

RIGHTS STUFF

A Publication of The City Of Bloomington Human Rights Commission



CITY OF BLOOMINGTON

Three Women to be Honored During Women's History Month

Mayor John Hamilton today announced the names of the three women to be honored for their outstanding service to the Bloomington community during the local observance of Women's History Month in March.

Women's History Month serves as an opportunity to recognize individual and collective accomplishments of women in our community.

Penny Caudill will receive the Woman of the Year Award, Cathleen Ingle Weber has been selected as the recipient of the Toby Strout Lifetime Contribution Award, and Abby Ang will receive the Emerging Leader Award. The recipients were selected by members of the Woman of the Year Selection Committee of the City of Bloomington's Commission on the Status of Women.

"Congratulations to these powerful members of our community, who've done so much to lift up and take care of

others over the course of their careers," said Mayor John Hamilton. "Especially during this devastating pandemic year, their tireless, selfless work has resulted in better outcomes for all of us and set a glowing standard of community leadership."

The three award recipients will be honored at a virtual Women's History Month Celebration event which will premiere on Wednesday, March 24 at noon on the City of Bloomington Facebook page at facebook.com/citybloomington.

The theme of the event, "Valiant Women of the Vote: Refusing to be Silenced," celebrates the centennial of women's right to vote and honors the women who fought to win suffrage rights for women, and those who continue to fight for the voting rights of others.

Along with the award presentation, the event will feature addresses by Heather McTeer Toney and Dr. Valerie Grim.

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Settlement Reached in Harris Funeral Homes Case

In the August, 2020, issue of Rights Stuff, we talked about two recent Supreme Court cases that made it clear that discrimination in employment on the basis of sexual orientation and gender identity was a form of sex discrimination, and thus illegal. One of those two cases, the Harris Funeral Homes case, was recently settled.

Aimee Stephens was a funeral director for Harris. When she let her supervisors know that she was transgender and would now be wearing women's clothes, Harris fired her. She sued. Before the Supreme Court issued its decision, in July, she died. But her estate continued her case.

In December, the Equal Employment Opportunity Commission (EEOC) announced that the court had approved a settlement in the case. Harris will pay \$130,000 in back pay and compensatory damages to Stephens' estate. It will also pay \$120,000 in attorney fees to her attorneys.

Another issue in the case was the fact that Harris provided its front-facing male employees with suits, but provided no such benefits to front-facing female employees until 2014. Under the settlement, the funeral home will pay \$3,705 in clothing benefits to its female employees. Harris will also provide anti-discrimination training to its staff, revise its anti-discrimination policy and implement new procedures for handling discrimination complaints.



Dale Price, trial attorney for the EEOC, said, "The law is now clear that discrimination against an employee because of his or her transgender status is sex discrimination. Employers also cannot discriminate on the basis of sex with regard to providing employees with clothing benefits."

If you have questions about fair employment practices, please call 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.

Landlords Must Engage in Interactive Process with Tenants

The Southwest Fair Housing Council sent testers to a landlord, WG Campana, in Arizona.

The testers, in separate discussions, told the leasing agents that they were looking for an apartment for their deaf grandmother and asked if and how the landlords provided sign language interpreters. The deaf grandmother did not exist.

In one case, a leasing agent told the tester that they had not provided interpreters in the past; deaf tenants had relied on note-writing to communicate. She said that she had never seen a landlord provide interpreters and would have to check resources. A different agent told another tester that they had relied on notes in the past to communicate with deaf tenants. She said she would have to check with the on-site home health agency to see if they provided interpreters and said there would be an additional cost for those services. She later emailed the tester and said they had been able to communicate “well enough” in the past and would “love to work with you and your family.”

The council sued and recently won an initial victory. Campana argued that the testers had no standing to sue, since there was



in fact no deaf grandmother who needed an interpreter. The court said, as courts have routinely said in tester cases, that the council had standing to sue.

The court said that landlords are required under the Fair Housing Act and the Americans with Disabilities Act to engage in an interactive process with tenants with disabilities. As the court said, “a public accommodation should consult with individuals with disabilities whenever possible to determine what type of auxiliary aid is needed to ensure effective communication, but the ultimate discussion as to what measures to take rests with the public

accommodation, provided that the method chosen results in effective communication.” Notes can be an effective way to communicate with a person who is deaf, in some circumstances. The court said there was enough evidence to go to trial on whether the landlord had refused to provide an interpreter in circumstances where notes are not an effective way to communicate.

The case is Southern Fair Housing Council v. WG Campana del Rio SH LLC, 2021 WL 321895 (D.Ct. AR 2021). If you have questions about your rights as a landlord or tenant, please



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School City of Hammond Settles Discrimination Lawsuit

School City of Hammond administers the schools within its district in Hammond, Indiana. In December, it agreed to pay up to \$70,000 and make changes in its policies to settle complaints of disability discrimination.

The Equal Employment Opportunity Commission investigated complaints that School City discriminated against employees with disabilities. It found reasonable cause to believe that School City subjected employees who had been absent for more than seven days to impermissibly broad and comprehensive medical exams. One employee took the exam and failed, but the school did not then consider any reasonable accommodations for this employee.

According to the EEOC, School City also subjected applicants to pre-employment, pre-offer, medical screens called pre-work screen exams and kept medical information in personnel files. The Americans with Disabilities Act allows covered employers to require medical exams for applicants only after making conditional



offers of employment, and requires employers to keep medical information in separate, secure files.

And the EEOC said that School City allowed young employees to return to work after failing the return to work exam, but

required an older employee to either retire or retake the exam.

In addition to paying \$70,000 to settle the complaints, School City agreed to change its policies and to train its employees on the new policies.

UPCOMING BHRC MEETING

Currently, the BHRC meets via Zoom. That link can be found on the City of Bloomington's online calendar at bloomington.in.gov.

The next BHRC meeting will take place at 5:30 p.m. March 22, 2021.