

OUT IN THE MOUNTAINS

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Esex Junction – Sandi and Bobbi Cote-Whitacre are two women whose political stature far overtops their five-foot physical height. They worked tirelessly for the Vermont Freedom to Marry Task Force in support of the issues framed by the *Baker* lawsuit. They were deeply disappointed with the civil union compromise that came out of the political struggle following the Vermont Supreme Court's ruling. But they took the opportunity for legal recognition that was offered and had a civil union in August, 2000. Bobbi's 90-year-old mother walked them both down the aisle and danced at their reception.

But when the Massachusetts Supreme Judicial Court ruled late last year that excluding same sex couples from obtaining marriage licenses violated the Commonwealth's constitution, their next step was obvious: they were going to get married, really married. On May 17, 2004, the first day they could apply, they asked for their marriage license in Provincetown. The town clerk there had announced that he would not deny licenses to out-of-state applicants, despite ominous announcements from Republican Governor Mitt Romney that such marriages would be held invalid, based on a 1913 law.

That law, sometimes called the "Reverse Evasion Act," was enacted to prevent mixed-race couples from marrying by excluding from marriage in Massachusetts any couple whose marriage would be void in their own state. The law had not been enforced in decades – until this year.

The Cote-Whitacres had to drive from Provincetown to Barnstable to get a waiver of the customary three-day waiting period from a probate judge. "The judge asked us why we couldn't wait the three days. We said, 'We've already waited 37 years.' He looked down at his desk filled with divorce cases and said, 'I won't be seeing you back here.' We said, 'Nope, not after 37 years.'" Bobbi and Sandi tell the story together, each jumping in to finish the other's sentences.

The town clerk's office had closed by the time they got back to Provincetown,



Still Ain't Satisfied

Vermont Couple Sues Massachusetts for Their Marriage.

by Euan Bear

so they were married the next day by Justice of the Peace Joan Drysdale.

Asked whether – after 37 years and a civil union – being married felt any different, Bobbi said, "It felt different the first day." Sandi: "It's the intangibles, the emotion, a connection at a different level. After 37 years, you wouldn't think there would be anything new." Bobbi: "The civil union had a bit of that feeling." Sandi: "It's a permanency, a comfort zone when each partner commits themselves." Bobbi: "Not that I think she's going to stray or anything ..."

But the second day after their marriage was different, that familiar feeling of being not quite good enough. Bobbi recalled, "That's when the governor said he'd pull our license. We contacted GLAD." Sandi: "There was a notice with an 800 number to call 'if you have any trouble.'" Bobbi: "Of course, there was also the notice saying 'Don't come if you're from out of state.'"

The Lawsuit

The lawsuit filed by GLAD (Gay & Lesbian Advocates & Defenders) on behalf of eight out-of-state couples is named after them: *Cote-Whitacre v. Department of Health*. The couples – three gay couples and four other lesbian couples – come from the rest of the New England states and New York.

A second lawsuit on behalf of the town clerks seeks a summary judgment lifting the state attorney general's cease-and-desist order requiring the clerks to refuse licenses to out-of-state same-sex couples. There's a discussion of the legal issues on GLAD's website (www.GLAD.org), but for the Cote-Whitacres, the issues are simple. Bobbi: "Now they're even refusing licenses to [same-sex] couples with one member who lives in Massachusetts. Massachusetts shouldn't be in the position of enforcing other states' laws." Sandi: "No state can get away with treating non-residents differently."

The hardest part is the waiting. The first hearing on *Cote-Whitacre v. Department of Health* was held on July 13. Sandi: "The state filed an 89-page brief, then we filed a response, and the state has to file a response

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