



30 Bank Street
PO Box 350
New Britain, CT 06050-0350
06051 for 30 Bank Street
(860)223-4400
fax (860)223-4488

Testimony of Alix Simonetti
Human Rights and Responsibilities Section
Connecticut Bar Association

**In Support of House Bill 6452
An Act Concerning Discrimination**

Judiciary Committee
March 19, 2009

Senator McDonald, Representative Lawlor and members of the Judiciary Committee, thank you for the opportunity to submit testimony to the Committee on House Bill 6452, An Act Concerning Discrimination.

My name is Alix Simonetti. I am an attorney and a member of the executive committee of the Connecticut Bar Association (CBA) Human Rights and Responsibilities Section. The section is comprised of attorneys who are interested in legislation concerning civil rights and discrimination law. On behalf of the CBA Human Rights and Responsibilities Section, I respectfully request that the Judiciary Committee **favorably report** House Bill 6452.

House Bill 6452 would extend statutory protections against discrimination to claims of discrimination based upon gender identity or expression. It would bar gender identity or expression discrimination in employment, in housing and in public accommodations, as well as in several other contexts. The bill codifies the Declaratory Ruling in the matter of John/Jane Doe, issued by the Commission on Human Rights and Opportunities on November 15, 2000. The Doe Declaratory Ruling clearly points out that developing authority in the courts clarifying that gender identity and expression are covered under the prohibition of discrimination on the basis of gender in nondiscrimination statutes including but not limited to Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e, and the Equal Credit Act.

In the Doe Declaratory Ruling, the Commission adopted the definition of "gender identity" as "having or being perceived as having a self-image, expression or identity not traditionally associated with one's sex at birth." Doe Declaratory Ruling, page 20 quoting from Leonard, "The New York Law School Journal of Human Rights, CHRONICLING A MOVEMENT: A Symposium to Recognize the Twentieth Anniversary of the Lesbian/Gay Law Notes" (2000). "[G]ender identity concerns which gender an individual feels s/he is." Doe Declaratory Ruling, Page 20 note 16.

post –Price Waterhouse caselaw without colliding with the sexual orientation and grooming codelines of cases....”

Schroer v. Billington, Librarian of Congress, 424 F.Supp.2d 203, 210 (2006) . Schroer recommended that Judge Grady’s decision (Trial court in Ulane) be revisited. Another court stated that “Transexuals are not gender-less, they are either male or female and are thus protected under Title VII to the extent that they are discriminated against on the basis of sex.” Tronetti, supra, 2003 WL 22757935 *4. In the final decision on the merits of the case in Schroer, the District Court held that an employment decision based upon the sex (current anatomical or future anatomical) or other expression or identity of sex is still sex.

For Diane Schroer to prevail on the facts of her case, however, it is not necessary to draw sweeping conclusions about the reach of Title VII. Even if the decisions that define the word “sex” in Title VII as referring only to anatomical or chromosomal sex are still good law-after that approach “has been eviscerated by *Price Waterhouse*,” Smith, 378 F.3d at 573-the Library’s refusal to hire Schroer after being advised that she planned to change her anatomical sex by undergoing sex reassignment surgery was *Literally* discrimination “because of ... sex.”

Schroer v. Billington, 577 F.Supp.2d 293, 307 -308 (D.D.C.,2008).

In refusing to hire Diane Schroer because her appearance and background did not comport with the decision maker’s sex stereotypes about how men and women should act and appear, and in response to Schroer’s decision to transition, legally, culturally, and physically, from male to female, the Library of Congress violated Title VII’s prohibition on sex discrimination.

Id., Schroer v. Billington, 577 F.Supp.2d at 308.

As the Doe Declaratory Ruling explains, the case law authority interpreting gender identity and expression discrimination as gender discrimination continues to grow. The Doe Declaratory Ruling (p.20) concluded that “[P]rejudice and bigotry unfortunately are still prevalent in our society and they are facts to which we cannot close our eyes and pretend they do not exist.” The Commission’s Declaratory Ruling held that discrimination on the basis of gender identity or expression would violate Connecticut’s ban on sex discrimination. Adding to the statute specific language with respect to gender identity or expression clarifies the statute to all readers and confirms the State’s commitment to all of its citizens.

Thank you, again, for allowing me the opportunity to comment on House Bill 6452. The CBA Human Rights and Responsibilities Section respectfully requests that the Judiciary Committee approve House Bill 6452.