

NAACP LITIGATION & LEGAL ADVOCACY UPDATE July 3, 2023

Race Conscious College Admissions

- On June 29th, in *SFFA v. Harvard/UNC*, the U.S. Supreme Court ruled 6-3, striking down race-conscious admissions policies as unconstitutional in violation of the Equal Protection Clause of the 14th Amendment. Writing for the Court, Chief Justice Roberts said that the admissions process was not narrowly tailored and that, while commendable, diversity in the student body is not a compelling governmental interest. The goals of diversity are unmeasurable, and thus cannot be subject to judicial review. The decision had a carve-out for the military academies, as diversity amongst the ranks improves military readiness and helps prepare the armed forces for an increasingly global and complex world. The NAACP filed an amicus brief on behalf of the universities, arguing for the Court to uphold Harvard and UNC's use of race-conscious admissions policies. Notably, nothing in the Court's opinion prohibits universities from considering an applicant's discussion of how race affected his or her life, but schools must consider such information in an individual basis. On June 29th, NAACP General Counsel Janette McCarthy Wallace spoke out against the ruling, calling it the "latest effort to eliminate considerations of race and ethnicity in American law and society." She also added that, the reversal of race conscious admissions would cause, "immeasurable harm to public education in the United States and the Supreme Court. Ultimately, the Supreme Court got this wrong." The Court's interpretation of the 14th Amendment as requiring a "colorblind society" could have tremendous impacts on other areas of civil rights litigation.

Student Loans

- On June 30th, in *Biden v. Nebraska*, the U.S. Supreme Court voted 6-3 to strike down President Biden's proposed student loan forgiveness program. The majority stated that Missouri, one of the plaintiffs, had Article III standing to bring suit because the Missouri Higher Education Loan Authority (MOHELA) suffered an injury in fact. Title IV of the Higher Education Act of 1965 (Education Act) grants the Secretary of Education the ability to reduce or cancel loans in certain circumstances. Under the Higher Education Relief Opportunities for Students Act of 2003 (HEROES Act), the Secretary can, "...waive or modify any statutory or regulatory provision applicable to the student financial assistance programs under title IV of the [Education Act] as the Secretary deems necessary in connection with a war or other military operation or national emergency." §1098bb(a)(1). Roberts' majority opinion asserted that the proposed debt cancellation program, which would discharge up to \$20,000 in student debt for eligible recipients, was an overreach of executive power not allowed by the language of the law. The majority reasoned that, "the authority to 'modify' statutes and regulations allows the Secretary to make modest adjustments and additions to existing provisions, not transform them." These factors along with the widespread impact of the loan forgiveness program made the majority hesitant to conclude that congress intended to confer such authority upon the

executive branch. Ultimately, the student loan forgiveness program was struck down as an impermissible expansion of executive power and a violation of separation of powers. The NAACP submitted an amicus brief discussing the deleterious impact of the COVID-19 pandemic on borrowers and the necessity of the debt relief program. On the day of the decision, members of OGC also attended a rally initiated by the NAACP at the Supreme Court and a march to the White House to show resistance to the Court's unfavorable recent rulings.

Kellogg Summer Law Fellows Profile

- *My name is Travis Maurice Brooks and I am a rising 2L at Suffolk University Law School. I am interested in working on issues surrounding the criminal legal system, specifically criminal justice reform, and voting rights. As a prospective future civil rights attorney, I wanted to work with the NAACP in order to learn from the best attorneys in the civil rights practice and gain invaluable experience on a plethora of civil rights issues. Currently, I am conducting legal research on ongoing redistricting litigation and police brutality litigation across the country. I am also currently helping to summarize the Supreme Court's ruling on Harvard's and UNC's Admission Process with the fellowship cohort and have had the opportunity to share amazing and informative calls with incredible attorneys and advocates such as Kim Boyle, Joseph Sellers, President Derrick Johnson, etc. I had the amazing opportunity to visit the Supreme Court and Witness the ruling in Allen v. Milligan. I also had the pleasure of having dinner with Congressman Bobby Scott and renowned NAACP National Advisor Hilary Shelton. They both shared thoughtful advice and imparted some of the knowledge they have gained in their decades of amazing work. I think the NAACP for affording me the amazing opportunity to work with the best civil rights team in the country, and providing the tools and resources for me to grow and become a better advocate moving forward.*

Save the Date

- OGC will be conducting the NAACP Legal Advocacy Institute, the annual continuing legal education (CLE) program, as part of the 114th NAACP National Convention:

July 29th

9:00 A.M. – 10:30 A.M. (1.5 hour)

Redistricting Roundup?: A Legal Review of Recent Litigation and the Forecast of Future Legal Strategies

10:45 A.M. – 12:15 P.M. (1.5 hour)

Preparing Effective Legal Challenges to Renewed Voter Suppression Efforts

1:15 P.M. – 2:45 P.M. (1.5 hour)

The Importance of Local Elections in the Fight Against Voter Suppression

July 30th

9:00 A.M. – 10:30 A.M. (1.5 hour)

Environmental Justice: The Jackson Water Crisis and the Fight for Access to Clean Water

10:45 A.M. – 12:15 P.M. (1.5 hour)

Exploring the Legal Challenges to Recent Laws Aimed At Dismantling Diversity and Inclusion Initiatives

1:15 P.M. – 2:45 P.M. (1.5 hour)

Holding Police Officers Civilly and Criminally Liable for Misconduct

OGC Growth

- OGC will be hiring an Assistant General Counsel attorney to work solely on unit matters. The positions will be posted soon. If there are any questions about these positions, please contact Senior Associate General Counsel Anson Asaka at asaka@naacpnet.org.

Camp Lejeune

- The NAACP Office of the General Counsel, working with the law firm DiCello Levitt, plans to file lawsuits on behalf of victims of the Camp Lejeune poisoning. Marine Corps Base Camp Lejeune is a 246-square-mile United States military training facility in Jacksonville, North Carolina. For decades, thousands of service members, their families, and civilian staff members were poisoned by contaminated drinking water at Camp Lejeune. Anyone who lived or worked at Camp Lejeune for 30 days or more between 1953 and 1987 and has been diagnosed with any medical condition related to contamination may be able to recover. This includes those adults and children who have since died. As a result, many victims have suffered from one or more of the following:

Bladder Cancer	Multiple Myeloma
Breast Cancer	Adult leukemia
Cervical Cancer	Aplastic anemia
Esophageal Cancer	Parkinson's disease
Kidney Cancer	Renal toxicity
Liver Cancer	Birth defects and birth injury
Lung Cancer	Miscarriage
Ovarian Cancer	Neurobehavioral effects
Stomach Cancer	

Potential claimants should contact the NAACP Office of the General Counsel at legal@naacpnet.org.