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# national news

## Last wishes unmet

*A Philadelphia cemetery refuses to allow an epitaph that would memorialize a lesbian couples' love*

by Inga Sorensen

It is both a simple and eternal request—and one which has been honored for married couples throughout the ages.

Yet for Sherry Barone and Cynthia Friedman, it won't come so easily.

The women, who were in a 13-year-relationship before Friedman died of cancer in 1994, are at the center of a lawsuit filed April 15 by the New York-based Lambda Legal Defense and Education Fund Inc.

Lambda is suing a Pennsylvania cemetery that refuses to erect the headstone requested by Friedman and Barone, both Philadelphia natives.

According to Lambda, following her 1989 diagnosis, Friedman signed extensive documents in an effort to ensure that her relationship with Barone would be given legal force.

Lambda says just as most people in a long-term relationship would, Friedman wished to rely on her partner's judgment about her medical care and arrangements after her death.

In several discussions about her headstone, Friedman asked Barone to include the inscription: "Beloved life partner, daughter, granddaughter, sister and aunt."

Within days of Friedman's death, Barone purchased two adjoining plots in a Philadelphia-area cemetery.

Prior to her death, Lambda says, Friedman explicitly rejected any relatives' authority to challenge actions by Barone on her behalf.

Yet despite Barone's having been given full legal authority, the Har Jehuda Cemetery in Upper Darby, Penn., insisted it could not follow her instructions for the headstone.

According to Lambda, the cemetery asserts that, because Friedman's parents do not agree about her wishes concerning the headstone epitaph, a court order must resolve that Barone has authority to determine Friedman's epitaph.

Friedman's grave remains unmarked because of the cemetery's refusal to act on Barone's instructions.

"This just shows that anti-gay discrimination can follow us to the grave," David Buckel, the Lambda staff attorney handling the case, tells *Just Out*.

"This couple did everything a lesbian or gay couple can do to make sure their relationship was given legal effect, including drawing up wills, powers of attorney, health proxies and explicit instructions to the survivor for carrying out wishes. Those legal precautions are supposed to allow a survivor to focus on grieving and healing," he says. "Sherry Barone instead has faced the pain and stress of seeing her partner's explicit wishes disrespected and of having to fight for the most basic respect for their relationship."

Suing on the surviving partner's behalf, Lambda filed *Barone vs. Har Jehuda Cemetery* in federal court in Philadelphia. The case asserts that there is no legal basis for any party to contravene Barone's authority to carry out Friedman's wishes. Furthermore, the lawsuit asserts the cemetery breached its contract and caused emotional dis-

tress by refusing to honor the couple's request.

Buckel also tells *Just Out* this case exemplifies the need for equal marriage rights for same-sex couples. "Opponents of same-sex marriage say it isn't needed because gay and lesbian couples can supposedly obtain all the rights and protections through other legal documents," he says. "Well, Cynthia and Sherry did that and yet here we are in court fighting for the rights that a married man and woman would never have to."

Buckel says this isn't the first case involving anti-gay discrimination on the part of a cemetery. He cites a case two years ago involving a Long Island gay male couple who sought to purchase a joint plot. Buckel says the cemetery balked, claiming the men "were not a family."

Lambda became involved and the case was eventually settled with a favorable outcome for the men.

As for this most recent case, Buckel says attempts at mediation failed, despite statements of support that Barone gathered from friends of



Lambda staff attorney David Buckel (left) and plaintiff Sherry Barone

the couple as well as some of Friedman's relatives.

He says the cemetery insists upon having the consent of Friedman's parents approving the inscription, or a court order requiring it to follow Barone's instructions.

According to Buckel, both women were raised in Jewish families and have relatives buried in the Har Jehuda Cemetery.

He says as a result of the cemetery's refusal to respect its contract with Barone, the traditional "unveiling" of the headstone occurred without a grave marker. The unveiling is an important Jewish tradition that officially marks the end of the grieving period one year after a loved one's death.

"I didn't complete the grieving process that a person should have after losing a loved one, and I will never recover from the emotional and spiritual agony of the unveiling at Cynthia's unmarked grave," says Barone, now 36. "My life cannot go on fully until I know that Cynthia's spirit is at rest and her wishes have been carried out."

Abbe F. Fletman, a Philadelphia lawyer assisting Lambda on the case adds: "In response to a grieving partner's efforts to honor the wishes of her loved one, we have had to go to court to get justice for Sherry and Cynthia. We hope this will be a lesson for everyone about the need lesbian and gay couples have for legal protections."