

No. 18-1104

In the **United States Court of Appeals**
for the **Eighth Circuit**

Mark Horton,

Plaintiff - Appellant,

v.

Midwest Geriatric Management, LLC,

Defendant – Appellee,

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF MISSOURI, THE HON. JEAN C. HAMILTON

**MOTION OF NATIONAL CENTER FOR LESBIAN RIGHTS AND GLBTQ
LEGAL ADVOCATES & DEFENDERS FOR LEAVE TO FILE BRIEF AS
AMICI CURIAE IN SUPPORT OF PLAINTIFF-APPELLANT**

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Pursuant to Rule 29(a)(3) of the Federal Rules of Appellate Procedure, proposed *amici curiae* move for leave to file the attached brief in support of Plaintiff-Appellant and reversal.

1. Proposed *amici curiae* are well positioned to submit a brief in this case. *Amici* are legal organizations committed to preventing, combating, and redressing discrimination against lesbian, gay, bisexual, and transgender (LGBT) individuals. *Amici* have an interest in ensuring that Title VII of the Civil Rights Act of 1964 guarantees equal employment opportunity to all people—including LGBT persons—and protects them from invidious discrimination “because of sex.”

2. The **National Center for Lesbian Rights** (“NCLR”) is a national non-profit legal organization dedicated to protecting and advancing the civil rights of lesbian, gay, bisexual, and transgender people and their families through litigation, public policy advocacy, and public education. Since its founding in 1977, NCLR has played a leading role in securing fair and equal treatment for LGBT people and their families in cases across the country involving constitutional and civil rights. NCLR has a particular interest in promoting equal opportunity for LGBT people in the workplace through legislation, policy, and

litigation, and represents LGBT people in employment and other cases in courts throughout the country.

3. Through strategic litigation, public policy advocacy, and education, **GLBTQ Legal Advocates & Defenders** (“GLAD”) works in New England and nationally to create a just society free of discrimination based on gender identity and expression, HIV status, and sexual orientation. GLAD has litigated widely in both state and federal courts in all areas of the law in order to protect and advance the rights of lesbians, gay men, bisexuals, transgender individuals, and people living with HIV and AIDS. GLAD has an enduring interest in ensuring that employees receive full and complete redress for violation of their civil rights in the workplace.

4. The proposed brief would aid the Court by demonstrating that a categorical rule that sexual orientation discrimination does not violate Title VII’s prohibition on sex discrimination has proved to be an unworkable standard that has led to confusion and inconsistent results among lower courts considering sex discrimination claims brought by LGBT individuals. The proposed brief would also aid the Court by demonstrating that recognizing discrimination on sexual orientation as a form of discrimination “because of sex” comports with the statutory text and settled doctrine under Title VII.

5. Proposed *amici curiae* have contacted the parties' counsel to request consent to the filing of the attached *amici curiae* brief. Plaintiff-Appellant consents, but Defendant-Appellee has not consented.

WHEREFORE, proposed *amici curiae* respectfully request that this Court grant this motion for leave to file the attached brief in support of Plaintiff-Appellant and reversal.

DATED: March 14, 2018

Respectfully submitted,

/s/ Christopher F. Stoll

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CERTIFICATE OF SERVICE

I hereby certify that on March 14, 2018, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Eighth Circuit by using the CM/ECF system. Participants in the case who are registered CM/ECF users will be served by the CM/ECF system.

s/ Christopher F. Stoll
Attorney for *Amici Curiae*