



FOR IMMEDIATE RELEASE

January 8, 2008

Media Contacts:

Brooke Oliver
Founder and Managing Attorney
Oliver-Sabec P.C.
415.641.1116
brooke@oliversabec.com

Calla Devlin
Communications Director
National Center for Lesbian Rights
415.392.6257 x324
cdevlin@nclrights.org

Greg Gilchrist
Townsend and Townsend and
Crew LLP
415.273.7564
gsgilchrist@townsend.com

U.S. SUPREME COURT REJECTS CHALLENGE TO “DYKES ON BIKES” TRADEMARK

Decision removes last obstacle to registration of trademark

(San Francisco, CA, January 8, 2008) — Today, the San Francisco Women’s Motorcycle Contingent (SFWMC) announced that the United States Supreme Court denied a petition seeking review of a U.S. Court of Appeals for the Federal Circuit decision affirming the group’s trademark of the name “DYKES ON BIKES.” After a four year pro bono legal battle, no further appeals are possible in this historic case and the U.S. Patent and Trademark Office issued a final registration of the trademark.

On July 11, 2007, the Federal Circuit rejected the argument that the name “DYKES ON BIKES” was disparaging to men.

“I am delighted the Supreme Court denied review and that ‘DYKES ON BIKES’ will be protected under law,” said Vick Germany, the group’s president. “We have used the name ‘DYKES ON BIKES’ for over 30 years as a mark of pride and dignity, taking it away from those who formerly used it as an epithet. Thanks to yesterday’s ruling by the Supreme Court, our long battle to use a name that reflects our strength as women and as lesbians is finally over”

Soni Wolf, SFWMC secretary said, “I want to take this opportunity to thank all involved in this historic endeavor to trademark our historically significant name, ‘DYKES ON BIKES.’ I am giddy with happiness, relief, and a profound sense of our place in the history of the LGBT community.”

“We are delighted with the ruling. It is now clear that asserting pride in being ‘DYKES ON BIKES’ does not impact others negatively,” said Brooke Oliver, the lead attorney on the case. “A lone person with a political objection to women’s political speech does not have standing to object to a trademark. More broadly, this decision protects every company’s trademark applications from being challenged by random individuals with an axe to grind.”

“The ‘DYKES ON BIKES’ trademark is an important symbol to the lesbian, gay, bisexual and transgender community,” said Greg Gilchrist of Townsend and Townsend and Crew. “Although it took a long time, the Trademark Office eventually agreed that the mark deserved fair and equal protection under the trademark laws. In this latest proceeding, we are grateful that the United States Supreme Court agreed that bias against the San Francisco Women’s Motorcycle Contingent was no basis for further delay.”

The Trademark Office initially rejected the group's application for a trademark in early 2004, on the ground that the name "DYKES ON BIKES" is allegedly disparaging to lesbians. In response, Brooke Oliver and the National Center for Lesbian Rights submitted more than two dozen expert declarations from scholars, linguists, psychologists, and activists showing how the word "dyke" has evolved to become a positive term and that lesbians view "DYKES ON BIKES" as a symbol of pride and empowerment. The Trademark Office then denied the request a second time.

After bringing in additional assistance from the law firm of Townsend and Townsend and Crew, the SFWMC appealed the denial. In a decision issued December 6, 2004, the Trademark Office reversed itself and granted the application.

In February, 2006, an individual filed an opposition to the trademark, alleging the name "DYKES ON BIKES" was disparaging to men, as well as wrongly accusing group members of misconduct toward him and men generally. On September 13, the U.S. Trademark Trial and Appeal Board dismissed the opposition ruling in citable precedent that he had no standing to oppose registration of the mark. The Federal Circuit Court of Appeal affirmed the dismissal and held that registration of the mark "DYKES ON BIKES" "would have no implications for a man" and that the individual who filed the opposition had failed to show that "his belief is shared by others." The Supreme Court, yesterday, refused to hear any further appeals.

"This victory against bigotry and homophobia permits the SFWMC to assure that this famous slogan—'DYKES ON BIKES'—is reserved for nonprofit and civil rights purposes," said Oliver.

The nonprofit SFWMC sought registration of the trademark "DYKES ON BIKES" when an individual, unassociated with the organization, attempted to use the phrase for commercial purposes and wanted to charge contingents throughout the country for its use. The SFWMC organization decided to obtain trademark registration to protect the non-commercial use of the name and its meaning to the LGBT community from private commercial use.

The SFWMC was represented pro-bono by Brooke Oliver and Pablo Manga of Oliver-Sabec, P.C., Gregory Gilchrist, Gia Cincone, and Raquel Pacheco of Townsend and Townsend and Crew LLP, and the National Center for Lesbian Rights.

The case is *McDermott vs. San Francisco Women's Motorcycle Contingent*, 07-7126.

###

Oliver • Sabec P.C. is a boutique law firm with an international intellectual property practice, often representing clients in high-profile, progressive transactions and litigation. The Firm's mission is to protect the icons, images, and entities of social change, whether the vehicle for change is embodied in a business venture, in art, film, music, technology, or some other means of creative expression. In doing so, we have established an institution that permits us to work with creative people doing amazing things in the world in the activist, art, entertainment, and corporate worlds. www.oliversabec.com

Townsend and Townsend and Crew LLP has approximately 200 attorneys in eight offices. Townsend's *Pro Bono* program, an important aspect of Townsend's commitment to the communities in which it practices, is dedicated to providing legal services to members of the community who do not otherwise have access to the legal system. www.townsend.com

The National Center for Lesbian Rights is a national legal organization committed to advancing the civil and human rights of lesbian, gay, bisexual, and transgender people and their families through litigation, public policy advocacy, and public education. www.nclrights.org