

# **This Lawsuit Over ‘Sex’ and ‘Gender Identity’ Will Have Sweeping Implications**

“I felt like I had been punched in the stomach. I was just gasping for air.”

That’s how Nancy Rost recalls the moments after her husband, Tom, walked through the door of their home six years ago this month.

In his hand, Tom held a letter from a long-time employee. On his face, the easy confidence Nancy had seen from Tom every day since they met each other as children was missing, replaced by a palpable sense of anxiety.

Immediately, Tom and Nancy knew that the contents of the letter had the potential to devastate R.G. & G.R. Harris Funeral Homes, which Tom’s grandfather had established in 1910 to serve grieving families throughout Detroit. As it stands now, Tom’s five-generation family business is in the hands of the Supreme Court, with oral arguments scheduled for Oct. 8.

No doubt, his case will have sweeping implications across American life.

So, what was in the letter?

Anthony Stephens, a biological male employee who had agreed to and followed the funeral home’s sex-specific dress code for more than six years, intended to show up to work – as well as to the homes of grieving families – dressed as a woman.

For years, Tom’s company had required employees to agree to and abide by a sex-specific dress code that aligned with the Equal Employment Opportunity Commission requirements. The regulation-consistent policy ensured that family members of a

deceased loved one could focus on processing their grief, not on the funeral home or its employees.

Over the next two weeks, Tom carefully considered his situation. Tom was concerned for Stephens – a longtime, valued employee – and for Stephens' family. He also had to consider the rest of his staff, including an 80-year-old female employee, who would be sharing the women's restroom facility with Stephens.

Finally, Tom pondered the impact on the funeral home's clients.

In the end, Tom decided that he could not agree to Stephens' proposal. That decision that was fully in line with federal law. Yet, in a matter of months, the Equal Employment Opportunity Commission sued the funeral home.

Later, following the commission's urging, a federal court of appeal effectively redefined the word "sex" in federal law to mean "gender identity."

Enacted by Congress in 1964, Title VII of the Civil Rights Act has long protected women, along with racial and religious minorities, from unjust discrimination in the workplace.

Redefining the term "sex" in that law to mean "gender identity" would create chaotic, unworkable situations and unjustly punishes business owners like Tom while destroying important gains women and girls have made over the past 50 years.

Indeed, Tom's case is just the tip of the iceberg. Blurring the legal differences between male and female forces women and girls to endure unequal treatment because some men and boys believe that they are women.

In Connecticut, for instance, two boys competing as girls have set state records in 15 events over the past two years, while

[costing girls like Selina Soule](#) over 50 chances at next-level races.

In Anchorage, Alaska, city officials have weaponized gender ideology to argue that a [women's shelter must allow a biological male](#) to sleep three feet away from women who have been victimized by rape, sex trafficking, and domestic violence.

Refusing even to discuss these and other issues that result from redefining "sex" to mean "gender identity," Democratic lawmakers have put forward the paradoxically named [Equality Act](#) that would institutionalize these harms under federal law.

While that bill has stalled in the Senate, federal courts like the one that ruled against Harris Funeral Homes have acted to effectively change the law on their own, imposing their own policy preferences and punishing business owners who were simply acting in compliance with the law Congress actually enacted.

Tom and Nancy have the right to depend on what the law says – not what judges or bureaucrats want it to be. In *R.G. & G.R. Harris Funeral Homes v. Equal Employment Opportunity Commission*, the Supreme Court has a golden opportunity to affirm that changing the law is only something Congress can do, particularly in a context as complicated as changing the meaning of "sex" itself.

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