

Union Worker Says Denied Gender Care Shows Coverage Bias

By **Caleb Drickey**

Law360 (December 15, 2023, 9:10 PM EST) -- A Chicago wine and liquor sales worker accused his union and the wine shops that employed him of engaging in illegal sex discrimination by refusing to cover gender-affirming healthcare procedures.

In his **complaint** filed Thursday, Morgan Mesi, a transgender man, accused Tenzing Wine & Spirits LLC, Breakthru Beverage Illinois LLC and Local 3 of the Liquor & Wine Sales Representatives, Warehousemen, Clerical, Distillery, Rectifying, Tire, Plastic and Allied Workers' Union of refusing to pay for necessary medical care related to his transition.


He credited that denial of coverage as both illegal sex discrimination and, because he also characterized his gender dysphoria as a disabling medical condition, disability discrimination.

"Defendants discriminated against Mr. Mesi with malice or reckless indifference to Mr. Mesi's federally protected rights," the complaint said.

Under the terms of a collective bargaining agreement, Tenzing and Breakthru provided their employees with healthcare benefits through a plan run by the union. The plan guarantees coverage for most healthcare procedures, excluding those deemed by the plan to be cosmetic or not medically necessary.

In January 2018, Mesi earned a surgeon's approval to undergo several gender-affirming surgeries, including a double mastectomy. In March 2018, however, he was informed that those procedures were deemed cosmetic and medically unnecessary.

According to Mesi, those procedures are necessary to relieve his diagnosed gender dysphoria, which, if left untreated, can cause psychological distress and a high risk of suicide, per his complaint. Although he said both a physician and multiple mental health professionals wrote letters attesting to the medical necessity of his planned treatment, Mesi said the plan refused to cover gender-affirming care under any circumstances.

Citing the U.S. Supreme Court's 2020 decision in **Bostock v. Clayton County** , he alleged that this blanket denial of gender-affirming care for transgender people amounted to sex discrimination under Title VII, as well as the Illinois Human Rights Act.

Because he said the distress caused by untreated dysphoria limits major life activities, he also said the employers' and union's conduct violated the Americans with Disabilities Act.

He therefore demanded reimbursement for his gender-affirming treatment, plus punitive damages.

Caryn Lederer, counsel for Mesi, said in a Thursday statement that the categorical denial of gender-affirming care is illegal and dangerous.

"Gender-affirming medical care is crucial and necessary. It has been shown to significantly lower rates of attempted suicide, depression, anxiety, substance use and harmful self-prescribed hormone use for individuals experiencing gender dysphoria," Lederer said. "When a health care plan categorically denies its coverage, that violates the law."

Representatives for the employers and union did not immediately respond to requests for comment.

Mesi is represented by Caryn Lederer, Charlie Wysong and Tory Tilton of Hughes Socol Piers Resnick & Dym Ltd.

Counsel information for the retailers and the union was not available Friday.

The case is Mesi v. Tenzing Wine & Spirits LLC et al., case number 1:23-cv-16765, in the U.S. District Court for the Northern District of Illinois.

--Editing by Emma Brauer.