FIGHTING BACK

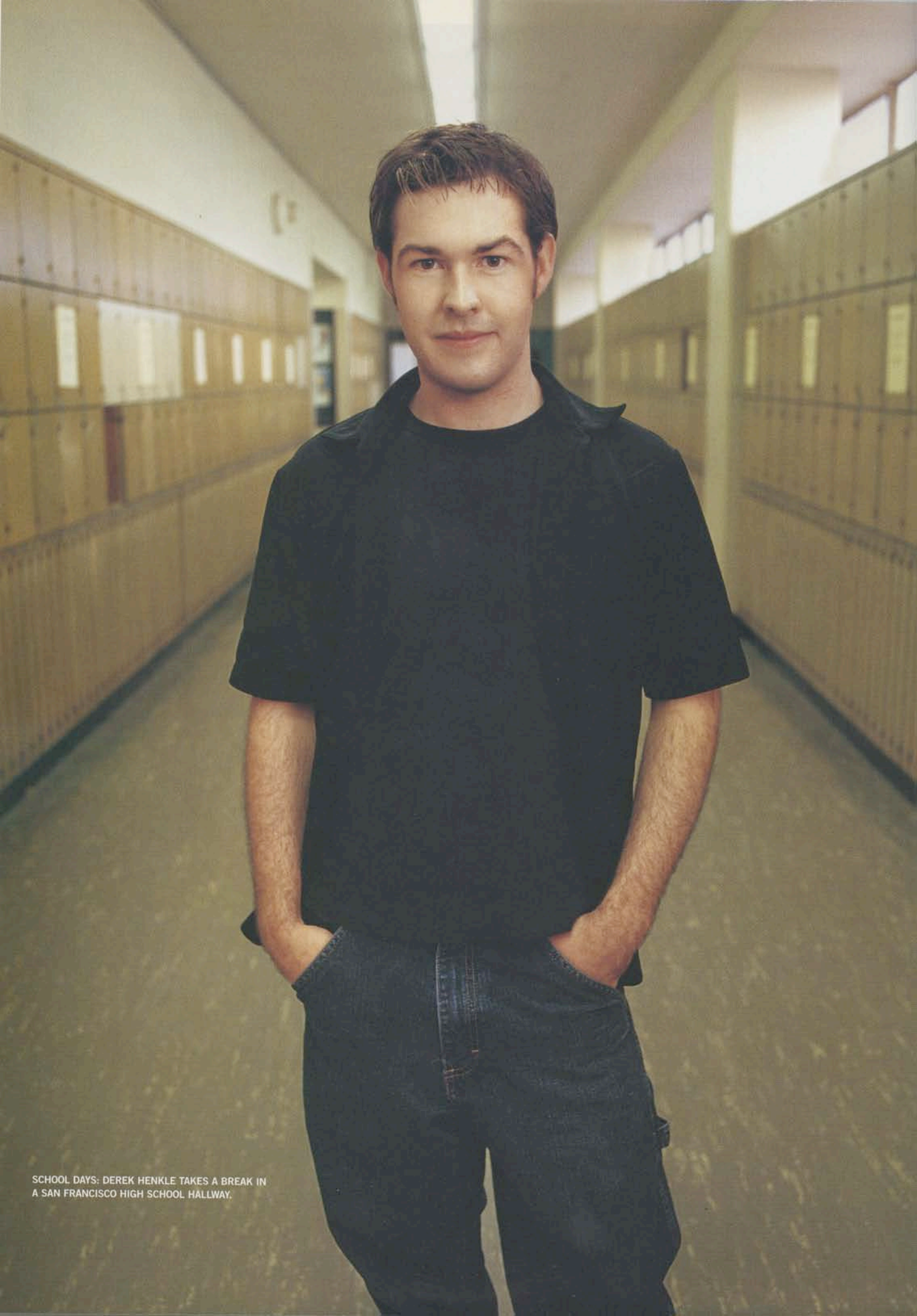
Seven years after he was beaten by fellow high school students, Derek Henkle awaits justice for the officials who he says failed to protect him.

by Bruce Shenitz photographed by Sven Wiederholt for *Out*

AT THE BEGINNING OF HIS SOPHOMORE YEAR IN RENO'S Galena High School, it didn't look like life could get any worse for 14-year-old out gay student Derek Henkle: He was jeered at on the school bus, pushed into lockers in the hallway, and spat on in the cafeteria. But the worst was still to come: In September 1995, while Derek was walking back to school at the end of a break, he recalls, a group of male students surrounded him in the parking lot and "took out a lasso and said, 'Let's lasso the fag and tie him to the back of the truck and drag him down the highway.' " In fear for his life, "a survival instinct took over," he says. He dodged in and out of the parked cars as the gang pursued him. "They got the lasso around my neck three times, and I was able to get it off each time," he says. "But had they been any better at lassoing, I probably wouldn't be here."

As Henkle's experience reminds us, adolescence is not an easy time for anyone, but it's always been particularly difficult for gay kids trying to make sense of their lives. In the past, emotional turmoil usually unfolded internally, but as gay people have become more visible and kids arrive at self-knowledge about their sexuality earlier, conflicts have shifted from the individual's head to the schoolyard. While kids have long been harassed for being too nelly or too butch, it has become harder for many gay kids who at one time avoided conflict by slipping under the radar of intolerant peers. Verbal and physical harassment at school sometimes escalates to dangerous levels. If the closet was the place where our developmental dramas were played out in painful silence, it had the unintended benefit—probably the only benefit—of sometimes providing a safe hiding place.

For Derek Henkle, who turned 21 last fall, the closet was never much of an option—and he paid heavily for leaving it while still



SCHOOL DAYS: DEREK HENKLE TAKES A BREAK IN A SAN FRANCISCO HIGH SCHOOL HALLWAY.

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a student. After enduring years of antigay harassment, he's taken an important step to improve the lives of kids who are still in the line of fire: He's suing his hometown school district—as well as individual teachers and administrators—for failing to protect him from verbal and physical assault that went on over a period of years. And because school administrators at times told him not to reveal his sexual orientation to other students, he's charging that his First Amendment right to free speech was violated. The lawsuit, which was filed two years ago, is scheduled to go to trial in November. The case and others like it reflect a growing reality for vulnerable gay teens.

I first met Derek after I saw him participate in a panel on gay youth issues. As he described the years of abuse that ultimately forced him to quit high school, I was struck by his maturity and his conviction that he didn't want to see other gay kids go through the same thing. My interest was further piqued when he mentioned that he was inspired by an article (in this magazine) about Jamie Nabozny, the Wisconsin high school student who successfully sued his school district in the 1990s for failing to protect him from verbal and physical abuse. Derek was heartened to read about a victim who fought back, and he even showed the article to a school administrator—not because he was thinking of suing his school, but to impress upon her the gravity of the issue. Since I happened to have written the article he referred to, I became curious about just what was driving the latest wave of young gay civil rights litigants.

When I finally caught up with Derek a few months ago, he had just moved into a new place in San Francisco, where he and his housemates were still settling in; the living room had a couple of folding chairs, a table and couch, and little else. But as people moved through to grab a bagel from the kitchen or to just say a quick hello, this new household had the sort of "Let's put on a show" optimism and energy that everyone is entitled to experience at least once in their lives. It reminded me that though very mature in some ways—Derek was working in television news by the time he was 16 and has already done stints at CNN and its parent company, Turner Broadcasting—he's still not very far from his own youth.

When we settled down to talk, one of the first things I wanted to know was how he ended up coming out to himself—and his family—before he was even a teenager. "I was very aware of the word *gay*, and I was very aware that I was different than kids in my school," he says. When he was about 12, a manicurist told his mother that another client had said Derek reminded her of *her* gay son—which led Derek's mom to pop the big question. After a halfhearted denial, he told her the truth; they had a long talk as they drove around Washoe Lake, near Reno, "like 20 times," he says. "I think that was hard for her to hear, coming from a 12-year-old."

Coming out so young taught Derek an important lesson: There were not enough programs serving gay youth in his hometown. He ended up hanging out at the gay, lesbian, and bisexual student union of the University of Nevada, Reno. "It was the only place I had a

"I'm blown away by how self-assured they are about their sexual orientation," said Lambda Legal Defense's Jon Davidson, referring to the leading-edge role of gay youth in pushing ahead the civil rights agenda.

sense of community," he says. "Here I was, this 13-, 14-year-old kid attending these college groups, and I was hanging out with 28-year-olds who were gay." Still, it was at least a supportive environment—and later, it would be his "lifeline."

One day a video crew from a local cable access show came to record the meeting—a panel discussion on coming out. Derek was one of the participants, though he would wind up "saying maybe all of 10 words." At the time, he didn't give the camera much thought, since it was only a cable access show. Moreover, he was already suffering a fair amount of verbal abuse at school, so he apparently didn't have much to lose. After the show aired, another student said he saw Derek on TV "with a bunch of fags" and asked if he was gay. When he responded that he was, "the news spread faster than if I'd been on CBS news," Derek recalls with a laugh. Unfortunately, the amount—and severity—of the harassment began to increase.

"I'd leave my house and ride the school bus for 45 minutes, where I was continually assaulted and teased and called a fag and no one wanted to sit next to me," he recalls. The teasing progressed well beyond the "sticks and stones" stage: "Fag," "butt muncher," and "butt pirate" were just a few of the choicer epithets. Though Derek filed a number of "incident reports" with the school authorities, there were so many such incidents that he didn't bother reporting them all. Without effective action by the administration, students graduated from verbal to physical assaults. "The same people who one week would call me a 'fag' or a 'butt pirate' would the next week be shoving me in lockers and the next week spitting food on me," he says. "It was an immediate progression"—a progression that ended when the group of boys tried to lasso him with a rope outside the school.

After he managed to escape the posse, he ran back into the building and entered a classroom where a substitute teacher was working by herself. He insisted she lock the door and used the school's in-house phone to call a vice principal who was already familiar with the harassment; he left three messages, he says, before she came to the room almost two hours later. When she arrived, Derek recalls, "I couldn't coherently speak. I was so hysterical, I said, 'They tried to pull a neck around my rope.' And she laughed over the fact that I couldn't even coherently speak. It wasn't like, 'Oh, my God. Someone tried to kill you on the campus.' It was like, 'You're speaking in reverse English.' " The administrator then walked Derek to the school bus (which some of the attackers also rode) and sent him home. He told the bus driver what had happened, and she dropped off everyone else first, so that no one would be around as she escorted Derek into his house. (The school district and the individual defendants in the case have in court papers formally denied the majority of these allegations. The defendants' attorney did not respond to repeated requests to provide their interpretation of these events.)

Despite his emotional state, Derek decided not to tell his parents just then what had happened. "I was afraid they would take me out of the [University of Nevada] support group. And so I just felt totally isolated," he says. Worse, "I dreaded knowing that I had to go back to that campus. It literally was like being drafted into a war. Like, I was forced to go back over this campus on a daily basis, and no one would do anything for me when I was there."

Derek, his therapist, and his parents eventually had several meetings with school administrators; it was decided that Derek would write a letter saying the other students had violated the school's sexual harassment policy and that if another violation occurred, they could be prosecuted. Derek complied, figuring it was better than nothing. In the end, school officials decided not to deliver the letter, and the entire matter was dropped.

The effect was immediate. "Everyone knew in the school that this was going on," Derek says, "and it overwhelmingly opened the doors to constant violence. I was being pushed into lockers on a

Psychosexual Milestones

AVERAGE AGE EVENT OCCURS	Studies of Adults*		Adolescent Studies**	
Behavior/Identity	**Male**	**Female**	**Male**	**Female**
First awareness of same-sex attraction	13	14–16	9	10
First same-sex experience	15	20	13–14	14–15
Self-identification as lesbian or gay	19–21	21–23	14–16	15–16

*Studies of adults who came out in the 1970s and early '80s (who remembered their experiences as children and adolescents). **Adolescents who came out in the late 1980s and early-mid '90s (who described their experiences as they were happening or right after they happened).

LAMBDA'S JON DAVIDSON (LEFT) WITH HENKLE AT AN L.A. PRESS CONFERENCE LAST SPRING

daily basis; people were pushing me in the hallway, people were throwing stuff at me. And it was so terrifying because I would literally walk around the corner in my school and not know whether this time I was going to have to be bashed up against the locker or whether I was going to be able to get where I needed to go."

The general harassment continued with such frequency that Derek spent "the majority of the time" in the discipline office filling out incident reports—and taking shelter from his fellow students. Not only were no effective measures being taken; also, says Derek, "I was being told by the administration that I was the problem and that I was trying to avoid class by being in the discipline office." One time, some kids ran by the office and threw some kind of object at him, hard enough that it got stuck in the wall—demonstrating that even sitting in an administrative office, there was no safe place for Derek in that building.

Derek became an emotional wreck. He attempted suicide, and he broke down crying in the office of one of the school administrators. At another meeting with school administrators, a decision was made to transfer Derek to Washoe High School, an alternative high school. He was told to not talk about being gay; Derek complied with this instruction, at least at the beginning. He took his political buttons off his backpack and started at the new school. Oddly enough, in this school, which was for "problem kids" (everything from delinquents to pregnant girls and teenage mothers who needed reduced school hours), Derek had no problems with the other students. But, he says, the principal told him, "I will not have you acting like a fag in my school."

This part of Derek's case is in some ways the most interesting and innovative. In a pretrial decision, the Nevada federal district court ruled that Henkle can present his claim that stating he was gay is constitutionally protected speech. When I asked Jon Davidson, Derek's attorney at Lambda Legal Defense and Education Fund, if this was the first time a court had ruled on this issue, he said, "I don't know of a case that ever has said this quite as clearly as this case." In fact, one of the points made by the school board in pretrial motions is that they had no way of knowing that speech about sexual orientation was constitutionally protected. The district court held that students' right to freedom of speech established by the Supreme Court in *Tinker* v. *Des Moines Independent Community School District* in 1969 "is a broad right that would encompass the right of a high school student to express his sexuality."

When Davidson and I met to discuss the case at Lambda's West Coast office in Los Angeles, he and I both remarked on the leading-edge role of gay youth in pushing ahead the civil rights agenda. "I'm blown away by how self-assured they are about their sexual orientation," he added. And it's not just the active imagination of aging boomers that tells us that things have really changed: According to Caitlin Ryan, director of policy studies at the Institute on Sexuality, Inequality, and Health at San Francisco State University, "What's so different now is that kids are coming out in force at the high school or junior high school level." Her review of the literature shows that adults who came out in the 1970s and early 1980s first became aware of same-sex attraction around age 13, while adolescents who came out in the late 1980s and early 1990s experienced this as early as age 9; self-identification as lesbian or gay occurred between ages 19 and 23 for the adults and between ages 14 and 16 for the adolescents. (See chart on page 102.)

All this explains why the demographics of the gay civil rights movement have shifted youthward; the earliest cases were brought by adult plaintiffs who challenged institutional practices like the censorship authority of the U.S. Postal Service, unfair treatment in the U.S. Civil Service or the Army, or, more recently, marriage laws. And it explains why at age 16 Derek was trying to negotiate the terms of a gay identity at institutions that were giving him no positive support. After his stint at the alternative high school, Derek transferred to a third high school so he could take college prep courses, but the verbal and physical harassment resumed. On one occasion, he was beaten bloody in the schoolyard while, he alleges, two school police officers ignored the situation. This time, Derek was put into the adult education program at a local community college and told that he could take the GED exam when he turned 17. What he was not told, he says, is that he would not → *(page 118)*

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be eligible for a regular high school diploma—something that would make it more difficult to get into many of the selective colleges he had hoped to attend.

In fact, the loss of educational opportunities is one of the problems of gay youth that often is passed over because verbal and physical harassment present such an immediate and serious threat to these students. According to a 1989 report from the U.S. Department of Health and Human Services, 28% of lesbian and gay youths drop out of high school because of harassment. Derek has done extremely well without a college education or a regular high school diploma, and acknowledges that he has had "a lot more opportunities than traditional LGBT youth." But many have not done so well. "A lot of them are flipping burgers and thinking that's all that they'll be able to attain," he says. And though he's done well and has sought entrance to some competitive colleges, not having a traditional high school diploma has created challenges for him.

Derek decided to pursue a lawsuit after participating in some self-empowerment workshops in Atlanta in 1997. "This was about looking at what I wanted to do with my life," he says. His parents have generally been supportive; after they divorced, his mother met her second husband at Parents, Families, and Friends of Lesbians and Gays. A grandmother with whom he had not been in close touch wrote him a letter commending him for bringing the case and speaking about gay, lesbian, bisexual, and transgender youth issues—something he's continuing to do.

In researching this story, it was hard not to wonder about the impact of the shift of so much of the gay struggle onto young people. The greater public visibility of gay people in the media and in everyday life has allowed this next generation to accomplish its emotional developmental work earlier than previous generations did. This earlier self-awareness and coming-out, says Caitlin Ryan, "allows queer youth to be adolescents in real time, as opposed to being adolescents as adults"—a necessary stage in the lives of many gay men who came of age in the '60s and '70s. On the other hand, it sometimes seems like adolescents are required to take on adult roles during their teen years.

Derek Henkle is only the latest in a series of young crusaders who have been leading the way on gay civil rights cases for several years now. Former Eagle Scout James Dale laughed when I referred to him as the grand old man of the youth movement. (He turned 31 last summer.) In fact, Derek spoke with Dale when he was considering bringing the case—in much the same way that Dale had spoken with Tim Curran, who brought the first discrimination case against the Boy Scouts in 1981. Dale remembers mentioning to Derek that "the legal system works very slowly," something that an energetic young litigant might not realize going into a case like this. At the same time, the cases can produce important changes in attitude regardless of how the courts ultimately decide. Regarding the Boy Scouts, he says, "The question has changed from

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'Why does a gay guy want to be in the Boy Scouts?' to 'Why do the Boy Scouts discriminate?' "

Meanwhile, Derek is hardly alone in his commitment to make the world safer for young gay people. Nineteen-year-old Timothy Dahle of Titusville, a small town in northwestern Pennsylvania, recently settled a federal civil rights case with his school district for $300,000. Dahle dropped out of high school midway through his junior year after years of complaints about antigay harassment failed to produce any results. In Northern California, a group of students has brought suit against the Morgan Hill Unified School District for failing to protect them from antigay harassment; the case could come to trial by the end of this year.

As Derek gave me a lift back to my hotel, I asked how he saw his future—and had to remind myself that at age 21 he already had eight years' experience in journalism, public relations, and education. He still talks about getting a college degree or even graduate education, though he has no definite plans for the immediate future. Yet despite the adversities he's faced, Derek remains at the age where everything seems possible, and ambitions like "White House staff member" pop up. For the moment, though, he's focused on the case. "What keeps me going—because there are definitely really hard moments—is the knowledge that what I'm doing is helping other students," he says. "Kids are being beaten up in this country every single day. They're getting their education stolen from them; they're dropping out; they're using drugs; they're committing suicide. If I can bring another voice to represent that, I'm more than happy to step up to the plate." ■

Bruce Shenitz is the executive editor of *Out*.