



U.S. Equal Employment Opportunity Commission

Press Release

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EEOC Sues T.C. Wheelers for Harassing and Driving Out Transgender Employee

Transgender Male Cook at Tonawanda Pizzeria Subjected to a Hostile Work Environment Based on Gender Identity, Federal Agency Charges

BUFFALO, N.Y. – T C Wheelers, Inc., which operates T.C. Wheelers Bar & Pizzeria in Tonawanda, New York, violated federal law when management and employees harassed an employee because of his gender identity, the U.S. Equal Employment Opportunity Commission (EEOC) charged in a lawsuit filed today.

The EEOC alleges that beginning in January 2021, one of T.C. Wheelers' owners repeatedly harassed Quinn J. Gambino, a transgender male, including telling Gambino that he "wasn't a real man," asking invasive questions about his transition, and asking, "Does she have female parts?" According to the EEOC's complaint, T.C. Wheelers' owners also intentionally misgendered Gambino by using female pronouns (such as "she" or "her") and stood by as employees and customers did the same.

The federal agency further alleges that management and employees at T.C. Wheelers made numerous other anti-transgender comments, including asking questions about Gambino's genitalia, telling him he wasn't a "real guy," and equating being transgender to pedophilia.

Gambino, who worked as a cook at T.C. Wheelers, complained repeatedly to management, the EEOC said. TC Wheelers failed to protect Gambino by not addressing the almost daily harassment from all levels of staff, including owners, managers, and line employees. Eventually, Gambino had no choice but to resign to escape the harassment, the EEOC charged.

Such alleged conduct violates Title VII of the Civil Rights Act of 1964, which prohibits employers from discriminating against employees on the basis of sex. Harassment based upon gender identity is a form of sex discrimination prohibited by the statute.

“This new lawsuit, filed one day before Transgender Day of Visibility, reflects the EEOC’s longstanding commitment to protecting transgender persons from employment discrimination, including the type of egregious harassment alleged in this case,” said EEOC Chair Charlotte A. Burrows. “In the current climate, where transgender individuals face increasing attacks on their rights and basic humanity, the EEOC will vigorously enforce the Supreme Court’s holding in *Bostock* that discrimination against transgender workers violates the law.”

The EEOC filed suit (EEOC v. T.C. Wheelers, Inc. d/b/a T.C. Wheelers Bar & Pizzeria, Civil Action No. 1:23-cv-00286) in U.S. District Court for the Western District of New York, Buffalo Division, after first attempting to reach a pre-litigation settlement through the agency’s conciliation process. The EEOC seeks back pay, compensatory damages, and punitive damages for the affected employee, and injunctive relief to remedy and prevent workplace future gender-based harassment.

“Everyone, regardless of their gender identity, deserves to work in an environment free from harassment,” said Jeffrey Burstein, regional attorney for the EEOC’s New York District Office. “This lawsuit makes clear that the EEOC will not tolerate workplace harassment of transgender individuals.”

EEOC New York Acting District Director Timothy Riera added, “Employers must understand that Title VII protects employees from discrimination based upon gender identity and that they have a responsibility to prevent such discrimination from occurring. Employers should handle complaints of harassment seriously and take measures to prevent such abuse. If they fail to do so, the EEOC stands at the ready to enforce federal law.”

For more information on sexual orientation and gender identity discrimination, please visit <https://www.eeoc.gov/sexual-orientation-and-gender-identity-sogi->

discrimination (<https://www.eeoc.gov/sexual-orientation-and-gender-identity-sogi-discrimination>). For more information on harassment, please visit **<https://www.eeoc.gov/harassment> (<https://www.eeoc.gov/harassment>)**.

The EEOC's New York District Office is responsible for processing discrimination charges, administrative enforcement, and the conduct of agency litigation in Connecticut, Maine, Massachusetts, New Hampshire, New York, northern New Jersey, Rhode Island, and Vermont. The agency's Buffalo Local Office conducted the investigation resulting in this lawsuit. Trial Attorney James Bobseine and Supervisory Trial Attorney Nora Curtin will litigate the case.

The EEOC advances opportunity in the workplace by enforcing federal laws prohibiting employment discrimination. More information is available at **www.eeoc.gov (<http://www.eeoc.gov>)**. Stay connected with the latest EEOC news by subscribing to our **[email updates](https://public.govdelivery.com/accounts/USEEOC/subscriber/new) (<https://public.govdelivery.com/accounts/USEEOC/subscriber/new>)**.