

**Written Testimony of Gene Hamilton
President, America First Legal Foundation
Submitted to the Senate Committee on the Judiciary
Subcommittee on the Constitution
“Ending Illegal DEI Discrimination & Preferences: Enforcing Our Civil
Rights Laws”
July 23, 2025**

Chairman Schmitt, Ranking Member Welch, and distinguished members of the Subcommittee on the Constitution—thank you for allowing me to testify today about this critical issue.

As President of America First Legal (AFL), a nonprofit organization committed to upholding the rule of law, advancing meritocracy, and protecting the civil rights of all Americans, I appreciate the opportunity to discuss our ongoing efforts to combat discrimination against American citizens.

There is nothing righteous or even morally defensible about intentionally discriminating against American citizens based on their race or sex. What matters is whether a person is the best candidate for the job based on *merit*. Yet corporations, universities, K-12 schools, and other institutions that should know better have embraced intentional discrimination as though it were unquestionably their duty to do so. This was particularly true over the last four years of the Biden Administration.

Let me be clear: it is never acceptable to hire, fire, promote, or take any employment action based on skin color or sex. “Balancing” a workforce, for example, through race or sex-based preferences, is never okay—every reserved slot for one group necessarily excludes others. Attempting to address purported disparities through the use of such blunt instruments ignores intervening political, social, and

economic forces—like mass immigration and the erosion of the nuclear family—and it undermines the human dignity of every person subjected to such policies. Holding down one American under the purported premise of lifting another up is an abhorrent aggrandizement of bureaucratic power that threatens individual liberty and freedom at levels that would only be admired by committed socialists.

No great nation can sustain the harm inflicted by such divisive policies. They undermine and weaken our great institutions, dilute our shared American identity, turn Americans against one another, and jeopardize the strength of the greatest country on earth. We are united by fairness, individual achievement, and equal opportunity—principles that have made us a beacon of freedom and prosperity. But when government bureaucrats are empowered to pick winners and losers based on immutable characteristics—or when they encourage, conspire with, or acquiesce to private sector actors doing the same—fractures form in the foundation of our great nation. These fractures, which we see already, will continue to grow and ultimately destroy our constitutional republic if left unaddressed.

Since our founding in 2021, AFL has been at the forefront of many critical public policy battles. Our work is driven by a fundamental principle: every American deserves equal treatment under the law, free from discrimination based on race, sex, or other immutable characteristics. To advance our mission, AFL has filed dozens of lawsuits for clients, filed dozens of federal civil rights complaints, and conducted oversight investigations to challenge unlawful “diversity, equity, and inclusion” (DEI) practices. We have spearheaded direct educational efforts to inform the American

people about the dangers and illegality of DEI policies. And we have made it an organizational goal to dismantle and destroy DEI.

Many of our actions in this area target violations by government and private actors of key federal statutes, including Titles VI and VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, 42 U.S.C. § 1981 (which prohibits racial discrimination in private contracting), the Equal Protection Clause of the Fourteenth Amendment, and numerous similar state and local laws.

AFL's fight for equality and against pernicious ideology began in the public sector. To this day, one of our core missions continues to be investigating, exposing, and litigating against programs that use taxpayer funds to discriminate against American citizens. Some of these matters include:

- AFL led a nationwide class action lawsuit in *Miller v. Vilsack* against the U.S. Department of Agriculture, alleging the Biden Administration's American Rescue Plan Act discriminated against white farmers by excluding them from farm loan forgiveness based on race; we secured a preliminary injunction under the Equal Protection Clause and 42 U.S.C. § 1981, halting the program.¹
- AFL led a nationwide class action lawsuit in *Blessed Cajuns v. Guzman* against the Small Business Administration, alleging the Restaurant Revitalization Fund prioritized grants based on race and sex. We obtained a preliminary

¹ Press Release, America First Legal, America First Legal Sues Biden Admin To End Racial Discrimination Against Farmers And Ranchers, (Apr. 26, 2021) (available at <https://aflegal.org/press-release/america-first-legal-sues-biden-admin-to-end-racial-discrimination-against-farmers-and-ranchers>) (last visited July 22, 2025).

injunction under equal protection principles and anti-discrimination laws, blocking race-based prioritization.²

- AFL filed a lawsuit on behalf of a client against six medical schools in Texas, alleging that they were using race and sex preferences in admissions decisions. AFL alleged that these policies violated Title VI and Title IX and the Equal Protection Clause of the Fourteenth Amendment. AFL secured a settlement agreement on behalf of its client with the Texas Tech University Health Sciences Center in which Texas Tech affirmed that it “will not consider race when selecting applicants for admission to its medical school.”³
- AFL filed a lawsuit against the University of California, alleging illegal race-based discrimination against White and Asian applicants in student admissions through a “holistic” admissions policy that serves as a pretext for racial preferences, violating federal statutes and the Constitution’s Equal Protection Clause by admitting applicants with inferior academic credentials based on race at the expense of those with better credentials but disfavored characteristics.⁴

² Press Release, America First Legal, America First Legal Files New Lawsuit Against Biden Administration for Illegal Race Discrimination Against Bar and Restaurant Owners, (May 13, 2021), (available at <https://aflegal.org/press-release/america-first-legal-files-new-lawsuit-against-biden-administration-for-illegal-race-discrimination-against-bar-and-restaurant-owners/>) (last visited July 22, 2025).

³ Press Release, America First Legal, VICTORY — America First Legal Secures Commitment from Texas Tech Medical School to Not Use Race in Admissions Decisions, (Mar. 5, 2025) (available at <https://aflegal.org/press-release/victory-america-first-legal-secures-commitment-from-texas-tech-medical-school-to-not-use-race-in-admissions-decisions>) (last visited July 22, 2025).

⁴ Press Release, America First Legal, America First Legal Sues University of California for Illegal Race-Based Discrimination Against White and Asian Applicants in Student Admissions, (Feb. 5, 2025) (available at <https://aflegal.org/press-release/america-first-legal-sues-university-of-california-for-illegal-race-based-discrimination-against-white-and-asian-applicants-in-student-admissions/>) (last visited July 22, 2025).

- AFL secured a settlement with Ohio Northern University (“ONU”) following a 2023 lawsuit on behalf of Dr. Scott Gerber, alleging the university terminated him for objecting to illegal race-based hiring practices in violation of federal anti-discrimination laws; the settlement included full reinstatement, retirement at his rightful faculty rank with benefits, and ONU’s acknowledgment that Dr. Gerber was never a public safety risk, acted without moral turpitude, and provided outstanding teaching, scholarship, and service.⁵
- AFL sued the University of Michigan and the Michigan Law Review Association, alleging illegal racial discrimination against white and Asian applicants by using race-based preferences in law review selection processes.⁶
- AFL filed a federal civil rights complaint against Colorado State University, alleging rampant illegal DEI programs discriminated based on race and sex in violation of Titles VI and IX by using preferences in admissions and opportunities.⁷
- AFL filed a federal civil rights complaint against Johns Hopkins University Medical School, alleging violations of the Equal Protection Clause, Title VI,

⁵ Press Release, America First Legal, VICTORY — America First Legal Secures Settlement, Reinstatement, and Vindication for Law Professor Fired by Ohio Northern University for Objecting to Race-Based Hiring, (June 26, 2025), (available at <https://aflegal.org/press-release/victory-america-first-legal-secures-settlement-reinstatement-and-vindication-for-law-professor-fired-by-ohio-northern-university-for-objecting-to-race-based-hiring>) (last visited July 22, 2025).

⁶ Press Release, America First Legal, America First Legal Sues the University of Michigan and the Michigan Law Review Association for Illegal Racial Discrimination, (June 24, 2025), (available at <https://aflegal.org/press-release/america-first-legal-sues-the-university-of-michigan-and-the-michigan-law-review-association-for-illegal-racial-discrimination>) (last visited July 22, 2025).

⁷ Press Release, America First Legal, America First Legal Files Federal Civil Rights Complaint Against Colorado State University for Rampant Illegal DEI Programs, (June 24, 2025), (available at <https://aflegal.org/press-release/america-first-legal-files-federal-civil-rights-complaint-against-colorado-state-university-for-rampant-illegal-dei-programs>) (last visited July 22, 2025).

and Section 1557 of the Affordable Care Act through DEI practices that discriminated against non-minority applicants by prioritizing race in admissions, scholarships, and residency programs.⁸

- AFL submitted supplemental documentation in support of DOJ’s ongoing investigation into the University of Virginia’s illegal DEI practices, including continued discrimination based on race despite prior warnings and clear legal prohibitions.⁹
- AFL submitted a formal civil rights complaint to the U.S. Department of Health and Human Services, Office for Civil Rights, requesting an investigation into Henry Ford Health System for unlawful DEI practices that discriminate based on race, sex, and national origin in hiring, promotion, and patient care.¹⁰

AFL’s fight for equality and merit-based decision-making has also included many lawsuits, complaints, and investigations of illegal DEI practices in the private sector. While I will not get into specific details about our ongoing cases beyond what is already in the public domain, some of these matters include:¹¹

⁸ Press Release, America First Legal, America First Legal Calls on DOJ to Investigate Johns Hopkins University Medical School for Illegal Discrimination, (July 17, 2025), (available at <https://aflegal.org/press-release/america-first-legal-calls-on-doj-to-investigate-johns-hopkins-university-medical-school-for-illegal-discrimination>) (last visited July 22, 2025).

⁹ Press Release, America First Legal, America First Legal Calls on DOJ to Enforce Federal Law Against the University of Virginia’s Ongoing Illegal DEI Practices, (June 18, 2025), (available at <https://aflegal.org/press-release/america-first-legal-calls-on-doj-to-enforce-federal-law-against-the-university-of-virginias-ongoing-illegal-dei-practices>) (last visited July 22, 2025).

¹⁰ Letter from Megan D. Redshaw, Am. First Legal, to Anthony Archeval, Acting Dir., Off. of Civil Rts., U.S. Dept. of Health and Hum. Servs. (Apr. 28, 2025), <https://perma.cc/3WCG-C394>.

¹¹ A more complete list that includes dozens of additional complaints is available at <https://aflegal.org/priority/dismantling-dei>, (last visited July 22, 2025).

- Dozens of complaints filed with the federal government against numerous corporations alleging violations of federal law, including:
 - American Airlines.¹²
 - Apple.¹³
 - Cracker Barrel.¹⁴
 - Johnson & Johnson.¹⁵
 - The Los Angeles Dodgers and Guggenheim Partners.¹⁶
 - Mattel.¹⁷

¹² Press Release, America First Legal, VICTORY — American Airlines Agrees to End Illegal Discrimination in Hiring, Recruiting, and Employment Practices Following America First Legal’s Civil Rights Complaint, (Dec. 17, 2024) (<https://aflegal.org/press-release/victory-american-airlines-agrees-to-end-illegal-discrimination-in-hiring-recruiting-and-employment-practices-following-afls-civil-rights-complaint/>) (last visited July 22, 2025).

¹³ Press Release, America First Legal, America First Legal Demands Apple’s Board End Illegal DEI Programs; Warns Shareholders and Consumers of Legal, Reputational, and Financial Rists Ahead of Annual Shareholder Meeting (Feb. 19, 2025) (available at <https://aflegal.org/press-release/america-first-legal-demands-apples-board-end-illegal-dei-programs-warns-shareholders-and-consumers-of-legal-reputational-and-financial-risks-ahead-of-annual-shareholder-meeting/>) (last visited July 22, 2025).

¹⁴ Press Release, America First Legal, America First Legal Calls for Federal and State Investigations into Cracker Barrel Over Unlawful and Discriminatory Employment Practices, (July 21, 2025) (available at <https://aflegal.org/press-release/america-first-legal-calls-for-federal-and-state-investigations-into-cracker-barrel-over-unlawful-and-discriminatory-employment-practices/>) (last visited July 22, 2025).

¹⁵ Press Release, America First Legal, America First Legal Files Federal Civil Rights Complaint Against Johnson & Johnson Over Illegal DEI Policies Across Company Operations, (July 21, 2025) (available at <https://aflegal.org/press-release/america-first-legal-files-federal-civil-rights-complaint-against-johnson-johnson-over-illegal-dei-policies-across-company-operations/>) (last visited July 22, 2025).

¹⁶ Press Release, America First Legal, America First Legal Files Federal Civil Rights Complaint Against the Los Angeles Dodgers and Guggenheim Partners for Apparent Illegal Discrimination in Hiring and Employment, (June 30, 2025) (available at <https://aflegal.org/press-release/america-first-legal-files-federal-civil-rights-complaint-against-the-los-angeles-dodgers-and-guggenheim-partners-for-apparent-illegal-discrimination-in-hiring-and-employment/>) (last visited July 22, 2025).

¹⁷ Press Release, America First Legal, America First Legal Files Federal Civil Rights Complaints Against America’s Largest Toy Companies for Illegal Racial Discrimination and Promoting a Radical LGBT+ Agenda, (Dec. 19, 2023) (available at <https://aflegal.org/press-release/america-first-legal-files-federal-civil-rights-complaints-against-americas-largest-toy-companies-for-illegal-racial-discrimination-and-promoting-a-radical-lgbt-agenda/>) (last visited July 22, 2025).

- Nike.¹⁸
- Sanofi.¹⁹
- Shake Shack.²⁰
- United Airlines.²¹
- Williams-Sonoma.²²
- Numerous lawsuits on behalf of clients against private corporations, including:
 - AFL secured a settlement with Ally Financial following a June 2024 lawsuit, alleging the company engaged in unlawful race- and sex-based employment discrimination in violation of the Civil Rights Act of 1866 and Title VII of the Civil Rights Act of 1964 by admitting to “balancing” and rewarding executives for diversity trends, including reporting demographic data in SEC filings; as part of the settlement, Ally

¹⁸ Press Release, America First Legal, America First Legal Slams Nike, Files Federal Civil Rights Complaint for Alleged Racial and Sex Discrimination Against White Males, (Jan. 11, 2024) (available at <https://aflegal.org/press-release/america-first-legal-slams-nike-files-federal-civil-rights-complaint-for-alleged-racial-and-sex-discrimination-against-white-males/>) (last visited July 22, 2025).

¹⁹ Press Release, America First Legal, America First Legal Slams French Big Pharma Vaccine Maker, Sanofi, for Racial Discrimination: Files Federal Civil Rights Complaints, (Jan. 2, 2024) (available at <https://aflegal.org/press-release/america-first-legal-files-eeoc-complaint-against-sanofi-for-discriminatory-hiring/>) (last visited July 22, 2025).

²⁰ Press Release, America First Legal, America First Legal Files Federal Civil Rights Complaint Against Shake Shack For Illegal Race and Sex Discrimination, (Apr. 25, 2024) (available at <https://aflegal.org/press-release/america-first-legal-files-federal-civil-rights-complaint-against-shake-shack-for-illegal-race-and-sex-discrimination/>) (last visited July 22, 2025).

²¹ Press Release, America First Legal, VICTORY – United Airlines Agrees to Abandon Illegal Employment Discrimination Following Federal Civil Rights Complaint Filed by America First Legal, (Nov. 8, 2024) (available at <https://aflegal.org/press-release/victory-united-airlines-agrees-to-abandon-illegal-employment-discrimination-following-federal-civil-rights-complaint-filed-by-afl/>) (last visited July 22, 2025).

²² Press Release, America First Legal, America First Legal Slams Williams-Sonoma Inc. for Illegal Race and Sex Discrimination: Files Federal Civil Rights Complaint, (Sept. 3, 2024) (available at <https://aflegal.org/press-release/america-first-legal-slams-williams-sonoma-inc-for-illegal-race-and-sex-discrimination-files-federal-civil-rights-complaint/>) (last visited July 22, 2025).

Financial removed references to its DEI programs from public corporate filings.²³

- AFL filed a lawsuit against Trans-Siberian Orchestra on behalf of a client for the TSO's alleged retaliation against her for reporting sexual harassment in 2023 involving a biological male identifying as a woman using the women's locker room and misbehaving, in violation of federal and state anti-discrimination and anti-retaliation laws, including Title VII.²⁴
- AFL filed a lawsuit against CBS Studios and Paramount Global, alleging that its client, a white, heterosexual male script coordinator and freelance writer for SEAL Team, was denied promotion to a staff writer position due to his race, sex, and sexual orientation in violation of Title VII of the Civil Rights Act of 1964. The case was settled in AFL's client's favor.²⁵
- AFL filed a class-action lawsuit against Progressive Preferred Insurance Company, Progressive Casualty Insurance Company, and Circular

²³ Press Release, America First Legal, America First Legal Secures Settlement in Employment Discrimination Case Against Ally Financial, (Apr. 3, 2025) (available at <https://aflegal.org/press-release/america-first-legal-secures-settlement-in-employment-discrimination-case-against-ally-financial/>) (last visited July 22 2025).

²⁴ Press Release, America First Legal, America First Legal Sues Trans-Siberian Orchestra for Ignoring Transgender Sexual Harassment and Retaliating Against Female Employee (Feb. 12, 2025) (available at <https://aflegal.org/press-release/america-first-legal-sues-trans-siberian-orchestra-for-ignoring-transgender-sexual-harassment-and-retaliating-against-female-employee/>) (last visited July 22, 2025).

²⁵ Press Release, America First Legal, Paramount and CBS End Unlawful DEI Policies Following America First Legal Lawsuits; America First Legal Secures Amicable Resolution of Brian Beneker's Discrimination Claim Against Paramount and CBS, (Apr. 22, 2025) (available at <https://aflegal.org/litigation/brian-beneker-v-cbs-studios-inc-et-al/>) (last visited July 22, 2025).

Board LLC on behalf of its client, alleging the companies' grant program discriminated against non-black business owners by reserving \$25,000 grants exclusively for black-owned small businesses, violating federal civil rights laws.²⁶

- AFL filed a lawsuit against CBS Broadcasting, Inc., alleging the unlawful termination of Jeff Vaughn, an Emmy Award-winning white male journalist with over 30 years of experience, based on his political views, religious beliefs, race, sex, and age to meet illegal diversity quotas, violating Title VII of the Civil Rights Act and the Age Discrimination Employment Act.²⁷

Combating illegal DEI is vital to maintaining equal opportunity for every American and preserving our republic. Through our lawsuits and complaints, AFL has delivered concrete victories that demonstrate the power of resolute action.

Although Congress has long outlawed discrimination via statutes like Titles VI, VII, IX, and 42 U.S.C. § 1981, many entities persist in advancing DEI in blatant disregard for the statutes' plain text and clear intent. Congress might explore further steps to refine or bolster these safeguards, but the primary emphasis should be on ensuring individuals and entities face consequences for discriminating against

²⁶ Press Release, America First Legal, America First Legal Files Class Action Lawsuit Against Progressive Insurance For Illegal Racial Discrimination, (Aug. 17, 2023) (available at <https://aflegal.org/press-release/america-first-legal-files-class-action-lawsuit-against-progressive-insurance-for-illegal-racial-discrimination/>) (last visited July 22, 2025).

²⁷ Press Release, America First Legal, America First Legal Files Lawsuit Against CBS for Alleged Anti-White and Anti-Male Employment Practices Involving Emmy Award-Winning News Anchor, (July 2, 2024) (available at <https://aflegal.org/litigation/jeff-vaughn-v-cbs-broadcasting-inc-et-al/>) (last visited July 22, 2025).

American citizens via robust oversight, agency prosecution, and backing for private initiatives like ours.