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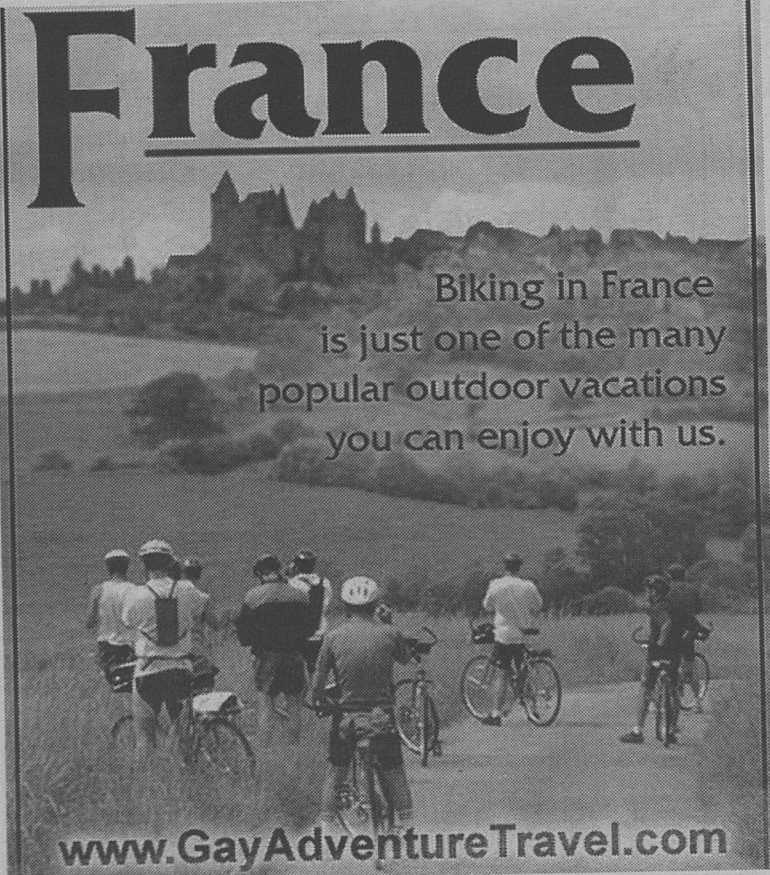
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Civil Dissolution

**Out-of-Staters Find Breaking Up a
Civil Union is Hard to Do**

By JENN BAUDREAU

In 2001 Karen Welthy and her partner traveled to Vermont from their home state of New York to make a public commitment to one another by entering into a civil union. Unfortunately, three years later their relationship ended. Whereas the process of obtaining the civil union took less than half an hour – as Welthy is quickly finding out – dissolving it is not nearly so easy.

In order to dissolve a Vermont civil union in Vermont, one or both partners need to be residents, the same requirement as for filing for divorce in a marriage. With 85 percent of civil unions going to out-of-state couples, however, that residency requirement poses a problem. Since – unlike marriage – civil unions are a new institution, there is little in the way of case law to support someone like Welthy. That most states do not recognize civil unions as an institution only increases the difficulty. As Welthy says, “It’s like asking New York to dissolve something it doesn’t believe exists.”

There has been some encouraging news on this front. Last month the Iowa Supreme Court decided not to interfere with a ruling by a lower court to dissolve a lesbian couple’s civil union. As uplifting as that news is, however, dissolving a civil union this way is time-consuming and costly, and not everyone is willing to be thrown into the legal spotlight.

Welthy doesn’t feel that taking her case to court is a viable option for her at this time. “It would be groundbreaking – and very expensive – for me or any other ‘first’ person to try to get a civil union dissolved [in New York]. My lawyer said that she would love to take the case because it is interesting and brand new, but there are no guarantees that I would get anywhere with a judge in New York.”

At the moment, Welthy feels her only real choice is to pay somebody rent here in Vermont,

while continuing to live and work in New York. That way, six months down the line she can file for the dissolution, and six months after that she can be granted it. Needless to say, she considers this a frustrating, expensive, and time-consuming process.

Beth Robinson, an attorney at Langrock Sperry & Wool and lead lawyer in *Baker v State*, receives “dozens and dozens” of calls about civil union dissolution, many referred by other lawyers. She believes that civil union dissolution is part of a broader problem: civil unions are not marriage. “The question of how civil unions are treated in other states for the purpose of dissolution, or other bene-

“The problem for civil union couples from out of state is with their home state, not with Vermont” Beth Robinson

fits for that matter, raises some challenging legal questions,” Robinson says. “We have centuries of case law dealing with how states should treat valid marriages from other states – case law that we could plug into much more easily if we had full equality, i.e. marriage, for same-sex couples in Vermont.”

However, she elaborates in a later conversation, “The problem for civil union couples from out of state is with their home state, not with Vermont. There might be a temptation [for Vermont] to help, to make it easier to dissolve a civil union by eliminating the residency requirement. In 2002, opponents to civil unions attempted that. We argued against that, because it chips away at marriage parity.”

There are also steps that separating civil union partners can take to protect themselves while waiting for the legal picture to become clearer, Robinson says. First, get a lawyer who is both knowledgeable about the jurisdic-

tional issues and plugged into the gay and lesbian rights issues involved. Second, consider relocating to a state that would dissolve the union. Third, take all the legal steps possible to mitigate the impact of an undissolved civil union, beginning with negotiating a separation agreement. To ensure the agreement has legal standing within the partners’ state of residence, they should consult a lawyer.

Welthy, for one, feels frustrated by the legal difficulties surrounding her civil union. “It has become a big hassle and it offers me no rights in my home state anyway,” she says. But, she adds, “I found the civil union to be emotionally fulfilling. It was a good experience to have someone in the legal system validate our relationship. I also thought if I ever had any trouble, I could move to Vermont where my relationship was protected. So in that regard, it was a positive thing.”

Robinson is also quick to point out that the experience for

many out-of-staters with civil unions has been far from negative. “A New York trial court allowed a surviving civil union partner to pursue a wrongful death claim based on the death of his civil union spouse. I’ve spoken to out-of-staters who have been able to obtain health insurance, and disability insurance for their partners through their employers on the basis of their Vermont civil unions. I even talked to someone in Michigan who was able to register for a family membership to the local museum on the basis of the civil union.”

Clearly the legal confusion and questions raised by civil unions are far from over, but there is hope. As Robinson points out, these civil union issues will become moot if we can achieve equality by replacing civil unions with true marriage. ▼

Jenn Baudreau is a coffee barista, a runner, and a recent arrival in Vermont. She lives in Burlington.