



HUMAN
RIGHTS
CAMPAIGN®

DOCUMENTING DISCRIMINATION

A special report from the Human Rights Campaign featuring cases of discrimination based on sexual orientation in America's workplaces.

workplace




A CATALYST FOR CHANGE

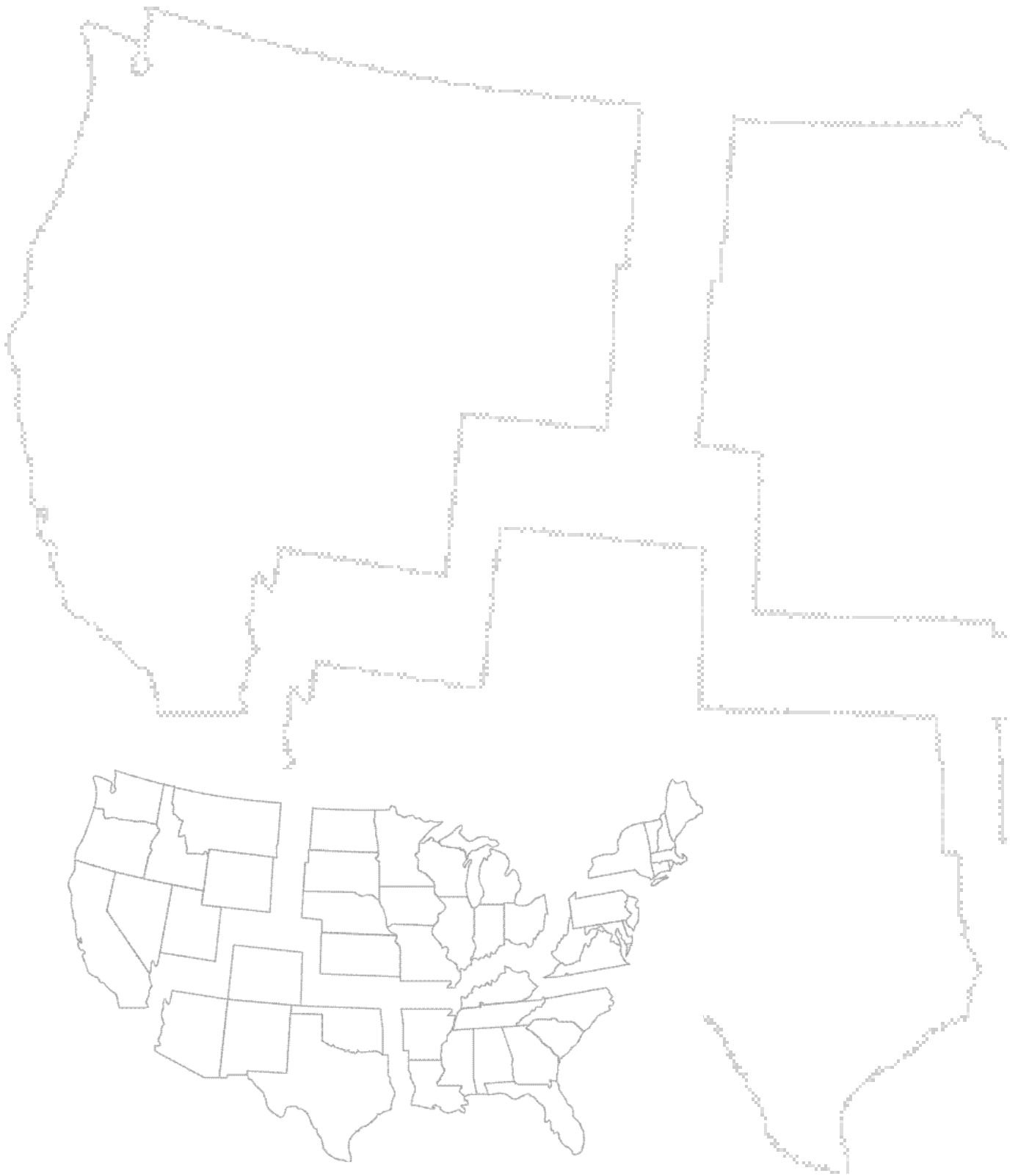
As long as tens of thousands of people go to work each day with fear in their hearts, our nation fails to live up to its promise of basic fairness for all. We must consciously choose to mold an America where each person's contributions are respected and where everyone is allowed to live with dignity.

We hope the stories in *Documenting Discrimination* will go a long way toward pointing out the inequities that now exist in our country. It is up to us to use this key information as a catalyst for much-needed change.

Most importantly, the people who came forward to tell their stories are depending on us. I hope we can make them proud.

A handwritten signature in black ink that reads "Elizabeth Birch". The signature is written in a cursive, flowing style.

Elizabeth Birch
Executive Director

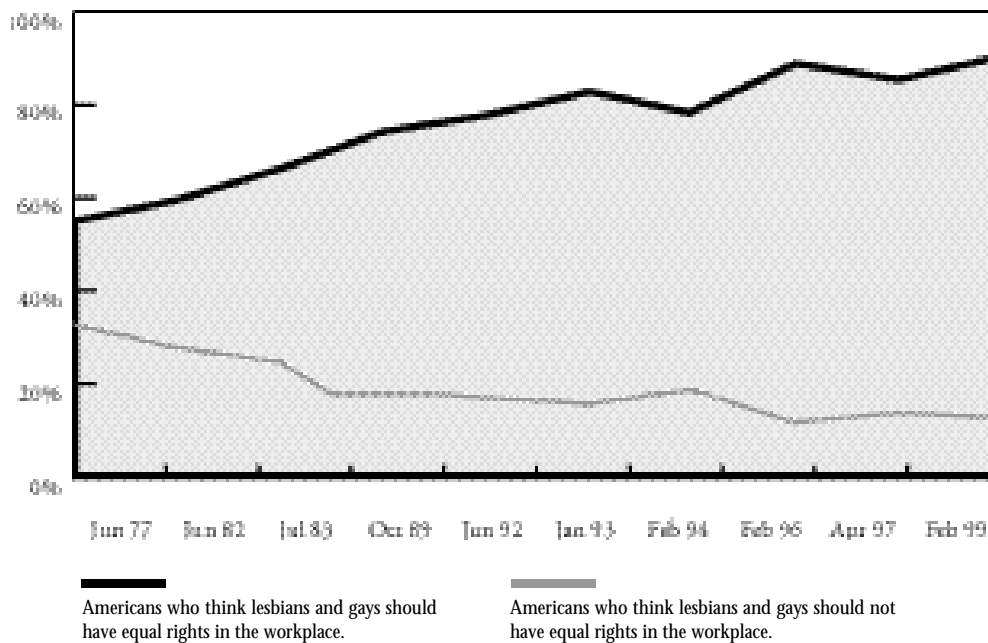


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Americans Oppose Discrimination Against Gays in the Workplace



Polls noted: June 20, 1977, Gallup Organization, Should 56%, Should not 33%; June 28, 1982, Gallup Organization, Should 59%, Should not 28%; July 21, 1983, Gallup Organization, Should 65%, Should not 25%; Oct. 15, 1989, Gallup Organization, Should 71%, Should not 18%; June 8, 1992, Gallup Organization, Should 74%, Should not 18%; Jan. 14, 1993, *CBS News/The New York Times*, Should 79%, Should not 16%; Feb. 4, 1994, Princeton Survey Research Associates, Should 74%, Should not 19%; Feb. 24, 1996, *CBS News/The New York Times*, Should 83%, Should not 12%; April 10, 1997, Tarrance Group and Lake Sosin Snell and Associates, Should 80%, Should not 14%; February 1999, Gallup Organization, Should 83%, Should not 13%.

ANTI-GAY JOB DISCRIMINATION IS WIDESPREAD — AND LEGAL

A fundamental American value holds that people who do their jobs, pay their taxes and contribute to their communities should not be singled out for unfair discrimination. But federal law fails to extend this basic fairness to untold millions of Americans across this country who happen to be lesbian or gay. They are fired from their jobs, refused work, paid less and otherwise discriminated against in the workplace — with no protection under federal law.

Federal law, for example, failed to protect Robert Higgins, a shoe salesman in Maine who was verbally and physically assaulted at work. In Higgins' case, a federal court found that it did not condone this "serious and pervasive" activity in the American workplace. But federal law "does not provide a remedy for discrimination based on sexual orientation," the court said. "The intolerable working conditions set forth in the cases denying relief under [federal law] for rampant discrimination based on sexual orientation call for immediate remedial response by Congress." [*Higgins v. New Balance Athletic Shoe Inc.*, 21 F. Supp. 66, 76 n.10 (D. Me. 1998)]. This report documents more than 100 examples of the discrimination faced by lesbian and gay — and heterosexual — people in every region of the country.

MOST AMERICANS SUPPORT FAIRNESS

Most Americans believe this kind of discrimination is wrong. National polls have found consistently that more than 75 percent of the voters in this country oppose anti-gay job discrimination and support equal rights in the workplace for lesbian and gay Americans. And 83 percent of Americans believe gay people should have equal job opportunities, according to a 1999 study by the Gallup Organization. Unfortunately, seven out of 10 people polled do not know that their gay family members, friends, neighbors and co-workers lack the most basic rights under the law.

The cases documented here make up a small fraction of the scores of Americans whose stories may never be told. Because of widespread discrimination and the lack of legal protections, many people find it impossible to talk openly

about their experiences. By publishing the stories of those men and women who received unfair treatment in the workplace, we hope to create a broader understanding of how discrimination affects the lives of real people. We think the cases themselves show clearly why a federal law providing basic protections is so critically needed.

THE EMPLOYMENT NON-DISCRIMINATION ACT AND WORKPLACE NON-DISCRIMINATION POLICIES

No federal law bars the kind of discrimination laid out in the cases published here. Title VII of the Civil Rights Act of 1964 prohibits discrimination based on race, color, religion, sex and national origin — but not sexual orientation.

Currently, a patchwork of protection exists in several states, and an estimated 225 municipalities have laws or policies that bar anti-gay discrimination. More than half of the Fortune 500 companies protect their lesbian and gay employees in written policies that prohibit discrimination in employment practices. The White House, federal agencies and a majority of Senate and House offices have similar policies in place. Further, more and more employers in the private and public sectors are finding that fairness in the workplace enhances productivity and increases profitability. While these are positive steps, they are inadequate because corporate policies do not carry the weight of law and many firms have employees in several states.

Only a federal law would create a level playing field. The Employment Non-Discrimination Act would ensure that all Americans have equal rights in the job market and workplace. Specifically, it would bar employers from using a person's sexual orientation as the basis for employment decisions, including hiring, firing, promotion or compensation.

To find out more about ENDA and non-discrimination policies in the workplace, visit HRC WorkNet, the Human Rights Campaign Foundation's workplace project, at www.hrc.org/worknet.

DOCUMENTING DISCRIMINATION

Anti-gay discrimination in the American workplace knows few bounds. As the 130-plus cases presented here show, anti-gay discrimination occurs in every region of the country, in large cities and small towns, on factory floors and in restaurant dining rooms. It happens in major corporations, struggling nonprofits and public agencies. It affects executives with six-figure incomes and those who clean offices at night for the minimum wage.

Anti-gay discrimination often means enduring daily harassment — including name-calling, humiliation and physical threats — from co-workers and bosses alike. For Ernest Dillon, a Detroit postal worker, it meant being beaten unconscious by a co-worker and forced to take disability leave. For others, it resulted in missed promotions, demotions or forced resignations. To suddenly receive a pink slip after years of positive performance evaluations solely because of one's sexual orientation is not uncommon. The emotional and financial burdens of unexpected job loss have caused many gay Americans to lose promising careers, homes and even relationships. They have been forced to relocate, accept welfare or file for bankruptcy.

Some employers are unabashed in their desire to exclude gays and lesbians from the work force. When the new head of a Midwest health care facility realized several gay employees were on his staff, he immediately fired them and then bragged about it in the local media. When Cheryl Summerville was fired from her job as a restaurant cook in 1991, her notice said, "This employee is being terminated due to violation of company policy. The employee is gay." Other employers are more subtle. Policies rarely enforced against heterosexuals are suddenly invoked against employees perceived to be gay. As one supervisor responded to the suggestion that all gay people be fired, "We can't do that. We just have to look for other reasons." But whether the discrimination is something that the employer publicizes or conceals, the damage is the same.

Many gay employees, justifiably worried about discrimination, use great discretion about their sexual orientation. The circumstances of daily life, however, often force them out of their protective closets. Their same-sex

partner becomes ill. They are photographed by the local newspaper attending an AIDS memorial. They are seen in a gay neighborhood or are the victim of an anti-gay hate crime. They designate a same-sex partner on their life insurance or buy a home together. They wear wedding rings. Simple acts that heterosexual employees take for granted are dangerous steps for many gay employees and can expose them to harassment and discrimination in the workplace.

Gay and gay-supportive employees who complain about on-the-job anti-gay discrimination are often labeled troublesome. They're seen as ineffective team players. For those fortunate enough to live in a state or city that bans anti-gay discrimination, filing a complaint often only leads to an escalation of the harassment. Of course, those who are fired from their jobs rarely have the resources to launch a court struggle.

Furthermore, those who do seek legal remedies consistently find that federal law does not protect them from anti-gay discrimination. One federal district court, disgusted with evidence of anti-gay discrimination and frustrated by the lack of a relevant statute, called for action. The situation in the American workplace calls for an "immediate remedial response by Congress," it said.

Because of widespread discrimination and the lack of legal protections, many people find it impossible to talk openly about their experiences. The cases documented here about the discrimination faced by both gay and straight American workers because of their real or perceived sexual orientation are just a few of the many stories — most of which may never be told.

INCIDENTS OF EMPLOYMENT

DISCRIMINATION

The following summaries of incidents of employment discrimination across the United States come primarily from media reports, cases in federal and state courts as well as submissions to the Human Rights Campaign. The names of people are used only in select cases where we have permission or where the names are part of the public record. We have not extensively interviewed all parties in all cases. In many of these cases — especially where there has been no litigation or formal complaint to a state or local agency — the views presented are those of the employee only. This document is not intended to be a comprehensive report on all incidents of employment discrimination related to sexual orientation as many incidents go unreported due to the unavailability of legal remedies. Incidents of this kind occur in every state whether or not they are reported here.

Some readers may find the language in some of these cases offensive or objectionable. HRC made a careful judgment not to censor this language in an effort to demonstrate graphically the kinds of verbal harassment many lesbian and gay Americans have endured, and continue to endure, in the workplace.

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DISTRICT OF COLUMBIA

T.B.

T.B. began working as a sales representative for a large home furnishings company in 1993. After compiling a stellar sales record in North and South Carolina during his first nine months of work, T.B. received from the company's chief executive officer a \$15,000 raise. He also received payment to move to Washington, D.C., to revitalize the depressed sales market in that area. When T.B. relocated, he rented his condominium to a co-worker. During his stay, the co-worker spilled copier ink on a new carpet and refused to pay for the damages. He threatened T.B., saying "You are the biggest fag I've ever known. Don't fuck with me because I'll call your parents, and I'll call your supervisor." Two weeks later, T.B.'s supervisor told him, "Things are not working out and we are liquidating your territory." Within two weeks of letting T.B. go, he hired someone new to fill the position. The supervisor later confirmed to other sales representatives that the co-worker carried through on his threat and spread the rumor that T.B. was gay. The supervisor's secretary told another sales representative, "[T.B.] had a lot of problems. He was gay." A second gay sales representative was later fired because company officials believed he was helping T.B. with his case.

MARYLAND

J.G.

J.G. was hired as the director of sales and marketing for a hotel in New Carrollton in December 1990. At his 90-day review, he received a positive performance rating. But after J.G. had spent months on the job, a co-worker told him that he should consider finding a new job because the general manager was homophobic and talked about J.G.'s personal life behind his back. The general manager said he wished J.G. would not tell clients that he lived on Capitol Hill in Washington, D.C., because this fact, combined with his age and marital status, made it obvious that he was gay. Subsequently, J.G. requested a meeting with the general manager, who told him that things were not "working out" and that he was not a "good fit." J.G. was fired without any probation, warning or notice.

MIKE ENGLER

Mike Engler worked as a stockbroker for a financial services company in the small town of Cumberland. For many years, Engler volunteered for Cumberland community organizations, serving on the board of the local Red Cross, the local college's economic development committee and

the local country club's long-range planning committee. Nevertheless, in 1989, the company president fired Engler, after learning he was gay. He claimed Engler was not "compatible" with the company or the community and could not "participate in things expected" of him.

S.F.

S.F. began working as a health benefits administrator in Rockville in 1989. He was careful not to disclose his homosexuality during his first few years with the company. But S.F.'s co-workers learned about his sexual orientation when he became a victim of a highly publicized anti-gay hate crime, involving a shooting with a pellet gun, in nearby Washington, D.C. The publicity about the event escalated in 1994 during the trial. Co-workers made remarks to S.F. about the incident, but harassment began in earnest in 1997, when two co-workers moved to work stations near his. One sang gospel music and read Bible passages to S.F. in a loud voice. Saying that "homosexuality is condemned," she claimed it was part of her religious duty to educate him and remove "evil spirits." Knowing that S.F. was being treated for post-traumatic stress disorder, she and other co-workers would sneak up on him and make loud noises to re-enact the shooting incident. When S.F. complained, his supervisors told him he had a problem getting along with others. They refused his request to move work stations. Security guards began following him to his car at night. When the company reorganized, S.F. was denied a transfer while much less qualified co-workers received new positions.

NEW JERSEY

J.L.

J.L. worked in an Atlantic City casino as a blackjack dealer and a floor supervisor when his sexual orientation became known at work. Co-workers began harassing J.L. in 1992. They called him names, grabbed him inappropriately and suggested that he had AIDS. In December 1994, J.L. reported the harassment to his team leader. Instead of assisting, the team leader threatened to fire him and joined in the harassment. J.L. then reported the harassment to his shift manager who told him to "put up" with it. In January 1995, J.L. reported the harassment to the legal department. The harassment increased. In March, J.L. was tripped and injured his back, resulting in five weeks of lost work. In May, he was punched by a pit boss. Finally, J.L.'s attorney informed the casino that he intended to file a discrimination suit with the Equal Employment Opportunity Commission and the state's division of civil rights. In response, J.L. was stationed on a blackjack table

with the lowest allowable bets, where an employee harassed him in front of customers. In addition, the casino barred J.L. from using his status as a dealer, causing him to lose more potential income. The casino also launched an investigation into J.L. and made inquiries about his HIV status. Making no allegations or charges, the casino suspended J.L. without pay. The casino contested his unemployment claims and refused him access to his 401(k) account.

A.R.

A.R. began working as a customer service representative with a health insurance agency in January 1992. His sexual orientation became public when an incident between him and his ex-partner received coverage in several local newspapers. The article was anonymously faxed to different departments within the company and circulated by management. After the publicity, A.R. was singled out for harsh treatment by his supervisor. Company policy forbade employees from eating at their desks, but the supervisor permitted all employees to do so except A.R. The supervisor also wrote him up for every lateness or absence. Although other employees were often late or absent, the supervisor generally overlooked such occurrences. The supervisor told co-workers that if his son were gay, like A.R., he would kill him. In April 1994, A.R. was fired due to "five occurrences of excessive absences." Noting that a heterosexual employee had been written up five times for excessive absences or lateness but was not fired, A.R. filed a grievance through the union and succeeded in getting his job back. Once A.R. returned, the prejudicial treatment continued and he was fired again.

JOHN DOE

John Doe began working as a customer sales representative for a retail bank in Clinton in August 1999. After he revealed that he had a partner named Richard, Doe became the object of harassment. In December, the branch manager began enforcing the bank's dress code more strictly for Doe than other employees. She repeatedly called Doe "girl" before co-workers and customers. When Doe told the manager that he found her language offensive, she threw him out of her office and contacted the human resources section. Within two hours of his complaint, he was fired for insubordination.

PENNSYLVANIA

JOHN BIBBY

John Bibby began working for a soft drink manufacturer in Philadelphia in 1978 shortly after graduating from high school. When he became ill on the job in 1992, he decided to disclose that he was gay to his supervisors. While slumped over on his work station from extreme chest pains, he was accused of sleeping on the job. He went to the hospital and was suspended for four months for leaving his assigned post. After union arbitration, he was reinstated, but the harassment only increased in intensity and frequency. His first week back, a co-worker physically attacked him in the employee locker room in the presence of his supervisor. The same co-worker later intentionally drove a fork lift into a platform where Bibby was standing. He also yelled, "Everyone knows you're a faggot" and other demeaning phrases. Bibby was reassigned to lower paying work and denied leave. Because of this hostile work environment, Bibby feared for his safety and underwent treatment for severe anxiety, depression and stomach ulcers. Neither his union nor his employer offered him protection. Bibby sued in U.S. District Court. In March 2000, the court ruled that Title VII of the Civil Rights Act of 1964 does not prohibit employment discrimination based on sexual orientation.

J.C.

J.C. began work in May 1988 in a temporary position as a document coder at a litigation support and information management company in Pittsburgh. A professional writer, J.C. impressed his supervisors so much that he was promoted to a permanent management position — with a large increase in pay. He earned "Employee of the Week" bonuses on several occasions. On his own time, he served as vice chair of the Pittsburgh Fairness Campaign, a gay and lesbian civil right group. J.C. did not attempt to hide his sexual orientation from either his supervisor or his co-workers, none of whom seemed to mind. The situation changed in March 1990, when the company hired a new manager to supervise the Pittsburgh office. Two months later, the manager called J.C. into her office to tell him that people found his "personal preference" offensive. When asked if she meant his sexual orientation, she said, "People find that offensive." When J.C. told her that Pittsburgh had a law that prohibited discrimination on the basis of sexual orientation, the manager appeared "shocked." She asked him to leave her office and slammed the door. Two weeks later, J.C. was demoted to document coder and given a significant decrease in salary. The following month, the manager fired J.C., claiming a work force reduction was needed.

DAN MILLER

Dan Miller, a certified public accountant, was hired by a management consulting firm outside Harrisburg in 1986. The company found Miller's performance exemplary and set him on a fast track to become partner. In October 1990, Miller appeared on television representing a coalition of citizens combating anti-gay violence. Shortly thereafter, the company fired Miller. Not content with severing his relationship with the firm, Miller's boss challenged Miller's unemployment benefits and his membership in a leading professional organization. He even attempted to undermine Miller's efforts to establish his own business by informing his clients that he was gay and therefore at risk for HIV/AIDS. "[C]onsider getting the results of a blood test from him, if you are considering using his services on a long-term basis," he warned them. When a number of the consulting firm's clients chose to continue working with Miller, the firm sued him for violating a non-compete clause in his employment contract. During the trial, the firm justified the firing by citing another provision of Miller's employment contract, stipulating a number of "just causes" for dismissal, including "homosexuality." Miller's boss testified under oath that the firing was based solely on the fact that Miller was gay. After a jury trial, Miller was forced to pay his former employer a \$130,000 judgment. "It was outrageous to hear intolerance like that in a court of law, where people come to seek protection from intolerance," a juror said after the trial. "But the law was silent."

R.M.

R.M. worked as a typesetting proofreader from 1988 to 1992 at a medical publishing house in Philadelphia. Managers made anti-gay slurs in front of R.M. and harassed him for never receiving calls from women. Although he performed well and received a 28 percent raise, managers began to single him out for special scrutiny. He was eventually fired for allegedly poor performance. Believing he was fired for being gay, R.M. filed a lawsuit with a gay co-worker. But having lost his housing and income, he was unable to pursue it.

VIRGINIA

JENNIFER LYNCH

Jennifer Lynch worked as a live-in aide at a residential facility for mentally retarded adults in Arlington. Lynch supervised residents, distributed prescription medication and ran educational programs. From the beginning, Lynch was open about being a lesbian. Both performance reviews she received rated her work as excellent. But two months

after she started, the facility acquired a new supervisor. He announced a policy requiring that, except in an emergency, live-in aides get his permission in advance to receive guests. The aides had to tell him who would be visiting, the nature of their relationship, and the purpose and anticipated length of the visit. Lynch discussed the policy with the supervisor who assured her that he was mostly concerned about visits during working hours and that she did not need to seek his permission to have guests. For liability reasons, he wanted to know if a guest planned to stay overnight. The next day, Lynch received an emergency telephone call from her partner, "Jane." Having recently come out to her parents, Jane had been thrown out of the house without money or possessions. When she tried to retrieve some personal possessions, her mother assaulted her — leaving Jane bruised and bleeding. Lynch immediately notified her supervisor that she had an emergency and that her partner would be staying with her for the

"TITLE VII DOES NOT PROHIBIT CONDUCT BASED ON THE EMPLOYEE'S SEXUAL ORIENTATION, WHETHER HOMOSEXUAL, BISEXUAL OR HETEROSEXUAL."

Hopkins v. Baltimore Gas and Electric Company, 77 F.3d 745, 751-2 (4th Circuit 1996)

night. Jane's mother also called Lynch's supervisor. Later that evening, the company vice president called to insist that Jane could not stay there. The next day, Lynch was suspended. When asked for an explanation, the supervisor said she had not been "discreet." The following week, Lynch was fired.

K.S.

K.S. operated a day care business from her home for 17 years and was a well-known child-care professional in the area. In 1995, she decided to close her successful business and seek work outside the home. A preschool in her neighborhood called her for an interview, at which the director asked K.S. about a "PFLAG" button on her overcoat. She explained that she was a member of Parents, Families and Friends of Lesbians and Gays. The director offered K.S. the job. A few days later, the director stopped by K.S.'s house to drop off some forms and saw a stack of local gay newspapers K.S. had volunteered to deliver to her church. The director called the next day to revoke the job offer, explaining that K.S.'s support of gay and lesbian people was "too controversial."

ILLINOIS

J.A./K.B.

J.A. and K.B. worked as law clerks at a Chicago law firm. J.A. started in December 1989 and K.B. was hired five months later. Both performed their jobs satisfactorily for more than a year and received no written warnings or reprimands. Many of their co-workers eventually realized that both women were lesbians. At a staff party in July 1991, the firm's senior partner insisted that he could tell J.A. was a lesbian just by looking at her, and that he didn't want any lesbians or gay men "running around my office." When he threatened to fire J.A. for being lesbian, an employee objected that he would have to fire K.B. as well. The senior partner responded that he would fire both of them. Within two days, both J.A. and K.B. were told the firm was "cutting back" and that their positions were being eliminated "for financial reasons." The women filed a complaint with the city's commission on human relations. In retaliation, the firm withheld their final paychecks, saying the two were fired for poor work performance and thereby denying them unemployment compensation.

D.B.

D.B. began serving as a manager in the Chicago office of a national insurance company in January 1990. At D.B.'s six-month review, his supervisor told him that he would have a job "for as long as [he] wanted one." A few months later, D.B. told his supervisor he was gay and that he would be bringing his male roommate to a company picnic. D.B. also attended a company holiday party in December with his roommate. Afterward, his supervisor gave him an unsatisfactory performance rating — the first time that D.B. had been told his work did not meet company standards. D.B. was given responsibilities far exceeding what was appropriate for his position. Nonetheless, D.B. successfully completed his assignments in a timely fashion. On Feb. 7, 1991, D.B. was asked to resign. He filed a complaint with the Chicago Commission on Human Relations, charging the insurance company with anti-gay discrimination. In May 1991, shortly after being notified of D.B.'s formal complaint, the supervisor fired him.

J.B.

J.B. was hired as a store manager in Chicago for a national pizza chain in August 1991. As the supervisor of 13 employees, he compiled an excellent work record, and his store had the highest sales volume on the city's north side. Considered one of the cleanest, best-run franchises in the area, J.B.'s store was featured in advertising campaigns and used as a model for other locations. In August 1992, however, the new area manager began making derogatory comments about the store's lesbian and gay employees. "I can't stand working next to them," said the manager, who questioned J.B. extensively about his personal life and relationship with his male roommate. In November 1992, the day before a scheduled vacation, J.B. delivered the restaurant's daily sheets to the area manager's office a little before midnight. The area manager promptly called him, demanding that he "get his queer ass" to his office immediately or he would lose his job. Having worked 16 hours and having technically begun his vacation, J.B. did not return to the office. During a meeting about the incident, J.B. overheard the area manager say he "didn't like that faggot," and the district manager promise to "take care of the little fruit." J.B. agreed to take a position with another store in an inconvenient suburban area and considered to be one of the worst-performing stores in the company. The emotional and economic stress forced J.B. to resign a month later.

R.B.

R.B. joined a medical book publisher in Chicago as a proofreader in May 1989. His supervisor repeatedly told him that his work was "head and shoulders above the other two proofreaders." By the summer of 1990, rumors began circulating that R.B. was gay. By October 1990, the speculation had escalated and the supervisor asked to meet with R.B. to discuss a "serious" matter — something that was "wrong." When R.B. revealed that he was gay, the supervisor advised him to seek counseling. She also suggested that he should not stay where he was not wanted. Co-workers began making harassing comments to R.B., suggesting he probably had AIDS. In January, while reviewing a medical book that had photographs of AIDS lesions, a co-worker remarked to R.B., "Let that be a lesson to you." During an evaluation review a month later, an assistant director told him, "There must be something wrong with your immune system for you to be out so many sick days." R.B. was fired in April, ostensibly for low productivity and poor interpersonal skills.

D.C.

D.C. worked at a Chicago restaurant, part of a national chain, for more than two years. The manager who hired him knew he was gay, as did many of his co-workers. D.C. was quickly promoted from waiter to headwaiter and given the responsibility of training new employees. On Sept. 16, 1991, the general manager, at the request of the regional manager, fired D.C. The regional manager felt that D.C. was "too feminine," "too flamboyant" and "too gay" — and therefore had to be let go.

R. J.

R.J. was hired as a territorial sales manager for a pharmaceutical company in March 1992. He received good performance reviews and positive support, until his supervisor learned that R.J. was gay. In February 1993, while accompanied by his regional sales manager, R.J. spotted a male friend and waved hello. The regional manager, perceiving the friend to be "obviously gay," questioned R.J. about their relationship. He pressed R.J. into acknowledging that he had dated the friend. A week later, the regional manager told R.J. that he was on probation, suggesting off the record that he should look for another job because he would soon be fired. During the weeks that followed, R.J. was given excessive paperwork to complete, was required to call the office three times a day and was monitored extensively. His previously supportive supervisor became increasingly critical and belligerent. At the end of the probation period, the regional manager, citing a poor work performance, fired R.J. and demanded return of the company car, drug samples and other items.

C.G.

C.G. was hired as a waiter at a Chicago restaurant in March 1994. In April, his co-workers began making anti-gay remarks behind his back. C.G. "is acting too much like a faggot" and he needs to change, said an employee. Another called him a "faggot" and a "fruit" and made gestures suggesting a limp wrist. When told about these comments by a sympathetic colleague, C.G. confronted one of the co-workers and told him to make the statements to his face. Two days later, the owners called C.G. into the office to tell him that he seemed difficult to work with and had an "attitude." C.G. explained that the only difficulty was the behavior of his co-workers in making comments behind his back. Surprised that he was aware of the anti-gay comments, the owners asked if C.G. had heard that they had said anything. The owners then said they needed to let C.G. go.

DALE HALL

In 1986, while in college, Dale Hall starting waiting tables at a Chicago-area restaurant that was part of a national chain. He completed a management training program, worked his way through various management positions and was promoted to associate manager at another restaurant in the chain in Lincolnwood. He received glowing performance reviews. In 1995, for no apparent reason — except a visceral dislike for homosexuals — Hall's supervisor began a campaign of harassment, including publicly announcing, "I've got to get rid of this faggot." A year later, Hall was fired. Hall challenged his termination and won a settlement and reinstatement — only because the restaurant was located in Cook County, which has an ordinance banning anti-gay discrimination.

R.I.

R.I. was a rising young attorney in a prominent Chicago law firm. Hired in 1985 as an associate attorney, he received excellent reviews and raises on a regular basis. In 1990, he became partner in the firm. In July 1991, R.I. sent the senior partner a memo, asking that the law firm expand its anti-discrimination policy to include sexual orientation. The firm denied his request, saying that such a policy was not required by federal law and would give rise to lawsuits. R.I. was advised by another partner to drop the issue. After making the request, R.I. was treated differently by the firm's partners. He was no longer included in management decision making, was treated with disrespect, and did not receive the same raises and benefits as other partners. In December 1992, the senior partner told R.I. that he had six months to find another job. When asked why he was being discharged, R.I. was told he was "not well suited to the job." On June 15, 1993, R.I. was informed that he would be paid through September 1993 if he agreed to resign immediately. When he refused, he was fired.

M.J.

M.J. joined the wait staff at the restaurant of a downtown Chicago hotel in 1984. Three years later, he was promoted to full-time captain. In 1990, a new manager came on board as M.J.'s supervisor. He used anti-gay epithets and reduced M.J.'s hours. Specifically, the manager referred to him and other gay employees as "faggots" and "fruitcakes." As the most senior member of the wait staff, M.J. was entitled by a union-bargaining agreement to a full work schedule before any junior staff. After September 1991, the manager refused to schedule M.J. for a 40-hour week. Heterosexual staff with less seniority were given full work schedules. When M.J. complained, the manager said that he would handle the schedule as he saw fit.

A.L.

In March 1991, A.L. interviewed for the position of assistant administrator at a youth hostel in Chicago. During the interview, the administrator asked A.L. if he was homosexual, telling A.L. that if so, he would not be hired. Believing that the question was inappropriate, A.L. chose to lie and deny that he was gay and subsequently landed the job. Over the coming weeks, the administrator and owner of the hostel frequently made derogatory comments about gays and other minorities in front of A.L. On April 18, 1991, A.L. was fired.

B.M.

A security personnel contractor in Chicago hired B.M. as a security officer in August 1992. In December, B.M. was laid off. Another employee told B.M. that he was fired because other officers did not want to work with a homosexual. He was rehired for a month, but the vice president acceded to the demands of those security officers who refused to work with B.M. On many occasions, B.M. was forced to pay co-workers to work with him. The vice president also told B.M. that, because he was gay, he was not to search anyone in carrying out his duties. B.M. was permanently laid off a month later.

W.P.

W.P. began working as a supervisor/coordinator for a staffing services firm in June 1991. Before being hired, W.P. discussed her sexual orientation with the owner of the company who told her that her sexual orientation was not a problem. But after W.P. began work, fellow employees expressed discomfort in working with a lesbian. The owner criticized W.P.'s voice as too heavy and masculine. The next month, the owner told W.P. that she was being transferred to work in the field as a salesperson — with a salary reduction of \$3,000.

R.P.

R.P. worked for a Chicago railroad company for more than 20 years. In late 1991, one of his co-workers began making harassing comments about R.P.'s sexual orientation, calling him "faggot" and "queer son of bitch," and making sexually suggestive comments. R.P. reported the incidents to the manager of customer support, who later indicated to R.P. that he had spoken to the co-worker. But the harassment failed to stop. During a March 1992 staff meeting, the director of customer support referred to a nearby adult bookstore and implied that R.P. was a regular patron.

F.R.

F.R. was a union employee for a major food products distributor in Chicago. He filed a complaint in February 1993 with the Chicago Commission on Human Relations, alleging that the company discriminated against him because of his sexual orientation. F.R. believed that the human resources manager informed all management personnel of his sexual orientation complaint and then participated in a campaign of harassment. In January 1994, F.R. reported to work and found a condom on the floor of his locker. He reported the incident to an assistant manager who promised to initiate an investigation and fire the person responsible. The following day, F.R. found urine in his helmet. F.R. reported the incident to two production supervisors. The assistant manager said he would ask a union representative to investigate.

stopped. In September 1997, E.D. filed a complaint with the Equal Employment Opportunity Commission, alleging anti-gay discrimination. A few days later, he was suspended for two weeks for a minor infraction that typically results in three to five days of suspension.

P.E.

P.E. began working as the sales and marketing director for a health club in Aurora in August 1999. He hired three new sales representatives and helped rebuild the department. Sales also exceeded company goals by 150 percent. During P.E.'s third week on the job, his manager pressed P.E. for information about why he was not married, referred to a "gay-acting" former assistant and encouraged P.E. to "confess." When P.E. wore a simple silver ring on his right ring finger, his boss called it a "fag ring." He also

"HARASSMENT BASED SOLELY UPON A PERSON'S SEXUAL PREFERENCE OR ORIENTATION (AND NOT ON ONE'S SEX) IS NOT AN UNLAWFUL EMPLOYMENT PRACTICE UNDER TITLE VII."

Spearman v. Ford Motor Co., 231 F.3d 1080, 1084 (7th Cir. 2000)

G.R.

G.R. began working as a certified nurses' aide at a nursing home in June 1982. Over the next nine years, she received numerous promotions. In May 1991, G.R. was named activities director of another facility. Soon after her transfer, a rumor began spreading that she was gay and G.R. began to encounter hostility from co-workers and supervisors. The administrator at the new facility told G.R. that another employee did not want to work with her because she thought she was gay. In September 1991, G.R. was fired.

told P.E. that an ingrown hair on his face made him look "diseased." His boss began to criticize his work and complained that he had "gay taste" in music. A photo of P.E. in the sales office was defaced — someone added earrings, lesions and the words "don't be gay." In November, P.E. was told that he did not "fit in" and was fired without notice, severance pay or health benefits. His boss threatened to play "hardball" with him and refused to give him a positive recommendation. P.E. was forced into debt and experienced bouts of depression.

E.D.

E.D. began work as an assistant bartender at a national hotel chain in Lisle in October 1995. As a gay man, E.D. soon came under a barrage of derogatory epithets and vulgar comments from co-workers. One co-worker regularly called him "fruitcake," "fagboy" and "Tinkerbell." In October 1996, the co-worker became E.D.'s supervisor and the harassment intensified. He made graphic and demeaning sexual comments to E.D. on nearly a daily basis. "I hate you because you are a faggot," he said. Repeated complaints to various hotel officials had no effect. When E.D. complained to the director of human resources, the supervisor received a written warning. And in early 1997, the insults stopped. At about the same time, members of the kitchen staff began harassing E.D. The human resources official again intervened and the insults

JAMES SHERMER

James Shermer worked as a building tradesman for the Illinois Department of Transportation. John Tress, a plant maintenance engineer, supervised Shermer between May and August 1993. In front of Shermer and his co-workers, Tress repeatedly made offensive remarks, suggesting Shermer enjoyed having sex with men. In 1995, Shermer filed suit against the department under Title VII of the Civil Rights Act of 1964, claiming that Tress' conduct created a hostile work environment. Both the U.S. District Court and U.S. Court of Appeals found against Shermer, arguing that the harassment was based on sexual orientation and not prohibited by state law or Title VII.

INDIANA

M.C.

M.C. was employed at a store in West Lafayette that sold handmade crafts by local artists. In June 1997, about a month after being hired, M.C. heard a co-worker make an anti-gay remark. She told the co-worker that she found the remark offensive. M.C., who is bisexual, was not out at work. Before M.C. returned to work the next day, her employer called to say that he was cutting staff and had to let her go because business was slow. M.C. was suspicious of this explanation, since the co-worker who had made the anti-gay comment was hired after her. A day later, M.C. noticed a sign in the store window advertising for a new sales clerk. M.C. believes she was fired for objecting to the anti-gay comment and the resulting suspicion that she was homosexual.

“Dillon cannot escape our holding, and those of the other circuits, that homosexuality is not an impermissible criteria on which to discriminate with regard to terms and conditions of employment. Dillon’s co-workers deprived him of a proper work environment because they believed him to be homosexual. Their comments, graffiti and assaults were all directed at demeaning him solely because they disapproved vehemently of his alleged homosexuality. These actions, although cruel, are not made illegal by Title VII.”

Dillon v. Frank, 1992 U.S. App. LEXIS 766, *22 (6th Circuit 1992)

B.B.

B.B. began working in May 1998 as a management trainee for a Bloomington gas station and convenience store. Within a year, he was promoted to manager. Sales for his store regularly exceeded projections and he consistently received positive reviews. In early May 1999, B.B. began lobbying the store’s parent company to include sexual orientation in its non-discrimination policy and to offer domestic partnership benefits. One of the owners told B.B. he thought the suggestions were a good idea. The head of human resources, however, said there was “no way, no how” the firm would adopt such policies. In June, company officials met with B.B. and argued that the chain did not discriminate and thus had no need for such explicit protections. They compared gay people to pornographers and to hunters who talk constantly about the sport. When B.B. arrived for work Aug. 2 and saw company officials in the parking lot, he believed they were showing off his model store again or announcing his promised promotion to assistant district manager. Instead, he was told, “We are here to terminate you.” They claimed customers, vendors and employees had complained that B.B. talked constantly about sex and his sexual orientation. When pressed,

they could produce no evidence of any complaints. Company officials also claimed he hired too many gay people. Two of the gay employees soon resigned. The month before B.B. was fired, sales at his store were 28 percent above projections.

GARY HAMNER

Gary Hamner began working as a nurse at an Indianapolis-area hospital in 1993. Within two years, he was promoted to charge nurse for a unit in the hospital’s stress center. He supervised staff and coordinated patient care with physicians. The unit’s medical director, however, subjected Hamner to constant harassment, alternately ignoring and screaming at him. The medical director also made jokes about gay people in Hamner’s presence and imitated stereotypical mannerisms such as a lisp and a limp wrist. After Hamner filed a written grievance with the hospital in 1996, the medical director promised to change his behav-

ior. Three days later, the hospital fired Hamner over a minor discrepancy in a patient’s record. Believing he was fired for being gay and in retaliation for filing a complaint against the medical director, Hamner filed suit in U.S. District Court. The court found that Hamner’s treatment was not prohibited under Title VII of the Civil Rights Act.

IOWA

ROGER CROW

Roger Crow was the administrator at one of Iowa’s largest residential mental health care facilities. Although privately owned, the facility received annual state funding. In 1996, Crow fired six employees because of their sexual orientation. “When I first came here, there was probably at least three faggots working here and at least three dykes,” Crow told the local *Quad City Times* in an interview. “This isn’t the kind of atmosphere that I want to project.” He justified the dismissals, saying gay people, “are not part of society as far as I’m concerned.”

KANSAS

R.B.

In March 1995, R.B. was hired as a sales clerk at a farm and home supply store in Clay Center. At the end of his 90-day probation, R.B. received a positive performance review and a modest raise. His supervisor described him as a “hard worker.” In late June, the work atmosphere changed when R.B.’s former partner came to the store and was called a “fag” by a female co-worker. Word of the incident spread through the store and his immediate supervisor became distant and uncooperative. Several days later, the store manager fired R.B. The manager cited excessive absenteeism — R.B. was late twice due to power failures — and incompetence, despite his positive performance review.

MICHIGAN

ERNEST DILLON

In 1980, Ernest Dillon began working for the U.S. Postal Service in Detroit. He worked as a mail handler without incident until 1984, when co-workers began harassing him. A co-worker began calling Dillon a “fag” and saying that Dillon “sucks dick.” The co-worker would leave AIDS brochures and lewd graffiti at Dillon’s work station. Dillon reported the incidents to his supervisor, who refused to intervene. One day, the co-worker beat Dillon unconscious, leaving him with two black eyes and wounds that required stitches. The co-worker was fired. But when Dillon returned to work after three weeks of recovery, two other co-workers continued the harassment. After Dillon endured three more years of threats and verbal assaults, his therapist instructed Dillon to resign. In 1990, he filed a lawsuit. And in 1992, the 6th U.S. Circuit Court of Appeals agreed that “Dillon’s co-workers deprived him of a proper work environment because they believed him to be homosexual.” But it concluded that their comments, graffiti and assaults, “although cruel,” are not illegal under federal civil rights laws. “Homosexuality is not an impermissible criteria on which to discriminate,” the court wrote. “I turned to my union, my supervisors, my doctor and the court, only to find that, in America, I am not entitled to work without fearing for my life,” Dillon said in testimony before a congressional committee in 1994.

STEVE VANSTON

On one of his first days of work as a salesman for a Lansing florist, Steve Vanston was asked about his sexual orientation. “We all thought you were a fag,” the general manager told him. Vanston did not answer directly that day in February 1992. But thereafter, Vanston tried to conceal that

he was gay. Over the next few months, he received two raises and the owner praised him for “doing a fantastic job.” He continued to hear derogatory remarks in the workplace about gays and lesbians. In July, Vanston’s aunt died after a long illness and a friend died in a car accident, and he took several days off work. Customers who bought flowers for Vanston’s deceased friend further raised suspicions because, according to one employee, they “looked gay.” Fearful that Vanston had AIDS, the owner called Vanston’s former employer and asked if Vanston was a homosexual. Angered by this inquiry, Vanston called to complain to the general manager, and during the course of the conversation, he admitted that he was gay. Vanston’s relationship with the florist shop worsened. Near Labor Day, Vanston noticed that he was not listed on the weekly schedule and a new name had been added. The general manager told Vanston that his hours had been reduced because he “had too many people dying lately” and missed too much work. No longer able to count on him in sales, she assigned him odd jobs. Furthermore, she “didn’t understand” his “lifestyle,” she insisted. Vanston left the office and never returned.

RON WOODS

Ron Woods was hired by a major Detroit automaker as an electrician in July 1986. Though gay, he was not “out” to his co-workers. In August 1991, Woods learned that Cracker Barrel was opening a new restaurant in the area. The national chain had received extensive publicity for its official policy of discharging employees who “failed to demonstrate normal heterosexual values.” Though never before active in gay politics, Woods used his union-organizing skills to launch a local campaign to protest Cracker Barrel’s discriminatory policies — an effort that put him on the front page of the local section of the *Detroit Free Press*. For nearly a year, Woods endured harassment, threats and intimidation. Co-workers left lewd pictures in his work station, scrawled graffiti on walls, sent death threats and physically attacked him three times. “A dozen people saw me pushed off a cart,” Woods recalled. “Not one of them would say anything.” Through the intervention of his union, Woods arranged a transfer to another plant. He later organized an employee campaign to convince the automaker to include sexual orientation in its non-discrimination policy.

K.B.

K.B. worked for more than nine years at a national foster care and adoption agency headquartered in Grand Rapids. She received consistently positive reviews and worked her way up to adoption unit coordinator for contracts with the state. After K.B. confronted a co-worker about her alcoholism, the co-worker began spreading rumors that K.B. and another employee were lesbians. Subsequently, both

women were put on probation and told not to discuss their cases with one another. K.B.'s supervisor told her she had a "gender issue" and yelled, "I thought I knew who you were." He began making sexually suggestive comments and gestures to K.B. and surveyed her clients and co-workers in an effort to elicit complaints. K.B.'s friend was fired in March 1998. When K.B. refused to resign shortly thereafter, the agency circulated a false notice saying she had accepted employment elsewhere. The agency denied her unemployment benefits and refused her access to her retirement account.

MINNESOTA

T.D.

T.D. started working for a major hotel chain in Minnesota as a reservations manager in 1989. While there, he experienced harassment from two general managers. For example, one would gesture toward T.D., using a limp wrist to mock him. Other employees followed the general manager's example by putting gay newspaper ads for sex and anti-gay memos in T.D.'s office mailbox. T.D.'s department received positive ratings from the national hotel office, and T.D. received bonuses for excellent performance. In 1992, however, the two general managers instructed a desk clerk to find out "all the dirt" on T.D. One of the managers created phony customer complaints to add to T.D.'s employee file. In August 1992, after T.D. approached one of the managers for incorrectly disciplining another gay employee, the manager terminated T.D., stating that T.D. could not get along with employees in the sales department.

T.K.

T.K. was hired by an international shipping business in 1986 to perform data entry. Within a month, his co-workers began to inquire about his personal life. The inquiries intensified after T.K.'s male partner began to drive him to and from work. After such inquiries, his co-workers would converse among themselves in Japanese, which T.K. did not understand. In July 1986, he received a letter indicating that he had completed his probationary period and his work was "outstanding." Soon afterward, his boss asked him to accompany him to a meeting. In the car, his boss questioned him about his relationships with women and the identity of the person who drove him to work. "I hate homosexuals. I just thought you might be one," his boss said. Soon after, T.K. was fired without an explanation.

P.M.

P.M. moved from San Francisco to Minnesota to be near his elderly father. In October 1990, he was hired for a part-time position at a local funeral home with the explicit understanding that he would be offered the first available full-time position. Thereafter, despite excellent performance evaluations, he was passed over for a full-time position on three separate occasions. The jobs were filled with people from outside the firm with much less experience than P.M., who had worked as a funeral director for nearly 15 years. P.M. later learned that the general manager had said, "I'm not hiring any gays because there are too many problems." He also made derogatory comments about gay male sexual practices. In giving a reference for a former employee, he said, "He's a nice kid, but he's queer." After repeatedly voicing his concerns to his employers, P.M. was offered a weekly 50-hour night shift at a significantly lower hourly wage than he was making previously. P.M. was told that he would be fired if he failed to accept the offer. He refused and was forced out of the company in 1992. Several other gay employees "resigned" from the funeral home between 1990 and 1993 because of perceived discriminatory treatment.

M.S.

M.S. worked as a waiter in the restaurant of a downtown Minneapolis hotel. As a union job, it provided substantial income and benefits. One of his co-workers, a cashier, repeatedly harassed M.S., calling him a "pansy" and "faggot." In February 1992, the co-worker threatened him physically. M.S. reported the incident to management and was told essentially to get along with his co-workers. After he filed a written complaint with the company, an investigation determined that M.S. was at fault and could be fired if there were another incident. M.S. reported the offense to the Minneapolis Police Department, since he feared that the co-worker's harassment might escalate. The harassment continued, causing him intense anxiety and humiliation. Because of the hostile environment, M.S. was forced to quit four months later.

MISSOURI

D.H.

D.H. began working as a records analysis clerk at the U.S. Social Security Administration office in Kansas City in 1989. While there, D.H. was subjected to a hostile work environment, called a "faggot" and advised to sleep with women to become a "real man." His work was sabotaged, causing him to receive lower performance evaluations than he deserved. When he complained about the treatment,

management officials overloaded him with work and withheld information he needed to perform his duties. He filed a grievance with the Equal Employment Opportunity Commission and the Department of Health and Human Services, and also sent letters to the Justice Department. D.H. kept extensive journals while employed at SSA. In his final entry on March 12, he wrote: "I entered government service naive and vulnerable, happy to have found a job with benefits, and proud to take my oath of office. I leave government service jaded and emotionally scarred, and stung by experiences of sexual orientation discrimination — my first since high school."

R.M.

During the 15 years R.M. worked for a Cape Girardeau funeral parlor, he established an exemplary record. But in 1995, someone sent an unsigned letter to about 100 town residents, suggesting that the funeral parlor's two embalmers, including R.M., were gay. "Would your loved one want a homosexual taking care of them when they die?" the letter asked. The anonymous author contrasted the funeral home's employment practices with those of a competitor. "You should know that a new funeral home will be opening soon in Cape Girardeau that has only good Christian men working for them," the letter said. After many town residents received another anti-gay letter, the owner's home and business became the target of vandalism and obscene telephone calls. Citing escalating "threats, intimidation and violence," the funeral parlor fired R.M. and another gay employee June 1, 1995. The vandalism stopped. The owner was unwilling to endure a hate campaign against his property. A small severance package and a glowing letter of recommendation accompanied R.M.'s dismissal letter. "You could not get a better funeral professional any place," the owner told prospective employers about R.M.

C.C.

C.C. was hired as a management trainee by a petroleum company in August 1999 to work in one of its gas stations in Jefferson City. Within two weeks, he received excellent reviews and a raise. But the assistant manager warned C.C. in early September that the store managers were preparing to fire him because they did not like gay people working for the company. C.C. had a boyfriend and most of the store employees had quickly learned that he was gay. Two days later, he was falsely accused of violating company policy and fired. Managers refused to tell C.C. who accused him of wrongdoing or the nature of the charge.

OHIO

SCOTT GREENWOOD

After earning a law degree from the University of Chicago, Scott Greenwood joined a large, prestigious Cincinnati law firm in 1989. During his second year, Greenwood began assisting the Cincinnati chapter of the American Civil Liberties Union. His work with the ACLU was applauded by some members of his firm and derided by others. The firm expressed its official support for Greenwood's activism by buying a table at an ACLU annual dinner, where Greenwood gave a speech. During Greenwood's third year at the firm, he expanded his pro-bono work to include gay and lesbian civil rights cases. Greenwood joined the board of Equality Cincinnati, an organization opposed to a local anti-gay ballot initiative. He also amended his insurance and pension forms to make his male partner his beneficiary. During Greenwood's 1992 evaluation, the litigation department chairman told him that his work was fine and that he was billing more hours than other associates. But he also pressed Greenwood for 30 minutes about details on his personal life. On another occasion, the chairman used the term "fag" and expressed thanks that there weren't many people with "alternative lifestyles" where he lived. In September 1993, Greenwood objected to being sent on an out-of-town business trip without warning. He was scheduled to write a brief for Equality Cincinnati, which was engaged in a heated referendum battle. The department chairman ordered Greenwood to leave on the business trip and forbade him to work on the referendum. When Greenwood returned from the business trip, the department chairman fired him, citing objections to Greenwood's "controversial" and "offensive" outside interests. Greenwood sued the firm for wrongful discharge and invasion of privacy and won a settlement.

J.P.

J.P. began working as a clerk for a Canton manufacturer in 1980. Over the next 13 years, she received five quality awards from the company and numerous complimentary letters from customers, and advanced to the position of manager of corporate telemarketing. "There should be more [people like J.P.]," a customer said in a letter. During J.P.'s tenure, a few of her co-workers learned that she was a lesbian. During a 1991 meeting that J.P. did not attend, her supervisor announced to the entire department that J.P. was a lesbian. Early in 1994, several disgruntled subordinates complained about J.P. As part of an investigation, three of J.P.'s superiors interrogated her for an hour about her sexual relationships. They asked if she had sexual fantasies about her co-workers and accused her of treat-

ing the women she supervised as a "harem." Two days later, a similar three-hour interrogation took place, followed by two lengthy telephone calls to her home. A week later, J.P. was fired.

DOUGLAS RETTERER

In 1997, Douglas Retterer began working for a manufacturer of major home appliances in Marion where he was a utility repair operator and team leader. During his 17 years with the company, Retterer received regular positive reviews and promotions. Although Retterer did not share his private life with co-workers, many suspected he was gay. They subjected Retterer to constant ridicule, harassment and humiliation. He was called "fag" and "queer" and asked questions like, "How many cocks did you suck this weekend?" and "How's your AIDS?" His supervisors subjected him to physical abuse and assault. Two of them would frequently call Retterer to their office over the intercom, lock the door and blink the lights in the work area to attract attention. With co-workers watching, the supervisors would physically restrain Retterer while prodding him with their fingers, simulating sex. Afterward, the supervisors would leave the office pretending to zip up their pants. Although these attacks happened four times within one year, Retterer did not report them. He feared his privacy would be violated and that the supervisors would retaliate. A human resources staff person was present during one of the assaults, and Retterer doubted that department would assist him. He eventually managed to transfer to a design team, only to find himself again working with his two assailants. He began having panic attacks and sought medical care. As a result of the continuous physical and verbal harassment, Retterer's doctor placed him on stress-related disability leave. In May 1996, at the end of the maximum two-year medical leave, the company fired him. Retterer filed suit against the firm and his supervisors alleging same-sex sexual harassment. An Ohio appeals court concluded that no remedy was available for sexual orientation harassment under either state or federal law. Retterer remains unable to work and is receiving disability benefits from Social Security.

J.S.

J.S. had been employed with a cleaning service in Lakewood for six months when her supervisors started asking questions about her private life and whether she had a boyfriend. When J.S.'s longtime friend started working for the company, supervisors instructed co-workers to make inquiries about both women's sexuality. When both women revealed that they were lesbians, fellow employees said it didn't matter. But the supervisors started making derogatory comments about "lesbos" and told new hires

about the two women's sexual orientation. The supervisors would assign J.S. and her friend to the gay clients and refuse any schedule changes. One day, when her friend was scheduled off because she was having a commitment ceremony with her girlfriend, J.S. fell and was unable to work. Supervisors insisted that one of them had to work and refused to use other available employees. "It's not a real wedding anyway, so she must work," they insisted. J.S. received positive reviews on the 20 accounts she worked on each week and even brought in new business. Both women, worn down by the hostile environment, gave two weeks' notice. Two days later, they were fired.

WISCONSIN

MARK RICHARDS-WETZEL

Mark Richards-Wetzel worked as a trainer for a software company from 1984 to 1996. When he began in the company's Milwaukee office, he worked with a hostile supervisor who made rude jokes and continuously wrote him up for minor infractions. In 1988, Richards-Wetzel took the opportunity to be transferred to the Bellevue office. Both managers and clients praised his performance. In 1995, when Richards-Wetzel's manager left the company, he again reported to the home office in Milwaukee and to the manager who had harassed him previously. Some senior managers openly acknowledged that they wanted to fire Richards-Wetzel because he was gay. He received the first substandard review in the 12 years that he worked for the company. Two months later, he was written up for lack of productivity and for insubordination. When he was out on jury duty, he was written up for failure to complete paperwork. Richards-Wetzel was fired after being written up for a year-old customer complaint that he had resolved amicably.

CONNECTICUT

JOHN DOE

In October 1994, John Doe of North Haven took the Hamden Police Department qualifying exam and scored higher than any other applicant. He was in good physical condition and maintained a 3.5 average in a graduate-level criminal justice program. Based on his outstanding record, Doe was offered “conditional employment” as a police officer in March 1995 — subject to the completion of psychological, medical and polygraph examinations. During the polygraph test, Doe was directly asked his sexual orientation. He responded that he was gay. After the revelation, the Hamden police chief told Doe that he was not the “best candidate for the job.” “Let’s get one thing straight. I’m not going to enter a dialogue with you,” the police chief told Doe when he pressed the issue. “The interview process is over and you didn’t get the job.” Doe asked for a copy of his polygraph report through the state’s freedom of information commission. The very first paragraph included the statement, “He is gay.”

MAINE

ROBERT E. HIGGINS

Robert Higgins began working at a manufacturing plant in Norridgewock in 1986. When the plant converted to a production team system, Higgins came under frequent verbal and physical abuse by his co-workers. Team members called him “faggot” and “fag boy,” made obscene remarks about sexual activities and put sexually suggestive signs in his work station. They also squirted him with condiments and assaulted him with hot cement. Some told him to stay away because they didn’t like his “kind” and he might give them AIDS. One co-worker confronted him in the restroom, shook him violently and threatened to kill him. Despite Higgins’ complaints and an internal corporate policy prohibiting harassment based on an employee’s sexual orientation, no action was taken. Moreover, Higgins’ team supervisor was one of his principal tormenters. When Higgins complained about the harassment, his supervisor accused him of failing to work effectively as a team member and threatened him with dismissal. In January 1996, he was fired for failing to communicate with a co-worker who continually swore at him, called him names and blamed him for mistakes. Higgins sued in U.S. District Court. Although the court recognized that “rampant discrimination based on sexual orientation” had caused “intolerable working conditions” for Higgins, it ruled that current laws offered no protection. But the court took the extraordinary step of suggesting

legislative action. This situation in the American workplace, the court said, "call[s] for immediate remedial response by Congress." The U.S. Court of Appeals concurred that harassment based on sexual orientation was "a noxious practice, deserving of censure and opprobrium" but that it was not against the law.

MASSACHUSETTS

D.C.

D.C. worked as general manager of an armored car company in Haverhill for four years. The company president told him he was a "natural" at running his business. But D.C. also faced a barrage of harassment based on his sexual orientation. As a gay man, he was "counseled" by his co-workers on his "lack of morality." He was called "fagarosky," asked personal questions about his sex life and made the subject of jokes. His partner, who was HIV-positive, was also ridiculed. "He should be dead," his superi-

a third division, M.C. was told by a co-worker, "No one lives in this area but pig farmers and faggots. ... The one thing I can't stand is a homosexual." He reported this incident to his supervisor but no action was taken. On June 20, 1990, a co-worker threatened M.C. with violence and the next day began throwing cabinets at him on the assembly line. When M.C. complained, his supervisor told him that he "should act like a man and not a faggot." M.C. was fired later that day for insubordination. While employed with the company, he had three employee evaluations, none of which mentioned insubordination or troublemaking. His work habits were rated as good or better than those of other employees.

M.C./K.P.

M.C. and K.P. both worked for a national insurance company. Both lesbians, they were not romantically linked but shared a home beginning in March 1995. During her four years as an insurance agent, K.P. was verbally harassed, publicly ridiculed and threatened with physical assault by

"There can be no doubt that the conduct allegedly engaged in by Simonton's co-workers is morally reprehensible whenever and whatever context it occurs, particularly in the modern workplace. Nevertheless ... when interpreting a statute, the role of a court is limited to discerning and adhering to legislative meaning. The law is well-settled in this circuit and in all others to have reached the question that Simonton has no cause of action under Title VII because Title VII does not prohibit harassment or discrimination because of sexual orientation."

Simonton v. Runyon, 232 F.3d 33, 35 (2nd Circuit 2000)

or said. Most employees also shunned D.C. rather than face retaliation. One co-worker who befriended D.C. was also subjected to harassment. Exhausted by threats, mental abuse and fear of violence in his workplace, D.C. resigned in May 1997.

M.C.

M.C. began working for a cabinet manufacturer in Whately in October 1989. M.C. was called "faggot" and "cocksucker," and was harassed by two male employees who would grab their crotches while staring at him. He complained to his supervisor but no action was taken. One harasser jeopardized M.C.'s safety by overloading the machine on which he was working. In May 1990, he succeeded in getting transferred to the radial arm saw division. After an injury, M.C. was called a "faggot" for attempting to file an accident report. When transferred to

her general manager. In May 1996, the general manager called K.P. into his office and threatened "to beat the living crap" out of her. K.P. complained about his behavior but no action was taken. Due to this hostile work environment, she left the company in December 1996.

M.C. had received numerous awards for her work with the insurance company over a 10-year period. In August 1996, however, she heard rumors that she was being targeted for layoff because of her "lifestyle." M.C. filed an official complaint but was told by human resource officials that they had investigated the matter and could not substantiate her accusation of discrimination. On Dec. 10, 1996, both women received a vicious hate letter filled with sexually explicit anti-gay language. "AIDS is the scourge brought upon by God," the letter said. "It is our hope that you both get it and die." It was signed "Your Fellow Employees." The local police department determined that

the letter came from the women's former supervisor. "It was probably one of the most vile and disturbing letters I've seen in all the time I've been in police work," said one detective. Three days later, M.C. was told that the company was "downsizing" and that her position would be eliminated. After she unsuccessfully interviewed for another position, she saw a newspaper advertisement matching her old job description.

H.G.

H.G. was fired from his job as a mental health assistant at a hospital after a co-worker learned he was gay and began harassing him. The co-worker convinced a patient at the hospital to write a complaint that H.G. had exposed himself to a male co-worker, and prepared a similar complaint herself. The hospital fired H.G. without any investigation. H.G. filed a complaint under the state's non-discrimination law, and won a settlement against the hospital in August 1993.

S.R.

S.R. was a supervisor for a social service organization for the mentally retarded for more than nine years. In 1985, she was promoted to production supervisor, overseeing more than 150 employees at three facilities. In March 1991, she informed her supervisor, who knew that she was a lesbian, that she was pregnant and intended to take time off as stipulated in the agency's personnel manual. Shocked by the revelation, the supervisor expressed doubt about whether the terms of the pregnancy leave applied in S.R.'s case. S.R. miscarried soon thereafter and took three days off for medical reasons. Four days after she returned, she was fired. S.R. was told that her position had been eliminated because of budget cuts and reorganization. She discovered soon after being fired that she had been replaced by a heterosexual male.

NEW HAMPSHIRE

MO BAXLEY

Mo Baxley held a managerial position in a New Hampshire organization and received excellent evaluations and support from the management team, including her supervisor. When her immediate boss left the organization, Baxley was asked to fill in temporarily. But her new supervisor displayed hostility toward lesbians, gays and women. When he began harassing a straight female co-worker of Baxley's, the co-worker threatened to file suit if he didn't stop. When he began harassing Baxley about her sexual orientation, she called the state's human rights commission but was told that discrimination based on sexual

orientation was not protected under the law. The supervisor continued to harass Baxley and confiscated her office keys without providing any explanation. After nearly six months of this behavior, Baxley approached the personnel office to ask what was going on. "You know exactly what is going on," the personnel officer replied. After Baxley transferred to another division with a more supportive boss, she learned that her former supervisor had fired every gay person in his office. Baxley later joined the New Hampshire Coalition to End Discrimination, a group that successfully worked with other progressive organizations to pass a state employment non-discrimination bill covering sexual orientation.

RON LAMBERT

Ron Lambert established a stellar performance record in 1990, his first year working as a warehouse manager in the Concord area. He met and surpassed shipping quotas, reduced costs and received regular praise, additional responsibilities and unusually large raises and bonuses.

Lambert established friendships with other managers at the warehouse and met their spouses and families. Feeling comfortable with his colleagues after a year on the job, Lambert began to be open about being gay. Without warning, the director of operations called Lambert into his office, announced that he was "not the man for the job," gave him a final paycheck and escorted him off the premises. The company gave Lambert no other explanation for his firing. One of the managers Lambert had befriended confirmed his belief that the company fired him for being gay.

NEW YORK

M.B.

M.B. began working as a residential adviser for a vocational training facility in Glenmont in December 1995. M.B., a lesbian, received positive performance reviews and established a good rapport with students. One day, however, she stood up for a student who was verbally and physically harassed for being openly gay. When M.B. was physically attacked in the hallway by a student she described as "homophobic," her radio calls for help went unanswered. The attack left M.B. with physical injuries and emotional trauma. In a meeting with program officials, she was further subjected to a barrage of homophobic remarks. While ignoring the attacks, the officials launched an investigation into rumors that M.B. was having an affair with a female student. No one, including the student, reported any inappropriate behavior by M.B. The investigation, however, had several unintended consequences. It outed M.B. to her students. It also uncovered a case of sexual harassment by a male student that went

unpunished, despite a strict expulsion policy with regard to such behavior. In May 1996, M.B. was fired.

JOHN DOE

In 1986, John Doe joined a six-month training program with one of New York's largest commercial banks. He was a recent graduate of a master's degree program in computer science at the University of Southern California. Doe made good progress in the program and received good to excellent evaluations. After a few months, Doe revealed his sexual orientation to certain co-workers and began being open about being in a gay relationship. About the same time, all the banking trainees took a computer skills exam. As one of the few trainees with a computer background, Doe completed the exam quickly and was confident of his performance. But a week later, his supervisor told Doe that he had failed the test. Because of this failure and Doe's "increasingly poor performance in other areas," his supervisor said he was likely to be dropped from the program at its conclusion. Stunned by the news, Doe asked to see the graded exam but was told the bank could no longer access it. Doe was then offered an unusually generous severance package if he left immediately. In exchange, he would have to sign a statement relieving the bank of any responsibility for his resignation. Although advised by lawyers that he had a strong discrimination case, Doe decided that fighting the bank in court would ruin his banking career. Doe accepted the severance package and left.

J.L.

J.L., a media specialist, applied in 1993 for the position of assistant director of public information for a prominent substance-abuse treatment center in New York City. Toward the end of a lengthy application process, he revealed his sexual orientation. The director of public information then told him "some of the people here wouldn't be comfortable with a gay employee in such a public position." J.L. did not get the job.

J.P.

J.P. worked as a waiter at a New York restaurant. When a new maitre d' joined the staff, he began to harass J.P. because of his sexual orientation. He repeatedly made loud derogatory comments to J.P. and would make him wait before assigning him a shift. J.P. complained about these incidents in a letter to management. He was fired the next day. J.P. and the restaurant ultimately reached an out-of-court settlement for \$25,000.

A.P.

A.P. started working at a Manhattan restaurant in April 1995. Hired as a waiter, he was promoted to be a certified trainer within a year. In September 1996, however, an assistant manager began harassing A.P., undermining his work, speaking to him in an abusive and condescending manner, and making disparaging remarks about his sexual orientation. A.P. filed a grievance about the treatment, but it was ignored. In November 1996, A.P. and the assistant manager had a disagreement, during which the manager said A.P. was "acting like a bitch." A.P. summoned the general manager who tried to resolve the situation. The assistant manager waved a folder in A.P.'s face, and A.P. knocked it out of her hand. Claiming the incident traumatized her, the assistant manager demanded that A.P. be fired. The following day the general manager called A.P. to his office, accused him of trying to hit the assistant manager and fired him.

JAMES MANNING

James Manning joined the Nassau County sheriff's office in 1990 as a corrections officer. In 1992, after being assigned to the visiting area of the county jail, Manning began encountering daily harassment from his co-workers for being gay. They called him offensive names and displayed pornographic images depicting him as a pedophile, a transsexual and someone who engaged in bestiality. Manning pleaded with supervisors to stop the harassment. Instead, they watched and laughed as it took place. The harassment continued on almost a daily basis for four years. In December 1996, a fellow corrections officer attacked him with a chair and injured his knee. Manning left work and later went on disability leave. A doctor certified that he suffered from post-traumatic stress disorder. In July 2000, a U.S. District Court jury awarded Manning \$1.5 million in damages. The jury found the harassment at the county jail was so widespread that it constituted a "custom and practice" to discriminate against gay men.

B.S.

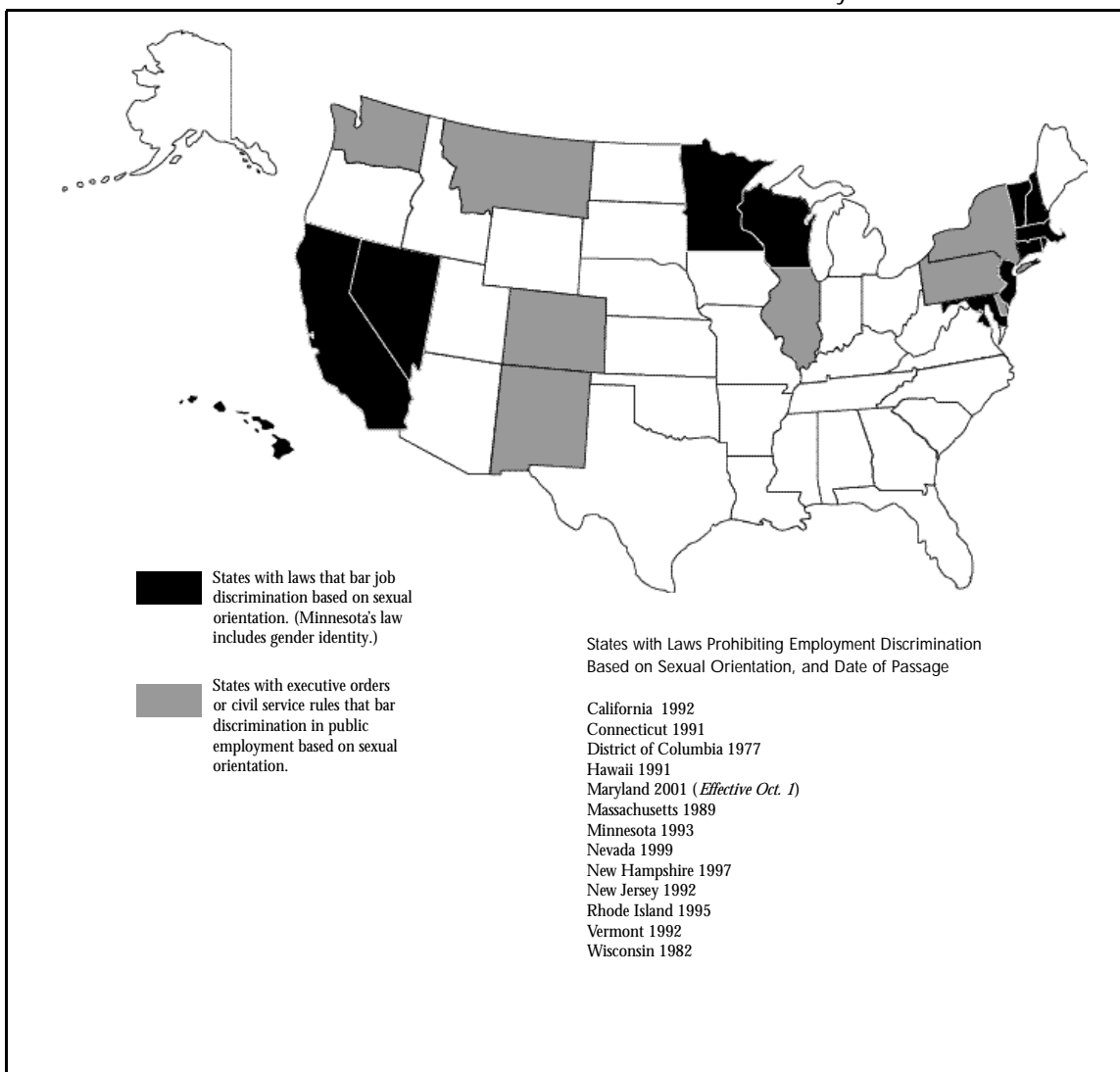
While working as a waiter with a national restaurant chain, B.S. endured continual verbal and physical harassment from his head manager. He also made derogatory remarks about gays, continually referring to B.S. as a "fag," "queer" or "queen." Further, he sexually harassed B.S. On one occasion, the manager hit him. The altercation led to B.S.'s dismissal. The case was ultimately settled.

JAMES QUINN

James Quinn joined the Nassau County police force in 1986. During his first days of training at the police academy, supervisors snickered when discussing homosexuality in a sensitivity training workshop. Thereafter, Quinn vowed to keep his sexual orientation hidden. But in July 1987, an assistant district attorney arrested for public indecency told his arresting officers that Quinn was gay. This began a nine-year campaign of ridicule, abuse and harassment. Fellow police officers hung pornographic pictures and doctored records around the station house, portraying Quinn as a child molester and a crossdresser. They hid his uniform, put rocks in his hubcaps and once placed a nightstick — labeled as a sexual device — in his squad car.

Quinn's complaints to his supervisors were ignored. He was involuntarily transferred to a less desirable precinct in 1995, where the harassment continued. Quinn retired in 1996 because of a line-of-duty back injury, but the harassment did not stop, forcing him to move to upstate New York. In 1999, a U.S. District Court jury found that the harassment constituted an "ongoing practice of sexual-orientation discrimination" and awarded Quinn \$380,000. The jury found that his supervisors knew of the harassment and did nothing to stop it. The outcome of this case was an extremely rare decision holding a government entity liable for a campaign of anti-gay harassment. Quinn sued under a civil rights statute that bars law enforcement officers from violating a citizen's constitutional rights.

States That Prohibit Discrimination Based on Sexual Orientation or Gender Identity



DWAYNE SIMONTON

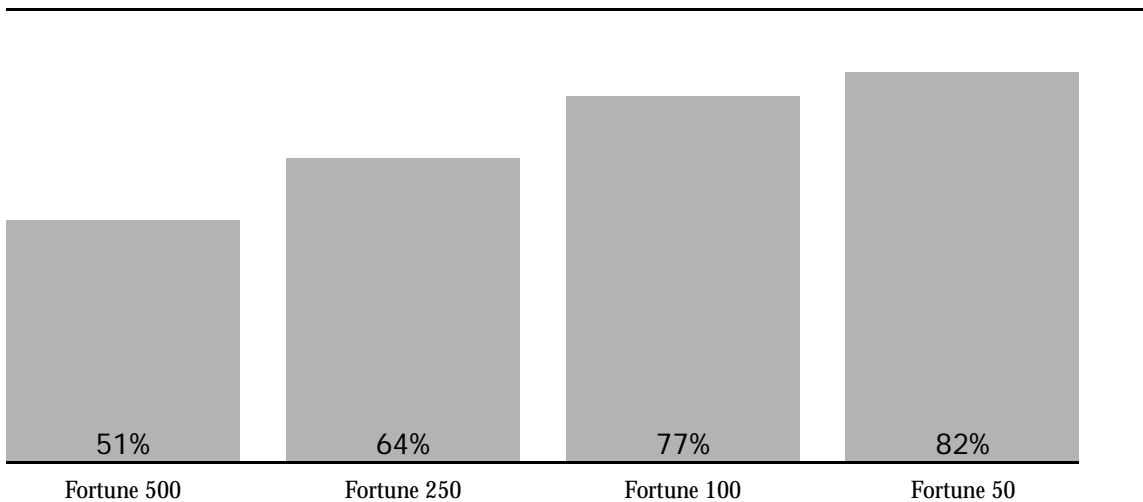
Dwayne Simonton worked for the U.S. Post Office in Farmingdale from 1984 to 1995. In 1987, when co-workers discovered he was gay, Simonton became the target of ridicule and harassment. Co-workers and supervisors would threaten him, yell obscenities and send nasty letters in an attempt to get him to resign. They placed notes on the bathroom wall with Simonton's name and the names of celebrities who had died of AIDS. He was called "fucking faggot" and taunted with comments like "Suck my dick" and "You like it up the ass." He was physically assaulted twice. The hostile and abusive work environment eventually contributed to Simonton's heart attack. When he left the postal service, he filed suit in federal court alleging discrimination under Title VII of the Civil Rights Act of 1964. In June 1999, a federal judge ruled against him. "If true, such behavior is not to be tolerated in any workplace," said the judge about Simonton's treatment. "The fact is, however, that Title VII does not provide a remedy."

VERMONT

N.H.

N.H. worked as a reader and driver for a counselor at a social service agency in Montpelier. Hired in May 1996, she came to the agency with an impeccable work record and received positive performance reviews. As the only lesbian driver working for the agency, however, N.H. was singled out for harassment by her supervisor who accused her of "defrauding" the agency by submitting false time sheets. Unlike other employees, N.H. was required to account for every minute of her work time. Because of the harassment, N.H. was eventually forced to quit. "I really want it known that this happens even in agencies that advocate people's rights," N.H. wrote.

Percent of Fortune Companies That Include Sexual Orientation in Their Non-Discrimination Policy



ALABAMA

J.H.

While a graduate student at the University of Alabama in 1991, J.H. worked part time at the corporate headquarters of a regional paper company in Tuscaloosa. He ran public tours of the firm's art collection. J.H. also was president of the University of Alabama Gay and Lesbian Alliance. J.H.'s supervisor called him into a private meeting after another employee told him about J.H.'s activism. The supervisor asked him if he was gay and if he belonged to any lesbian and gay organizations. J.H. answered yes to both questions. His supervisor then said that although J.H.'s job performance had been "perfect," his sexual orientation was a "problem." Five days later, the supervisor asked J.H. to resign. When he refused, he was fired. J.H. consulted with Lambda Legal Defense and Education Fund and the American Civil Liberties Union, but was told he had no legal recourse.

"THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION ITSELF HAS RULED THAT ADVERSE ACTION AGAINST HOMOSEXUALS IS NOT COGNIZABLE UNDER TITLE VII."

Smith v. Liberty Mutual Insurance Co., 569 F2d 325, 327 (5th Circuit 1978)

J.D.

J.D. was fired from her position as a cashier with a gas station and convenience store in March 1993. She had been with the company for more than two years with a good performance record when her work schedule was abruptly reduced to half time. When J.D. asked her supervisor about the schedule change, he asked her to resign. The supervisor told J.D. that he did not care for J.D. or her "lifestyle." "Gays are taking over this company and it's got to stop," he said. When J.D. refused to quit, her supervisor fired her.

ARKANSAS

B.M.

B.M. was a counselor and eighth-grade teacher at a junior high school from 1991-92. He applied for a job at the school where the principal and the assistant principal gave him verbal agreements that he would be hired. Afterward, however, they called B.M. in and said they had heard a rumor he was gay. As a result, B.M. was not hired.

JOHN DOE

John Doe was hired by a national freight-hauling company in Jacksonville, Fla., to work in its sales and information center. After more than two years with the firm, Doe asked to be transferred to its headquarters in Fort Smith, Ark., to be closer to his family. With high recommendations from the Jacksonville office, he was flown to Arkansas for five interviews and easily landed the job. After an initially warm welcome, Doe soon encountered hostility in the new setting. Co-workers made comments about gay people "going to hell" and his new supervisor began to criticize his work. One day, a co-worker said, "Why do we have to hire gay people? Why can't we just fire them?" Doe's supervisor responded, "We can't do that. We just have to look for other reasons." Although Doe was not openly gay at work, he had befriended an openly gay man in Jacksonville whom he suspected had spread word that Doe was gay. "They treated me as a diseased outsider," said Doe, who after almost five years of this treatment, resigned and took a substantial salary cut in his next job. Doe had problems finding a lawyer to pursue a discrimination case because the freight-hauling company is the area's largest employer.

FLORIDA

J.D.

Soon after J.D. began as a temporary employee for a health care services provider in Orlando, management officials offered him a full-time position. Shortly thereafter, some of J.D.'s co-workers, noticing his wedding band, inquired about his wife. When he explained that he was married to a man, reactions to his revelation varied from acceptance to hostility. Weeks later, a manager informed J.D. that he was unable to obtain funding for J.D.'s salary. About the same time, both a technician and the office manager told him that he was not wanted at the company. "We don't want to invite sin into the workplace," they explained.

B.N.

B.N. worked for a regional telecommunications firm for more than 20 years as a service clerk. In 1990, managers began to single her out with harsh treatment and gave her verbal and written reprimands. B.N. was the only person told that she could not leave her desk. She came under constant harassment allegedly for failing to follow directions from supervisors although her colleagues were performing similarly to her. At the time, several employees overheard a male supervisor proclaim that he was going to "get rid of a lesbian." In June 1991, B.N. was fired. Under the city of Tampa's human rights ordinance, B.N. filed a

complaint charging she was discriminated against because of her sexual orientation. But because the telecommunications firm's offices were outside the city limits, the city dropped her complaint.

CAROLYN O'NEILL

In 1993, Carolyn O'Neill and three other heterosexual cocktail waitresses were fired from a club north of Tampa. At the time, management had decided to market the bar to a gay and lesbian clientele. The owner told the women that they were being dismissed because they were not gay and would not fit in. The bar's manager said that the club's patrons would be mostly gay men who would prefer being served by other gay men. After these firings gained publicity, many of Tampa's gay and lesbian citizens mounted a boycott of the bar to protest the discrimination. "Sexual orientation has no bearing on your capacity to serve drinks. Discrimination is wrong whether it's directed against gays and lesbians or straights," a boycott leader said.

S.S.

S.S. worked for a regional telephone company in Miami as an assistant manager for 13 years. Her supervisor, also gay, knew of her sexual orientation and encouraged her to be active in public service in the gay and lesbian community. In June 1993, the company vice president awarded S.S. a commendation and a large bonus for her public service with AIDS education. After the company was investigated for allegedly overbilling clients and racketeering, the company asked S.S.'s supervisor to "clean up the mess." Soon after, the supervisor became hostile toward her. In October 1993, as part of a company downsizing, S.S. and five other gay employees were among the first to receive notices. Management used S.S.'s community work as justification for letting her go, saying that because she was so active in the community, she would be able to find another job. Rumors circulated that the corporate office in Atlanta was taking advantage of the downsizing to get rid of known gay and lesbian employees. "One of us has to go, and it won't be me," S.S.'s gay supervisor told her.

R.S.

R.S. began working for a fast-food franchise in 1979 in Orlando. He regularly received excellent evaluations, and the company enrolled him in management training courses. He was promoted to area supervisor in 1982 at the age of 25, the youngest in the company's history. In 1987, the regional director promised R.S. the next promotional opportunity after he had successfully opened several new restaurants in his area. That same year, R.S. and his wife divorced — starting rumors that he was gay. In January 1988, the firm began investigating R.S.'s private life. The regional director asked

the manager of each restaurant R.S. managed if he was gay. R.S. then received a warning about the investigation from the vice president for operations. Another gay employee of the company was fired; he called to warn R.S. that the company had started a "witch hunt." The next day, the vice president fired R.S. after nine years of outstanding service. "You've done a great job," he said, promising to provide him with a good recommendation. When pressed for an explanation, the vice president responded, "We don't have to give you a reason, but you know why."

T.W.

T.W. began working at the Orange County sheriff's office in 1983. After five years of receiving consistently high evaluations from his superiors, T.W. was promoted to deputy sheriff. But in April 1989, a police captain told internal investigators that T.W. had a sexual encounter with another man. The sheriff's office opened an investigation, allegedly to determine if the encounter occurred during working hours or with a minor. During the investigation, T.W. said he had been involved in consensual affair with another man more than a year before. He also testified to numerous relationships with women. He refused repeated requests, however, to identify other gay or bisexual employees. The report concluded that although T.W.'s relationship was consensual, legal and on his own time, his "chosen sexual preference could compromise his position as a deputy sheriff and public servant." Because the sheriff held that homosexuality was "unnatural, immoral and inexcusable," the investigators concluded that T.W.'s presence on the force brought "dishonor" to the sheriff. T.W. was forced to resign in April 1989.

GEORGIA

CHERYL SUMMERVILLE

Cheryl Summerville began working as a cook for a Cracker Barrel Country Store in Douglasville in 1987. She was well-liked at work and had recently purchased a home where she lived with her partner and her son. In February 1991, the company adopted an official policy to fire any employee who "failed to demonstrate normal heterosexual values." Summerville's supervisor, who knew that she was a lesbian, initially told her because the firm's new policy did not apply to her because she did not interact with customers in her job. The regional manager, however, strictly enforced the policy. Summerville asked to be treated like the other gay employees and was fired Feb. 16, 1991. Her official separation notice read: "This employee is being terminated due to violation of company policy. The employee is gay." After drawing negative publicity

and picketing by civil rights groups, the restaurant chain rescinded its official anti-gay policy, but has not rehired the many employees fired.

MISSISSIPPI

VALERIE "JESSE" SHAW

Valerie "Jesse" Shaw worked as a social worker at a state-funded center for mentally retarded children near Jackson. When Shaw, an African-American lesbian, interviewed for the position, an official said, "We will not tolerate discrimination based on race, sex or sexual orientation." Shaw responded, "I'm a lesbian; I have a white lover, and I don't think you'll have any problems with discrimination from me." Two days later, Shaw got the job. At the center, Shaw continually saw photos of co-workers' families. When a co-worker asked to see photos of Shaw's partner, Shaw brought in an album of pictures of herself, her partner and her two dogs. Shaw was discreet with the photos and showed them only to those who asked. But while Shaw was away from her desk, several co-workers looked at the photo album. Some expressed discomfort that Shaw was in a mixed-race relationship, and one complained to management about the photos. Her boss asked her not to bring them to work. Shaw agreed but suggested it was unfair that she was the only one not allowed to bring in family photos. Shaw was fired 10 days later. The manager praised her work, however, saying she was one of the center's best employees. He claimed he took the step because she brought in photos of her partner, not because she was gay. He alleged that some were obscene, although he had never seen them.

NORTH CAROLINA

MICHAEL E. ARMENTROUT

Michael E. Armentrout, a Chapel Hill stockbroker, became the youngest manager at a well-known brokerage firm in March 1986. Immediately after the October 1987 stock market crash, the firm became insolvent and began merger negotiations with other firms. In this chaotic atmosphere, Armentrout was promoted to the Wilmington office and given the immediate challenge of keeping account executives and staff from leaving the firm to work for the competition. Armentrout also faced angry clients, a hostile press and significant litigation. Within two years, however, Armentrout rebuilt the branch office to a profitable level, with 12 account executives and six other staff. The office received straight-A audit reports, built new facilities and was a key corporate leader in the community. His supervisors commented that he had done "an outstanding job that

few of the firm's managers could have matched." In February 1990, Armentrout was selected for promotion to a much larger, more profitable branch office in Charleston, W.Va., with a guaranteed six-figure compensation package. A former broker — angry because Armentrout had fired him for cause — told the senior broker in Charleston that he believed Armentrout was gay. After the Charleston broker told the regional vice president in Atlanta that the Charleston branch would not work for a gay man, Armentrout's offer was revoked. When Armentrout confirmed under questioning that he was gay, the vice president told him that his sexual orientation would prevent him from being assigned to another management position in the region. Armentrout was allowed to work as a financial consultant out of the Raleigh office. The action breached the explicit non-discrimination policy regarding sexual orientation of the firm's new parent company. By informing many of Armentrout's peers and employees that he was gay, the vice president also breached the confidentiality of their conversation. Armentrout has been unsuccessful at re-entering management and estimates that his financial loss since 1990 is well in excess of \$1 million.

J.B.

J.B., a gay man, joined a major pharmaceutical development firm in February 1984 in the information technology department. He received excellent employment evaluations and awards and was eventually promoted to systems analyst. In July 1995, while J.B. was on vacation, a problem occurred in a system for which he was responsible. Reprimanded for allegedly leaving the system "in a mess," J.B. accepted responsibility for some of the errors but con-

Union and a private attorney, but was told there was no legal protection for discrimination based on sexual orientation.

JOHN DOE

John Doe began working for a financial services firm in Burlington in 1995. Because some men in the office made frequent derogatory comments about gays — such as "fucking queers" and "ass pirates" — Doe concealed his sexual orientation. In early 2000, however, when a new female employee asked Doe if he was gay, he felt comfortable enough to confide that he was. The firm's chief executive officer soon began harassing Doe, throwing work at him and cautioning him not to communicate with clients. After a vacation in April, Doe returned to find documents suggesting he was going to be fired. When Doe asked if there was a problem, the CEO told him that his services were no longer needed. The CEO demanded that he sign a resignation statement in order to receive a severance package. Doe had never received a bad evaluation or reprimand in his more than five years of service. The co-worker Doe had confided in later confirmed that he was fired for being gay.

SOUTH CAROLINA

B.C.

B.C. was hired by a national pizza restaurant chain in May 1993. He was openly gay at work. In August 1994, he ordered a book with gay themes from a bookstore and had it shipped to his work address. B.C. received verbal permission from his manager for such a delivery. When the book arrived, the manager accepted shipment of the pack-

"While we are sympathetic to the proposition that job discrimination on the basis of sexual preference ought to be proscribed, we can find no clear expression of public policy to sustain such a judicial creation. Some legislative bodies have passed such rules; most have not."

Blain v. Golden State Container, (Az. Ct. App. 1994)

tested others. The next month, J.B. was informed his job would be terminated when the firm merged with another large pharmaceutical company. J.B. discovered later from co-workers that he was let go because of homophobia. A contract employee was told not to associate with another employee because she was a "militant homosexual." If he continued to associate with her, a supervisor threatened to "do to [him] what we did to [J.B.]." Another supervisor added, "Yeah, we don't want any fags working in our department." J.B. was later denied a contract position with the merged firm. J.B. contacted the Equal Employment Opportunity Commission, the American Civil Liberties

age, opened it and forwarded the book to the district manager, without informing B.C. The next month, B.C. inquired about the status of his order, and the bookstore informed him that the manager had accepted the shipment. When B.C. confronted the manager, she admitted to having received the book. "Nothing like that can be sent here," insisted the manager, who denied having given B.C. permission for the shipment. A heated argument ensued that ended with B.C.'s being fired. He learned from a former co-worker that two months earlier, the manager had expressed the desire to fire B.C. because of his sexual orientation but was afraid of the liability.

ARIZONA

JEFFREY BLAIN

Jeffrey Blain worked in sales for a Phoenix-based manufacturer. During the first six months of 1993, Blain received a 37.5 percent raise. In recognition of his early success, Blain was transferred to a new division to assist in sales. The manager of this division, however, expressed hostility toward Blain and encouraged speculation about Blain's sexual orientation. Blain expressed concerns about the manager's behavior to the firm's vice president. Rather than reprimand the manager for the behavior, the vice president fired Blain, saying that he was "a fish out of water." Blain sued the company for wrongful termination, arguing it had fired him for being gay. During the trial, the judge instructed the jury that even if the company had fired Blain for being gay, the action was not illegal. "An employee is not wrongfully terminated if he is fired for being homosexual," the judge said in his instructions. Blain lost his case.

R.H.

R.H. worked as an undercover narcotics officer with the Mesa Police Department. During a tour of duty in Vietnam, he had been awarded the Bronze Star. Since joining the police department, R.H. established a perfect record. In August 1980, R.H. told the police chief that he was gay. The police chief initially assured R.H. that his sexual orientation would not affect his position in the department. Soon after his disclosure, however, R.H. was fired. He was told that as a homosexual, he was in violation of Arizona's law against sodomy, even though the law applies to heterosexuals and homosexuals. R.H. filed a lawsuit against the city, but the trial court ruled against him. An Arizona appellate court upheld the decision in 1984.

DAVID HOROWITZ

David Horowitz established a stellar academic record at the University of Arizona. After graduating from law school, he accepted a position in 1991 with the child support enforcement office of the Arizona attorney general. When Horowitz applied for a job with the prosecutor's office, he went through two rounds of interviews. Ultimately, Horowitz was the second-choice candidate, and the job went to another candidate. Within a year, however, an official from the prosecutor's office called Horowitz, told him that the original hire had not worked out and asked if he was still interested in the job. Horowitz said he was but mentioned that he was openly gay. The official's demeanor then changed. He said that this might be a problem and promised to be in touch with Horowitz.

Three weeks later, Horowitz received a letter informing him that the prosecutor's office had again hired another candidate.

COLORADO

R.B.

R.B. joined a Denver law firm as an associate attorney in 1990. During his 21-month tenure, R.B. received periodic merit raises and was considered to be doing a good job overall. R.B. kept his sexual orientation quiet until 1992, when his partner was diagnosed with AIDS and he requested his work be temporarily reassigned while he dealt with the situation. Under questioning by a law partner about the request, R.B. revealed that he was gay and that his partner had AIDS, but asked that this information be kept confidential. Within two days, the entire firm knew of R.B.'s sexual orientation, and many employees assumed he had AIDS. In a meeting with him, the firm's managing partner made derogatory comments about people with AIDS. Within a week of the revelation, R.B. was fired.

RICHARD RENDON

Richard Rendon worked for a major airline in Denver. Throughout 1988 and 1989, co-workers verbally harassed Rendon because of his sexual orientation. The verbal harassment escalated and culminated in two assaults on Rendon in the airline parking lot. The attacks were so severe that Rendon received medical treatment, was diagnosed with post-traumatic stress disorder and missed seven weeks of work. In 1991, the harassment began again. Rendon reported to his supervisor a derogatory remark about gay people made by one of his co-workers. After being reprimanded, the co-worker took revenge by filing a bogus sexual harassment complaint against Rendon. During the airline's internal disciplinary proceeding on the complaint, Rendon was required to be represented by one of his co-workers who had assaulted him. Rendon later filed a workers' compensation claim for the work he missed after the assaults and the sexual harassment charge. The airline was complicit in the harassment because its actions "validated the co-worker's prejudice against [Rendon]," according to the court decision. The court awarded Rendon compensation for six months of missed work.

ANGELA ROMERO

Angela Romero had a long and distinguished record of reliable service with the Denver Police Department. As a member of the department's school resource program, she taught public safety to local public school students. Consistently praised by the schools where she taught, Romero earned a promotion. A lesbian, she never discussed her sexual orientation with any other police officers. One day in 1986, Romero bought a few books in a lesbian bookstore. Soon afterward, her supervisors transferred her to street patrol. They told her that they had "damaging information" about her that could impair her integrity on the job. During roll call, other police officers began to make disparaging comments about lesbians. While on street patrol, Romero's calls for backup often went unanswered, leaving her in serious danger. When Romero reported these incidents to her supervisors, they responded by stationing unmarked police cars at her home and the homes of friends she visited. When Romero consulted outside agencies, she was told that the law gave little protection against harassment based on sexual orientation. The local American Civil Liberties Union would not take her case. Romero spent more than four years struggling to keep her job and withstand the insults and constant surveillance. Finally, in 1990, Denver enacted an anti-discrimination ordinance, and the police department approved new anti-discrimination and anti-harassment guidelines.

NEW MEXICO

J.V.

J.V. began working for a Farmington bank in September 1990 and was promoted to teller in 1992. The bank had an anti-discrimination policy that included sexual orientation but at the time of his promotion, J.V. was forced to sign an "absolute prohibition" on discussing anything about the "gay lifestyle" to any bank employee at any time — both on and off the job. About the same time, a female co-worker complained that J.V. had made sexual remarks toward her. J.V. received a written warning, although he insisted that his comment was of a non-sexual nature. In January 1993, several female co-workers remarked on the attractiveness of a male colleague. One of them asked J.V. his opinion, and he agreed that the man was attractive. After this exchange, one of the female co-workers charged J.V. with sexual harassment. As a result, J.V. was fired.

OKLAHOMA

J.B.

J.B. began working as a manager at a pizza franchise in January 1994. During his first few months on the job, J.B. won nothing but praise and satisfaction from the owners for his performance. In February, he was asked to help open a store in Midwest City, where he trained new employees. In March, when J.B. was hospitalized for appendicitis, the owners continued to pay him while he was out on sick leave despite his lack of seniority. Returning to work, J.B. was called into the franchise owner's office expecting to hear good news. Instead, he was fired. The owner claimed that J.B. had once left the store for 15 minutes and that he had incorrectly completed paperwork. J.B. asked for specific examples, but none were provided. Later, J.B. learned that a rumor had circulated that he was having a sexual relationship with a male co-worker. When J.B. called the franchise owner to inquire if the rumor was the reason for his termination, the owner replied, "I'm sorry, we don't hire fags" and hung up. Hospitalization and unemployment left J.B. in financial difficulty. His inability to find employment and the stress from mounting bills caused him to seek psychological counseling.

KENDALL HAMILTON

Kendall Hamilton began working as a waiter with a national restaurant chain in Oklahoma City in 1990. He received consistently excellent performance reviews and was promoted to trainer of new wait staff. In 1995, his general manager told him that in recognition of his exceptional work, he wanted Hamilton to apply for a management position at a new location in Oklahoma City. Hamilton had five interviews with upper management about the promotion, and his general manager began training him for the new position. During the interview process, another manager told the hiring committee that Hamilton was gay and that she did not want to work with him because of it. Upon hearing the news, restaurant officials gave the job to someone much less senior and also asked Hamilton to resign, claiming his sexual orientation did not fit with the restaurant's "belief in family values." If he refused to resign, they suggested they would fire him for "some other reason." Hamilton had no choice but to walk away. Hamilton contacted a member of the state's city human rights commission, but was told that no protection existed for discrimination based on sexual orientation in Oklahoma.

K.K.

K.K. was chief financial officer for an aircraft parts manufacturer in Tulsa and had worked for the company for five years. In early December 1991, K.K. received an excellent performance evaluation and a 10 percent raise. That same day, a photograph of K.K. and his partner carrying candles at an AIDS memorial service marking World AIDS Day appeared in the Tulsa daily newspaper. The next day, the company president called K.K. into his office. Acknowledging that he had seen the photo, he asked K.K. if he was willing to make public statements about his "cause." K.K., who had never actively concealed his sexual orientation, answered yes. The president said that he suspected K.K. was gay from the time that he started. The next day, the board of directors called K.K. into a shareholders' meeting. The board asked him to resign and sell them his stock. When K.K. asked why, one partner responded, "I'm not willing to say, but you know why it is." K.K. consulted a lawyer who informed him that no legal recourse existed for people discriminated against based on sexual orientation. K.K., therefore, entered into a settlement agreement in which the company granted him severance pay and bought back his stock. After signing the agreement, he asked the president to explain his termination. The president told K.K. that the board felt that customers would be reluctant to transact business with a company that employed a gay man as controller. He also said that the business partners did not feel comfortable working closely with a gay man.

TEXAS

F.H.

In July 1989, F.H. began working for a large department store chain as an hourly sales clerk. Promoted four times, he eventually rose to become the operations manager of one of the largest volume stores in the chain. He had a stellar work record and was well-liked and respected by co-workers and upper management. F.H. considered his sexual orientation a private matter not to be discussed in the workplace. But a series of sexual harassment charges between two male security guards in his store brought F.H.'s homosexuality into the public record. The guard making the charges claimed that F.H. was protecting the other guard because both were gay. An internal investigation determined that the sexual harassment charges were groundless. But when the guard who had charged sexual harassment was discharged for an unrelated matter, he filed suit against the chain. F.H.'s sexual orientation became public during the resulting jury trial. In December

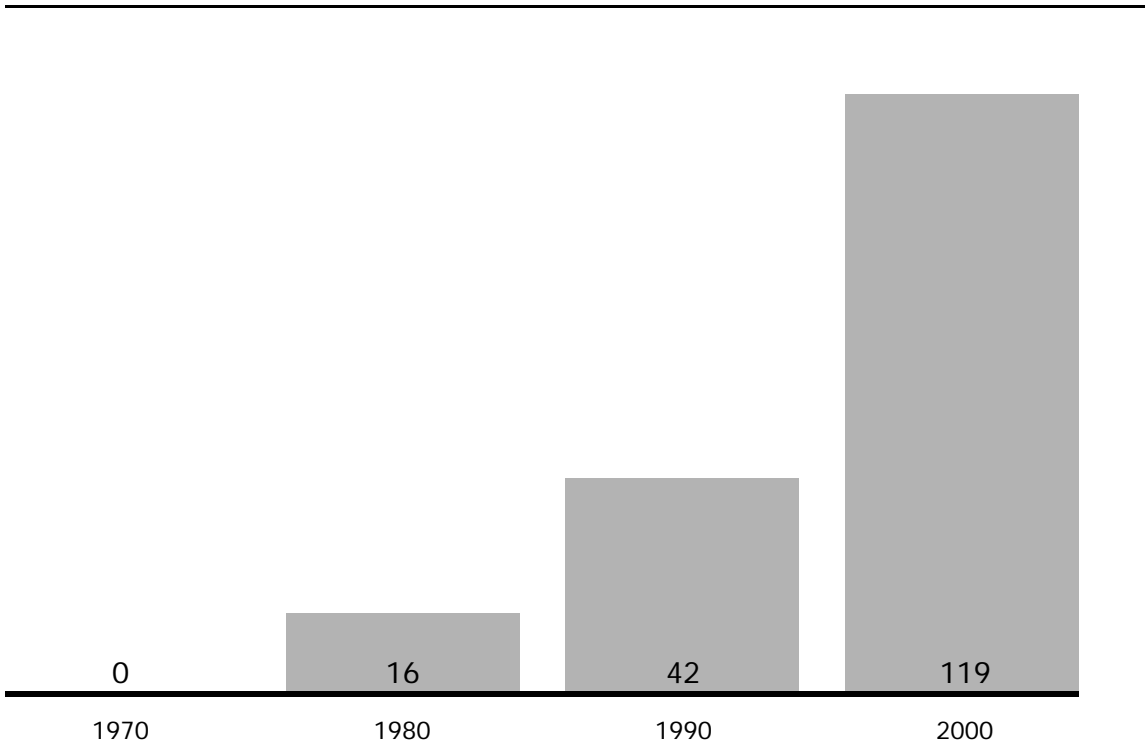
1997, immediately after the trial, F.H. was fired. "Due to facts that came out in the trial and the way the situation was handled [we] no longer have faith in you," the director of stores told F.H.

C.M.

C.M. owned a landscaping firm. In March 1995, she was hired by a home builder to clear, clean and grade several new subdivisions. The division manager who negotiated the contract retired in September 1995 and a new division manager was appointed, along with many new employees. Both division managers complimented C.M. on her work and told her to gear up for many new home starts and an increased workload. In November, at the client's request, C.M. submitted a new price list reflecting some changes to her job specifications. These were accepted and signed by

the construction manager. The next month, however, C.M. was told she was being replaced with a contractor who had submitted a lower estimate. C.M.'s offer to match the bid in order to keep the account was refused. When pressed, the construction manager admitted that he and "the guys in the field have a problem with [C.M.] and [her] relationship with Laura on a personal level." Laura was C.M.'s partner. Stunned, C.M. stated that she would at least like to finish the houses that she had started. C.M.'s contract was canceled.

Number of Cities and Counties Prohibiting Employment Discrimination Based on Sexual Orientation, By Decade



CALIFORNIA

MARK ANDERSON

Mark Anderson joined a prestigious securities firm in Los Angeles in June 1994. What he found was a “fraternity” atmosphere of hazing, humiliation and harassment. Soon after joining the firm, a photograph appeared on the office bulletin board of three men having sex, with Anderson’s face superimposed on one of them. In July 1995, a handwritten list was posted on the lunchroom bulletin board suggesting Anderson’s work history included a stint in gay pornography. During an office lunch, Anderson was given a sandwich with a pink rubber vagina and told that this was the only time he would “eat pussy.” His workspace was continually bombarded with spitballs and other debris. And he was subjected to repeated verbal abuse, including

“We hold no brief for harassment because of sexual orientation; it is a noxious practice, deserving of censure and opprobrium. But we are called upon here to construe a statute as glossed by the Supreme Court, not to make a moral judgment — and we regard it as settled law that, as drafted and authoritatively construed, Title VII does not proscribe harassment simply because of sexual orientation.”

Rene v. MGM Grand Hotel, 2001 U.S. App. LEXIS 5201 (9th Circuit March 29, 2001)

derogatory comments about lesbians and gays, women and people of color. The ultimate insult came when Anderson’s supervisor produced an offensive video that was shown and distributed at the firm’s 1995 biennial sales meeting in Dallas. The video featured images of Anderson’s car, which his co-workers had painted with gay references, including “Rump Ranger” and the telephone number “1-800-Butt Boy.” Although Anderson never received any adverse criticism or warning about his job performance, he was fired July 13, 1995, and told he would “not make a good stockbroker.”

W.B./J.B.

W.B. started working as a waiter at a Fremont restaurant — part of a large international chain — in September 1991. Within six months, he advanced from assistant manager to manager. His performance was so highly valued that he received a letter of recommendation from the franchise owners. But W.B.’s daily work environment was increasingly filled with hostility. One of his co-managers made repeated derogatory comments about allegedly gay waiters, customers and managers. “The next time the faggot fucks up, we’ll have to dump him,” the co-manager said about a waiter during a managers’ meeting. When two gay patrons

came into the restaurant for dinner, the co-manager asked their waiter to get them out quickly because this was a “family restaurant.” When W.B. confronted his co-manager over a clear breach of company policy, he replied, “You were a bitch as a server, and you are nothing but a faggot bitch as a manager.” A week after filing a written report to the restaurant owners about the problems, W.B. was fired because of “personality conflicts that couldn’t be taken care of.” The owners refused to specify the nature of the conflicts. Two other gay employees also suffered discrimination. J.B., the “faggot” waiter the manager had threatened to fire, was also fired a week later. W.B.’s firing left him depressed. His confidence shaken, he moved to another part of the state, where he had trouble finding work and even contemplated suicide.

R.B.

R.B. worked for a national car rental company from February 1993 to January 1994. He excelled at his job and the corporate newsletter praised his work. His troubles began soon after he took a male friend to a company-sponsored event. A manager expressed disgust that R.B. had brought another man to the event. She advised others that a gay employee was inconsistent with the firm’s image. Two months later, another manager held secret meetings with R.B.’s co-workers, asking if they knew that he was gay and whether they had any fears or health concerns about working with a gay employee. R.B. was required to take a skills test, as were all company employees who wanted to advance. He prepared for the exam and knew that he did well, but was told that he failed. His answers were “correct, just not phrased correctly,” he was told. Other employees learned that R.B. had failed before he had taken the test. He endured months of doubled workloads and continuous harassment by management. Finally in January 1994, R.B. was fired a day before his one-year anniversary, effectively denying him employee benefits. Management claimed that he had arrived five minutes late to work seven months earlier, despite the fact that he had called and received permission to be late.

E.B.

E.B. began working at a social service agency in Orange County as an employment-training specialist in October 1996. In departmental meetings, his supervisor praised his work in assisting hearing-impaired clients in job placement, skills training and long-term support. In January 1997, a co-worker advised E.B. of an office rumor that he was gay. E.B. confirmed that he was gay, and the co-worker agreed to keep the information confidential. The next day, his supervisor excluded E.B. from a departmental luncheon. During a

meeting with his supervisor, director and the director of human resources about the incident, he received assurances that they had not known he was gay, were pleased with his work, and would take no action against him. Then E.B. started receiving hate messages on his pager: “Fucking faggot, you’re not wanted here — do us all a favor and quit,” “God hates faggots and so do we” and “Death to all fags — die, queer, die.” A friendly colleague revealed that the departmental director had warned him not to associate with E.B. When E.B. tried to speak with the vice president of human resources, he was advised to “have your attorney contact our attorney and file a lawsuit.” When he dropped off a doctor’s note advising the agency that he would be off work for two weeks or until cleared by the doctor, E.B. was told his job would not be held open for him.

J.C.

With 16 years of experience in the restaurant industry, J.C. was recruited by an employment agency in 1995 to enter the management-training program for a seafood restaurant chain. The next year, J.C.’s immediate supervisor at his Canoga Park restaurant gave him two good performance reviews and promoted him to associate manager. The regional director of operations, however, made no secret of her homophobic sentiments. During a management meeting about diversity, J.C. objected to a homophobic comment, and the regional director told him to keep quiet. J.C. was abruptly fired in August 1996 because he had allegedly created a “hostile work environment.” A male employee accused him of sexual harassment after J.C. recounted a non-sexual dream he had about two co-workers, a male and a female. The restaurant held no investigation and accepted the co-worker’s charge. Much more serious examples of heterosexual sexual harassment at the restaurant had resulted in mere suspension or reprimand. After being fired, J.C. was denied access to his office to retrieve personal items. The termination prevented J.C. from continuing to work in his chosen field and forced him to seek temporary employment.

A.C.

A.C. was hired as a full-time phlebotomist by a managed health care provider in its Woodland Hills facility. Problems began when A.C. heard a co-worker make derogatory remarks, warning other employees to stay away from A.C. because she was a lesbian. After the co-worker was promoted to head phlebotomist, A.C. was assigned to a night shift. In February 1994, A.C. received another demotion to a part-time, on-call position, allegedly because she had the least seniority of all the full-time phlebotomists.

MITCHELL GROBESON

Mitchell Grobeson graduated from the Los Angeles Police Department Academy at the top of his class and began to rise quickly in the department as an officer. Rumors began to circulate in 1984 that he was gay after a county sheriff stopped him with another man in a predominantly gay neighborhood. After the incident, Grobeson's fellow officers harassed him regularly. Further, he was placed in danger when they refused to back him up in life-threatening situations. Nonetheless, Grobeson was promoted to sergeant more quickly than any of his peers. As the harassment increased, however, the department refused to investigate. Believing his life was in danger, Grobeson left the department and filed a lawsuit with two other officers. As part of a settlement, Grobeson returned to the department, which agreed to adopt regulations protecting gays and lesbians. But he left again in 1994 when the harassment continued and the department refused to live up to the terms of its settlement.

W.H.

W.H. worked as a licensed real estate broker with a major firm in Campbell. Although W.H. was a heterosexual man who had been married for more than 25 years, his office manager perceived him to be gay — based on his acquaintance with several gay business associates. The manager questioned W.H. intensely about his relationships with gay people and about his own sexuality. The manager also left sexually explicit, recorded messages — pretending to be W.H.'s gay lover — on the firm's answering service. The messages, easily overheard in public areas of the office, adversely affected W.H.'s business relationships with co-workers and clients. The harassment escalated to the point where W.H. moved out of his office and worked from home — depriving him of access to equipment, resources and the ability to work closely with associates in the office.

DANIEL KOVATCH

Daniel Kovatch began working for an insurance agency in October 1989 as a sales representative in Orange County. During his four-year tenure, Kovatch earned several sales awards, including "Top Producer" on two occasions. In 1991, Kovatch was promoted to sales supervisor at a poor-performing office in the northern part of the state, where he created a sales team that soon exceeded company sales goals. Kovatch was transferred to San Diego to perform the same turnaround. His new district supervisor, however, continually made anti-gay remarks. He told Kovatch, a resident of the predominantly gay neighborhood of Hillcrest, that he was living in the "fag capital of San Diego." When Kovatch used tickets from the corporate vice president to attend the symphony with his male part-

ner, the anti-gay jokes became more vehement and began to take a physical and emotional toll. On Nov. 10, 1993, he was called into his supervisor's office and told he could expect to be fired. "Let me make something loud and clear to you, Kovatch," his boss said. "I don't like you. You're a faggot, and there's no place for faggots in this company." Suffering both physical and psychological harm from the hostile work environment, Kovatch took a doctor-ordered, six-month disability leave. The agency offered to transfer him to another office, but only by lowering his position to sales representative. When Kovatch refused and exceeded his disability leave, he was fired. Kovatch filed suit. In July 1998, a California state appeals court ruled that Kovatch's claim that his termination was the result of anti-gay harassment and discrimination and should go to trial.

LANCE LAPAY AND NATASHA BENAVIDES

Lance Lapay worked for the Los Angeles Police Department from 1988 to 1993. During his training in the police academy and while on the force, Lapay was subjected to continuous anti-gay harassment and forced to work in a hostile environment sanctioned and encouraged by department supervisors. While Lapay was working in the internal affairs section, one sergeant continually greeted him in an effeminate tone with a lisp. Some officers verbally and physically harassed him. Others refused to speak with him, even when serving as his partner. And others told supervisors they would not work with him because he was gay. Although a few officers complained to superiors about the harassment Lapay received — one filed a formal complaint — the department failed to investigate or take any action. In August 1993, Lapay filed a claim for workers' compensation for stress, anxiety and related symptoms associated with harassment and discrimination. The claim was denied.

When Natasha Benavides applied to work with the police department in 1987, she revealed during a background investigation that she was a lesbian. The officer assigned to her case advised her to conceal her homosexuality because the department was "not yet ready to accept gays" and that she would not make it through the academy or probation if her sexual orientation were known. Although Benavides followed his advice, she was subjected to frequent anti-gay harassment that only escalated when she participated in an investigation of anti-gay harassment of a fellow officer. When Benavides complained publicly about the situation, the harassment against her escalated again. In 1993, she lost a promotion because of her sexual orientation. In December 1993, Benavides filed a workers' compensation claim for stress and anxiety.

F.L.

F.L. was employed as a bartender in a restaurant franchise from November 1990 until August 1991. A few weeks after he started, F.L. heard the general manager say, "I'm homophobic and proud of it." In May 1991, F.L. heard co-workers saying that he would not be promoted to bar manager because he was a "fag." F.L. wrote a letter to the general manager complaining about the discussion of his personal life by employees. This initiated a series of harassment, write-ups and references to F.L.'s sexual orientation by the general manager. He was assigned undesirable shifts and had to struggle to get his original schedule reinstated. When a new general manager took over, F.L.'s shifts were again reduced. F.L. began getting write-ups for many different issues. In August, he was fired for arguing with a manager and calling him a liar.

MICHAEL WEBSTER

Michael Webster began working as a clerk for a national home electronics retailer after graduating from high school in 1987. In 1991, he entered a management trainee program and quickly earned numerous pay increases and promotions. He was named "Manager of the Month" six times and "Manager of the Year" twice. Company vice presidents often held up Webster's Westminster Mall store as a corporate model. But after Webster's companion and fellow company employee was hospitalized with AIDS, management's attitude changed dramatically. Webster's district manager required him to do unnecessary tasks, berated him about sales figures and made inappropriate inquiries to family members about Webster's HIV status. Anti-gay remarks became common. One district manager suggested that Webster's sales figures were high because he

"Washington's law against discrimination does not violate the equal protection clauses of the state and federal constitutions simply because it fails to include homosexuals within its protections. ... **And regardless of how appropriate we think such a law is**, Webb fails to cite any constitutional, statutory, or regulatory provision or scheme establishing a clear mandate of public policy sufficient to create a common law cause of action for employment discrimination based on sexual orientation." (emphasis added)

Webb v. Puget Sound Broadcasting Co., 1998 Wash. App. LEXIS 1795 (Wa. Ct. App. 1998)

J.M.

J.M. was a regional sales manager for a candy distributor in San Francisco for seven years. He began working as a sales representative and rose to the position of regional manager for the western United States. In 1991, a new manager told J.M. that he could not work with him because J.M. was gay. Another manager expressed hope that J.M. would quit and thereby spare the company any financial burden should he contract AIDS. In 1992, J.M. was fired allegedly because he had not achieved his region's sales quota — though sales in his region during the period in question had increased.

T.M.

T.M. began working for a beer manufacturer in Los Angeles in 1988 as a production manager. He received positive reviews and was promoted to group manager. But when a new shift manager was hired in 1994, T.M.'s work environment began to change. In a management meeting, T.M.'s supervisors openly berated him for being gay. They began to scrutinize his work excessively. In February 1997, he was physically threatened by a colleague.

gave customers sexual favors. After his companion died in May 1994, the company denied Webster's benefit claim although his companion had explicitly designated Webster as the beneficiary on his corporate life insurance policy. A regional manager advised Webster that pursuing the claim would damage his career. In August 1994, as a result of stress from the death of his life partner and the continuing workplace harassment, Webster began a doctor-ordered, 30-day disability leave. While he was on leave, the company fired him.

THOMAS FIGENSHU

Thomas Figenshu worked as an officer with the California Highway Patrol from 1983 to 1993. After he was promoted to sergeant and transferred to West Los Angeles in 1988, co-workers began to harass him. Anti-gay pornographic cartoons were taped to his mailbox. A ticket for "sex with dead animals" was left on his windshield. He found urine on his clothes in his locker. Figenshu was commonly the object of anti-gay slurs. After Figenshu complained, an officer was reprimanded and another suspended, but the harassment continued. To remove himself

from the hostile work environment, Figenshu resigned in 1993 and sued in state court. In July 1999, a Los Angeles jury awarded Figenshu \$1.5 million in damages and legal fees for the anti-gay harassment, ruling that it was illegal under the state statute prohibiting employment discrimination based on sexual orientation.

DAWN MURRAY

Dawn Murray teaches biology and biotechnology at Oceanside High School in San Diego. After joining the faculty in 1983, Murray won state and national teaching awards and consistently received good evaluations. But in 1993, when co-workers learned that Murray is a lesbian, she became the target of vicious anti-gay remarks, rumors and insults. And school officials failed to promote Murray to student activities director — though she was the top candidate. Someone with her “lifestyle,” a school official objected, “shouldn’t be that close to the kids.” School administrators then focused extensively on Murray’s sexual orientation and spread false rumors about her sexual activities. Obscene graffiti was repeatedly painted outside her classroom. When she complained about the harassment, school officials failed to investigate and threatened her with disciplinary action if she persisted. When she won a prestigious, statewide teaching award for biology, the school failed to recognize her achievements as they traditionally did with other award winners. Murray sued the Oceanside school district in state court, charging discrimination and harassment based on her sexual orientation. In August 2000, the California Supreme Court allowed the case to go to trial.

IDAHO

T.G.

In March 1991, T.G. was hired by a Boise funeral home to open and manage a new facility in the city of Mountain Home. In three years, the new funeral home acquired a 65 percent share of the local market. In April 1994, T.G. told his wife and family that he was gay. A month later, an anonymous customer with a contract for future services called the funeral home and told T.G.’s secretary that she knew T.G. was gay, saying that she would never use a funeral home that employed a gay person. She then asked to speak to the manager. When told that T.G. was the manager, she asked for the number of the main office in Boise, where she repeated her threat to the owners. When T.G.’s secretary informed him of the conversation, he immediately scheduled a meeting with the owners. Without giving T.G. an opportunity to discuss the matter, the owners told him he was fired because of choices he made in his personal life. The owners refused to give him

a job reference and have told others in the industry about his sexual orientation, effectively preventing him from getting work in his field.

MONTANA

KRIS MARSH

In March 1996, Kris Marsh was hired as a regional manager for an agency offering therapeutic foster care and support services for emotionally disturbed children and their families. Marsh, a licensed clinical social worker, enjoyed her job and was good at it. She was rated “outstanding” by a rigorous evaluation process that included feedback from her clients, community members, other agencies, her co-workers and local board members of the agency. Marsh’s difficulties began when her immediate supervisor informed her that he did not condone her “lifestyle.” The supervisor, who soon became the executive director of the agency, continued to make anti-gay comments. He accused Marsh of having an “agenda” and wanting to “infiltrate” the agency. He told Marsh she was dishonest by not disclosing her sexual orientation before she was hired by the agency. He also said he would not have hired Marsh if he had known she was a lesbian. When asked at a regional managers’ meeting if the agency had a policy on gay employees, the executive director responded that the board was “not in favor of gay employees.” Because of the hostile work environment, Marsh was forced to resign her job in October 1998.

OREGON

J.H.

When J.H. began working in a restaurant in October 1991, he almost immediately began to experience verbal harassment based on his sexual orientation. The kitchen manager would say to him, “I don’t know why you suck dick” and “Why don’t you like pussy?” He called him a “dick sucker” and threatened to “dress [him] like a woman and fuck [him] like a man.” J.H. complained to the owners, but was told the kitchen manager was “just like that” and to ignore it. The harassment continued. In September 1993, the kitchen manager called him a “fucking faggot” in front of the general manager. J.H. demanded that the kitchen manager be reprimanded. The general manager refused, insisting that the restaurant would continue to employ the kitchen manager and told J.H. that he could leave if he didn’t like it. Because of the hostile work environment, J.H. quit.

K.L.

K.L. was hired on a temporary basis in January 1993 by the Umatilla County Board of Commissioners to coordinate the county's commission on children and families. In June 1993, after securing additional grant money to fund the commission, the board interviewed K.L. again before granting him the position on a permanent basis. After official questioning had finished, one of the commissioners asked him if he was gay. Presuming the question to be illegal, an attorney interceded to block K.L.'s response. The board rehired K.L. full time. Over the next several months, K.L. worked to improve the quality of services and the integrity of the commission's grant-making process, and won praise from around the state, including from the commission's executive director. In March 1994, K.L. received a pay raise. In May, at the insistence of one of the commissioners, the board ordered an evaluation of K.L.'s performance. In the review, K.L. received ratings from satisfactory to excellent. In no category was his work rated "unacceptable." Despite this positive review, the board fired K.L. 10 days later.

P.M.

P.M. began working in the sales office of a pest control service in Salem in 1992. After two months on the job, he achieved the second highest sales for the Oregon/Washington market. In early 1993, the company closed the Salem office. Because of P.M.'s high sales, his manager arranged for him to transfer to the Portland office. P.M. arrived to start work at the new location wearing an earring. A manager immediately began to question P.M. doggedly about his sexual orientation. Although upset about the breach of privacy which the questions represented, P.M. answered honestly that he was gay. No immediate action was taken. When one of the owners heard that a gay person was working at the company, however, he protested loudly from his office, saying "That kind will not work for me." Soon after, P.M. was fired.

M.M.

M.M. worked as a radiological technician in a hospital in Lincoln City. When the hospital began job cutbacks, the entire radiology staff left except M.M. Despite her obvious seniority and qualifications, she was passed over for the position of department head. Managers hired a person from outside the facility. The administrator told M.M. that he was under pressure from the board of directors not to hire her because there were too many of "those kind" on staff already.

T.S.

T.S. worked as a salesman for a St. Paul car dealership from October 1994 to June 1996. During T.S.'s tenure, the general manager and sales manager both harassed him because they perceived him to be gay. Both managers and co-workers verbally abused him, including making an anti-gay remark about oral sex. When T.S. received calls from a friend, they taunted him. "Your boyfriend's on the phone," they said. They also physically harassed him by frequently grabbing him from behind and simulating sex. T.S. complained to the general manager, who laughed it off and joined the harassment by accusing him of having a sexual relationship with one of his male co-workers. No action was taken to alleviate the situation. The abuse became so intolerable that T.S. was forced to resign.

F.W.

As a security guard with an Oregon security protection firm, F.W. was assigned to work at a local grocery store. Soon after F.W. began the assignment, the store manager and another employee began to harass him. They called him "queer" and other names. When F.W. asked them to stop, they began to harass him before customers and over the store's public address system. The employee once shoved F.W. hard in the chest, calling him a "fucking queer." Alerted to the incident, the manager took no action against the employee but ordered F.W. to avoid him. F.W.'s written complaints to the manager's supervisor went unanswered. Finally, the security firm removed F.W. from the assignment.

GEORGE EIGHMEY

George Eighmey worked as an attorney for an Illinois law firm. When the senior partner discovered Eighmey was gay, he was fired. After moving to Oregon, Eighmey was offered a partnership with a new law firm. When the principal partners, a husband and wife, called the Illinois law firm for Eighmey's references, they received glowing reports of his skill as an attorney. Then they asked his former employers if they would hire Eighmey back if he returned. "No, but that should not affect your situation in Oregon," one of the Illinois partners responded. Concerned about this exchange, the partner of the Oregon law firm asked Eighmey if he could explain. He then told them the story of being fired for being gay. The Oregon law firm rescinded its offer of a partnership, saying "Our clients wouldn't accept a gay attorney and we'll lose business if we hire you."

UTAH

T.C.

T.C. started working at a Salt Lake City fast-food restaurant in May 1993. Her co-workers and manager knew she was a lesbian and were generally supportive. She received good performance evaluations and was considered a “hard worker” with “good leadership skills.” By December, the restaurant manager had made her a crew trainer and started her in supervisory training. When a new manager took over, however, he drew up a list of people he planned to fire, including T.C. and two other lesbian employees. “I don’t want those kinds of people working here,” he told his assistant manager. In January 1994, the new manager fired all three lesbians, including T.C. He instructed the remaining employees to refuse to serve them even as customers. When an employee from another restaurant asked an assistant manager why the employees had been fired, she responded, “Because they were gay.”

A.M.

A.M. worked as a seasonal park ranger with the National Park Service at Canyonlands National Park from 1991 to 1993. During her tenure, she received good performance evaluations, promotions and an employee award. Both as a private citizen in the off-season and as a member of the park’s equal opportunity committee, A.M. supported the adoption of a non-discrimination policy that included sexual orientation. After she came out at work to a new supervisor in June 1993, she encountered resistance. The supervisor harassed A.M. and objected to her openness about her sexuality and desire to celebrate gay and lesbian pride in the workplace. In the summer of 1993, she filed a complaint with the company’s equal opportunity committee. The complaint remained unresolved. A supervisor at the park’s headquarters subsequently labeled A.M. a “high maintenance employee,” without providing any specifics. In the spring of 1994, the park did not rehire A.M., saying no position was available for her. All other employees who wanted to return from the previous year were rehired.

WASHINGTON

D.B.

D.B. worked for many years as a youth services professional. In 1985, a county in eastern Washington hired him to train juveniles in interpersonal and family skills. Based on his success in this position, D.B. won appointment as director of a court-administered program providing intensive services for juveniles as an alternative to incarceration. Under D.B.’s direction, the once ailing project was soon

regarded as a model program in the state. The court that administered the program requested increased funding and praised the program as an effective method of helping delinquent youth. But when the program administrator found out that D.B. was gay, he told him that he would not be able to continue as the program director because of “public relations problems.” Told of D.B.’s sexual orientation, the judges terminated his contract in 1991. “I was not accused of doing anything wrong,” D.B. said. “I was commended for doing everything right, but could not continue in my job simply because I was gay.” Because the court would not give him references without divulging his sexual orientation, he was unable to get work in his field. His livelihood taken away, D.B. lost his apartment and had to move. His six children, dependent on him for support, had to go on public assistance. It took years for D.B. to rebuild his career.

SUE KIRCHOFER

Sue Kirchofer worked in sales for a Seattle-based distributor for almost three years. During the first two years, Kirchofer was given great responsibility and promoted to a newly created outside sales position. Sexist, racist and anti-gay slurs were common in the workplace, but Kirchofer remained quiet about her sexual orientation. Her boss openly discouraged female and minority applicants. Finally, Kirchofer began to object to the racist and sexist comments and became more open about her personal life. After she designated her partner for spousal benefits, work became an increasingly hostile place. Communication with management and co-workers deteriorated. Her position required direct interaction with the president, but their relationship was strained and reserved. In the summer of 1994, Kirchofer told several co-workers that she would be competing in the Gay Games in New York as a soccer player. Two days after returning from that event, Kirchofer was laid off due to the company’s “poor earnings.” Kirchofer filed a complaint with the city’s human rights department. Even though Seattle has a local ordinance prohibiting job discrimination based on sexual orientation, remedies under the local law were limited and did not provide the ability for Kirchofer to get her job back or be compensated for lost wages. Her attorney negotiated a settlement requiring the company to initiate sensitivity training and contribute to the local lesbian resource center.

NAN MIGUEL

Nan Miguel, the heterosexual manager of a hospital radiology department in Pullman, had the opportunity to hire an additional technologist. In 1993, she interviewed a young woman with the right experience and good references. After the interview, one of the hospital technologists

commented that the young woman was obviously gay. Subsequently, the medical director approached Miguel and suggested that she not hire the young woman because she was gay. Despite this advice, Miguel hired the young woman. Soon thereafter, the medical director complained about the new employee, was rude to her and made anti-gay remarks in reference to her. Miguel stood up for her employee and refused to fire her. In the end, the technologist and Miguel were both fired.

SANDY NELSON

Sandy Nelson began as a feature writer for the one of Washington's largest daily newspapers in 1983. In August 1987, she moved to the city desk to cover education. During her seven years of reporting, she won awards from the Society of Professional Journalists, the Freedom Forum and the Daughters of the American Revolution. In August 1986, the newspaper's new owners abrogated its union contracts, which had protected reporters from retribution for their off-duty activities. About this time, Nelson became closely involved in efforts to get the Tacoma City Council to pass an anti-discrimination law for sexual minorities. Feeling such off-duty conduct could potentially jeopardize the newspaper's "appearance of objectivity," management demanded that Nelson give up her political activism. Since her activism was not directly connected to her reporting on education, Nelson refused. In September 1990, she was moved indefinitely to a copyediting job. She was assigned to work nights and weekends, and her byline disappeared from the paper. Reporters who were active in non-gay civic and religious activities were not reassigned. Nor did management object to Nelson's involvement in other causes, including her protest of the Gulf War and her support of women's rights. The paper reprimanded her in writing and threatened further administrative action after she testified to the Washington State Senate in February 1994 in support of a state law prohibiting discrimination based on sexual orientation. "What happened to me," Nelson said, "is proof that we need laws protecting gay men, lesbians, bisexuals and other sexual minorities from discrimination."

K.W.

K.W. was a highly decorated Gulf War veteran who served as an electronics technician in the U.S. Navy. At the end of his tour of duty in November 1995, he went to work for a small electronics firm. His new boss was so impressed by his military achievements and abilities that he gave K.W. a raise his second day. Less than a month later, his boss noticed a rainbow flag on K.W.'s truck and realized that he was gay. That same day, the boss verbally and physically assaulted K.W. before firing him. The physical assault resulted in cervical strain and nerve impairment for which

K.W. has not been able to receive proper treatment. Afterward, K.W.'s former boss continued to harass him by telephoning him at home.

MIKE WEBB

Mike Webb is a radio personality and producer who has worked in radio since he was 14. After two years as public affairs director for a radio station in the Seattle area, Webb was fired by his station for allegedly having "too many gay-themed shows." The radio station alleged that 60 percent of Webb's programming was "gay-themed," including a show called "Women with HIV." Only six of Webb's 55 shows, however, had a gay-specific theme. Webb filed suit in state court alleging wrongful discharge and defamation but the court dismissed the case. Webb's former employer argued that no public policy prohibited the firm from terminating him because of his sexual orientation, and both the Superior Court of King County and the state Court of Appeals agreed. The latter found that the state Legislature had not outlawed workplace discrimination based on sexual orientation. "Washington's law against discrimination does not violate the equal protection clause of the state and federal constitutions simply because it fails to include homosexuals within its protections," it said in affirming the state Superior Court's dismissal of Webb's complaint.

Cities and Counties That Prohibit Employment Discrimination Based on Sexual Orientation*

ARIZONA

Phoenix 1992
Tucson 1999

CALIFORNIA

Berkeley 1978
Cathedral 1987
Davis 1986
Laguna Beach 1984
Long Beach 1989
Los Angeles 1979
Oakland 1984
Sacramento 1986
San Diego 1990
San Francisco 1978
Santa Cruz 1992
Santa Monica 1984
West Hollywood 1984
Los Angeles County 1989
San Mateo County 1992
Santa Cruz County 1998

COLORADO

Aspen 1977
Boulder 1987
Crested Butte 1993
Denver 1990
Telluride 1993

CONNECTICUT

Hartford 1977
New Haven 1991
Stamford 1991

FLORIDA

Gainesville 1999
Key West 1991
Miami Beach 1993
Tampa 1992
Broward County 1995
Miami-Dade County 1998

GEORGIA

Atlanta 2000

ILLINOIS

Champaign 1977
Chicago 1988
De Kalb 1998
Urbana 1979
Cook County 1993

INDIANA

Bloomington 1993
Lafayette 1993
West Lafayette 1993

IOWA

Ames 1991
Cedar Rapids 1999
Davenport 2000
Iowa City 1977

KANSAS

Lawrence 1995

KENTUCKY

Lexington 1999
Louisville 1999
Jefferson County 1999

LOUISIANA

New Orleans 1991

MAINE

Bar Harbor 1998
Castine 1999
Falmouth 1999
Long Island 1997
Orono 1998
Portland 1992
South Portland 1998

MARYLAND

Baltimore 1988
Rockville 1990
Howard County 1983
Montgomery County 1984
Prince Georges County 1991

MASSACHUSETTS

Amherst 1976
Boston 1984
Brookline 1988
Cambridge 1984
Malden 1984
Somerville 1993
Worcester 1986

MICHIGAN

Ann Arbor 1978
Detroit 1979
East Lansing 1986
Flint 1990
Grand Ledge 2000
Grand Rapids 1994
Ypsilanti 1997

MINNESOTA

Minneapolis 1974
St. Paul 1990

MISSOURI

Columbia 1992
Kansas City 1993
St. Louis 1993

NEVADA

Carson City 1999

NEW YORK

Albany 1992
Alfred 1974
East Hampton 1985
Ithaca 1984
New York 1993
Peekskill 2000
Syracuse 1990
Albany County 1996
Nassau County 2000
Onondaga County 1998
Tompkins County 1991
Westchester County 1999

OHIO

Cleveland 1994
Columbus 1992
Toledo 1998
Yellow Springs 1979

OREGON

Ashland 1993
Corvallis 1994
Eugene 1994
Portland 1994
Benton County 1998

PENNSYLVANIA

Harrisburg 1983
Lancaster 1991
Philadelphia 1982
Pittsburgh 1990
York 1993

RHODE ISLAND

Providence 1995

TEXAS

Austin 1975
Fort Worth 2000

VIRGINIA

Alexandria 1997
Charlottesville 1994
Arlington County 1997

WASHINGTON

Seattle 1980
Spokane 1999
King County 1988

WISCONSIN

Madison 1979
Milwaukee 1991

**As of April 2001.*

To End Workplace Discrimination

The Human Rights Campaign collects information on cases of workplace discrimination. The stories gathered support our efforts to enact the Employment Non-Discrimination Act — federal legislation that would prohibit discrimination based on sexual orientation in the workplace. Such discrimination is still legal in 38* of the 50 states.

Whether or not you pursue legal action, adding your case to HRC's Documenting Discrimination project will help us show the critical need for ENDA. Your story will help to make this form of workplace discrimination illegal in the future.

*Maryland's law takes effect Oct. 1, 2001.

Take a stand. Send us your story.

Mail

Documenting Discrimination Project
Human Rights Campaign
919 18th St., N.W., Ste. 800
Washington, D.C. 20006

Call

800/970-7472

E-mail

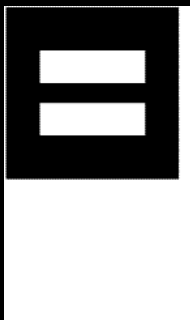
discrimination@hrc.org

Visit HRC's Worknet for more details.

<http://www.hrc.org/worknet>

The Human Rights Campaign will not use your name in any public discussion or published documentation of your case without your consent. However, you must provide this information to have your case included in the Documenting Discrimination Project.

The Human Rights Campaign is the largest national lesbian and gay political organization, with members throughout the country. It effectively lobbies Congress, provides campaign support, and educates the public to ensure that lesbian, gay, bisexual and transgender Americans can be open, honest and safe at home, at work and in the community.



We Need Your Help

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This document is dedicated to the thousands of people who every day face employment discrimination based on sexual orientation with little or no recourse available to them. Although all of their stories will never be told, we hope the cases put forth here will shine a light on their experiences so that some day they will be able to be open, honest and safe in the workplace.

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As America's largest gay and lesbian organization, the Human Rights Campaign provides a national voice on gay and lesbian issues. The Human Rights Campaign effectively lobbies Congress; mobilizes grassroots action in diverse communities; invests strategically to elect a fair-minded Congress; and increases public understanding through innovative education and communication strategies.

HRC is a bipartisan organization that works to advance equality based on sexual orientation and gender expression and identity, to ensure that gay, lesbian, bisexual and transgender Americans can be open, honest and safe at home, at work and in the community.

WORKNET

The Human Rights Campaign Foundation's workplace project, WorkNet, is a national source of information on laws and policies surrounding sexual orientation and gender identity in the workplace. WorkNet advises employees and employers on the value of workplace diversity. It collects, analyzes and disseminates information to assist employees and employers in implementing policies and procedures aimed at treating gay, lesbian, bisexual and transgender workers equally. For more information, visit the WorkNet website at <http://www.hrc.org/worknet>, or send an e-mail to hrc@hrc.org.

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