

# U.S. SUPREME COURT SAYS TITLE VII “UNAMBIGUOUSLY” PROTECTS WORKERS FROM EMPLOYMENT DISCRIMINATION BASED ON HOMOSEXUAL OR TRANSGENDER STATUS

*Hodgson Russ Labor & Employment Alert*  
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On June 15, 2020, the United States Supreme Court ruled that Title VII of the Civil Rights Act of 1964 prohibits employment discrimination on the basis of homosexuality and transgender status. The 6-3 majority opinion, written by Trump appointee Neil Gorsuch, resolves whether Title VII’s plain language, which protects workers from employment discrimination “because of sex,” extended to protect employees who are homosexual or transgender. Justices Alito, Thomas, and Kavanaugh dissented.

The decision resolves a split between the eleventh, sixth and second circuits regarding whether Title VII’s employment protections extend to gay or transgender workers. The Court found that “[a]n employer who discriminates against homosexual or transgender employees necessarily and intentionally applies sex-based rules” in violation of the law. Indeed, Justice Gorsuch found “no ambiguity” on the issue in the language of Title VII, and in a memorable phrase wrote that “only the written word is law, and all persons are entitled to its benefit.”

The case is *Bostock v. Clayton County* (Docket No. 17-1618), and is a consolidation of three plaintiffs’ cases. Two of the named plaintiffs did not live to see their victory.

While the laws of many states and localities, including New York, already prohibited employment discrimination the basis of sexual orientation and gender identity, employers should ensure that their handbooks and equal employment opportunity policies are updated to include protections for sexual orientation and gender identity status for their employees located throughout the United States.

Contact Lura Bechtel (416.595.2693), Glen Doherty (518.433.2433), Charles H. Kaplan (646.218.7513), or any other member of our Labor & Employment Practice for questions you have regarding this ruling and updating your company’s handbooks and/or policies.

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