

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION

**Bear Creek Bible Church, et al.,**

Plaintiffs,

v.

**Equal Employment Opportunity  
Commission, et al.,**

Defendants.

Case No. 4:18-cv-00824-O

**OPPOSED MOTION FOR ENTRY OF FINAL JUDGMENT**

The plaintiffs respectfully move for entry of a revised final judgment in accordance with the Fifth Circuit's mandate and opinion. The plaintiffs ask that the Court's judgment award declaratory and injunctive relief to Braidwood Management Inc. that specifies its rights under the federal Religious Freedom Restoration Act to:

1. Refuse to employ individuals who engage in homosexual behavior or who have a homosexual or bisexual orientation;
2. Refuse to employ individuals who are engaged in gender non-conforming behavior, including cross-dressing, transvestism, efforts to change or transition one's gender, or asserting a gender identity that departs from one's biological sex;
3. Refuse to recognize same-sex marriage or offer benefits to same-sex partners of their employees;
4. Enforce sex-specific dress and grooming codes; and
5. Prohibit employees from entering or using restrooms designated for the opposite biological sex.

The plaintiffs also request that the Court's judgment order the EEOC to amend its brochures, guidance documents, technical-assistance documents, interpretative rules,

general statements of policy, websites and web pages, and any other agency-created or agency-issued documents regarding Title VII's application to homosexual, bisexual, or transgender employees, and to include in those documents an explicit acknowledgement that the Religious Freedom Restoration Act and the judgment of this Court and the U.S. Court of Appeals for the Fifth Circuit allows Braidwood Management Inc. to make any of the employment decisions or policies described above, notwithstanding any provision or requirement of Title VII, the Supreme Court's opinion in *Bostock*, or any document created or issued by the EEOC. This acknowledgement should also be included in future agency-created or agency-issued documents regarding Title VII's application to homosexual, bisexual, or transgender employees.

Finally, the plaintiffs ask that the Court's judgment dismiss the non-RFRA claims asserted by Braidwood and each of the claims asserted by Bear Creek Bible Church without prejudice. The Fifth Circuit did not hold that Braidwood's constitutional and Title VII arguments were wrong; it simply decided not to reach or resolve those claims because Braidwood had already obtained the relief it needed from its successful RFRA claim. The disposition of those claims in this Court should resemble a dismissal for lack of Article III standing, as Braidwood is no longer suffering injury that requires resolution of these claims since it obtained all the requested relief with its RFRA arguments. The claims of Bear Creek Bible Church should likewise be dismissed without prejudice because neither this Court nor the Fifth Circuit rejected Bear Creek's claims or arguments on the merits. This Court rejected Bear Creek's claims because it held that Bear Creek wasn't burdened by Title VII, which counsels in favor of dismissal for lack of Article III standing and lack of subject-matter jurisdiction rather than entry of judgment in favor of the defendants.

The plaintiffs' proposed final judgment is attached. We have conferred with counsel for the defendants, and they oppose our proposed final judgment and will file a response.

Respectfully submitted.

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Dated: August 30, 2023

*Counsel for Plaintiffs*

**CERTIFICATE OF CONFERENCE**

I certify that I conferred with Ben Takemoto, counsel for the defendants, and he informed me that the defendants oppose our requested final judgment and will file a written response to this motion.

/s/ Jonathan F. Mitchell  
JONATHAN F. MITCHELL  
*Counsel for Plaintiffs*

**CERTIFICATE OF SERVICE**

I certify that on August 30, 2023, I served this document through CM/ECF

upon:

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*Counsel for Plaintiffs*

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**[PROPOSED] FINAL JUDGMENT**

On August 14, 2023, the U.S. Court of Appeals for the Fifth Circuit issued its mandate. ECF No. 144. In accordance with that mandate and the Court of Appeals opinion, the Court enters judgment as follows:

1. The Court enters judgment in favor of plaintiff Braidwood Management Inc. (Braidwood), and against defendants Equal Employment Opportunity Commission, the United States of America, and Charlotte A. Burrows, Jocelyn Samuels, Keith E. Sonderling, Andrea R. Lucas, and Gwendolyn Young Reams, in their official capacities as chair, vice chair, and commissioners of the Equal Employment Opportunity Commission, with respect to Braidwood's claim under the Religious Freedom Restoration Act claim (Count I). The Court awards relief to Braidwood as follows:

- a. The Court **DECLARES** that the Religious Freedom Restoration Act protects the rights of plaintiff Braidwood Management Inc. to:
  1. Refuse to employ individuals who engage in homosexual behavior or who have a homosexual or bisexual orientation;
  2. Refuse to employ individuals who are engaged in gender non-conforming behavior, including cross-dressing, transvestism, efforts to change

or transition one's gender, or asserting a gender identity that departs from one's biological sex;

3. Refuse to recognize same-sex marriage or offer benefits to same-sex partners of their employees;
  4. Enforce sex-specific dress and grooming codes; and
  5. Prohibit its employees from entering or using restrooms or other facilities designated for the opposite biological sex.
- b. Defendants Equal Employment Opportunity Commission, the United States of America, and Charlotte A. Burrows, Jocelyn Samuels, Keith E. Sonderling, Andrea R. Lucas, and Gwendolyn Young Reams, as well as their officers, agents, servants, employees, attorneys, designees, subordinates, and successors in office, as well as any person acting in concert or participation with them, are **ENJOINED** from interpreting, enforcing, or threatening to enforce Title VII in a manner that limits the right of plaintiff Braidwood Management Inc. to:
1. Refuse to employ individuals who engage in homosexual behavior or who have a homosexual or bisexual orientation;
  2. Refuse to employ individuals who are engaged in gender non-conforming behavior, including cross-dressing, transvestism, efforts to change or transition one's gender, or asserting a gender identity that departs from one's biological sex;
  3. Refuse to recognize same-sex marriage or offer benefits to same-sex partners of their employees;
  4. Enforce sex-specific dress and grooming codes; and
  5. Prohibit its employees from entering or using restrooms or other facilities designated for the opposite biological sex.

- c. Defendants Equal Employment Opportunity Commission, the United States of America, and Charlotte A. Burrows, Jocelyn Samuels, Keith E. Sonderling, Andrea R. Lucas, and Gwendolyn Young Reams, as well as their officers, agents, servants, employees, attorneys, designees, subordinates, and successors in office, as well as any person acting in concert or participation with them, are **ORDERED** to amend their existing brochures, guidance documents, technical-assistance documents, interpretative rules, general statements of policy, websites and web pages, and any other agency-created or agency-issued documents regarding Title VII's application to homosexual, bisexual, or transgender employees, and to include an explicit acknowledgement in each of those documents that the Religious Freedom Restoration Act and the judgment of this Court and the U.S. Court of Appeals for the Fifth Circuit allows Braidwood Management Inc. to make any of the employment decisions or policies described in paragraph 1(b), notwithstanding any provision or requirement of Title VII, the Supreme Court's opinion in *Bostock*, or any document created or issued by the EEOC. This acknowledgement must also be included in any future brochures, guidance documents, technical-assistance documents, interpretative rules, general statements of policy, web sites and web pages, and other agency-created or agency-issued documents regarding Title VII's application to homosexual, bisexual, or transgender employees.
2. The Court dismisses without prejudice all other claims asserted by Braidwood against the defendants.
3. The Court dismisses without prejudice all claims asserted by Bear Creek Bible Church against the defendants.

Dated: \_\_\_\_\_

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REED O'CONNOR  
UNITED STATES DISTRICT JUDGE