US Government Suing Companies for Transgender Discrimination

A funeral home and an eye clinic that fired employees who had changed their sex from male to female were sued last week as the U.S. government filed its first-ever federal lawsuits for transgender discrimination.

The cases could lay the groundwork for more such actions in the future, legal experts said on Monday.

The Equal Employment Opportunity Commission brought one lawsuit in Florida and another in Michigan on Thursday on behalf of two transgender employees.

“This will be a wake-up call to employers that they should take another look at their practices,” Robert Weisberg, an EEOC attorney who helped bring the case in Miami, said in an interview. “Victims of transgender discrimination will become more aware there is a legal recourse.”

The EEOC enforces federal laws against employment discrimination on the basis of race, religion, sex and nationality under Title VII of the 1964 Civil Rights Act.

In one case, funeral home director Amiee Stephens was fired after she told her employer in Michigan she was undergoing a gender transition, the government alleged. The R.G. & G.R. Harris Funeral Home named in the complaint did not immediately return requests for comment.

In the other case, Brandi Branson—hired as Michael at the Lakeland Eye Clinic in Florida—claims he was ostracized after his transition and later told his position was eliminated. The complaint alleges that the company then hired a replacement.

“Lakeland Eye Clinic has not and will not discriminate against any employee because of gender transition, or any other basis,” the clinic said in a statement.

More discrimination claims are being considered by the commission. In 2013—the first year the EEOC started separating out the data—the commission received 131 gender identity discrimination allegations, according to an EEOC representative.

The EEOC cases could set a precedent for other courts, said Kylar Broadus of the National Gay and Lesbian Task Force, who says he was fired from a job in the 1990s for being transgender although his case was dismissed.

“When individuals do it, it doesn’t carry the same weight as the EEOC itself,” he said. “The EEOC is what courts look to set policy. That’s why this is monumental and historic.”

In 2011, a Task Force study found 90 percent of transgender people surveyed reported harassment or discrimination on the job, with 47 percent saying they had been fired, not hired or denied a promotion because of their transgender identity.

The case law has been moving in the direction of more protections, the EEOC’s Weisberg said.

In a 2012 administrative ruling on the firing of a federal employee named Mia Macy, the EEOC found gender identity discrimination qualified as sex discrimination.

Many cases have cited a Supreme Court ruling from the 1980s where a woman said she was told at her job at Price Waterhouse she was not “feminine” enough. The Supreme Court found in her favor, arguing her male colleagues were basing their decisions based on gender stereotypes.

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