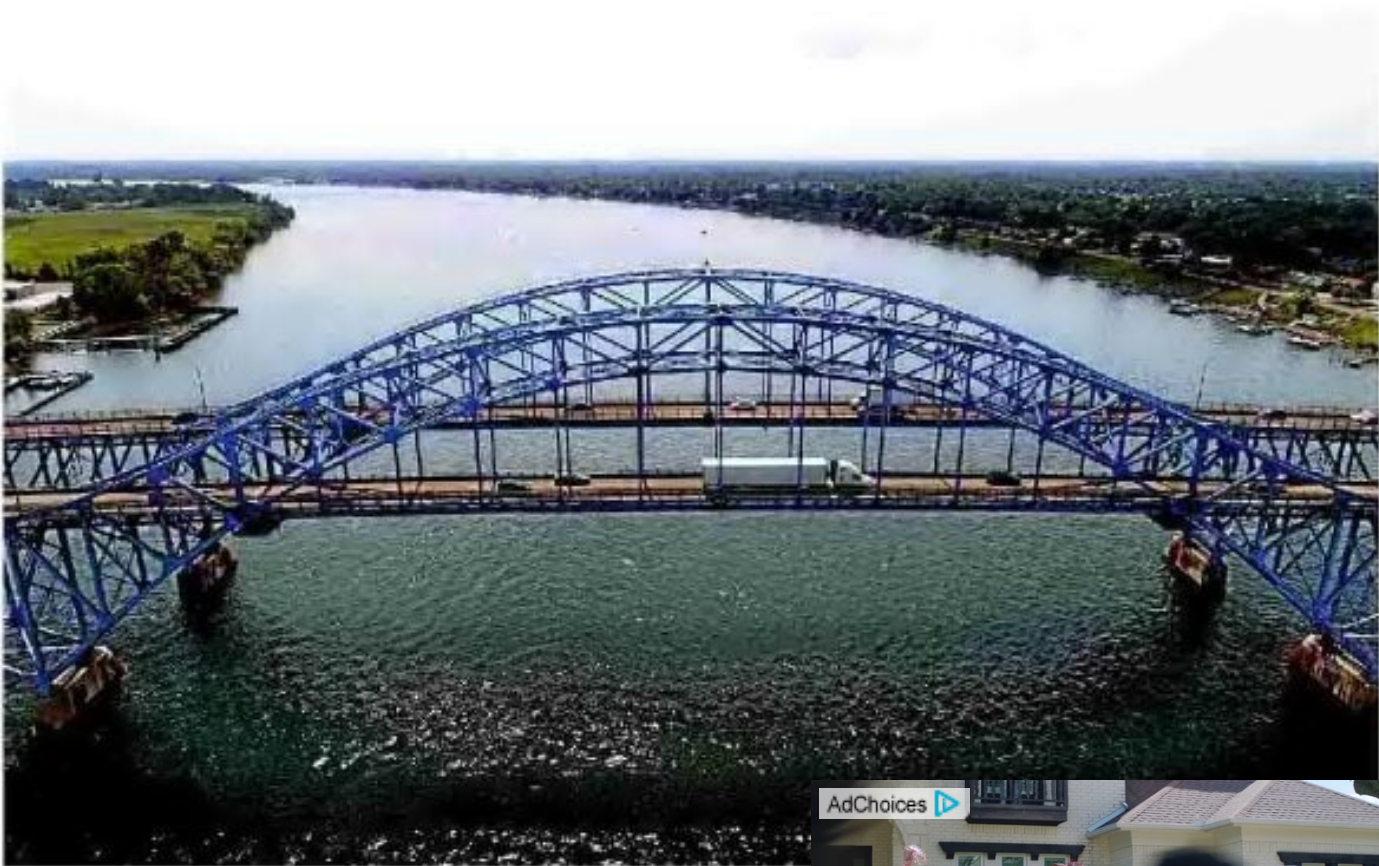


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GI worker: Town was OK with use of anti-gay slurs

Federal lawsuit says bias also led to severe health issues

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Aug 25, 2026



The South Grand Island Bridges are seen in this file photo. A Town of Tonawanda lawsuit that town officials discriminated against him.
DEREK GEE, NEWS FILE PHOTO



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A Town of Grand Island employee claims in a federal lawsuit that town officials discriminated against him because he's gay and that this mistreatment caused him severe health problems.

Timothy Burns says colleagues and managers in the town's wastewater treatment plant created a hostile work environment, and Grand Island leaders didn't do anything when he complained about his experiences on the job.

The lawsuit cites examples of crude homophobic insults and derisive comments about Burns' disability that purportedly were made by Island elected officials and town workers.

"He was discriminated against based on his sexual orientation," Burns' attorney, Lindy Korn, said in an interview.

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She referred to one of the remarks, a familiar antigay slur, highlighted in the lawsuit.

"That comment, which is an allegation in our complaint, evinces an intent and bias. And this is what would make anyone sick at work," Korn said. "And it is illegal. And it really is something that is shocking to know that it is condoned in the workplace."

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Burns, who is still listed as chief treatment plant operator on the town's website, is seeking unspecified damages in his lawsuit filed in June in federal district court in Buffalo.

The town has not yet formally responded to the complaint.

In addition to the town, the lawsuit also names Grand Island Supervisor Peter Marston Jr., Deputy Supervisor Thomas Digati and Town Engineer Robert H. Westfall.

"The town denies the allegations and intends to vigorously defend itself. Because this is pending litigation, the town will have no further comment," Town Attorney Peter C. Godfrey said in an email.

Co-worker attitudes change

Burns has worked in the Town of Grand Island's wastewater treatment plant since 2008, when he started as a summer employee. In 2011, he was hired as a fulltime plant operator.

In 2022, the town began to operate the plant under Burns' operating license and Burns later became senior operator. He earned \$97,211 in 2025, according to payroll records available on the SeeThroughNY website.

Burns, in the complaint, states the workplace conflicts began around 2020, when colleagues learned he is gay. He claims the plant's then-senior operator started giving Burns the silent treatment and avoiding him at work, a change in behavior noticed by other plant employees.

In August 2021, this senior operator made a vomiting sound after learning Burns had married his husband, according to the complaint.

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Burns contends his efforts to get the training that would allow him to advance to the senior operator role within the plant were stymied because of anti-gay discrimination.

He also said his attempts to raise concerns about the workplace conduct of a colleague were ignored by town officials. Burns said he alerted his supervisors that he believed this employee was taking excessive lunch breaks, filing excessive overtime claims and was responsible for numerous missing mercury tests.

Alleged harassment escalates

Burns said harassment based on his sexual identity and disability ramped up in 2024.

At the time, Burns had an office near the wastewater treatment plant's laboratory and, as a result, was able to hear discussions taking place within the lab.

These conversations included calls, made via speakerphone, where Burns could hear people using homophobic insults to refer to him, according to the complaint.

Separately, Burns said he was later told Digati, during a closed-door Town Board executive session held on Aug. 26, 2024, had made a crude remark implying someone was helping Burns only because this individual wanted to have sex with Burns.

"This comment was blatantly homophobic, degrading, and discriminatory," the lawsuit stated.



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Burns stated another town employee overheard this remark and attempted to lodge a complaint, but nothing substantial was done to address it.

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Digati, when contacted for this article, said he wouldn't comment on a matter of litigation.

The lawsuit doesn't detail the nature of Burns' disability, but states his condition worsened as the reported workplace harassment increased in intensity.

Burns "resumed more regular medication use, experienced worsening physical symptoms, including severe nosebleeds, and began using his handicap placard regularly at work," the complaint states.

Feeling targeted

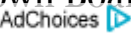
Burns said he was subjected to retaliation when he tried to alert town leaders to problems at the plant.

When he copied Town Board members on an email in September 2024 that flagged permit and compliance issues, Westfall, the town engineer, accused Burns of "an act of insubordination," according to the lawsuit.

When Marston, the town supervisor, called a session the following month to address issues at the wastewater treatment plant, Burns claims he became the target of the meeting.

In this meeting, and in the weeks that followed, Burns contends the employee he had raised concerns about turned the tables on him, claiming Burns was "unequipped" for a plant management role.

Burns claims he overheard this employee use a vulgar slur to complain about Burns' use of a handicapped placard. Westfall was there, according to Burns' complaint, but did not address the insult.

In late 2024, Burns submitted a complaint to the Town Board accusing Westfall of discrimination based on Burns' sexual identity and disability and requesting a follow-up meeting to discuss his concerns. 

Nothing came out of this request, Burns claims.

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Westfall did not respond to a request for comment for this article.

'Not a people person'

In February 2025, the lawsuit states, the town removed Westfall as a department head and assigned those responsibilities to Burns. The Town of Grand Island website still lists Westfall as town engineer.

Burns said he continued to raise concerns about the employee in question mishandling testing at the plant.

He also accused this employee, and Westfall, of misrepresenting a small sludge spill at the plant site.

Burns said the spill never left the plant property but Westfall and this employee wrongly claimed sludge had discharged into a storm sewer.

Eventually, Burns claims, additional problems with this employee's job performance led the town in March 2025 to suspend him without pay and, later, to allow him to resign from his position.

This left Burns with more responsibility, but he said town officials continued to downplay his complaints about work place harassment.

According to the lawsuit, he later learned that Digati, in April 2025, told Cody Clarke, the president of Burns' union, "Tim's just not a people person."

Burns states he also discovered around this time that the town had opened an investigation into his handling of certain items within the laboratory.



EEOC complaint filed

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When Burns in May 2025 informed the town he was retaining an attorney, he said he was told there would be "no discipline" as a result of this investigation.

Burns last year filed a grievance, through his union, over his assumption of department head duties without a corresponding increase in pay.

He claims other union members were told, if they wanted to have a successful contract negotiation, they needed to convince Burns to drop the grievance.

Clarke did not respond to a request for comment made through his union, AFSCME Council 66.

Marston deferred comment to the town attorney.

Burns eventually filed a complaint with the U.S. Equal Employment Opportunity Commission. It's a step required before someone can file a federal job discrimination lawsuit.

In March, the EEOC issued a dismissal and notice of rights. This means the agency ended its investigation without a finding that a violation occurred but is allowing Burns to pursue his claim through his own lawsuit.

"This does not mean the claims have no merit. This determination does not certify that the respondent is in compliance with the statutes," Feng K. An, the EEOC's area office director, wrote to Burns, according to a copy of the letter provided to The News by Korn. "The EEOC makes no finding as to the merits of any other issues that might be construed as having been raised by this charge."

Korn declined to make Burns available for an interview, nor would she specify his current job status. But she said the stakes of the lawsuit are high.

"Discrimination is a health issue, as well as a legal issue," Korn said, "so any way that he can be made whole, we will pursue."

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