

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF LOUISIANA**

TRISTAN BROUSSARD,

Plaintiff,

v.

FIRST TOWER LOAN, LLC d/b/a TOWER  
LOAN OF LAKE CHARLES,

Defendant.

Civil Action No.:

Section:

**COMPLAINT AND  
JURY DEMAND**

**COMPLAINT OF SEX DISCRIMINATION IN VIOLATION  
OF TITLE VII OF THE CIVIL RIGHTS ACT OF 1964**

Plaintiff Tristan Broussard (“Plaintiff” or “Mr. Broussard”), by and through his undersigned counsel, files this Complaint and Jury Demand against Defendant First Tower Loan, LLC d/b/a Tower Loan of Lake Charles (“Defendant” or “Tower Loan”).

**INTRODUCTION**

1. This suit arises from Tower Loan’s decision to terminate Plaintiff Tristan Broussard because of his sex, in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e *et seq.* (“Title VII”).

2. In February 2013, Tower Loan extended a job offer to Mr. Broussard to work as a Manager Trainee in its Lake Charles, Louisiana branch. At the time that Tower Loan made that job offer, Mr. Broussard’s gender, gender identity, and gender expression were male.

3. Shortly after Mr. Broussard began working for Tower Loan in March 2013, Mr. Broussard’s supervisor at the Lake Charles branch Leah Sparks reviewed his employment paperwork and noticed that his driver’s license listed his sex as female. Ms. Sparks asked Mr. Broussard to explain why his driver’s license listed his sex as female, and Mr. Broussard truthfully responded that he is a transgender man.

4. Less than a week after Tower Loan learned of the sex listed on Mr. Broussard's driver's license and that Mr. Broussard is a transgender man, Tower Loan Vice President David Morgan traveled to Lake Charles to meet with Mr. Broussard and his supervisor. Mr. Morgan informed Mr. Broussard that he could continue working at Tower Loan only if Mr. Broussard signed a written statement agreeing to act and be treated as female rather than as male while working for Tower Loan, including by dressing as female. Because Mr. Broussard is a transgender man and could not so agree, he was terminated from his position at Tower Loan.

5. Tower Loan's decision to terminate Mr. Broussard because he is a transgender man, and because of his inability to conform to Tower Loan's stereotypical expectations of gender and its requirements that he should agree to be treated as female, including by dressing and conducting himself as female, violates Title VII's prohibition on employment discrimination because of sex. Title VII makes it unlawful for employers to discriminate against their employees or applicants for employment because of their sex, which includes discrimination based on a person's gender identity or transgender status; because a person has undergone, is undergoing, or intends to undergo a gender transition; or because a person fails to conform to gender- or gender-based stereotypes. In terminating Mr. Broussard for these reasons, Tower Loan violated Title VII.

#### **PARTIES**

6. Plaintiff Tristan Broussard is a 21-year-old resident of Lake Charles, Louisiana. Mr. Broussard is and was well qualified to serve as a Manager Trainee at Tower Loan.

7. Defendant Tower Loan is a limited liability company that maintains its principal Louisiana business establishment in Hammond, Louisiana. At all relevant times, Tower Loan

has employed at least 15 employees, has done business within this District, and has been an employer engaged in an industry affecting commerce.

**JURISDICTION AND VENUE**

8. This Court has federal question jurisdiction under 28 U.S.C. §1331 and 28 U.S.C. §1343.

9. Venue is proper in this District because the unlawful acts of employment discrimination described herein occurred within Louisiana, and Tower Loan is found and maintains its primary Louisiana business establishment within this District. 42 U.S.C. §2000e-5(f)(3).

**FACTS**

10. Tower Loan is a privately owned finance company that operates more than 180 branches in five States, including Louisiana. It employs more than 700 individuals and serves more than 200,000 customers. Its primary business is consumer installment lending.

11. In February 2013, Tower Loan sought applicants for a Manager Trainee position within its Lake Charles, Louisiana branch. Manager Trainees are generally responsible for lending, collecting, assisting with branch management, reviewing contracts, providing customer service, and assisting with hiring, training, and staff development.

12. Mr. Broussard applied for the Lake Charles Manager Trainee position in early February 2013. Mr. Broussard was well qualified for the position due to his previous sales experience dealing directly with clients and customers. Mr. Broussard was excited about the possibility of working for Tower Loan because of the increased salary he would receive if hired, the potential for growth and advancement within the company, and the possibility that he would be relocated from Lake Charles following completion of the training period.

13. Leah Sparks, the manager of Tower Loan's Lake Charles branch, interviewed Mr. Broussard for the Manager Trainee position on or about February 25, 2013. During the interview, Ms. Sparks told Mr. Broussard that she was impressed with his qualifications and disposition, and stated that Mr. Broussard was a top candidate for the Manager Trainee position.

14. Later that same day, Ms. Sparks called Mr. Broussard to offer him the Manager Trainee position. Mr. Broussard accepted the position.

15. During all of these interactions, Ms. Sparks interacted with and treated Mr. Broussard as male.

16. Mr. Broussard began working for Tower Loan on March 4, 2013. Mr. Broussard excelled in performing all of the duties of a Manager Trainee during his first week of employment at Tower Loan. Ms. Sparks, his immediate supervisor, had many positive things to say about Mr. Broussard. To Mr. Broussard's knowledge, there were never any complaints or negative comments from customers about his work at Tower Loan.

17. Throughout this time period, Ms. Sparks and other Town Loan employees and clients interacted with and treated Mr. Broussard as male.

18. Mr. Broussard is a transgender man; his gender identity is male, and his clothing and appearance are male.

19. For transgender people such as Mr. Broussard, their birth sex and their gender identity are different. Gender identity is a person's identification as male or female. Everyone has a gender identity and in most cases, a person's gender identity aligns with his or her birth sex. As every major medical and mental health association recognizes, however, some people have a gender identity that does not match their birth sex.

20. Transgender people experience varying levels of psychological distress as a result of the disconnect between their gender identity and birth sex. This distress, often referred to as Gender Dysphoria, is a serious medical condition and there are both nationally and internationally recognized standards of care for the treatment of Gender Dysphoria.

21. To alleviate the distress associated with Gender Dysphoria, many transgender people undergo gender transition to live in a manner consistent with their gender identity. The process can include both social and medical components. Medical treatments may include hormone-replacement therapy and a variety of surgeries, which may or may not include genital reconstructive surgery.

22. Mr. Broussard has known that he is male for as long as he can remember. He came out to his friends and family as transgender in August 2011 and has been living his life as a man, consistent with his male gender identity, since his transition in September 2011. He has been on testosterone therapy since May 2012, which has profoundly altered his body, causing him to acquire male secondary sex characteristics and to be easily recognized as male by others.

23. While Mr. Broussard was completing the paperwork for new employees on March 4, 2013, Tower Loan required Mr. Broussard to provide a valid form of identification. Mr. Broussard provided his driver's license.

24. Mr. Broussard's driver's license lists his sex as female.

25. When Ms. Sparks noticed that Mr. Broussard's driver's license listed his sex as female, she asked Mr. Broussard about the listed sex. Mr. Broussard explained that he is a transgender man.

26. On information and belief, Ms. Sparks notified Tower Loan Vice President David Morgan of the sex listed on Mr. Broussard's driver's license. Mr. Morgan, together with Tower

Loan's Director of Human Resources Lynne Card and possibly other employees, determined that, despite Mr. Broussard's identity as a transgender man, Tower Loan would require him to be treated as female, including requiring him to dress and conduct himself as female.

27. On March 11, 2013, Mr. Morgan traveled to Tower Loan's Lake Charles office. When Mr. Broussard learned that Mr. Morgan would be visiting the Lake Charles branch, he assumed that Mr. Morgan was conducting a routine assessment of office operations, and did not know the actual reason for the visit. Mr. Broussard was excited to meet Mr. Morgan, because Mr. Morgan was a member of Tower Loan's upper management.

28. After arriving, Mr. Morgan asked Mr. Broussard and Ms. Sparks to meet with him in a back conference room, where he handed Mr. Broussard a copy of the company's dress code. Mr. Broussard did not understand why he had been given the company dress code. There had been no complaints about his dress, and no one had expressed any concern regarding his compliance with the company dress code. Mr. Broussard had complied with the company dress code at all times while working at Tower Loan.

29. Mr. Morgan explained that he was providing Mr. Broussard with the dress code for female employees, and stated that Mr. Broussard was not complying with the dress code provisions specifically governing how female employees must dress.

30. Mr. Broussard told Mr. Morgan that he lives and identifies as male. Mr. Morgan stated that the company nonetheless would require him to dress as female.

31. When Mr. Broussard realized that Mr. Morgan was going to penalize or fire him because of his transgender status, Mr. Broussard was shocked and became extremely distraught and concerned.

32. Immediately thereafter, Mr. Morgan presented Mr. Broussard with a written statement and told Mr. Broussard that he had to sign the statement if he wanted to continue working at Tower Loan. The statement said:

I understand that my preference to act and dress as male, despite having been born a female, is not something that will be in compliance with Tower Loan's personnel policies. I have been advised as to the proper dress for females and also have been provided a copy of the female dress code. I also understand that when meetings occur that require out of town travel and an overnight room is required, I will be in [sic] assigned to a room with a female.

A true and correct copy of the written agreement presented to Mr. Broussard is attached hereto as

**Exhibit A.**

33. After providing Mr. Broussard with the written agreement, Mr. Morgan made it clear to Mr. Broussard that he would be fired if he did not accept and sign the agreement.

34. Mr. Broussard refused to sign the agreement, and repeatedly explained that he could not agree to be treated as female, including having to dress and conduct himself as female, because he is male—specifically, a transgender male.

35. Mr. Morgan then stated that if Mr. Broussard “had some surgeries and we can see some results,” then Tower Loan may consider hiring him again.

36. Because Mr. Broussard would not sign Tower Loan's written agreement, Tower Loan terminated Mr. Broussard's employment.

37. Ms. Sparks called Mr. Broussard the following day to apologize for what had occurred and to tell Mr. Broussard that she did not know that he was going to be terminated. She told him that she thought he was a good employee.

38. Tower Loan had no business reason for requiring Mr. Broussard, a transgender man, to be treated as female and to dress and conduct himself as female as a condition of keeping

his job, nor would it even have been possible for him to do so, as his physical appearance and gender identity are male.

39. A reasonable person who was directed by his employer to agree to be treated as female, including agreeing to dress and conduct himself as female, even though his gender identity is male would resign his employment rather than attempt to abide by the employer's demands, and being asked to agree to such a demand is equivalent to being fired.

#### **EEOC PROCEEDINGS**

40. On August 27, 2013, Mr. Broussard's counsel at the National Center for Lesbian Rights and Delaney & Robb Attorneys at Law LLC filed a charge of discrimination with the United States Equal Employment Opportunity Commission ("EEOC" or "Commission") on Mr. Broussard's behalf. The Charge alleged that Mr. Broussard's termination from Tower Loan constituted unlawful discrimination on the basis of his sex, change of sex, sex stereotypes, and gender identity, in violation of Title VII and the Louisiana Employment Discrimination Law. A true and correct copy of the EEOC charge is attached hereto as **Exhibit B**.

41. On December 2, 2014, the EEOC issued its determination regarding the merits of Mr. Broussard's charge. The Commission concluded that "the evidence supports a reasonable cause finding that [Mr. Broussard] was subjected to discrimination based on sex, transgender male, in that [Mr. Broussard] was required by [Tower Loan's] company policy to be treated as belonging to a gender with which [Mr. Broussard] does not identify, despite [Mr. Broussard] placing [Tower Loan] on notice of [his] desire to be treated as a member of the gender with which [he] identifies." The Commission found that Tower Loan had "failed to meet its burden to show that the policies in question constituted a bona fide occupational qualification reasonably necessary to the normal operation of its particular business enterprise," and that Mr. Broussard

“was discharged or constructively discharged by [Tower Loan].” A true and correct copy of the EEOC’s Determination is attached hereto as **Exhibit C**.

42. On January 5, 2015, Mr. Broussard requested that the EEOC issue a Notice of Right To Sue. The EEOC issued a Notice of Right To Sue on January 20, 2015. A true and correct copy of the Notice of Right To Sue is attached hereto as **Exhibit D**.

**COUNT ONE**

**Sex Discrimination in Violation of Title VII  
of the Civil Rights Act of 1964, 42 U.S.C. § 2000e *et seq.***

43. Mr. Broussard realleges and incorporates herein by reference the foregoing paragraphs.

44. Tower Loan engaged in unlawful employment practices at its Lake Charles, Louisiana branch, in violation of Section 703(a)(1) of Title VII, 42 U.S.C. §2000e-2(a)(1), by terminating or constructively terminating Mr. Broussard because of sex.

45. Tower Loan’s decision to terminate Mr. Broussard was based on sex. Tower Loan fired Mr. Broussard because he is a transgender man, because he is undergoing or has undergone a gender transition, and/or because he did not conform to Tower Loan’s gender-based preferences, expectations, or stereotypes that a transgender man should be treated as female and should dress and conduct himself as female.

46. The effect of Tower Loan’s unlawful employment practices was to deprive Mr. Broussard of equal employment opportunities and otherwise adversely affect his status as an employee, because of his sex.

47. Tower Loan’s unlawful employment practices were intentional and done with malice or with reckless indifference to Mr. Broussard’s rights under Title VII.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff Tristan Broussard prays for the following relief:

- a. A declaratory judgment that the practices complained of herein are unlawful and violate Title VII, 42 U.S.C. §2000e *et seq.*;
- b. A permanent injunction against Tower Loan and its officers, agents, successors, employees, representatives, and any and all persons acting in concert with Tower Loan, prohibiting them from engaging in unlawful sex discrimination against employees or applicants for employment, including on the basis of gender identity;
- c. Back pay and reinstatement or front pay (including interest and benefits), and other affirmative relief necessary to eradicate the effects of Tower Loan's unlawful employment practices;
- d. Compensatory and punitive damages;
- e. Reasonable attorneys' fees and all expenses and costs of this action;
- f. Pre-judgment interest; and
- g. Such other and further legal and equitable relief as this Court deems necessary, just, and proper.

**DEMAND FOR JURY TRIAL**

Mr. Broussard demands a trial by jury of all issues so triable in this action.

April 13, 2015

/s/ Ryan P. Delaney  
\_\_\_\_\_  
Ryan P. Delaney

Ryan P. Delaney  
Delaney and Robb Attorneys at Law, LLC  
2800 Veterans Boulevard, Suite 213  
Metairie, LA 70005  
Telephone: (504) 267-9700  
Email: ryan@delaneyandrobb.com

James M. Finberg (admission *pro hac vice* forthcoming) (Trial Attorney)  
Barbara J. Chisholm (admission *pro hac vice* forthcoming)  
P. Casey Pitts (admission *pro hac vice* forthcoming)  
Altshuler Berzon LLP  
177 Post Street, Suite 300  
San Francisco, CA 94108  
Telephone: (415) 421-7151  
Facsimile: (415) 362-8064  
Email: jfinberg@altber.com  
bchisholm@altber.com  
cpitts@altber.com

Shannon P. Minter (admission *pro hac vice* forthcoming)  
Amy Whelan (admission *pro hac vice* forthcoming)  
Asaf Orr (admission *pro hac vice* forthcoming)  
National Center for Lesbian Rights  
870 Market Street, Suite 370  
San Francisco, CA 94102  
Telephone: (415) 392-6257  
Email: sminter@nclrights.org  
awhelan@nclrights.org  
aorr@nclrights.org

David Dinielli (admission *pro hac vice* forthcoming)  
Samuel Wolfe (admission *pro hac vice* forthcoming)  
A. Chinyere Ezie (admission *pro hac vice* forthcoming)  
Southern Poverty Law Center  
400 Washington Avenue  
Montgomery, Alabama 36104  
Telephone: (334) 956-8200  
Facsimile: (334) 856-8481  
Email: david.dinielli@splcenter.org  
sam.wolfe@splcenter.org  
chinyere.ezie@splcenter.org

*Counsel for Plaintiff Tristan Broussard*

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

(b) County of Residence of First Listed Plaintiff (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

DEFENDANTS

County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF DEF, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Contains various legal categories and checkboxes.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District, 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): Brief description of cause:

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

**INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**

## Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.  
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.  
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.  
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.  
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six boxes.  
 Original Proceedings. (1) Cases which originate in the United States district courts.  
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.  
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.  
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.  
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.  
 Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.  
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.  
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.
- Date and Attorney Signature.** Date and sign the civil cover sheet.

ATTACHMENT TO CIVIL COVER SHEET

ATTORNEYS FOR PLAINTIFF

Ryan P. Delaney  
Delaney and Robb Attorneys at Law, LLC  
2800 Veterans Boulevard, Suite 213  
Metairie, LA 70005  
Telephone: (504) 267-9700  
Email: ryan@delaneyandrobb.com

James M. Finberg (admission *pro hac vice* forthcoming) (Trial Attorney)  
Barbara J. Chisholm (admission *pro hac vice* forthcoming)  
P. Casey Pitts (admission *pro hac vice* forthcoming)  
Altshuler Berzon LLP  
177 Post Street, Suite 300  
San Francisco, CA 94108  
Telephone: (415) 421-7151  
Email: jfinberg@altber.com  
bchisholm@altber.com  
cpitts@altber.com

Shannon P. Minter (admission *pro hac vice* forthcoming)  
Amy Whelan (admission *pro hac vice* forthcoming)  
Asaf Orr (admission *pro hac vice* forthcoming)  
National Center for Lesbian Rights  
870 Market Street, Suite 370  
San Francisco, CA 94102  
Telephone: (415) 392-6257  
Email: sminter@nclrights.org  
awhelan@nclrights.org  
aorr@nclrights.org

David Dinielli (admission *pro hac vice* forthcoming)  
Samuel Wolfe (admission *pro hac vice* forthcoming)  
A. Chinyere Ezie (admission *pro hac vice* forthcoming)  
Southern Poverty Law Center  
400 Washington Avenue  
Montgomery, Alabama 36104  
Telephone: (334) 956-8200  
Email: david.dinielli@splcenter.org  
sam.wolfe@splcenter.org  
chinyere.ezie@splcenter.org

I understand that my preference to act and dress as a male, despite having been born a female, is *not* something that will be in compliance with Tower Loan's personnel policies.

I have been advised as to the proper dress for females and also have been provided a *copy of the female* dress code. I also understand that when meetings occur that require out of town travel and an overnight room is required, I will be in assigned to a room with a female.

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date



NATIONAL CENTER FOR LESBIAN RIGHTS

NATIONAL OFFICE  
870 Market St Suite 370  
San Francisco CA 94102  
tel 415 392 6257  
fax 415 392 8442  
info@nclrights.org  
www.nclrights.org

## EEOC CHARGE OF DISCRIMINATION

### Complainant's Attorneys:

Ryan P. Delaney, Esq.  
Delaney and Robb Attorneys at Law, LLC  
2800 Veterans Boulevard, Suite 213  
Metairie, LA 70005  
[ryan@delaneyandrobb.com](mailto:ryan@delaneyandrobb.com)  
Telephone: (504) 267-9700

Amy Whelan, Esq.  
Asaf Orr, Esq.  
National Center for Lesbian Rights  
870 Market Street, Suite 370  
San Francisco, CA 94102  
[awhelan@nclrights.org](mailto:awhelan@nclrights.org)  
[aorr@nclrights.org](mailto:aorr@nclrights.org)  
Telephone: (415) 392-6257

**Employer's Name:** Tower Loan

**Employer's Mailing Address:** P.O Box 320001, Flowood, MS 39232

**Employer's Main Physical Address:** 406 Liberty Park Court, Flowood, MS 39232

**Employer's Relevant Branch Location:** 3431 Ryan Street, Lake Charles, LA 70605

**Employer's Telephone Number:** (601) 992-0153 (Corporate Headquarters); (337) 480-9394 (Lake Charles Branch)

**Number of Employees:** 100+ employees

**Dates When the Events Took Place:** On or about March 4-11, 2013.

**Type of Discrimination:** Sex Discrimination, Gender Identity/Sex Stereotyping, Change of Sex

### Description of Events:

The National Center for Lesbian Rights (NCLR) and the law firm of Delaney & Robb file this charge on behalf of an individual (hereinafter "Complainant") who was discriminated against by his former employer, Tower Loan, on the basis of his sex, change of sex, sex stereotypes, and gender identity in violation of Title VII of the Civil Rights Act of 1964 and the Louisiana Employment Discrimination Law.<sup>1</sup> Complainant is a transgender man and has known that he is male as far back as he can remember. He came out as transgender to family and friends in August

---

<sup>1</sup> NCLR and the law firm of Delaney & Robb file this charge pursuant to 29 C.F.R. § 1601.7, which permits "any person, agency, or organization" to file a charge on behalf of an unnamed person. NCLR and Delaney & Robb are utilizing this provision in order to protect the Complainant, a transgender man, from further discrimination or harassment by other employers or persons. Accompanying this charge is EEOC Form 151 ("Third Party Certification of Charge").



2011. Complainant began the process of medical transition nearly two years ago and has been treated with hormone replacement therapy since May 2012.

In early February 2013, Complainant applied for a “Manager Trainee” position at Tower Loan’s office in Lake Charles, Louisiana. The Tower Loan employment application did not require applicants to identify as either male or female and he applied for the job using his birth name. When he applied for the job, Complainant had previous sales experience dealing directly with clients and customers. Leah, a manager/supervisor at the Lake Charles office, interviewed Complainant in person on or about February 25, 2013. During this interview, she expressed to Complainant that he was a top candidate and told him that she was impressed with his qualifications and disposition. Leah called Complainant shortly after the interview that same day to offer him the position. Complainant does not believe Leah was aware of his transgender status at the time she hired him.

Complainant began working at Tower Loan on March 4, 2013. On his second day, Leah noticed that Complainant’s Louisiana driver’s license lists his gender as female. She approached Complainant privately about this and he explained that he is a transgender man. Leah did not say anything further regarding his gender identity.

On March 11, 2013, Complainant began his second week of work. Mr. David Morgan, who Complainant believes is a Vice President of Tower Loan, was visiting the office that day for what Complainant believed to be a routine assessment of the office operations at the Lake Charles location. Knowing that Mr. Morgan was upper management for Tower Loan, Complainant was excited to meet him. Mr. Morgan introduced himself to Complainant and shortly afterwards asked Complainant and Leah to meet him in the back conference room. Complainant assumed Mr. Morgan wanted to get to know him better as he was the newest employee at the Lake Charles branch.

After they sat down, Mr. Morgan handed Complainant a copy of the company dress code. At this point Complainant was very confused, as he had conformed to the dress code each day he was at work. Mr. Morgan pointed out that he was handing Complainant the dress code for female employees and that Complainant was not complying with the way the company expected female employees to dress. Complainant explained to Mr. Morgan that he is a transgender man and that he identifies as male, regardless of the gender marker on his driver’s license. In response, Mr. Morgan explained that the company had to “draw a line” and could not condone Complainant’s “choice” to dress as a man when he was born a woman. Mr. Morgan also said that Tower Loan did not want Complainant to dress “like a man” because it would be confusing to customers. To the best of Complainant’s knowledge, Tower Loan never received any complaints regarding his appearance or anything else.

Unable to convince Mr. Morgan that he is a man, Complainant realized that he was going to be fired and began crying. Mr. Morgan responded by stating that Tower Loan might consider hiring Complainant as a male employee if he had surgeries. Mr. Morgan then gave Complainant a



NATIONAL CENTER FOR LESBIAN RIGHTS

document that he said Complainant must sign if he wanted to continue working at Tower Loan. The document stated:

I understand that my preference to act and dress as male, despite having been born a female, is not something that will be in compliance with Tower Loan's personnel policies. I have been advised as to the proper dress for females and also have been provided a copy of the female dress code. I also understand that when meetings occur that require out of town travel and an overnight room is required, I will be in [sic] assigned to a room with a female.

After handing Complainant the paper, Mr. Morgan said Tower Loan did not want to let Complainant go, especially since Leah, the branch manager/supervisor, had so many positive things to say about him. Mr. Morgan made very clear, however, that if Complainant did not sign the agreement, he would be fired. Complainant refused to sign the paper and repeatedly stated that he cannot agree to dress as woman because that is not who he is. Mr. Morgan then terminated his employment and the Complainant left the premises. The following day, Leah called Complainant to apologize and told him that she did not know that he was going to be terminated for being transgender.

Several days after being terminated, Mr. Morgan contacted Complainant to conduct an exit interview. During that interview, Mr. Morgan asked Complainant whether he liked working at Tower Loan. Complainant did not hesitate to tell Mr. Morgan that he loved working for Tower Loan. At the end of the exit interview, Mr. Morgan referred to Complainant as "Ms."

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

**Date:** August 26, 2013

**Signature:**

A handwritten signature in black ink, appearing to read "Asaf Orr", is written over a horizontal line.

Asaf Orr, Esq.  
National Center for Lesbian Rights (On  
Behalf of Complainant)



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION  
New Orleans Field Office

1555 Poydras St., Suite 1900  
New Orleans, LA 70112  
National Contact Center: (800) 669-4000  
National Contact Center TTY: (800) 669-6820  
New Orleans Status Line: (866) 408-8075  
New Orleans Direct Dial: (504) 595-2826  
TTY (504) 595-2958  
FAX (504) 595-2884

Charge Number 550-2013-01392

National Center for Lesbian Rights  
870 Market Street #370  
San Francisco, CA 94102

Charging Party

and

Tower Loan of Lake Charles  
3431 Ryan Street  
Lake Charles, LA 70605

and

First Tower Loan, LLC  
406 Liberty Park Court  
Flowood, MS 39232

Respondent

DETERMINATION

Under the authority vested in me by the Commission's Procedural Regulations, I issue, on behalf of the Commission, the following determination as to the merits of the subject charge filed under Title VII of the Civil Rights Act of 1964, as amended (Title VII).

This charge was filed on behalf of a transgender, female-to-male, employee (the party in interest) who alleged that he was discharged because he refused to conform to a gender-specific dress code and was not willing to share a room with a female co-worker during business-related travel that would require an overnight stay.

Respondent admitted that it had a gender specific grooming and dress code, where females could not wear ties and could not have facial hair. The party in interest had facial hair and wore suits and ties to work. Respondent also admitted having a practice of requiring employees of the same gender to share a room for overnight travel. Respondent claimed that the dress and grooming codes, as well as its practice of requiring room sharing by gender were bona fide occupational qualifications under Title VII. Respondent, however, denied discharging the party in interest. Respondent claims that the party in interest resigned voluntarily.

The Commission, having reviewed all the data, including documents, emails, and having conducted witness interviews, finds that the evidence supports a reasonable cause finding that the

party in interest was subjected to discrimination based on sex, transgender male, in that the employee was required by Respondent company policy to be treated as belonging to a gender with which the employee does not identify, despite the employee placing Respondent on notice of the employee's desire to be treated as a member of the gender with which the employee identifies. The Commission finds that Respondent failed to meet its burden to show that the policies in question constituted a bona fide occupational qualification reasonably necessary to the normal operation of its particular business enterprise. The Commission further finds that party in interest was discharged or constructively discharged by Respondent.

Sex discrimination under Title VII includes not just discrimination because of biological sex, but also gender stereotyping, i.e., when an employer treats an employee differently for failing to conform to gender-based expectations or norms. Discrimination against a transgender individual because of his/her gender-nonconformity is sex discrimination. Any intentional discrimination against a transgender individual because that person is transgender, is, by definition, discrimination "based on sex" and as such, is discrimination under Title VII. Based on the evidence, the Commission concludes that there is reason to believe that violations of Title VII have occurred.

Upon finding reason to believe that violations have occurred, the Commission attempts to eliminate the alleged unlawful employment practices by informal methods of conciliation.

Therefore, the Commission now invites the parties to join with it in reaching a just resolution of this matter. The confidentiality provisions of Section 706 and 709 of Title VII and Commission Regulations apply to information obtained during conciliation.

This determination does not conclude the processing of this charge. On the Commission's behalf, a Commission representative will soon begin conciliation efforts in an effort to resolve all matters where there is reason to believe that violations have occurred. If the Respondent declines to discuss settlement or when, for any other reasons, a settlement acceptable to the Office Director is not obtained; the Director will inform the parties and advise them of the court enforcement alternatives available to the aggrieved person and the Commission.

You are reminded that Federal law prohibits retaliation against persons who have exercised their right to inquire or complain about matters they believe may violate the law. Discrimination against persons who have cooperated in Commission investigations is also prohibited. These protections apply regardless of the Commission's determination on the merits of the charge.

On Behalf of the Commission:

12-2-14  
Date

  
\_\_\_\_\_  
Keith Hill  
Field Director

Encl: Copy of the Charge of Discrimination

cc: Counsel for Respondent  
Kenneth E. Milam  
Watkins & Eager  
P.O. Box 650  
Jackson, Mississippi 39205

Counsel for Charging Party  
Amy Whelan, Esq.  
Asaf Orr, Esq.  
National Center for Lesbian Rights  
870 Market Street, Suite 370  
San Francisco, CA 94102

Ryan P. Delaney, Esq.  
Delaney and Robb  
Attorneys at Law, LLC  
2800 Veterans Blvd., Suite 213  
Metairie, LA 70005

## U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

**NOTICE OF RIGHT TO SUE**  
(CONCILIATION FAILURE)

To: **National Center For Lesbian Rights**  
Attn: Asaf Orr, Esquire  
870 Market Street #370  
San Francisco, CA 94102

From: **New Orleans Field Office**  
1555 Poydras Street  
Suite 1900  
New Orleans, LA 70112

On behalf of person(s) aggrieved whose identity is  
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.	EEOC Representative	Telephone No.
<b>550-2013-01392</b>	<b>Uma Kandan, Enforcement Manager</b>	<b>(504) 595-2856</b>

**TO THE PERSON AGGRIEVED:**

This notice concludes the EEOC's processing of the above-numbered charge. The EEOC found reasonable cause to believe that violations of the statute(s) occurred with respect to some or all of the matters alleged in the charge but could not obtain a settlement with the Respondent that would provide relief for you. In addition, the EEOC has decided that it will not bring suit against the Respondent at this time based on this charge and will close its file in this case. This does not mean that the EEOC is certifying that the Respondent is in compliance with the law, or that the EEOC will not sue the Respondent later or intervene later in your lawsuit if you decide to sue on your own behalf.

**- NOTICE OF SUIT RIGHTS -**

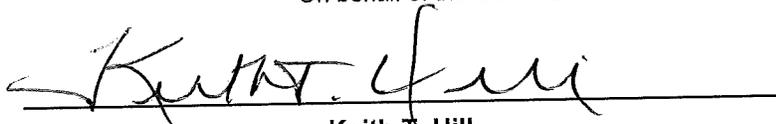
(See the additional information attached to this form.)

**Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act:** This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

**Equal Pay Act (EPA):** EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

If you file suit, based on this charge, please send a copy of your court complaint to this office.

On behalf of the Commission



**Keith T. Hill,**  
Director

**JAN 20 2015**

(Date Mailed)

Enclosures(s)

CC: **Kenneth E. Milam, Respondent's Attorney**

**INFORMATION RELATED TO FILING SUIT  
UNDER THE LAWS ENFORCED BY THE EEOC**

*(This information relates to filing suit in Federal or State court under Federal law.  
If you also plan to sue claiming violations of State law, please be aware that time limits and other  
provisions of State law may be shorter or more limited than those described below.)*

**PRIVATE SUIT RIGHTS -- Title VII of the Civil Rights Act, the Americans with Disabilities Act (ADA),  
the Genetic Information Nondiscrimination Act (GINA), or the Age  
Discrimination in Employment Act (ADEA):**

In order to pursue this matter further, you must file a lawsuit against the respondent(s) named in the charge **within 90 days of the date you receive this Notice**. Therefore, you should **keep a record of this date**. Once this 90-day period is over, your right to sue based on the charge referred to in this Notice will be lost. If you intend to consult an attorney, you should do so promptly. Give your attorney a copy of this Notice, and its envelope, and tell him or her the date you received it. Furthermore, in order to avoid any question that you did not act in a timely manner, it is prudent that your suit be filed **within 90 days of the date this Notice was mailed to you** (as indicated where the Notice is signed) or the date of the postmark, if later.

Your lawsuit may be filed in U.S. District Court or a State court of competent jurisdiction. (Usually, the appropriate State court is the general civil trial court.) Whether you file in Federal or State court is a matter for you to decide after talking to your attorney. Filing this Notice is not enough. You must file a "complaint" that contains a short statement of the facts of your case which shows that you are entitled to relief. Your suit may include any matter alleged in the charge or, to the extent permitted by court decisions, matters like or related to the matters alleged in the charge. Generally, suits are brought in the State where the alleged unlawful practice occurred, but in some cases can be brought where relevant employment records are kept, where the employment would have been, or where the respondent has its main office. If you have simple questions, you usually can get answers from the office of the clerk of the court where you are bringing suit, but do not expect that office to write your complaint or make legal strategy decisions for you.

**PRIVATE SUIT RIGHTS -- Equal Pay Act (EPA):**

EPA suits must be filed in court within 2 years (3 years for willful violations) of the alleged EPA underpayment: back pay due for violations that occurred **more than 2 years (3 years) before you file suit** may not be collectible. For example, if you were underpaid under the EPA for work performed from 7/1/08 to 12/1/08, you should file suit **before 7/1/10** -- not 12/1/10 -- in order to recover unpaid wages due for July 2008. This time limit for filing an EPA suit is separate from the 90-day filing period under Title VII, the ADA, GINA or the ADEA referred to above. Therefore, if you also plan to sue under Title VII, the ADA, GINA or the ADEA, in addition to suing on the EPA claim, suit must be filed within 90 days of this Notice and within the 2- or 3-year EPA back pay recovery period.

**ATTORNEY REPRESENTATION -- Title VII, the ADA or GINA:**

If you cannot afford or have been unable to obtain a lawyer to represent you, the U.S. District Court having jurisdiction in your case may, in limited circumstances, assist you in obtaining a lawyer. Requests for such assistance must be made to the U.S. District Court in the form and manner it requires (you should be prepared to explain in detail your efforts to retain an attorney). Requests should be made well before the end of the 90-day period mentioned above, because such requests do not relieve you of the requirement to bring suit within 90 days.

**ATTORNEY REFERRAL AND EEOC ASSISTANCE -- All Statutes:**

You may contact the EEOC representative shown on your Notice if you need help in finding a lawyer or if you have any questions about your legal rights, including advice on which U.S. District Court can hear your case. If you need to inspect or obtain a copy of information in EEOC's file on the charge, please request it promptly in writing and provide your charge number (as shown on your Notice). While EEOC destroys charge files after a certain time, all charge files are kept for at least 6 months after our last action on the case. Therefore, if you file suit and want to review the charge file, **please make your review request within 6 months of this Notice**. (Before filing suit, any request should be made within the next 90 days.)

**IF YOU FILE SUIT, PLEASE SEND A COPY OF YOUR COURT COMPLAINT TO THIS OFFICE.**