



Staten Island

Sunday Advance

OCTOBER 19, 2003

THE ISLAND



Leslie Rios, left, and Melissa Medina-Rios stand in the Staten Island Railway station in their community of Grasmere.

STATEN ISLAND ADVANCE/ROB SOLLETT

THE ISLAND

Judge hears arguments in domestic-partner case

Woman sued her employer, Staten Island Railway, and MTA to have health benefits extended to her partner

By SETH SOLOMONOW
STATEN ISLAND ADVANCE

A state Supreme Court justice yesterday heard arguments in a potential watershed case to have employee health benefits extended to the domestic partner of a Staten Island Railway worker.

Car cleaner Leslie Rios, a Gramere resident, last year sued the Railway and its parent agency, Metropolitan Transportation Authority's New York City Transit, after it denied extending benefits to her partner, Melissa Rios-Medina.

Legal experts are looking closely at the case as a test of state legislation protecting gays and lesbians in the workplace.

Defending its case before Justice Philip G. Minardo in St. George, a lawyer for the

Railway says its contract provides health coverage only for spouses, employees and dependent children. Domestic partners of either sex are not covered, Transit claims.

However, domestic partners of Transit employees in other boroughs receive benefits through an agreement negotiated by their union, the Transit Workers Union Local 100.

While members of Local 1440, United Transportation Union, could similarly negotiate a contract securing the

benefits, the plaintiffs' attorney, Tom Shanahan, argues that coverage is a matter of civil rights and not contract negotiation.

As far as city and state discrimination laws were concerned, "Domestic partner is the equivalent of a spouse" in New York, Shanahan said. Even though many domestic partners are of the opposite sex, a policy of denying benefits to such partners would affect homosexual couples disproportionately, contravening previous legal opinions.

Transit attorney Richard

Schoolman countered that it costs about \$4.157 annually in benefits for single employees, and adding domestic partners to the Railway's health plan would more than double their premium.

Minardo is expected to deliver a decision on the case within two months.

— Advance staff writer Frank Donnelly contributed to this report.



STATEN ISLAND ADVANCE FILE PHOTO
Leslie Rios, left, is with domestic partner Melissa Medina-Rios.

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Suit for same-sex partner weighed

Railway worker may sue MTA after being denied health coverage for domestic partner

By **SETH SOLOMONOW**
STATEN ISLAND ADVANCE

A Staten Island Railway worker who was denied health benefits for her same-sex domestic partner may sue the Metropolitan Transportation Authority for coverage, a move that legal observers say would test a state law passed earlier this year to prevent discrimination against gays and lesbians in employment.

The Railway, whose parent company is the MTA, turned down Grasmere resident Leslie Rios when she requested health coverage for her domestic partner, Melissa Medina, shortly after the two registered their partnership last October in the City Clerk's office.

Rios said the benefits manager at the Railway bristled at her request. "He didn't know where to put his jaw" once it dropped, Ms. Rios said, and he told her, "We don't do that here."

Rios, a train car cleaner for four years, said she has not experienced any other discrimination on the job. She said she was not a pioneer for gay and lesbian rights and mainly wants to win health coverage for Melissa, who has since changed her name to Melissa Medina-Rios.

"I'm not asking for anything special," Rios said. "I don't want any special treatment. I'm not asking anything out of the ordinary. It's just rightfully hers and mine."

The spouses of all MTA workers are covered by the agency's health plans, and when the Transport Workers Union (TWU), Local 100, signed a strike-averting contract earlier this year, it also secured a domestic partner health benefit for its 38,000 members.

But that contract did not apply to thousands of MTA workers represented by other unions, including the United Transportation Union, whose Local 1440 represents about 200 of the roughly 300 employees of the Staten Island Railway — including Rios. Railway managers belong to a category that receives domestic partner benefits from the MTA.

Rios has now retained Manhattan-based attorney Tom Shanahan, who may sue under a law passed earlier this year, to compel the MTA to extend health coverage to Rios' partner and to the domestic partners of all the agency's employees — a case that he hopes would set a precedent for future gay discrimination suits.

The state legislature in January passed the Sexual Orientation Non-Discrimination Act (SONDA), which added sexual orientation to a list of other protected categories in state human rights law, including sex and national origin. Shanahan said a lawsuit under the new law would show that disallowing benefits for domestic partners would hit same-sex partners disproportionately.

HAD PREVIOUS CASE

"Opposite sex domestic partners have the option of marriage" if they want benefits for their partners, said Shanahan, who previously handled the case of an openly gay Queens subway motorman, James Reilly, who sought benefits for his domestic partner.

That lawsuit ceased when the TWU and the MTA agreed to a contract which extended benefits to domestic partners, assuring Reilly coverage for his partner, George Brennan.

While MTA officials have indicated they would be receptive to a contract with Rios' union providing for domestic partner benefits, Shanahan said the coverage was a law-guaranteed right and not a privilege that individual unions should have to negotiate.

Shanahan threatened a lawsuit in a letter to Railway benefits manager Robert Curcio last month, and he said he is eager to take the issue to court.

An MTA spokesman said the issue was "under review."

A successful suit under SONDA would represent "one of the first potential matters that could give real teeth" to the law, said Adam Aronsen, staff attorney for Lambda Legal Defense and Education Fund.

"It's one thing to have a law or statute on the books," Aronsen said. "It's quite another and more significant to have a case interpreting a statute in a fair, reasonable and just way to say that discrimination is not allowed."

While Shanahan is looking to test the law in court, Rios' union may be looking to settle the matter sooner by requesting domestic partner coverage when it negotiates its next contract.

But the union has been without a contract for nearly a year, and Shanahan said he's asked union officials to join him as plaintiffs in the case rather than negotiating a settlement that could, at least in theory, be rescinded.

Executives of the United Transportation Union, which also represents many of the Long Island Rail Road's more than 6,200 employees, did not return calls seeking comment.

The union's local chair, Dee Vandenburg, said she "would like to see the MTA follow the laws of the state and the city," that she said prohibit discrimination based on many factors, including sexual orientation.

Vandenburg last month wrote a letter to the Railway on Rios' behalf asking what steps she could take to acquire benefits.

"It's a very simple thing," Vandenburg said. "It's benefits that affect domestic partners, period, same or sex or different sex."

Seth Solomonow covers transportation issues for the Advance. He may be reached at solomonow@siadvance.com

HOY NUEVA YORK, 10.30.03

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INCENDIOS

California pide ayuda federal

CALIFORNIA. El gobernador electo de California, Arnold Schwarzenegger, pidió ayer en el Congreso de EE.UU. más fondos federales para hacer frente a los daños causados por los grandes incendios que arrasaron el sur del estado desahucio de hace una semana.

Mientras tanto, los meteo-

25¢

DEPORTES
BEISBOL

Rick Down, entrenador de bateo de los Yankees, es el primer cancelado por George Steinbrenner.

60



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91.156 EJEMPLARES DIARIOS



Demandan a MTA por negar beneficios a empleada gay

JOSÉ L. LLANES

NUEVA YORK

Leslie Ríos, una 'nuyoricana' gay de 36 años empleada del tren en Staten Island, no podía creer la respuesta de su jefe cuando le solicitó beneficios para su pareja Melissa Medina.

"Nosotros no hacemos eso aquí", le contestó Robert S. Curcio, cabeza del Departamento de Pensiones y Beneficios. "Pero voy a hablar con mi jefe".

"Se estaba haciendo el gracioso. A las cuatro horas me llamó y me repitió la misma frase: 'No. Nosotros no hacemos eso aquí'", dijo Ríos.

Un año después del incidente, la situación de Leslie y Melissa permanece casi inalterable a excepción de dos detalles: la pareja ha tenido que gastar mucho dinero en visitas médicas de Melissa y hoy mismo están presentando una demanda por discriminación contra la Autoridad de Transporte Metropolitano.

"Estaba frustrada. Un día fuimos a un centro de gay en Staten Island donde nos dieron el teléfono de nuestro actual abogado y las cosas empezaron a caer en su lugar", dijo Ríos.

"Sus propias leyes internas de Igualdad de Oportunidades de Empleo prohíben (a la MTA) la discriminación de empleados basado en su orientación sexual", escribió Tom Shanahan, abogado de las demandantes, a Curcio, el pasado 18 de septiembre.

Dos leyes ejecutivas en el estado de Nueva York prohíben la discriminación basada en la orientación sexual, una firmada por el gobernador Mario Cuomo y la otra por George Pataki. La acción viola también las actas de derechos humanos tanto de la ciudad como del estado, aseguró el abogado.

"Ellos piensan que pueden hacer lo que quieren dentro de su propio sistema", dijo Shanahan a Hoy.



LESLIE RÍOS Y SU COMPANERA Melissa Medina están demandando a la MTA por beneficios.

"No estamos pidiendo nada especial, solamente nuestros derechos", dijo Leslie. "Si yo fuera un hombre y ella una mujer, las cosas serían diferentes, pero al final estos beneficios los sacan de mi

cheque. Lo que me preocupa es ¿qué voy a hacer si le pasa algo a Melissa?".

Medina, quien trabaja como asistente en una clínica médica, dijo que a pesar de toda esta pesadilla se consideraba una mujer dichosa. "He estado enferma en tres ocasiones y he tenido que pagar por ello, pero siento que estoy luchando por algo que me pertenece y por otro lado somos felices".

Paul Fleurantes, vocero de la MTA, dijo que los beneficios para una pareja del mismo sexo tienen que ser parte del contrato con el sindicato. "En diciembre pasado, el Sindicato de Trabajadores del Transporte (TWU) y la MTA accedieron a incluirlo en su paquete. Pero ese no es el caso de la UTU (Local 1440, Sindicato Unido del Transporte)", a donde pertenece Ríos. "Me gustaría que la MTA cumpliera con las leyes del estado y la ciudad", declaró Dee Vanderburg, presidenta de la UTU.