

July 14, 2011

VIA U.S. and electronic mail

George Grieve
President
Hudson Transit, d.b.a. Short Line Bus Company
4 Leisure Lane
Mahwah, NJ 07430
george.grieve@coachusa.com

Dear Mr. Grieve,

I write on behalf of Ari Gold, who has consulted Lambda Legal after a disturbing experience on the Route 1554 Short Line coach this past Sunday. Lambda Legal is the nation's oldest and largest national legal organization committed to achieving full recognition of the civil rights of lesbians, gay men, bisexuals, transgender people and those with HIV through impact litigation, education, and public policy work.

As I believe you are aware, Mr. Gold and his boyfriend boarded a Short Line bus travelling from the New York Port Authority to Monticello, New York on Sunday, July 10, at 2:30 p.m. They were travelling to the Catskills to spend time with Mr. Gold's parents. They took the front seat, looking forward to enjoying the view of the mountains during their trip. The two men sat next to each other. Mr. Gold had his leg on his boyfriend's knee, each using an earbud to listen to music together on the same mobile player, at times linked arm-in-arm or holding hands.

Approximately thirty minutes into the trip, after a switch in drivers, the new driver of the bus pulled to the side of the highway, stopped the bus, and told Mr. Gold that the way in which he and his boyfriend were sitting made him "uncomfortable," and that they should move to the back of the bus. Mr. Gold has explained that they politely but firmly refused. The bus driver resumed driving, but summoned law enforcement on his mobile phone, and shortly thereafter pulled the bus to a stop for a second time, to await the arrival of New York state troopers.

The bus driver's statements and actions greatly upset Mr. Gold and his boyfriend; caused consternation to other passengers, who expressed their concern that the couple was being poorly treated; and obviously delayed all passengers. The state trooper who subsequently arrived listened to the driver complain that he objected to Mr. Gold and his boyfriend's touching because they were two men. The trooper instructed the driver that the couple was not acting illegally, and advised the driver to continue along the route. Several passengers on the bus expressed their further protest of the bus driver's treatment of Mr. Gold and his boyfriend, and offered their contact information if witnesses were required in the matter.

New York state law prohibits discrimination on the basis of sexual orientation. New York State Executive Law § 296(2)(a) establishes, "[i]t shall be an unlawful discriminatory practice for any person, being the owner, lessee, proprietor, manager, superintendent, agent or employee of any place of public

accommodation” to “withhold from or deny to such person any of the accommodations, advantages, facilities or privileges thereof” on the basis of an individual’s “sex” or “sexual orientation.” A bus company such as Short Line falls squarely within the definition of a place of public accommodation, as the law explicitly includes “all public conveyances operated on land or water or in the air.” N.Y. Exec. Law § 292(9). In addition, Short Line operates out of New York City and is thus subject to the New York City Human Rights Code, which also prohibits discrimination in public accommodations on behalf of a customer’s sex, sexual orientation, and/or gender identity. N.Y.C. Admin. Code § 8-107(4)(a). Finally, the corporate address given on Short Line’s website is located in New Jersey, and indicates that the company is subject to the New Jersey Law Against Discrimination, which protects individuals in places of public accommodation based on “sex,” “affectional or sexual orientation,” and “gender identity or expression.” N.J. Stat. Ann. § 10:5-5.

It seems clear that your driver would not have challenged Mr. Gold and his boyfriend—much less summoned law enforcement—had they been a heterosexual couple. Based on their sexual orientation, your driver denied them the opportunity to peacefully enjoy your company’s services and to arrive promptly at their destination. Case law shows that even though an individual may be able to engage the core function of a service and ultimately reach their destination, being subject to harassment in the course of doing so exposes the discriminating entity to liability. (See, for example, *Bumpus v. New York City Transit Auth.*, 859 N.Y.S.2d 893 (N.Y. Sup. Ct. 2008), *aff’d on other grounds*, 66 A.D.3d 26, 883 N.Y.S.2d 99 (N.Y. App. Div. 2d Dept. 2009)).

The treatment Mr. Gold and his boyfriend endured violates the laws of New York City, New York State, and New Jersey. On behalf of Mr. Gold, Lambda Legal seeks specific assurances that the driver of the bus has been appropriately disciplined, and that policies and training have been implemented to educate employees on relevant nondiscrimination law and to ensure compliance, so that no other customers encounter discriminatory treatment. Mr. Gold also requests an apology and refund of the price of his tickets, and notes that it may also be appropriate to compensate other riders who were affected by the bus driver’s actions.

Thank you in advance for your prompt response in this matter.

Sincerely,



Hayley Gorenberg
Deputy Legal Director