

Gay Mafia Wars: ENDA and the Politics of Personal Destruction

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Abstract

As I write this, I feel as if I've been transported back in time to May of 2007. The National Transgender Advocacy Coalition (NTAC) had just had a successful lobby days event and I reported back that the talk on the Hill during Lobby Days was that we were being written out of the Employment [...]

Article



Figure 1. Gaymafiawars

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“Rumors that a non-inclusive ENDA will be introduced in the Senate are unequivocally only rumors that seem to have been started by individuals who appear to be out of the loop. Unfortunately lots of people who heard the rumors have spread them without verification. I cannot promise that an inclusive ENDA will be introduced-that is not up to me-but I will say that everyone in the process is very optimistic. I also will say that the rumors that were started are baseless and, I think, spreading them further would be irresponsible.”

In the fall of 2007 what was reported by the lobbyists on the Hill, did indeed come to fruition. Now it looks as if history is repeating itself.

The National Center for Transgender Equity (NCTE) commented on their blog that:

Attorneys and advocates from NCTE and other the LGBT organizations have been working closely with committee staff on the legal aspects of the bill; in fact, we're talking with them daily. There are still a few technicalities that do need to be finalized before a successful mark up can be held. Those supporting the bill, including Chairman Miller, want to ensure that, once passed, ENDA will absolutely stand up in a court of law, and be as airtight as possible, so that even conservative anti-LGBT judges won't find it easy to whittle away at ENDA.

Some of the questions that are being discussed are:

** Double recovery, so people cannot recover damages under two different provisions of federal law at the same time, which is never allowed;*

** Attorneys fees;*

** Disparate impact (You can read more about the legalese of disparate impact in Harper Jean's September blog entry: [The Disparate Impact Non-Issue.](#))*

Welcome to the world of Congressional scheduling. The flexibility to deal with scheduling issues like this is part of our work as is making sure that this is the best possible bill to protect LGBT people.

Stay tuned for the new date for committee mark up.

CQPolitics is saying today that the markup is being delayed because:

Education and Labor Chairman George Miller said language is still being worked out regarding some outstanding issues, including attorney fees and whether plaintiffs claiming job bias based on gender identity would be able to seek relief under both the new statute and the existing Civil Rights Act section on employment discrimination. Both issues were raised by witnesses during a hearing on the measure earlier this year.

Apparently Nan Hunter, over at Bilerico Project, didn't get the correct memo/talking points. In Whenda Enda she said:

Advocates are tweaking and talking, trying to achieve effective wording on issues such as restroom use that can stand up under the Republican ugliness that will kick into high gear when a floor vote is scheduled.

What exactly can you tweak the following language? (From HR 3017):

3) CERTAIN SHARED FACILITIES- Nothing in this Act shall be construed to establish an unlawful employment practice based on actual or perceived gender identity due to the denial of access to shared shower or dressing facilities in which being seen unclothed is unavoidable, provided that the employer provides reasonable access to adequate facilities that are not inconsistent with the employee's gender identity as established with the employer at the time of employment or upon notification to the employer that the employee has undergone or is undergoing gender transition, whichever is later.

Signs point to the possibility of language removal. In Washington D.C. it's not as much about what you say, but how you say it and what you don't say. In the interview with Bil Browning:

Representative Polis REFUSED to say unequivocally (that is what Browning asked him to comment/commit to) that gender identity language will not be pulled out. Polis only went as far as saying

he doesn't see it being pulled out IN COMMITTEE.

The "GLBt" non-profit industrial complex (HRC, NCLR, NCTE, NBJC, etc.) put out a statement condemning the postponement:

"In light of continuing delays in the House of Representatives, we must state clearly and unequivocally: Passing basic job protections for lesbian, gay, bisexual and transgender people must happen now. At a time when our government is deeply focused on the critical issue of employment, it is inexcusable to delay action on the Employment Non-Discrimination Act (ENDA). Each and every job lost to prejudice based on sexual orientation and gender identity needlessly compounds the unemployment challenges facing our nation. We call on Congress for the immediate passage of ENDA."

but have yet to discuss specifically why it's on hold. Doing so now would cause an uproar in the community that could still determine the outcome of the bill.

I imagine a scene in the very near future for Nan Hunter that will include a phone call much like the one I received in 2007, assuring me that the "rumors" weren't true and demonizing those who lobbied on the Hill. Regardless, I'm guessing that she'll need to issue a retraction (edit you can read her retraction/clarification here) or she'll be the focus of the next round of whisper campaigns that Vanessa Edwards Foster spoke of on Facebook:

"typically I haven't responded to these gossip slams over the years. This just took it a step too far this time. For someone from an org that began with the pitch of 'needing to end the horizontal hostility' and 'unifying' the T comm, it's been nothing but a series of character assassinations -- and that's exactly what it is. It should be laughable to people who know us & know better. But some are actually believing this! It's incredulous!
As a result of their whisper campaigns, the meme is I'm batshit insane, Denise Leclair is impossible to work with, Dawn Wilson & Monica Roberts are violent racists, Katrina Rose is combative with violent tendencies, Allyson Robinson backstabbed local trans rights in Nevada, Pauline Park is abrasive and unworkable, Monica Helms is an obnoxious loose cannon, Marti Abernathey is chaotic and disruptive, Gwen Smith is sullen and depressive and on and on. Our not responding has only emboldened them, not reduced it. This latest is too much. People who know us better don't pay it mind, but all the others fall for it. It's harming folks and it's got to be stopped."

I'm beyond the point of caring anymore what the Gay Mafia hit squad does. This legislation is way too important to let these folks off the hook and feign ignorance, come February. By then it'll be too late.

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