

# BOYCOTT



**BIGOTS**  **US**

**What:** Protest demonstration and rally to kick off a  
**NATIONWIDE BOYCOTT of Toys"R"Us**

**Where:** Toys "R" Us Times Square, 44<sup>th</sup> St. and Broadway

**When:** Saturday, June 15<sup>th</sup>, 1:00 P.M.

**Who:** Trans, Queer & Civil Rights Advocates and Supporters

On June 18, the federal court case opens regarding the suit of 3 transsexual women who were allegedly harrassed, intimidated and chased by bat-wielding employees at the Toys"R"Us store in Bensonhurst, Brooklyn while Christmas shopping in December 2000. Toys"R"Us Inc. refuses to take responsibility for the conduct of their employees, nor admit any issues exist with the the training of their seasonal staff.

Let Toys"R"Us know that anti-queer bigotry, discrimination and violence will NOT be tolerated by its customers. Until Toys-"R"-Us can prove safe for ALL families who shop there, demand justice... Boycott Toys"R"Us!

**Come dressed as your favorite toy!!!**

For info contact: NYAGRA, (212) 645-8111 ext. 174

# MARTHA DODGING BULLET

PAGES 8-9



ANDRE SMITH

# GUILTY

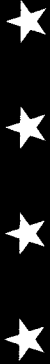
Carnegie gunmen  
convicted of murder

PAGE 3



SEAN SALLEY

SPORTS



FINAL

# DAILY NEWS

www.nydailynews.com

NEW YORK'S HOMETOWN NEWSPAPER

Wednesday, June 19, 2002

50¢

# 900G Toys 'R' Us bias suit

# Transsexuals say staffers harassed them in Dec. 2000

By JOHN MARZULLI  
DAILY NEWS STAFF WRITER

A transsexual fled a Brooklyn courtroom in tears yesterday after recounting how she was menaced in the Barbie aisle by baseball bat-wielding employees of a Toys 'R' Us in Bensonhurst.

"They know what happened in there," Donna McGrath sobbed after a lawyer for the toy store chain finished questioning her about inconsistencies in her testimony.

McGrath, 28, and three other postoperative transsexuals are suing Toys 'R' Us — each seeking \$300,000 in damages — charging they were discriminated against based on their sexual orientation on two occasions in December 2000. The jury trial started on Monday.

McGrath, Robert Jinks (aka Tanya Jinks) and Norbert Lopez (aka Tara Lopez) say they were subjected to antigay slurs and threatened with bats by the store employees.

They reported the incidents to store management, who they say failed to take corrective action against the employees.

McGrath, who said she is married to a soda deliveryman, testified yesterday in Brooklyn Federal Court that she was looking to purchase a life-size "Butterfly Barbie" doll when she went to the Bay Parkway store with her friends on Dec. 13, 2000.

## 'I am not a transvestite'

As she browsed the shelves, McGrath overheard a female employee commenting about the transsexuals who were in another aisle.

The employees allegedly referred to the transsexuals as "faggots," and "transvestites," McGrath said.

"I felt humiliated, I am not a transvestite," she said, adding that she has undergone hormonal therapy and has breast

implants.

After reporting the employees' behavior to store manager Bob Moloney, who apologized and gave McGrath a 50% discount on a Barbie Bungalow Beach House, Scooby Doo ball and Scooby Doo sleeping bag she was buying, the transsexuals returned to the store a week later.

McGrath was in the Barbie aisle when two male employees appeared, holding bats.

## "One said, 'If

## one of them

## passes me, I'm

## gonna hit them with the bat.'"

DONNA MCGRATH

"One said, 'If one of them passes me, I'm gonna hit them with the bat.'" McGrath said. "Regardless of my sex, I was being attacked by people that work there. They made me feel like garbage," she said.

## Under gag order

They made a formal complaint to the management and received a reply one month later on Toys 'R' Us letterhead. The toy chain noted that "the fact an incident occurred on our premises does not automatically make us responsible."

After the transsexuals filed a complaint with the city Human Rights Commission, Toys 'R' Us offered each of them 100 "Geoffrey Dollars," a gift certificate named for the toy store mascot Geoffrey the Giraffe.

They rejected the offer and filed a federal lawsuit.

Toys 'R' Us lawyer Nicholas Goodman and the transsexuals' lawyers Thomas Shanahan and Anthony LoPresti all declined to comment, citing a gag order issued last week by Federal Judge Charles Sifton.



HEIDI SCHUMANN

## PLAINTIFFS

Donna McGrath (l.) and Norbert (Tara) Lopez outside Brooklyn Federal Court yesterday. The two along with Robert (Tanya) Jinks are suing Toys 'R' Us, saying they were threatened by employees in its Bensonhurst store.

local news

# Trans customers accuse Toys 'R' Us of harassment

The trouble started in the Barbie aisle at Toys "R" Us in Brooklyn.

While shopping, Donna McGrath and two other transsexuals, Tanya Jinks and Tara Lopez, claim employees greeted them with a chorus of laughter and insults. On a second excursion a week later, they say, it got worse: Two employees threatened them with baseball bats.

The experience "made me feel like I was garbage," McGrath, 28, told a jury in Brooklyn federal court.

McGrath was testifying in support of a sexual discrimination lawsuit brought by herself, Jinks and Lopez seeking \$300,000 each in damages from Toys "R" Us. The toy giant denies any wrongdoing.

The trial, which began Monday June 17, in federal court in Brooklyn, was expected to last about a week.

In opening statements, plaintiff attorney Tom Shanahan described the dispute as a "very, very important case" mixing issues of sexual identity, civil rights and corporate responsibility.

The customers were not mere cross-dressers, but victims of a tormented fate, the

lawyer explained. Each "were born males and during those formative years when they were growing up, they came to understand that their outward gender we know as male or female was not in conformity with their psychological gender," he said.

The lawyer accused Toys "R" Us — the country's second-largest seller of toys — of ignoring its own anti-discrimination policies by not disciplining any workers.

Employees are required to sign an internal policy stating that Toys "R" Us, as a "worldwide authority on kids, families and fun," strictly prohibits harassment of employees and customers, Shanahan said.

Despite the policy, the plaintiffs "were chased out of that store by those employees who mocked them, demeaned them, threatened them," Shanahan said.

Toys "R" Us attorney Nicholas Goodman accused the plaintiffs of distorting the facts. He insisted there were not threats of violence.

The plaintiffs "were free to shop in that store and no one ever asked them to leave," Goodman said.

Wearing heels, a short skirt and her blond hair in a bun, McGrath told the jury that she considers herself a woman.

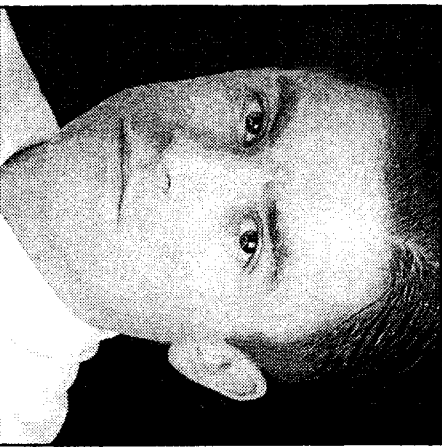
She said she has undergone hormonal therapy, gotten breast implants and married a soft drink delivery man.

McGrath testified that in December 2000, while shopping for a life-size "Butterfly Barbie" with the other plaintiffs at Toys "R" Us in the Bensonhurst section, a female employee referred to them as "faggots" and "transvestites."

"I felt humiliated," she said. "I am not a transvestite."

The plaintiffs complained to the manager. He apologized and gave McGrath half off on her purchase of a Barbie Bungalow Beach House and other toys, she said.

A week later, with the plaintiffs back in the store to finish up some Christmas shop-



Shanahan



**What:** Protest demonstration and rally to kick off a NATIONWIDE BOYCOTT of Toys "R" Us  
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Ask Toys "R" Us know that bigotry, discrimination and violence will NOT be tolerated by its customers. Until Toys "R" Us can prove safe for ALL families who shop there, demand justice and BOYCOTT Toys "R" Us!

**Come dressed as your favorite toy!!!**  
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Transgender rights advocates recently circulated this flyer announcing a protest against Toys 'R' Us.

ping, two male employees appeared carrying hats, the plaintiffs said. The employees allegedly blocked their way and "offered to meet them outside," Shanahan said.

McGrath testified she overheard one worker say to the other, "If one of them passes me, I'm going to hit them with the bat."

The plaintiffs later filed a written complaint with the store, and also with the city Human Rights Commission. Their lawyer said they decided to sue after rejecting a proposed settlement from the Toys "R" Us. 100 "Geoffrey Dollars" — a gift certificate named for the toy store mascot — for each plaintiff.

Goodman has countered the accusations

by citing an employee report alleging the plaintiffs "came into the store loud and boisterous ... flirting with employees, giggling at employees and laughing at employees."

The lawyer also suggested that the plaintiffs' appearance invited scorn, however unfortunate.

"It's not the way things should be in the world, but given who they are and what they look like, comments get passed to them in the rough-and-tumble world of walking around the streets of New York and going about their business," he said.

THE ASSOCIATED PRESS

12-18 JULY 2002

■ CITY/HARASSMENT

# Justice Was Cheap

“Winners” in transgendered Toys “R” Us lawsuits speak out

BY PAUL SCHINDLER

As reported in last week's issue of *Gay City News*, Donna McGrath, Tanya Jinks, and Tara Lopez, three transgendered women who said they had been harassed and menaced with a baseball bat in a Brooklyn Toys “R” Us store in late 2000, won their lawsuit but were awarded only one dollar in damages.

Now, after both their attorney and a spokesperson for the company have made public comments on the verdict, one of the victims has stepped forward to speak out, saying she represents the views of all three.

“[The jury] knew we proved our case,” McGrath told *Gay City News* in talking about the June 28 verdict. “It's just that they looked at who we were, and they just didn't care. It was just another slap in the face.”

McGrath, Jinks, and Lopez told the jury that on two occasions around Christmas of 2000, the three women were barraged with slurs, including “homos,” “faggots,” and “chicks with dicks.” McGrath explained that the women only returned to the stores after store personnel assured them after the first incident that it would not happen again. In testimony before the court, however, the women said that the slurs were repeated on their second visit and that they were also menaced with baseball bats.

The plaintiffs' attorney, Thomas Shanahan, had argued that the company had liability under the New York City human rights law under both sex and sexual orientation discrimination provisions.

In explaining the jury's award, Shanahan essentially made the same point as McGrath.

Shanahan told *Gay City News* that the company several times at trial used words to the effect that, “Given who they are and what they look like, comments get passed to them in the rough-and-tumble world of walking around the streets of New York.”

After the trial, however, a spokesperson for Toys “R” Us put a different spin on the case, suggesting that the token financial reward was a sign that the jury ultimately did not buy the plaintiffs' story.

“We are pleased that the jury confirmed what we said all along, that we did nothing wrong,” Rebecca Caruso told *Gay City News*.

Pressed for how she squared that statement with the jury finding of harassment, Caruso said, “The bottom line is that the allegations were not supported by the testimony and I think the jury's decision reflects the fact that that was their view.”

That statement, printed in *Gay City News'* article last week, particularly galled McGrath, prompting her to call the newspaper with comment.

“Toys “R” Us is now laughing that they got over on us,” she said. “They are saying that they have a big employee policy handbook but it means nothing. It's not worth the paper it's printed on.”

McGrath offered somewhat contradictory thoughts on the value of the lawsuit effort.

“I feel like the case accomplished nothing,” she said. “We were made to look like fools. If this had been done to any other group, like blacks, there would have been money in the verdict.”

But McGrath also conceded, “I am glad that we did win, but I do not understand the verdict.”

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VOLUME ONE, ISSUE 25

**YOUR FREE  
WEEKLY  
NEWSPAPER**

■ **DOWNSTAIRS UPSTAIRS**  
Andy Humm plumbs  
the royal mess

P. 7

■ **SWEET SIXTEEN**  
Queer experimental  
film festival: MIX

P. 18

■ **A COOL TECATE**  
Mexican border town  
embraces queer protest

P. 3



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# Toys 'R' Us May Pay Up After All

Transgender plaintiffs, awarded only \$1, win big attorney's fees

BY MATTHEW COLEMAN

**A** Brooklyn judge, in a ruling issued October 16, awarded attorney's fees in the amount of \$193,551 to three transgendered women in their lawsuit against Toys 'R' Us. The three women, Donna McGrath, Tanya Jinks, and Tara Lopez, said they were harassed in December 2000 by employees of a Bay Ridge Toys 'R' Us store who were brandishing baseball bats and shouting slurs, including "homos" and "taggots."

Although a jury in June found in favor of the plaintiffs, the women were only awarded one dollar each in damages. The judge's recent decision was a vindication for the women, according to their attorney.

"Judge Sifton's decision to award attorney's fees to my clients reaffirms our position that we achieved a moral victory," Thomas Shanahan, the women's attorney, said. "Because they were not hit by the bats, they didn't have any scars. It is much easier to put a dollar amount on a physical injury than the emotional injury of a human rights violation."

In his decision, Sifton wrote that one function of awarding attorney's fees is to encourage similar civil rights claims in the future.

Calls and emails to McGrath and Lopez seeking comment were



■ MORAL VICTORY Tara Lopez, Tanya Jinks, Donna McGrath.

not returned as of press time. Toys "R" Us plans to appeal Sifton's award, though calls to the company's headquarters in Paramus, New Jersey were not returned.

"Toys 'R' Us claims that Judge Sifton abused his position," said Shanahan. "The man has been hearing cases as a federal court judge for decades... The decision was well within his discretion. It is a frivolous appeal and we have every confidence it will be turned over."

A rally of support for the transgendered women was held November 4 outside of Toys "R" Us' flagship store in Times Square. State Senator Tom Duane, State Assemblymember Dick Gottfried, and City Councilmember Christine Guinn

attended the rally asking Toys "R" Us to drop the appeal, to apologize to the women, and to retrain their employees. Gender activists present at the rally spoke out against violence against transgendered people.

Advocates in the transgendered community, though disappointed with the June award of only one dollar in damages, echoed Shanahan's view that the new ruling reflects progress.

"The awarding of attorney's fees is something of a victory for the transgendered movement," Pauline Park, co-chair of the

New York Association for Gender Rights Advocacy (NYAGRA), said, "even though there was little awarded in the way of punitive damages, NYAGRA is extremely disappointed that

Toys 'R' Us has chosen to appeal the award. It suggests to us that they are not serious about the issue of harassment and discrimination against transgendered individuals."

When the plaintiffs first filed the complaint against Toys "R" Us in May 2001, the New York City human rights law was unclear on the matter of discrimination against transgendered individuals—advocates and public officials were undecided as to whether the prohibitions on bias based on sex and sexual orientation applied. The issue was resolved in April 2002 when the City Council passed an amendment to the statute specifically barring discrimination and harassment based on gender identity and expression. But the Toys "R" Us case was based on the law in place at the time of the baseball bat intimidation and Shanahan argued that the case was the first in New York in which the rights of transgendered individuals were asserted and vindicated. He also said that this was "the first public accommodations case to go to trial under the city's human rights law."

After the trial, one of the jury members wrote a letter to Shanahan to congratulate him and to express his regrets for not being able to do more for his clients as a jury. The jury member, who described himself as "an alternate sexually individ-

ual," has since been in touch with McGrath through an e-conversation and shed some insight into the jury deliberations.

"That you could admit a human beings civil rights had been violated," the juror wrote, "yet withhold any damages on the plainly stated ground that you didn't like what you thought the plaintiff was going to do with the money, certainly leaves objectivity regarding their transgenderism in question to me."

Both Shanahan and Park agreed that the case illustrates the need in the transgender rights movement for action on both the legislative and litigation fronts.

"The legislative inclusion of gender identity in the city's human rights law is fantastic," Shanahan said. "But companies like Toys 'R' Us need to be penalized for their actions, and schools need to start to educate on these issues. That's how people's attitudes will start to change."

"This case demonstrates the influence of the transgendered movement and our ability to get on the radar screen," Park said. "We hope that the case will encourage further filing of discrimination claims, but what we see as an even greater encouragement is the passage in the amendment to the human rights law. The law needed further clarification. Now future suits have much stronger case law to stand on."



## MAGISTRATE'S MORAL MYOPIA

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*November 1, 2002 --*

Brooklyn Federal Court Judge Charles Sifton apparently wasn't pleased that a trial over which he'd presided didn't garner enough headlines.

So he decided to make a few of his own.

Citing what he called "unusual freak circumstances," Sifton hit Toys 'R' Us with nearly \$200,000 in attorney's fees on behalf of three transsexuals who said they were harassed last year while shopping for life-size Barbie dolls at the chain's Bensonhurst store.

Sifton surely thought the case would attract attention - given, he said, that it was "the first public accommodation case to go to trial under the New York City human-rights law."

But the jury that heard the case last June apparently wasn't as inclined as the judge to make history. They agreed that the plaintiffs had been harassed - but awarded them damages of just \$1 each, instead of the \$300,000 per they'd sought.

At the time, the plaintiff's lawyers called the ruling "a moral victory in a landmark case."

Judge Sifton, though, decided to go further.

And, just in case no one got the message, he patted himself on the back by declaring in his 12-page ruling that this is "the first case in which the rights of transsexuals were asserted and vindicated."

Socking the defendant with the plaintiffs' legal fees, added Sifton, will "encourage the bringing of meritorious civil rights claims which might otherwise be abandoned" if the plaintiffs can't afford a top-notch lawyer.

Toys 'R' Us says it will appeal, charging that Judge Sifton "abused his discretion."

Gee, you think?

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