketball or making the coaching position part-time.*

**PT:** “She referred to Laurel as a lesbian and said that the rest of the faculty would never accept her. I continually stood up for the fact that she's the best person for the job, and started to refer to compliance with Title IX. Eventually, I was informed that my contract wasn't going to be renewed.”

*Wartluft inquired about when she would finally receive the written contract and full-time pay. After several inquiries, she met with the human resources director and, to her surprise, was given a letter reassigning her coaching responsibilities and effectively terminating her. She never received the salary owed to her and was replaced with a less-qualified male employee.*

## **LAF: What made you decide to take your case to court, despite the cost and difficulty of litigation?**

**MJ:** “Reporting sexual abuse, harassment, and criminal behavior by a 37-year-old male was the right thing to do. Standing up for the employees that were sexually harassed, abused, and then fired was the right thing to do. Reporting these crimes to my federal program officer was the right thing to do. Through my litigation, I am advocating making the decision to do the right thing, to protect children, and to defy pressure from college administration to keep quiet.”

**PT:** “I couldn't believe that someone with those credentials was getting snubbed. I'm from the Midwest, where it's important to be able to look someone in the eye. I couldn't join people who were being malicious and really just evil. I had to stand up for Laurel and for what was right. No one has ever protected the two girls who were molested; they were given no counseling. I wonder what happened to them. I still hope that the women's program at Feather River gets the respect they deserve.”

**LW:** “I wanted justice, and for things to be corrected, so that the discrimination doesn't continue to go on. I wanted justice for the athletes because there was tremendous discrimination. It's important to hold people accountable.”

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## Case Updates

The AAUW Legal Advocacy Fund currently supports 16 lawsuits. The AAUW Educational Foundation board awarded a total of \$100,000 in support of ongoing and new cases for FY 2007.

### New Cases

This spring the Educational Foundation board voted to adopt two new cases, *Thein v. Feather River Community College* and *Riccardi v. Vanderbilt University*. Each case received an initial award of \$5,000.

**Paul Thein sued Feather River Community College** for retaliation for complaining of sex discrimination in violation of the California Fair Housing and Employment Act. Thein, former Vice President of Student Services, Athletic Director, and Dean of Students at Feather River Community College, claims that in July 2005 he received a call from Michelle Jaureguito, reporting that an adult staff member was sexually harassing high school age recruits, including fondling

them and making sexual overtures, as well as providing them with alcohol. He alleges that together they went to handle the situation and made a complaint to the university. In a separate series of incidents, Thein claims that he advocated for making the women's basketball coach a full-time position to comply with Title IX. Thein states that he experienced ridicule, threats, and interference with his efforts to bring the college into compliance with Title IX. Ultimately, Thein alleges the college retaliated by not renewing his contract. LAF also supports the related cases of Michelle Jaureguito and Laurel Wartluft. Read more about this case at [www.aauw.org/laf/cases/thein.cfm](http://www.aauw.org/laf/cases/thein.cfm).

**Patrizia Riccardi sued Vanderbilt University** for sexual harassment for sexual harassment and retaliation for complaining of sexual harassment in violation of Title VII of the Civil Rights Act of 1964 and the Tennessee Human Rights Act. Riccardi, a Research Assistant Professor in the Department of Radiology at Vanderbilt University Medical Center,

alleges that she was harassed by her supervisor, who she says repeatedly professed his love for her and asked her to marry him. She claims that when she discouraged him, he began to make threats, culminating in an incident in which he allegedly attempted to sexually assault her. Riccardi alleges that the university failed to take her complaints seriously or to protect her from retaliation by her supervisor. Read more about this case at [www.aauw.org/laf/cases/riccardi.cfm](http://www.aauw.org/laf/cases/riccardi.cfm).

### Updates on Other Cases

**Brodsky v. Kaleida Health and State University of New York at Buffalo** Brodsky's case continues in discovery. Trial has been rescheduled for May 2008.

**Chichilnisky v. Columbia University** Chichilnisky's case is in pretrial, awaiting the judge's decision on two pretrial motions.

**Doe v. Berry College** Discovery ended on December 1, 2006. Doe's attorneys are awaiting some pretrial rulings from the judge.

## In Memory of Lucinda Miller, LAF-Supported Plaintiff



Lucinda Miller passed away on May 26, 2007, from pancreatic cancer. Miller earned her doctorate degree in pharmacy from the University of Nebraska Medical Center and graduated at the top in her class at West Texas A&M University with a degree in professional counseling. She wrote or edited more than 100 publications and received \$500,000 in research grants, as well as a copyright, a patent, and teaching awards. In 2000,

Miller sued Texas Tech for sex discrimination in pay, denial of tenure, and retaliation for complaining about the discrimination. She won her claim of pay inequity in 2006. She generously asked that all memorials be sent to the AAUW Legal Advocacy Fund. AAUW staff and members across the country remember Miller for her courage, tenacity, and willingness to fight on behalf of all women, and we send our deepest condolences to her family and friends. LAF

### Feather River College Plaintiffs continued from page 2

#### LAF: How would you describe your experience in the courts so far?

**LW:** "It's a lot of work. Our case has been put off, backed up and backed up. It's a tedious process; you have to be able to run a marathon."

**PT:** "It's a tough route. I've always thought I could handle anything, but this has been the toughest thing in my life."

**MJ:** "The past two years have been the

most stressful time of my life. While this litigation process has most certainly been an emotional, financial, and physical drain, I would not change my decision to pursue litigation."

**PT:** "We are so grateful to have an organization like AAUW providing group support. It's so nice to hear others' stories and know that there are other people going through this, that other plaintiffs

are fighting back and winning their cases."

*The three plaintiffs appeared before the state personnel board July 30–August 8 for an administrative hearing concerning reinstatement. A state court will hear the charges of retaliation and discrimination based on sexual orientation in September 2007. A federal court will hear the Title IX issues in April 2008.* LAF

### ***Ilon v. The State University of New York at Buffalo***

Ilon's attorney has asked the judge to set a court date for trial.

### ***Jaureguito v. Feather River Community College***

The whistle-blower portion of Jaureguito's case was heard on July 30, 2007. The Title IX claim will go to trial in early 2008.

### ***Mansourian, et al. v. Regents of the University of California***

Several important depositions have been taken, including from an Olympic wrestler. The university has filed another motion to dismiss.

### ***McMahon v. Carroll College***

McMahon is still awaiting a decision from the judge on the university's motion for summary judgment. She now has a full-time, permanent, tenure-track job at another college in Wisconsin.

### ***Nash v. Ray L. Belton and the Southern University System***

Nash and her attorney did not request a writ of certiorari (an appeal request) from the U.S. Supreme Court. She is still litigating one aspect of the sex discrimination case in state court.

### ***Potera-Haskins v. Gamble, Montana State University, et al.***

Potera-Haskins' case is in discovery.

### ***Schuster v. Berea College***

A jury found in favor of the college in November. Schuster's attorney has presented her motion for appeal.

### ***Simpson, et al. v. University of Colorado***

In mid-December, Simpson's attorney filed a reply brief for the appeal with the 10th Circuit Court of Appeals. Separate from the lawsuit, the new University of Colorado president met with Simpson, her mother, and her stepfather. Simpson found it to be a rewarding experience.

### ***Violand v. George Washington University***

The U.S. Court of Appeals for the District of Columbia heard oral arguments on Jan. 19, 2006. Violand awaits a decision.

### ***Wartluft v. Feather River Community College***

Wartluft's case is in discovery.

## **Settlements and Decisions**

### ***Burch v. Regents of the University of California***

Michael Burch, former head wrestling coach at the University of California-Davis, sued the Regents of the University of California for retaliation in violation of Title IX of the Education Amendments of 1972 and other federal laws. In January, Burch and his attorney negotiated a settlement with the Board of Regents. The settlement includes a financial payment of \$725,000. The settlement was finalized this summer. LAF

## **Options for Fighting Sexual Harassment** continued from page 1

help you obtain a job away from the harasser, possibly in an even better position.

If negotiation is not an option, you might consider seeking employment elsewhere. As cases supported by LAF have demonstrated, once you have secured a new position, you can file a complaint at your old job with far less personal risk.

If you are experiencing mild harassment that does not affect your health, happiness, or ability to do your job, you may choose to simply ignore it. You can focus on reaching a position of authority, where you will be able to create a workplace culture free from harassment and discrimination. As Trunk writes, "Women in universities are in a great position to help women gain power through other means than jeopardizing careers to take down a single harasser. Teach women the tools of leadership [and] mentor women to make them strong in the face of harassment."

For some women, of course, official channels may offer the only sources of protection and restitution. Some may choose to litigate to recover their dignity and stand up for their rights or to prevent their harassers from abusing anyone else. Unlike private conflict resolution, litigation has the power to effect broad changes. However, when risk and expense make litigation impractical, women should keep in mind the alternative tactics available to help them overcome harassment. LAF

<sup>1</sup> AAUW Educational Foundation, AAUW Legal Advocacy Fund. *Tenure Denied*. (2004) 66.

<sup>2</sup> Penelope Trunk. LAF staff interview. 17 June 2007.

<sup>3</sup> <http://blog.penelopetrunk.com/2001/06/25/leverage-sexual-harassment/>

<sup>4</sup> AAUW Educational Foundation. *Drawing the Line: Sexual Harassment on Campus*. (2005) 31.

## **Students' Options**

University students often have less ability to confront, ignore, or escape sexual harassment than faculty and staff members do. Ambiguity about what constitutes harassment, combined with peer pressure and intimidation, can make students reluctant to confront their harassers. Ignoring harassment may not be a viable option, either: many students who have been harassed experience subsequent difficulty studying and paying attention, while others skip class or drop courses altogether to avoid their harassers.<sup>4</sup> Graduate students are particularly vulnerable, as those pursuing degrees in highly specialized fields may be unable to transfer to a comparable program. Research projects, theses, and dissertations can also tie advanced students to particular professors or universities. For students, filing an official complaint may be the best way to ensure that harassment does not interfere with their education.

# AAUW Legal Advocacy Fund Major Donors

We extend sincere thanks to the donors whose contributions to LAF, a program of the AAUW Educational Foundation, were received between July 1, 2006, and August 1, 2007.

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(\$5,000 and up)

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*LAF apologizes for any errors or omissions. Kindly bring them to our attention so that we may correct them promptly.*

## About LAF

The AAUW Legal Advocacy Fund, a program of the AAUW Educational Foundation, provides funding, support, and technical assistance to individuals challenging sex discrimination in higher education and is the nation's largest legal fund focused solely on this issue. Through its recognition of campus programs and individuals and its public education efforts, LAF educates campuses and communities about continuing barriers faced by women and the legal rights, policies, and strategies that can help eradicate sex discrimination in higher education.


## Staff

**Lauren Kamnik, Director**  
**Sarah Warbelow, Program Manager**  
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**Michele W. Wetherald,**  
**AAUW Executive Director**

## 2007 Plaintiff Travel Grantees a Huge Success at State Conventions!

This past spring, LAF awarded ten Plaintiff Travel Grants to AAUW state conventions across the country. From New York to North Dakota and from Maryland to Texas, LAF-supported plaintiffs teamed up with local AAUW members to help spread the word and raise awareness for LAF. These states raised over \$23,000 for LAF, with New York raising over \$7,100 and Florida raising nearly \$3,000! It's wonderful what can happen when everyone pulls together for one mission. We couldn't have done it without you!

LAF members and plaintiffs appreciated the opportunity to share stories at the state conventions. LAF plaintiff Robin Potera-Haskins, who visited North

Dakota, reports, "It was an outstanding experience. It was wonderful to have so much support. It is so needed during this difficult time. ... They treated me like family—I truly enjoyed everything. AAUW exceeds your expectations and makes it a lifetime memory, 'because equity is still an issue.'" Linda O'Hara, the LAF liaison for AAUW of Oregon, called her state's event "a huge success. Reading about the cases is one thing, but hearing about the struggles from the person who lived it makes an impact." 



*LAF-supported plaintiff **Laura Violand** (right), Violand v. George Washington University, her aunt **Bette Griffith** (left), and former U.S. Attorney General **Janet Reno** at the 2007 AAUW of Florida state convention. Violand is suing the university for pay inequity; her case is ongoing.*



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