



Employment Update

Keeping You Informed About Employment Matters

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Lakeland Eye Clinic Settles EEOC's First Transgender Suit Under Title VII



By Christopher B. Lunny and Angela Miles

On April 9, 2015, the Equal Employment Opportunity Commission ("EEOC") secured a settlement with a Florida eye clinic in one of its first attempts to litigate a transgender discrimination claim under Title VII of the Civil Rights Act of 1964. The EEOC secured the settlement on behalf of the clinic's former employee, Brandi Branson, who claimed she was fired because she transitioned to a woman.

The EEOC's lawsuit against the Lakeland Eye Clinic was the first of two lawsuits ever filed by the agency alleging sex discrimination against transgendered individuals. In its Complaint, the EEOC alleged that Brandi Branson, a transgender woman, was hired by the clinic to serve as its director of hearing services. At the time of hire, Branson was presenting as a male named Michael and wore men's clothing. Branson subsequently began wearing feminine attire, including makeup and women's clothing. During a meeting with clinic management, Branson allegedly informed the clinic that she was undergoing a gender transition from male to female and that she would be changing her name from Michael to Brandi. According to the EEOC's Complaint, the clinic terminated Branson's employment two months after her disclosure. The Lakeland Eye Clinic denied the EEOC's allegations, asserting that Branson was terminated for legitimate, non-discriminatory reasons.

In its settlement with the EEOC, the Lakeland Eye Clinic denied liability and agreed to pay \$150,000 to

its former employee, representing back pay and other damages including emotional distress. The clinic also agreed to adopt and implement a gender/transgender discrimination policy that prohibits harassment of an employee based on the employee's status as transgender or because of an employee's gender transition. The policy is required to explain that prohibited behavior will not be tolerated from not only the clinic's employees, but also its customers, agents, contractors, sub-contractors, clients and other persons present at the clinic's facilities. The parties' settlement agreement also requires the clinic to conduct management training sessions on the newly adopted gender and transgender discrimination policy.

"It is reasonable to expect future enforcement actions by the EEOC on transgender discrimination."

When it filed the lawsuit in September of 2014, the EEOC announced that the suit was part of a strategic enforcement plan adopted in 2012 that includes coverage of transgender individuals under Title VII sex discrimination provisions in the Civil Rights Act of 1964. Although the federal courts have yet to weigh in on this issue, it is reasonable to expect future enforcement actions by the EEOC on transgender discrimination. Employers should therefore consider revising their EEO and anti-discrimination policies to prohibit harassment and discrimination against transgender employees. If you have questions regarding an employer's obligations under Title VII, are interested in management training, or need assistance responding to an employee claim, please contact our office at (850) 425-6654.

This article is meant to provide a brief overview and points of discussion regarding employment and labor law topics. Should a particular issue arise or should you desire additional consultation to protect your firm, the advice of a competent counsel should be sought.