Dwight, on advice of her former lawyer). Dwight petitioned for temporary custody and got the boys back. Janel returned, moved in with a woman friend, and as Dwight and Wendy persisted in trying to alienate the boys from her, Janel petitioned to have them returned to her physical care. Each party "attempted to show what a poor parent and terrible person the other was," and "There was a strong undercurrent in Dwight's case that Janel had begun to express homosexual tendencies and that she was romantically involved with the friend with whom she lived upon her return to Iowa from California." Janel denied these allegations. The trial court stated that it "declines to conclude that said relationship impairs Janel's ability to parent the children." However, the court of appeals ordered that the boys stay with Dwight, relying on a preference to keep all the minor children together. The Supreme Court agreed with the trial court that all the circumstances here justified an exception to the normal rule, leaving the boys with Janel. Janel is now represented by Joanne C. Lorence of Atlantic, Iowa.

Corroboration Not Required to Convict Alleged Gay Hustler

The District of Columbia Court of Appeals held on July 2, 1992, that corroboration is not required to prove homosexual prostitution. *Moore v. U.S.*, (1992 WL 151198). A team of police set out to expose a male prostitution ring. An undercover policeman solicited male prostitutes; none of his colleagues heard the conversations leading to appellant's arrest. The court relied upon *Gary v. U.S.*, 499 A.2d 815 (D.C. 1985) (en banc), cert. denied, 477 U.S. 906 (1986), noting that "[i]n recent years, . . . the corroboration doctrine in the District of Columbia, and in general, has gradually eroded." The court observed that in 1976 it abolished the requirement that the testimony of a female rape victim must be corroborated. By analogy, the Court suggested that testimony by an undercover police officer about attempts to solicit sexual favors should be treated similarly. The court also denied appellant's other grounds for reversal. First, appellant argued that introduction of hearsay testimony by one of the officers denied him the right to a fair trial. The court disagreed, finding that, given the circumstances and in a trial without a jury, the judge had properly identified the statements as hearsay and stated he did not consider that evidence in reaching his verdict. Second, appellant challenged a finding that the phrase "top or bottom" meant sexual acts as defined in the D.C. Code § 22-2701(a). The phrase was key in leading to appellant's conviction. Appellant unsuccessfully argued that the phrase referred to questions of which party was the aggressor and which one was passive in a gay relationship, rather than referring to preferences for performing certain sexual acts. The Court of Appeals found that the lower court plausibly resolved conflicting testimony in the police officer's favor. C.C.

Florida Appeals Court Rules For Lesbian on Alimony

The Florida Third District Court of Appeal ruled June 23 in *Heilman v. Heilman*, 17 Fla. L. Wk. D1547, 1992 WL 139022, that a trial court misapplied the state's no-fault divorce law when it refused to award alimony or equitably distribute part of the marital estate to the wife because she "left the marital domicile to move in with a woman with whom she had fallen in love." According to the Court of Appeal, the only grounds for denying alimony or depriving the wife of her equitable share would be if she engaged in misconduct that caused some depletion to the estate. Since the estate consisted primarily of a house and vested pension funds, the Court found no basis for the lower court's decision. Although custody had been contested at trial, Catherine Heilman did not appeal the court's award of custody of their three children to her ex-husband. Miami lawyer Cynthia Green represented Catherine Heilman.

Transsexual Can Use Fictional Name In Suit to Receive Insurance Reimbursement For Operations

A transsexual sued Blue Cross & Blue Shield of Rhode Island for medical expenses for a sex change operation. *Doe v. Blue Cross & Blue Shield of Rhode Island*, 1992 WL 160410. Plaintiff had already lost the endorsements of two insurance carriers after they learned that he was a transsexual. Judge Raymond Pettine, issuing an opinion notable for its sensitivity to the variety of human sexual behavior, held for the U.S. District Court for the District of Rhode Island on July 6, 1992, that "this Court is cognizant of the highly sensitive and personal nature of each person's sexuality. Particularly in this era of seemingly increased societal intolerance toward 'unconventional' sexual behavior, I will not strip plaintiff of the cloak of privacy which shields him from the stigmatization he might otherwise endure... In assessing the potential harm to plaintiff if he is forced to reveal his identity, a useful analogy may be drawn to homosexuals and others whose sexuality also expose them to derision and discrimination."

Judge Pettine then turned to the applicable standard:

> I find persuasive the analysis of litigants' request for pseudonymity set forth in *Doe v. Rostker*, 89 F.R.D. 158 (N.D.Cal. 1985). The Court explained that the general rule requiring plaintiffs to include the names of all parties is not set in stone: Courts have carved out limited exceptions to [this rule] where the parties have strong interest in proceeding anonymously. Although no express standard exists setting forth these exceptions, . . . [t]he common thread running through these cases is the presence of some social stigma or physical harm to the plaintiffs attaching to disclosure of their identities to the public record. . . . That the plaintiff may suffer some embarrassment or economic harm is not enough. There must be a strong social interest in concealing the identity of the plaintiff.

The defendant tried to analogize plaintiff's situation to that of parents of a gay man who attempted unsuccessfully to remain anonymous in an insurance case after their son's death from AIDS. Pettine rejected this analogy, noting that the case at bar was quite different inasmuch as plaintiff was very much alive, and faced personal stigmatization if his identity was revealed. The court also rejected defendant's attempt to have plaintiff's identity revealed on grounds that defendant was likely to win on summary judgement because sex change operations were not covered under plaintiff's policy, observing that this had no bearing on whether plaintiff's identity should be revealed. C.C.

Fagg to Supreme Court?

Former U.S. Airman Scott P. Fagg petitioned the Supreme Court to review his court martial conviction for consensual sodomy with an underage woman. *U.S. v. Fagg*, 34 M.J. 179 (1992), pet. for cert. filed, No. 91–2042 (6/22/92). Although the Court of Military Review found that the conviction violated his right of privacy, and Court of Military Appeals reversed, citing *Bowers v. Hardwick* for the proposition that there is no constitutional protection for consensual sodomy. Fagg's lawyers assert in their certiorari petition that 90 percent of heterosexual couples engage in oral sex, which is, they claim, "a basic component of heterosexual relations in the United States among both married and unmarried couples." (Fagg is represented on appeal by military lawyers assigned to his defense by the Air Force.) If the court takes the case, it could provide an opportunity to overrule *Hardwick* or, more likely, to narrow it as a precedent to homosexual sodomy. It seems most likely that the Court will refuse review.

Habeas Relief Denied To Man Convicted of Murdering Gay Lover; Murder Conviction Upheld in Gay Robbery Scheme

The petitioner in *U.S. v. Jones* (1992 WL 153630 (6/24/92)) sought habeas corpus relief from the U.S. District Court for the Northern District of Illinois, having been convicted of murder and several lesser-included offenses. Petitioner argued, *inter alia*, that "he was denied