

EEOC Files Multiple LGBT Suits in Federal Courts

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The U.S. Equal Employment Opportunity Commission (EEOC) recently filed its first lawsuits against employers alleging that the employer discriminated against an employee based on the employee's sexual orientation. This action suggests that the agency intends to be aggressive in its enforcement of how employers treat their lesbian, gay, bisexual and transgender (LGBT) workers.

On March 1, 2016, the agency sued a Pennsylvania employer, contending that a male employee was subjected to harassment based on sexual orientation. The lawsuit asserts that the employee's manager repeatedly referred to him using various anti-gay epithets and made other offensive comments about his sexuality and sex life. The employee claims his complaints to the employer's director were ignored, leaving him with no choice but to resign.

In a separate suit, also filed on March 1, 2016, the EEOC sued a Maryland employer, claiming that a female forklift operator was harassed by her supervisor because of sexual orientation. According to that suit, the supervisor made a variety of derogatory comments based on the employee's sexual orientation, including telling the employee: "I want to turn you back into a woman" and "You would look good in a dress."

The EEOC has continued to accept charges that allege discrimination based on LGBT status. There are also numerous municipal ordinances in most major cities around the country that prohibit discrimination based on sexual orientation and gender identity.

If an employer already prohibits discrimination based on sexual orientation and/or gender identity, we recommend that the employer take steps, such as additional training, to ensure that managers and other employees understand and abide by the policy. If an employer does not currently prohibit discrimination based on gender identity and/or sexual orientation, we recommend revising the employer's policies to address the EEOC's latest position. All employers should confirm that their policies comply with applicable state and local laws.

We will continue to provide updates of further developments on this issue. Please contact Nancy Conrad (conradn@whiteandwilliams.com; 610.782.4909), George Morrison (morrisong@whiteandwilliams.com; 610.782.4911), or any member of our Employment Law Group for more information regarding this alert or any employment issue at your worksite.

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