

FORBES > LEADERSHIP > DIVERSITY, EQUITY & INCLUSION

# Dell Found Liable For Discriminating Against Trans Employee

Dawn Ennis Former Contributor ⓘ

*I report on the fight for transgender equality and other LGBTQ issues.*



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Cicilia Gilbert, who was also a systems engineer at Dell, was let go in 2018, during the middle of ... [+] [MARANIE R. STAAB FOR NPR](#)

An arbitrator ruled that tech giant [Dell](#) discriminated against a transgender employee by firing her during her gender transition, according to her attorney.

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Dell was found liable for intentional discrimination based on gender identity discrimination under federal and state law, as well as disability discrimination under federal and state law, said [Jillian Weiss](#), the lawyer for 61-year-old Cicilia Gilbert.

“Cicilia Gilbert was laid off because of who she is, a proud transgender woman. It ended her career,” Weiss told me.

During a pre-trial conference Wednesday in New York City, U.S. District Judge John Koeltl instructed Weiss and the legal team representing Dell to submit briefs to settle the next question: whether Dell should have to reinstate Gilbert, provide more training for its employees, and change policies to better address discrimination of this kind.

## Dell's track record

The ruling is a stunning defeat for the technology leader, which has [a long history of supporting its LGBTQ employees and causes](#).

“This is another example of a company with excellent policies on paper, and [100% score on the Human Rights Campaign Corporate Equality Index](#), failing their transgender employees when they need them most,” said Weiss.

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HRC also named Dell one of its “[Best Places to Work for LGBTQ+ Equality 2022.](#)”

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A Dell spokesperson responded to my request for comment with this statement: “We do not comment on active litigation. We believe in fair treatment in the workplace, regardless of race, gender identity or religion. It’s a commitment we mirror in our diversity, equity and anti-discrimination policies, as well as the public policies we support. We have a long-standing history of accommodating and supporting transgender and transitioning team members and the broader transgender community both in and out of our workplace.”

## “It’s a career-ender.”

[In an interview with NPR in 2019](#), Gilbert said a coworker who is trans had warned her against coming out at Dell: "Don't tell these people that you're transgender. It's a career ender."

During the conference on Wednesday, the attorney for Dell claimed that travel to clients was essential to Gilbert’s job in tech sales. Gilbert also worked as a systems engineer in Dell’s New York office. She and her wife, Alexandra, live in upstate New York.

According to Weiss, Dell had granted her an accommodation for her inability to travel during her gender transition, a period of



about one year. This was because of surgeries and concerns about potential blood clots on long plane trips.

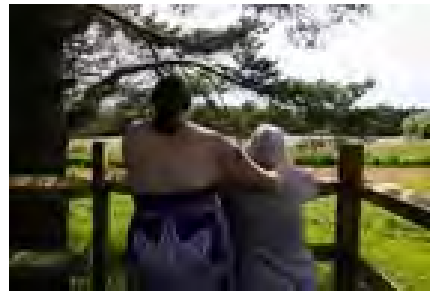
Weiss said in 2018, eight months after granting her an accommodation, Dell included Gilbert in a layoff, claiming travel as the primary reason.

"They said, 'We're laying you off because your transgender transition is impeding your ability to travel,'" [Cicilia Gilbert told NPR](#) in 2019.

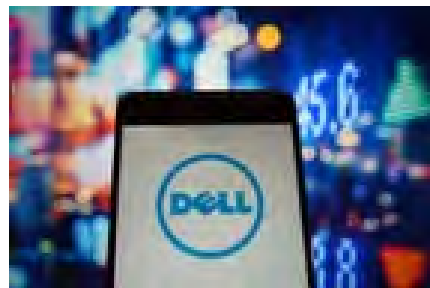
Dell attorney [Michael Burkhardt](#), a partner at the law firm of [Morgan Lewis](#), argued on Wednesday that Gilbert had to prove she was qualified to perform her job. He argued that, despite her 35 years of experience at top companies in the field, and her satisfactory performance during the previous five years, she was not qualified because travel was an essential function of her job. However, the arbitrator disagreed with Dell, and found that travel was not essential to her job.

## “People are more important than paper”

“Dell forced Ms. Gilbert to litigate for four years to show that discrimination occurred,” said Weiss. “Even now, Dell asserts that it did nothing wrong, and cites technicalities in its defense. This highlights the problem with companies with great policies on



Cicilia Gilbert and her wife, Alexandra, stand in their yard in upstate New York in 2019. Photo by ... [+] [MARANIE R. STAAB FOR NPR](#)



The logo of Dell is seen displayed on a smartphone. Photo Illustration by Alvin Chan/SOPA ... [+] [LIGHTROCKET VIA GETTY IMAGES](#)

paper: they look good for the C-Suite, but they don't trickle down to the shop floor. My message to big companies with great policies on paper is that we will not let you treat us this way. People are more important than paper.

“This is an ongoing problem,” Weiss said. “Dell has been involved in other incidents of discrimination involving transgender employees over the past several years. [The Massachusetts Attorney General required Dell to pay a \\$110,000 fine](#) for one incident of discrimination in 2017.”

[According to NPR](#), Dell settled a discrimination complaint by another trans employee, Helen Harris.

## Two more states enact “trans bans”

All this comes as 14 states have now enacted anti-transgender legislation, with [Oklahoma](#) and [Arizona](#) joining other Republican-led states on Wednesday. Earlier this month, Gov. Greg Abbott of Texas, where Dell has headquarters, [issued an order that equates gender-affirming healthcare with child abuse](#). Dell, however, chose to not sign [a letter signed by 60 major businesses](#), calling for the order to be rescinded.

“When it comes to supporting transgender people, Dell is missing in action,” Weiss said.

There was one other revelation during Wednesday’s conference with Judge Koeltl: Dell’s attorney, Michael Burkhardt, said employees of its [Virtustream](#) division are being laid off immediately. [Virtustream](#) writes and distributes software that enables service providers to set up an enterprise-class cloud infrastructure, and lets enterprises set up their own private cloud



infrastructure as a service offering. The other major players in this field are Amazon Web Services, Microsoft Azure and IBM Cloud.

Dell did not comment on this news, and Burkhardt did not respond to my request for a comment as of press time.

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I am an award-winning journalist, a TV correspondent on CT Voice OutLoud on WTNH-TV and host of the “RiseUP With Dawn Ennis” talk show. I was America's first... **Read More**

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