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- On The Move
- Calendar
- Inadmissible
- After Hours
- Partner Yearbook
- Obituaries

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## A 'Little Kinder' World

Gay attorney sees emotional, practical benefits to marriage

By DOUGLAS S. MALAN

Just before the state Supreme Court handed down its same-sex marriage ruling, Jeffrey Busch felt the need to speak with Eli, his 6-year-old son he is raising with his partner, Stephen Davis. Busch had heard from his lawyer that the court split 4-3, but he didn't know which way.

So Busch asked Eli what it would mean to win their case.

"He said it meant that the three of us would live together forever," Busch said. When he asked Eli what defeat would mean, the boy didn't know. "I told him it still means that we're a family and we'll



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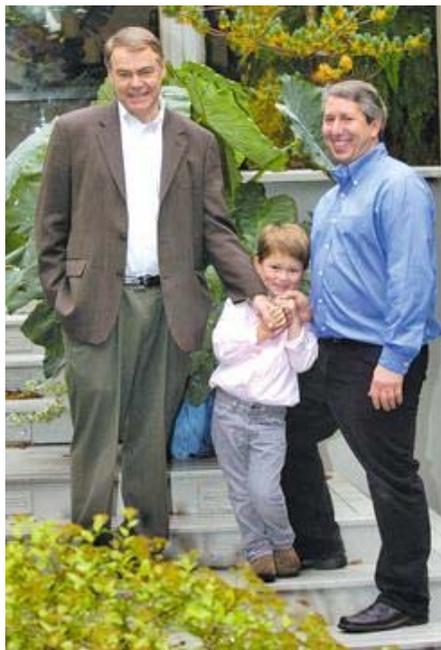


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Wilton attorney Jeffrey Busch (right) said his upcoming marriage to partner Stephen Davis will give their relationship 'social standing.' It may also cut down on some awkward questions they have confronted when traveling with their son, Eli.



Gary Lewis

Wilton attorney Jeffrey Busch, his partner, Stephen Davis and their 6-year-old son Eli (all to far left) celebrate Oct. 10 with other plaintiffs in *Kerrigan vs. Commissioner of Public Health* just after the state Supreme Court approved same-sex marriage.

always live together," Busch said.

Despite his reassurances, it most definitely did matter to Busch – the only attorney among the plaintiffs in the landmark *Kerrigan v. Commissioner of Public Health* – that the Supreme Court did grant marriage rights to same-sex couples. He said his civil union to Davis simply is not the same thing.

"We were denied the right to be married," Busch said. "It's the social standing that everyone knows what [marriage] means. I can't tell you how cool it is that I get to say [Davis] is my spouse, my husband. This is a really, really, really exciting time for us."

Busch and Davis have been together for 20 years. Busch works one day a week as a New York City parking judge, and also is employed as a real estate agent in Wilton, where the couple has lived since 1997. From 1990 to 2005, he was a legal services attorney, working first for Bedford-Stuyvesant Community Legal Services in New York and then running the legal clinic for the Asian & Pacific Islander Coalition on HIV/AIDS.

But Busch has reduced his work schedule to spend more time at home with Eli, who calls Busch "Daddy." Davis, known to Eli as "Papa," runs the digital library program at Columbia University and is more private about talking to the media.

Beyond the ability to marry, the Supreme Court's opinion doesn't grant any specific, additional rights for gay couples beyond those provided by civil unions, which Connecticut instituted in 2005. And Busch and Davis still won't be on equal ground with heterosexual couples in receiving federal benefits (such as filing joint tax returns) because the 1996 Defense of Marriage Act bars the federal government from recognizing same-sex marriage.

But in Connecticut, the court ruling offers "the same recognition and legitimacy that is offered to other married couples," Busch said. "Marriage matters. It's so much more than just a word. People understand what marriage means. We're now equal, and that's all we ever asked for."

#### Civil Union Confusion

Busch and Davis entered into the lawsuit in 2004 with high hopes for victory but an understanding that the judges would need convincing. At the time, Massachusetts was the only state to recognize marriage equality.

Part of their confidence came from the feeling of acceptance that Busch and Davis enjoyed in Wilton. "We really felt that fairness, justice, the law and social awareness were on our side," Busch said. "I thought the hardest part was going to be in our affidavits letting the judges know that our family was like every other family, and that we're not asking for anything special."

Though Busch is a lawyer, he wasn't involved in case preparation or strategy. But when the California Supreme Court legalized gay marriage earlier this year, reading the decision energized him. He noted the similarities between Connecticut and California, most notably in the discussion of whether lawmakers' efforts to give legal rights to gay and lesbian couples offered the same status as marriage.

"When I read the California decision, I kept thinking it sounded like our brief," Busch said. "It was very uplifting and inspiring to know that our message could be heard and understood. We got a new surge of excitement and hope."

The definition of their relationship as a marriage rather than a civil union should have an impact on everyday situations, said Busch.

He recalls a trip to Canada, where gay marriage is recognized. Coming back across the border with Eli, Busch and Davis were questioned by a U.S. border agent about their relationship to the boy. They showed the agent Eli's birth certificate and passport, but because they hadn't yet gone through the second-parent adoption process, only Busch's name was on the adoption papers.

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The border agent was unconvinced that Busch and Davis were Eli's parents.

"She said, 'How do I know this isn't a kidnapping?'" Busch recalled. "We couldn't say we were married and we didn't have civil unions yet. I had nothing to say."

Eventually, the border agent allowed them to pass, but she suggested that the couple not travel internationally with Eli.

More recently, the uncertainty of their social standing led to an awkward moment with one of the couples' rental properties in Wilton. Busch had called a pesticide company to perform some work at the property, but Davis was the only one home to greet the contractors. The company wouldn't accept Davis's signature on the order, even though he explained his relationship with Busch.

"How embarrassing is that to tell a tenant that we can't authorize a job because we weren't recognized as a married couple?" Busch said.

### **Wedding Plans**

That should change in the next few months. But Busch said the details of a wedding are far from finalized. He had been thinking of a backyard wedding in Wilton with about 200 guests; Davis was keen on eloping.

In light of *Kerrigan*, the couple is leaning toward a public wedding in the spring. "After 20 years, we're getting the opportunity to stand in front of our friends and family and declare our love for each other," Busch said.

That's a drastic change from their civil union proceeding, which was performed by a justice of the peace and without family and friends. Busch and Davis wanted a bare-bones, strictly legal proceeding rather than a celebration. They wanted to save the emotions for a real wedding one day.

"You have one chance to cry at your wedding and I wasn't going to blow it on a civil union," Busch said. "It was difficult to decide to get a civil union. As parents, we decided we need to ensure that we get all the rights possible. It was difficult because we had to publicly sign up to be something inferior."

Meanwhile, Eli is constantly discussing his role as the ring-bearer for the upcoming wedding ceremony. Following the announcement of the *Kerrigan* ruling, the three drove to Massachusetts for a family *bat mitzvah* and were greeted by 100 relatives who hugged Busch and Davis, offered congratulations and asked Eli about the upcoming wedding.

"He's feeling very important," Busch said. "He's caught up in the excitement."

When Eli returned to kindergarten last week, his teacher also congratulated Busch. Eli has noticed that with two dads, his family dynamic is different from other children's. Busch and Davis point out to Eli that most families have a mother, but some families have one parent and others have two mothers. "I remind him of all the different families that he knows of," Busch said. "He feels lucky and very supported."

As important as the recent court decision is, Busch hopes that when Eli is older, he is surprised that there was a time when same-sex marriage was illegal.

For now, Busch and Davis are reveling in their historic victory.

"These are difficult times in our country with the war in Iraq and the economy," Busch said. "For Stephen and me, the world just got a little kinder."•