

## Recent Case In Michigan Highlights Increased Focus On Transgender Discrimination

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As we previously reported, the EEOC recently made history when it filed two lawsuits seeking to protect transgender workers under Title VII of the Civil Rights Act of 1964 (Title VII). The lawsuits – filed separately in federal courts in Michigan and Florida – allege that the employers engaged in unlawful gender-identity discrimination after they terminated two employees who were transitioning to the opposite sex. Rather than explicitly allege gender-identity discrimination – which is not actionable – the EEOC carefully crafted both judicial complaints to allege that the employees were mistreated because their behavior did not conform to traditional expectations of how a man or woman should act.

A recent case in Michigan indicates the EEOC's pending federal lawsuits may have some teeth. In *Hughes v. William Beaumont Hospital*, the Eastern District of Michigan denied an employer's Motion for Summary Judgment in a case involving a claim for transgender discrimination. In that case, a terminated transgender inventory clerk presented evidence that, among other things, a manager expressed discomfort associating with a male presenting as a female. This evidence, according to the Court, was enough to avoid summary judgment with respect to the former employee's sex discrimination claims. What is the takeaway? One should expect to see a body of developing case law that the EEOC will use to assert its broad interpretation of Title VII. As such, employers should closely monitor these developments and ensure their EEO policies address both gender-identity and sexual orientation discrimination/harassment.

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