

EEOC Targets Minnesota Company For Alleged Transgender Discrimination

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Through its 2012 Strategic Enforcement Plan (SEP), the EEOC had made it a top priority to target employer-discriminatory conduct directed at “lesbian, gay, bisexual and transgender employees.” In accordance with the SEP, the commission last week filed a lawsuit against Deluxe Financial Services, a Minnesota-based printing and financial services company.

The EEOC alleges that Deluxe discriminated against Britney Austin, a longtime employee who recently began presenting as a woman. According to the complaint, Deluxe would not allow Ms. Austin to use the women’s restroom and other employees would call her derogatory names and refer to her with the incorrect gender pronoun. The commission claims that such behavior violated Title VII of the Civil Right Act of 1964. It remains an open question whether one’s transgender status constitutes a protected characteristic under Title VII. Nonetheless, the EEOC’s position does find support from some federal court decisions. For instance, in *Smith v. City of Salem* (2004), the Sixth Circuit Court of Appeals ruled that an employee claiming to have been suspended after telling his employer that he would be transitioning from male to female had stated a cognizable Title VII discrimination claim. Similarly, in the more recent *Hughes v. William Beaumont Hosp.* (2014) case ([discussed here](#)), a federal district court sitting in the Eastern District of Michigan held that an employee’s discrimination claim deriving from her transgender status survived summary judgment.

Though the final word on this topic has yet to be spoken, because of the commission’s SEP initiative, employers would be wise to proactively address issues surrounding transgender discrimination. Steps employers can take in this regard include updating employee handbooks and policies, as well as providing additional training to managers and supervisors. Perhaps most importantly, if a transgender employee does complain of discrimination, an employer should take such complaint seriously and then conduct the same type of investigation that it would for any other type of discrimination claim. Such investigations should of course be thoroughly documented.

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