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Tired Of Waiting, Gay Couple Takes Legal Path

Colchester women cite discrimination in suit against state

By **BETHE DUFRESNE**

General Assignment Reporter/Columnist

Published on 9/2/2004

Colchester — They were born in the same Connecticut town, attended the same high school, fell in love after graduation and have never parted since. This fall they'll celebrate 29 years together in sickness and in health, in the dream house they saved for and helped build.

"That was our 20th anniversary party," says Janet Peck at home on Tuesday, explaining one of many framed photos chronicling their romance through the years.

It's been a good, old-fashioned marriage in most respects, with one notable exception. Because the partners are women, they can't legally wed.

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Janet Peck and Carol Conklin, a same-sex couple from Colchester, have filed a discrimination lawsuit against the state.

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Now, Peck and Carol Conklin are going to court for what they say is their due. Last week, along with six other gay or lesbian couples from Connecticut who were denied marriage licenses in Madison, they filed suit in New Haven Superior Court charging that the state's denial of marriage rights to same-sex couples is discriminatory.

Asked why now, Peck responds, "Simply, I'm tired. I'm tired of waiting."

Peck, 53, and Conklin, 51, say they've long talked of marriage, but until recent years never really dared hope for it.

Then came the Massachusetts Supreme Court's landmark 2003 ruling, the first of its kind in the nation, ordering that state to begin issuing marriage licenses to same-sex residents this May.

Conklin and Peck thought about getting married there. But Massachusetts, using an old law designed for interracial marriage, made out-of-state residents ineligible. The marriage wouldn't be recognized by Connecticut in any event.

"We've lived here all our lives," says Peck.

They've established careers. Peck has a mental health counseling practice, and Conklin is an electrician and home contractor, plying skills that came in handy for their airy new house surrounded by woods.

Peck grew up in Manchester, and Conklin in Manchester and South Windsor. They moved to Colchester 25 years ago, and have no wish to uproot.

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Marriage inquiries, however, led them to New England's Gay & Lesbian Advocates & Defenders (GLAD) in Boston, which represented the plaintiffs in the Massachusetts case. GLAD, which seeks to expand same-sex marriage rights, is representing the Connecticut plaintiffs, joined by lawyers from Hartford and New Haven and the Connecticut Civil Liberties Union.

Defendants are the state Department of Public Health, which supervises marriage registrations, and the town registrar of vital statistics in Madison, Dorothy C. Bean, who denied the plaintiffs marriage licenses.

Peck is optimistic that the Massachusetts decision will be repeated here, but not without a long fight. "I hoped to be married by our 30th anniversary," she says. But lawyers have told her the case won't likely be resolved for several years.

Wednesday morning, exactly one week after the lawsuit was filed, The Family Institute of Connecticut filed a motion to intervene. The group, which opposes gay marriage, is represented by The American Center for Law & Justice (ACLJ).

ACLJ senior counsel Vince McCarthy said in a news release, "It is important that we intervene to stop the trend of activist courts overturning hundreds of years of tradition by re-defining marriage to include same-sex couples."

"We will work to resolve any uncertainties that might be artificially interjected into what otherwise would be described as an entirely settled question of law," McCarthy said. The way to do that, some believe, is through a constitutional amendment.

In New York City this week, the Republican National Committee is honing a platform that supports a Federal Marriage Amendment defining marriage as the union of one man and one woman. President George W. Bush may comment on this during his acceptance speech tonight.

It would be the first amendment, notes Conklin, designed to exclude a group of people from rights enjoyed by others rather than including them.

"There are 38 states with DOMA (Defense of Marriage Acts)," she says. "That's a lot of people that have passed laws against us."

Peck and Conklin have actively supported gay rights since the 1970s. “We were at the first Gay Pride day” in Hartford, says Conklin.

Gay activists have tried and failed over the past two years to get same-sex marriage legislation passed in Connecticut. With emotions so strong on both sides of the issue, some see a lawsuit as a quicker avenue.

“We are looking for *civil* marriage,” says Conklin, emphasizing that no one's religion is in peril.

Asked why she wouldn't be satisfied if Connecticut had same-sex civil unions, similar to Vermont, Conklin says civil unions amount to a “separate but equal” policy.

That wasn't good enough for Civil Rights advocates in the 1950s and '60s, she says, and it isn't good enough for gay activists now.

Either you have equal rights, GLAD argues, or you don't.

Of the seven Connecticut plaintiffs, five have young children and all have been together for 10 to 28 years. Some might wonder why Peck and Conklin, who don't have children, want this fight.

Their life, by admission, is pretty normal, even “boring” in the way of many long-settled relationships. They feel accepted in their community, they say, and have no need to fear career repercussions since they both work for themselves.

During their 20th anniversary party, someone drove by and shouted obscenities at the house. Whoever it was “didn't know us,” they say, but “knew of us.” Yet overt displays of prejudice or hostility are rare.

Still, says Conklin with quiet intensity, “We *want* this. We *need* this.”

What they want is to be relieved of endlessly having to define their relationship. “People understand what marriage is,” says Conklin. It's like “being accepted into some club.”

What they need are the tangible benefits of matrimony, to be at each other's side in hospitals and make crucial decisions, and to inherit as a spouse would.

It's not enough, says Peck, to give each other power of attorney and designate each as the other's heir. If she were to die, Conklin would have to take her IRA, which is money they've saved together, in a lump sum, paying a significant amount in taxes. A spouse, on the other hand, could roll it over into another account with no penalty.

When the two sold their first home to build a new one, they couldn't use their combined income as a couple to get a joint construction loan.

Conklin has had three surgeries during the past nine years. Once, she says, she couldn't designate Peck as her next of kin. Another time, Peck had to fight to visit Conklin in intensive care because she wasn't considered "immediate family."

The list of reasons goes on. But for Conklin and Peck, the most important reason is love.

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