

IN THE UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

MARK HORTON,)
Plaintiff-Appellant,)
)
v.)
) No. 18-1104
MIDWEST GERIATRIC MANAGEMENT, LLC,)
Defendant-Appellee.)
_____)

Unopposed Motion of Amicus Curiae Equal Employment
Opportunity Commission for Leave to Present Oral Argument
on Time Ceded by the Plaintiff-Appellant

The Equal Employment Opportunity Commission (“EEOC”), which has filed a brief as amicus curiae in this appeal, moves to participate in oral argument on time ceded by the Plaintiff-Appellant. Argument is scheduled for April 17, 2019. In support of this motion, the EEOC states:

1. The EEOC is charged by Congress with interpreting, administering, and enforcing federal laws against employment discrimination.
2. This appeal addresses whether claims of sexual orientation discrimination are cognizable as sex discrimination claims under Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e *et seq.*
3. The EEOC has a substantial interest in the proper resolution of this issue, as it has received thousands of charges of sexual orientation discrimination. In

fiscal year 2017 alone, the most recent year for which it has statistics, the EEOC received 1,522 such charges against private sector employers, labor organizations, employment agencies, and state or local government employers. The EEOC devotes significant resources to these charges by investigating, making reasonable cause determinations, conciliating with respondents, and sometimes seeking relief in court.

4. Gregory R. Nevins, counsel for Plaintiff-Appellant, has agreed to cede time to the EEOC from his allotted time for oral argument. Thus, the EEOC's participation would not extend the day's calendar.

5. Michael L. Jente, counsel for Defendant-Appellee, has advised me that Midwest Geriatric Management does not oppose this motion.

6. Rule 29 of the Federal Rules of Appellate Procedure generally favors the presentation of the views of federal agencies to the courts of appeals. The EEOC has on numerous occasions argued before this Court on questions concerning employment discrimination law.

For these reasons, the EEOC respectfully requests that this Court grant this motion and permit the EEOC to present oral argument on time ceded by the Plaintiff-Appellant.

Respectfully submitted,

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/s/ Gail S. Coleman

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Certificate of Compliance

I certify pursuant to Fed. R. App. P. 27(d)(2)(A) that this motion contains 294 words.

I certify that this motion complies with the typeface and typestyle requirements of Fed. R. App. P. 32(a)(5) and 32(a)(6) because it has been prepared in a proportionally spaced typeface using Microsoft Office Word 2016 with 14-point Times New Roman.

s/ Gail S. Coleman

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Certificate of Service

I certify that I filed the foregoing motion in PDF format via this Court's CM/ECF system this 27th day of March, 2019. Participants in the case who are registered CM/ECF users will be served by the CM/ECF system.

I further certify that some of the participants in this case are not CM/ECF users. I have served the following non-CM/ECF participants this 27th day of March, 2019, via UPS overnight delivery:

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Dated: March 27, 2019