

# CLIENT ALERTS

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## U.S. Supreme Court Poised to Determine Whether Title VII Prohibits Sexual Orientation and Transgender Discrimination

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In recent years, federal courts have struggled to determine whether Title VII of the Civil Rights Act of 1964 ("Title VII") prohibits employers from discriminating against lesbian, gay, bisexual and transgender ("LGBT") employees.

Many federal courts have determined that Title VII does not protect LGBT employees from sexual orientation or transgender discrimination. Other federal courts disagree, holding that it is unlawful under Title VII for employers to engage in such discrimination. Still other federal courts, including the Sixth Circuit Court of Appeals (which covers Michigan, Ohio, Kentucky, and Tennessee), have made partial rulings that Title VII prohibits transgender discrimination, but have not yet ruled that Title VII's protections extend to sexual orientation.

The ongoing differences between the federal courts may soon come to an end. On April 22, 2019, the United States Supreme Court agreed to consider appeals in three cases which may finally answer the question of whether Title VII prohibits sexual orientation and transgender discrimination. Many legal analysts anticipate a decision from the Supreme Court in 2020.

In the meantime, the EEOC will accept and process charges for sexual orientation and transgender status discrimination. Employers in Michigan, Ohio, Kentucky and Tennessee must continue to provide at least the minimum levels of protection required under Title VII, as interpreted by the Sixth Circuit Court of Appeals, and any state anti-discrimination laws and local ordinances, where applicable. Please contact your Butzel Long employment attorney to discuss any questions you may have about Title VII or other anti-discrimination laws.

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