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Page 1 of 1

Attorney General Marshall Leads Eleventh Circuit Brief Challenging Decision that Would Require Employers to Pay for Employees' Sex-Change Operations

(Montgomery, Ala) – Alabama Attorney General Steve Marshall filed an amicus brief with the full Eleventh Circuit Court of Appeals asking the court to overturn a district court's decision that would require employers offering healthcare coverage to their employees to pay for an employee's sex-change operation or face liability under Title VII of the Civil Rights Act of 1964. That decision was initially affirmed 2-1 by a three-judge panel of the Eleventh Circuit, but Marshall, on behalf of 23 states, urged the court to convene en banc so all 12 active judges could rehear the case. The Eleventh Circuit granted that request, vacated the panel opinion, and will hear oral argument in February.

"The question for the Eleventh Circuit is whether an employer's health insurance plan must pay for a male employee's sex-change surgery simply because the plan pays for a mother to receive reconstructive surgery following childbirth. To state the obvious: the two treatments are not the same, and it is not unlawful discrimination to treat the two procedures differently," said Attorney General Marshall. "The states within the Eleventh Circuit – Alabama, Florida, and Georgia – are steadfast in our opposition to the district court's rewrite of Title VII, which would have negative consequences for employers by imposing greater liability and reduced clarity on how far the law extends. We are confident that the full court will agree and overturn this irrational decision."

In the case, *Lange v. Houston County, Georgia*, an employee sought a sex-change operation to transition from male to female. When told that the employer's insurance provider would not pay for the operation, the employee sued under Title VII, which prohibits discrimination in the workplace on the basis of race, color, religion, sex, or national origin. A divided panel of the Eleventh Circuit found that the employer could be held liable for violating Title VII by not paying for the operation.

Alabama led the brief with Florida and Georgia, the other two states in the Eleventh Circuit whose employers would be directly covered by the appellate court's decision.

To read the full brief, [click here](#).

