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BLOGS

Archives;Discrimination;Hiring & Firing

EEOC Files Historic Transgender Discrimination Lawsuits As Societal Focus on Transgender Rights Grows

If you're an Amazon Prime member or you've shopped online at Amazon lately, you've probably heard that Amazon launched a new TV series last week, "Transparent," about a 70 year old divorced father who announces to his children that he intends to transition from a man to a woman. The "Transparent" series is getting [rave reviews](#) and comes at a time of increased societal and legal focus on the rights of transgender individuals.

Indeed, just before the launch of the "Transparent" series, the U.S. Equal Employment Opportunity Commission (EEOC) filed its first ever lawsuits alleging sex discrimination against transgender individuals. On Sept. 25, the EEOC filed two separate discrimination actions – one against a Michigan-based [funeral home](#) and the other against a Florida-based [eye clinic](#). Both lawsuits allege that the defendant employer fired a transgender employee for transitioning from male to female and not conforming to the employers gender-based expectations.

For some time now, discrimination based on gender identity and sexual orientation has been unlawful under Minnesota employment discrimination law and in a number of other states. Federal discrimination law, however, does not expressly prohibit such discrimination. Nevertheless, the EEOC has taken the position that the prohibition on sex discrimination under Title VII of the Civil Rights Act of 1964 encompasses discrimination based on impermissible [sex stereotyping](#) and an individuals failure to meet gender expectations.

The EEOC has also made it clear that protecting GLBT individuals under Title VII is a top enforcement priority. The EEOCs recent lawsuits further this enforcement agenda and are the first time in history that the EEOC has sought to apply Title VII to transgender discrimination in court. While the merits of the cases at issue remain to be seen, other challenges to transgender discrimination have been successful in court. In 2011, the U.S. Court of Appeals for the [Eleventh Circuit](#) upheld a victory for a former employee who claimed she was fired based on her intended transition from male to female, in violation of the Equal Protection Clause of the U.S. Constitution. In addition, in 2004, the U.S. Court of Appeals for the [Sixth Circuit](#) held that a transgender employee had an actionable discrimination claim under Title VII.

The EEOCs lawsuits are the latest in a growing movement to protect transgender people at work. On other fronts, President Barack Obama recently signed an [executive order](#) making it illegal for federal contractors to discriminate on the basis of sexual orientation or gender identity.

Employers should take note of this trend and review their policies and practices, being mindful of the unique challenges that transgender individuals may face in the workplace. With the growing societal awareness of transgender issues, employers should expect to see more transgender discrimination claims filed by both individuals and the federal government.