



Jerry Bowman (at podium, left) and Buff Carmichael November 2013, pressuring for marriage equality in Illinois.

Photo by Tracy Baim

PASSAGES

Jerry Bowman of Springfield dies

Jerry Dean Bowman, 62, of Springfield, died June 3, 2017 at Memorial Medical Center.

Jerry was born Feb. 21, 1955 in Jerseyville, the son of Harold and Shirley Gross Bowman.

He married his longtime partner Buff Carmichael on Sept. 20, 2014 in DeWitt County, soon after marriage equality was legal in the Land of Lincoln. Both Jerry and Buff have been a critical part of the push for statewide LGBT equality in Illinois. Sept. 20, 2017 would have marked their 25th anniversary together, and three years of legal marriage.

Jerry graduated from Southwestern in Piasa and attended Robert Morris Business School in Jacksonville. He was employed with the state of Illinois, Department of Human Services until his retirement in 2009 after 33 years of service.

He was a member of Abraham Lincoln Unitarian Universalist Congregation since 2014 and a member of Heartland Metropolitan Unitarian Church. Jerry was a leader and pioneer in an effort to secure marriage equality. He published the LGBT newspaper, *Prairie Flame*, with Buff, and was co-chair of GLAD. He also volunteered at the 5th Street Renaissance/ SARA Center and various other community resources throughout his years in Springfield. He enjoyed camping and spending time with friends. The couple have also been part of CORAL, the Coalition of Rainbow Alliances, and many more organizations.

He was preceded in death by his father, Harold Bowman.

He is survived by his husband, Buff Carmichael; mother, Shirley Bowman; siblings, Sonny (wife, Debbie) Bowman, Donna (husband, Don) Phillips, Rona (husband, Danny) Krueger, Keith (wife, Di-

ane) Bowman, and Richard (wife, Amy) Bowman; two aunts; and numerous nieces, nephews, and cousins.

Visitation: Family will receive friends from 4-7 p.m. Wednesday, June 7, at Kirlin-Egan & Butler Funeral Home, 900 S. 6th St., Springfield.

Funeral Ceremony: 7 p.m. Thursday, June 8, at Abraham Lincoln Unitarian Universalist Congregation, 745 Woodside Rd., Springfield with Rev. Martin E. Woulfe officiating.

Graveside Ceremony: 10 a.m. on Friday, June 9, 2017 at Oak Ridge Cemetery.

Memorial contributions may be made to: 5th Street Renaissance/SARA Center, 1315 N. 5th St., Springfield, Illinois 62702.



Jerry Bowman (left) and Buff Carmichael at their 2014 wedding.

Photo by Tracy Baim

RELATIONSHIPS & THE LAW TODAY



BY JILLIAN B. SOMMERS

Know your workplace rights after *Hively v. Ivy Tech*

Last month, in what many are calling a landmark ruling for gay rights, the Seventh Circuit Court of Appeals held in *Kimberly Hively v. Ivy Tech Community College of Indiana*, No. 15-1720 (7th Cir. 2017) that Title VII of the Civil Rights Act prohibits employment discrimination based on sexual orientation.

Specifically, in *Hively*, an openly gay former adjunct professor, Kimberly Hively, sued her employer, Ivy Tech Community College of Indiana, for discrimination on the basis of her sexual orientation. Hively alleged that she was denied a full-time professor position because she was openly gay, and that such discrimination was unlawful under Title VII of the Civil Rights Act, which prohibits employment discrimination based on race, color, religion, sex, and national origin ("Title VII").

Initially, the trial court dismissed Hively's complaint because prior Seventh Circuit precedent held that Title VII does not prohibit workplace discrimination on the basis of "sexual orientation," but only on the basis of "sex." On appeal, a three-court panel on the Seventh Circuit affirmed the lower court's ruling, but Hively again appealed the case to an en banc panel of all eleven judges sitting on the Seventh Circuit. In a bipartisan majority, the *en banc* panel held that Title VII does apply to discrimination on the basis of sexual orientation.

The court reasoned that "it is actually impossible to discriminate on the basis of sexual orientation without discriminating on the basis of sex" and, as a result, "a person who alleges that she experienced employment discrimination on the basis of her sexual orientation has put forth a case of discrimination for Title VII purposes." Accordingly, in the Seventh Circuit, an individual who alleges employer discrimination on the basis of sexual orientation can make a claim of sex discrimination.

Although the Seventh Circuit's landmark ruling is a success for gay rights locally, several other federal circuit courts have refused to extend Title VII's protections to sexual orientation. For example, the Eleventh Circuit Court of Appeals recently held in *Evans v. Georgia Regional Hospital*, No. 15-15234 (11th Cir. 2017) that Title VII does not prohibit discrimination on the basis of sexual orientation. Thus, there

remains a circuit split that could prompt the U.S. Supreme Court to resolve whether Title VII may be interpreted to prohibit workplace discrimination based on sexual orientation nationwide.

Nevertheless, if and until the U.S. Supreme Court grants certiorari to determine the protections afforded by Title VII, LGBTQ individuals working in Illinois, Indiana, and Wisconsin—the states within the jurisdiction of the Seventh Circuit—should be aware of the procedures they can follow if they face sexual orientation discrimination in the workplace. An individual who believes they have a Title VII claim because of unfavorable treatment on the basis of sexual orientation has the right to file a discrimination complaint with the Equal Employment Opportunity Commission (the "EEOC"), the federal agency charged with enforcing Title VII. However, in most cases, individuals have only 180 days from the date of the discriminatory activity to file a discrimination charge with the EEOC in order to preserve their rights.

The EEOC has provided the following examples of LGBTQ-related workplace claims that the EEOC views as unlawful:

- Failing to hire an applicant because they are a transgender individual;
- Firing an employee because they are planning or have made a gender transition;
- Denying an employee equal access to a common restroom corresponding to the employee's gender identity;
- Harassing an employee because of gender transition, such as by intentionally or persistently failing to use the name and gender pronoun that corresponds to the gender identity with which the employee identifies;
- Denying the employee promotion because they are gay or straight; and
- Discriminating in terms, conditions or privileges of employment, such as providing a lower salary to an employee because of sexual orientation or denying spousal health insurance benefits on the basis of the sex of the spouse.

If you are facing employment discrimination on the basis of your sexual orientation and are interested in learning more about how to protect your rights in the workplace, you should contact an attorney right away.

Jillian B. Sommers is an associate in the Litigation Practice Group at Clark Hill PLC. Jillian helps individuals, families, and closely held businesses plan for and resolve complex business and fiduciary decisions.



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