

No. 18-107

IN THE
Supreme Court of the United States

R.G. & G.R. HARRIS FUNERAL HOMES, INC.,

Petitioner,

v.

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION AND AIMEE STEPHENS,

Respondents.

ON WRIT OF CERTIORARI TO THE UNITED STATES
COURT OF APPEALS FOR THE SIXTH CIRCUIT

**AMICI CURIAE BRIEF OF TRANSGENDER LAW
CENTER, CENTER FOR CONSTITUTIONAL
RIGHTS, AND 44 OTHER NON-PROFIT AND
GRASSROOTS ORGANIZATIONS IN SUPPORT
OF RESPONDENT AIMEE STEPHENS
AND AFFIRMANCE**

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INTERESTS OF *AMICI CURIAE*

Amici curiae are Transgender Law Center, the Center for Constitutional Rights, and a diverse group of 44 other non-profit and grassroots organizations from across the country dedicated to eradicating discrimination against transgender and gender non-conforming (hereinafter “transgender”) people and supporting members of the transgender community. *Amici* collectively have operations in 25 states, including Florida, Georgia, Louisiana, Michigan, Illinois, Minnesota, New Mexico, New York, Pennsylvania, Rhode Island, South Carolina, and the District of Columbia. Given their missions and constituencies, *amici* have strong interests in the outcome of this case. *Amici* also are uniquely positioned to aid the Court in understanding how discrimination against transgender people is a form of sex discrimination that relies on impermissible sex stereotypes and other sex-based considerations. Specific information about each of the *amici* can be found in the Appendix.¹

SUMMARY OF THE ARGUMENT

This appeal presents a critical civil rights issue: whether discrimination against individuals because they are transgender is a form of sex discrimination

¹ Pursuant to Supreme Court Rule 37.6, counsel for *amici* certify that they authored this brief in its entirety and that no party or its counsel, nor any other person or entity other than *amici* or their counsel, made a monetary contribution to this brief's preparation or submission. The parties have consented, either through blanket consent or individual consent, to the filing of this brief.

prohibited by Title VII of the Civil Rights Act of 1964 (“Title VII”). *Amici* urge this Court to affirm the Sixth Circuit Court of Appeals and hold that it is. In this brief, *amici* describe the experiences of transgender people to aid the Court in understanding how employment discrimination against transgender people is always discrimination “because of ... sex,” and how transgender people face poverty, criminalization, and hardship when they are turned away from jobs simply because of who they are.

As discussed in this brief, discrimination based on transgender status violates Title VII because transgender status is inherently sex-based. It is impossible to even perceive a person to be transgender without taking sex into account. Accordingly, if an employer makes an adverse employment decision based on an employee’s transgender status, the employer necessarily violates Title VII because the statute requires that sex be irrelevant to employment decisions.

Discrimination based on transgender status also violates Title VII for the independent reason that it is based on the transgender individual’s failure to conform to sex stereotypes. Following this Court’s decision in *Price Waterhouse v. Hopkins*, 490 U.S. 228 (1989), federal courts have long-held that discrimination against *any* person based on sex stereotypes is prohibited by Title VII. Discrimination based on transgender status is no exception. After all, identifying in a manner different than one’s sex assigned at birth is the ultimate failure to conform to sex stereotypes. Federal courts addressing this question have overwhelmingly agreed.

For all these reasons, *amici* respectfully request that this Court affirm the Sixth Circuit Court of

Appeals and hold that (1) Title VII prohibits discrimination based on transgender status because it involves considerations that are inherently sex-based, and (2) Title VII prohibits discrimination against transgender people because it constitutes prohibited sex stereotyping under *Price Waterhouse*.

INTRODUCTION

I. Background On Transgender People In The United States

In the United States, about 1.4 million adults—0.6% of the adult population—and 150,000 youth are transgender.² Included in this figure are transgender men and women, as well as non-binary transgender individuals.³

Transgender people in the United States face pervasive workplace discrimination when seeking employment to support themselves and their families, and thus are twice as likely to experience poverty as

² See Andrew R. Flores, *et al.*, *How Many Adults Identify as Transgender in the United States?*, WILLIAMS INSTITUTE, at 2–3 (June 2016), <https://williamsinstitute.law.ucla.edu/research/how-many-adults-identify-as-transgender-in-the-united-states/>; Andrew R. Flores, *et al.*, *Age of Individuals Who Identify as Transgender in the United States*, WILLIAMS INSTITUTE, at 2–3 (Jan. 2017), <http://williamsinstitute.law.ucla.edu/wp-content/uploads/TransAgeReport.pdf>.

³ A transgender man is a male who was thought to be female when he was born. A transgender woman is a female who was thought to be male when she was born. Non-binary is a term used to refer to transgender people whose gender identity is neither male nor female.

the general population.⁴ In 2015, *amicus* the National Center for Transgender Equality completed a study of approximately 28,000 transgender adults in the United States.⁵ The study revealed approximately one in seven (13%) respondents had lost a job because of anti-transgender bias.⁶ Nearly one-third (30%) of respondents who were employed the year before the survey had faced employment discrimination such as being fired, denied a promotion, harassed, or assaulted on the job because they were transgender.⁷ Rates of workplace discrimination were even higher for transgender people of color and transgender people with disabilities.⁸

Employment discrimination against transgender people contributes to stark economic disparities: in the 2015 U.S. Transgender Survey, nearly one-third (29%) of respondents were living in poverty and 15% were unemployed—three times the rate of the general population at the time the survey was fielded.⁹ The vast majority of respondents (77%) employed the previous year also took proactive measures to mitigate bias, such as hiding their gender identity or delaying their transition, even when it came at the cost of their

⁴ Sandy E. James, *et al.*, *The Report of the 2015 U.S. Transgender Survey*, NAT'L CTR. FOR TRANSGENDER EQUALITY, at 6, 147 (Dec. 2016), <https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf> (hereinafter “2015 U.S. Transgender Survey”).

⁵ *Id.* at 6.

⁶ *Id.* at 149.

⁷ *Id.* at 4.

⁸ *Id.* at 150.

⁹ *Id.* at 5, 141, 144.

financial stability, professional advancement, or health.¹⁰ *Cecilia Chung, a well-known transgender rights activist from San Francisco*, experienced this dilemma first hand: she delayed her transition for over five years while paying her way through college, to avoid losing the income she needed to survive.¹¹

In addition to losing employment opportunities, transgender people face harassment and disparate treatment in the workplace that make it difficult to maintain employment.¹² Examples include being passed up for promotions, despite being qualified; being removed from client-facing positions; being disciplined or terminated for their gender expression; being harassed for using the restroom, thereby rendering the workplace inaccessible and unsafe; being referred to using incorrect gender pronouns and called bigoted names and slurs; and having personal information such as their history of medical treatment shared without consent.¹³

¹⁰ *Id.* at 154.

¹¹ Supporting materials on file with counsel for *amici*.

¹² 2015 U.S. Transgender Survey at 153; *see also* Make the Road N.Y., *Transgender Need Not Apply: A Report on Gender Identity Discrimination* (May 2010), www.maketheroadny.org/pix_reports/TransNeedNotApplyReport_05.10.pdf; Human Rights Campaign Found., *U.S. LGBTQ Paid Leave Survey: Report on the Experiences of Transgender and Non-binary Respondents* (2018), www.hrc.org/resources/2018-us-lgbtq-paid-leave-survey-report-on-the-experiences-of-transgender.

¹³ 2015 U.S. Transgender Survey at 153 (highlighting that nearly one-quarter of respondents reported experiencing one or more of those actions in the prior year because of their transgender status).

Transgender people also experience high levels of workplace harassment, assault, and abuse.¹⁴ In the 2015 U.S. Transgender Survey, 15% of respondents employed in 2014 or 2015 reported being verbally harassed, physically attacked, or sexually assaulted at work because of their sex or gender expression.¹⁵

Amici collectively have received more than 20,000 inquiries from transgender people seeking assistance related to employment discrimination and harassment since January 2015.¹⁶ These patterns of discrimination and harassment have fueled significant economic disparities between transgender people and the general U.S. population, as well as disproportionate rates of homelessness and incarceration, as discussed in Section IV below.

ARGUMENT

I. Discrimination Against Transgender Individuals Is Prohibited By Title VII Because It Is Inherently Because Of Sex.

A. Discrimination Against Transgender Individuals Is *Per Se* Sex Discrimination.

Title VII proscribes discrimination “because of ... sex.” 42 U.S.C. § 2000e–2(a)–(c). Most fundamentally, Title VII protects transgender employees from discrimination because it is impossible to separate transgender status from sex. *See EEOC v. R.G. & G.R.*

¹⁴ *Id.* at 155.

¹⁵ *Id.* at 148.

¹⁶ Supporting materials on file with counsel for *amici*.

Harris Funeral Homes, Inc., 884 F.3d 560, 575 (6th Cir. 2018), *cert. granted*, 139 S. Ct. 1599 (Apr. 22, 2019) (No. 18–107) (“[I]t is analytically impossible to fire an employee based on that employee’s status as a transgender person without being motivated, at least in part, by the employee’s sex.”); *see also Hively v. Ivy Tech. Cmty. Coll. of Ind.*, 853 F.3d 339, 345 (7th Cir. 2017); *Schroer v. Billington*, 577 F. Supp. 2d 293 (D.D.C. 2008). Transgender individuals experience a difference between the sex assigned to them at birth and the sex they know themselves to be. Thus, transgender status is *inherently* sex-based.

If an adverse employment action is taken against a transgender employee that would not have been taken if the person was not transgender, that action violates Title VII because “[g]ender (or sex) is not being treated as ‘irrelevant to employment decisions’ if an employee’s attempt or desire to change his or her sex leads to an adverse employment decision.” *R.G. & G.R. Harris*, 884 F.3d at 576; *see also Price Waterhouse*, 490 U.S. at 240 (finding Title VII’s prohibition on discrimination because of sex “mean[s] that gender must be irrelevant to employment decisions”). This is true even if an employer discriminates equally against transgender employees who are male, female, or non-binary. “Equal opportunity” discrimination is not a defense to Title VII discrimination; it just means an employer is discriminating more than once. After all, “Title VII does not ask whether a particular sex is discriminated against; it asks whether a particular ‘*individual*’ is discriminated against ‘because of such *individual’s* ... sex.” *R.G. & G.R. Harris*, 884 F.3d at 578 (quoting *Zarda v. Altitude Express, Inc.*, 883 F.3d 100, 112 (2d Cir. 2018), *cert. granted*, 139 S. Ct. 1599 (U.S. Apr. 22,

2019) (No. 17–1623) (emphasis in original)); *see also* *L.A. Dep’t of Water & Power v. Manhart*, 435 U.S. 702, 708 (1978) (“The statute’s focus on the individual is unambiguous.”).

This notion applies equally in the context of other characteristics protected by Title VII, such as religious beliefs. For purposes of Title VII, transitioning from living as one sex to another is no different than changing one’s religion. In that context, “an employer who fires an employee because the employee converted from Christianity to Judaism has discriminated against the employee ‘because of religion,’ regardless of whether the employer feels any animus against either Christianity or Judaism, because discrimination ‘because of religion’ easily encompasses discrimination because of a change in religion.” *R.G. & G.R. Harris*, 884 F.3d at 575 (quoting *Schroer*, 577 F. Supp. 2d at 306). While the impetus for the discrimination might be the change in religion, not the specific religion itself, if an employer discriminates against an employee who converted from Christianity to Judaism, the employer has impermissibly used religion to take an adverse employment action in violation of Title VII. *See Macy v. Holder*, Appeal No. 0120120821, 2012 WL 1435995 (EEOC Apr. 20, 2012). No one would argue in good faith that Title VII does not protect religious converts. The same logic applies to transgender individuals: “discrimination ‘because of sex’ inherently includes discrimination against employees because of a change in their sex.”¹⁷ *R.G. & G.R. Harris*, 884 F.3d at 575

¹⁷ As Respondent Stephens explains in her principal brief, this is true regardless of how the term “sex” is defined. *See* Br. for Resp’t Aimee Stephens.

(citing *Schroer*, 577 F. Supp. 2d at 307–08); *see also Fabian v. Hosp. of Cent. Conn.*, 172 F. Supp. 3d 509, 527 (D. Conn. 2016) (drawing similar analogy).

In sum, because consideration of transgender status is inherently sex-based, Title VII protects transgender individuals, and the Sixth Circuit Court of Appeals correctly concluded that Defendant-Petitioner R.G. & G.R. Harris Funeral Homes, Inc. violated Title VII in terminating Respondent Aimee Stephens.

B. Discrimination Against Transgender Individuals Involves Impermissible Sex Stereotyping.

Transgender discrimination also violates Title VII because the statute prohibits employers from taking adverse employment actions based on an employee’s failure to conform to sex stereotypes. Nearly three decades ago, this Court held that Title VII’s proscription of discrimination “because of ... sex” requires that gendered notions of how people “should” behave be irrelevant to employment decisions. *Price*

The argument that Title VII’s drafters did not intend or anticipate that the statute would cover transgender status is unpersuasive. Statutes are regularly interpreted to “go beyond the principal evil 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.” *Oncale v. Sundower Offshores Servs., Inc.*, 523 U.S. 75, 79 (1998). At any rate, the holding in *Price Waterhouse*, 490 U.S. at 240, that sex and gender must be irrelevant to employment decisions obviates any interpretation of Title VII that “reads ‘sex’ to mean only individuals’ ‘chromosomally driven physiology and reproductive function.’” *R.G. & G.R. Harris*, 884 F.3d at 578; *accord Smith v. City of Salem*, 378 F.3d 566, 573 (6th Cir. 2014).

Waterhouse, 490 U.S. at 240. In *Price Waterhouse*, Ann Hopkins, a senior manager eligible for promotion to partner, was passed over and her candidacy was deferred until the following year. *Id.* at 232. When Hopkins was not considered for partnership the following year, she sued Price Waterhouse alleging sex discrimination under Title VII. *Id.* The evidence revealed Hopkins was praised by the partners in her office for her character and accomplishments, but was criticized for being aggressive and abrasive at times. *Id.* at 235. She was described as “macho” and disparaged because she did not “walk ... femininely, talk ... femininely, dress ... femininely, wear make-up, have her hair styled, [or] wear jewelry.” *Id.* Holding that Hopkins could state a claim for sex discrimination under Title VII, even though she was not discriminated against because she was a woman *per se*, this Court wrote:

[W]e are beyond the day when an employer could evaluate employees by assuming or insisting that they matched the stereotype associated with their group, for in forbidding employers to discriminate against individuals because of their sex, Congress intended to strike at the entire spectrum of disparate treatment of men and women resulting from sex stereotypes.

Id. at 251 (internal quotation marks, alteration, and citations omitted); *see also id.* at 259 (White, J., concurring); *id.* at 272-73 (O'Connor, J., concurring).

Since that watershed decision, federal courts uniformly recognize that a plaintiff may bring a

discrimination claim under Title VII based on their failure to conform to traditional gender roles and sex stereotypes. *See, e.g., EEOC v. Boh Bros Constr. Co.*, 731 F.3d 444, 454 (5th Cir. 2013) (*en banc*) (finding employee who was subjected to sex-based epithets, lewd gestures, and other harassment because of perceived lack of masculinity could state a claim for sex discrimination under Title VII); *Smith*, 378 F.3d at 575 (finding allegations that employee was discriminated against based upon gender non-conforming behavior and appearance were actionable under Title VII); *Schwenk v. Hartford*, 204 F.3d 1187, 1202 (9th Cir. 2000) (concluding that Title VII encompasses instances in which “the perpetrator’s actions stem from the fact that he believed that the victim was a man who ‘failed to act like’ one” and that “sex” under Title VII encompasses both the anatomical differences between men and women and the sex the victim identifies as or is perceived as being); *Rosa v. Park W. Bank & Tr. Co.*, 214 F.3d 213 (1st Cir. 2000) (applying *Price Waterhouse* and Title VII jurisprudence to an Equal Credit Opportunity Act claim and reinstating claim on behalf of a plaintiff who alleged that he was denied an opportunity to apply for a loan because was dressed in “traditionally feminine attire”); *Higgins v. New Balance Athletic Shoe, Inc.*, 194 F.3d 252, 261 n.4 (1st Cir. 1999) (explaining that employees have an actionable Title VII claim where they were discriminated against because they “did not meet stereotyped expectations of femininity” or “stereotypical expectations of masculinity” (internal citation omitted)); *Doe v. Belleville*, 119 F.3d 563, 580–81 (7th Cir. 1997) (holding “Title VII does not permit an employee to be treated adversely because his or her appearance or

conduct does not conform to stereotypical gender roles,” and explaining “a man who is harassed because his voice is soft, his physique is slight, his hair long, or because in some other respect he exhibits his masculinity in a way that does not meet his coworkers’ idea of how men are to appear and behave, is harassed ‘because of his sex’”), *vacated and remanded on other grounds*, 523 U.S. 1001 (1998).¹⁸

The same should hold for plaintiffs alleging discrimination based on transgender status due to perceived gender non-conformity. These protections “are afforded to everyone, [therefore] they cannot be denied to a transgender individual.” *Glenn v. Brumby*, 663 F.3d 1312, 1319 (11th Cir. 2011). The analysis cannot, and should not, change just because the plaintiff alleging discrimination is transgender. After all, “[b]y definition, a transgender individual does not conform to the sex-based stereotypes of the sex that he or she was assigned at birth.” *Whitaker v. Kenosha Unified Sch. Dist. No. 1*, 858 F.3d 1034, 1048 (7th Cir. 2017).

Indeed, the U.S. Equal Employment Opportunity Commission (“EEOC”) reached this very conclusion in the case of *Mia Macy*. Ms. Macy, a transgender military veteran and former police detective of eighteen years, was denied a position at the Bureau of Alcohol, Tobacco, Firearms and Explosives after disclosing she was transgender and in the process of transitioning. As Ms. Macy explained, “I was stripped

¹⁸ Although *Doe* was vacated, the Seventh Circuit and other courts have continued to rely on it because its holding that same-sex sexual harassment is actionable under Title VII subsequently was confirmed by this Court in *Oncale*. See, e.g., *Hively*, 853 F.3d at 341.

of my career because I didn't fit my colleagues' definition of a woman. I made them uncomfortable. They didn't want to eat near me or to share a water fountain or other facilities with me." Ms. Macy added: "This wasn't the 1960s; it was an American government agency a mere nine years ago."¹⁹

After Ms. Macy filed a complaint, the EEOC issued a decision holding that Title VII's prohibition on sex discrimination reaches discrimination against transgender persons. *See Macy*, 2012 WL 1435995, at **9–10. As the EEOC held, identifying in a manner different from one's sex assigned at birth is the ultimate failure to conform to sex stereotypes, so it is impossible to separate discrimination based on transgender status from discrimination based on gender non-conformity. *See id.*; *see also R.G. & G.R. Harris*, 884 F.3d at 576–77; *Glenn*, 663 F.3d at 1316 (“[T]he very acts that define transgender people as transgender are those that contradict stereotypes of gender-appropriate appearance and behavior.” (quoting Ilona M. Turner, *Sex Stereotyping Per Se: Transgender Employees and Title VII*, 95 CAL. L. REV. 561, 563 (2007))). The EEOC decision thus made it clear that an employer violates Title VII and engages in unlawful discrimination if the employer subjects a transgender employee to an adverse employment action based on a perceived failure to conform to gender norms. *See R.G. & G.R. Harris*, 884 F.3d at 574; *accord Macy*, 2012 WL 1435995 (EEOC affirming Title VII's scope).

Oncala v. Sundowner Offshore Services, Inc. lends further support to this interpretation by underscoring the ways that Title VII “evinces a congressional intent

¹⁹ Supporting materials on file with counsel for *amici*.

to strike at the entire spectrum of disparate treatment of men and women in employment.” 523 U.S. at 78. In holding that Title VII prohibits same-sex harassment, the Court rejected the idea that Title VII only prohibits the type of sex discrimination that Congress specifically considered. The Court recognized that same-sex harassment was not “the principal evil” Title VII sought to address, but it was nevertheless prohibited by the statute, which can “go beyond the principal evil to cover reasonably comparable evils.” *Id.* at 79.

Accordingly, after *Price Waterhouse* and *Oncale*, no employee, including a transgender employee, can be subjected to adverse employment actions because of the employee’s failure to conform to gender norms and sex stereotypes. The Sixth Circuit Court of Appeals therefore properly affirmed the district court’s conclusion that Title VII protects transgender individuals like Ms. Stephens from discrimination based on nonconformity to sex stereotypes.

II. The Experiences Of Transgender Employees Confirm That Discrimination Against Transgender Individuals Inherently Involves Sex-Based Considerations.

As the following personal accounts of transgender employees and job applicants reveal, discrimination against transgender people is undeniably discrimination “because of ... sex.” 42 U.S.C. § 2000e–2(a)–(c).

A. Transgender Job Applicants Are Wrongfully Denied Employment Opportunities.

Transgender individuals face discrimination in all phases of employment, even where they possess all necessary job qualifications. Transgender job applicants are routinely denied employment after they disclose, or an employer otherwise learns that they are transgender. For instance, *Tristan Broussard, a transgender man from Louisiana*, impressed hiring officials while interviewing for a manager-trainee position at a local bank and received a job offer the very same day.²⁰ Mr. Broussard was excited about the position and saw it as an opportunity to advance his career. However, when his employer learned he was transgender from paperwork that described him as female, Mr. Broussard's employment prospects suddenly dried up. Management presented Mr. Broussard with a typewritten statement that would have forced him to acknowledge that his "preference to act and dress as male, despite having been born a female, is not something that will be in compliance with [] personnel policies."²¹ When Mr. Broussard refused to

²⁰ *Broussard v. Tower Loan, et al.*, No. 2:15-cv-01161 (E.D. La.), at ECF No. 1 (Complaint), *available at* www.splcenter.org/sites/default/files/d6_legacy_files/downloads/case/complaint_3.pdf (last visited June 20, 2019).

²¹ Andy Grimm, *Lake Charles transgender man sues Tower Loan after boss insists he dress as a woman*, NOLA.COM (Apr. 13, 2015), www.nola.com/crime/2015/04/lake_charles_transgender_man_s.html.

sign the acknowledgment, feeling gutted, his employment was terminated.²²

Unfortunately, Mr. Broussard is not the only transgender person who has been illegally denied a job “because of ... sex.” ***Jessie Dye, a transgender woman from Alabama***, was hired to work at a local nursing home, but was terminated in the middle of orientation because she “looked one way” and was “another way” on paper, according to the employer.²³ ***Candi, a transgender woman from Illinois***, applied for a job as a flight attendant, only to be told that the company does not hire “those kinds of people.”²⁴ ***Hana, a non-binary person from Illinois***, was denied a receptionist position because they did not have the “right look.”²⁵ ***Elijah, a transgender man from Washington***, has been fired or denied jobs more than a half dozen times because of his sex. Recounting one such occasion, Elijah shared: “I was working at a small coffee shop in college. I had only worked a few days when the owner discovered I was trans and told me I wasn’t welcome there anymore and that my ‘situation’ made him too uncomfortable.”²⁶ ***Jayson, a transgender man from Wisconsin*** who has also been turned away from jobs at least five times, said of employers: “I was always told that I would be making

²² *Id.*

²³ Jeremy Gray, *Transgender Alabama woman fired from nursing home receives settlement*, AL.COM (Sept. 10, 2015), www.al.com/news/2015/09/alabama_transgender_woman_wins.html.

²⁴ Supporting materials on file with counsel for *amici*.

²⁵ Supporting materials on file with counsel for *amici*.

²⁶ Supporting materials on file with counsel for *amici*.

people uncomfortable and they didn't want to hire me because they would lose business. I was given the same reason for being fired."²⁷

Likewise, *Kylar,* a transgender man from Ohio*, and *Vin, a nonbinary person from Washington*, each have had job interviews end abruptly as soon as they disclosed they were transgender, and have lost employment opportunities multiple times because of who they are.²⁸ Transgender employees in the federal sector also have seen job offers evaporate because of their sex. For instance, *Diane Schroer, a transgender woman from Virginia* and a highly decorated military veteran, received a coveted position at the Library of Congress, only to have it revoked once she revealed she was transgender.²⁹ *Kristine, a transgender woman from New Jersey*, was also terminated and denied civil service appointments for which she was highly qualified after transitioning.³⁰

Each of these incidents is unlawful discrimination “because of ... sex” under Title VII, because the transgender job applicants in question were refused employment based on their sex and/or perceived non-

²⁷ Supporting materials on file with counsel for *amici*.

²⁸ Supporting materials on file with counsel for *amici*. Where asterisks appear, pseudonyms have been used to safeguard the individual's privacy.

²⁹ Am. Civil Liberties Union, *Federal Court Sides With ACLU, Ruling That Refusing To Hire Transgender People Is Discriminatory* (Sept. 19, 2008), www.aclu.org/press-releases/transgender-veteran-wins-sex-discrimination-lawsuit-against-library-congress?redirect=news/transgender-veteran-wins-sex-discrimination-lawsuit-against-library-congress.

³⁰ Supporting materials on file with counsel for *amici*.

conformity with sex stereotypes. 42 U.S.C. § 2000e–2(a)–(c).

Some courageous individuals, like *Mia Macy*, discussed above, have challenged the discrimination they encountered through legal action and established new norms regarding the treatment of transgender employees. For example, reflecting on the broader significance of her legal battle before the EEOC, Ms. Macy stated:

My wife and I fought this and won. We made sure that rules and protections applied equally to *everyone*. ... About once a week I'm contacted by strangers who tell me they were able to pay their rent, feed their children, or make a car payment because of the workplace protections we fought for. There are people that would be homeless if they hadn't talked to their human resources office and learned that they had recourse. And no matter what it has cost me personally, knowing that we have helped cops, firewomen, nurses, truck drivers, and school teachers makes it all worthwhile. They just want to pursue their dreams, provide for their families, *and have the same shot at happiness as anyone else*.³¹

³¹ Supporting materials on file with counsel for *amici*.

B. Transgender Employees Frequently Experience Job Loss After They Transition.

Discrimination against transgender people is not limited to the hiring process. Like Ms. Stephens in the case before the Court, many transgender employees experience job loss after coming out as transgender to their long-time employers. For instance, *De, a transgender woman from Virginia*, saw her career as an international business consultant come to an end after she disclosed she was transgender.³² Prior to coming out, De worked as a consultant for nearly a decade at a Boston-based investment firm, earning \$50,000 a year in bonuses alone. However, De went on business trips with two sets of luggage: one containing her “cover” wardrobe, and the other one containing a wardrobe that matched her identity. Over time, living this way became too difficult for De to bear. As she explained, “my only options were to die a slow painful death, or to choose to live my authentic life in peace.” She chose the latter.

De notified the company’s Vice President of Human Resources that she was transgender and wanted to “work as a woman,” but was told that management and legal would need to weigh in. De ultimately learned that her firm had decided they could not employ transgender people like her, allegedly due to their conservative client base. After De was terminated, she applied for other jobs, but she faced an onslaught of discrimination and witnessed her career hit a “glass ceiling.” De struggled to survive financially for years, but eventually became homeless.

³² Supporting materials on file with counsel for *amici*.

Terminations like those of De and Ms. Stephens are entirely unrelated to their job performance or qualifications as an employee. Nor are they justified by the purported preference or biases of customers. *See Chaney v. Plainfield Healthcare Ctr.*, 612 F.3d 908, 913 (7th Cir. 2010) (finding defendant’s desire to cater to perceived customer preferences is not a defense under Title VII); *Fernandez v. Wynn Oil Co.*, 653 F.2d 1273 (9th Cir. 1981) (rejecting customer preference defense in sex discrimination context); *Diaz v. Pan Am. World Airways, Inc.*, 442 F.2d 385, 389 (5th Cir. 1971) (same). Instead, they hinge on the precise type of sex-based considerations prohibited under *Price Waterhouse*, 490 U.S. at 240.

Notably, however, some transgender employees have been able to halt discriminatory treatment by alerting their employers to Title VII’s application to transgender people. For instance, ***Gabriel Pelz, a transgender man from Georgia***, faced daily harassment after he transitioned at his job at a restaurant.³³ Mr. Pelz’s employers instructed other employees to refer to him as a woman, not a man, and to avoid using his legal name—humiliating Mr. Pelz and outing him as transgender to restaurant customers. After suffering mistreatment in silence, Mr. Pelz reached out to legal advocates for support. Mr. Pelz’s employers began respecting his rights in the workplace after being advised of the case law on Title VII and its scope, including the EEOC’s decision in *Macy v. Holder*. Mr. Pelz ultimately remained on the job for another two years, which provided critical financial support for him and his daughter.

³³ Supporting materials on file with counsel for *amici*.

C. Transgender Employees Are Frequently Subjected To Harassment And Other Forms Of Disparate Treatment.

In addition to being terminated and denied employment at elevated rates, transgender people also endure harassment on the job because of their sex or perceived violation of sex stereotypes. When *Nick, a transgender man who works in Kentucky*, began a new job in law enforcement, his supervisor repeatedly called him “ma’am” instead of “sir,” interrogated him about his body and asked whether he “had any surgeries to get male parts?,” and referring to his driver’s license, told him “just because it says you’re male on a little piece of plastic doesn’t mean you’re a male.”³⁴

Carter, a transgender man from Texas, became the subject of cruel harassment, after two years of exemplary performance at his real estate job, when a coworker disclosed his transgender status to his coworkers without his permission.³⁵ His colleagues subjected him to invasive interrogations about his genitalia, tried to bar him from the men’s restroom, and excluded him from networking lunches. Carter was also accosted by coworkers who insisted that he was “really a woman” and demanded his personal medical information. In spite of his professional achievements, Carter was soon fired—an action that jeopardized the well-being of his family, including his child.

³⁴ Supporting materials on file with counsel for *amici*.

³⁵ Supporting materials on file with counsel for *amici*.

*Victoria, * a transgender woman from Ohio*, has also endured daily harassment from coworkers because of her sex.³⁶ When Victoria complained to management that coworkers were discussing their violent fantasies involving transgender women and making comments about her body, they refused to take action; instead, Victoria was summarily fired.

*Jay, * a transgender man from New York*, likewise endured horrific harassment from coworkers that ultimately culminated in him being sexually assaulted on the job. Instead of intervening on Jay's behalf, management fired Jay two days after he reported the incident. Although five years have elapsed, Jay still becomes upset whenever he sees the company's logo prominently displayed throughout the city.³⁷

*Jasmine, * a transgender woman from Georgia*, worked at a call center where her coworkers and supervisor made their disdain for her palpable: Jasmine's coworkers socially ostracized her, constantly referred to her as though she were male, and some even refused to use the restroom after her. Her supervisor also forcibly removed a lapel pin Jasmine wore to indicate that she uses feminine pronouns, and informed Jasmine that her coworkers "could take their time" when it came to respecting her gender identity.³⁸

Transgender people also experience disparate treatment "because of ... sex": *Jackson, a non-binary person from New York City*, has been excluded from

³⁶ Supporting materials on file with counsel for *amici*.

³⁷ Supporting materials on file with counsel for *amici*.

³⁸ Supporting materials on file with counsel for *amici*.

projects and ostracized and avoided at work by colleagues. *Vin, the non-binary person from Washington* discussed above, has also been denied promotions and job opportunities that would aid the progress of their career.³⁹

Angela, a transgender woman from New Jersey, was sent home when she came to work in a dress and told to come to work dressed as a man.⁴⁰ Angela felt as though she was being forced to “choose between my livelihood and my life.” Angela complied despite feeling helpless and humiliated, but suffered an even greater humiliation once she finished her shift: she received a call from her employer saying not to return to work because she was being terminated effective immediately. Angela currently runs a small business out of her home because she “would sooner die than go on a job interview again.”

The discrimination that employees like Angela and Carter experienced is undeniably discrimination “because of ... sex,” because it hinges on societal expectations about how employees should act and behave based on stereotyped perceptions of sex—the very form of discrimination prohibited by *Price Waterhouse*.

III. Federal Courts Overwhelmingly Agree That Discrimination Based On Transgender Status Is Unlawful Under Title VII.

Federal courts that have considered the interplay between Title VII and discrimination against

³⁹ Supporting materials on file with counsel for *amici*.

⁴⁰ Supporting materials on file with counsel for *amici*.

transgender people easily have found that such discrimination unlawfully relies on the very same gender-based considerations prohibited by this Court in *Price Waterhouse* and *Oncale*. See, e.g., *Smith*, 378 F.3d at 575 (holding discrimination against transgender people “is no different from the discrimination directed against Ann Hopkins in *Price Waterhouse*, who, in sex-stereotypical terms, did not act like a woman”); see also *R.G. & G.R. Harris*, 884 F.3d at 572; *Chavez v. Credit Nation Auto Sales, LLC*, 641 F. App’x 883, 884 (11th Cir. 2016); *Glenn*, 663 F.3d at 1316; *Barnes v. City of Cincinnati*, 401 F.3d 729, 741 (6th Cir. 2005). The First, Sixth, Seventh, Ninth and Eleventh Circuits all have concluded that discrimination against transgender individuals based on gender nonconformity is impermissible sex discrimination under federal anti-discrimination statutes and the U.S. Constitution. See *Rosa*, 214 F.3d at 215–16; *R.G. & G.R. Harris*, 844 F.3d at 572; *Barnes*, 401 F.3d at 741; *Smith*, 378 F.3d at 575; *Whitaker*, 858 F.3d at 1047–50; *Chavez*, 641 F. App’x at 884; *Glenn*, 663 F.3d at 1316; *Schwenk*, 204 F.3d at 1200–02. The Tenth Circuit also left open an avenue for a transgender employee to bring a claim for discrimination under Title VII where they face adverse action based on their perceived nonconformity to sex stereotypes. See *Etsitty v. Utah Transit Auth.*, 502 F.3d 1215, 1224 (10th Cir. 2007); see also *Tudor v. Se. Okla. State Univ.*, No. CIV–15–324–C, 2017 WL 4849118 (W.D. Okla. Oct. 26, 2017) (denying defendants’ motion for summary judgment on plaintiff’s claim that she was discriminated against

based on her transitioning status in violation of Title VII).⁴¹

Numerous district courts across the country also have found that a transgender individual may bring claims under Title VII when they allege discrimination due to nonconformity with sex stereotypes. *See, e.g., EEOC v. A&E Tire, Inc.*, 325 F. Supp. 3d 1129, 1135 (D. Colo. 2018); *Parker v. Strawser Constr., Inc.*, 307 F. Supp. 3d 744, 755–60 (S.D. Ohio. 2018); *Roberts v. Clark Cty. Sch. Dist.*, 215 F. Supp. 3d 1001, 1014 (D. Nev. 2016); *Fabian*, 172 F. Supp. at 527; *Finkle v. Howard Cty.*, 12 F. Supp. 3d 780, 788 (D. Md. 2014); *Lopez v. River Oaks Imaging & Diagnostic Grp., Inc.*, 542 F. Supp. 2d 653, 660 (S.D. Tex. 2008); *Schroer*, 577 F. Supp. 2d at 305; *Mitchell v. Axcan Scandipharm*, No. Civ. A 05–243, 2006 WL 456173, at *2 (W.D. Pa. Feb. 17, 2006); *Kastl v. Maricopa Cty. Cmty. Coll. Dist.*, No. Civ. 02–1531, 2004 WL 2008954, at *2–3 (D. Ariz. June 3, 2004); *Tronetti v. Healthnet Lakeshore Hosp.*, No. 03–cv–0375, 2003 WL 22757935, at *4 (W.D.N.Y. Sept. 26, 2003).

Thus, following this Court’s precedents in *Price Waterhouse* and *Oncale*, the overwhelming consensus of federal courts holds that employers cannot discriminate against transgender employees because of the employee’s failure to conform to sex stereotypes or gender norms. This plethora of authority bolsters the correctness of the Sixth Circuit’s opinion that Title

⁴¹ Though a panel of the Fifth Circuit disagreed with this line of cases in *Wittmer v. Phillips 66 Co.*, 915 F.3d 328 (5th Cir. 2019), its statements are merely *dicta*, in that it affirmed the district court on other grounds. *Wittmer* is also misguided because it relied on Fifth Circuit precedent predating *Price Waterhouse*. *See Wittmer*, 915 F.3d at 330.

VII protects transgender individuals like Ms. Stephens from discrimination.

IV. A Uniform Interpretation Of Title VII Is Necessary To Avoid The Severe Consequences Of Unremedied Discrimination Against Transgender Individuals.

Affirming the Sixth Circuit’s decision and maintaining a logical, uniform interpretation of Title VII’s scope is vitally important given the consequences of discrimination towards transgender people when not remediated.

A. Transgender People Experience Elevated Rates of Poverty And Homelessness Due To Societal Bias.

Transgender people in the United States currently experience disproportionate levels of poverty and economic insecurity because of the barriers they face to accessing employment.⁴² Transgender individuals experience unemployment at three times the rate of the general population—a rate that climbs to four

⁴² See 2015 U.S. Transgender Survey; see also Ctr. for Am. Progress, *et al.*, *Paying an Unfair Price: The Financial Penalty for Being Transgender in America* (Feb. 2015), www.lgbtmap.org/unfair-price-transgender (hereinafter “*Paying an Unfair Price*”); M.V. Lee, *et al.*, *Bias in the Workplace: Consistent Evidence of Sexual Orientation and Gender Identity Discrimination*, WILLIAMS INSTITUTE (June 2007), <https://williamsinstitute.law.ucla.edu/research/discrimination/bias-in-the-workplace-consistent-evidence-of-sexual-orientation-and-gender-identity-discrimination/> (hereinafter “*Bias in the Workplace*”).

times that of the general population for transgender people of color.⁴³

Studies have also found that transgender people are nearly four times more likely to have a household income under \$10,000 per year (the threshold for extreme poverty) than the general population.⁴⁴ Transgender people of color and people with disabilities report even higher rates of extreme poverty.⁴⁵

Transgender people in the United States also experience disproportionate rates of homelessness because of the barriers they face when trying to access employment.⁴⁶ *Victoria*, the transgender woman from Ohio* discussed above, has been homeless and unemployed for months, and says that, for her, coming out as transgender “pretty much ended any hope for ever having a career.”⁴⁷ *Jade, a 59-year-old transgender woman from San Francisco*, has been

⁴³ 2015 U.S. Transgender Survey at 6, 141.

⁴⁴ Jaime M. Grant, *et al.*, *Injustice at Every Turn: A Report of the National Transgender Discrimination Survey*, NAT’L CTR. FOR TRANSGENDER EQUALITY (2011), https://transequality.org/sites/default/files/docs/resources/NTDS_Report.pdf (hereinafter “2011 U.S. Transgender Survey”).

⁴⁵ 2015 U.S. Transgender Survey at 6, 144 (finding that 21% of people with disabilities, 19% of Black respondents, and 18% of Latino/a respondents reported a household income below \$10,000).

⁴⁶ *Id.* at 174 (revealing that 30% of respondents experienced homelessness, and the rate was nearly twice as high among those who lost their job because of their gender identity or expression and transgender women of color); *see also Paying an Unfair Price; Bias in the Workplace.*

⁴⁷ Supporting materials on file with counsel for *amici*.

homeless for half of her life because of discrimination that prevented her from securing jobs.⁴⁸ Today, job searching is nearly impossible for Jade because of her lack of employment history.

Cecilia Chung, the transgender activist from San Francisco previously discussed above, saw her high-powered career in finance end when she transitioned in the early 1990's. After being forced out of corporate America, she became homeless and was forced to turn to sex work to survive, despite having a bachelor's degree in International Business Management. Being homeless and engaging in sex work made Cecilia a frequent target of violence, and she turned to self-medicating to get through each day. During this time, Cecilia found out she was living with HIV. Reflecting on her experience, Cecilia says:

I felt defeated and hopeless. It was very painful to survive each day not knowing where my income would come from, what danger I would face, or whether I would eat.

Jade, Victoria, and Cecilia's stories exemplify a broader trend: in the 2015 U.S. Transgender Survey, 30% of respondents experienced homelessness in their lifetime for reasons related to their gender, and 12% experienced homelessness in the past year.⁴⁹ Rates of homelessness were even higher among transgender people of color—especially transgender women of color—as a majority of Native American, Black, and

⁴⁸ Supporting materials on file with counsel for *amici*.

⁴⁹ 2015 U.S. Transgender Survey at 178.

multiracial women surveyed reportedly experienced homelessness.⁵⁰

Cecilia's story ultimately had a happy ending: after three challenging years, Cecilia secured employment at a non-profit organization where she was able to present her full self. However, discrimination still cost her: even though Cecilia is a well-respected activist and public speaker who also serves as a Commissioner with the San Francisco Department of Public Health, her income is just a sliver of what she earned in finance prior to her transition.

B. Discrimination Pushes Transgender People Into Criminalized Economies And Increases Their Likelihood Of Being Trafficked Or Incarcerated.

Rampant, illegal employment discrimination also forces many transgender people into criminalized, underground economies in order to survive.⁵¹ Just consider *Miss Major Griffin-Gracy, a legendary transgender rights activist* and pioneer of the modern

⁵⁰ *Id.* (finding that 59% of Native American women, 51% of Black women, and 51% of multiracial women had experienced homelessness).

⁵¹ According to the 2015 U.S. Transgender Survey, one in five (20%) transgender people in the sample engaged in sex work, drug sales, or other activities for income, with higher rates for transgender women of color. *Id.* at 158. The vast majority (86%) of respondents who had interacted with police while doing sex work or while suspected of doing sex work faced mistreatment or abuse. *Id.* at 163. Respondents who were currently working in the underground economy faced high rates of violence. For example, 41% were physically attacked just in the previous year, and more than a third (36%) were sexually assaulted during that year. *Id.* at 202, 206.

LGBT Rights movement who helped ignite the Stonewall Riots 50 years ago. Like Cecilia Chung, Miss Major turned to sex work after being repeatedly pushed out of jobs where her gender expression was incessantly policed and regulated.⁵² As she explains:

Employers said that my gender expression was “vile,” “disgusting,” and “annoying.” I was called “an abomination” and “a man in a dress.” I was told I “shouldn’t be walking like a girl.” I was told they did not want the “kind of attention” I would bring to their company. They told me they couldn’t have “my kind” in a place of business.⁵³

Ultimately, sex work alone afforded Miss Major the means to stave off homelessness and the worst ravages of poverty.⁵⁴

Discrimination and bias forced *Tracy, a transgender woman from Mississippi*, to embark on a

⁵² Jessica Stern, *This is What Pride Looks Like: Miss Major and the Violence, Poverty, and Incarceration of Low-Income Transgender Women*, SCHOLAR & FEMINIST ONLINE (Fall 2011/Spring 2012), <http://sfonline.barnard.edu/a-new-queer-agenda/this-is-what-pride-looks-like-miss-major-and-the-violence-poverty-and-incarceration-of-low-income-transgender-women/0/>.

⁵³ Supporting materials on file with counsel for *amici*.

⁵⁴ Today, Miss Major is based in Arkansas, where she runs the Griffin-Gracy Educational Retreat & Historical Center (a.k.a. House of GG), a first of its kind retreat center for transgender people working for social justice in the South. *See* House of G.G., *Safe Haven For Our Trans Community*, <http://bit.ly/HouseofGG> (last visited June 24, 2019).

similar journey.⁵⁵ Tracy began supporting herself at the age of 17 when she was rejected by her family, initially through low-wage food service jobs. However, when Tracy publicly transitioned at the age of 20, she lost access to even low wage work. Employers repeatedly felt emboldened to discriminate against Tracy because courts in Mississippi have yet to clarify that Title VII extends to transgender workers. Tracy was harassed and pushed out of a series of jobs at fast food restaurants and meat processing plants because she was transgender. At one job, Tracy was subjected to daily ridicule by coworkers who referred to her as a man and called her slurs in front of customers. Management did not intervene. After months of harassment that went unchecked, Tracy was terminated while her harassers remained on the job.

Losing access to steady employment meant Tracy was unable to afford healthcare or medication, including the hormone replacement therapy critical to her well-being. Tracy was ultimately forced to turn to sex work, even though she detested it, because recurrent workplace discrimination deprived her of another means to support herself. Tracy continues to seek employment in the formal economy, but roadblocks remain: most recently, Tracy secured a job at a daycare center, but was terminated on her first day after her new employee paperwork disclosed the male name and sex assignment given to her at birth.⁵⁶

Unfortunately, Tracy's story of economic hardship is not unique: *Sabastian, a transgender man from the Bronx*, engaged in sex work after being laid off in

⁵⁵ Supporting materials on file with counsel for *amici*.

⁵⁶ Supporting materials on file with counsel for *amici*.

order to avoid becoming homeless.⁵⁷ *Kat, a non-binary person from Arizona*, had to donate plasma to survive after losing work due to discrimination.⁵⁸ *Angelica, a transgender woman from South Carolina* whose career as a media executive has been “in ruins” ever since she came out, recently filed for Chapter 7 bankruptcy and is thinking about engaging in sex work to survive.⁵⁹

The widespread incidence of workplace discrimination and bias also restricts the ability of transgender people to leave unsafe and undesirable jobs. *Nick, the transgender law enforcement officer in Kentucky* discussed above, remained at his job for months, despite being terrorized by management, because “finding a job while transitioning is almost impossible.”⁶⁰ And, in the 2015 U.S. Transgender Survey, 26% of the respondents reported they stayed at a job they would have preferred to leave for fear of encountering discrimination elsewhere.⁶¹

Transgender people face heightened vulnerability to exploitation and trafficking for similar reasons.⁶²

⁵⁷ Supporting materials on file with counsel for *amici*.

⁵⁸ Supporting materials on file with counsel for *amici*.

⁵⁹ Supporting materials on file with counsel for *amici*.

⁶⁰ Supporting materials on file with counsel for *amici*.

⁶¹ 2015 U.S. Transgender Survey at 154 (reporting even higher rates for American Indian, Black, Latino/a, and disabled individuals).

⁶² While there is currently little data on the rates of trafficking of transgender people, anecdotal evidence suggests that job insecurity and financial precarity also make transgender people more vulnerable to human trafficking. See Lynly S. Egyes, *Borders and Intersections: The Unique Vulnerabilities of LGBTQ Immigrants to Trafficking*, in BROADENING THE SCOPE

Jasmine, the transgender woman from Georgia discussed above, was trafficked by an abusive boyfriend and forced to return to sex work after she was fired from her job. Once, when Jasmine refused to see a client, her boyfriend broke her leg. Today, Jasmine is living with HIV, but is unable to afford medication due to her loss of income.⁶³

The discrimination that transgender people routinely face has also given rise to a “discrimination-to-incarceration pipeline” whereby transgender people deprived of economic opportunity become overrepresented in prisons and jails.⁶⁴ According to one survey, one out of six transgender people (or 16%) have been incarcerated at some point in their lives—a rate that skyrockets to 47% among Black transgender people.⁶⁵ Transgender people are frequently incarcerated for poverty-related offenses like theft and survival sex-work.⁶⁶ Transgender people—

OF HUMAN TRAFFICKING, at 181–82 (Eric C. Heil & Andrea J. Nichols eds., 2016).

⁶³ Supporting materials on file with counsel for *amici*.

⁶⁴ See, e.g., Ctr. for Am. Progress, *et al.*, *Unjust: How the Broken Criminal Justice System Fails LGBT People of Color*, (Aug. 2016), www.lgbtmap.org/file/lgbt-criminal-justice-poc.pdf (hereinafter “Unjust”); Christy Mallory, *et al.*, *Discrimination and Harassment by Law Enforcement Officers in the LGBT Community*, WILLIAMS INSTITUTE (Mar. 2015), <http://williamsinstitute.law.ucla.edu/wp-content/uploads/LGBT-Discrimination-and-Harassment-in-Law-Enforcement-March-2015.pdf>.

⁶⁵ 2011 U.S. Transgender Survey at 163.

⁶⁶ See Amnesty Int’l, *Stonewalled: Police abuse and misconduct against lesbian, gay, bisexual and transgender people in the U.S.* (Sept. 21, 2005), www.amnesty.org/en/documents/AMR51/122/2005/en/; Catherine Hanssens, *et al.*, *A Roadmap For Change:*

particularly transgender women of color—are routinely arrested on mere suspicion that they are sex workers, pursuant to archaic anti-loitering statutes that effectively criminalize people for “walking while transgender.”⁶⁷ One-third (33%) of the Black transgender women surveyed in the 2015 U.S. Transgender Survey were profiled as sex workers by law enforcement within the prior year.⁶⁸ One example illustrating this trend is *Monica Jones, a transgender woman from Arizona*, who was convicted for “manifesting prostitution” simply for accepting a ride from an undercover officer.⁶⁹

Federal Policy Recommendations for Addressing the Criminalization of LGBT People and People Living with HIV (May 2014), www.law.columbia.edu/sites/default/files/microsites/gender-sexuality/files/roadmap_for_change_full_report.pdf.

⁶⁷ See, e.g., Chinyere Ezie, *Rainbow Police*, WASHINGTON POST (June 20, 2019), www.washingtonpost.com/graphics/2019/opinions/pride-for-sale/ (noting that transgender women in New York State have been arrested for as little as waving, “wearing a skirt” or “standing somewhere other than a bus stop or taxi stand.”); Ginia Bellafante, *Poor, Transgender and Dressed for Arrest*, N.Y. TIMES (Sept. 30, 2016), www.nytimes.com/2016/10/02/nyregion/poor-transgender-and-dressed-for-arrest.html; Make the Road N.Y., *Transgressive Policing: Police Abuse of LGBTQ Communities of Color in Jackson Heights* (Oct. 2012), www.maketheroadny.org/pix_reports/MRNY_Transgressive_Policing_Full_Report_10.23.12B.pdf.

⁶⁸ U.S. Transgender Survey at 187.

⁶⁹ Megan Cassidy, *Phoenix transgender woman’s conviction in prostitution case is thrown out*, AZCENTRAL.COM (Jan. 26, 2015), www.azcentral.com/story/news/local/phoenix/2015/01/26/judge-vacates-transgender-activists-conviction-prostitution-case/22380437/.

Once in prison, transgender people face tremendous abuse and depravity from inmates as well as from the state.⁷⁰ Data collected by the Bureau of Justice Statistics at the Department of Justice reveals an unconscionable level of violence against transgender people in prisons and jails: in the previous year alone, 40% of transgender people in state and federal prisons had been sexually assaulted by other inmates or by facility staff, more than ten times the rate in the general population in prisons and jails.⁷¹

For instance, *Ashley Diamond, a transgender woman from Georgia*, who was repeatedly turned away from jobs, was sent to prison after she resorted to writing bad checks as a means of survival. While incarcerated, Ms. Diamond was brutally raped, denied necessary medical care, and forced to de-transition by prison officials who denied her hormone therapy while

⁷⁰ See generally Jason Lydon, *et al.*, *Coming Out of Concrete Closets: A Report on Black & Pink's National LGBTQ Survey*, BLACK & PINK (Oct. 2015), www.blackandpink.org/coming-out-of-concrete-closets; see also *Unjust* at 24–32.

⁷¹ Allen J. Beck, *et al.*, *Sexual Victimization in Prisons and Jails Reported by Inmates, 2011–12: Supplemental Tables: Prevalence of Sexual Victimization Among Transgender Adult Inmates*, U.S. DEP'T OF JUSTICE, OFFICE OF JUSTICE PROGRAMS, BUREAU OF JUSTICE STATISTICS (Dec. 2014), www.bjs.gov/content/pub/pdf/svpjri1112_st.pdf. By contrast, an estimated 4% of state and federal prison inmates and 3.2% of jail inmates experienced sexual victimization during the same period. See Allen J. Beck, *et al.*, *Sexual Victimization in Prisons and Jails Reported by Inmates, 2011–12: National Inmate Survey, 2011–12*, U.S. DEP'T OF JUSTICE, OFFICE OF JUSTICE PROGRAMS, BUREAU OF JUSTICE STATISTICS (May 2013), www.bjs.gov/content/pub/pdf/svpjri1112_st.pdf.

also mocking her.⁷² Reflecting on her journey through employment discrimination and unemployment that eventually led her to prison, Ms. Diamond stated: “Every day I struggle with trying to stay alive and not wanting to die. Sometimes I think being a martyr would be better than having to live with all this.”⁷³ *Passion Star, a transgender woman from Texas*, also faced extensive abuse in prison.⁷⁴ She was regularly raped, beaten, threatened, and forced into sexual relationships with inmates. At one point, another inmate repeatedly slashed her with a razor, requiring 36 stitches on her face and forehead.

The wrongful discrimination that leads to incarceration detailed above creates additional forms of social exclusion for transgender people: transgender people released from prison or jail in most jurisdictions may be lawfully denied job opportunities on the basis of their criminal records. These structural barriers push many transgender people further into underground economies, thus perpetuating a cycle of poverty, unemployment, criminalization, and violence.⁷⁵

⁷² Deborah Sontag, *Transgender Woman Cites Attacks and Abuse in Men’s Prison*, N.Y. TIMES (Apr. 5, 2015), www.nytimes.com/2015/04/06/us/ashley-diamond-transgender-inmate-cites-attacks-and-abuse-in-mens-prison.html.

⁷³ *Id.*

⁷⁴ Johnathan Silver, *For transgender inmate who sued over abuse, parole and maybe a settlement*, TEX. TRIBUNE (Dec. 17, 2016), www.star-telegram.com/news/state/texas/article121521387.html.

⁷⁵ See 2015 U.S. Transgender Survey at 5, 153, 184.

C. Discrimination Also Jeopardizes The Health And Well-Being Of Transgender Individuals.

Unsurprisingly, the discrimination that transgender people face also exacts a mental toll. *Angelica, the transgender media executive from South Carolina* discussed above, has suffered from severe clinical depression since she was terminated from her job for coming out as transgender.⁷⁶ *Alyna, a transgender woman from Wisconsin*, who has been denied employment more than six times because she is transgender, recently attempted suicide and continues to suffer from anxiety, depression, and post-traumatic stress disorder because of her experiences with discrimination.⁷⁷ These problems are not isolated: 40% of transgender people surveyed in 2015 had attempted suicide in their lifetime—nearly nine times the attempted suicide rate in the U.S. population (4.6%).⁷⁸ Thus, discrimination against transgender people is often a life and death matter.

CONCLUSION

As evidenced by the stories of the transgender employees and job applicants shared in this brief, discrimination against transgender people is

⁷⁶ Supporting materials on file with counsel for *amici*.

⁷⁷ Supporting materials on file with counsel for *amici*.

⁷⁸ 2015 U.S. Transgender Survey at 5. Transgender people surveyed in 2015 were also nearly eight times more likely to be experiencing serious clinical distress than the general population, and nearly twelve times as likely to have attempted suicide in the previous year. *Id.* at 105, 112.

irrefutably discrimination “because of ... sex.” Transgender people need and deserve the same protections from discrimination based on sex and sex stereotyping in the workplace that other employees enjoy.

The precariousness that transgender people experience when denied equal access to jobs further underscores the importance of the case at bar. Instead of the Court carving out an unprecedented “transgender” exception into Title VII’s statutory scheme, *amici* respectfully request that this Court affirm the opinion of the Sixth Circuit Court of Appeals and hold that (1) Title VII prohibits discrimination based on transgender status because it involves considerations that are inherently sex-based, and (2) Title VII prohibits discrimination against transgender people because it constitutes prohibited sex stereotyping under *Price Waterhouse v. Hopkins*.

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APPENDIX IDENTIFYING ALL 46 *AMICI CURIAE*

Center for Constitutional Rights (“CCR”) is a national, non-profit legal, educational, and advocacy organization dedicated to advancing and protecting the rights guaranteed by the United States Constitution and international law. Founded in 1966 to represent civil rights activists in the South, CCR has a long history of litigating cases on behalf of those with the fewest protections and least access to legal resources, including LGBTQI communities of color impacted by discrimination. CCR is co-counsel for *amici*.

Transgender Law Center (“TLC”) was founded in 2002 and is the largest national trans-led organization advocating self-determination for all people. Grounded in legal expertise and committed to racial justice, TLC employs a variety of community-driven strategies to keep transgender and gender nonconforming (“TGNC”) people alive, thriving, and fighting for liberation. TLC also pursues impact litigation and policy advocacy to defend and advance the rights of TGNC people, transform the legal system, minimize immediate threats and harms, and educate the public about issues impacting our communities. TLC is co-counsel for *amici*.

Ackerman Institute for the Family (“Ackerman”) is one of the premier institutions for family therapy and one of the best-known and most highly regarded training facilities for family therapists in the United States. Ackerman’s Gender & Family Project (“GFP”)

empowers youth, families, and communities by providing gender affirmative services, training, and research. GFP promotes gender inclusivity as a form of social justice in all the systems involved in the life of the family.

Audre Lorde Project (“ALP”) is a lesbian, gay, bisexual, two spirit, trans and gender non-conforming people of color center for community organizing, focusing on the New York City area. Through mobilization, education, and capacity-building, ALP works for community wellness and progressive social and economic justice. Committed to struggling across differences, ALP seeks to responsibly reflect, represent, and serve its various communities.

BreakOUT! is a New Orleans-based organization that envisions a city where transgender, gender non-conforming, and queer youth of color can live without fear of harassment and discrimination. BreakOUT! supports LGBTQ youth ages 13-25 through healing justice, leadership development, and organizing to end discriminatory policing practices in New Orleans against LGBTQ youth of color and address “feeders” into the criminal justice system (like LGBTQ youth homelessness), stable jobs, and education.

Campaign for Southern Equality (“CSE”) promotes full LGBTQ equality – both legal and lived – across the South. CSE supports LGBTQ Southerners in navigating employment contexts where they lack basic employment protections by providing legal resources, offering trainings in LGBTQ cultural competency to employers, and leading public education efforts on LGBTQ equality.

Casa Ruby is a bilingual LGBTQ organization that provides social services and programs to the most vulnerable in Washington D.C. and surrounding areas. The vision of Casa Ruby, which is run and led by transgender women of color, is to create a world where transgender, genderqueer, and gender non-conforming people pursue their dreams and achieve success in their lives without fear of discrimination, harassment, or violence due to their sexual orientation and/or gender identity/gender expression.

Freedom Overground is a grassroots organization whose mission is to provide support for transgender survivors of assault and incarceration. The organization guides post-incarcerated transgender and gender non-conforming individuals to build lives above the underground economy.

Garden of Peace, Inc., headquartered in Pittsburgh, Pennsylvania, is the only arts organization in the country founded and led by black transgender and queer individuals. Garden of Peace works to center black queer and transgender youth, elevates and empowers the narratives and lived experiences of black youth and their caretakers, and guides revolutionary spaces of healing and truth through art, education, and mentorship.

Gender Benders is a grassroots support and advocacy organization serving approximately 550 transgender and queer individuals across the southeastern United States. Many of its members have dealt with or are currently dealing with issues of employment discrimination, and Gender Benders is

invested in justice, equity, and liberation for all transgender and queer Southerners.

Gender Justice is a nonprofit legal and policy advocacy organization based in the Midwest that is committed to the eradication of gender barriers through impact litigation, policy advocacy, and education. As part of its litigation program, Gender Justice represents individuals and provides legal advocacy as *amicus curiae* in cases involving issues of gender discrimination.

Genders & Sexualities Alliance Network (“GSA Network”) is a next-generation LGBTQ racial and gender justice organization that empowers and trains queer, transgender, and allied youth leaders to advocate, organize, and mobilize an intersectional movement for safer schools and healthier communities. GSA Network includes GSA Network of California, which connects more than 1,100 clubs across the state, and the National Association of GSA Networks, which unites 40 statewide networks of GSA clubs. GSA Network also supports student-led campaigns through an online campaign and petition platform for transgender and queer youth across the country.

Griffin-Gracy Educational Retreat & Historical Center (“House of GG”) is the first educational and historical center solely dedicated to transgender and gender nonconforming people in the United States. Located in Arkansas, House of GG supports the network of Southern transgender people working for social justice. House of GG is the brain-child of transgender activist Miss Major Griffin-Gracy, who

helped pioneer the TLGBQ liberation movement and continues that work five decades later.

Intersex & Genderqueer Recognition Project (“IGRP”) is the first, and leading, organization in the United States to address the rights of non-binary individuals. IGRP’s mission is to build a world that recognizes that sex, gender identity, and sexual orientation have endless variations, with all possibilities valued and respected. IGRP works to achieve legal recognition for people whose sex and/or gender identity are non-binary by engaging in direct legal services, impact litigation, legislation, collaboration, and education.

Invisible Men works to identify and create resources for transgender men and non-binary individuals who lean toward the masculine spectrum, specifically those of color. Invisible Men has a storytelling platform to allow these individuals to tell their own narratives as to how they navigate the world around them and how their masculinity looks for them without judgment. Invisible Men advocates for the trans-masculine community to be included in conversations around reproductive rights, visibility, and equal treatment within medical and mental health areas. Invisible Men also conducts inclusivity training for medical providers and businesses on how to engage with the community respectfully.

Lavender Rights Project (“LRP”) advances a more just and equitable society by providing low-cost civil legal services and community programming centered in values of social justice for trans and queer low-income people and other marginalized communities.

Through direct representation and community programming, LRP's by-and-for services aim to radically re-imagine the legal landscape for LGBTQ+ people while building community resilience, encouraging self-advocacy, and asserting the rights of marginalized populations.

Louisiana Trans Advocates is a membership-based nonprofit organization whose mission is to advance the core human rights of self-determination and expression for all transgender, nonbinary, and gender nonconforming people in Louisiana. A core area of its work is in advocating for expanded workplace discrimination protections for transgender Louisianans. At this time, only 12% of Louisianans are protected from workplace discrimination on the basis of gender identity – those who live and work in New Orleans, Shreveport, and Alexandria. Louisiana Trans Advocates frequently provides advice and assistance to transgender Louisianans who have been fired, harassed, or otherwise subjected to discrimination in the hiring process or after coming out at their workplace.

Maine Transgender Network, Inc. (“Maine TransNet”) is Maine’s only organization explicitly dedicated to supporting the needs of the transgender community in Maine. Its work encompasses community building, peer-based support services, provider education, and policy advocacy. Throughout many of Maine TransNet’s programs, the realities of workplace discrimination are ever-present on the minds of members, whose poverty and isolation in rural communities frequently leaves them with no choice but to work in environments where they are

actively mistreated because of gender identity and presentation. Many feel that they have no options to escape sometimes violent and hurtful workplaces and have little or no recourse to address the issues they face.

Marsha P. Johnson Institute (“MPJI”) protects and defends the human rights of Black transgender people. MPJI does this by organizing, advocating, creating an intentional community to heal, developing transformative leadership, and promoting our collective power. MPJI was founded both as a response to the murders of Black trans women and women of color and how that is connected to exclusion from social justice issues, namely racial, gender, and reproductive justice, as well as gun violence.

Maryland Trans*Unity is a volunteer-run, peer-facilitated support group and community building organization serving trans* people of all identities – including those who identify as transgender, transsexual, nonbinary, genderqueer, crossdresser, non-transitioner, de-transitioner, re-transitioner, agender, bigender, gender fluid, pangender, or any other identity under the trans* umbrella. Maryland Trans*Unity also encourages and welcomes participation from those who stand in solidarity with trans* communities.

National Black Justice Coalition (“NBJC”) is a civil rights organization dedicated to the empowerment of Black lesbian, gay, bisexual, transgender, queer, and same gender loving (“LGBTQ/SGL”) people, including people living with HIV/AIDS. Since 2003, NBJC has provided leadership

at the intersection of national civil rights groups and LGBTQ/SGL organizations, advocating for the unique challenges and needs of the African American LGBTQ/SGL community that are often relegated to the sidelines. As America's leading national Black LGBTQ/SGL civil rights organization focused on federal public policy, NBJC has accepted the charge to lead Black families in strengthening the bonds and bridging the gaps between the movements for racial justice and LGBTQ/SGL equality. NBJC envisions a world where all people are fully-empowered to participate safely, openly, and honestly in family, faith, and community, regardless of race, class, gender identity, or sexual orientation.

National Center for Transgender Equality ("NCTE") is devoted to advancing justice, opportunity, and well-being for transgender people through education and advocacy on national issues. Since 2003, NCTE has been engaged in educating legislators, policymakers, and the public, and advocating for laws and policies that promote the health, safety, and equality of transgender people. NCTE also provides resources to thousands of transgender people every year.

National Queer Asian Pacific Islander Alliance ("NQAPIA") is a federation of lesbian, gay, bisexual, and transgender ("LGBT") Asian American, South Asian, Southeast Asian, and Pacific Islander ("API") organizations. NQAPIA builds the capacity of local LGBT API groups, develops leadership, promotes visibility, educates the community, invigorates grassroots organizing, encourages collaborations, and challenges anti-LGBT bias and racism.

No Justice No Pride (“NJNP”) is a collective of organizers and activists from across the District of Columbia. NJNP exists to end the LGBT movement’s complicity with systems of oppression that further marginalize queer and transgender individuals. Its members are black, brown, queer, transgender, gender nonconforming, bisexual, indigenous, two-spirit, formerly incarcerated, disabled, and white allies. Together, NJNP and its members recognize there can be no pride for some of us without liberation for all of us.

Nollie Jenkins Family Center, Inc. (“NJFC”) is a grassroots organization based in Durant, Mississippi. NJFC’s 180 Degrees of the South campaign highlights the joys, struggles, culture, and life of queer and nonconforming youth of color living in the rural south. Through this campaign, NJFC provides safe spaces, educates stakeholders, impacts local and state education and juvenile justice policies, and creates a platform that uplifts the stories and voices of the LGBTQ community.

OutRight Action International (“OutRight”) works alongside LGBTIQ people globally to help identify community-focused solutions to promote policy for lasting change. Founded in 1990 as the International Gay and Lesbian Human Rights Commission, OutRight conducts its work through a grassroots to the grassroots strategy from offices in seven countries, including its international headquarters in New York. OutRight vigilantly monitors, documents, and mobilizes around human rights abuses to spur action for justice.

Positively Trans (“T+”) is a constituent-led project that seeks to mobilize and promote resilience of transgender people most impacted by or living with HIV/AIDS, particularly transgender women of color. In partnership with its National Advisory Board of community leaders, T+ provides research, policy advocacy, legal advocacy, and leadership strengthening to address the structural inequalities that drive the high rate of HIV/AIDS and poor health outcomes.

Ruth Ellis Center, Inc. (“REC”) was formed in 1999 to address the lived experience of LGBTQ young people ages 13–30 experiencing homelessness and other barriers to health and wellness. REC’s mission is to provide short and long-term residential safe space and support services for runaway, homeless, and at-risk lesbian, gay, bi-attractional, transgender, and questioning youth. Housing and employment are essential contributors to overall health and well-being, and they are basic human rights that cannot be compromised on the basis of the strongly-held beliefs and values of others. REC advocates on behalf of LGBTQ young people of color on a regular basis to gain access to housing and employment.

Solutions NOT Punishment Collaborative (“SNaP Co.”) is a Black trans and queer-led collaborative working for a new Atlanta where every person has the opportunity to grow and thrive and live as their authentic, whole selves, without facing unfair barriers, especially from the criminal justice system. SNaP Co. is committed to ending the genocide, mass incarceration, and criminalization of Black trans

women and the larger trans and queer community. SNaP Co. achieves this through political education, embodied learning/leadership development, and transformative campaigns.

Strategic Transgender Alliance for Radical Reform (“STARR”) is an organization led by transgender women of color. STARR’s mission is to carry out the work and legacies of its founders Sylvia Rivera and Marsha P. Johnson, who fought tirelessly against homelessness, poverty, and anti-transgender discrimination.

TAKE Resource Center (“TAKE”) is an Alabama-based organization owned and led by transgender women of color. TAKE provides supportive services for transgender women of color to help improve quality of life and alleviate the many barriers they face, including discrimination in the workplace.

TGI Justice Project (“TGIJP”) is a group of transgender, gender variant, and intersex people—inside and outside of prisons and jails—creating a united family in the struggle for survival and freedom. Based in San Francisco, TGIJP fights against human rights abuses, imprisonment, police violence, racism, poverty, and societal pressures. TGIJP also operates a re-entry program for formerly incarcerated transgender people, in which participants receive job training education and assistance in locating employment.

TGI Network of Rhode Island (“TGINRI”) serves the needs of the transgender, gender diverse, and intersex (“TGI”) communities in Rhode Island and the

surrounding areas through support, advocacy, and education. TGINRI relies on laws protecting the rights of the TGI communities to safety, dignity, and equal access, and attacks on those rights put TGI lives at risk.

Trans Can Work (“TCW”) is a Los Angeles-based organization dedicated to advancing workplace culture and gender inclusivity through education, advocacy, training, and job placement. TCW provides resources for trans and gender-nonconforming jobseekers, as well as training for employers.

Trans Empowerment Project (“TEP”) is a gender-expansive organization that is aimed at identifying and creating necessary resources to further the empowerment and progression of the transgender community across the United States. TEP seeks to be a national resource for the trans community, bridge the gap between the trans community and its allies, and create positive resources for empowerment through community building, education, advocacy, and direct action. TEP offers a variety of programs, including assistance with employment, food, clothing, medical needs, and education.

Trans Lifeline was founded in 2014 to connect trans people to the community, resources, and support they need to survive and thrive—stabilizing the lives of trans people and building a resilient trans community through trans-led direct services. Trans Lifeline’s Hotline is there to care for trans people through moments of crisis and suicidality. Beyond immediate crisis, their Microgrants program provides low-barrier grants to trans people in need of legal

name changes and updated government IDs—as well as specialized support for trans people who are incarcerated or undocumented. By providing care, Trans Lifeline identifies the trans community’s most pressing needs and brings that expertise to the broad movement for LGBT equality.

Trans Masculine Advocacy Network (“TMAN”) is a grassroots organization based in Philadelphia, Pennsylvania dedicated to uplifting people of color along the transmasculine spectrum. TMAN provides networking and referral services addressing the unique and underrepresented vocational, educational, legal, social, familial, and health and wellness needs of its members through group gatherings, special events, facilitated discussions, and community service.

Trans Pride Initiative provides support for transgender and gender non-conforming persons and works to address anti-transgender discrimination in employment, healthcare, and homelessness in the Dallas, Texas region.

TRANScending Barriers is a transgender-led 501(c)(3) non-profit that serves the transgender and gender non-conforming community in Georgia. The organization provides community organizing with leadership building, advocacy, and direct services so that lives can be changed and the community uplifted.

Transformative Justice Law Project of Illinois (“TJLP”) is an organization of attorneys, activists, and social workers who engage in direct legal services, policy advocacy, and community education work for

transgender and gender expansive people in Illinois. TJLP's legal services include assistance with legal name changes and identity documents, criminal defense, advocacy in jail and prison, and criminal record expungement. TJLP also advocates for transgender rights by pushing for policy changes at the city, county, state, and federal levels. Finally, TJLP facilitates "know-your-rights" workshops for transgender people, as well as trainings to assist employers, landlords, non-profits, and government agencies in becoming more accessible and welcoming to transgender people.

Transgender Assistance Program of Virginia ("TAP VA") is an all-volunteer, trans-led 501(c)(3) non-profit organization created to end homelessness within the transgender community in Virginia. TAP VA provides temporary emergency housing to homeless transgender adults in Virginia. TAP VA also provides educational opportunities around the important fact that transgender rights are human rights by explaining the intersectionality between homelessness, discrimination, socioeconomic status, and racism within the transgender community in Virginia.

Transgender Resource Center of New Mexico ("TGRCNM") provides support, community, and connection to transgender, gender nonconforming, nonbinary, and gender variant people and their families through advocacy, education, and direct services. TGRCNM works for the safety and access of transgender and non-binary people in every area of life. With employment being one of the foundational pieces of self-determination and agency in society,

barriers to jobs are a major issue in the TGRCNM community.

TransLife Care – Chicago House and Social Service Agency (“TransLife Care”) recognizes the specific legal barriers transgender people face in accessing safe and affirming housing, employment, and medical care – especially transgender women of color who have been homeless and/or incarcerated. TransLife Care provides holistic and affirming legal services to transgender and gender expansive people. With discrimination being a pervasive problem for transgender people, TransLife Care helps clients navigate instances of gender identity based discrimination and works with them to determine the best path forward.

TransOhio, Inc. is a state-wide trans-led nonprofit that serves the Ohio transgender and ally communities. TransOhio provides services, education, support, and advocacy to promote and improve the health, safety, and life experience of the Ohio transgender individual and community. Since 2004, TransOhio has been training employers in transgender and non-binary specific cultural competency.

TransSOCIAL, Inc. is a trans-led non-profit working to expand safe and affirming resources for the TLGBQ+ community. TransSOCIAL provides case management for trans and gender non-conforming individuals, including legal name change assistance and affirming medical referrals; hosts peer support groups and social events to promote community building; and offers TLGBQ+ Cultural

Sensitivity training to businesses, healthcare providers, and other organizations to build understanding and acceptance of TLGBQ+ community in public spaces. TransSOCIAL's TLGBQ+ community faces rampant employment discrimination, which leads to disproportionate rates of unemployment, homelessness, and poor health outcomes. TransSOCIAL is committed to advocating for equal rights for the TLGBQ+ community to protect from this discrimination and marginalization.

Whitman-Walker Health (“Whitman-Walker”) is a Federally Qualified Health Center serving greater Washington, D.C.'s diverse urban community, including individuals who face barriers to accessing care, and with a special expertise in HIV care and serving lesbian, gay, bisexual, transgender and questioning/queer populations. Whitman-Walker empowers all persons to live healthy, love openly, and achieve equality and inclusion. Whitman-Walker has a robust portfolio of holistic health-related services for the transgender and gender nonconforming community in the Washington, D.C. metropolitan area, and serves a number of such individuals living at greater distances – much of the States of Maryland and Virginia, and some residents of Pennsylvania, West Virginia, and Delaware. Whitman-Walker's Legal Services Department offers information, counseling, and legal representation to transgender and gender nonconforming clients on a wide range of issues, including employment, health care, education, and housing discrimination; access to health care; name and gender marker changes in legal documents; and immigration matters. In 2018, Whitman-Walker provided health care to more than 1,800 transgender

and gender nonconforming persons, and its Legal Services Department provided advice and representation to 572 such individuals.