Transgender people experience discrimination in most every area of their lives from schools, shelters, walking down the street, using the bus, senior citizen homes and many other places. Transgender people make less than $10,000 per year according to Injustice at Every Turn, the National Transgender Discrimination Survey (NTDS) conducted by the National LGBTQ Task Force and the National Center for Transgender Equality in 2011.¹ Transgender people suffer unemployment at twice the rate of the general population according to the NTDS. This same survey shows that 90% reported experiencing harassment, mistreatment or discrimination on the job or took actions like hiding who they are to avoid it.

I’ve been working with transgender clients for over twenty years now. I’ve represented transgender people when others turned away transgender clients. I represented transgender people along with many other underrepresented people in my practice because I was transgender and black and because it was the right thing to do. The NTDS reported that the combination of anti-transgender bias and persistent, structural racism was especially devastating. I was constructively discharged from my corporate job which allowed me the opportunity to open up my law practice.

I have worked with a close network of attorneys that have represented transgender clients over the years and hope to share some things that I’ve learned along the way. The statistics should help put into perspective some of the population, but just as with every human being, not every transgender person is the same. There is also a new survey being conducted this year, and as the population has changed, I am sure that the survey results will have changed.

The first recommendation is that if you have any questions or reservations, there are plenty of resources available for you. It’s better to ask the question ahead of time than to damage or ruin someone’s opportunity for something that means something so dearly to them as a gender and/or name change. This may not mean as much to other people, but to transgender people it means the world! The name and gender change are things most have waited a lifetime to have happen and have saved, borrowed or fundraised to make these events happen. This plays a large part in our gender identity and the way we express ourselves. I’ve sometimes heard other attorneys say, “I don’t see what the big deal is? It’s just a name change.” Well, obviously, the person that said this wasn’t transgender. It means everything to a transgender person seeking it.

There are some jurisdictions reluctant to do this and of course state statutes vary from state to state as to whether a gender marker can be changed or amended.² There are advocates that have been doing this work now for decades that have some helpful tips that they can share.

They do this work every day and are happy to speak with you. I will share resources with you below.

Maintain the confidentiality of your client and do not judge your client. We should never disclose someone else’s transgender status. It is that person’s right to choose when and where they disclose their transgender status. This is whether we have a legal relationship with them or not. Honoring this will go a long way with building trust with your client unless it’s part of the case itself. Then it should only be discussed within those bounds. Transgender people feel scrutinized and judged, so do not judge the individual on their dress or behavior. If we cannot separate our personal feelings, then perhaps the case isn’t one for us to take. Transgender people, to oversimplify, are born in a body different than their soul. All transgender people aren’t a like, but all transgender people are human beings. Please use common courtesy with transgender clients as with any client and treat transgender people with dignity and respect.

This includes using proper pronouns to address your client. It is proper to ask the client what pronouns they use and to share your pronouns, such as she or he. You may need to update your office forms so that it can allow for more genders. This may be confusing but more and more young people identify outside of the gender binary of female and male. You may need to think about adding transgender, gender nonconforming or options once you’ve done a little research with female and male on your forms. There are many that use he or she but many are gender fluid or gender non-conforming and use alternative pronouns which can span from “them, they, ze, zhe,” and numerous others.
It will be necessary to make sure opposing counsel and the court address your client appropriately. You as the representative set the tone for this in your demeanor and pleadings. In most transgender cases unlike other cases, you will need some type of medical evidence, whether it’s a name change or a criminal trial, that substantiates your client is transgender. You want to be prepared and be the expert and let the court know you’re the expert. Medical evidence can range from an affidavit to having various types of medical experts testify. This is why a simple case can turn out to be not so simple. You will need to know when to use this evidence and how to use the evidence. This is of course in addition to any other evidence you would submit in a similar case.

Everyone has a gender identity, but for transgender people’s gender identity as I explained earlier is incongruent with the soul. Here are some great sources for you to use. The American Medical Association has gone on record indicating this is a medical condition and has advocated for transgender health and civil rights.3 Two other important organizations that have gone on record supporting the health care and civil rights of transgender people are the American Psychiatric Association and the American Psychological Association.4 The organization that sets the standard is the World Professional Association of Transgender Health.5

One last major tip is not to get stuck on whether someone has had surgery or not. This may be a statutory requirement, but this doesn’t determine whether someone is transgender. First, there are numerous surgeries and not just one that transgender people undergo. They haven’t been covered by insurance in the past and are expensive, so the surgeries are cost prohibitive to some. Others choose not to have them for a variety of reasons—health concerns, cannot afford them, fear and many other reasons. Additionally, people tend to forget that the brain is a sex organ.⁶

I hope these tips help you as transgender people become more visible, with Chaz Bono coming out, Laverne Cox on the cover of *Time* and Caitlyn Jenner coming out, in your practice with transgender clients and attorneys. The key is to treat everyone with respect and dignity. If you need assistance because there may be nuisances to a transgender case, there are plenty of resources to assist you. Please seek out advice. Ask the individual the pronouns that they wish to be called rather than assume, and share your pronouns too. Know the law in your area as each state is different and become the expert for the court. Use medical evidence and experts when and where necessary in addition to any other evidence. Remember being transgender isn’t about the anatomy but about the individuals being. We are all human beings.

⁶ On Transgender Issues, We Tend to Forget Our Most Powerful Sexual Organ Is the Brain, Henderson, Leslie, P. http://www.huffingtonpost.com/leslie-p-henderson/on-transgender-issues-we-_b_5531131.html
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