

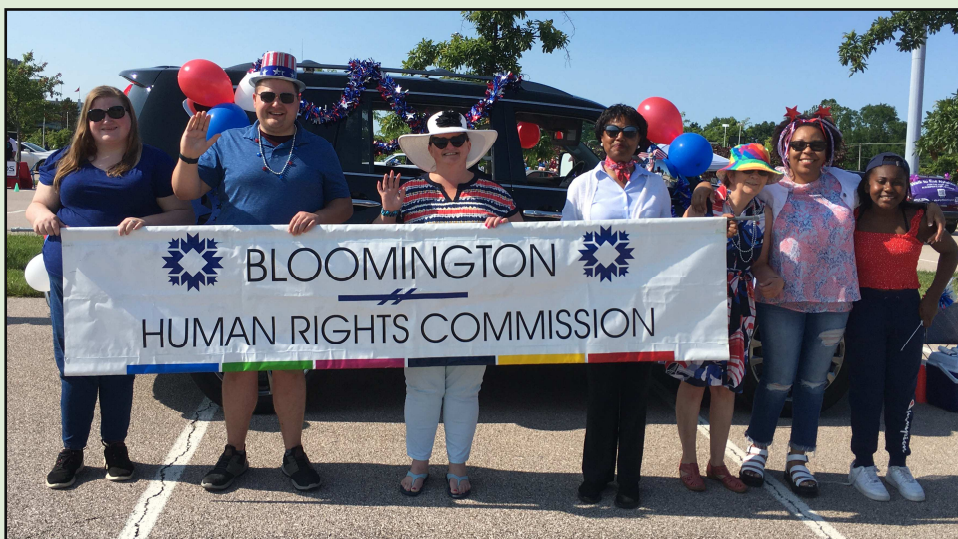
# RIGHTS STUFF

A Publication of The City Of Bloomington Human Rights Commission



CITY OF BLOOMINGTON

## BHRC Participates in 4th of July Reverse Parade



Top photo: From left, BHRC commissioners Pam Jackson and Carolyn Calloway-Thomas decorate the vehicle for the Fourth of July reverse parade. Bottom photo: From left, Nicole DeCriscio Bowe, Ryne Shadday, Erin McAlister, Carolyn Calloway-Thomas, Barbara E. McKinney, Pam Jackson and Paige Jackson pose for a photo in front of the BHRC's entry in the parade.

### **BHRC Staff**

*Barbara E. McKinney,  
Director*

*Nicole DeCriscio Bowe,  
Assistant*

### **Commission Members**

*Ryne Shadday, Chair*

*Latosha Williams, Vice Chair*

*Carolyn Calloway-Thomas,  
Secretary*

*Valeri Haughton-Motley*

*Byron Bangert*

*Pamela Jackson*

*Erin McAlister*

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*John Hamilton*

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# Court Says Employer's Response to Transgender Employee's Complaints Was Reasonable

**J**ane Doe presented as a man when she started working for the City of Detroit in January, 2016. About five months later, she told her supervisor that she needed time off to undergo surgery to reflect her gender identity, female. The City was supportive and approved the time off.

When Doe returned from medical leave in October, she found someone had defaced her office nameplate by scrawling the word "Mr." on it. She told her supervisor, and an administrative assistant promptly replaced the nameplate.

Two days later, she found a gift bag on her desk. The bag contained a sex toy and a handwritten note that in part quoted the Bible. It said "The woman shall not wear that pertaineth unto a man, neither shall a man put on a woman's garment for all that do are admonition unto the Lord thy God. You were born a man, no make-up or weave will change that. Even getting rid of your penis won't. Start shaming yourself. We don't want people like you working here." Doe filed a formal complaint with the human rights department.

The City asked employees to provide a handwriting sample to try to determine who wrote the note, but was unable to do so. They interviewed employees as well, but everyone denied any involvement. Ultimately, the City concluded it could not determine who had left the bag and written the note.

Doe asked for a lock on her door and a camera, and the City said it would look into that.

Five months later, Doe found a typed note in her office mailbox saying that "If a man has sexual relations with a man as one does with a woman, both of them have done what is detestable. They are to be put to death; their blood will be on their own heads." Doe reported the note to her supervisors. She left work early to file a police report. The police said the matter should be investigated internally. The City entered a work request for a lock on Doe's door.

Two weeks later, Doe found another typed note that said "You were warned! Now I will show you better than I can tell you. GOD HAVE MERCY ON YOUR SOUL!" Again, Doe complained to her supervisors. She told them she suspected a colleague, but acknowledged she didn't have any proof. She also filed a complaint with the state and federal civil rights agencies.

The City temporarily moved Doe to another office. When they installed locks and cameras in her original office, they told her to return to that office. She asked to stay, but the City moved her back to her original office.

The City learned that the employee Doe suspected had left derogatory comments on her Facebook page, and suspended him for three days.

Doe eventually took her case to court, where she lost at both the trial and court of appeals level.

The appeals court said that the City's response to her complaint about the nameplate and gift bag were reasonable. They attempted to determine who had committed the offensive acts, but were unable to do so. They took the opportunity to remind all of their employees that they had a zero-tolerance for harassment. They also took reasonable steps to investigate the source of the offensive notes. They took prompt action once they learned of the Facebook comments.

*The case is Doe v. City of Detroit, Michigan, 2021 WL 2673137 (6th Cir. 2021). If you have questions about fair employment practices, please contact the BHRC.*

## RIGHTS STUFF'S MISSION

*The purpose of Rights Stuff is to provide information about civil rights litigation as a way to encourage adherence to best practices for landlords, providers of public accommodations and employers. We do this by publishing relevant and timely articles from around the country. Please see the reports in this issue to learn more.*

# Employees Win Right to Proceed with Lawsuit Against Twin Peaks Restaurant

**T**win Peaks is a chain of restaurants. At its founding, one of the founders said that “Hooters just wasn’t racy enough.” Apparently the chain wanted to raise the raciness bar, and its attempt to do so led to litigation.

The chain offered female servers flexible scheduling and did not require them to perform side work. When they were interviewed, managers took front, back and side photos of them in short shorts and sent the photos to corporate for approval.

While working, the women sometimes had to wear short shorts, rhinestone belts and winter boots, which they had to purchase. Other times, such as during Breast Cancer Awareness month, the women had to wear pink lingerie that exposed their breasts. They had to purchase the lingerie themselves, and they could not wear the same lingerie more than once. Male employees were not subject to the same dress code rules.

According to the plaintiffs, the chain created an environment that was “ripe for, and in fact did result in, rampant sexual harassment and a hostile work environment in which men – ranging from the kitchen staff to the customers – felt free to touch them and say things to them without consequence.”

Plaintiffs said that a manager would grade them on their appearance at the beginning of each shift. Managers would sometimes grab, poke, pinch and pull on the women’s exposed body parts during the “grading.” The women with the lowest



grades would sometimes receive no tips. The plaintiffs said that women could improve their grades by sleeping with a manager.

Managers also would engage in what was called “fat talk,” where they would show women photos from the day they were hired and say they no longer looked the same. They would be told they would be fired if they did not lose weight. Male employees could order anything they wanted from the menu for free or at a discount; female employees could order for free only from the spa menu, which consisted of grilled chicken breasts and steamed vegetables.

The plaintiffs allege that management witnessed customers and kitchen staff harassing them but took no action.

The pleadings in this case include more than allegations of sex discrimination. A Black woman said that a corporate executive pointed out her hair and said it was not consistent with Twin Peaks Standards. She was sent home and forced to pay for keratin treatments. Another Black woman, a manager, said that she received smaller bonuses than male and white

managers, and was denied a promotion. A pregnant woman said she was not allowed to work in the lucrative sections of the restaurant because of her pregnancy, and later was not rehired because she had filed a complaint of discrimination. A gay man said that once his coworkers learned he was gay, they called him “Princess” and asked him if he wanted to wear the women’s uniform. A new manager, a man with experience working at other restaurants, said that he was surprised to see women having to wear lingerie at work and kitchen staff watching women change their clothes. When he reported what he had seen to corporate, he said he was fired. Several employees said that the restaurant refused to accommodate their disabilities.

The restaurant chain asked the court to dismiss the case, saying that the plaintiffs had not included sufficient facts to make their claims of discrimination and harassment plausible. The court, perhaps not surprisingly, disagreed.

*The case is Anderson v. Twin Restaurant Oakbrook, LLC, 2021 WL 2986289 (N.D. Ill. 2021). If you have questions about fair employment practices, please contact the BHRC.*

# Florist Loses Supreme Court Case



**B**arronelle Stutzman is a florist in the state of Washington. Robert Ingersoll was a long-term client of hers. But in 2013, when he told her he wanted to buy flowers from her for his wedding to another man, she refused, citing her religious beliefs. She recommended other florists to him.

He filed a complaint alleging discrimination in public accommodations on the basis of sexual orientation.

The Washington State Supreme Court ruled in favor of Ingersoll. Stutzman took her case to the U.S. Supreme Court twice. In June, 2021, the U.S. Supreme Court declined to take up her second appeal, meaning the state's Supreme Court decision will stand.

Ria Tabacco Mar, director of the American Civil Liberties Union's Women's Rights

Project, praised the decision, saying "Today the Supreme Court confirmed that LGBTQ people should receive equal service when they walk into a store." Ingersoll said, "We hope this decision sends a message to other LGBTQ people that no one should have to experience the hurt that we did." Kristen Waggoner, Stutzman's attorney, called the outcome of the case "tragic" and said "The critical work of protecting the First Amendment freedoms of all Americans must continue."

*If you have questions about discrimination in public accommodations, please contact the BHRC.*

*(Article based on "Supreme Court rejects appeal from florist who wouldn't make arrangement for same-sex wedding," by Ariane de Vogue and Veronica Stracqualursi, published on-line at [cnn.com](http://cnn.com) on July 2, 2021.)*

## Join us at our next meeting

The next BHRC meeting will take place at 5:30 p.m. on August 23.

For more info, visit [bloomington.in.gov/boards/human-rights](http://bloomington.in.gov/boards/human-rights).