

Supreme Court Rules that Title VII Prohibits Discrimination Based on Sexual Orientation and Gender Identity

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WHAT: In a landmark 6-3 ruling that saw Chief Justice Roberts and Justice Gorsuch join the majority, the U.S. Supreme Court ruled that “an employer who fires an individual merely for being gay or transgender violates Title VII.” Title VII of the Civil Rights Act of 1964 (Title VII) makes it “unlawful” for an employer “to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual” due to “such individual’s race, color, religion, sex, or national origin.” Prior to the Supreme Court’s ruling, however, only a handful of federal courts had ever ruled that Title VII’s protections extended to members of the LGBTQ community. The Court’s ruling sets a new floor for civil rights protections for LGBTQ Americans.

IMPACT ON INDUSTRY: More than 20 states and territories maintained state and local fair employment practices statutes or ordinances that protected LGBTQ employees from discrimination based on sexual orientation or gender identity prior to this decision. The Supreme Court’s ruling should not change how employers in those jurisdictions operate. Employers who do not operate in jurisdictions that maintain fair employment practices statutes that protect LGBTQ individuals should review their practices and policies to ensure that they do not contradict the Supreme Court’s extension of employment discrimination protections to the LGBTQ community and revise those policies as necessary. Employers are also encouraged to communicate this development in the law with their managers and employees, making it clear that the protections from harassment and discrimination extend to members of the LGBTQ community, as well as members of other protected groups.

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Practice Areas

Employment & Labor

Given the broad remedial purpose of Title VII and the non-jurisdictional nature of the prerequisite of filing a charge of discrimination before pursuing a federal action, employers should also evaluate pending or recently closed internal and external complaints of employment discrimination with counsel to determine what, if any, changes to potential liability may arise based on the Supreme Court's ruling.