

# LAF/UPDATE



Winter 2006

## From the Board President



Barbara O'Connor

The AAUW Legal Advocacy Fund was established 25 years ago by visionary AAUW members who put the American Association of University Women's mission into action. As we mark this important anniversary, I am reminded of LAF's distinguished history. My admiration grows as I think of the AAUW Ithaca (NY)

Branch members who willingly stepped into the line of legal fire to advance AAUW's mission and actively defend our ideals of equity and education for women and girls. Their determination in the face of injustice spawned the idea that became the AAUW Legal Advocacy Fund.

I am pleased that LAF has become a program of the AAUW Educational Foundation. LAF's programming to address sex discrimination on campus and its critical case support activities complement the Educational Foundation's fellowships, grants, and research.

As AAUW members join the excitement and activities surrounding AAUW's 125th anniversary, we must also celebrate this LAF benchmark. Thanks to our members, LAF is the nation's largest legal fund focused solely on sex discrimination in higher education. Since 1981, LAF has contributed more than \$1.3 million to over 100 cases. LAF also has published groundbreaking research and honored notable women and innovative university programs that have made significant progress for women on campus.

The need for LAF programs and services is just as great today as it was 25 years ago. Victories have been won and progress has been made, but we must continue to address inequities. LAF will continue to provide funding and a support system for those seeking justice in the face of sex discrimination, and I am eager to see what the next 25 years will bring. With the continued support of AAUW members and LAF supporters, like those Ithaca branch members 25 years ago, we will keep fighting for change—one case at a time.

Barbara L. O'Connor  
President, AAUW Educational Foundation

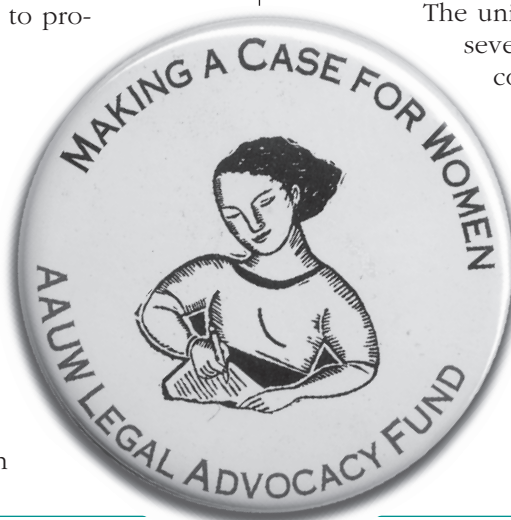
## Also in This Edition

- Plaintiff Profile: Lisa Simpson
- 25 Years of Progress and Precedents
- Latest case updates

## Student Alleges Pattern of Sexual Assault on Campus

Like most young women, when Lisa Simpson began her studies at the University of Colorado at Boulder in 2000, she expected to have a memorable college experience that included fascinating classes and fun with friends. All of that changed one December night in 2001. Simpson and a few of her female friends were drinking at her off-campus apartment, and the young women became intoxicated. One of the women was a tutor for the university football team, and Simpson claims that this woman mentioned that a few of her football player friends would be visiting that night. Ultimately, 16 to 20 football players and recruits, many of whom were also intoxicated, arrived at Simpson's apartment. Simpson alleges that shortly after the players arrived, she went to her bedroom and fell asleep, only to awaken a short time later to find two recruits taking off her clothes. Simpson says that she was sexually assaulted by numerous recruits and football players and that she saw another female student being sexually assaulted by at least one football player in the same room.

The university Office of Judicial Affairs charged several of the involved football players with code of conduct violations but declined to pursue sexual assault charges against them. None of the football players lost his eligibility to play in any subsequent football games. The county's district attorney's office pressed felony charges against several of the football players (who later pled guilty to lesser charges) and imposed a "no contact order" against two of them, prohibiting them from having any contact with Simpson. She claims



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# 25 Years of Progress and Precedents

The year was 1981. Ronald Reagan succeeded Jimmy Carter as president of the United States, and minutes later Iran released 52 American hostages that had been held captive for 444 days. The world watched as Lady Diana Spencer married Prince Charles. MTV was launched. The first American test-tube baby was born. Sandra Day O'Connor was confirmed as the first female U.S. Supreme Court Justice. The American Association of University Women prepared to celebrate its 100th Anniversary. **And the AAUW Legal Advocacy Fund was born.**

Donna Zahorik, Judith Long-Laws, Jacqueline Livingston, Antonia Glasse, and Charlotte Farris probably weren't thinking about celebrating the wedding of Prince Charles and Lady Di or watching the latest rock video on MTV in 1981. They were busy fighting for their rights at Cornell University. These former faculty members sued the institution for claims, including sex discrimination, retaliation for complaining about sex discrimination, and pay inequity. Four of the five plaintiffs had also been denied tenure.



From left, LAF president Augustine Pounds and Texas Governor Ann Richardson at the 1997 AAUW National Convention.



From left, Susan Reddy Butler, LAF president, and Amy Swauger, associate director, AAUW Program and Policy Department, at the 1993 AAUW National Convention.

The lawsuit originally began with 11 women—faculty and coaches—who became known as the “Cornell 11.” Members of the AAUW Ithaca (NY) Branch heard about the case and went into action. They contacted the AAUW national office—which has a historical mandate to rally in defense of equity for women, particularly in employment—hoping to raise funds to support the professors.

Although the Ithaca branch began allocating funds for the Cornell 11 in 1978, the AAUW national office had no budget line item that could be allocated for such a purpose. At the AAUW National Convention in 1981, the AAUW Board of Directors voted to establish the AAUW Legal Advocacy Fund as a two-year pilot program, with Katherine “Cappy” Eaton serving as LAF board president. The AAUW board voted two years later to permanently establish LAF to provide moral and financial support to female plaintiffs in higher education sex discrimination cases. By this time, \$8,500 had been raised to support the Cornell 11.

LAF's founding was another benchmark in AAUW's history of raising issues important to women, especially issues about gender equity in education, including Title IX, sexual harassment, and pay equity.

## The 1980s

As soon as LAF was established as a permanent organization, additional cases started arriving. In 1987, LAF initiated its

## LAF Today

Since 1981 the AAUW Legal Advocacy Fund has helped students, faculty, staff, and administrators in higher education challenge discriminatory practices such as sexual harassment, denial of tenure or promotion, pay inequity, and inequality in women's athletics programs. Today LAF offers the following programs and services:

- Case support for sex discrimination lawsuits
- The LAF Progress in Equity Award, which recognizes a college or university program that has resulted in significant progress for women on campus
- The Speaking Out for Justice Award, which is awarded biennially at the AAUW National Convention to prominent women who have successfully advocated for equity for women and girls
- The Legal Referral Network of attorneys and social scientists who consult with the public on legal strategies, resources, and the strength of current and potential lawsuits
- The Campus Outreach Program to assist colleges in promoting gender equity
- The Plaintiff Travel Grant Program, which funds LAF-supported plaintiffs to speak at selected AAUW state conventions
- Informative research and newsletters, including *LAF Update* and *Network News*
- A resource library that covers issues on Title IX, sexual harassment, pay equity and other issues and includes LAF videos and publications
- Resources on how to navigate the legal system

To find out more about these programs, visit [www.aauw.org/laf](http://www.aauw.org/laf).

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*The AAUW Legal Advocacy Fund currently supports 15 lawsuits. In October 2006 the AAUW Educational Foundation Board awarded \$28,000 in support of new and continuing cases.*

### New Cases

**Robin Potera-Haskins sued Montana State University** for sex discrimination and retaliation for complaining about sex discrimination in violation Title VII of the Civil Rights Act of 1964 and the Montana Human Rights Act and for retaliation for complaining about sex discrimination against the women's basketball team in violation of Title IX of the Educational Amendments of 1972. Potera-Haskins, the former women's basketball coach, claims to have received substantially less pay and access to job benefits than did male coaches at the university. She was given less autonomy over her team and complained about the unequal treatment between the men's and women's teams in terms of access to sponsorships, weight-training facilities, athletic trainers, and financial resources. Despite transforming the team into a winning program, Potera-Haskins was terminated after complaining about inequity.

### Current Cases

**Brodsky v. Kaleida Health and State University of New York at Buffalo**  
Brodsky's case continues in discovery, and 13 defendant depositions have been taken. Brodsky's attorneys requested to amend the complaint to include new retaliation claims for recent activity. Trial is scheduled for May 2007.

**Burch v. Regents of the University of California**  
Trial is rescheduled for December 2006.

**Chichilnisky v. Columbia University**  
Chichilnisky's attorneys have submitted to the New York Supreme Court a motion to amend the complaint, including new retaliation claims for recent activity. The faculty elected Chichilnisky to the Columbia University Senate, which in turn selected her to serve on the prestigious Faculty Affairs Committee.

### Conney v. The Regents of the University of California

The university filed an appeal brief contesting the original verdict, and Conney's attorney filed a response. Oral arguments are expected to be scheduled for late 2006.

### Doe v. Berry College

Discovery is scheduled to end Dec. 1, 2006. Doe's attorneys anticipate that trial will begin in summer 2007.

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

A pretrial conference in November 2006 will evaluate if discovery can be closed and determine if the defendants are in full compliance with document demands.

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

Mansourian's attorney is investigating expanding the class to include other women's teams from the University of California, Davis after an expert report showed that the university must add more than 100 new women's opportunities to comply with Title IX.

### McMahon v. Carroll College

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

### Miller, et al. v. Texas Tech University Health Sciences Center

A jury found for Miller on her Pay Equity Act claims and awarded her \$15,000. Miller is awaiting the university's decision on whether it will appeal.

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

The U.S. Court of Appeals for the 5th Circuit affirmed the lower court's decision in favor of the university in July 2006. In August the court declined Nash's request for a rehearing. Nash and her attorney are considering whether to request a writ of certiorari from the U.S. Supreme Court.

### L.R. v. Trustees of Princeton University

L.R.'s attorney has responded to Princeton's motion for summary judgment. Oral arguments on the motion are scheduled for November 2006.

### Schuster v. Berea College

Schuster and the college engaged in a court ordered mediation that ended without agreement. A trial date has been assigned for November 2006.

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

Simpson's attorney has filed a brief with the 10th Circuit appealing the district court's grant of summary judgment. AAUW and the AAUW Educational Foundation have signed on to an *amicus curiae* brief that was filed in August 2006.

### Violand v. George Washington University

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

### Vuolo v. Board of Trustees, University of the Commonwealth of Massachusetts

Vuolo appealed the lower court's dismissal of her case to the Appeals Court of Massachusetts in October 2003. A date for oral argument has not been scheduled.

### Settlements and Decisions

#### Whittaker v. Northern Illinois University

Whittaker, a former building service worker at Northern Illinois University, sued the institution for sexual harassment and retaliation for complaining about sex discrimination in violation of Title VII and Illinois state laws. She filed a petition for writ of certiorari with the U.S. Supreme Court in February 2006, but the court denied her request. LAF awarded Whittaker \$59,589.25 in support of her case. [LAF](#)

For comprehensive,  
up-to-date information on  
all LAF-supported cases, visit  
[www.aauw.org/laf/cases](http://www.aauw.org/laf/cases).

## AAUW Legal Advocacy Fund Major Donors

We extend sincere thanks to the donors whose contributions to the Legal Advocacy Fund, a program of the AAUW Educational Foundation, were received between Jan. 1, 2006, and Oct. 10, 2006:

### Guardian (\$5,000 and higher)

Lilo and Gerard Leeds (NY)  
Virginia Palmer (AZ)

### Defender (\$1,000–\$4,999)

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Michele Wetherald (OH)

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Elva Vollbrecht (CA)  
Neola S. Waller (VA)  
Janet M. Wettergren (MN)

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

## Sexual Assault on Campus continued from page 1

that despite this, the university's head football coach continued to recruit one of her alleged assailants.

Simpson, who had been a high school honor student, says that her academics severely suffered following this traumatic experience. In addition to her falling grades, she also had to drop several classes and significantly reduce her course load. She left the university in February 2004 without obtaining her degree, transferring to another competitive university where she has consistently made the dean's list.

Simpson asserts that since at least fall 1995, the university has known about sexual assaults, alcohol abuse, and other illicit activities that occurred during school-sponsored campus visits by football recruits. She notes that during the past sev-

eral years, numerous young women have told university officials that they were sexually assaulted by university football players and recruits during these visits. Simpson states that despite knowing about these activities and reports, and against the advice of the county district attorney's office, the university has failed to adequately address the sexually hostile environment.

The university's failure to improve the campus climate is a key element of Simpson's case. Universities are responsible for preventing sexual assault when they had actual notice of an impending assault or of a substantial risk of sexual assault. The failure to prevent such known behavior leaves women vulnerable. In this case, the university's failure to address past sexual assaults by football players and recruits allowed a culture to develop

that not only was hostile to women but also put women who interacted with the football team and recruits at serious risk.

Kimberly Hult, Simpson's attorney, states, "This case should send an important wake-up call to schools throughout the country: It is not acceptable to sacrifice the safety of female students to promote a winning record for a popular sports team. Under Title IX, schools must respond to known harassment and assaults by taking steps to stop abuse and protect potential victims from that abuse. For too long, [the University of Colorado at Boulder] knew about but ignored rampant sexual harassment and sexual assaults in its football program, including its recruiting efforts. We hope that after this case, it will be

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first membership outreach to establish state and branch representation and awarded its first Progress in Equity Award to the University of New Mexico Re-entry Program for Women in Science, in recognition of its innovative advancement of equity for women on campus.



From left, LAF plaintiff Cynthia Fisher and LAF Director Patty McCabe at the 1999 AAUW National Convention.

### The 1990s

As LAF entered the 1990s, it further expanded its programming. Thanks to a generous donation in 1991 by LAF plaintiff Colleen Roberts (*Roberts v. College of the Desert*), LAF began making grants to fund travel for plaintiffs to speak at state and regional AAUW meetings. Based on the enthusiastic response, LAF continues to make a limited number of Plaintiff Travel Grants each year. In 1992, LAF board members were listed beside those of the AAUW and the AAUW Educational Foundation in an AAUW publication (the winter edition of *AAUW Outlook*) for the first time. LAF board members had been listed in earlier publications, but in a separate table and different format. In 1992, LAF supported its first case, *Lever v. Northwestern University*, et al., to go to the U.S. Supreme Court.

The first LAF “Update” appeared in 1994 as an article in the winter edition of *AAUW Outlook*. LAF and AAUW entered the Computer Age in 1996, launching a website. The following year, LAF honored its first Speaking Out for Justice honoree, Lani Guinier, for significant contributions to the betterment and well-being of women. LAF made headlines in 1997 with *Brzonkala v. Virginia Polytechnic Institute and State University*, a landmark rape case that went to the U.S. Supreme Court. LAF

collaborated with Virginia Tech administrators to host the first LAF campus outreach program, Sex, Lies, and Lawsuits, a seminar for students and faculty. Since then, LAF has presented programs on more than 20 campuses across the United States.

### The 21st Century

At the turn of the century, LAF continued its focus on sexual harassment in schools, Title IX, tenure, and other issues important to women on campus, but an interesting trend was happening. Not only were women bringing suits against colleges and universities and asking LAF for support, men were bringing suits of interest to women as well (see sidebar).

LAF published *A License for Bias: Sex Discrimination, Schools and Title IX* in 2000 to dispel the belief that Title IX is solely a sports equity law and to determine the effectiveness of current legislation. In 2004 LAF launched *Network News*, an online publication providing case updates and related information for LAF network attorneys and experts. *Tenure Denied: Cases of Sex Discrimination in Academia*, a research report written by LAF and the AAUW Educational Foundation and funded by AAUW of Pennsylvania, was published in 2004.

LAF and its full cadre of case support and proactive antidiscrimination programming became a program of the AAUW Educational Foundation in 2005. LAF also funded its 100th case that year, at which time it had provided more than \$1.3 million of support to individuals.

LAF has much to celebrate in its first 25 years and owes its achievements to the



From left, LAF President Sylvia Newman and LAF plaintiff Katherine Zimmerman at the 2003 AAUW National Convention.

dedicated support of AAUW state and branch representatives, AAUW members, and other donors across the country who help spread the word and raise funds to support LAF’s critical work. Thanks to you all, and here’s to another 25 years! **LAF**



Michael Burch  
Current LAF Supported Plaintiff

### LAF Supports Men, Too (Selected Cases)

**Roderick Jackson**, a teacher and coach at Ensley High School in Birmingham, Alabama, successfully sued the Birmingham Board of Education for retaliation when he protested sex discrimination against his girls’ basketball team. His case went to the U.S. Supreme Court where it set a precedent in Title IX law.

**Michael Burch**, former head wrestling coach at the University of California, Davis, sued the Regents of the University of California for retaliation when the university failed to renew his contract. After the university announced that it would no longer allow female students to participate on the wrestling team, Burch petitioned to have the women reinstated. Burch’s case is ongoing.

**David Johnson** sued the University of Iowa for sex discrimination when it prevented him from using his accrued sick leave for parental leave, a suit of interest to both men and women. Johnson’s case was dismissed, but he continues to actively pursue fair family leave policies at universities.

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**Gloria Benton in the AAUW  
Development Office at  
202/728-7627 or  
development@aauw.org.**

## Sexual Assault on Campus

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clear that [the university]—or any school—cannot likewise fail to protect its students from ongoing abuse by a known—and possibly changing—group of perpetrators without liability under Title IX.”

A federal district court granted the university’s motion for summary judgment in March 2005—a decision made without a trial that the case should not move forward. Simpson’s attorneys filed a brief with the 10th U.S. Court of Appeals on Aug. 18, 2006. Oral arguments are expected to begin in March 2007.

AAUW and the AAUW Educational Foundation signed on to an *amicus curiae* brief in support of Simpson, as part of the Legal Advocacy Fund’s continuing support of her case. An *amicus curiae* (friend of the court) brief is filed to help raise issues that were not addressed by the parties directly involved in the lawsuit, including what impact the case will have on other individuals. LAF contends that a positive ruling for Simpson will put pressure on the University of Colorado and other colleges and universities to take a serious look at all reports of sexual assault and take steps to prevent future assaults. **LAF**

## 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.

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