



RIGHTS STUFF

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Five Farm Workers Win \$17 Million in Sexual Harassment Lawsuit

Five women who worked as vegetable packers for Moreno Farms said they felt terrified every time their supervisors threatened to take them to the cooler or trailers at the farm. They said they feared harassment, coercion and sexual assault at the hands of Omar and Oscar Moreno, the sons of the owner of a family farm and packaging facility in Florida.

In a lawsuit, the women said that the Moreno brothers, as well as another supervisor, Javier Garcia, engaged in graphic acts of sexual harassment against female employees, including regular groping and propositioning, threatening women with termination if they refused the sexual advances, attempted rape and rape.

One of the women said that Omar Moreno repeatedly grabbed her posterior and other body parts during the work day in front of other employees. She told him to stop, but he persisted. She said he repeatedly demanded she have sex with him or he would fire her. On three occasions, she said he ordered her out of the work line and took her to the cooler or trailer, where he had sex with her. She said she feared she would be fired if she did not cooperate. He told her not to tell anyone what they had done. She said he once told her to go to the trailer and have sex with Oscar Moreno, and when she refused, he became enraged and said he would fire her. She was eventually fired. Four other women made similar claims.

Moreno Farms, Inc. was dissolved as a business entity in May of 2015, and never responded to the women's lawsuit. As a result, the judge issued a default judgment against the company earlier this year. More recently, a jury heard evidence about the damages the women had suffered. In September, the jury granted the women \$2.4 million in compensatory damages and \$15 million in punitive damages. Whether they will be able to collect from a dissolved business is unknown as of this writing.

The regional attorney for the Equal Employment Opportunity Commission, Robert Weisberg, said that the jury's verdict sent a "clear message to the agricultural industry that the law will not tolerate subjecting female farm workers to sexual harassment and that there are severe consequences when a sex-based hostile work environment is permitted to exist." The EEOC's general counsel, David Lopez, said that the agency is "committed to ensuring that all immigrant and vulnerable populations are protected by the anti-discrimination laws."

(Article based on "Female Farm Workers Win \$17 Million Sex-harassment Case in Miami Federal Court," by Jay Weaver, published at MiamiHerald.com on September 10, 2015.)

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EEOC Says Sexual Orientation Discrimination is a Form of Sex Discrimination

Federal, state and local law have long prohibited discrimination in employment on the basis of sex. There have been several attempts to amend the federal law (Title VII of the Civil Rights Act of 1964) to also prohibit discrimination in employment on the basis of sexual orientation or gender identity. So far, that bill (the Employment Non-Discrimination Act, or ENDA), has not passed. But according to the Equal Employment Opportunity Commission (EEOC), the federal agency charged with enforcing Title VII, that may not matter.

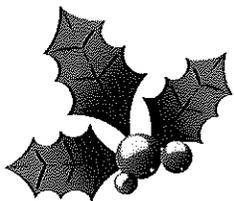
A gay man worked for the Department of Transportation as a traffic control specialist. He filed a complaint alleging that he had not been selected for a permanent position. Before being denied the permanent job, he said his supervisor had made negative comments about his sexual orientation. According to him, when he described attending Mardi Gras with his male partner, his supervisor said "We don't need to hear about the gay stuff." He said his supervisor

repeatedly said that he was "a distraction in the radar room" when he mentioned his male partner.

The EEOC interpreted Title VII as applying to this situation, saying that "Discrimination on the basis of sexual orientation is based on sex-based preferences, assumptions, expectations, stereotypes or norms. 'Sexual orientation' as a concept cannot be defined or understood without reference to sex. . . . It follows, then, that sexual orientation is inseparable from and inescapably linked to sex, and therefore, that allegations of sexual orientation discrimination involve sex-based considerations." According to the EEOC, disciplining a female employee for displaying a photo of her female spouse while not disciplining a female employee for displaying a photo of her male spouse constitutes sex discrimination, not sexual orientation discrimination. In essence, the EEOC said, such an act is "associational discrimination" as it involves treating someone differently because she associates with a person of the same sex.

The EEOC acknowledged that in 1964, Congress did not intend Title VII to apply to sexual orientation complaints. But, the EEOC said (quoting a Supreme Court decision), "statutory prohibitions often go beyond the principal evil [they were passed to combat] to cover reasonably comparable evils, and it is ultimately the provisions of our laws rather than the principal concerns of our legislators by which we are governed."

The EEOC also acknowledged that Congress has repeatedly failed to amend Title VII to explicitly include sexual orientation as a protected classification. But, the EEOC said, again quoting a Supreme Court decision, "congressional inaction lacks persuasive significance because several equally tenable inferences may be drawn from such inaction, including the inference that the existing legislation already incorporated the offered change."



HAPPY NEW YEAR!!





Restroom Controversy Continues

Which restroom should a transgender person use? Should a person who identifies as female, and presents as female, have to use the men's room because of her anatomy? People have raised concerns that allowing transgender individuals to use the restroom that corresponds with their gender identity, regardless of their anatomy, could pose a security risk for girls and women in the women's restroom. They say they fear predatory men dressing up as women to gain access to the women's restroom, a fear that does not seem to be supported by any evidence.

This question recently led to the defeat of the Houston Equal Rights Ordinance (HERO), a proposal to ban discrimination in Houston on the basis of various categories, including gender identity. Opponents called it the "bathroom ordinance" and ran ads showing men following little girls into restroom stalls.

Other Texas cities had passed similar ordinances without reporting an increase in restroom attacks.

The New York Times ran an article in November of 2015 that featured new restroom signs designed to replace the traditional "men," "women" and "family" restroom signs. The new signs included the following language:

- All Gender Restroom;
- All Gender;
- Men, Women and the Rest of Us;
- All Gender Restroom: This restroom may be used by any person regardless of gender identity or expression;
- Anyone of any gender identity/expression can use whichever restroom with which they are most comfortable;
- Gender Neutral;

- All Gender, single user; anyone can use this restroom, regardless of your gender identity or expression;
- All Gender Restroom; privacy lock available; and
- Gender-Inclusive Bathroom, wheelchair accessible.

According to the Times, the White Dog Café in Philadelphia came up with an original solution. Two restrooms were designated for Democrats and Republicans. Two other restrooms were designated for Pointers and Setters, a joke about anatomy. Many customers loved the signs, but they were confusing to tourists from overseas. When the restaurant was sold, the new owners removed these signs and replaced them with dog decals that don't mention gender. (Article based in part on "The Symbols of Change," by Aimee Lee Ball, New York Times, November 8, 2015, page ST-1.)

Department of Justice Negotiates Consent Decree with Pikes Peak Youth Sports Association

The U.S. Department of Justice charged the Pikes Peak Youth Sports Association with discrimination on the basis of disability because it would not modify its age division policy for its wrestling tournament. The plaintiff in the case was a seven-year-old boy with dwarfism. He wanted to compete with younger children who were closer to his weight and size, but the association would not allow that. The Americans with Disabilities

(ADA) requires places of public accommodation to make reasonable changes to their policies when necessary to allow people with disabilities to participate in their programs and services.

As part of the settlement, the association agreed to the following:

- It will comply with the ADA;
- It will not deny people with disabilities the opportunity to

- participate in its programs;
- It will adopt a disability nondiscrimination policy, including a policy on requesting and providing accommodations;
- And it will pay the plaintiff's parents \$5,000.

If you have any questions about the ADA, please contact the BHRC.



City King Commission Seeks Nominees for Martin Luther King, Jr. Legacy Award

The City of Bloomington's Dr. Martin Luther King, Jr. Birthday Celebration Commission is soliciting nominees for the annual Dr. Martin Luther King, Jr. Legacy Award. The award recognizes and affirms those who have made significant contributions in the areas of race relations, justice and human rights. It is presented annually at the Dr. Martin Luther King, Jr. Birthday Celebration in January. Nominations may be made online at <http://tinyurl.com/nbalejn>. The deadline for submissions is January 8, 2016.

Nominees must have been Monroe County residents, businesses, or advocacy groups for at least one year and must have been involved in making tangible and meaningful contributions to the improvement of community conditions and the advancement of race relations, racial justice or human rights causes.

Past winners include Bloomington United, the Monroe County Branch of the NAACP, Guy and Connie Loftman, the Rev. Ernie Butler, the Rev. Michael Anderson, the Monroe County

Racial Justice Task Force, the Banneker History Project, Dr. James E. Mumford, Dr. Charlie Nelms, Kenneth W. Thomas, WFHB Community Radio, Elizabeth Mitchell, Daniel Soto Mayorga, John Whitehart, the Indiana University Office of Diversity Education, Marlene and Donald Griffin, Sr. and Craig Brenner.

For more information, please contact City of Bloomington Special Projects Coordinator Michael Shermis at mlk@bloomington.in.gov or 812.349.3471.

City Commission on the Status of Women Seeks Nominations for Yearly Awards

The City of Bloomington Commission on the Status of Women is seeking nominees for the Woman of the Year, Emerging Leader and Lifetime Contribution Awards. The deadline for submission of nominations is January 22, 2016. The awards will be presented during Women's History Month, March, 2016.

community service or professional accomplishments above and/or outside normal job responsibilities. The recipient is also someone who serves as a positive role model for girls and women and has made outstanding contributions to the community.

short (less than five years) history of significant achievements and recognizes the potential for future contributions.

The Woman of the Year Award is presented to a woman who has improved the quality of life for other women through inspiration,

The Lifetime Contribution Award recognizes a woman whose work has significantly advanced the status of women through leadership and service. The Emerging Leader Award acknowledges a woman with a relatively

Nomination forms are available in the City of Bloomington's Community and Family Resources Department, 401 N. Morton St., Ste. 260 and online at bloomington.in.gov/csw or contact Sue Owens at owenss@bloomington.in.gov.