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High Court to Consider Whether Title VII Covers LGBT Bias

This week, the U.S. Supreme Court will hear a trio of cases asking whether federal law protects gay and transgender workers from discrimination. Currently, Title VII of the Civil Rights Act of 1964 makes it illegal for employers to discriminate against workers “on the basis of...sex” among other protected traits. The Court’s ruling on these cases will determine whether “sex” includes sexual orientation and gender identity.

Advocates contend and the lower courts that have ruled for them have reasoned that the law as it stands covers sexual orientation and gender identity. Discrimination against them based on generalizations about sex has nothing to do with their ability to do their jobs. Opponents contend that that the term “sex” when Congress passed Title VII in 1964 meant only “biological sex,” of which sexual orientation and gender identity are not parts; if Congress had intended for Title VII to protect these traits, it would have added explicit references to them, as it has with other laws passed in the last 50 years.

Protections for gay and transgender workers vary from state to state, and the courts are deeply divided on this issue. This ruling [anticipated to occur in June 2020] will help employers navigate the current legal patchwork.

Questions? Contact Stokes Wagner.