



March 14, 2018

ATTORNEY GENERAL MADIGAN FILES AMICUS BRIEF OPPOSING EMPLOYMENT DISCRIMINATION ON THE BASIS OF SEXUAL ORIENTATION

Madigan Leads Coalition Urging Federal Appellate Court to Declare Workplace Sexual Orientation Discrimination Illegal under Federal Law

Chicago — Attorney General Lisa Madigan today led a coalition of 16 attorneys general in filing an amicus brief arguing that employment discrimination based on sexual orientation violates Title VII of the Civil Rights Act of 1964. In the brief filed with the Eighth Circuit Court of Appeals in the case of *Horton v. Midwest Geriatric Management, LLC*, Madigan urged the court to join a growing number of federal appellate courts in recognizing that Title VII's workplace protections extend to sexual orientation.

Madigan and the other attorneys general argued that recent federal appellate court decisions holding that Title VII bans sexual orientation discrimination are based on the plain wording of the statute, decades of U.S. Supreme Court precedent and common sense. The coalition stressed that the Title VII protections are critical because not all states have enacted laws outlawing sexual orientation discrimination in the workplace and even the existing state laws cannot protect residents who cross state lines to work in other states lacking similar laws.

"While employment discrimination based on sexual orientation is illegal in Illinois and many other states, Title VII plays a critical role in states without this protection," Madigan said. "By recognizing that Title VII bans sexual orientation discrimination, the courts can ensure that individuals in every state are protected from the harm caused by this form of discrimination,"

The coalition argues that Title VII clearly prohibits discrimination that would not have occurred "but for" an employee's sex. Because sexual orientation discrimination would not occur "but for" the employee's sex, it is a form of sex discrimination. Additionally, when an employee experiences discrimination based on the sex of the individual with whom that employee associates, that is a type of discrimination the Supreme Court has long found to be unlawful.

In part, the brief states:

"In Loving v. Virginia, the Supreme Court held that an anti-miscegenation law violated the Equal Protection Clause of the Fourteenth Amendment, concluding that the State of Virginia could not prohibit marriages on the basis of a racial classification. Here, as in Loving, Horton alleges that he was subjected to discrimination based on his association with a member of a protected class, except that sex, rather than race, is the protected class at issue. In other words, treating a man who loves a man worse than a man who loves a woman is a form of sex discrimination."

Madigan and the other attorneys general also urged the Eighth Circuit to recognize that sexual orientation discrimination amounts to discrimination based on an employee's failure to conform to sexual stereotypes associated with their group.

Joining Madigan in filing the brief were the attorneys general of California, Connecticut, District of Columbia, Hawaii, Iowa, Maryland, Massachusetts, Minnesota, New Jersey, New Mexico, New York, Oregon, Vermont, Virginia and Washington.

A copy of the brief can be found [here](#).



