

## LGBT Rights in the Workplace Case Review

Citation (hyperlinked to Lexis-Nexis)	Date of Decision	Summary	Outcome
<a href="#">Obergefell v. Hodges, 135 S. Ct. 2584 (2015)</a>	6/26/2015	<p>Petitioners are same-sex couples seeking to have their marriages recognized as lawful on the same terms and conditions as marriages between persons of the opposite sex.</p> <p>The argument is that marriage is a fundamental right inherent in the liberty of a person and protected by the Constitution, namely the Due Process and Equal Protection Clauses of the Fourteenth Amendment.</p> <p>Respondents are the states of Michigan, Kentucky, Ohio, and Tennessee, who define marriage as a union between one man and one woman. This view denies petitioners the right to marry lawfully and all benefits associated with such a union.</p>	<p>Each District Court ruled in the Petitioners' favor, but the Respondent states appealed the decision to the 6th Cir. Ct. of App. where they were consolidated and reversed.</p> <p>S. Ct. reversed the appellate court decision holding that there is no lawful basis for a State to refuse to recognize a lawful same-sex marriage performed in another State on the ground of its same-sex character.</p>
<a href="#">United States v. Windsor, 570 U.S. 744, 133 S. Ct. 2675 (2013)</a>	6/26/2013	<p>Respondent is the estate of a decedent who contends that decedent's spouse is entitled to an estate tax exemption on the basis of their same-sex marriage being recognized by the state in which they reside. Petitioner is the federal government which did not recognize same-sex marriage for purposes of extending this exemption under the Defense of Marriage Act, 1 U.S.C.S. § 7.</p> <p>The S. Ct. held that U.S.C.S. § 7 was unconstitutional as a deprivation of the equal liberty of persons that was protected by the Fifth Amendment.</p>	<p>The Defense of Marriage Act provision (1 U.S.C.S. § 7), defining "marriage" and "spouse" for federal-law purposes as excluding same-sex partners, is held to violate Fifth Amendment's equal-liberty protection.</p>
<a href="#">Oncale v. Sundowner Offshore Servs., 523 U.S. 75, 118 S. Ct. 998 (1998)</a>	3/4/1998	<p>Petitioner is male and was the subject of sexual harassment by his male coworkers, including physical and/or sexual assault. The district court granted summary judgment in favor of the employer holding that as a male, he had no cause of action under Title VII for harassment by male co-workers. Appellate court affirmed.</p> <p>S. Ct. concluded that sexual harassment by someone of the same sex is actionable under Title VII, reversing the 5th Cir. Appellate decision affirming summary judgment in favor of the employer. Title VII does not bar a claim of discrimination when the plaintiff and the defendant or their agent are of the same sex.</p>	<p>Judgment of 5th Circuit Ct of App. that Title VII did not apply was reversed and remanded for further proceedings.</p>
<a href="#">Price Waterhouse v. Hopkins, 490 U.S. 228, 109 S. Ct. 1775 (1989)</a>	5/1/1989	<p>Narrow the scope of the term "gender-related trait."</p> <p>Female senior manager viewed as acting masculine was denied the opportunity for partnership based on these views, nearly all from men.</p>	<p>S. Ct. reversed and remanded to lower court; Defendant-Employer had to prove the employment decision was not motivated by discriminatory purpose.</p>
<a href="#">Franchina v. City of Providence, 881 F.3d 32 (1st Cir. 2018)</a>	1/25/2018	<p>Plaintiff is female and was employed as a rescue lieutenant with the fire department. She endured years of harassment and discrimination. She brought claims under Title VII on two counts: 1) she was subjected to a hostile work environment, and 2) she suffered retaliatory action for having reported sex-based discrimination to her superiors.</p>	<p>Dist. Ct. found for the Plaintiff on claims of hostile work environment and retaliatory discrimination. 1st Circuit court affirms.</p>

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<a href="#">Zarda v. Altitude Express, Inc., No. 15-3775, 2018 U.S. App. LEXIS 4608 (2d Cir. Feb. 26, 2018)</a>	2/26/2018	Plaintiff is a homosexual man and was employed as a sky-diving instructor which required physical proximity to his clients. To make this more comfortable for clients, in particular women, he often told them he was homosexual so they did not feel concerned about being harnessed to him during tandem skydives. One female customer took offense and reported his comments to the employer resulting in his termination.	On Appeal, 2nd Circuit vacated Dist. Ct.'s summary judgment on Title VII claim of discrimination based on sexual orientation and remanded for further proceedings.
<a href="#">Anonymous v. Omnicom Grp., Inc., 852 F.3d 195 (2d Cir. 2017)</a>	3/27/2017	Homosexual male filed suit against his employer for harassment based on his HIV-positive status and his failure to conform to gender stereotypes.	The District Court dismissed his claims holding that Title VII does not prohibit discrimination on the basis of sexual orientation.  On Appeal, 2nd Circuit reversed the decision to dismiss Title VII claims because the complaint did contain elements of gender stereotyping which would be actionable under Title VII as sex discrimination per <i>Price Waterhouse</i> . The Court affirmed the judgment in all other respects.
<a href="#">Wittmer v. Phillips 66 Co., No. 18-20251, 2019 U.S. App. LEXIS 3731 (5th Cir. Feb. 6, 2019)</a>	2/6/2019	Plaintiff is a transgender woman. Her job offer was rescinded based on discrepancies about her previous employment situation. She believes the Defendant was informed of her transgender status at the time of the background check and rescinded the offer based on that knowledge.	District Court accepted that Plaintiff, as a transgender woman, was a member of a protected class, however they granted summary judgment for failure to make a prima facie case and because Defendant had a legitimate, nondiscriminatory reason for rescinding their offer.  5th Circuit held that sexual orientation is <i>not</i> covered under Title VII based on prior precedent ( <i>Blum</i> ), and affirmed decision dismissing Plaintiff's case.
<a href="#">EEOC v. Boh Bros. Constr. Co., L.L.C., 731 F.3d 444 (5th Cir. 2013)</a>	9/27/2013	Plaintiff-Appellee is a male employee who filed suit for harassment and discrimination for a Title VII violation on the basis of sex. The worksite was very vulgar and he was targeted by his crew superintendent for harassing remarks and behaviors.	A 5th Circuit panel overturned the jury verdict citing the evidence was insufficient as a matter of law to sustain the jury's finding that Plaintiff was discriminated in violation of Title VII on the basis of sex.  Evidence is sufficient for Title VII claim (harassment was severe and pervasive). 5th Circuit affirms in part (Title VII claim is valid, rejection of <i>Ellerth/Faragher</i> defense, injunction), vacates in part, and remands for further processing. Dissent by 4 judges.
<a href="#">Blum v. Gulf Oil Corp., 597 F.2d 936 (5th Cir. 1979)</a>	6/28/1979	Plaintiff is a Jewish, homosexual, white male. Defendant states he was terminated for using company phones and time to conduct his personal real estate business. Plaintiff claims this was pretext and he was actually fired for being Jewish, male, white, and homosexual.	Dist. Ct. denied Plaintiff relief finding Defendant did not discharge their former employee on the basis of religion or sexual preference, but for good cause related to his use of company resources for personal business.  On appeal, 5th Circuit held that discharge for homosexuality is not prohibited under Title VII and affirmed decision that Plaintiff's discharge was not pretext, but for good cause.

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<a href="#">EEOC v. R.G., No. 16-2424, 2018 U.S. App. LEXIS 5720 (6th Cir. Mar. 7, 2018)</a>	3/7/2018	Plaintiff is a transgendered employee transitioning to female and informed her co-workers that she would begin presenting as female at work. They terminated her two weeks later saying that dressing as a woman was unacceptable. In her EEOC complaint, she cited the motivations to terminate her were: 1. Because she was transgender 2. Because she was transitioning from male to female 3. She did not conform to her coworker's sex or gender based stereotype/expectation/preference.	6th Circuit reversed the Dist. Ct.'s grant of summary judgment on both unlawful-termination and discriminatory-clothing-allowance claims. Summary judgment is granted to EEOC on its unlawful-termination claim. Case remanded.
<a href="#">Smith v. City of Salem, 378 F.3d 566 (6th Cir. 2004)</a>	8/5/2004	Plaintiff is a transgendered employee transitioning to female and is employed as a lieutenant in the Salem Fire Department. She was terminated at one point after her immediate supervisor was informed of her GID diagnosis and plans to transition, citing violation of company policy when she got representation.	Dist. Ct. dismissed Plaintiff's claims but did not address gender non-conforming case law such as <i>Price Waterhouse</i> in determining whether there was a claim for sex discrimination.  On Appeal, 6th Circuit reversed Dist. Ct.'s dismissal on the basis that Plaintiff successfully stated claims for relief pursuant to Title VII and 42 U.S.C. §1983 and remanded for further proceedings.
<a href="#">Hively v. Ivy Tech Cmty. Coll. of Ind., 853 F.3d 339 (7th Cir. 2017)</a>	4/4/2017	Plaintiff is openly lesbian and worked as a part-time, adjunct professor at Defendant's campus. She applied multiple times for a more permanent, full-time position and was denied. She filed this suit claiming discrimination under Title VII on the basis of sex. On appeal, the Court applied the comparative method isolating the significance of Plaintiff's sex to the employer's decision and finds that discrimination based on sex did occur in violation of Title VII.	At Dist. Ct, dismissed Plaintiff's case as sexual orientation is not a protected class under Title VII.  On Appeal, 7th Circuit found that discrimination based on sexual orientation is a form of sex discrimination under Title VII. Judge Sykes dissents.
<a href="#">Hunter v. UPS, 697 F.3d 697 (8th Cir. 2012)</a>	9/17/2012	Plaintiff is a transgendered applicant transitioning to male who applied for a position with Defendant on two occasions. The first presenting as female, the second presenting as more male using his birth name Jessica Axl and wearing men's clothing, shorter hair and bound breasts. After his interview, the interviewer was sighted speaking with someone else and told Plaintiff that they were not hiring. However, others with worse job history or none at all were hired after Plaintiff's interview.  Plaintiff did not receive the position and was not allowed to interview again citing UPS was not hiring. Plaintiff claims it was due to his transgender status. Defendant claims there was no way for the interviewer to have known of the applicant's transgender status but instead cited poor interviewing skills and poor job history.	Dist. Ct. Granted Defendant's Summary Judgment; 8th Circuit affirmed the decision.  Plaintiff could not establish a prima facie case of discrimination based on transgender status because interviewer had no way of knowing he was transgender during the course of the interview.

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<a href="#">Lewis v. Heartland Inns of Am., L.L.C., 591 F.3d 1033 (8th Cir. 2010)</a>	10/21/2009	<p>Plaintiff was terminated, allegedly for not portraying a "Midwestern Girl Look" or having a gender nonconforming appearance.</p> <p>Plaintiff/Appellant appeals from summary judgment.</p> <p>Cites Price Waterhouse and other cases finding that discriminating based on non-conforming appearance is sex discrimination protected under Title VII.</p>	<p>Trial - Defendant's motion for Summary Judgment was granted based on Plaintiff's inability to meet the 4th element of a prima facie case (cannot establish others were treated more favorably).</p> <p>Summary Judgment was reversed and remanded for further proceedings by 8th Circuit based on Plaintiff meeting the elements of a prima facie case and the reason for termination was pre-textual.</p> <p>Chief Judge Loken dissented and agreed with the district's court findings that this case is not disadvantaging women, as <i>Price Waterhouse</i> was.</p>
<a href="#">Cruzan v. Special Sch. Dist. # 1, 294 F.3d 981 (8th Cir. 2002)</a>	6/20/2002	Plaintiff is a female teacher and she sued Defendant alleging they discriminated against her on the basis of gender and religion by allowing a transgendered female use of the women's faculty restroom.	Dist. Ct. of MN granted Summary Judgment to Defendant. Plaintiff appealed. Decision affirmed by 8th Circuit because Plaintiff did not assert her religious claim until later in litigation and there were no adverse effects to her employment.
<a href="#">Williamson v. A.G. Edwards &amp; Sons, Inc., 876 F.2d 69 (8th Cir. 1989)</a>	6/2/1989	Plaintiff is a black, homosexual individual and brought this suit for discrimination on the basis of sexual orientation. Dist. Ct. found in favor of the Defendants. Plaintiff appealed stating the Dist. Ct. erred in failing to consider discrimination on the basis of his race. He failed to establish that other similarly situated white employees were treated differently than he was.	On Appeal, 8th Circuit affirmed that Title VII does not prohibit discrimination on the basis of sexual orientation.
<a href="#">Etsitty v. Utah Transit Auth., 502 F.3d 1215 (10th Cir. 2007)</a>	9/20/2007	<p>Plaintiff is a transgendered employee transitioning to female. She presented herself as a man during her training period but upon being hired, she spoke with her supervisor about being "transsexual." She began to present as more female and used female restrooms along her route. A coworker expressed concern about liability of a UTA employee with male genitalia using a female restroom.</p> <p>Plaintiff was put on administrative leave and eventually terminated due to concerns about her using the women's restrooms when she still had male genitalia.</p>	<p>Dist Ct. granted Summary Judgment to Employer and Supervisor. Decision was affirmed by 10th Circuit.</p> <p>Finding remains that "transsexuals" are not a protected class under Title VII (citing <i>Ulane v. Eastern Airline, 742 F.2d 1081</i>).</p>
<a href="#">Brown v. Zavaras, 63 F.3d 967 (10th Cir. 1995)</a>	8/18/1995	Plaintiff is a transgendered prisoner transitioning to female. She self-identifies as having "gender dysphoria" requiring medical care in the form of female hormones and other medical treatments. During incarceration, she claims Defendants withheld medicare care with deliberate indifference to her serious medical condition by denying her estrogen.	<p>Lower court dismissed his claims for 8th Amendment and Equal Protection rights.</p> <p>10th Circuit affirmed dismissal of Equal Protection rights, but reversed claims for 8th amendment rights in order to see if Plaintiff was receiving medical care.</p>

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<a href="#">Bostock v. Clayton Cty. Bd. of Comm'rs, 723 F. App'x 964 (11th Cir. 2018)</a>	5/10/2018	<p>Appellant was terminated, allegedly for conduct unbecoming one of its employees. He brought a complaint alleging the termination reason was pretext for discrimination based on his sexual orientation. He amended his complaint to include allegations of discrimination for failure to conform to a gender stereotype.</p> <p>Plaintiff's claim for discrimination under Title VII on the basis of his sexual orientation was dismissed and his claims on the basis of gender non-conformity failed to meet the pleading standard.</p>	<p>11th Cir. Ct. of App. affirms district court's dismissal of his employment discrimination suit under Title VII for failure to state a claim.</p> <p><a href="#">Bostock v. Clayton Cty. Bd. of Comm'rs, 894 F.3d 1335 (11th Cir. 2018)</a> Rehearing en banc denied.</p>
<a href="#">Evans v. Ga. Reg'l Hosp., 850 F.3d 1248 (11th Cir. 2017)</a>	3/10/2017	<p>Appellant brought a complaint alleging discrimination based on her sexual orientation as a gay woman and her non-conformity to female appearance. She was denied equal pay or work, harassed, and physically assaulted or battered.</p> <p>Appellant's claims were dismissed by the district court. Magistrate Judge reviewing the case issued an R&amp;R stating that Title VII was not intended to cover discrimination against homosexuals and that the gender non-conformity was "just another way to claim discrimination based on sexual orientation." The recommendation was to dismiss all claims without allowing leave to amend because she pled no actionable claim.</p> <p>Appellant objected to the recommendation stating her claims were actionable under Title VII as sex-based discrimination. On appeal, her claims for gender non-conformity were vacated by the Ct. of App. and remanded with instructions to grant her leave to amend such a claim. The district court's dismissal of Appellant's sexual orientation claim was affirmed.</p>	<p>11th Cir. Ct. of App. vacated district court's dismissal of claims related to gender non-conformity and remanded the case back to district court with instructions to grant Appellant leave to amend her claim. 11th Cir. Ct. of App. affirmed dismissal of claims related to sexual orientation.</p> <p><a href="#">Evans v. Ga. Reg'l Hosp., 138 S. Ct. 557 (2017)</a> Leave to file amici curiae granted; petition for writ of certiorari to Ct of Appeals for 11th Cir. denied.</p>



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<a href="#">Chavez v. Credit Nation Auto Sales, LLC, 641 F. App'x 883 (11th Cir. 2016)</a>	1/14/2016	<p>Plaintiff is a transgendered mechanic transitioning to female. She initially had the support of the owner when she discussed her transition with him. After this discussion though she was more highly scrutinized despite being the "best mechanic here". She was asked not to wear dresses to and from work (she wore a standard uniform while working). She was also advised not to talk about her transition unless others brought it up. The owner mentioned that she was negatively impacting his business because of her transgender status.</p> <p>Ultimately, Plaintiff was fired for sleeping on the job in a customer's car which was a serious violation of the handbook according to Defendants who terminated another employee for the same reason previously.</p> <p>Plaintiff claims she was terminated because of her sex in violation of Title VII. Defendant moved to dismiss the claim on the grounds that Plaintiff could not show that her termination was related to her sex and that she had failed to exhaust her administrative remedies by filing a timely complaint with the EEOC.</p> <p>Plaintiff had attempted to file a timely complaint with the EEOC but was denied by the agency as transgender status was not considered part of the protected class. Gender non-conformity, however, would have been an appropriate claim and the EEOC investigator failed to bring this up.</p>	<p>Defendant's Summary Judgment was affirmed in part and reversed in part.</p> <p>11th Circuit affirmed that evidence of termination reason (sleeping on the job in a customer's car) was circumstantial and was not pretextual.</p> <p>Court reversed in part for triable issues of fact as to 1) her employer's discriminatory intent and 2) whether gender bias was "a motivating factor" in termination. 11th Circuit felt that there was enough evidence to show that discriminatory animus existed and was at least "a motivating factor" in Plaintiff's termination.</p>
<a href="#">Glenn v. Brumby, 663 F.3d 1312 (11th Cir. 2011)</a>	12/6/2011	<p>Plaintiff self-identified as have a medical condition, Gender Identity Disorder, and was transitioning to female. She was terminated after the head of her department learned she would be transitioning citing it was inappropriate and disruptive.</p> <p>Plaintiff sued alleging two claims of discrimination under the Equal Protection Clause: discrimination based on her sex and discrimination based on her medical condition, GID.</p> <p>Dist. Ct. granted summary judgment to Plaintiff on her sex discrimination claim and summary judgment to Defendant on Plaintiff's medical discrimination claim.</p>	<p>At trial Plaintiff's Summary Judgment was granted for her sex discrimination claim. Defendant's Summary Judgment was granted for medical discrimination claim.</p> <p>11th Circuit affirmed Plaintiff's Summary Judgment for sex discrimination. Plaintiff received the relief she sought so the Court felt there was no need to address her cross-appeals for the medical claims.</p>

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<a href="#">Baldwin v. Foxx, 2015 EEOPUB LEXIS 1905, 116 FEOR (LRP) 2, EEOC (IHS) 120133080</a>	7/16/2015	<p>Complainant was in a temporary Front Line Manager (FLM) position with Respondent, Department of Transportation, when a permanent position became available. He was not selected for the position and believes the reason was due to his sex and sexual orientation. His supervisor, who was involved in the selection process, was uncomfortable with his sexual orientation and had made a number of negative comments during Complainant's employment.</p> <p>Respondent dismissed the complaint arguing that the complaint was not raised in a timely manner with the EEO Counselor referencing the 45-day limitation period. Respondent claims the clock began when Complainant was informed in 2010 that his temporary position would expire in two years. The EEOC held that the clock began when the Complainant reasonably suspected discrimination had occurred, which would have been when he received notice that he was not selected for the permanent FLM position which was July 2012. EEOC determined it was not reasonable for the Complainant to assume he was being discriminated against when he accepted the temporary position in 2010.</p>	<p>The EEOC does not take a position on the merits of Complainant's claim of discrimination, only the timeliness and jurisdiction questions raised on appeal of the Agency's decision.</p> <p>The EEOC concluded that Complainant's allegations of discrimination on the basis of his sexual orientation state a claim of discrimination on the basis of sex within the meaning of Title VII. Furthermore, EEOC also concludes that Complainant's initial EEO Counselor contact was timely.</p> <p>EEOC remanded to Agency for further processing on their determination.</p>
<a href="#">Dawson v. H&amp;H Elec., Inc., No. 4:14CV00583 SWW, 2015 U.S. Dist. LEXIS 122723 (E.D. Ark. Sep. 15, 2015)</a>	9/15/2015	<p>Plaintiff is a transgendered employee transitioning to female. Her manager asked that she not let anyone at the job site know that she was transitioning and even after her name and gender were legally changed on her license, he still required her to present as male.</p> <p>Others found out in various ways and she began presenting as female. When she trained someone in and they saw that she signed with her male name, they brought up the legal issues associated with using false information. She was terminated later that day.</p> <p>Her manager said he could not risk the contract over one person and her transition was causing a distraction. He continued to refer to her by her prior male name.</p>	<p>Defendant's Motion for Summary Judgment was denied on the basis of sex discrimination.</p> <p>Established prima facie case by showing that:  (1) she is a member of a protected class;  (2) she met the legitimate expectations of her employer;  (3) she suffered adverse employment action (termination); and  (4) the adverse employment action (termination) occurred under circumstances giving rise to an inference of discrimination.</p> <p>Parties reached a settlement agreement in October 2015.</p>

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<a href="#">Hudson v. Park Cmty. Credit Union, Inc., No. 3:17-CV-00344-TBR, 2017 U.S. Dist. LEXIS 187620 (W.D. Ky. Nov. 13, 2017)</a>	11/13/2017	Plaintiff is an openly gay woman working in a credit union. She received harassment, discrimination and disparate treatment on the basis of her sexual orientation and gender non-conforming appearance.	<p>Plaintiff brought claims under Louisville-Metro Government Ordinance § 92.06 addressing employment discrimination on the basis of sexual orientation, however there is no private right of action for an individual to bring suit.</p> <p>Plaintiff also brought claims under KCRA and Title VII but neither law prohibits discrimination on the basis of sexual orientation.</p> <p>Plaintiff's final claim for discrimination on the basis of gender stereotyping under <i>Price Waterhouse v. Hopkins</i> was a cognizable claim and survived the Defendant's Motion to Dismiss.</p>
<a href="#">Finkle v. Howard Cty., 12 F. Supp. 3d 780 (D. Md. 2014)</a>	4/10/2014	<p>Plaintiff is a retired Sergeant of the U.S. Capitol Police. She transitioned from male to female after her retirement. She applied and tested for a volunteer position as an Auxiliary Police Officer (APO) in the Volunteer Mounted Patrol (VMP) which entitled her to significant remuneration benefits available upon injury or death.</p> <p>She was denied entrance to the program because of her obvious transgender status.</p> <p>At question:  1) Were there Title VII rights on a volunteer situation?  2) Does Plaintiff have a cognizable claim on the basis of sex under Title VII?</p>	<p>Denied Defendant's Motion To Dismiss/Summary Judgment by finding that the volunteer nature of this position and the remuneration benefits were sufficient to consider this as an employment situation.</p> <p>Plaintiff's Motion for Summary Judgment was denied and Defendants Motion for Summary Judgment was Granted.</p>
<a href="#">Scott v. CSL Plasma, Inc., 151 F. Supp. 3d 961 (D. Minn. 2015)</a>	12/3/2015	Plaintiff is a transgendered individual transitioning to female who intended to donate plasma at Defendant's facility for compensation. She was designated permanently ineligible to donate by the nurse when she learned that Plaintiff was undergoing hormone therapy to transition.	<p>Major Issue: Was discrimination based on a legitimate business purpose?</p> <p>Defendant's Motion for Summary Judgment was denied as there was no guidance, medical or otherwise, at the time citing transgender donors were ineligible for donations and thus the discrimination was specific to the Nurse/Defendant against Plaintiff based on being transgender in violation of the Minnesota Human Rights Act.</p>
<a href="#">Rumble v. Fairview Health Servs., No. 14-cv-2037 (SRN/FLN), 2015 U.S. Dist. LEXIS 31591 (D. Minn. Mar. 16, 2015)</a>	3/16/2015	Plaintiff is a transgendered patient transitioning to male. He required medical care related to his genitalia and was treated poorly by the staff and physicians during the course of his care. He brought suit against Defendant for discriminating against him on the basis of his sex and in violation of the Minnesota Human Rights Act.	Minn. Dist Ct. denied Defendants motions to dismiss as Plaintiff met the requisite threshold for the claim to survive.
<a href="#">Bray v. Starbucks Corp., No. A17-0823, 2017 Minn. App. Unpub. LEXIS 1087 (Dec. 26, 2017)</a>	12/26/2017	<p>Plaintiff is a transgendered customer transitioning to male who experienced poor and harassing customer service at two separate Starbucks locations because of his transgender status.</p> <p>Minn. Dist. Ct. granted Summary Judgment in favor of Defendants on all counts.</p>	<p>Minn. Ct. of App. affirmed Minn. Dist. Ct.'s grant of Summary Judgment on Plaintiff's negligent-retention and negligent-supervision claims (Plaintiff relied on the same injuries for his Minnesota Human Rights Act claim).</p> <p>Minn. Ct. of App. reversed Summary Judgment on public-accommodation claim of discrimination. Defendant did not establish a legitimate, non-discriminatory reason for its employees' actions.</p>



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<a href="#">Goins v. W. Grp., 635 N.W.2d 717 (Minn. 2001)</a>	11/29/2001	<p>Plaintiff is a transgendered employee transitioning to female who was denied use of the women's restroom at her workplace.</p> <p>Plaintiff argued that the definition of gender should be based on self-identity of gender rather than biological. However, Defendant argued that the Minnesota Human Rights Act follows the cultural preference of the traditional and accepted practice of designating a restroom according to biological gender.</p>	<p>Dist. Ct. of Minn. granted Defendant's Motion for Summary Judgment.</p> <p>Minn. Ct. of Appeals reversed stating the employee (Plaintiff) established a prima facie case of sexual orientation discrimination. Appellant sought review.</p> <p>Minn. S.C. affirmed Dist. Ct. on basis of Defendant's use of biological gender to determine which facility to use, not based on gender identity.</p>
<a href="#">Horton v. Midwest Geriatric Mgmt., LLC, No. 4:17CV2324 JCH, 2017 U.S. Dist. LEXIS 209996 (E.D. Mo. Dec. 21, 2017)</a>	12/21/2017	<p>Plaintiff was in the hiring process when Defendant rescinded their job offer. Plaintiff alleges their decision to rescind their offer was based on their knowledge of his same-sex marriage and sexual orientation.</p> <p>Plaintiff's claim for discrimination under Title VII on the basis of his sexual orientation and gender non-conformity were dismissed as not actionable. His claim for discrimination based on religious belief (his belief in same-sex marriage could not be reconciled with the hiring individuals' beliefs) was dismissed as this was the sole basis for the claim. Plaintiff's claim of fraudulent inducement also failed as Defendant had not affirmatively stated they accepted the delay in getting Plaintiff's educational records.</p>	District court dismissed all claims. Currently on appeal with 8th Cir. Ct. of App.
<a href="#">Barraza v. Magna Int'l Inc., No. 4:16-CV-00823-FJG, 2017 U.S. Dist. LEXIS 101658 (W.D. Mo. June 30, 2017)</a>	6/30/2017	Plaintiff felt he was harassed due to his sex and nonconformity to gender stereotypes resulting in his termination because the work environment was hostile.	Dist. Ct. granted Defendant's motion for Summary Judgment and dismissed Plaintiff's complaint for untimely filing and failure to exhaust all administrative reliefs for ADA and retaliation (not mentioned on forms prior to lawsuit).
<a href="#">R.M.A. v. Blue Springs R-IV Sch. Dist., No. WD80005, 2017 Mo. App. LEXIS 716 (Ct. App. July 18, 2017)</a>	7/18/2017	Plaintiff is a transgender teenager transitioning to male. He presents as male, plays on boys' sports teams but is not allowed to use the men's bathrooms or locker room at his school. He also has an amended birth certificate by court order changing his gender from female to male.	<p>Missouri Commission on Human Rights does not prohibit discrimination based on "gender-related traits" but on the basis of "sex." The argument is that discrimination based on sex is when one sex is afforded certain treatment while the other sex is not.</p> <p>Trial Ct. granted Defendant's Motion for Summary Judgment and denied Plaintiff's request for reconsideration. Mo. Ct. of App. affirmed.</p> <p>Dissent by Judge Gabbert stated Plaintiff was discriminated against because he had female anatomy which is discrimination based on sexual anatomy and this sex. "Thus, but for RMA's sexual anatomy, the alleged discrimination would not have occurred." *23, p11</p>
<a href="#">Pittman v. Cook Paper Recycling Corp., 478 S.W.3d 479 (Mo. Ct. App. 2015)</a>	10/27/2015	Plaintiff is a homosexual employee who worked as a controller at Defendants. He was harassed at work by coworkers who would make derogatory remarks about him and his sexual preference. He asserted that his employer created a hostile and abusive work environment.	<p>Trial Court dismissed Plaintiff's claims because MO law does not include sexual orientation as prohibited employment discrimination.</p> <p>Mo. Ct. of App. affirms with one judge reluctantly concurring on the result only and one dissent on the basis of sexual orientation/preference and gender stereotype being directly related to one's sex.</p>

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<a href="#">Fischer v. Experian, No. 8:10CV288, 2011 U.S. Dist. LEXIS 7692 (D. Neb. Jan. 26, 2011)</a>	1/26/2011	Plaintiff is a pro se transgendered female.  Plaintiff felt Defendants were violating her civil rights because when a background check was pulled on her, her male birth name would come up, alluding to her gender-reassignment.	Complaint dismissed and Defendant's Summary Judgment granted because there was no claim identified upon which relief may be granted
<a href="#">Johnston v. Univ. of Pittsburgh of the Commonwealth Sys. of Higher Educ., 97 F. Supp. 3d 657 (W.D. Pa. 2015)</a>	3/31/2015	"Although the parties have submitted lengthy briefs and have advanced numerous arguments, this case presents one central question: whether a university, receiving federal funds, engages in unlawful discrimination, in violation of the United States Constitution and federal and state statutes, when it prohibits a transgender male student from using sex-segregated restrooms and locker rooms designated for men on a university campus. The simple answer is no."	Dist. Ct. granted Defendant's Motion To Dismiss with prejudice. Plaintiff has failed to state a claim for relief for discrimination or retaliation under either Equal Protection Clause or Title IX.
<a href="#">Texas v. United States, 201 F. Supp. 3d 810 (N.D. Tex. 2016)</a>	8/21/2016	Plaintiffs are 13 organizations that have filed this complaint addressing the use of "intimate areas" being historically based on biological sex and should not be based on gender identity.  Plaintiffs argue Defendant issued the guidance and did not allow for notice and comment prior to enforcing the change per proper legal procedure.	Dist. Ct. of Northern Texas granted Plaintiff's Motion for Preliminary Injunction enjoining Defendant from enforcing the guidelines for restroom facility use based on gender identity as dictated in Title IX rather than biological gender. Scope was nationwide.
<a href="#">Darin B. v. Office of Pers. Mgmt., Equal Employment Opportunity Commission, https://www.eeoc.gov/decisions/0120161068.txt (Last visited Mar. 21, 2018)</a>	3/6/2017	Plaintiff is a transgendered employee transitioning to male who requested prior auth to have nipple-areola reconstruction surgery. Aetna, his Federal Employee Health Benefits insurance carrier, denied his request stating it was a purely cosmetic procedure. He appealed and it was denied again stating the surgery was not medically necessary.	Office of Personnel Management ("OPM") dismissed the Complaint on the basis that he was not aggrieved under EEOC regulations because he did not challenge Aetna's denial of his claim with the OPM.  On appeal, the decision was reversed and remanded finding OPM improperly dismissed his claims and he does have a valid claim under EEOC regulations.
<a href="#">Hillier v. Dept. of the Treasury, Equal Employment Opportunity Commission, https://www.eeoc.gov/decisions/0120150248.txt (Last visited Mar. 21, 2018)</a>	4/21/2016	Complainant joined an employee organization where she could participate in Bible studies with her fellow coworkers. She presented as a man at these meetings, as that was her biological gender. At some point, she addressed her transgender status to the leader and requested to present at the group as as her true self as a woman. She was denied multiple times.  Complaint alleges the Dept. of the Treasury subjected her to harassment on the basis of sex (female) when she was not allowed to present at the Bible study meeting as a woman.	Dept. of Treasury found the actions were not by management but the Bible study President and the claim was dismissed.  On appeal, the dismissal was reversed by EEOC and remanded finding the complaint states a claim of sex based harassment.

## LGBT Rights in the Workplace Case Review

Citation (hyperlinked to Lexis-Nexis)	Date of Decision	Summary	Outcome
<a href="#">Lusardi v. McHugh, 2015 EEOPUB LEXIS 896 (E.E.O.C. April 1, 2015)</a>	3/27/2015	<p>Plaintiff is a transgendered employee transitioning to female who discussed restroom usage with her employers during the transition. Prior to surgery, she was to use a single-user bathroom. She did believe that she was also able to use women's restrooms according to the conversation with HR.</p> <p>There were 3 occasions where she was unable to use the single-user restroom and someone complained to HR. Her supervisor also called her by her male name and referred to her as "sir" or by male pronouns out of anger or frustration.</p>	<p>Department of the Army denied Plaintiff's claim as actions were not sufficiently severe or pervasive to constitute harassment.</p> <p>On appeal, the Department of the Army's final decision was reversed by the EEOC as restriction of restroom usage was a violation of Title VII and actions were sex-based disparate treatment.</p>
<a href="#">Jameson v. U.S. Postal Serv., Equal Employment Opportunity Commission, https://www.eeoc.gov/decisions/0120130992.txt (Last visted Mar. 21, 2018)</a>	5/21/2013	<p>Complainant appealed the decision of the agency to dismiss her complaint of harassment based on her transgender status. She has prior complaints ongoing and feels she is also experiencing reprisal.</p> <p>The following are her claims:</p> <ol style="list-style-type: none"> <li>1. Over the past 20 months her work was tracked and signed off on;</li> <li>2. On November 22, 2011, her locker was broken into and her property was left out to be stolen;</li> <li>3. On September 27, 2012, her supervisor repeatedly referred to her as "he"; and</li> <li>4. On October 2, 2012, she was scheduled for an investigative interview.</li> </ol>	<p>Claims 1 and 2 were affirmed (dismissed) because they were included in a pending complaint already in process.</p> <p>Claims 3 and 4 (supervisor referring to her as "he" and an investigative interview) were improperly dismissed along with the first two. EEOC reversed these claims as they were attributing to her overall hostile work environment which was a separate claim from the pending one.</p>
<a href="#">Macy v. Holder, 2012 EEOPUB LEXIS 1181 (E.E.O.C. April 20, 2012)</a>	4/12/2012	<p>Plaintiff is a transgendered employee transitioning to female. She worked as a police detective (as a male) in Phoenix AZ prior to moving to San Francisco. There was a position her supervisor knew of in Walnut Creek that Plaintiff would qualify for. She was assured the position.</p> <p>Over the next few months, Plaintiff began her transition to identifying as female. When she told the hiring Director/contractor about her transition plans, she was soon after informed that due to budget constraints there was no longer a position available for her. It ended up that someone else was hired for the position in lieu of Plaintiff.</p>	<p>EEOC found that intentional discrimination against a transgender individual because they are transgender is discrimination based on sex and violates Title VII. EEOC reversed Department of Justice's final decision to decline to process the complaint and remanded for further processing in accordance with 29 C.F.R. § 1614.108 et seq.</p> <p>Cites to EEOC's Amicus Brief in <i>Pacheco v. Freedom Buick GMC Truck</i>, No. 07-116 (W.D. Tex. Oct. 17, 2011).</p>
<a href="#">Dept. of Fair Emp't &amp; Hous. V. Am. Pac. Corp., Transgender Law Center, https://transgenderlawcenter.org/archives/10033 (Last visited Mar. 21, 2018)</a>	2016	<p>Plaintiff was a transgendered applicant transitioning to male when he accepted the position of Operations Technician. He disclosed this as part of the hiring process while background checks were being run. They expressed concern about him using the men's facilities and asked to postpone the hire until after gender-reassignment surgery was complete.</p>	<p>Plaintiff has pled sufficient facts to state a cause of action for employment discrimination.</p> <p>Demurrer to the 2nd and 3rd failure to prevent discrimination based on sex, gender, gender identity, and gender expression are overruled.</p>
<a href="#">Yang v. Transp. Sec. Admin., Transgender Law Center, https://transgenderlawcenter.org/archives/375 (Last visited Mar. 21, 2018).</a>	2010	<p>Plaintiff is a transgender woman. Her managers forced her to pretend to be a man to keep her job.</p>	<p>Settlement for Plaintiff and Transgender Law Center.</p>

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<a href="https://www.aclu.org/cases/seals-v-old-dominion-freight-lines-inc">Seals v. Old Dominion Freight Lines, Inc., American Civil Liberties Union, https://www.aclu.org/cases/seals-v-old-dominion-freight-lines-inc</a> (Last visted Mar. 21, 2018)	2005	Plaintiff was fired for impersonating a female after she informed company she was a transgendered individual transitioning to female.	ACLU filed a complaint on Plaintiff's behalf for sex discrimination. Order dismissing case with prejudice was issued on 06/09/2009. Resolution unknown.