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["Shaping Lesbian, Gay, Bisexual and Transgender Workplace Equality,"](http://www.outandequal.org/2009SummitVideo)  
<http://www.outandequal.org/2009SummitVideo>



## Where is the Workplace Connection: Spirituality, Sexual Orientation & Gender Identity



**Presenters:**

**Michelle Phillips, Kirsten MacPherson**

**Moderators: George Cabral, Pat Baillie**



## Announcements

- ⦿ **Aug 31** - *12 Rules for Effective Networking: Sponsored by Out & Equal's LGBTCareerLink (free webinar!)*
- ⦿ **Sep 14** - *Advanced Course - Targeted AND Privileged: The Importance of Examining Whiteness within the LGBT Community*
- Oct 5-8 – Annual Summit** – Los Angeles - <http://outandequal.org/summit-2010> (registration & housing open)
- ⦿ Check [www.outandequal.org](http://www.outandequal.org) for more info on:
  - Upcoming Training - <http://www.outandequal.org/training-programs>
  - Regional Affiliates - <http://www.outandequal.org/regional-affiliates>
  - Employee Resource Groups - <http://www.outandequal.org/resources/groups>
  - CareerLink - <http://lgbtcareerlink.com/>

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## ReadyTalk Features



- ⦿ Lines are muted
- ⦿ Use chat to ask questions during the presentation (chats go to the presenters)
- ⦿ Technical problems, raise your hand and check the chat box!
- ⦿ Cut & Paste links from chat
- ⦿ Polling – select an answer, submit and see results

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## Where is the Workplace Connection: Spirituality, Sexual Orientation & Gender Identity



**Presenters:**  
Michelle Phillips, Kirsten MacPherson  
**Moderators:** *George Cabral, Pat Baillie*



**Poll # 1**  
How many of you are out at work at LGBT  
or an ally?



## Poll #2

Do you feel comfortable talking about your spiritual beliefs at work?



## **New Developments: Religion, Sexual Orientation, Gender identity and the Workplace: A Legal Perspective**



Presented by:  
**Michelle E. Phillips, Esq.**  
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## Religion



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- Religion is a learned set of values and behaviors.
- Religion can influence everything we think, say, and do.
- Religion can define our identity and our sense of security and clarity.
- Religion is a source of strength for people.

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- Across different religions and Genders, people share common values. However, these commonalities are many times expressed differently – they may seem opposite and even wrong to members of other religions or genders.
- Religious views of sexual orientation...

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## Religion In the Workplace



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- According to a 2009 Institute for Corporate Productivity (“i4cp”) study, nearly a third of employers surveyed said they have seen personal clashes in the workplace linked to religion

- 61% of companies said they have made an accommodation for an employee based on the worker’s religious beliefs

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## Religion In the Workplace (Cont’d)



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- The same “i4cp” study found that almost two-thirds of those companies surveyed said they do not have a written policy specifically addressing religious bias

- 31% said that unsolicited sharing of religious views has been a problem in the workplace

- 13% said that, because of their religious beliefs, employees have refused to do certain work or associate with certain co-workers

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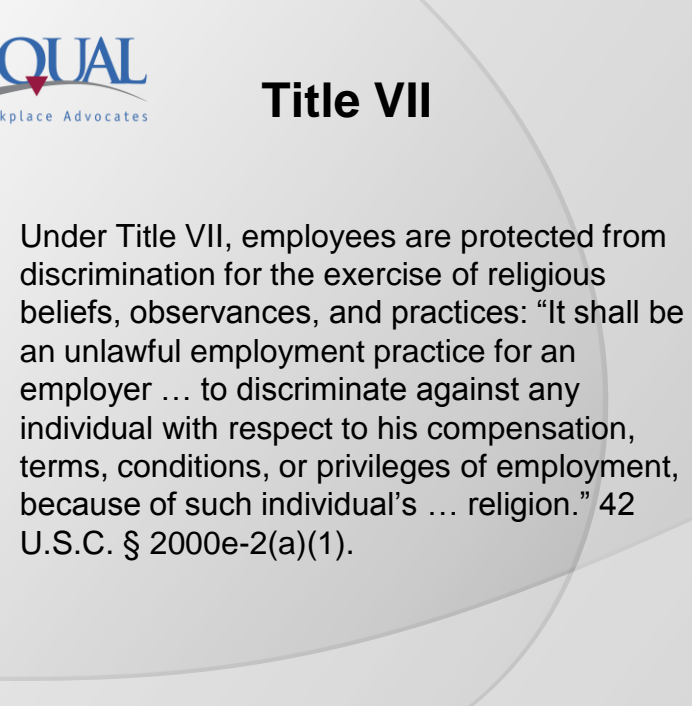
**THE LAW**



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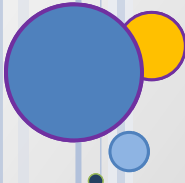


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## Title VII



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- Under Title VII, employees are protected from discrimination for the exercise of religious beliefs, observances, and practices: “It shall be an unlawful employment practice for an employer ... to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual’s ... religion.” 42 U.S.C. § 2000e-2(a)(1).



## Who is Entitled to a Reasonable Accommodation?



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- A “religious belief” refers to a “sincere and meaningful belief that occupies in the life of its possessor a place parallel to that filled by [ ] God ... .” U.S. v. Seeger, 380 U.S. 163, 176 (1965).

• A “religious practice” includes moral and ethical beliefs about what is right and wrong that are sincerely held with the strength of a traditional religious view. 29 CFR § 1605.1.

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## DEFINITION OF RELIGION

How do we define religion?

Must the employee believe in a God?

Can the Employer verify the sincerity of the employee's religious belief?

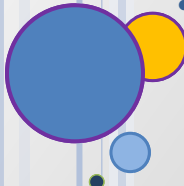


## Bona Fide Religious Belief



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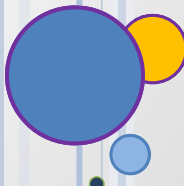


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- Employee must demonstrate both that the belief or practice is religious and that it is sincerely held in his or her own scheme of things.
- Employee's religious belief needn't be acceptable, logical, consistent, or comprehensible to others.



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## Recent Cases Involving Religion, Religious Employees and Sexual Orientation



## Prowel v. Wise Business Solutions, Inc. (3rd Cir. Aug. 28, 2009)



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- Brian Prowel claimed he was called “Princess,” “Rosebud,” “fag” and otherwise severely harassed over 13 years of employment at Wise Business Solutions, Inc. in Butler, PA
- Prowel found anonymous prayer notes with various messages referring to him being a sinner, and a note stating, “Rosebud will burn in hell.”

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## Prowel v. Wise Business Solutions, Inc. (3rd Cir Aug. 28, 2009)



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- The Human Resources manager allegedly told other employees that Prowel did not fit in with the good Christian values of the company.
- Lubricant jelly left on Prowel’s work station was removed by management when he complained.
- Writing on the bathroom wall stating that Prowel had AIDS also was painted over by management when Prowel complained.

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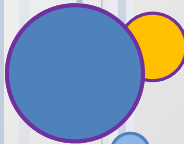


## Prowel v. Wise Business Solutions, Inc. (3rd Cir. Aug. 28, 2009)



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- On December 13, 2004, Prowel was terminated “for lack of work” (after management became aware that he had approached other employees about filing a lawsuit for not “fitting in”).
- Prowel sued Wise Business Solutions alleging harassment and wrongful termination because of sex and religion, and concomitant retaliation.



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## Prowel v. Wise Business Solutions, Inc. (3rd Cir. Aug. 28, 2009)

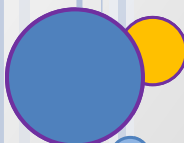


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### Result?

Reversing the District Court, which had earlier dismissed his claims, Prowel’s claims were found cognizable. The court noted that while claims based on sexual orientation discrimination and discrimination “because of sex” are difficult to distinguish, Prowel’s allegations were based on “gender stereotyping.”

However...



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**Prowel v. Wise Business Solutions, Inc.**  
(3rd Cir. Aug. 28, 2009)



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## Result?

**Prowel's religious discrimination claim was dismissed, since Prowel only stated that he did not conform to his co-workers' religion. As such, the court found he was harassed not "because of religion," but because of his sexual orientation.**

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**Prejean v. Lewis et al. (Cal. Sup. Ct. August 31, 2009)**



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## Prejean v. Lewis et al. (Cal. Sup. Ct. August 31, 2009)



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- Prejean sued California pageant executive director Keith Lewis and actress and former Miss USA Shanna Moakler, who served as a co-director before resigning in protest of Prejean.
- Prejean was fired in June 2009 by pageant officials who said she missed several scheduled appearances in breach of her contract.
- Prejean however claims that she was subject to religious discrimination and was ousted because of controversial remarks in April during the Miss USA pageant that marriage should be between a man and a woman.
- The lawsuit claims Lewis and Moakler both told Prejean not to mention God on her Miss USA application or at public events at least two months before she gave her anti-gay marriage answer.



## Prejean v. Lewis et al. (Cal. Sup. Ct. August 31, 2009)



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## Result?

**What facts are most relevant to the success of Prejean's claim that she was subject to religious discrimination?**

**out&EQUAL** Workplace Advocates **Bona Fide Religious Belief**



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- Employee must demonstrate both that the belief or practice is religious and that it is sincerely held in his or her own scheme of things.
- Employee's religious belief needn't be acceptable, logical, consistent, or comprehensible to others.

**out&EQUAL** Workplace Advocates **Steps to Accommodation**



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- Employee must come forward and advise the employer he/she has a bona fide religious belief that conflicts with a duty owed to the employer.
- Employer must engage in an interactive dialogue with the employee in an attempt to remove the conflict unless doing so would result in an undue hardship to the employer.



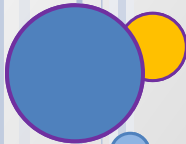
# What constitutes an "Undue Hardship"



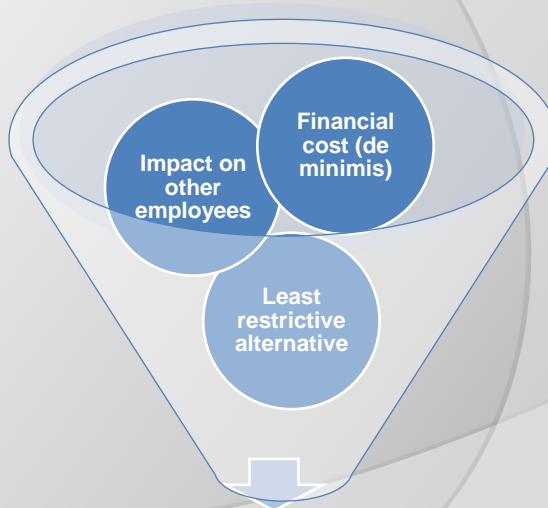
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## Result?



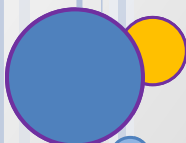
# The Interplay of Religion, Gender Identity and Sexual Orientation in the Workplace



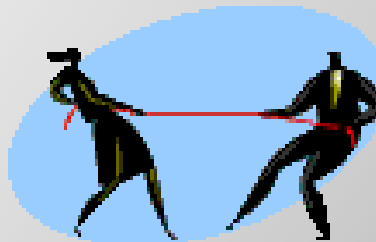
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## CAN THEY COEXIST?



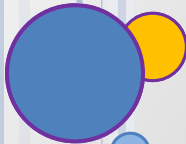
# The Heart of the Issue?



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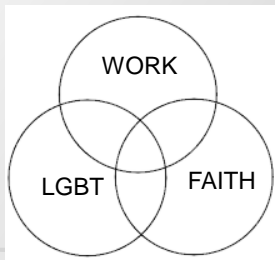
**WORKPLACE  
CONFLICT!**

Religious beliefs that suppression of LGBT community is divine mandate

Suppression of anti-LGBT speech as part of the broader LGBT movement



# Intersections



**Kirsten MacPherson**

206-446-8582

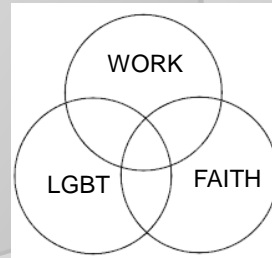
kirsten.e.macpherson@boeing.com



## Intersections



- ⦿ Personal story
- ⦿ In the workplace
- ⦿ Drawbacks
- ⦿ Benefits
- ⦿ Why I need to bring all of me



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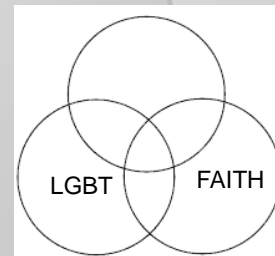
K MacPherson  
206.446.8582/kirsten.e.macpherson@boeing.com



## Intersections



- ⦿ Personal story
  - My mother really did wear combat boots...
  - World traveler before I could walk
  - Baptized Lutheran/Missouri Synod
  - AMEC in my teens
  - Fundamentalism during my 20's
  - Born again pagan in my 30's
  - Honoring all paths to God as a lifestyle

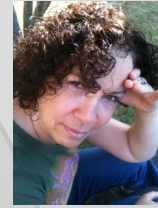


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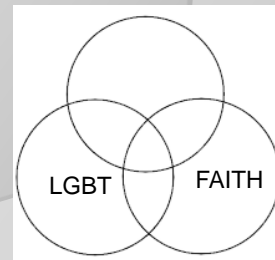
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## Intersections



- ⦿ In the workplace
  - Outed as a lesbian at work - 1994
    - Prayed for
    - Best career move ever
  - Company includes sexual orientation in EEO statement - 1995
    - Said a prayer of thanks
  - Coming out as a person of faith
    - I am blessed



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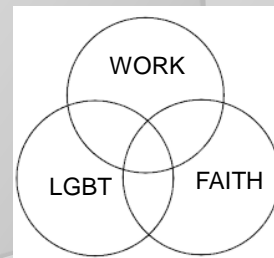
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## Intersections



- ⦿ Drawbacks
  - Stereotyped
  - Dismissed
  - Suspect
  - Marginalized



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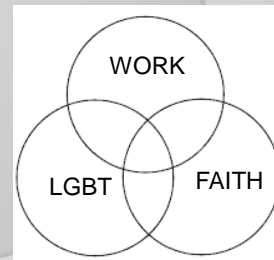
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## Intersections



### ○ Benefits

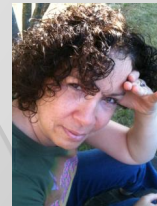
- Relationships deeper
- Integrated
- Ethical
- Knowledgeable learner



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## Intersections



### ○ Why I need to bring all of me

- **The breeze at dawn has secrets to tell you; Don't go back to sleep. You must ask for what you really want; Don't go back to sleep.** People are going back and forth across the doorsill where the two worlds touch. The door is round and open. Don't go back to sleep. - *The Sufi mystic Rumi*
- Judge not, that ye be not judged.  
2 For with what judgment ye judge, ye shall be judged: and with what measure ye mete, it shall be measured to you again. - *Gospel according to Mathew*
- Holding on to anger is like grasping a hot coal with the intent of throwing it at someone else; you are the one who gets burned. - *Buddha*
- First enlightenment, then the laundry – *Zen Master*

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## How do Companies Respond?

Presenters: All



Poll #3  
Are there spiritually based ERGs in your  
company?



## Common Ground

- What should management do?
  - Zero tolerance for any discrimination or intolerance that is religious based (4% of all claims in FY2009 but this is a 100% increase over past 15 years)
  - Work environment where differences are treated with respect and inclusion
  - Focus on job performance, career development, quality work, building partnerships and collaboration
  - Reduce fear of retaliation for employees who disagree (36% of EEOC charges in FY2009)

Frank McCloskey – Religion and Faith at Work: When Does Inclusion become Exclusionary?  
Insight into Diversity Article, September 2010  
<http://www.insightintodiversity.com/images/downloads/issues/pastissues/september10.jpg>



## Poll #4

Why does your company have ERGs?



## Building Networks

- Why do we have ERGs in the workplace?
  - Higher levels of inclusion that result in positive business outcomes
  - Extend and improve the comfort and culture of an organization
  - Break down organizational barriers to all groups

Frank McCloskey – Religion and Faith at Work: When Does Inclusion become Exclusionary?  
Insight into Diversity Article, September 2010  
<http://www.insightintodiversity.com/images/downloads/issues/pastissues/september10.jpg>



## How does this help the bottom line?

- What's the business case for spiritually based ERGs?
  - Christian is already the dominant culture in the US (what more is needed)

Frank McCloskey – Religion and Faith at Work: When Does Inclusion become Exclusionary?  
Insight into Diversity Article, September 2010  
<http://www.insightintodiversity.com/images/downloads/issues/pastissues/september10.jpg>



## Forming ERG Guidelines

- ◎ What to watch out for
  - Direct or indirect attacks on the formation or existence of another group (for example LGBT)
  - Intentionally trying to transform current standards of corporate values and ethics to Christian values and ethics
  - Creating structure inside the company to facilitate proselytizing and conversion
  - Creating opportunities for external organizations to advance an agenda and ideology (Christianize the workplace)

Frank McCloskey – Religion and Faith at Work: When Does Inclusion become Exclusionary?  
 Insight into Diversity Article, September 2010  
<http://www.insightintodiversity.com/images/downloads/issues/pastissues/september10.jpg>



## Dealing with Conflicts

- ◎ Conflicts with LGBT ERGs
  - Company policy to not include ERGs that oppose or exclude (usually no political groups)
  - Does it make a difference if it is a Christian group or just spiritually based
  - Which takes precedence – privacy, individual freedoms, corporate goals, policies, public positions

Frank McCloskey – Religion and Faith at Work: When Does Inclusion become Exclusionary?  
 Insight into Diversity Article, September 2010  
<http://www.insightintodiversity.com/images/downloads/issues/pastissues/september10.jpg>

## **out&EQUAL** Questions & Answers Workplace Advocates



### *How to ask a question...*

- Online - use chat mode anytime during webinar
- Teleconference - dial \*7 and ask your question & then \*6 to return your phone to mute

[www.outandequal.org](http://www.outandequal.org)

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## **out&EQUAL** Closing Comments Workplace Advocates



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**Thank you for your participation!**

*Please complete the short survey at the end of the call!*

*Consider a donation to Out & Equal:  
<http://www.outandequal.org/about/Donations.asp>*

*Next Town Call on September 30, 2010!  
Federal Careers: Realizing a Growing LGBT Presence*

**More questions? Contact Pat Baillie, Associate Director of Training  
[pbaillie@outandequal.org](mailto:pbaillie@outandequal.org) - 415-694-6521**