



Major Corporations and Military Leaders Again Support Affirmative Action

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Dozens of groups have weighed in as the Supreme Court prepares to hear oral arguments over the constitutionality of affirmative action on October 10.

Everyone from professors (one group calls itself the “Empirical Scholars,” another, the “Texas Association of Scholars”) to think tanks (the Cato Institute) to advocacy organizations (the NAACP) to universities (Brown University) to student groups (the National Black Law Students Association) to various state and local governments (California) and public officials (Senate Majority Leader Harry Reid) have submitted amicus briefs trying to influence the Court in what is likely to become one of the most controversial decisions of its upcoming term.

The case before the Court, *Fisher v. University of Texas at Austin*, involves the school’s use of affirmative action in its undergraduate admissions program.

As one of America’s most divisive issues, affirmative action has long inspired intense debate and widespread opinion, a good deal of which was directed at the Court in 2003, when it last addressed this issue in a pair of cases involving the admissions policies at the undergraduate program and law school of the University of Michigan.

In a filing to the Court at the time, 65 corporations with more than a trillion in annual revenues – including Intel, Merck, Boeing, and Coca-Cola – had expressed the importance of affirmative action in their “continued success in the global marketplace.”

The Court took notice of their concerns. The 5-4 majority upholding the University of Michigan Law School’s admissions policy emphasized these efforts to establish a diverse workforce to meet the challenges of a global economy in *Grutter v. Bollinger*, the key ruling stemming from the pair of lawsuits.

“What is more,” former Justice Sandra Day O’Connor wrote in Grutter at the time, “high-ranking officers and civilian leader of the United States military” also looked for a “racially diverse officer corps.” O’Connor’s opinion elaborated on the military’s use of affirmative action to ensure “an officer corps that is both highly qualified and racially diverse.” As several retired military leaders with decades of experience had urged the Court, she applied this line of reasoning from the military setting to the nation’s public universities.

From the dozens of briefs submitted to the Court back in 2003, the arguments put forth by America’s leading companies and retired members of the military proved to be the most persuasive, at least from a public policy perspective.

This time around, the same groups have largely repeated their arguments in a new round of amicus briefs filed in response to Fisher.

“Fulfillment of the national security interest in officer corps diversity must not be imperiled by a sweeping ruling against race-conscious admissions,” argued the brief filed on behalf of General Anthony C. Zinni, Admiral Dennis C. Blair, General Wesley K. Clark, and dozens of other high-ranking former officials from all branches of the armed forces.

Likewise, dozens of the nation’s largest companies – including Pfizer, Starbucks, and Wal-Mart to name a few – also echoed the arguments put forth nine years earlier by a similar list of corporations.

It will be interesting to see whether the current Court, which replaced four of its members since issuing the Grutter ruling, will again be swayed by the arguments put forth by some of America’s most respected and influential voices.