

# SUPREME COURT OF THE UNITED STATES

---

IN THE SUPREME COURT OF THE UNITED STATES

- - - - -  
STUDENTS FOR FAIR ADMISSIONS, INC., )  
  ) Petitioner, )  
  ) v. ) No. 20-1199  
PRESIDENT AND FELLOWS OF )  
HARVARD COLLEGE, )  
  ) Respondent. )  
- - - - -

Pages: 1 through 120  
Place: Washington, D.C.  
Date: October 31, 2022

---

**HERITAGE REPORTING CORPORATION**  
*Official Reporters*  
1220 L Street, N.W., Suite 206  
Washington, D.C. 20005  
(202) 628-4888  
[www.hrccourtreporters.com](http://www.hrccourtreporters.com)

1           IN THE SUPREME COURT OF THE UNITED STATES  
2   - - - - -  
3   STUDENTS FOR FAIR ADMISSIONS, INC., )  
4                            Petitioner,                            )  
5                            v.                                        ) No. 20-1199  
6   PRESIDENT AND FELLOWS OF                                        )  
7   HARVARD COLLEGE,   )  
8                            Respondent.                            )

9   - - - - -  
10                            Washington, D.C.  
11                            Monday, October 31, 2022

12  
13           The above-entitled matter came on for  
14   oral argument before the Supreme Court of the  
15   United States at 12:58 p.m.

16  
17   APPEARANCES:  
18   CAMERON T. NORRIS, ESQUIRE, Arlington, Virginia; on  
19        behalf of the Petitioner.  
20   SETH P. WAXMAN, ESQUIRE, Washington, D.C.; on behalf  
21        of the Respondent.  
22   GEN. ELIZABETH B. PRELOGAR, Solicitor General,  
23        Department of Justice, Washington, D.C.; for the  
24        United States, as amicus curiae, supporting the  
25        Respondent.

1	C O N T E N T S	
2	ORAL ARGUMENT OF:	PAGE:
3	CAMERON T. NORRIS, ESQ.	
4	On behalf of the Petitioner	3
5	ORAL ARGUMENT OF:	
6	SETH P. WAXMAN, ESQ.	
7	On behalf of the Respondent	40
8	ORAL ARGUMENT OF:	
9	GEN. ELIZABETH B. PRELOGAR, ESQ.	
10	For the United States, as amicus	
11	curiae, supporting the Respondent	94
12	REBUTTAL ARGUMENT OF:	
13	CAMERON T. NORRIS, ESQ.	
14	On behalf of the Petitioner	116
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

P R O C E E D I N G S

(12:58 p.m.)

CHIEF JUSTICE ROBERTS: We'll hear argument next in Case 20-1199, Students for Fair Admissions versus the President and Fellows of Harvard College.

Mr. Norris.

ORAL ARGUMENT OF CAMERON T. NORRIS  
ON BEHALF OF THE PETITIONER

MR. NORRIS: Mr. Chief Justice, and may it please the Court:

Grutter assumed that universities could use race in a narrowly tailored way if they just did it like Harvard. But this Court never had any evidence about Harvard. Now you do, and that evidence proves that none of Grutter's core assumptions were ever true.

First, Grutter assumed that race would only be a plus. But race is a minus for Asians, a group that continues to face immense racial discrimination in this country. Asians should be getting into Harvard more than whites, but they don't because Harvard gives them significantly lower personal ratings.

Harvard ranks Asians less likable,

1 confident, and kind, even though the alumni who  
2 actually meet them disagree. What Harvard is  
3 doing to Asians, like what it was doing to Jews  
4 in the 1920s, is shameful, but it's a  
5 predictable result of letting universities use  
6 race in highly subjective processes.

7           Second, Grutter assumed that  
8 applicants would be treated as individuals, not  
9 as members of racial groups, but Harvard gives  
10 racial preferences based on the box that  
11 applicants check, even if they never write about  
12 race or explain how it influences their views.

13           And for competitive applicants,  
14 checking the right racial box is an anvil on the  
15 admissions scale, worth the same as ultra rare  
16 achievements like winning a national  
17 championship.

18           Third, Grutter assumed that  
19 universities would seriously consider  
20 race-neutral alternatives, but Harvard never  
21 once did so until 2017, three years after we  
22 sued it. Harvard now refuses to eliminate its  
23 legacy preferences or boost its socioeconomic  
24 preferences, even though both changes would make  
25 Harvard far less white, wealthy, and privileged.

1 That's how Harvard uses race, and Harvard is  
2 supposed to be the model.

3 This Court should admit that it was  
4 wrong about Harvard, wrong about Grutter, and  
5 wrong about letting the poison of racial  
6 classifications seep back into education.  
7 Grutter should be overruled both for public  
8 schools and for private schools that accept  
9 federal funds.

10 JUSTICE THOMAS: Mr. Norris, would you  
11 spend a few minutes -- some time on the  
12 originalism argument that was made at the  
13 last -- the end of the last case?

14 MR. NORRIS: Absolutely. So, in terms  
15 of the original meaning of the Fourteenth  
16 Amendment, the best source on this I've ever  
17 read is the United States' brief on reargument  
18 in Brown. It painstakingly details the  
19 legislative history and how the framers of the  
20 Fourteenth Amendment saw it as a ban on all  
21 racial classifications.

22 Also, the -- everyone knows that the  
23 impetus for the Fourteenth Amendment was to  
24 constitutionalize the Civil Rights Act of 1866.  
25 The Civil Rights Act of 1866 is a series of bans

1 on racial discrimination. It's a series of  
2 color-blind measures and requirements.

3 And then one of the earliest cases  
4 this Court had before it went off the rails in  
5 Plessy was a case called Strauder, where the  
6 Court immediately recognized that the purpose of  
7 this amendment was to eliminate racial  
8 classifications, no matter whether they  
9 benefited whites or blacks, because racial  
10 classifications themselves impose harms.

11 That's the affirmative evidence. Now  
12 I know that the -- the evidence -- the pushback  
13 is the post-ratification history, but the  
14 post-ratification history of the Fourteenth  
15 Amendment is not the best evidence because we  
16 know there was massive resistance to the  
17 original meaning of the text of the Fourteenth  
18 Amendment.

19 But it also doesn't prove anything.  
20 Every measure that's cited in Harvard's brief  
21 was a remedial measure. It was in response to  
22 the end of slavery and the position that black  
23 Americans found themselves in.

24 Harvard does not cite a remedial  
25 measure for what it's doing today. Those same

1 measures that it cites would not be  
2 constitutional today because they would no  
3 longer serve a remedial purpose and not a shred  
4 of evidence that anyone back then used race to  
5 achieve the educational benefits of diversity.

6 CHIEF JUSTICE ROBERTS: Would you have  
7 any objection if you do not ask candidates for  
8 admission to -- to check a box, what their race  
9 is, but you are allowed to take into  
10 consideration what an applicant would say in an  
11 -- in an essay about having to confront  
12 discrimination growing up and how he or she did  
13 that.

14 You are allowed to take into  
15 consideration what a faculty recommender said.  
16 You know, one of the things that, you know, this  
17 applicant would bring is how to deal with racial  
18 discrimination in an area or in a school where  
19 he's part of a very small minority.

20 Is there any -- do you have any  
21 objection to that sort of introduction of -- of  
22 race on behalf of a particular applicant?

23 MR. NORRIS: Absolutely not, Mr. Chief  
24 Justice. And, in fact, at the end of this case,  
25 at the end of the trial, it was -- it was -- we



1 were -- we discovered that Harvard had amended  
2 its reading procedures for applications, and  
3 there had been an amendment that said you only  
4 should take into account race if someone talks  
5 about it on their essay or in their -- in their  
6 recommendation letters. Harvard deleted that  
7 instruction and said that is not how we use race  
8 and that should have never been put in there.  
9 So we really are, in this case, talking about  
10 the check box.

11 JUSTICE KAGAN: So you agree that,  
12 with respect to the essays -- I mean, the Chief  
13 Justice suggested that one aspect of racial  
14 experience is confronting discrimination. But  
15 there are also other aspects of racial  
16 experience. Justice Alito gave an example  
17 earlier. But you agree that, with respect to  
18 the essays, whether it's guidance counselors or  
19 whether it's students -- can -- can express  
20 whatever views they choose to express about  
21 their own racial experiences and the relevance  
22 of that for admissions officers?

23 MR. NORRIS: Yes, the -- what Title VI  
24 bans is race itself as a consideration. And so,  
25 if a university gives credit to a black student

1 who writes an essay about overcoming  
2 discrimination and equal credit to an Asian  
3 student who writes an essay about overcoming  
4 discrimination, then that is not race itself.

5 JUSTICE BARRETT: But --

6 MR. NORRIS: That is over --

7 JUSTICE BARRETT: Oh, sorry. Finish.

8 MR. NORRIS: I should say that that's  
9 overcoming discrimination, which Justice Scalia  
10 wrote in Croson is not a racial classification.

11 JUSTICE BARRETT: But I guess, you  
12 know, in our earlier argument, Justice Kagan  
13 pointed out that this gets to be slicing the  
14 salami pretty finely. I mean, it's one thing to  
15 say, yes, that shows resilience because you've  
16 written about overcoming discrimination, and a  
17 student could write about any number of  
18 obstacles that they've overcome, from physical  
19 disabilities on down the line.

20 But what if -- you know, Justice  
21 Jackson had asked in the last argument, you  
22 know, about pride. What if a -- what if an  
23 applicant wrote an essay about how integral  
24 their racial identity was to them as a source of  
25 pride and the cultural attributes of the racial

1 heritage were very important? Would that be  
2 okay even if it were all intimately tied up,  
3 say, with, you know, the traditions of a Mexican  
4 family? And -- and if the answer is no, that  
5 can't be extricated from race, why would that be  
6 different than someone writing about how  
7 important it was to them to have this passion  
8 for music in their life, that they loved music?

9 MR. NORRIS: I think culture,  
10 tradition, heritage are all not off limits for  
11 students to talk about and for universities to  
12 consider. They can't consider that -- they  
13 can't read that and say, oh, this person is  
14 Hispanic or black or Asian, and, therefore, I'm  
15 going to credit that. They need to credit  
16 something unique and individual in what they  
17 actually wrote, not race itself.

18 JUSTICE SOTOMAYOR: I -- I'm -- I'm a  
19 little confused because this almost sounds like  
20 a different kind of viewpoint discrimination.  
21 And under our strict scrutiny standards, we're  
22 not supposed to discriminate on the basis of  
23 viewpoint or discriminate on the basis of  
24 religion. They're considered as sacrosanct, I  
25 believe, as race.

1           And yet what you're suggesting is that  
2     the viewpoint that somehow being a minority that  
3     overcomes discrimination in the way you define  
4     it as important as overcoming obstacles, that  
5     that's okay, but if you're a black person who's  
6     from an affluent family who may be the only  
7     class president ever in a white school's  
8     history, that that fact shouldn't feature.

9           That's a form of viewpoint  
10    discrimination, isn't it?

11           MR. NORRIS: I don't think we're  
12    saying --

13           JUSTICE SOTOMAYOR: That that's not  
14    overcoming any kind of obstacle?

15           MR. NORRIS: We're not saying that  
16    universities have to consider anything or  
17    nothing. Universities just cannot consider race  
18    itself.

19           JUSTICE KAGAN: But I thought you were  
20    saying that both of those essays might be  
21    entirely appropriate for the university to  
22    consider, is that correct?

23           MR. NORRIS: Correct.

24           JUSTICE KAGAN: Or did I misunderstand  
25    what you were saying?

1           MR. NORRIS: No, there is no federal  
2 statute about what essays universities consider.  
3 There's a federal ban on consideration of race  
4 itself.

5           JUSTICE SOTOMAYOR: So -- so why is it  
6 -- are you just objecting to touching a box that  
7 admissions officers can look at?

8           MR. NORRIS: We're objecting to the  
9 use of race as either a plus or a minus in  
10 making admissions decisions.

11          JUSTICE SOTOMAYOR: But I don't think  
12 you -- I think the district court made very  
13 clear findings that checking the box alone is  
14 not what got anybody in --

15          MR. NORRIS: That there's a --

16          JUSTICE SOTOMAYOR: -- that it was a  
17 holistic enterprise that looked at everything  
18 that that candidate did and race might have been  
19 one among many factors, because there's a lot of  
20 Hispanics and blacks who have higher -- higher  
21 GPAs than many whites who don't get admitted.

22                 So they're not looking at just being  
23 black and white. They're rejecting a lot of the  
24 10 percent applicants who have higher numbers  
25 than, I guess, whites and Asian Americans.

1                   MR. NORRIS: Your Honor, there's a  
2 finding from the district court in our favor at  
3 page 116 of the Petition Appendix that Harvard  
4 can award a racial preference based on the check  
5 box alone, whether or not an applicant writes  
6 about it or otherwise indicates that it's  
7 important to them. And that is important.  
8 That's race itself.

9                   JUSTICE SOTOMAYOR: Well, that --  
10 that -- that finding was made in -- in an  
11 undisputed finding by the district court that  
12 race alone did not account for any one  
13 admissions package, that it was race among many  
14 factors.

15                   MR. NORRIS: Well, the district court  
16 found that race is determinative for 45 percent  
17 of blacks and Hispanics who get into Harvard.  
18 So, yes, there's 55 percent who would not get  
19 in --

20                   JUSTICE SOTOMAYOR: I'll let Mr.  
21 Waxman debate that because that's not the way I  
22 saw that record. It was very clear that the  
23 district court found, for example, that being  
24 Asian or not being Asian wasn't involved  
25 statistically in any amount -- in any of the

1 admissions, whether for ADLCs or for non-ADLCs.

2 MR. NORRIS: Well, I -- I just want to  
3 be clear, the 45 percent number is when race is  
4 determinative for blacks and Hispanics. That's  
5 the number of applicants who it's determinative  
6 for.

7 Our number was much higher. That's  
8 not my number. That's Harvard's number in their  
9 race-neutral alternatives report.

10 JUSTICE GORSUCH: Counsel, if I could  
11 return a moment to the drafting of the  
12 Fourteenth Amendment, you said we should ignore  
13 the post-ratification history, but let's just  
14 pay a little attention to it for a moment.

15 In the briefs, we have discussion  
16 about the Freedmen's Bureau that -- that -- that  
17 Congress set up. How is that consistent or  
18 inconsistent with your position?

19 MR. NORRIS: I think it's entirely  
20 consistent, Your Honor. The Freedmen's Bureau  
21 for the most part did not draw any racial  
22 classifications. It was classifications on the  
23 basis of being a former slave or a refugee. And  
24 the refugees at the time from the Civil War were  
25 mostly white.

1           In fact, when -- when objections were  
2       made in Congress that this is a racial-based  
3       law, the -- the people who supported the  
4       Freedmen's Bureau denied the charge. They  
5       didn't say yes, but so what. They said no, it  
6       is not, it is not race-based at all.

7           JUSTICE KAVANAUGH: So today a benefit  
8       to descendents of slaves would not be  
9       race-based, correct?

10          MR. NORRIS: I -- I think that's  
11       incorrect, Justice Kavanaugh.

12          JUSTICE KAVANAUGH: Well, how does  
13       that -- you just said a benefit to former slaves  
14       was not race-based in the Freedmen's Bureau.  
15       How is that different now?

16          MR. NORRIS: Well, the remedial  
17       exception that this Court has recognized is  
18       fairly narrow. It has to be prior --

19          JUSTICE KAVANAUGH: The question is  
20       whether it's race-based.

21          MR. NORRIS: Right. Okay.

22          JUSTICE KAVANAUGH: You -- you said --  
23       you said, I think, to Justice Gorsuch, and I'm  
24       sorry to interrupt his question, but you said to  
25       Justice Gorsuch, I think, that the benefit for



1 former slaves was not race-based. If that's  
2 correct, then the benefit for descendants of  
3 former slaves is also not race-based. There --  
4 you can make other arguments if you want about  
5 that, but it does not seem to be race-based  
6 under what you said to Justice Gorsuch, correct?

7 MR. NORRIS: Well, not correct. I  
8 think there's a difference between the former  
9 slaves themselves getting a benefit versus  
10 generations later. I think that's the  
11 classification on the basis of ancestry, which  
12 is still problematic under this Court's  
13 precedents.

14 And even if it's not directly  
15 race-based, I would assume that universities  
16 are -- are -- and it would depend on the record,  
17 but universities are drawing that classification  
18 as a proxy for race in ways that the  
19 Reconstruction Congress was not.

20 JUSTICE GORSUCH: Okay. If I might  
21 just finish up. The Freedmen's Bureau is on the  
22 federal side. We have briefs before us that  
23 also talk about practice on the state side.

24 Now we know that shortly after the  
25 Civil War there were a lot of race-based

1 statutes passed by states, and most of them were  
2 Jim Crow laws that invidiously discriminated on  
3 the basis of race, but your friend on the other  
4 side cites two that he says are not, one from  
5 Kentucky and one from South Carolina.

6           Could you address those?

7           MR. NORRIS: Yes. So we -- we cite a  
8 book full of statutes from the same era from  
9 states that were purely color blind, but they do  
10 cite two examples, one from South Carolina which  
11 I believe banned racial discrimination by  
12 government-licensed entities, and there was a  
13 finding by that legislature that our  
14 government-licensed entities were continuing to  
15 discriminate on the basis of race.

16           I think it was a directly remedial  
17 measure and it made sense in light of, you know,  
18 the end of the war and the massive racial  
19 discrimination that was still ongoing.

20           Now the Kentucky statute is even  
21 clearer. It gave benefits -- it wasn't a racial  
22 classification, but it gave benefits to a group  
23 of people in Mercer County, Kentucky, who had no  
24 property, were so injured they could no longer  
25 work, had no income. I mean -- I mean, I think

1 what the statute was talking about were the  
2 people -- the recently freed slaves in Mercer  
3 County to which there were many.

4 JUSTICE GORSUCH: And then I have one  
5 final question about this. There's also a  
6 question of whether we should pay attention to  
7 state practices given the language of the  
8 Fourteenth Amendment, which doesn't pertain to  
9 -- whether we should pay attention to federal  
10 side, sorry, given that the language of the  
11 Fourteenth Amendment doesn't purport to bar  
12 remedial measures or classifications by  
13 Congress, which at that time was in full  
14 Reconstruction efforts, but that the drafters of  
15 the Fourteenth Amendment were especially  
16 concerned about racial classifications at the  
17 state level because so many of them, everyone  
18 knew, would be used as Jim Crow laws were to  
19 discriminate against African Americans.

20 MR. NORRIS: I think there's something  
21 to that, Justice Gorsuch. Justice Scalia  
22 recounted some of that history I think in Crowsa  
23 and maybe Adarand where he said there's no  
24 reason to think that the same distrust of the  
25 federal government would have been there at the

1 time.

2 But I -- I -- I don't think any of  
3 these federal statutes are even particularly  
4 hard if you assume the equal protection  
5 principle binds the federal government because  
6 they are all plainly remedial. None have  
7 anything to do with diversity. And Harvard has  
8 not pressed the remedial interests that  
9 justified those statutes.

10 JUSTICE SOTOMAYOR: I'm sorry, but  
11 many of the civil rights statutes and some of  
12 the laws pertaining thereto were directed to --  
13 and directed to being equal to whites, so there  
14 was consciousness of race in those statutes.

15 MR. NORRIS: I -- I -- I think not in  
16 a relevant sense. Those statutes, this Court  
17 said in the Jam case in 2019 that that exact  
18 language is color blind, that whites -- you have  
19 to have the same rights as whites, which means  
20 everyone is equal. Now they used raised-based  
21 language, but the race -- well, what they did  
22 was they banned racial discrimination.

23 JUSTICE SOTOMAYOR: So what do we --

24 MR. NORRIS: That's not race  
25 consciousness.

1 JUSTICE SOTOMAYOR: -- do about all  
2 the legislation that was passed that gave  
3 benefits not just to former slaves but to free  
4 blacks? That was still remedial in your mind  
5 because there was inequality, correct?

6 MR. NORRIS: I -- I believe it was.  
7 And it was in response to an entire system that  
8 had been built up of de jure discrimination. I  
9 think those were remedial statutes as well. And  
10 even the --

11 JUSTICE SOTOMAYOR: So, even if we  
12 have de jure discrimination now or segregation  
13 now, Congress can't look at that? Because we  
14 certainly have de jure segregation. Races are  
15 treated very differently in our society in terms  
16 of their access to opportunity.

17 MR. NORRIS: I -- I believe that the  
18 remedial exception is still good law. It was  
19 one of the two things that justified the use of  
20 race in education that this Court identified in  
21 Parents Involved.

22 However, Harvard has not made that  
23 argument and has no factual record that you  
24 would need to support that argument. It does  
25 not justify its use of race based on its own

1 prior discrimination against blacks and  
2 Hispanics.

3 JUSTICE ALITO: Are you aware of de  
4 jure segregation today?

5 MR. NORRIS: I am not. I am aware  
6 that -- that racial preferences on college  
7 campuses in our belief -- in our view have  
8 increased racial consciousness, and so there's  
9 some of this that's happening on campus, but  
10 it's not -- it's not de jure.

11 JUSTICE SOTOMAYOR: It's not clear  
12 that there's segregation between there are large  
13 swaths of the country with residential  
14 segregation, there are large numbers of schools  
15 in our country that have people of just one  
16 race, there are school districts that have only  
17 kids of one race and not multiple races or not  
18 white people?

19 De jure to me means places are  
20 segregated. The causes may be different, but  
21 places are segregated in our country.

22 MR. NORRIS: Absolutely. And I -- I  
23 think the top 10 percent program in Fisher,  
24 which really got a bad wrap in Fisher II but was  
25 meant -- solutions like that are meant to

1 account for residential segregation in a  
2 race-neutral way.

3 JUSTICE SOTOMAYOR: Yeah. The problem  
4 is that they don't. That's what the district  
5 court found.

6 MR. NORRIS: My memory of Fisher II  
7 was that the top 10 percent program was  
8 extremely successful at increasing the  
9 enrollment of underrepresented minorities at  
10 Texas. There were other solutions. We -- we  
11 have a very sophisticated race-neutral  
12 alternative in this case that takes into account  
13 socioeconomic status and forces Harvard to  
14 eliminate its preferences for the largely white  
15 legacies.

16 And that is another way -- I mean, our  
17 numbers -- the number of Asians would increase  
18 on campus; the number of Hispanics would  
19 increase on campus; the overall number of  
20 underrepresented minorities would increase on  
21 campus.

22 JUSTICE SOTOMAYOR: Blacks wouldn't  
23 increase.

24 MR. NORRIS: Black representation  
25 would be 10 percent, which is higher than it is

1 in the State of Massachusetts. And that number  
2 is -- is quite low. Our expert testified that  
3 if Harvard was only willing to consider wealth  
4 instead of income, then that number would be  
5 quite a bit better because the main disparities  
6 we see on the basis of race today is not on  
7 parental income but on generational wealth.

8 JUSTICE GORSUCH: Harvard -- Harvard  
9 argues, though, that we have a compelling  
10 interest in diversity writ large and that this  
11 Court has deferred to that interest, and among  
12 the diverse things that we need to have in our  
13 class are children of large donors -- there's  
14 evidence about that museum we talked about  
15 earlier -- children of legacies and -- and the  
16 squash team. I'm not making it up. It's in the  
17 record.

18 And to what extent should this Court  
19 be deferring to those interests as part of its  
20 compelling interest analysis?

21 MR. NORRIS: Not at all, Your Honor.  
22 I don't -- I think strict scrutiny means you  
23 need to -- you need to be able to reject  
24 race-neutral alternatives because they don't  
25 satisfy the compelling interest, and the



1 compelling interest is overall broad-based  
2 diversity, not declines in our -- our fencing  
3 status, not drops in five points on the U.S.  
4 News and World Report, but it's diversity.

5           And Harvard -- it's a little ironic in  
6 case, Harvard is not diverse at all. Besides  
7 its racial statistics, 9 percent of incoming  
8 freshman at Harvard are conservatives. Harvard  
9 is 82 percent wealthy. There's 23 rich students  
10 for every one low-income student on campus. It  
11 is not diverse in hardly any other way. And so  
12 I think the compelling interest that you  
13 recognized in Grutter is not what's actually  
14 being pursued on Harvard's campus.

15           JUSTICE KAVANAUGH: You heard --

16           JUSTICE KAGAN: But, Mister --

17           JUSTICE KAVANAUGH: Go ahead.

18           JUSTICE KAGAN: I'm sorry. Go ahead.

19           JUSTICE KAVANAUGH: Uh-uh.

20           JUSTICE KAGAN: I mean, are you saying  
21 now that there is an interest and a compelling  
22 interest in racial diversity among other kinds  
23 of diversity? I mean, putting Harvard's -- you  
24 know, whether Harvard should be more  
25 socioeconomically diverse, it probably should

1 be. But putting that -- I mean, is there an  
2 interest in racial diversity?

3 MR. NORRIS: I agree with my  
4 colleague, not a compelling interest that could  
5 justify a racial classification, but racial  
6 diversity is not a bad thing. It is a great  
7 thing. It is something --

8 JUSTICE KAGAN: Well, but the whole  
9 premise of this, right -- and, you know, we can  
10 talk about whether these programs are narrowly  
11 tailored, whether the universities have done  
12 enough to -- in -- in the -- with the use of  
13 race-neutral criteria, but the premise of your  
14 argument is that even if race-neutral criteria  
15 could not achieve the object, Harvard can't use  
16 race-conscious criteria.

17 And that must be because you think  
18 it's just not important enough, isn't that  
19 right?

20 MR. NORRIS: I don't think that's  
21 right. So we have very detailed record evidence  
22 here that if Harvard just turned off race on its  
23 admissions process, it would still have  
24 6 percent African Americans, I believe it's  
25 9 percent Hispanics, so 15 percent

1 underrepresented --

2 JUSTICE KAGAN: So you think good  
3 enough? But how about if it were 2 percent? I  
4 mean, the nature of your argument is that it  
5 doesn't matter. That's what the nature of your  
6 argument is.

7 MR. NORRIS: I disagree, Justice  
8 Kagan. It does matter because, if you're below  
9 those numbers, then Harvard's probably  
10 discriminating in some sense and it should stop.  
11 Or it's not reaching underrepresented minorities  
12 in the way that it should. Perhaps it should  
13 not --

14 JUSTICE KAGAN: Well, that's just  
15 fighting the -- the question. I mean, the  
16 question is, you know, is there a limit beyond  
17 which you would say, oh, yes, if -- if you can't  
18 achieve that level of diversity with  
19 race-neutral criteria, then you're allowed to  
20 use race-conscious criteria?

21 MR. NORRIS: I don't think there's any  
22 level that justifies explicit racial  
23 classifications. But I'm going to fight the  
24 hypothetical one more time if you'll let me  
25 because race-neutral alternatives --

1 JUSTICE KAGAN: No, I don't think I  
2 will. So let me just go on and ask you a couple  
3 of other things, I mean -- I mean, because this  
4 is -- you know, to me, this is -- a lot of the  
5 argument here is about a university has a -- a  
6 compelling interest in collecting a diverse  
7 class, including along racial dimensions and  
8 maybe especially along racial dimensions given  
9 the kinds of challenges that our society faces,  
10 in the exact same way that all the other  
11 institutions of our society does.

12 So I'm just going to ask you some  
13 questions about that. If -- if -- if -- if  
14 you're a hospital and you serve a diverse group  
15 of patients, is it super-important to you to  
16 have a diverse set of doctors?

17 MR. NORRIS: I -- I don't know that  
18 the -- that the evidence about the diversity of  
19 doctors and patients or anything about the  
20 medical field in that sense --

21 JUSTICE KAGAN: It wouldn't matter?  
22 Yeah, okay, or maybe it would. You don't know.  
23 If you're a police department and you serve a  
24 diverse community, is it super-important to you  
25 to have a diverse set of police officers?

1           MR. NORRIS: I mean, I believe that's  
2 important if there's good evidence that that --  
3 that a racial classification was needed. That  
4 has nothing to do with the educational benefits  
5 of diversity in universities. That's the  
6 interest that Grutter upheld.

7           JUSTICE KAGAN: Do you think that if  
8 you're a law firm or if you're a judge, if  
9 you're a judge and you want to have a diverse  
10 set of clerks, do you think a judge can't think  
11 about that in making clerkship decisions?

12           MR. NORRIS: Absolutely can think  
13 about it. The Court's decision in Feeney says  
14 knowledge of race is not the violation. It is  
15 using it as a factor to distinguish --

16           JUSTICE KAGAN: I'm using -- let's say  
17 a judge says I want a diverse set of clerks.  
18 That's -- you know, I want clerks who would --  
19 you know, great on any number of criteria, but I  
20 also want a diverse set of clerks. So, over the  
21 years, people will look at that and they'll say:  
22 There are Asian Americans there, there are  
23 Hispanics there, there are African Americans  
24 there, as well as there are whites there.

25           Can a judge not do that?

1           MR. NORRIS: I mean, I think that's a  
2 -- that's a -- that is a admirable goal. I  
3 don't think a judge could implement that goal by  
4 putting a thumb on the scale against Asian  
5 applicants or giving a big preference to black  
6 and Hispanic applicants. I think you need to  
7 treat people equally based on race just as  
8 you're not going to hold my race against me in  
9 judging the quality of my arguments.

10           I think race -- racial diversity is  
11 important because it's a good metric to make  
12 sure our -- our -- our institutions are equally  
13 open. You can certainly be concerned about  
14 that. But the question is using racial  
15 classification, telling people that you didn't  
16 get the clerkship because of your race.

17           JUSTICE KAGAN: Yeah, but the point  
18 here is, look, everybody would rather achieve  
19 all our racial diversity goals through  
20 race-neutral means. Everybody would rather  
21 that. And that's certainly what our cases say  
22 you have to do.

23           The question is, when the race-neutral  
24 means don't get you there, are you prevented  
25 from taking race into account in all those ways

1 that I said? And I could add a dozen more.  
2 Businesses who find it necessary, you know, in  
3 order to achieve their economic objectives to  
4 have racially diverse workforces. I mean, I  
5 could go on and on and on.

6 And the question is, when race-neutral  
7 means can't get you there, don't get you there,  
8 when you've tried and tried and they still won't  
9 get you there, can you go race-conscious?

10 MR. NORRIS: I don't believe so,  
11 Justice Kagan. And I think your -- this Court  
12 has already said in Parents Involved that racial  
13 diversity is not a compelling interest. It is  
14 the overall diversity of all kinds on college  
15 campuses.

16 And I don't -- I mean, this is not --  
17 this doesn't have to be hypothetical. We  
18 presented an alternative to Harvard that would  
19 achieve socioeconomic diversity for the first  
20 time, that would boost underrepresented minority  
21 representation, that would lower the number of  
22 white students on campus. And so we're talking  
23 not about no diversity and diversity. We're  
24 talking about 10 percent black representation or  
25 14 percent black representation.

1 JUSTICE KAVANAUGH: That's -- that's  
2 your, I would say, narrower argument. I think  
3 Justice Kagan's right that you have a broader  
4 argument that it wouldn't -- it wouldn't matter.  
5 Then you have a narrower argument, as I read the  
6 submission and hear you, that even under the  
7 Bakke-Grutter framework, race-neutral  
8 alternatives suffice to achieve the kind of  
9 sufficient diversity.

10 And I'm going to ask you the same  
11 question I asked the Solicitor General, which  
12 is, how do you -- how do you measure that on  
13 your narrower, as I see it, argument? Maybe you  
14 don't want to accept my characterization, but on  
15 what I see as your narrower argument, what --  
16 what is sufficient? What's meaningful, to use  
17 the Solicitor General's words, in your view?

18 MR. NORRIS: Well, I think you need to  
19 be measuring -- well, I mean, if you just take  
20 Grutter's interest as a given, you need to be  
21 measuring whether your student body is diverse  
22 on all dimensions. I don't think Harvard is  
23 very --

24 JUSTICE KAVANAUGH: No, let me ask it  
25 specifically. How do you know whether a



1 race-neutral alternative proposed would be  
2 sufficient, adequate to achieve sufficient  
3 levels of otherwise underrepresented minorities,  
4 that you would satisfy what Bakke and Grutter,  
5 which I know you disagree with, but would  
6 satisfy what those achieve? And you heard the  
7 Solicitor General's answer, and I'd be curious,  
8 your responses to her or your alternative  
9 submission on that.

10 MR. NORRIS: Well, I think the burden  
11 is on Harvard. And so Harvard would need to  
12 come forward with evidence about race-neutral  
13 alternatives that have been presented or that  
14 it's considered itself and show how, under that  
15 alternative, it's not getting the educational  
16 benefits of diversity.

17 Now, in this case, Harvard -- the only  
18 testimony we have is that Harvard doesn't know  
19 what number it needs to get the educational  
20 benefits of diversity. It doesn't know what  
21 evidence to consult to know whether it has that.  
22 It doesn't know what the evidence would even  
23 look like, as Dean Fitzsimmons testified, and  
24 the only evidence is Harvard's report on -- on  
25 the importance of diversity, which made --

1 JUSTICE KAVANAUGH: But, in looking --  
2 I'm sorry. Looking at your proposals or looking  
3 at California or Michigan or Washington, one of  
4 the big themes, I think, of the briefs is, hey,  
5 we have these states that have done race-neutral  
6 alternatives and that's been -- that's been  
7 effective in achieving diversity, I think. You  
8 can dispute that characterization, but that's a  
9 theme I -- I gleaned from the briefs.

10 And as I look at that, I want to know,  
11 what does that mean, effective or adequate?  
12 What's the measurement? Really, the same  
13 question I had for the Solicitor General. It's  
14 asking us to say, yes, that's adequate, but what  
15 does that -- it's got to say more than that, I  
16 think.

17 MR. NORRIS: Part of the problem, I  
18 think, is the fuzziness of the interest in  
19 Grutter itself, but --

20 JUSTICE KAVANAUGH: No, no, no. No.  
21 Accept the interest.

22 MR. NORRIS: Okay.

23 JUSTICE KAVANAUGH: Sorry to  
24 interrupt. Accepting that the interest,  
25 race-neutral, this is the back half of your --

1 back part of your brief, race-neutral  
2 alternatives are adequate.

3 And I -- I just want to know, okay,  
4 well, California, Florida, great. That's  
5 adequate because?

6 MR. NORRIS: The --

7 JUSTICE KAVANAUGH: And that could be  
8 translated to Harvard because?

9 MR. NORRIS: The University of  
10 California system is the most racially diverse  
11 elite institution in the world. Whites are the  
12 third most represented group on campus. So, if  
13 racial diversity has these educational benefits,  
14 then they've achieved them.

15 I think that they studied their  
16 undergraduates on your racial consciousness and  
17 your cross-racial understanding. They get  
18 really high scores at Berkeley. Berkeley and  
19 all the UC system tells prospective students  
20 that we have a very diverse student body and  
21 that the educational benefits were -- that you  
22 would expect to get from that are present. It's  
23 the top ranked public university in the country.  
24 It's great.

25 JUSTICE KAVANAUGH: And your point

1 then, the necessary add-on point is, and that  
2 could be translated to Harvard in essence or  
3 something sufficient could be translated to  
4 Harvard, and I just want you to fill in the  
5 blank there. Why?

6 MR. NORRIS: I -- I think it can. Our  
7 race-neutral alternative that we've focused on,  
8 Simulation D is what we called it, would make  
9 Harvard go -- it would go from 82 percent  
10 economically advantaged to 51 percent. You  
11 would actually have pure socioeconomic diversity  
12 where it's about 50/50.

13 The number of white students would  
14 decrease. The number of Asian students would  
15 increase. The number of Hispanic students would  
16 increase. I think you'd see lots of benefits in  
17 that.

18 JUSTICE KAVANAUGH: The number of  
19 black students would decrease from what to what?

20 MR. NORRIS: Would decrease from  
21 14 percent to 10 percent was the number. And  
22 our expert testified that that number --  
23 10 percent is an absolute floor because he  
24 only -- the number couldn't be higher because  
25 his socioeconomic preference didn't have the

1 sophisticated data that Harvard has.

2 I think that's successful on any -- on  
3 any metric. And I -- I've never heard Harvard  
4 prove the -- the -- the delta there as being  
5 necessary for educational benefits of diversity.

6 JUSTICE SOTOMAYOR: Counsel, I don't  
7 know what to do in a situation like this one.  
8 If you have perfect scores on every metric,  
9 you're not guaranteed a spot at Harvard because  
10 they have enough people with perfect scores of  
11 every background that exceeds their class limit.

12 At some point, something has to break  
13 the tie. And as we know, top 10 percent  
14 students of Asian and of black and Hispanic  
15 backgrounds in academic and extracurricular  
16 activities are not being admitted to Harvard.

17 So it's not as if once we say take  
18 race out of this that all of the people who are  
19 -- that you consider super-qualified are going  
20 to get in. But, on every matrix, there's going  
21 to be competing applicants.

22 And you're saying a school can't look  
23 at its general diversity figures and say, among  
24 equal applicants, I might make race a  
25 tie-breaker if the numbers that I have on that

1 matrix seem fairly low otherwise. You're  
2 saying, no, you can't do that.

3 MR. NORRIS: No, you cannot do that.  
4 That's what Title VI prevents. It doesn't  
5 prevent --

6 JUSTICE SOTOMAYOR: And that basically  
7 what you're saying is really race diversity is  
8 not important?

9 MR. NORRIS: Race --

10 JUSTICE SOTOMAYOR: So I don't  
11 actually see why all the race-based -- because  
12 all of the alternatives, whether it's the  
13 10 percent plan, whether it's socioeconomic,  
14 they're all subterfuges to reaching some sort of  
15 diversity in race.

16 You're touting them as race-neutral,  
17 but none of them are race-neutral. You're doing  
18 them because you believe in racial diversity. I  
19 just don't understand why considering race as  
20 one factor but not the sole factor is any  
21 different than using any of those other metrics.

22 MR. NORRIS: Well, I don't think those  
23 are -- those are racial classifications in  
24 disguise. Harvard's never criticized Simulation  
25 D that we presented as a racial classification

1 in disguise. It criticizes it because it  
2 doesn't hit Harvard's precise racial numbers.

3 It's based on socioeconomic status.  
4 And I don't think anyone thinks eliminating the  
5 legacy --

6 JUSTICE SOTOMAYOR: No. It -- it  
7 reduces SAT score averages. It reduces lots of  
8 other factors to get to your numbers.

9 MR. NORRIS: I mean, I think that's  
10 our point, that -- that SAT scores would go from  
11 the 99th percentile to the 98th percentile.  
12 That's not sacrificing academic excellence.  
13 That's moving Harvard from Harvard to Dartmouth.  
14 Dartmouth is still a great school. They get  
15 98th percentile SAT scores. We've got to make  
16 some sacrifices.

17 JUSTICE SOTOMAYOR: I -- I -- I don't  
18 -- I -- I actually --

19 JUSTICE KAGAN: There are those who  
20 love it.

21 JUSTICE SOTOMAYOR: Yeah.

22 (Laughter.)

23 CHIEF JUSTICE ROBERTS: Thank you,  
24 counsel.

25 Justice Thomas?

1 JUSTICE THOMAS: Nothing.

2 CHIEF JUSTICE ROBERTS: Justice Alito?

3 JUSTICE ALITO: No.

4 CHIEF JUSTICE ROBERTS: Anything

5 further, Justice Kagan?

6 Justice Kavanaugh?

7 JUSTICE KAVANAUGH: One question about

8 the -- how to think about the 25-year sentence

9 in Grutter and the surrounding discussion.

10 MR. NORRIS: Yeah, absolutely. I

11 think that what people forget about the 25-year

12 mark or the four paragraphs you mentioned before

13 where they explain that racial preferences, they

14 will fail their own acid test unless they make

15 themselves unnecessary.

16 So I think what Justice O'Connor was

17 saying is that in 25 years, if we still need

18 race, it's not that you get another 25 years.

19 It's that we then declare racial preferences to

20 be a failure and call it off and go to race --

21 race neutrality and try that instead.

22 CHIEF JUSTICE ROBERTS: Justice

23 Barrett?

24 JUSTICE BARRETT: But we're not to

25 that 25-year point yet, right? So, if -- if it



1 has its own self-destruct mechanism where it  
2 says like, hey, Grutter says we've got to call  
3 it quits because they're just not working, are  
4 we obligated to give more time?

5 MR. NORRIS: Well, Harvard has  
6 certainly never indicated that in five years it  
7 will stop using race. Harvard over the 20-year  
8 span has not decreased its use of race at all.

9 And I think the only legal standard  
10 this Court has ever recognized for when do you  
11 stop using race in education is in Brown with --  
12 with all deliberate speed.

13 The 25-year mark, we don't -- you  
14 know, we don't support it from the get-go. But  
15 we do think it was a prediction from Justice  
16 O'Connor that has not borne out, and so Grutter  
17 on its own terms, I think 20 years is enough to  
18 call it.

19 CHIEF JUSTICE ROBERTS: Thank you,  
20 counsel.

21 Mr. Waxman.

22 ORAL ARGUMENT OF SETH P. WAXMAN

23 ON BEHALF OF THE RESPONDENT

24 MR. WAXMAN: Mr. Chief Justice, and  
25 may it please the Court:

1           The evidence and findings in this case  
2 confirm what this Court has long recognized,  
3 that a university student body comprising a  
4 multiplicity of backgrounds, experiences, and  
5 interests vitally benefits our nation,  
6 stereotypes are broken down, prejudice is  
7 reduced, and critical thinking and  
8 problem-solving skills are improved.

9           Student body diversity makes our  
10 businesses more innovative and globally  
11 competitive, our scientists more creative, our  
12 medical professionals more effective, and our  
13 military more cohesive.

14           Experience has more than borne out  
15 Justice Powell's observation that our future as  
16 a country depends on having leaders who have  
17 enjoyed wide exposure to students as diverse as  
18 the nation itself.

19           And so, as this Court has consistently  
20 held, if necessary to achieve genuine diversity,  
21 a university need not blind itself to race,  
22 which like the type of high school an applicant  
23 attended, their socioeconomic and family  
24 background or the part of the country they live  
25 in, forms a part of who they are.

1                   Now SFFA attempts to use Harvard's  
2 admissions program as some sort of proof that  
3 settled constitutional precedent is egregiously  
4 wrong, but while SFFA is fully entitled to its  
5 own legal arguments, it is not entitled to its  
6 own facts.

7                   Following exhaustive discovery in this  
8 case, the trial court considered the testimony  
9 of 30 witnesses and detailed expert analysis and  
10 made extensive meticulous findings which the  
11 court of appeals robustly affirmed, and those  
12 findings, applying strict scrutiny, are that  
13 Harvard does not improperly emphasize race in  
14 its admissions decisions, it does not engage in  
15 racial balancing, it most certainly does not  
16 discriminate against Asian American applicants,  
17 and it does not yet have a current workable  
18 race-neutral alternative.

19                   The false narrative to which SFFA  
20 clings is no basis to dismantle decades of  
21 precedent confirming the constitutionality of  
22 limited race consciousness in admissions.

23                   And I very much welcome the Court's  
24 questions.

25                   JUSTICE THOMAS: Mr. Waxman, the

1 Petitioner argues that over 80 percent -- that  
2 actually you could -- you do have available a  
3 non- -- a race-neutral approach that would yield  
4 different but excellent results.

5 And the argument includes the fact  
6 that, at least as they argue, that you're over  
7 80 percent wealthy students, that that's not  
8 diverse, and that over 30 percent -- or  
9 30 percent or so of a class is made up of ALDC  
10 students and that if you were to lower those  
11 numbers, you could achieve far more diverse  
12 results without -- along socioeconomic lines. I  
13 don't think it's arguable that Harvard is  
14 socioeconomically diverse. But -- at least it  
15 doesn't appear that way. But it seems -- and  
16 that would not have a constitutional problem if  
17 you did it socioeconomically.

18 And I'd like you simply to address  
19 their argument.

20 MR. WAXMAN: Yes. Thank you.

21 First of all, the numbers that my  
22 friend is throwing around are not, in fact, the  
23 numbers that actually reflect, for example,  
24 socioeconomic diversity at Harvard, where, as it  
25 stands now, 20 percent of all matriculants pay

1 nothing, 70 percent of underrepresented  
2 minorities pay nothing, and well over half of  
3 all applicants get substantial financial aid.

4 But, as to your point about  
5 race-neutral alternatives -- and I -- correct me  
6 if I'm wrong, Justice Thomas, but I think this  
7 is what you're asking me about -- we have  
8 exquisitely detailed metrics in this case with  
9 respect to race-neutral alternatives and  
10 findings and testimony with respect to the  
11 so-called ALDCs, which is an acronym that I  
12 think I was present -- I was actually literally  
13 present at the birth of, which is a preference  
14 for children of alumni, children of faculty, and  
15 staff, athletes, and other people who have found  
16 themselves on the dean's interest list.

17 This -- the data in this case shows  
18 that if that -- if race were eliminated, you  
19 couldn't consider race, and you also could give  
20 none of those preferences, the racial diversity  
21 of the matriculating class would go down. The  
22 -- the representation of African Americans, if  
23 you just stopped considering race, would go from  
24 14 to 6 percent, but if you also stopped  
25 considering ALDCs, it would go to 5 percent.

1 With respect to --

2 JUSTICE GORSUCH: Let's just say  
3 hypothetically, though, hypothetically, and I --  
4 I know I'm going to get --

5 MR. WAXMAN: I -- I know all the usual  
6 caveats --

7 JUSTICE GORSUCH: All right. All  
8 right.

9 MR. WAXMAN: -- and I accept them.

10 JUSTICE GORSUCH: Thank you,  
11 Mr. Waxman.

12 (Laughter.)

13 MR. WAXMAN: Yes.

14 JUSTICE GORSUCH: Thank you.

15 MR. WAXMAN: I'm pretty sure, since  
16 you're asking me, I'm not going to like the  
17 hypothetical.

18 JUSTICE GORSUCH: You're not going to  
19 like it. But let's assume that a very wealthy  
20 university could pay for everybody to go and  
21 still increase its endowment. It's a perpetual  
22 motion machine, Malcolm Gladwell called them.

23 Let's say, if it just gave up  
24 preferences for donors' children, legacies, and  
25 squash athletes, okay, or maybe those who row

1 crew, all of which tend to favor predominantly  
2 white children, and it could achieve whatever it  
3 deemed racial diversity, would it then be  
4 permitted to engage in race consciousness, or in  
5 that circumstance, would you agree that that  
6 would not be narrowly tailored?

7 MR. WAXMAN: So I'm not claiming --  
8 I'm accepting your hypothetical as hard as it is  
9 for me in light of what the evidence in this  
10 case shows.

11 JUSTICE GORSUCH: I understand that.  
12 There we go.

13 MR. WAXMAN: I -- I am not claiming  
14 that there is a compelling interest in having  
15 donors per se, there is a compelling interest in  
16 your proverbial art museum, there is a  
17 compelling --

18 JUSTICE GORSUCH: There is a  
19 compelling interest in the art museum?

20 MR. WAXMAN: No, no.

21 JUSTICE GORSUCH: No.

22 MR. WAXMAN: These are the claims that  
23 I'm not claiming.

24 JUSTICE GORSUCH: Okay. Okay. I'm  
25 sorry.

1           MR. WAXMAN:   Okay?  I'm disclaiming  
2   all of those things.

3           JUSTICE GORSUCH:  All right.

4           MR. WAXMAN:  When you look at a  
5   so-called race-neutral alternative, the question  
6   that this Court -- that Justice Powell  
7   articulated in Bakke and this Court underscored  
8   and amplified in Grutter and then in Fisher is,  
9   how does -- is -- does that race-neutral  
10  alternative actually substantially impact the  
11  character of the institution and the education  
12  that's being provided?  And here --

13          JUSTICE GORSUCH:  Oh.  Now let me stop  
14  you there because -- and I'm sorry to  
15  interrupt -- but, surely, getting rid of those  
16  preferences would substantially impact the  
17  university.

18          MR. WAXMAN:  And -- and --

19          JUSTICE GORSUCH:  But you -- you're  
20  saying they are not a compelling interest for  
21  constitutional purposes --

22          MR. WAXMAN:  So, no, what I'm -- what  
23  I'm saying --

24          JUSTICE GORSUCH:  -- for the  
25  Fourteenth Amendment?  Or does the Fourteenth



1 Amendment make -- make legacy children and donor

2 --

3 MR. WAXMAN: Of course --

4 JUSTICE GORSUCH: Okay. So we agree?

5 MR. WAXMAN: Of course not. And the  
6 truth of the matter is that if this were a case  
7 in which the evidence showed that eliminating a  
8 legacy preference made a substantial difference,  
9 the district judge who -- to say that the  
10 district judge was applying strict skeptical  
11 scrutiny on the narrow tailoring principles is  
12 quite an understatement --

13 JUSTICE GORSUCH: Okay.

14 MR. WAXMAN: -- might have decided  
15 otherwise. What the district court found --

16 JUSTICE GORSUCH: Okay.

17 MR. WAXMAN: And, Justice Gorsuch, if  
18 I can just --

19 JUSTICE GORSUCH: Sure.

20 MR. WAXMAN: -- make one comment about  
21 the record which I think responds to at least  
22 the gist and spirit of your hypothetical. With  
23 respect to race-neutral alternatives, the -- the  
24 simulation, what has come to be called  
25 Simulation D in this Court, the district court

1 found that "the Simulation D would require  
2 'sacrifices on almost every" -- "every dimension  
3 important to Harvard's admissions process.'"

4 Among other things -- and these are  
5 all recited in the Smith Committee report, they  
6 are recited in the -- the extensive discussion  
7 of race-neutral alternatives in both the  
8 district court opinion and the court of appeals  
9 opinion -- are that, for example, with respect  
10 to academic excellence, the academic factor, the  
11 number of -- of matriculants with -- who score 1  
12 or 2 on the five-point scale would go down  
13 17 percent.

14 JUSTICE GORSUCH: I'm familiar.  
15 Mr. Waxman --

16 MR. WAXMAN: Yeah.

17 JUSTICE GORSUCH: -- I am familiar.  
18 I'll follow that along with --

19 MR. WAXMAN: So, in other words, it's  
20 not --

21 JUSTICE GORSUCH: -- we go down from  
22 99 to 98th percentile. I've got it. If I might  
23 --

24 MR. WAXMAN: No, no.

25 JUSTICE GORSUCH: -- if I might shift

1 gears. Okay. I -- I -- I -- I am familiar with  
2 all those, and I appreciate that, and I  
3 understand your point. It was a hypothetical.

4           What do we do about history here?  
5 Because one -- one of -- one -- one thing we  
6 know or we think we know or we're told in the  
7 briefs at least is that Harvard's move to a  
8 holistic application approach happened in the  
9 1920s because it wanted to impose a quota on  
10 Jewish applicants, but it didn't want to do  
11 through the front door, so it used diversity as  
12 a -- as a subterfuge for racial quotas.

13           MR. WAXMAN: What the record in this  
14 case shows, and it's -- it's discussed in some  
15 detail in the -- I'm going to blank on the names  
16 of the reports, but the various reports that  
17 Harvard has done over the years on diversity and  
18 diverse admissions in the case, one is the  
19 so-called Rudenstine Report and the other is the  
20 Khurana Report, both of which are in the Joint  
21 Appendix, is that Harvard actually even before  
22 the Civil War has as an admissions policy an  
23 effort to, in fact, diversify on both viewpoint  
24 and geography the class.

25           Now it is no -- there's no doubt, and

1 Harvard acknowledges and is ashamed, that in  
2 1920, one of its presidents, President Lowell,  
3 decided that there were too many Jews and that  
4 they were then going to start asking questions  
5 on the application that would allow them to take  
6 into effect character.

7           The notion that that bears at all on  
8 the way that Harvard's current admissions  
9 process, which uses a 40-person admissions  
10 committee that meets and decides each  
11 application en banc, in discussion, has any  
12 resemblance whatsoever to the racist  
13 anti-Semitic policy of a single Harvard  
14 president is insubstantial, as the courts found.

15           JUSTICE GORSUCH: Okay. How do you  
16 respond then to -- again, we have many briefs on  
17 this point from Asian American applicants who  
18 have -- and they say there's an entire industry  
19 to help them appear less Asian on their college  
20 applications and that they consider elite  
21 colleges to have Asian quotas effectively, if  
22 not in name.

23           MR. WAXMAN: I'll say two things, one,  
24 generally about the amicus briefs, and, two,  
25 specifically about Harvard, and I -- I certainly

1 want to get to number two.

2 But there are multiple amicus briefs  
3 filed by Asian American organizations and one  
4 that is particularly, I think, powerful, filed  
5 by 1,240 scholars of Asian American experience  
6 and Asian ethnicity, all of whom not only opine  
7 but cite studies showing that Asian Americans as  
8 a group -- and Asia, of course, represents  
9 61 percent of the world's population and a  
10 multiplicity of ethnicities --

11 That Asian Americans demonstrably  
12 benefit from a holistic admissions policy that  
13 considers race as one factor among many.

14 Now, with respect to Harvard, there  
15 was -- to say that there was evidence in this  
16 case is quite an understatement. The district  
17 court found -- I'm citing -- I'm quoting page  
18 261 of the Joint Appendix, and it's reiterated  
19 by the court of appeals on page 80 of the Joint  
20 Appendix -- that there was "no evidence of  
21 discrimination against Asian Americans  
22 whatsoever."

23 Again, now on page 264, there was  
24 consistent, unambiguous, and convincing  
25 testimony that there was no discrimination in

1 the administration -- administrative --  
2 admissions process in general and the personal  
3 rating in particular.

4 The plaintiffs in this case could not,  
5 after four years of discovery in which they  
6 hand-picked applications to view in total, they  
7 could not produce a single witness to testify  
8 that he or she had been --

9 JUSTICE ALITO: Well, Mr. --

10 MR. WAXMAN: -- discriminated against.

11 JUSTICE ALITO: -- Mr. Waxman, let me  
12 stop you there because you referred to the  
13 personal score, and that's a score that Harvard  
14 gives based on character traits such as  
15 integrity, courage, kindness, and empathy, but  
16 the record shows that Asian student applicants  
17 get the lowest personal scores of any other  
18 group.

19 What accounts for that? Is it -- it  
20 has to be one of two things. It has to be that  
21 they really do lack integrity, courage,  
22 kindness, and empathy to the same degree as  
23 students of other races, or there has to be  
24 something wrong with this personal score.

25 MR. WAXMAN: That's -- that is -- I

1 mean, I want to get to what the evidence was  
2 there, but that -- that syllogism, with all due  
3 respect, is wrong. There was, for example, a  
4 study that was done in 1983 that looked at why  
5 it was that female applicants to graduate school  
6 at the University of --

7 JUSTICE ALITO: No, just address this.

8 MR. WAXMAN: Okay. Here's --

9 JUSTICE ALITO: The personal score  
10 that's given to Asian applicants to Harvard, why  
11 do they -- why are they given a lower score than  
12 any other group?

13 MR. WAXMAN: Okay. So the answer to  
14 why they -- as a group, why there is a slight  
15 numerical disparity with respect to the personal  
16 rating of Asian Americans, but -- and also a  
17 slight numerical disparity to the advantage of  
18 Asian Americans with respect to the  
19 extracurricular rating and the academic rating  
20 was the answer that their expert gave with  
21 respect to the latter two, which is that the  
22 only way that you can -- the only model that can  
23 be created to figure out what was going into the  
24 personal rating couldn't look at almost anything  
25 that admissions officers look at in those

1 ratings.

2 It can't -- there's no way that it  
3 could model what the guidance counselor letters  
4 said, what the teacher letters said, what the  
5 essays said, what the interviewers' letters  
6 said. In other words, what they --

7 JUSTICE ALITO: Well, I thought the  
8 interviewers did not rate the applicants lower  
9 than other -- than other applicants based on  
10 race.

11 MR. WAXMAN: There --

12 JUSTICE ALITO: There was not the  
13 disparity in what was done by -- what was said  
14 by the interviewers.

15 MR. WAXMAN: The -- with respect to  
16 the alumni interviewers --

17 JUSTICE ALITO: The alumni  
18 interviewers.

19 MR. WAXMAN: -- based on -- based on  
20 the subset that was included here, that their  
21 subset, by the way, excluded all ALDC  
22 applicants, that is, even though they  
23 acknowledged that there was not only no evidence  
24 of discrimination against Asian American ALDCs,  
25 but they did better, they eliminated from their



1 -- their model applicants that represent on  
2 average 30 percent of the admitted class --

3 JUSTICE ALITO: I -- I -- I still --  
4 putting aside the teacher recommendations or  
5 guidance counselor recommendations, which I'll  
6 come to, I still haven't heard any explanation  
7 for the disparity between the personal scores  
8 that are given to Asians. They rank below  
9 whites. They rank way below Hispanics and  
10 really way below African Americans.

11 What -- and you're talking about  
12 hundreds and hundreds of applicants, maybe  
13 thousands. What is the explanation for that?

14 MR. WAXMAN: So the explanation that  
15 was -- I can't do better than the findings of  
16 fact in the trial court as affirmed. And I --  
17 and I -- but I want to make two points very  
18 clear with respect to your question.

19 We -- all of this evidence was -- all  
20 of this was on display and in front of the trial  
21 court for, this Asian American part of it, for  
22 well more than a week, maybe two weeks.

23 The district court found, considering  
24 all of the evidence, that there is "no credible  
25 evidence that corroborates the improper

1 discrimination suggested by SFFA's  
2 interpretation of the personal rating," page  
3 264.

4 JUSTICE ALITO: Well, all right. I'll  
5 try one more time. The district court found "a  
6 statistically significant and negative  
7 relationship between Asian American identity and  
8 the personal rating assigned by Harvard  
9 admissions officers."

10 MR. WAXMAN: That's correct. And what  
11 she said is the record will not allow a full  
12 explanation of that because, if the -- the --  
13 this -- this -- there is -- there was no  
14 evidence with respect to what teachers said,  
15 what guidance counselors said, what these  
16 students wrote -- wrote about.

17 But what we can say with respect to  
18 the allegation of discrimination in this case,  
19 which was the -- the -- the definition of  
20 discrimination that was at issue in Bakke and  
21 Grutter and Fisher and which their expert, which  
22 their lawyer got up at opening statement and  
23 said: When we talk about discrimination in this  
24 case, we're talking about discrimination in  
25 admissions outcomes.

1                   And here again, the district court  
2 found and the court of appeals also concluded  
3 that there was no evidence of discrimination in  
4 admissions outcomes against Asian Americans --

5                   JUSTICE ALITO: If you -- if you --

6                   MR. WAXMAN: -- whatever you think  
7 about the personal rating, which is, after all,  
8 simply a number that --

9                   CHIEF JUSTICE ROBERTS: Justice --  
10 Justice Alito would like to ask a question.

11                  MR. WAXMAN: I'm sorry.

12                  JUSTICE ALITO: Go ahead.

13                  MR. WAXMAN: I'm not trying to  
14 filibuster you.

15                  JUSTICE ALITO: Finish your -- finish  
16 your sentence.

17                  MR. WAXMAN: Okay.

18                  JUSTICE ALITO: Then I will ask one  
19 more question on this.

20                  MR. WAXMAN: I just -- I -- I want to  
21 make one other thing clear to the extent that  
22 it's not clear from the record. The personal  
23 rating, like the academic rating and the  
24 extracurricular rating and the athletic rating,  
25 is a number that is put down by a "first

1 reader." That is, the file comes in, it's not  
2 usually complete, and just as a matter of  
3 triage, one of the 40 admissions officers goes  
4 through and gives these numerical numbers.

5 It is -- the testimony was it is not  
6 considered in any way once the subcommittees and  
7 committees meet. It "fades into the  
8 background." It is not the basis of admissions  
9 decisions.

10 And so not only did the court find as  
11 fact that those -- that that slight disparity  
12 was not evidence of discrimination even in the  
13 personal rating, it had no effect with respect  
14 to outcomes.

15 JUSTICE ALITO: It makes no difference  
16 whatsoever?

17 MR. WAXMAN: It's --

18 JUSTICE ALITO: It doesn't affect --

19 MR. WAXMAN: -- it's not that it makes  
20 no difference whatsoever. Look at what the  
21 expert testimony was, and I realize we're --

22 JUSTICE ALITO: Does it make a  
23 difference or doesn't it make a difference?

24 MR. WAXMAN: It doesn't make a  
25 statistical difference in admissions outcomes --

1 JUSTICE ALITO: Then why do you do it?

2 MR. WAXMAN: -- as both courts found.

3 JUSTICE ALITO: Then why do you do it?

4 MR. WAXMAN: We said -- I mean, as --

5 JUSTICE ALITO: If it doesn't matter,  
6 why do you do it?

7 MR. WAXMAN: We do it as a matter of  
8 triage. Right now, Harvard is getting -- last  
9 year got 61,000 applications for 1600 slots.  
10 And it is an entirely rational way of figuring  
11 out where -- how you're going to allocate your  
12 attention to ask an admissions officer, as the  
13 file is being developed, just go through in a  
14 very rough way and rate a particular application  
15 based on what you can see on these four metrics.

16 The fact that Asian Americans got a  
17 marginally, on average, a marginally lower  
18 personal rating score is no more evidence of  
19 discrimination against them than the fact that  
20 they got a marginally higher rating than any  
21 data can show on academics and extracurriculars.  
22 It doesn't mean that they're either smarter or  
23 people think they're smarter.

24 CHIEF JUSTICE ROBERTS: Thank you,  
25 counsel.

1 JUSTICE SOTOMAYOR: Counsel --

2 CHIEF JUSTICE ROBERTS: We'll get to  
3 you in a moment.

4 There's been a lot of talk about  
5 African American applicants to Harvard in sort  
6 of a general indistinguishable way when, in  
7 fact, they cover a very broad swath of -- of  
8 applicants.

9 MR. WAXMAN: Of course.

10 CHIEF JUSTICE ROBERTS: What do you do  
11 with respect to an African American applicant, I  
12 mean, you're concerned about diversity of  
13 viewpoint, let's say his viewpoints tend to be  
14 very close to, you know, the white applicants,  
15 and he grew up in Groves Point, you know, had a  
16 great upbringing, comfortable, his parents went  
17 to Harvard, he's a legacy, and yet, under your  
18 system, when he checks African American, he gets  
19 a tip. He gets a benefit from that.

20 Isn't that --

21 MR. WAXMAN: So --

22 CHIEF JUSTICE ROBERTS: -- isn't that  
23 very stereotypical on -- under the Harvard  
24 program?

25 MR. WAXMAN: -- I -- I think it's --

1 it's -- well, first of all, it is simply not the  
2 case that every -- every black applicant gets a  
3 "tip." In fact, I'll direct the Court's  
4 attention to page 1,811 of the Joint Appendix,  
5 which includes this beautiful chart which  
6 represents an undisputed model of the relative  
7 importance of race on application outcomes.

8 And the one that you cannot actually  
9 even see, to your far right, is race. Race  
10 explains --

11 CHIEF JUSTICE ROBERTS: I can't see it  
12 because it's far away. But, I mean --

13 (Laughter.)

14 MR. WAXMAN: Nonetheless, you have the  
15 page reference.

16 CHIEF JUSTICE ROBERTS: -- it is not  
17 zero.

18 MR. WAXMAN: It is very close to zero.  
19 That is, the testimony in the case was --

20 CHIEF JUSTICE ROBERTS: Well, so  
21 there's only a little racial discrimination in  
22 the case.

23 MR. WAXMAN: Are you asking me whether  
24 Harvard is -- you're asking me to answer a  
25 question that assumes that Harvard is

1 discriminating on the basis of race? No. I  
2 can't accept that.

3 CHIEF JUSTICE ROBERTS: Well, isn't  
4 that --

5 MR. WAXMAN: What Harvard says is --

6 CHIEF JUSTICE ROBERTS: -- isn't that  
7 what -- Mr. Waxman, isn't that what the case is  
8 about, the discrimination against Asian  
9 Americans?

10 MR. WAXMAN: There was a -- Count I of  
11 the complaint was that Harvard was intentionally  
12 discriminating against Asian Americans. The --  
13 the entire evidence in that case, all of the  
14 plaintiff's proof, was that Asian Americans are  
15 treated worse than white applicants; that is,  
16 that there was prejudice, intentional  
17 discrimination. That could not -- the evidence  
18 could not --

19 CHIEF JUSTICE ROBERTS: What do you do  
20 with the -- what do you do with the charts --

21 MR. WAXMAN: -- more soundly have  
22 refuted that.

23 CHIEF JUSTICE ROBERTS: -- what do you  
24 do with the charts in their brief, I think  
25 they're on page 24 --



1 MR. WAXMAN: Twenty-four.

2 CHIEF JUSTICE ROBERTS: -- to 43, the  
3 academic decile and the comparative treatment of  
4 African Americans, Hispanics, and Asian  
5 Americans? You don't see a surprising disparity  
6 in that?

7 MR. WAXMAN: So there's a lot to be  
8 said about that, but I guess the first thing I  
9 would say about that chart is that their own  
10 expert agreed that because that chart is simply  
11 a descriptive statistic, it is "not equal to  
12 evidence of discrimination." It reflects a  
13 pattern which might or might not be real.

14 Now understand that that chart that  
15 they've displayed for you, they have eliminated  
16 all ALDC applicants. So one-third of the  
17 admitted class, over six years, they're not even  
18 in that chart. They have -- that chart is  
19 predicated on something called an academic  
20 index. An academic index is a formula that  
21 looks at two things, high school grades and test  
22 scores. The academic --

23 CHIEF JUSTICE ROBERTS: And so people  
24 in the different racial categories, they have a  
25 different result based on other factors, which

1 include race?

2 MR. WAXMAN: They -- they have a  
3 different result because, among the many, many,  
4 many characteristics of any particular  
5 individual applicant that Harvard considers, one  
6 that it does not consider is the academic index.  
7 That is, the very metric that they're displaying  
8 for you Harvard doesn't even use.

9 The only -- the testimony in the case  
10 was the only reason that the academic index is  
11 even calculated is because the Ivy League  
12 athletic rules require that your recruited  
13 athlete class, the AA for your -- AI for your  
14 recruited athlete class not be more than two  
15 standard deviations below --

16 CHIEF JUSTICE ROBERTS: Okay, Mr.  
17 Waxman, put aside --

18 MR. WAXMAN: -- the matriculated class  
19 last year.

20 CHIEF JUSTICE ROBERTS: -- put aside  
21 the hypothetical about the African American  
22 applicant who's a legacy. Take two African  
23 American applicants in the same category,  
24 however you want to take it. They both get or  
25 both can get a tip, right, based on their race.

1                   And yet they may have entirely  
2 different views. Some of their views may  
3 contribute to diversity from the perspective of  
4 Asians or whites. Some of them may not. And  
5 yet it's true that they're eligible for the same  
6 increase in the opportunities for admission  
7 based solely on their skin color?

8                   MR. WAXMAN: So the -- the point is --

9                   CHIEF JUSTICE ROBERTS: That was a  
10 question.

11                  MR. WAXMAN: No, I know. I'm -- I'm  
12 attempting to answer your question.

13                  There is no doubt that for -- as the  
14 testimony showed, that for applicants who are  
15 essentially so strong on multiple dimensions, so  
16 extraordinarily strong on multiple dimensions  
17 that they are sort of on the bubble, that they  
18 might -- they have a real candidate for  
19 admission, African American -- being African  
20 American or being Hispanic or in some instances  
21 being Asian American can provide one of many,  
22 many tips that will put you in.

23                  CHIEF JUSTICE ROBERTS: Well, people  
24 say that, yes, but you will have to concede, if  
25 it provides one of many, that in some cases it

1 will be determinative.

2 MR. WAXMAN: I do. I do concede that.

3 CHIEF JUSTICE ROBERTS: Okay. So  
4 we're talking about race as a determining factor  
5 in admission to Harvard.

6 MR. WAXMAN: Race in some -- for some  
7 highly qualified applicants can be the  
8 determinative factor, just as being the -- you  
9 know, an oboe player in a year in which the  
10 Harvard-Radcliffe orchestra needs an oboe player  
11 will be the tip.

12 CHIEF JUSTICE ROBERTS: Yeah. We did  
13 not fight a Civil War about oboe players.

14 MR. WAXMAN: I --

15 CHIEF JUSTICE ROBERTS: We did fight a  
16 Civil War to eliminate racial discrimination,  
17 and that's why it's a matter of -- of  
18 considerable concern.

19 And I think it's important to -- for  
20 you to establish whether or not granting a  
21 credit based solely on skin color is based on a  
22 stereotype when you say this brings diversity of  
23 viewpoint. It may not bring diversity of  
24 viewpoint -- viewpoint in a particular case at  
25 all.

1           MR. WAXMAN: Well, number one,  
2     viewpoint diversity, while Harvard values it and  
3     seeks it, is not the only reason -- by far the  
4     only reason for wanting a genuinely diverse  
5     class. We want a diverse class for backgrounds  
6     and interests and lots of things other than just  
7     viewpoint.

8           If we were to use, for example -- the  
9     example that has been discussed, I believe, for  
10    every other advocate that has stood up this  
11    morning, you know, and ask what about taking  
12    race into account if the student writes about  
13    it, the fact of the matter is Harvard is  
14    attempting not to have among it -- among a class  
15    of -- that is diverse among many generations, a  
16    class that is racially diverse only for people  
17    for whom their racial identity and their racial  
18    experiences is of such compelling importance  
19    that they write about it, right?

20           Your hypothetical about the black  
21    student who may have very different views than  
22    the stereotypical -- the stereotype of what a  
23    black student will have was, in fact -- is, in  
24    fact, the subject of the -- that's discussed in  
25    the Khurana report.

1                   The Khurana report gave in its  
2                   analysis of the importance and dimensions of  
3                   diversity an actual example that came from  
4                   Richard Light's book, published book, which had  
5                   a particular class. It happened to have three  
6                   African American students in it. An African  
7                   American student gave an answer in a discussion,  
8                   which another African American student said:  
9                   That is not my view. My view is quite the  
10                  opposite. And a third one said: I wasn't  
11                  actually going to say anything, but I have a  
12                  completely different view.

13                  That was an incredible learning  
14                  experience not only for the non-African  
15                  Americans in the discussion but for them. And  
16                  that's what Harvard is trying to get at.

17                  CHIEF JUSTICE ROBERTS: Thank you, Mr.  
18                  Waxman.

19                  MR. WAXMAN: I'm sorry for taking so  
20                  long to get at that.

21                  CHIEF JUSTICE ROBERTS: No, no. I  
22                  appreciate your answers.

23                  Justice Thomas?

24                  Justice Alito?

25                  JUSTICE ALITO: In -- in Bakke,

1 Justice Powell chose Harvard's admission program  
2 as a model, and that selection has had an  
3 enormous effect for the last 50 years. And  
4 Harvard submitted a brief in Bakke, along with a  
5 number of other colleges. I went back and I  
6 looked at it and noticed that the brief talked  
7 about Harvard's program going back 30 years, but  
8 it didn't say anything about President Lowell or  
9 what Harvard had done back in the 1920s.

10 So my question is, did Harvard sell  
11 Justice Powell a bill of goods? Do you think  
12 Justice Powell would have championed, would have  
13 held up the Harvard program as a model, as an  
14 exemplar for the whole country if he knew about  
15 the origins of the holistic program?

16 MR. WAXMAN: Justice Powell used the  
17 Harvard -- used Harvard's description about its  
18 admissions process and the limited extent to  
19 which it was then and for the past 30 years had  
20 been using race as one factor among many to  
21 achieve genuine diversity in its student body.

22 Harvard -- the Harvard brief --  
23 Justice Powell didn't take it or not take it  
24 because, prior to the Civil War, Harvard College  
25 was a leader in encouraging diversity in its

1 undergraduate applications, any more than the  
2 fact that it had a terrible stain on its history  
3 a hundred years ago.

4 It was taken for what it was presented  
5 as, and it was -- and it fairly presented how  
6 the Harvard admissions process worked then and  
7 works now.

8 CHIEF JUSTICE ROBERTS: Justice  
9 Sotomayor?

10 JUSTICE SOTOMAYOR: Counsel, there are  
11 two questions that I want to get to that were  
12 asked of you. The first was Justice Alito's  
13 about the poor personal rating. It seems to me  
14 that Petitioner claims that Harvard's  
15 discriminating against Asian Americans because  
16 it uses subjective criteria that's affecting the  
17 personnel ratings. That's how I think I read  
18 his question, correct?

19 So it's not that it's using race in  
20 admitting people. It's that it's using a  
21 corrupted personnel rating, correct?

22 MR. WAXMAN: Well, I don't want to  
23 speak for Justice -- I don't want to presume to  
24 speak for Justice Alito.

25 JUSTICE SOTOMAYOR: I agree.



1           MR. WAXMAN: I think it is -- it is  
2 fair to say that the criticism of the -- this --  
3 the personal rating --

4           JUSTICE SOTOMAYOR: Right.

5           MR. WAXMAN: -- relates to the  
6 "subjectivity" that is involved really in all of  
7 the ratings but particularly in the personal  
8 rating.

9           JUSTICE SOTOMAYOR: Well, it goes --  
10 the evaluations that use words like "not a" --  
11 "non-leader," "not caring," "not" whatever --

12          MR. WAXMAN: Yes. Yeah.

13          JUSTICE SOTOMAYOR: -- it applies to  
14 all races, correct?

15          MR. WAXMAN: Of course.

16          JUSTICE SOTOMAYOR: All races --  
17 applicants receive those ratings as well,  
18 correct?

19          MR. WAXMAN: Correct.

20          JUSTICE SOTOMAYOR: I think what the  
21 expert was saying, the fact that you have these  
22 numbers, standing alone don't tell you anything,  
23 correct, you have to look at all the input that  
24 goes into why --

25          MR. WAXMAN: Correct.

1 JUSTICE SOTOMAYOR: -- whether there  
2 was discrimination or not, correct?

3 MR. WAXMAN: Correct.

4 JUSTICE SOTOMAYOR: All right. So the  
5 numbers alone tell you nothing.

6 MR. WAXMAN: That's -- that's right.  
7 The numbers can tell you -- you could -- you can  
8 tote up 100,000 applications and look at what  
9 the first reader says -- scored and measure it  
10 against declared race and come up with a feature  
11 that says, gee, across these 150,000 or, in this  
12 case, 150,000 minus all the ALDCs, it looks  
13 like, you know, on average, Asian Americans,  
14 self-declared Asian Americans have this number  
15 and self-declared whites have this number.

16 It tells you nothing about why that  
17 number was given, any more than why --

18 JUSTICE SOTOMAYOR: And -- and I don't  
19 want to cut you off but I want to get --

20 MR. WAXMAN: No, I need to be cut off.

21 JUSTICE SOTOMAYOR: So it doesn't tell  
22 you why, and there was no proof to show why.  
23 District court found that that number did not  
24 prove discrimination. Correct?

25 MR. WAXMAN: There was actual proof

1 that it did not reflect discrimination. There  
2 was a multi -- there was expert analysis on --  
3 on -- on multi-dimensionality and that looked at  
4 the non-academic index that showed that, for  
5 example, white applicants who got a 1 or a 2 on  
6 academics and Asian Americans who got 1 or 2 on  
7 academics, for whatever reason, the latter group  
8 got lower teacher ratings than the former.

9 And the same with guidance counsellor  
10 ratings. It doesn't tell you why. It doesn't  
11 permit -- and it certainly doesn't permit an  
12 inference that Harvard is discriminating. The  
13 -- the district court could not have been more  
14 definitive about the absence of any racial  
15 discrimination or discrimination against Asian  
16 Americans than it was.

17 A finding that the Office of Civil  
18 Rights in the early 19 -- in -- in -- in 1990  
19 also found.

20 JUSTICE SOTOMAYOR: Could you deal  
21 with simulation D? I think that you were trying  
22 to explain why the district court rejected that  
23 stimulation -- simulation.

24 MR. WAXMAN: Simulation.

25 JUSTICE SOTOMAYOR: Simulation, I'm

1       sorry, simulation numbers as meaningful.  Could  
2       you finish your answer?

3               MR. WAXMAN:  Yes.  And, you know, in  
4       particular, I'll, you know, I'll -- I'll point  
5       the Court to -- because I am not going to be  
6       able to do it as well as the district court, to  
7       pages 208 to 220 of the joint appendix, which is  
8       the district court's findings on this, and 73 to  
9       79, which is the court of appeals, and 1307 to  
10      1325, which is the Smith committee's analysis of  
11      this.

12              But basically what the district court  
13      found was, as I said, that simulation D would  
14      require significant sacrifices -- I don't have  
15      the quote right in front of me now -- on almost  
16      every dimension that Harvard values, including a  
17      substantial decline -- we're not talking about a  
18      decline in SAT scores or going from the 99th  
19      percentile to the 98th percentile.  We're  
20      talking about the following things that the  
21      Court found.

22              The percentage of the matriculating  
23      class that would be academic 1s or a 2s would go  
24      down by 17 percent.  Every other factor would go  
25      down by at least 10 percent, between 10 and

1 22 percent.

2           The number of -- of matriculates  
3 interested in majoring in the humanities, which  
4 is a major tip that Harvard gives because of  
5 Harvard's recent inability to matriculate  
6 excellent students who want to major in the  
7 humanities would go down by 14 percent.

8           The number of African Americans  
9 admitted would go down from 14 to 10 percent.  
10 It was the whole confluence of all of those  
11 consequences that led the district court to  
12 confirm that it was not a workable, effective  
13 race-neutral alternative.

14           JUSTICE SOTOMAYOR: Well, it seems  
15 that for Justice Gorsuch, none of those other  
16 things are compelling interest. And how do --

17           MR. WAXMAN: Well --

18           JUSTICE SOTOMAYOR: -- you respond to  
19 that?

20           MR. WAXMAN: I'm -- I'm not sure I'm  
21 ascribing that to Justice Gorsuch.

22           JUSTICE SOTOMAYOR: Well, I -- I --  
23 but he seemed to say an art museum is not  
24 important. So if the matrix shows that those  
25 interested in the arts falls to -- falls

1 dramatically, that might be of concern to  
2 Harvard. I think it valuable, but --

3 MR. WAXMAN: It might very well be a  
4 concern. Would it -- would it lead -- would it  
5 lead a judge skeptically applying strict  
6 scrutiny to say: Oh, it just doesn't work,  
7 you're not going to have an art museum, or  
8 you're not going to have a squash team, or  
9 you're not going to have, you know, alumni  
10 contributions.

11 It wasn't any of those things. It's a  
12 caricature to say that those were the reasons  
13 why this particular thing wasn't a race-neutral  
14 alternative.

15 Now, I just want to say if you think,  
16 notwithstanding the findings, that the district  
17 court and the court of appeals didn't properly  
18 apply the kind of strict scrutiny and narrow  
19 tailoring analysis that it should have, okay,  
20 that's a remand.

21 I don't think the record will bear  
22 that out. It is not a reason to dispense with  
23 decades of constitutional precedent that has  
24 allowed all of these, what this Court has  
25 properly considered to be a compelling national

1 interest in having this kind of learning  
2 environment.

3 CHIEF JUSTICE ROBERTS: Thank you.

4 Justice Kagan?

5 JUSTICE KAGAN: Mr. Waxman, there have  
6 been a lot of questions today, and I take these  
7 to be important questions, about what is the end  
8 point.

9 If -- if we can achieve racial  
10 diversity through neutral mechanisms, rather  
11 than through race-conscious mechanisms, we  
12 should. We've said that many times.

13 So the question is when can we say  
14 that we can achieve our racial diversity goals  
15 in that way? And I guess I have a two-part  
16 question, and -- and then an assumption that I  
17 want you to bake into the two parts.

18 The first is what is Harvard doing in  
19 an ongoing way to test whether that is true?  
20 And the second is does Harvard see any progress  
21 along that dimension? In other words, I think  
22 it was said by Petitioner's counsel, oh, Harvard  
23 is doing, you know, is putting this -- is -- is  
24 -- is using as great a preference as it ever  
25 did.

1           The question is, over time has Harvard  
2 found that it has become less necessary to use  
3 race-conscious means or not?

4           Here's the assumption that I want to  
5 have you bake into this, which is I take  
6 Petitioners to be saying, and I think that this  
7 is an important thing, that it doesn't matter if  
8 some part of the reason for adopting  
9 race-neutral approaches is to achieve racial  
10 diversity.

11           I think that they very clearly said  
12 that. I am not sure I understand why given  
13 their legal arguments but I think they very  
14 clearly said that.

15           So assume that you can, you know, sit  
16 down and say we're -- we're -- we're -- we're  
17 trying to figure out what race-neutral  
18 mechanisms to use, and part of the goal is to  
19 achieve racial diversity, what is Harvard doing  
20 to answer that question and is it any closer?

21           MR. WAXMAN: I have firmly in mind the  
22 second part of your question. If I don't also  
23 answer the first, please remind me.

24           The evidence in the case is that for  
25 decades Harvard has been taking steps other than



1 the conscious -- other than race-consciousness  
2 to increase the level of diversity, including  
3 ethnic and racial diversity.

4           And these are discussed, actually, in  
5 the Smith committee report and the -- and Dean  
6 Smith's testimony and in the findings. It, for  
7 example, in the wake of Grutter and actually  
8 before substantially increased the amount of  
9 resources that it put in outreach, in partnering  
10 with organizations that -- that assist and, you  
11 know, advance the educational potential of  
12 minority and low socioeconomic students.

13           It has -- it has achieved some success  
14 in -- in -- in getting additional applications  
15 not just from minorities but from minority  
16 applicants who are actually really qualified to  
17 attend Harvard.

18           It thought about, well, maybe a way to  
19 increase this is to substantially increase our  
20 financial aid, and that there's evidence in the  
21 case, there's actually a beautiful chart that  
22 shows how the level of financial aid went up at  
23 various points over two decades and what  
24 happened with respect to the racial diversity of  
25 the applicant class and the matriculating class.

1                   And what the testimony showed and the  
2 findings was, it made a difference to a point.

3                   After a certain point, it no longer  
4 made any difference. Harvard tested the  
5 proposition that its early action program, it's  
6 -- it's not early decision in the way that most  
7 schools are because you're not committed to it,  
8 but that by admitting a significant percentage,  
9 I don't know, 20 or 25 percent of its class for  
10 people who applied, you know, early, early on in  
11 the academic year, it was disadvantaging  
12 minority applicants and applicants from low  
13 socioeconomic circumstances because they didn't  
14 have the kind of resources, guidance counselors  
15 and test prep and all that sort of stuff, to be  
16 able to take advantage of it.

17                   They -- they -- they ended it and  
18 asked other universities to do the same thing.  
19 With two exceptions, no one else did. And what  
20 they found at the end of five years was that it  
21 had the opposite result; that is, it made it  
22 more difficult for them to recruit and  
23 matriculate underrepresented minorities.

24                   And there were -- there were a bunch  
25 of other things in the record about things that

1 Harvard has done, some of which have had  
2 substantial success. And so the notion that  
3 Harvard is doing things the same way and is  
4 always going to do the same things the same way  
5 is just wrong.

6 Harvard is -- Harvard completely  
7 recognizes and endorses this Court's statement  
8 in Grutter that "there are serious problems of  
9 justice connected with the idea of preference  
10 itself." That's why it holds itself -- why it  
11 is attempting to achieve all of the compelling  
12 benefits of -- of a genuinely diverse student  
13 body in the most race-neutral way that it can.

14 And in terms of -- I don't know if  
15 this is the first part of your question, but  
16 Harvard is actually attempting -- is measuring  
17 how it is doing in terms of diversity and the  
18 benefits of diversity and what needs to be done  
19 and what other things can be done in a  
20 race-neutral way on a very regular basis.

21 And I can give you the data on -- you  
22 know, with respect to either, but, for example,  
23 Harvard -- there is a -- Harvard said, committed  
24 itself, in 2018 that it would, you know,  
25 continue to look for race-neutral alternatives

1 and have another systematic review, you know,  
2 systematic, statistically, you know, rigorous  
3 review about how it is doing.

4 That committee has been formed and has  
5 already met for the five years that will -- you  
6 know, that will transpire next year. Yes, we  
7 are trying. Yes, we have tried other things  
8 that have helped. Are we there yet? No. And  
9 that's the reason why the 45 percent, the  
10 district court's finding of 45 percent. That's  
11 what it shows. It shows --

12 JUSTICE KAGAN: Thank you.

13 CHIEF JUSTICE ROBERTS: Thank you, Mr.  
14 Waxman.

15 Justice Gorsuch?

16 JUSTICE GORSUCH: Yeah. I -- I just  
17 was hoping to get an answer to the second half  
18 of the question --

19 MR. WAXMAN: Oh, okay.

20 JUSTICE GORSUCH: -- which was when --  
21 when does Harvard anticipate this will end?

22 MR. WAXMAN: Yeah.

23 JUSTICE GORSUCH: Grutter spoke of it  
24 being a 25-year window, as you're well aware.  
25 Harvard could tomorrow do without federal funds

1 and continue to discriminate on the basis of  
2 race however it pleased. I'm sure that would be  
3 a hardship. But what -- what is -- what is  
4 Harvard's view on how long this will take?

5 MR. WAXMAN: So Harvard, like the  
6 Solicitor General and like UNC, understood all  
7 four paragraphs of what Justice O'Connor wrote  
8 in her opinion and takes it to heart. What  
9 Justice O'Connor said was it's been 25 years  
10 since Grutter, there's evidence that our society  
11 is changing, it is -- we expect that 25 years  
12 from now the use of racial preferences will no  
13 longer be necessary.

14 JUSTICE GORSUCH: So Harvard agrees  
15 with that?

16 MR. WAXMAN: And --

17 JUSTICE GORSUCH: Does Harvard agree  
18 with that?

19 MR. WAXMAN: I don't -- I -- Harvard  
20 does not currently, based on its data, expect  
21 that in 2028 it will have achieved -- been able  
22 to use a -- only race-neutral alternatives.

23 JUSTICE GORSUCH: So --

24 MR. WAXMAN: But what this --

25 JUSTICE GORSUCH: So --

1 MR. WAXMAN: -- but what I do agree  
2 with --

3 JUSTICE GORSUCH: -- what -- what are  
4 -- what are Harvard's --

5 MR. WAXMAN: -- if I -- if I may --

6 JUSTICE GORSUCH: I'm just -- I'm just  
7 -- just -- it's a real simple question. If  
8 Harvard doesn't have an answer, that's fine, but  
9 does Harvard have some view about when?

10 MR. WAXMAN: Harvard -- yes, Harvard's  
11 view about when doesn't have a date on it.  
12 Harvard takes to heart Justice O'Connor's  
13 opinion that "in the context of higher  
14 education, the durational requirement can be met  
15 by periodic reviews to determine whether racial  
16 preferences are still necessary" --

17 JUSTICE GORSUCH: Okay.

18 MR. WAXMAN: -- "to achieve student  
19 body diversity."

20 JUSTICE GORSUCH: Thank you.

21 MR. WAXMAN: And we want to be put to  
22 that strict scrutiny test.

23 JUSTICE GORSUCH: Thank you.

24 CHIEF JUSTICE ROBERTS: Justice  
25 Kavanaugh?

1 JUSTICE KAVANAUGH: I do have two or  
2 three questions.

3 First, you're seeking educational  
4 diversity, as I understand it, at Harvard, but  
5 my understanding, correct me if I'm wrong, is  
6 that you don't ask about religion.

7 And why the disparate treatment of  
8 religion and race when -- when evangelical  
9 Christians, Catholics, Muslims add to the  
10 educational diversity at Harvard and other  
11 religious groups add to the diversity and why --  
12 why not ask about that?

13 MR. WAXMAN: So Harvard greatly values  
14 religious diversity. It is extraordinarily  
15 proud of the religious diversity --

16 JUSTICE KAVANAUGH: How can it track  
17 it if it doesn't ask about it?

18 MR. WAXMAN: Oh, how can it track it?

19 JUSTICE KAVANAUGH: How can it track  
20 it in the admissions process? It may happen by  
21 happenstance. I'll let you finish.

22 MR. WAXMAN: Okay. Harvard is not  
23 tracking it in the admissions process other than  
24 to the extent that many, many students indicate  
25 what their religion is. Harvard -- Harvard has

1 not provided, thought it necessary, and so far  
2 as I know, nobody has suggested that Harvard has  
3 any need to provide a tip for religious  
4 diversity because the Harvard undergraduate  
5 population is so religiously diverse.

6 There are currently 47 --

7 JUSTICE KAVANAUGH: That answers my --

8 MR. WAXMAN: -- chaplains --

9 JUSTICE KAVANAUGH: -- that answers my  
10 question.

11 MR. WAXMAN: Yeah.

12 JUSTICE KAVANAUGH: I understand.

13 Okay.

14 MR. WAXMAN: I just -- I just want to  
15 say that our ministry minister -- ministers to  
16 27 different religious denominations.

17 JUSTICE KAVANAUGH: All right. It was  
18 a factual question.

19 Second, I think you agree that the  
20 baseline in our precedents, operating within the  
21 confines of our precedents, as you want us to  
22 do, is race neutrality. And we've allowed,  
23 though, limited consideration of race in  
24 educational -- in higher educational admissions.  
25 As you've heard, two limits on that, as I



1 understand it, one, the adequate race-neutral  
2 alternatives; two, the durational limits, the 25  
3 years or whatever durational limit you think  
4 works there.

5 I just want to make -- make sure you  
6 agree with how I set that up. In other words,  
7 race neutrality is the baseline. There are two  
8 limits on the consideration of race-conscious  
9 educational admissions at colleges and  
10 universities. Adequate race-neutral  
11 alternatives would be one. A durational limit,  
12 25 or something else, would be the other. Is  
13 that how you read our precedents or not?

14 MR. WAXMAN: I read your precedent in  
15 that -- I think you have other requirements too,  
16 which is it has to be flexible, it has to be one  
17 factor among many, you know, et cetera, et  
18 cetera.

19 JUSTICE KAVANAUGH: Right.

20 MR. WAXMAN: But, with -- the only --  
21 I agree with your two categorizations, except  
22 that with respect to the durational requirement,  
23 we understand it to be the -- the -- the --  
24 consistent with the language from Justice  
25 O'Connor's opinion that I quoted the Court --

1 JUSTICE KAVANAUGH: Okay.

2 MR. WAXMAN: -- which is that the  
3 narrow tailoring requirement and the  
4 race-neutral alternative requirement, strictly,  
5 scrupulously, and skeptically applied, will tell  
6 us when race-neutral alternative --

7 JUSTICE KAVANAUGH: Okay. And one  
8 last one. This picks up on Justice Kagan's and  
9 Justice Gorsuch's questions, I believe.

10 But, on the adequate race-neutral  
11 alternatives question, it seems that Harvard  
12 would have to sacrifice potentially something  
13 else to achieve what you think would be  
14 meaningful, sufficient racial diversity. And I  
15 think the questions, Justice Gorsuch, were,  
16 well, why don't you have to then sacrifice those  
17 something elses to achieve the -- if you're  
18 going to otherwise use race-conscious means?

19 MR. WAXMAN: There's no question  
20 that our --

21 JUSTICE KAVANAUGH: In other words, I  
22 think that's a legal question we're going to  
23 have to ultimately figure out. Does a  
24 university have to sacrifice those other things  
25 or not?

1           MR. WAXMAN: And so what this Court's  
2 precedents say, you know, Bakke, Grutter, and  
3 Fisher, are, of course, race -- you know, there  
4 are race-neutral alternatives that may require  
5 some sacrifices. A university is not required  
6 to sacrifice, you know, so much that it changes  
7 the essential character. I -- I -- I wish I had  
8 the -- this Court's own words, but I think  
9 that's the test. And that was certainly the  
10 test the district court applied.

11           JUSTICE KAVANAUGH: That -- that  
12 suffices and you answered it. Thank you.

13           MR. WAXMAN: Thank you.

14           CHIEF JUSTICE ROBERTS: Justice  
15 Barrett?

16           JUSTICE BARRETT: Mr. Waxman, this is  
17 not a question about Harvard's history of  
18 anti-Semitism, but I do want to go back to the  
19 opinion in Bakke and Justice Powell's holding up  
20 Harvard's application process as a model and  
21 then Justice O'Connor in Grutter again referred  
22 back to Harvard's admissions process.

23           And I want to know whether Harvard's  
24 admissions process has meaningfully changed from  
25 the time that Justice Powell held it up? I

1 mean, what Justice Powell found attractive about  
2 it, what Justice O'Connor endorsed, was the  
3 holistic aspect of it and that race can be used  
4 as a tip. In its essence, is it the same?

5 MR. WAXMAN: Yes, race can be used as  
6 a tip, as one of many, many, many tips in an  
7 effort to achieve diversity that is across many,  
8 many dimensions beyond ethnicity.

9 JUSTICE BARRETT: And so in the way  
10 Harvard thinks about its admissions process, it  
11 is the same now as it was in Bakke?

12 MR. WAXMAN: Yes. Harvard is -- can I  
13 just give a one sentence --

14 JUSTICE BARRETT: Yeah. Sure.

15 MR. WAXMAN: -- explication of that?

16 What the Harvard admissions committee  
17 is attempting to do, with the benefit -- the  
18 luxury of a pool of applicants that is supremely  
19 qualified, is to bring together a class of 1600  
20 matriculants who are best in the judgment of the  
21 admissions committee and the faculty that  
22 oversees it, are best able to learn from and  
23 teach each other as an organic whole.

24 JUSTICE BARRETT: So my question is:  
25 We've been talking a lot about end point. And

1 my question is: So Bakke was, you know, almost  
2 50 years ago now. If Harvard's admissions  
3 process is essentially the same in the way that  
4 it accounts for race and thinking about end  
5 points, and I -- I recognize and you described  
6 some other things that Harvard is doing to try  
7 to recruit more minority applicants, but why are  
8 we to think that there will be an end point?

9 And Grutter is pretty insistent. I  
10 mean, Grutter says, the requirement that all  
11 race-conscious admissions programs have a  
12 termination point, so there has to be one, and  
13 if it really hasn't changed much since Bakke --

14 MR. WAXMAN: So the system that is  
15 we're taking race into account as one factor  
16 among many, obviously the extent to which race  
17 is race qua race is a factor, is dependent on  
18 the extent to which so-called race-neutral  
19 alternatives have already helped Harvard to  
20 matriculate a class that is diverse along this  
21 dimension and others.

22 And Harvard does track its progress in  
23 this regard and accommodate the admissions  
24 process. For example, in terms of where we are,  
25 when will we get there, you know, the -- the

1 record contains, you know, any number of a  
2 faculty committee study, a working group, a task  
3 force, all of which made reports about this, but  
4 it also annually does a comprehensive survey of  
5 its graduating seniors and asks them questions  
6 that go to this.

7           And the -- the survey in the record on  
8 the benefits side to -- I think to Harvard's  
9 great satisfaction showed that two-thirds of all  
10 of the seniors said that their Harvard  
11 experience strengthened their ability to relate  
12 to people of different races, nations and  
13 religions and 70 percent said that Harvard's  
14 experience had led them to seriously question or  
15 rethink their beliefs about a race or ethnic  
16 group different than their own.

17           JUSTICE BARRETT: But that's showing  
18 the educational benefits of diversity, right?

19           MR. WAXMAN: And it shows that -- it  
20 shows that in terms of are we there yet, you  
21 know, we're not going to achieve 100 percent.  
22 Honestly, 70 percent is pretty darn good.

23           And it would not have been -- at the  
24 time that Harvard wrote its brief in the Bakke  
25 case and at the time Grutter was decided, those

1 were not the statistics.

2 JUSTICE BARRETT: So you think you're  
3 getting closer to a termination point?

4 MR. WAXMAN: I -- we are very  
5 definitely getting closer to a termination  
6 point, both in terms of engineering race-neutral  
7 alternatives but also achieving a class that is  
8 diverse across religious viewpoint, racial,  
9 ethnic, you know, academic, political -- you  
10 know, yes, we are -- we -- we are proud of the  
11 progress we made.

12 As Dean Smith said, we still have work  
13 to do, including with respect to the way in  
14 which we treat students and allow students to  
15 interact with each other once they get here.

16 JUSTICE BARRETT: Okay, thank you.

17 MR. WAXMAN: Thank you.

18 CHIEF JUSTICE ROBERTS: Thank you,  
19 counsel.

20 MR. WAXMAN: Thank you.

21 CHIEF JUSTICE ROBERTS: General  
22 Prelogar. Welcome back.

23 ORAL ARGUMENT OF GEN. ELIZABETH B. PRELOGAR  
24 FOR THE UNITED STATES, AS AMICUS CURIAE,  
25 SUPPORTING THE RESPONDENT

1                   GENERAL PRELOGAR: Thank you Mr. Chief  
2 Justice and may it please the Court:

3                   The Court has heard hours of argument  
4 on the constitutional issues in this case and so  
5 I would like to take a step back and focus on  
6 the profound consequences of the Court's  
7 decision here for the nation that we are and the  
8 nation that we aspire to be.

9                   Petitioner seeks a sweeping ruling  
10 that would harm students at schools and colleges  
11 throughout the nation. A blanket ban on  
12 race-conscious admissions would cause racial  
13 diversity to plummet at many of our nation's  
14 leading educational institutions.

15                   Race-neutral alternatives right now  
16 can't make up the difference, so all students at  
17 those schools would be denied the benefits of  
18 learning in a diverse educational environment  
19 and because college is the training ground for  
20 America's future leaders, the negative  
21 consequences would have reverberations  
22 throughout just about every important  
23 institution in America.

24                   For the United States military, as  
25 I've explained, having a diverse officer core is



1 a critical national security imperative. For  
2 corporate America, diversity is essential to  
3 business solutions. For the medical community  
4 and scientific researchers, diversity is an  
5 essential element of innovation and delivering  
6 better health outcomes.

7           Overruling Grutter would have  
8 devastating effects on our nation's efforts to  
9 move ever closer to a more perfect union where  
10 our nation's diversity is a source of its  
11 greatest strength. And I think the Court should  
12 not take the destabilizing step of overruling  
13 precedent here.

14           Justice Gorsuch, you asked a series of  
15 questions about race-neutral alternatives and I  
16 want to offer the position of the United States.  
17 I think Justice Barrett, you also asked these  
18 questions about things like legacy, donors,  
19 children of faculty and staff.

20           And I want to be very clear on behalf  
21 of the United States that if it could be shown  
22 that eliminating those kinds of preferences  
23 would actually enable a university to meet its  
24 -- its diversity goals and to be able to offer  
25 the educational benefits of a diverse student

1 body, then, yes, we think absolutely that can  
2 function as a race-neutral alternative. And  
3 it's incumbent on universities to consider those  
4 kinds of options as they chart a path forward.

5 And so I think to -- to the extent the  
6 Court has any concerns about that, or thinks  
7 that the lower court in this case did not apply  
8 that kind of standard, that would be wrong  
9 because the Court has made clear that strict  
10 scrutiny in this context is strict and that  
11 universities have to undertake continual  
12 obligations to search for those types of  
13 alternatives in order to be able to achieve  
14 diverse student enrollment without taking race  
15 into account.

16 JUSTICE ALITO: Grutter was about  
17 college admissions, but in your opening  
18 statement, it seemed to me you want to extend it  
19 to employment.

20 Is that right?

21 GENERAL PRELOGAR: No, Justice Alito,  
22 I was trying to make the observation that the  
23 experience of students in those four years of  
24 college have effects on the course of their  
25 life.

1 JUSTICE ALITO: Then why were you  
2 talking about corporate America?

3 GENERAL PRELOGAR: Because corporate  
4 America, like the United States military, relies  
5 on having a diverse pipeline of individuals who  
6 had the experience of learning in a diverse  
7 educational environment and who themselves  
8 reflect the diversity of the American  
9 population.

10 We're not asking the Court to extend  
11 Grutter in any way here. We're only asking the  
12 Court to reject Petitioner's request for the  
13 Court to overrule that precedent because I think  
14 it would have these destabilizing ramifications  
15 in just about every important industry in  
16 America.

17 JUSTICE BARRETT: General, if we were  
18 talking about the 25-year mark, so let's imagine  
19 we fast forward and it's, you know, five years  
20 from now and we're considering whether to --  
21 same question, would it be overruling Grutter at  
22 that point to say this is the end point, we're  
23 at 25 years, no more race-consciousness in  
24 admissions?

25 GENERAL PRELOGAR: I think it would if

1 this Court based that decision on the nature of  
2 the compelling interest here. I just don't  
3 think it's a tenable way to read Grutter to say  
4 that the Court was suggesting that 25 years from  
5 now, poof, the interest in diversity and higher  
6 education is no longer compelling.

7 That is and will remain a compelling  
8 interest. And Grutter observed that over time,  
9 it would be possible for schools and  
10 universities to achieve that interest without  
11 having to take race into account.

12 And I understand the concerns, Justice  
13 Barrett, that you've raised, Justice Kavanaugh,  
14 that you've raised about the fact that the arc  
15 of progress in society has perhaps been slower  
16 than the Grutter court imagined.

17 I think if this Court has those  
18 concerns, it could emphasize that the narrow  
19 tailoring requirement remains very strict in  
20 this case. Universities should be held to a  
21 high standard and a heavy burden to explore  
22 those alternatives, to put into practice the  
23 race-neutral alternatives that currently exist  
24 and to try to get to the point that the Grutter  
25 court imagined and that we will eventually reach

1 as a nation where it is no longer necessary to  
2 take race into account.

3 JUSTICE BARRETT: But what if the  
4 structural barriers -- I mean, medial -- there's  
5 not a remedial justification on the table here.  
6 Our precedents rule that out.

7 What if the structural barriers just  
8 make it impossible 25 years from now to sit here  
9 and say that without race-conscious admissions,  
10 you know, especially if Harvard wants to keep  
11 everything exactly the same with respect to  
12 other metrics like SAT scores not dropping at  
13 all and -- and the museum and the squash team  
14 and all of that stuff, what if it's just  
15 impossible?

16 And so what if Grutter was grossly  
17 optimistic in what it thought was achievable and  
18 perhaps, you know, Grutter as we've talked about  
19 earlier in the argument, emphasized the risky  
20 and potentially poisonous nature of race  
21 classifications, what if there's no end point?

22 I mean, could we still say that  
23 there's a compelling interest in the educational  
24 benefit of a diverse classroom if it comes at  
25 the cost of something Grutter itself recognized

1 was very dangerous and corrosive to society?

2           GENERAL PRELOGAR: I do think that,  
3 yes, the compelling interest would still exist  
4 there. I recognize the force of the point that  
5 there are structural barriers that can impede  
6 progress, but I think it would be wrong to  
7 suggest that those barriers are going to exist  
8 in perpetuity in all places and with respect to  
9 all schools.

10           The states are not similarly situated  
11 in this regard. There are nine states, as  
12 Petitioner has emphasized, that have barred the  
13 use of race in college admissions, and many of  
14 the universities and colleges in those states  
15 have been able still to achieve enrollment of  
16 diverse student bodies.

17           And I think that it's incumbent on --  
18 on every college and university around the  
19 nation to study from and learn from those  
20 examples, and it's not accurate to say that if  
21 we look forward into the future in 25 years,  
22 still, all places throughout the nation, it will  
23 be necessary to have race-conscious admissions.

24           But I do want to be responsive as well  
25 to the point that -- that you made about

1 resisting any changes whatsoever and be clear,  
2 again, on behalf of the United States that we do  
3 not think that a university could reject a  
4 race-neutral alternative because it would have  
5 those kinds of modest impacts on things like SAT  
6 scores.

7 I think that that can clearly be the  
8 kind of thing that would qualify as a viable or  
9 workable race-neutral alternative. And if the  
10 Court has any concerns that lower courts are not  
11 applying that stringent standard, then I would  
12 urge the Court to make that clear in a decision  
13 and -- and provide guidance going forward.

14 JUSTICE KAVANAUGH: I think that's  
15 very important, what you just said. So you're  
16 saying an adequate race-neutral alternative, it  
17 would be permissible for the Court to say that  
18 you have to eliminate things like legacy,  
19 children of donors, if you could obtain a  
20 sufficient -- meet its diversity goals, was your  
21 word, by doing so and doing race-neutral  
22 admissions. Do I have that correct?

23 GENERAL PRELOGAR: Yes, that's exactly  
24 right, Justice Kavanaugh. And I think that  
25 flows directly from this Court's emphasis --

1 JUSTICE SOTOMAYOR: But I'm sorry, at  
2 what point does that become dramatic? Harvard  
3 won't be Harvard if it drops from 2200 to 500.

4 GENERAL PRELOGAR: Yes, and I was  
5 speaking --

6 JUSTICE SOTOMAYOR: And -- and -- or  
7 there is a point at which a change is  
8 significant or insignificant.

9 GENERAL PRELOGAR: I agree, Justice  
10 Sotomayor. And I think that the -- the lines  
11 that the Court has drawn in this context --  
12 context flow from Grutter itself, where the  
13 Court made clear that a university doesn't have  
14 to sacrifice its reputation for academic  
15 excellence. In other words, it doesn't have to  
16 accept those kinds of dramatic changes to the  
17 academic quality of the incoming student class.

18 I was speaking to --

19 JUSTICE SOTOMAYOR: Well, your  
20 adversary in simulation D says the change was  
21 only from -- it was less than a 40-point change.  
22 And so he says that's insignificant.

23 Why do you think his point is not  
24 valid?

25 GENERAL PRELOGAR: With respect to



1 simulation D, in particular, it wasn't just  
2 changes to SAT scores. I think the most  
3 substantial reason that the district court  
4 rejected that as a workable alternative here is  
5 because it would have had a precipitous decline  
6 in the number of African American students.  
7 They would fall by about 30 percent in the  
8 enrollment of the class. And that was coupled  
9 with the impact on reductions in the number of  
10 students who had the highest academic and  
11 extracurricular ratings who could then be  
12 admitted in the class. But I don't --

13 JUSTICE SOTOMAYOR: So you are  
14 sacrificing the essence of Harvard, academic  
15 excellence?

16 GENERAL PRELOGAR: That was what the  
17 district court found with respect to simulation  
18 D. But, you know, I guess I would say I think  
19 that that was a factual finding in this case.  
20 The First Circuit affirmed it. But as Mr.  
21 Waxman said, if you do not think the district  
22 court applied the right stringent standard in  
23 evaluating that as a race-neutral alternative,  
24 then that is a basis to send this case back,  
25 because we agree that strict scrutiny is strict

1 in this context.

2 JUSTICE KAVANAUGH: The other side  
3 points to the examples, as you've heard  
4 throughout, of California and Washington,  
5 Michigan and Florida and other states, and says,  
6 well, if they just put their effort to it, they  
7 will be able to use race-neutral alternatives  
8 and still be able to achieve its diversity  
9 goals -- I'm going to bracket the fact that "its  
10 diversity goals" is still pretty vague, but we  
11 talked about that in the last case -- but would  
12 still be able to do so.

13 Do you want to respond to that?

14 GENERAL PRELOGAR: So as I was saying  
15 to Justice Barrett, I do think it's the case  
16 that there are some states and certainly some  
17 institutions today that can fully achieve a  
18 diverse student body without needing to take  
19 race into account.

20 With respect to California and  
21 Michigan, in particular, since your question  
22 referred to them, I would point the Court to the  
23 amicus brief filed by those university systems  
24 in those states, which have explained that  
25 actually they have struggled, despite

1 implementing any number of race-neutral  
2 alternatives, to actually see true diversity  
3 across all of their campuses, including their  
4 most selective campuses.

5 And University of California, in  
6 particular, points to Berkeley and UCLA as  
7 places where there have been these dramatic  
8 declines in diversity, racial diversity on  
9 campus.

10 JUSTICE KAVANAUGH: I -- I guess this  
11 will be repetitive, but you've said "true  
12 diversity," "meet its diversity goals." You  
13 know, I'm not sure exactly what that means and  
14 that's -- I'm going to have to figure that out,  
15 I guess, but without any more precise guidance  
16 on what exactly "meet its diversity goals" means  
17 as to numbers, it's a little hard to assess, I  
18 think.

19 GENERAL PRELOGAR: Well, let me try to  
20 be more precise. I think that the relevant  
21 compelling interest here comes directly from  
22 Grutter, where the Court recognized that it is  
23 student body diversity in all of its many  
24 manifestations. The Court has made clear it's  
25 not simple ethnic or racial diversity, and

1 that's what creates a lot of guardrails in this  
2 area, in terms of no racial quotas, no automatic  
3 awards of points, no separate set-asides or  
4 separate admissions tracks.

5           The nature of the interest in not in  
6 achieving a precise numerical threshold of  
7 minority enrollment at a particular university.  
8 Instead, the Court has defined this as the  
9 educational goals that derive from having a  
10 diverse student body along multiple dimensions.  
11 And that is the -- the ultimate aim of these  
12 policies.

13           JUSTICE GORSUCH: So -- so a  
14 university that -- that did use a numerical goal  
15 or did grant a -- a tip based on race alone  
16 would be a problem?

17           GENERAL PRELOGAR: Yes, I think if a  
18 university used a numerical goal and that  
19 functioned as an inflexible goal for the  
20 university or functioned as a quota system,  
21 that's plainly unconstitutional. This Court's  
22 precedents don't countenance that.

23           JUSTICE GORSUCH: When we --

24           GENERAL PRELOGAR: With respect --

25           JUSTICE GORSUCH: -- when we look at

1 that -- I'm sorry to interrupt.

2 GENERAL PRELOGAR: Okay.

3 JUSTICE GORSUCH: Go ahead and finish.

4 GENERAL PRELOGAR: I just wanted also  
5 to try to be responsive to your point about  
6 using race as a -- as a tip or a preference.  
7 And to be clear, that there as well, the Court  
8 made clear that that can't be mechanical  
9 application, so you can't preference every  
10 single person automatically or inflexibly.

11 JUSTICE GORSUCH: Okay. And on -- but  
12 -- but what do we -- what is a court, a lower  
13 court, all right, faced with, you know,  
14 diversity and very hard standards to apply,  
15 supposed to do when a university's admissions  
16 data with respect to race looks more or less  
17 identical every single year?

18 GENERAL PRELOGAR: So I think at that  
19 point, the district court needs to probe whether  
20 impermissible racial balancing is happening.  
21 The Court has made clear that that is not  
22 appropriate, that the relevant compelling  
23 interest here is not in trying to achieve a  
24 precise percentage of particular racial or  
25 ethnic groups in the class year over year. And

1 so if that kind of evidence existed, then I  
2 think it would be incumbent on the university to  
3 -- to establish that it is not actually engaging  
4 in racial balancing.

5 JUSTICE GORSUCH: Thank you.

6 JUSTICE SOTOMAYOR: I think in this  
7 case, wasn't it clear there were variations  
8 among the groups?

9 GENERAL PRELOGAR: Yes, that's exactly  
10 right, Justice Sotomayor. And what the district  
11 court said with respect to the Harvard facts is  
12 that there were greater fluctuations with  
13 respect to the number of students in each group  
14 who were admitted year over year than there were  
15 fluctuations in the applicant pool of  
16 individuals of those particular races.

17 And so the -- the district court said  
18 that runs completely contrary to a theory of  
19 racial balancing in this case.

20 JUSTICE SOTOMAYOR: Now going back to  
21 the earlier argument, Petitioner's counsel in  
22 rebuttal raised Berkeley's figures. And -- I  
23 don't remember it exactly, but it was like a  
24 third white, a third Hispanic, a third this. He  
25 -- at the end, he mentioned a black population

1 that seemed tiny.

2 But how do you deal with answering  
3 Justice Kavanaugh's question of what constitutes  
4 adequacy?

5 GENERAL PRELOGAR: So I --

6 JUSTICE SOTOMAYOR: Because he seemed  
7 to imply, your opponent, opposing counsel, that  
8 -- that Berkeley was already diverse. It had  
9 numbers that were close to the population.

10 GENERAL PRELOGAR: Well, Justice  
11 Sotomayor, I would point to the brief filed by  
12 the University of California system in this  
13 case. And they have explained in detail how  
14 Berkeley has -- has experienced a substantial  
15 decline in the African American student  
16 population. I think it's gone down to  
17 3 percent. And they further have explained the  
18 toll that's taken on their ability to offer the  
19 educational benefits of diversity, as well as  
20 the glaring sense of racial isolation that those  
21 students have on the Berkeley campus.

22 CHIEF JUSTICE ROBERTS: Thank you,  
23 General.

24 Justice Thomas?

25 Justice Alito?

1 Justice Kagan?

2 JUSTICE KAGAN: General, one of the  
3 through lines of the briefs in this case is -- I  
4 think it's actually the first line of the  
5 Petitioner's brief or something like it, is --  
6 is essentially Brown compels the overruling of  
7 Grutter.

8 And the Petitioners actually haven't  
9 given a whole lot of attention to that argument,  
10 but the idea is, and some of the questioning has  
11 reflected this -- this idea, is that, you know,  
12 we have this long and horrible history of racial  
13 discrimination, and surely that functions here  
14 to prevent racial classifications or to prevent  
15 race-consciousness of the kind that Harvard and  
16 UNC are using.

17 And I just thought I would give you an  
18 opportunity to discuss what you think of that  
19 argument.

20 GENERAL PRELOGAR: I think that  
21 argument is wrong in just about every respect.  
22 There is a world of difference between the  
23 situation this Court confronted in Brown, the  
24 separate but equal doctrine that was designed to  
25 exclude African Americans based on notions of



1 racial inferiority and subjugate them, which, as  
2 this Court recognized, the school children  
3 affected their hearts and minds in a way  
4 unlikely ever to be undone, a world of  
5 difference between that and the university  
6 policies at issue in this case, which are not  
7 intended to exclude anyone on the basis of race  
8 or -- or even to benefit particular racial  
9 groups on the basis of race but, rather, are  
10 designed to bring individuals of all races  
11 together so that they can all learn together and  
12 benefit from that diverse educational  
13 environment.

14           And I think it is profoundly  
15 ahistorical to say, as Petitioners do, that  
16 those situations are precisely equivalent and it  
17 also trivializes the grievous moral and legal  
18 wrongs of state-sponsored segregation and the  
19 enormous harms that millions of Americans  
20 suffered under it.

21           CHIEF JUSTICE ROBERTS: Justice  
22 Gorsuch?

23           JUSTICE GORSUCH: Just to return to  
24 Justice Sotomayor's question to you, you  
25 indicated, I believe, that -- that percentages

1 varied dramatically over the years. I must be  
2 missing something.

3 On page 23 of the Petitioner's brief  
4 they have the statistics from Harvard from 2006  
5 through 2018, and the share of Asian American  
6 students varied between three -- 17 and  
7 20 percent every year, 17 percent actually being  
8 the outlier. Am I missing something?

9 GENERAL PRELOGAR: No, Justice  
10 Gorsuch. I think that the point I was trying to  
11 make is that that band is actually a greater  
12 amount of fluctuation than was present in the  
13 applicant pool with respect to the number of  
14 Asian Americans who were applying to Harvard  
15 every year.

16 But let me just say this --

17 JUSTICE GORSUCH: Is the same thing  
18 true with Hispanics and African Americans,  
19 because the numbers are pretty similar --  
20 similarly banded for those?

21 GENERAL PRELOGAR: Yes, that's my  
22 understanding, that the district court's factual  
23 finding in this regard is that there was  
24 relative stability with respect to the number of  
25 individuals in those groups who were applying

1 and greater fluctuation with respect to  
2 admissions decisions.

3 JUSTICE GORSUCH: No, these -- these  
4 are -- these -- these are admitted students I am  
5 talking about here.

6 GENERAL PRELOGAR: Yes. And the  
7 district court was drawing a comparison between  
8 the -- the -- the bands that you were just  
9 describing and the bands that exist.

10 JUSTICE GORSUCH: The point is  
11 whatever the pool is, every year the percentage  
12 is the same. And the U.S. government below said  
13 this manifest steadiness speaks for itself.

14 Am I missing something?

15 GENERAL PRELOGAR: Well, let me just  
16 say that the district court made a factual  
17 finding of no racial balancing. But if you  
18 think the district court was wrong about that  
19 and this is clearly erroneous, then that is  
20 clearly impermissible and -- and the Court  
21 should send it back.

22 That would provide a basis to reverse  
23 on clear error and we are not here to suggest  
24 that racial balancing is okay under this Court's  
25 precedent. Grutter doesn't countenance it and

1 the Court could make that clear.

2 JUSTICE GORSUCH: Thank you.

3 CHIEF JUSTICE ROBERTS: Justice  
4 Kavanaugh?

5 JUSTICE KAVANAUGH: I appreciate your  
6 statement about Brown. I want to ask a  
7 question. Justice Thomas's opinion in Grutter  
8 said: "I agree with the Court's holding that  
9 racial discrimination in higher education  
10 admissions will be illegal in 25 years."

11 And taking that statement it would  
12 seem that extending it beyond 25 years would  
13 itself be overruling Grutter. And I just want  
14 you to have a chance to respond.

15 Is that an -- not an accurate  
16 characterization of the Court's holding in your  
17 view or -- or what is your response to that  
18 description of what the Court did? A variation  
19 on questions you've had before but I wanted to  
20 give you an opportunity to address that in  
21 particular.

22 GENERAL PRELOGAR: I do think that  
23 that is not how the Court itself understood the  
24 language. The Court made clear in the four  
25 paragraphs that we have been discussing that the

1 Court expected that universities would no longer  
2 be able to justify race-conscious admissions  
3 policies over time, but that was because the  
4 Court expected that, due to the rate of change  
5 in society, they would be able to achieve the  
6 benefits of student body diversity without  
7 taking race into account.

8 And so I don't think that it's tenable  
9 to read the majority opinion in that case as  
10 having determined that there was a -- a 25-year  
11 clock that would be inflexible. Instead it was  
12 an expectation about how -- what changes we  
13 would see in society.

14 JUSTICE KAVANAUGH: Thank you.

15 CHIEF JUSTICE ROBERTS: Justice  
16 Barrett?

17 Thank you, General.

18 Rebuttal, Mr. Norris?

19 REBUTTAL ARGUMENT OF CAMERON T. NORRIS

20 ON BEHALF OF THE PETITIONER

21 MR. NORRIS: Thank you, Mr. Chief  
22 Justice. Just a few points.

23 First, I think what's lost in the  
24 United States argument and Harvard's argument  
25 and in Grutter itself is that racial

1 classifications themselves have harms. They  
2 stigmatize their intended beneficiaries, they  
3 increase racial consciousness, which delays the  
4 day in which we can move to true racial  
5 neutrality.

6 And they cause resentment by treating  
7 people differently based on something they can't  
8 change that's cosmetic and it's irrelevant to  
9 their ability to get educational opportunities.

10 The Court said that in Adarand. It  
11 said it in Shaw. It said it in Croson. Harvard  
12 doesn't challenge any of those precedents.

13 Secondly, race-neutral alternatives.  
14 There were a few pleas for remand that I heard  
15 from my friends, but it's hard to take those  
16 seriously when Harvard thumbed its nose at  
17 Grutter for 14 years to not consider  
18 race-neutral alternatives one time until three  
19 years after we filed a lawsuit against it.

20 I understand Mr. Waxman to say he will  
21 no longer defend his legacy preferences, but now  
22 what -- what's at stake in terms of race-neutral  
23 alternatives are a decline, a slight decline in  
24 profile ratings, which Mr. Waxman said are not  
25 that important to the admissions process when he

1 talked about Asian Americans, a 3 percentage  
2 point decline in people who want to major in the  
3 humanities.

4 Students change majors like they  
5 change socks. I mean, speaking from experience  
6 there will be people who think that they're  
7 going to major in the hard sciences and then  
8 find themselves majoring in the humanities.  
9 That's not the stuff of strict scrutiny.

10 Then we have the 4 percentage point  
11 decline in black admissions. Our expert  
12 testified without contradiction that that is an  
13 absolute floor, that Harvard could get that  
14 number almost to parity if it considered wealth  
15 instead of income.

16 And Harvard already sacrifices on all  
17 of these metrics in order to meet its racial  
18 goals. It should do the same for racial  
19 equality.

20 This Court made schools close to  
21 comply with Brown, as it should have. Harvard  
22 should have to sacrifice for the same reasons.

23 Lastly, Harvard thankfully does say it  
24 is ashamed of its history of Jewish  
25 discrimination. I hope some day it says the

1 same about how it's treating Asians.

2           It is undisputed that Harvard -- there  
3 is a statistically-significant relationship  
4 between being Asian and getting a low personal  
5 rating, which is supposed to measure things like  
6 confidence, likability and kindness.

7           Harvard's witnesses consistently  
8 testified that Asians don't deserve lower  
9 personal ratings in their experience. Harvard  
10 didn't submit a model of the personal rating  
11 itself, which means I think they probably did  
12 study it and realized they couldn't get rid of  
13 the disparity.

14           In the model, when you take the  
15 personal rating out of an admissions model, it  
16 shows a statistically-significant disparity  
17 against Asian Americans in admissions decisions.

18           Now, the district court said I believe  
19 Harvard that it doesn't discriminate, but we  
20 don't typically let people satisfy strict  
21 scrutiny with just their testimony. Mr. Waxman  
22 said it's attributable -- attributable to  
23 unobservables in the model, but unobservables is  
24 code for Asians really deserve it, and that's  
25 simply not true. That was not ever supported by



1 any evidence in the record.

2 And we keep saying Asians. These are  
3 not Asians. They're not from Asia. These are  
4 people who are Americans. They were born in  
5 Texas, California, Ohio, Tennessee. They should  
6 not be the victims.

7 They were born in 2005, the people who  
8 are applying to college now. They should not be  
9 the victims of Harvard's racial experimentation.  
10 Thank you.

11 CHIEF JUSTICE ROBERTS: Thank you to  
12 all counsel in both cases. The case is  
13 submitted.

14 (Whereupon, at 2:55 p.m., the case was  
15 submitted.)

16

17

18

19

20

21

22

23

24

25

## Official - Subject to Final Review

<p><b>1</b></p> <p><b>1</b> [3] 49:11 74:5,6  <b>1,240</b> [1] 52:5  <b>1,811</b> [1] 62:4  <b>10</b> [12] 12:24 21:23 22:7,25  30:24 35:21,23 36:13 37:  13 75:25,25 76:9  <b>100</b> [1] 93:21  <b>100,000</b> [1] 73:8  <b>116</b> [2] 2:14 13:3  <b>12:58</b> [2] 1:15 3:2  <b>1307</b> [1] 75:9  <b>1325</b> [1] 75:10  <b>14</b> [6] 30:25 35:21 44:24 76:  7,9 117:17  <b>15</b> [1] 25:25  <b>150,000</b> [2] 73:11,12  <b>1600</b> [2] 60:9 91:19  <b>17</b> [4] 49:13 75:24 113:6,7  <b>1866</b> [2] 5:24,25  <b>19</b> [1] 74:18  <b>1920</b> [1] 51:2  <b>1920s</b> [3] 4:4 50:9 70:9  <b>1983</b> [1] 54:4  <b>1990</b> [1] 74:18  <b>1s</b> [1] 75:23</p> <hr/> <p><b>2</b></p> <p><b>2</b> [4] 26:3 49:12 74:5,6  <b>2:55</b> [1] 120:14  <b>20</b> [4] 40:17 43:25 81:9 113:  7  <b>20-1199</b> [1] 3:4  <b>20-year</b> [1] 40:7  <b>2005</b> [1] 120:7  <b>2006</b> [1] 113:4  <b>2017</b> [1] 4:21  <b>2018</b> [2] 82:24 113:5  <b>2019</b> [1] 19:17  <b>2022</b> [1] 1:11  <b>2028</b> [1] 84:21  <b>208</b> [1] 75:7  <b>22</b> [1] 76:1  <b>220</b> [1] 75:7  <b>2200</b> [1] 103:3  <b>23</b> [2] 24:9 113:3  <b>24</b> [1] 63:25  <b>25</b> [13] 39:17, 18 81:9 84:9,  11 88:2, 12 98:23 99:4 100:  8 101:21 115:10,12  <b>25-year</b> [7] 39:8,11,25 40:  13 83:24 98:18 116:10  <b>261</b> [1] 52:18  <b>264</b> [2] 52:23 57:3  <b>27</b> [1] 87:16  <b>2s</b> [1] 75:23</p> <hr/> <p><b>3</b></p> <p><b>3</b> [3] 2:4 110:17 118:1  <b>30</b> [7] 42:9 43:8,9 56:2 70:7,  19 104:7  <b>31</b> [1] 1:11</p> <hr/> <p><b>4</b></p>	<p><b>4</b> [1] 118:10  <b>40</b> [2] 2:7 59:3  <b>40-person</b> [1] 51:9  <b>40-point</b> [1] 103:21  <b>43</b> [1] 64:2  <b>45</b> [4] 13:16 14:3 83:9,10  <b>47</b> [1] 87:6</p> <hr/> <p><b>5</b></p> <p><b>5</b> [1] 44:25  <b>50</b> [2] 70:3 92:2  <b>50/50</b> [1] 35:12  <b>500</b> [1] 103:3  <b>51</b> [1] 35:10  <b>55</b> [1] 13:18</p> <hr/> <p><b>6</b></p> <p><b>6</b> [2] 25:24 44:24  <b>61</b> [1] 52:9  <b>61,000</b> [1] 60:9</p> <hr/> <p><b>7</b></p> <p><b>70</b> [3] 44:1 93:13,22  <b>73</b> [1] 75:8  <b>79</b> [1] 75:9</p> <hr/> <p><b>8</b></p> <p><b>80</b> [3] 43:1,7 52:19  <b>82</b> [2] 24:9 35:9</p> <hr/> <p><b>9</b></p> <p><b>9</b> [2] 24:7 25:25  <b>94</b> [1] 2:11  <b>98th</b> [4] 38:11,15 49:22 75:  19  <b>99</b> [1] 49:22  <b>99th</b> [2] 38:11 75:18</p> <hr/> <p><b>A</b></p> <p><b>AA</b> [1] 65:13  <b>ability</b> [3] 93:11 110:18  117:9  <b>able</b> [13] 23:23 75:6 81:16  84:21 91:22 96:24 97:13  101:15 105:7,8,12 116:2,5  <b>above-entitled</b> [1] 1:13  <b>absence</b> [1] 74:14  <b>absolute</b> [2] 35:23 118:13  <b>Absolutely</b> [6] 5:14 7:23  21:22 28:12 39:10 97:1  <b>academic</b> [19] 36:15 38:12  49:10,10 54:19 58:23 64:3,  19,20,22 65:6,10 75:23 81:  11 94:9 103:14,17 104:10,  14  <b>academics</b> [3] 60:21 74:6,  7  <b>accept</b> [6] 5:8 31:14 33:21  45:9 63:2 103:16  <b>Accepting</b> [2] 33:24 46:8  <b>access</b> [1] 20:16  <b>accommodate</b> [1] 92:23  <b>account</b> [12] 8:4 13:12 22:  1,12 29:25 68:12 92:15 97:  15 99:11 100:2 105:19  116:7</p>	<p><b>accounts</b> [2] 53:19 92:4  <b>accurate</b> [2] 101:20 115:15  <b>achievable</b> [1] 100:17  <b>achieve</b> [30] 7:5 25:15 26:  18 29:18 30:3,19 31:8 32:  2,6 41:20 43:11 46:2 70:  21 78:9,14 79:9,19 82:11  85:18 89:13,17 91:7 93:21  97:13 99:10 101:15 105:8,  17 108:23 116:5  <b>achieved</b> [3] 34:14 80:13  84:21  <b>achievements</b> [1] 4:16  <b>achieving</b> [3] 33:7 94:7  107:6  <b>acid</b> [1] 39:14  <b>acknowledged</b> [1] 55:23  <b>acknowledges</b> [1] 51:1  <b>acronym</b> [1] 44:11  <b>across</b> [4] 73:11 91:7 94:8  106:3  <b>Act</b> [2] 5:24,25  <b>action</b> [1] 81:5  <b>activities</b> [1] 36:16  <b>actual</b> [2] 69:3 73:25  <b>actually</b> [26] 4:2 10:17 24:  13 35:11 37:11 38:18 43:2,  23 44:12 47:10 50:21 62:8  69:11 80:4,7,16,21 82:16  96:23 105:25 106:2 109:3  111:4,8 113:7,11  <b>Adarand</b> [2] 18:23 117:10  <b>add</b> [3] 30:1 86:9,11  <b>add-on</b> [1] 35:1  <b>additional</b> [1] 80:14  <b>address</b> [4] 17:6 43:18 54:  7 115:20  <b>adequacy</b> [1] 110:4  <b>adequate</b> [9] 32:2 33:11,  14 34:2,5 88:1,10 89:10  102:16  <b>ADLCs</b> [1] 14:1  <b>administration</b> [1] 53:1  <b>administrative</b> [1] 53:1  <b>admirable</b> [1] 29:2  <b>admission</b> [5] 7:8 66:6,19  67:5 70:1  <b>ADMISSIONS</b> [57] 1:3 3:5  4:15 8:22 12:7,10 13:13  14:1 25:23 42:2,14,22 49:  3 50:18,22 51:8,9 52:12  53:2 54:25 57:9,25 58:4  59:3,8,25 60:12 70:18 71:  6 86:20,23 87:24 88:9 90:  22,24 91:10,16,21 92:2,11,  23 95:12 97:17 98:24 100:  9 101:13,23 102:22 107:4  108:15 114:2 115:10 116:  2 117:25 118:11 119:15,17  <b>admit</b> [1] 5:3  <b>admitted</b> [8] 12:21 36:16  56:2 64:17 76:9 104:12  109:14 114:4  <b>admitting</b> [2] 71:20 81:8</p>	<p><b>adopting</b> [1] 79:8  <b>advance</b> [1] 80:11  <b>advantage</b> [2] 54:17 81:16  <b>advantaged</b> [1] 35:10  <b>adversary</b> [1] 103:20  <b>advocate</b> [1] 68:10  <b>affect</b> [1] 59:18  <b>affected</b> [1] 112:3  <b>affecting</b> [1] 71:16  <b>affirmative</b> [1] 6:11  <b>affirmed</b> [3] 42:11 56:16  104:20  <b>affluent</b> [1] 11:6  <b>African</b> [21] 18:19 25:24 28:  23 44:22 56:10 61:5,11,18  64:4 65:21,22 66:19,19 69:  6,6,8 76:8 104:6 110:15  111:25 113:18  <b>ago</b> [2] 71:3 92:2  <b>agree</b> [14] 8:11,17 25:3 46:  5 48:4 71:25 84:17 85:1  87:19 88:6,21 103:9 104:  25 115:8  <b>agreed</b> [1] 64:10  <b>agrees</b> [1] 84:14  <b>ahead</b> [4] 24:17,18 58:12  108:3  <b>ahistorical</b> [1] 112:15  <b>AI</b> [1] 65:13  <b>aid</b> [3] 44:3 80:20,22  <b>aim</b> [1] 107:11  <b>ALDC</b> [3] 43:9 55:21 64:16  <b>ALDCs</b> [4] 44:11,25 55:24  73:12  <b>Alito</b> [31] 8:16 21:3 39:2,3  53:9,11 54:7,9 55:7,12,17  56:3 57:4 58:5,10,12,15,18  59:15,18,22 60:1,3,5 69:24,  25 71:24 97:16,21 98:1  110:25  <b>Alito's</b> [1] 71:12  <b>allegation</b> [1] 57:18  <b>allocate</b> [1] 60:11  <b>allow</b> [3] 51:5 57:11 94:14  <b>allowed</b> [5] 7:9,14 26:19  77:24 87:22  <b>almost</b> [6] 10:19 49:2 54:  24 75:15 92:1 118:14  <b>alone</b> [6] 12:13 13:5,12 72:  22 73:5 107:15  <b>already</b> [5] 30:12 83:5 92:  19 110:8 118:16  <b>alternative</b> [19] 22:12 30:  18 32:1,8,15 35:7 42:18  47:5,10 76:13 77:14 89:4,  6 97:2 102:4,9,16 104:4,23  <b>alternatives</b> [31] 4:20 14:9  23:24 26:25 31:8 32:13 33:  6 34:2 37:12 44:5,9 48:23  49:7 82:25 84:22 88:2,11  89:11 90:4 92:19 94:7 95:  15 96:15 97:13 99:22,23  105:7 106:2 117:13,18,23  <b>alumni</b> [5] 4:1 44:14 55:16,  17 77:9</p>	<p><b>amended</b> [1] 8:1  <b>Amendment</b> [13] 5:16,20,  23 6:7,15,18 8:3 14:12 18:  8,11,15 47:25 48:1  <b>America</b> [5] 95:23 96:2 98:  2,4,16  <b>America's</b> [1] 95:20  <b>American</b> [22] 42:16 51:17  52:3,5 55:24 56:21 57:7  61:5,11,18 65:21,23 66:19,  20,21 69:6,7,8 98:8 104:6  110:15 113:5  <b>Americans</b> [34] 6:23 12:25  18:19 25:24 28:22,23 44:  22 52:7,11,21 54:16,18 56:  10 58:4 60:16 63:9,12,14  64:4,5 69:15 71:15 73:13,  14 74:6,16 76:8 111:25  112:19 113:14,18 118:1  119:17 120:4  <b>amicus</b> [6] 1:24 2:10 51:24  52:2 94:24 105:23  <b>among</b> [15] 12:19 13:13 23:  11 24:22 36:23 49:4 52:13  65:3 68:14,14,15 70:20 88:  17 92:16 109:8  <b>amount</b> [3] 13:25 80:8 113:  12  <b>amplified</b> [1] 47:8  <b>analysis</b> [6] 23:20 42:9 69:  2 74:2 75:10 77:19  <b>ancestry</b> [1] 16:11  <b>anecdotally</b> [1] 93:4  <b>another</b> [4] 22:16 39:18 69:  8 83:1  <b>answer</b> [12] 10:4 32:7 54:  13,20 62:24 66:12 69:7 75:  2 79:20,23 83:17 85:8  <b>answered</b> [1] 90:12  <b>answering</b> [1] 110:2  <b>answers</b> [3] 69:22 87:7,9  <b>anti-Semitic</b> [1] 51:13  <b>anti-Semitism</b> [1] 90:18  <b>anticipate</b> [1] 83:21  <b>anvil</b> [1] 4:14  <b>anybody</b> [1] 12:14  <b>appeals</b> [6] 42:11 49:8 52:  19 58:2 75:9 77:17  <b>appear</b> [2] 43:15 51:19  <b>APPEARANCES</b> [1] 1:17  <b>Appendix</b> [6] 13:3 50:21  52:18,20 62:4 75:7  <b>applicant</b> [13] 7:10,17,22 9:  23 13:5 41:22 61:11 62:2  65:5,22 80:25 109:15 113:  13  <b>applicants</b> [36] 4:8,11,13  12:24 14:5 29:5,6 36:21,  24 42:16 44:3 50:10 51:17  53:16 54:5,10 55:8,9,22  56:1,12 61:5,8,14 63:15  64:16 65:23 66:14 67:7 72:  17 74:5 80:16 81:12,12 91:</p>
---	--	--	--	---

## Official - Subject to Final Review

18 92:7 <b>application</b> [7] 50:8 51:5, 11 60:14 62:7 90:20 108:9 <b>applications</b> [7] 8:2 51:20 53:6 60:9 71:1 73:8 80:14 <b>applied</b> [4] 81:10 89:5 90:10 104:22 <b>applies</b> [1] 72:13 <b>apply</b> [3] 77:18 97:7 108:14 <b>applying</b> [7] 42:12 48:10 77:5 102:11 113:14,25 120:8 <b>appreciate</b> [3] 50:2 69:22 115:5 <b>approach</b> [2] 43:3 50:8 <b>approaches</b> [1] 79:9 <b>appropriate</b> [2] 11:21 108:22 <b>arc</b> [1] 99:14 <b>area</b> [2] 7:18 107:2 <b>arguable</b> [1] 43:13 <b>argue</b> [1] 43:6 <b>argues</b> [2] 23:9 43:1 <b>argument</b> [34] 1:14 2:2,5,8, 12 3:4,8 5:12 9:12,21 20:23,24 25:14 26:4,6 27:5 31:2,4,5,13,15 40:22 43:5, 19 94:23 95:3 100:19 109:21 111:9,19,21 116:19,24, 24 <b>arguments</b> [4] 16:4 29:9 42:5 79:13 <b>Arlington</b> [1] 1:18 <b>around</b> [2] 43:22 101:18 <b>art</b> [4] 46:16,19 76:23 77:7 <b>articulated</b> [1] 47:7 <b>arts</b> [1] 76:25 <b>ascribing</b> [1] 76:21 <b>ashamed</b> [2] 51:1 118:24 <b>Asia</b> [2] 52:8 120:3 <b>Asian</b> [43] 9:2 10:14 12:25 13:24,24 28:22 29:4 35:14 36:14 42:16 51:17,19,21 52:3,5,6,7,11,21 53:16 54:10,16,18 55:24 56:21 57:7 58:4 60:16 63:8,12,14 64:4 66:21 71:15 73:13,14 74:6,15 113:5,14 118:1 119:4, 17 <b>Asians</b> [12] 3:19,21,25 4:3 22:17 56:8 66:4 119:1,8, 24 120:2,3 <b>aside</b> [3] 56:4 65:17,20 <b>asks</b> [1] 93:5 <b>aspect</b> [2] 8:13 91:3 <b>aspects</b> [1] 8:15 <b>aspire</b> [1] 95:8 <b>assess</b> [1] 106:17 <b>assigned</b> [1] 57:8 <b>assist</b> [1] 80:10 <b>assume</b> [4] 16:15 19:4 45:19 79:15 <b>assumed</b> [4] 3:12,18 4:7, 18	<b>assumes</b> [1] 62:25 <b>assumption</b> [2] 78:16 79:4 <b>assumptions</b> [1] 3:17 <b>athlete</b> [2] 65:13,14 <b>athletes</b> [2] 44:15 45:25 <b>athletic</b> [2] 58:24 65:12 <b>attempting</b> [5] 66:12 68:14 82:11,16 91:17 <b>attempts</b> [1] 42:1 <b>attend</b> [1] 80:17 <b>attended</b> [1] 41:23 <b>attention</b> [6] 14:14 18:6,9 60:12 62:4 111:9 <b>attractive</b> [1] 91:1 <b>attributable</b> [2] 119:22,22 <b>attributes</b> [1] 9:25 <b>automatic</b> [1] 107:2 <b>automatically</b> [1] 108:10 <b>available</b> [1] 43:2 <b>average</b> [3] 56:2 60:17 73:13 <b>averages</b> [1] 38:7 <b>award</b> [1] 13:4 <b>awards</b> [1] 107:3 <b>aware</b> [3] 21:3,5 83:24 <b>away</b> [1] 62:12	67:21,21 84:20 99:1 107:15 111:25 117:7 <b>baseline</b> [2] 87:20 88:7 <b>basically</b> [2] 37:6 75:12 <b>basis</b> [16] 10:22,23 14:23 16:11 17:3,15 23:6 42:20 59:8 63:1 82:20 84:1 104:24 112:7,9 114:22 <b>bear</b> [1] 77:21 <b>bears</b> [1] 51:7 <b>beautiful</b> [2] 62:5 80:21 <b>become</b> [2] 79:2 103:2 <b>behalf</b> [11] 1:19,20 2:4,7,14 3:9 7:22 40:23 96:20 102:2 116:20 <b>belief</b> [1] 21:7 <b>beliefs</b> [1] 93:15 <b>believe</b> [12] 10:25 17:11 20:6,17 25:24 28:1 30:10 37:18 68:9 89:9 112:25 119:18 <b>below</b> [6] 26:8 56:8,9,10 65:15 114:12 <b>beneficiaries</b> [1] 117:2 <b>benefit</b> [11] 15:7,13,25 16:2,9 52:12 61:19 91:17 100:24 112:8,12 <b>benefited</b> [1] 6:9 <b>benefits</b> [20] 7:5 17:21,22 20:3 28:4 32:16,20 34:13, 21 35:16 36:5 41:5 82:12, 18 93:8,18 95:17 96:25 110:19 116:6 <b>Berkeley</b> [6] 34:18,18 106:6 110:8,14,21 <b>Berkeley's</b> [1] 109:22 <b>Besides</b> [1] 24:6 <b>best</b> [4] 5:16 6:15 91:20,22 <b>better</b> [4] 23:5 55:25 56:15 96:6 <b>between</b> [10] 16:8 21:12 56:7 57:7 75:25 111:22 112:5 113:6 114:7 119:4 <b>beyond</b> [3] 26:16 91:8 115:12 <b>big</b> [2] 29:5 33:4 <b>bill</b> [1] 70:11 <b>binds</b> [1] 19:5 <b>birth</b> [1] 44:13 <b>bit</b> [1] 23:5 <b>black</b> [16] 6:22 8:25 10:14 11:5 12:23 22:24 29:5 30:24,25 35:19 36:14 62:2 68:20,23 109:25 118:11 <b>blacks</b> [7] 6:9 12:20 13:17 14:4 20:4 21:1 22:22 <b>blank</b> [2] 35:5 50:15 <b>blanket</b> [1] 95:11 <b>blind</b> [3] 17:9 19:18 41:21 <b>bodies</b> [1] 101:16 <b>body</b> [12] 31:21 34:20 41:3, 9 70:21 82:13 85:19 97:1 105:18 106:23 107:10 116:6	<b>book</b> [3] 17:8 69:4,4 <b>boost</b> [2] 4:23 30:20 <b>born</b> [2] 120:4,7 <b>borne</b> [2] 40:16 41:14 <b>both</b> [11] 4:24 5:7 11:20 49:7 50:20,23 60:2 65:24,25 94:6 120:12 <b>box</b> [7] 4:10,14 7:8 8:10 12:6,13 13:5 <b>bracket</b> [1] 105:9 <b>break</b> [1] 36:12 <b>brief</b> [12] 5:17 6:20 34:1 63:24 70:4,6,22 93:24 105:23 110:11 111:5 113:3 <b>briefs</b> [9] 14:15 16:22 33:4, 9 50:7 51:16,24 52:2 111:3 <b>bring</b> [4] 7:17 67:23 91:19 112:10 <b>brings</b> [1] 67:22 <b>broad</b> [1] 61:7 <b>broad-based</b> [1] 24:1 <b>broader</b> [1] 31:3 <b>broken</b> [1] 41:6 <b>Brown</b> [6] 5:18 40:11 111:6,23 115:6 118:21 <b>bubble</b> [1] 66:17 <b>built</b> [1] 20:8 <b>bunch</b> [1] 81:24 <b>burden</b> [2] 32:10 99:21 <b>Bureau</b> [5] 14:16,20 15:4, 14 16:21 <b>business</b> [1] 96:3 <b>Businesses</b> [2] 30:2 41:10	20 104:19,24 105:11,15 109:7,19 110:13 111:3 112:6 116:9 120:12,14 <b>cases</b> [4] 6:3 29:21 66:25 120:12 <b>categories</b> [1] 64:24 <b>categorizations</b> [1] 88:21 <b>category</b> [1] 65:23 <b>Catholics</b> [1] 86:9 <b>cause</b> [2] 95:12 117:6 <b>causes</b> [1] 21:20 <b>caveats</b> [1] 45:6 <b>certain</b> [1] 81:3 <b>certainly</b> [9] 20:14 29:13, 21 40:6 42:15 51:25 74:11 90:9 105:16 <b>cetera</b> [2] 88:17,18 <b>challenge</b> [1] 117:12 <b>challenges</b> [1] 27:9 <b>championed</b> [1] 70:12 <b>championship</b> [1] 4:17 <b>chance</b> [1] 115:14 <b>change</b> [7] 103:7,20,21 116:4 117:8 118:4,5 <b>changed</b> [2] 90:24 92:13 <b>changes</b> [6] 4:24 90:6 102:1 103:16 104:2 116:12 <b>changing</b> [1] 84:11 <b>chaplains</b> [1] 87:8 <b>character</b> [4] 47:11 51:6 53:14 90:7 <b>characteristics</b> [1] 65:4 <b>characterization</b> [3] 31:14 33:8 115:16 <b>charge</b> [1] 15:4 <b>chart</b> [8] 62:5 64:9,10,14, 18,18 80:21 97:4 <b>charts</b> [2] 63:20,24 <b>check</b> [4] 4:11 7:8 8:10 13:4 <b>checking</b> [2] 4:14 12:13 <b>checks</b> [1] 61:18 <b>CHIEF</b> [48] 3:3,10 7:6,23 8:12 38:23 39:2,4,22 40:19, 24 58:9 60:24 61:2,10,22 62:11,16,20 63:3,6,19,23 64:2,23 65:16,20 66:9,23 67:3,12,15 69:17,21 71:8 78:3 83:13 85:24 90:14 94:18,21 95:1 110:22 112:21 115:3 116:15,21 120:11 <b>children</b> [10] 23:13,15 44:14,14 45:24 46:2 48:1 96:19 102:19 112:2 <b>choose</b> [1] 8:20 <b>chose</b> [1] 70:1 <b>Christians</b> [1] 86:9 <b>Circuit</b> [1] 104:20 <b>circumstance</b> [1] 46:5 <b>circumstances</b> [1] 81:13 <b>cite</b> [4] 6:24 17:7,10 52:7 <b>cited</b> [1] 6:20 <b>cites</b> [2] 7:1 17:4 <b>citing</b> [1] 52:17
---	--	---	---	---

## Official - Subject to Final Review

<p><b>Civil</b> <sup>[10]</sup> 5:24,25 14:24 16:25 19:11 50:22 67:13,16 70:24 74:17</p> <p><b>claiming</b> <sup>[3]</sup> 46:7,13,23</p> <p><b>claims</b> <sup>[2]</sup> 46:22 71:14</p> <p><b>class</b> <sup>[28]</sup> 11:7 23:13 27:7 36:11 43:9 44:21 50:24 56:2 64:17 65:13,14,18 68:5,5,14,16 69:5 75:23 80:25,25 81:9 91:19 92:20 94:7 103:17 104:8,12 108:25</p> <p><b>classification</b> <sup>[8]</sup> 9:10 16:11,17 17:22 25:5 28:3 29:15 37:25</p> <p><b>classifications</b> <sup>[13]</sup> 5:6,21 6:8,10 14:22,22 18:12,16 26:23 37:23 100:21 111:14 117:1</p> <p><b>classroom</b> <sup>[1]</sup> 100:24</p> <p><b>clear</b> <sup>[20]</sup> 12:13 13:22 14:3 21:11 56:18 58:21,22 96:20 97:9 102:1,12 103:13 106:24 108:7,8,21 109:7 114:23 115:1,24</p> <p><b>clearer</b> <sup>[1]</sup> 17:21</p> <p><b>clearly</b> <sup>[5]</sup> 79:11,14 102:7 114:19,20</p> <p><b>clerks</b> <sup>[4]</sup> 28:10,17,18,20</p> <p><b>clerkship</b> <sup>[2]</sup> 28:11 29:16</p> <p><b>clings</b> <sup>[1]</sup> 42:20</p> <p><b>clock</b> <sup>[1]</sup> 116:11</p> <p><b>close</b> <sup>[4]</sup> 61:14 62:18 110:9 118:20</p> <p><b>closer</b> <sup>[4]</sup> 79:20 94:3,5 96:9</p> <p><b>code</b> <sup>[1]</sup> 119:24</p> <p><b>cohesive</b> <sup>[1]</sup> 41:13</p> <p><b>colleague</b> <sup>[1]</sup> 25:4</p> <p><b>collecting</b> <sup>[1]</sup> 27:6</p> <p><b>COLLEGE</b> <sup>[12]</sup> 1:7 3:6 21:6 30:14 51:19 70:24 95:19 97:17,24 101:13,18 120:8</p> <p><b>colleges</b> <sup>[5]</sup> 51:21 70:5 88:9 95:10 101:14</p> <p><b>color</b> <sup>[4]</sup> 17:9 19:18 66:7 67:21</p> <p><b>color-blind</b> <sup>[1]</sup> 6:2</p> <p><b>come</b> <sup>[4]</sup> 32:12 48:24 56:6 73:10</p> <p><b>comes</b> <sup>[3]</sup> 59:1 100:24 106:21</p> <p><b>comfortable</b> <sup>[1]</sup> 61:16</p> <p><b>comment</b> <sup>[1]</sup> 48:20</p> <p><b>committed</b> <sup>[2]</sup> 81:7 82:23</p> <p><b>Committee</b> <sup>[7]</sup> 49:5 51:10 80:5 83:4 91:16,21 93:2</p> <p><b>committee's</b> <sup>[1]</sup> 75:10</p> <p><b>committees</b> <sup>[1]</sup> 59:7</p> <p><b>community</b> <sup>[2]</sup> 27:24 96:3</p> <p><b>comparative</b> <sup>[1]</sup> 64:3</p> <p><b>comparison</b> <sup>[1]</sup> 114:7</p> <p><b>compelling</b> <sup>[25]</sup> 23:9,20,25 24:1,12,21 25:4 27:6 30:13 46:14,15,17,19 47:</p>	<p>20 68:18 76:16 77:25 82:11 99:2,6,7 100:23 101:3 106:21 108:22</p> <p><b>compels</b> <sup>[1]</sup> 111:6</p> <p><b>competing</b> <sup>[1]</sup> 36:21</p> <p><b>competitive</b> <sup>[2]</sup> 4:13 41:11</p> <p><b>complaint</b> <sup>[1]</sup> 63:11</p> <p><b>complete</b> <sup>[1]</sup> 59:2</p> <p><b>completely</b> <sup>[3]</sup> 69:12 82:6 109:18</p> <p><b>comply</b> <sup>[1]</sup> 118:21</p> <p><b>comprehensive</b> <sup>[1]</sup> 93:4</p> <p><b>comprising</b> <sup>[1]</sup> 41:3</p> <p><b>concede</b> <sup>[2]</sup> 66:24 67:2</p> <p><b>concern</b> <sup>[3]</sup> 67:18 77:1,4</p> <p><b>concerned</b> <sup>[3]</sup> 18:16 29:13 61:12</p> <p><b>concerns</b> <sup>[4]</sup> 97:6 99:12,18 102:10</p> <p><b>concluded</b> <sup>[1]</sup> 58:2</p> <p><b>confidence</b> <sup>[1]</sup> 119:6</p> <p><b>confident</b> <sup>[1]</sup> 4:1</p> <p><b>confines</b> <sup>[1]</sup> 87:21</p> <p><b>confirm</b> <sup>[2]</sup> 41:2 76:12</p> <p><b>confirming</b> <sup>[1]</sup> 42:21</p> <p><b>confluence</b> <sup>[1]</sup> 76:10</p> <p><b>confront</b> <sup>[1]</sup> 7:11</p> <p><b>confronted</b> <sup>[1]</sup> 111:23</p> <p><b>confronting</b> <sup>[1]</sup> 8:14</p> <p><b>confused</b> <sup>[1]</sup> 10:19</p> <p><b>Congress</b> <sup>[5]</sup> 14:17 15:2 16:19 18:13 20:13</p> <p><b>connected</b> <sup>[1]</sup> 82:9</p> <p><b>conscious</b> <sup>[1]</sup> 80:1</p> <p><b>consciousness</b> <sup>[7]</sup> 19:14,25 21:8 34:16 42:22 46:4 117:3</p> <p><b>consequences</b> <sup>[3]</sup> 76:11 95:6,21</p> <p><b>conservatives</b> <sup>[1]</sup> 24:8</p> <p><b>consider</b> <sup>[14]</sup> 4:19 10:12,12 11:16,17,22 12:2 23:3 36:19 44:19 51:20 65:6 97:3 117:17</p> <p><b>considerable</b> <sup>[1]</sup> 67:18</p> <p><b>consideration</b> <sup>[6]</sup> 7:10,15 8:24 12:3 87:23 88:8</p> <p><b>considered</b> <sup>[6]</sup> 10:24 32:14 42:8 59:6 77:25 118:14</p> <p><b>considering</b> <sup>[5]</sup> 37:19 44:23,25 56:23 98:20</p> <p><b>considers</b> <sup>[2]</sup> 52:13 65:5</p> <p><b>consistent</b> <sup>[4]</sup> 14:17,20 52:24 88:24</p> <p><b>consistently</b> <sup>[2]</sup> 41:19 119:7</p> <p><b>constitutes</b> <sup>[1]</sup> 110:3</p> <p><b>constitutional</b> <sup>[6]</sup> 7:2 42:3 43:16 47:21 77:23 95:4</p> <p><b>constitutionality</b> <sup>[1]</sup> 42:21</p> <p><b>constitutionalize</b> <sup>[1]</sup> 5:24</p> <p><b>consult</b> <sup>[1]</sup> 32:21</p> <p><b>contains</b> <sup>[1]</sup> 93:1</p>	<p><b>context</b> <sup>[5]</sup> 85:13 97:10 103:11,12 105:1</p> <p><b>continual</b> <sup>[1]</sup> 97:11</p> <p><b>continue</b> <sup>[2]</sup> 82:25 84:1</p> <p><b>continues</b> <sup>[1]</sup> 3:20</p> <p><b>continuing</b> <sup>[1]</sup> 17:14</p> <p><b>contradiction</b> <sup>[1]</sup> 118:12</p> <p><b>contrary</b> <sup>[1]</sup> 109:18</p> <p><b>contribute</b> <sup>[1]</sup> 66:3</p> <p><b>contributions</b> <sup>[1]</sup> 77:10</p> <p><b>convincing</b> <sup>[1]</sup> 52:24</p> <p><b>core</b> <sup>[2]</sup> 3:17 95:25</p> <p><b>corporate</b> <sup>[3]</sup> 96:2 98:2,3</p> <p><b>correct</b> <sup>[2]</sup> 11:22,23 15:9 16:2,6,7 20:5 44:5 57:10 71:18,21 72:14,18,19,23,25 73:2,3,24 86:5 102:22</p> <p><b>corroborates</b> <sup>[1]</sup> 56:25</p> <p><b>corrosive</b> <sup>[1]</sup> 101:1</p> <p><b>corrupted</b> <sup>[1]</sup> 71:21</p> <p><b>cosmetic</b> <sup>[1]</sup> 117:8</p> <p><b>cost</b> <sup>[1]</sup> 100:25</p> <p><b>couldn't</b> <sup>[4]</sup> 35:24 44:19 54:24 119:12</p> <p><b>Counsel</b> <sup>[12]</sup> 14:10 36:6 38:24 40:20 60:25 61:1 71:10 78:22 94:19 109:21 110:7 120:12</p> <p><b>counsellor</b> <sup>[1]</sup> 74:9</p> <p><b>counselor</b> <sup>[2]</sup> 55:3 56:5 81:14</p> <p><b>Count</b> <sup>[1]</sup> 63:10</p> <p><b>countenance</b> <sup>[2]</sup> 107:22 114:25</p> <p><b>country</b> <sup>[8]</sup> 3:21 21:13,15,21 34:23 41:16,24 70:14</p> <p><b>County</b> <sup>[2]</sup> 17:23 18:3</p> <p><b>couple</b> <sup>[1]</sup> 27:2</p> <p><b>coupled</b> <sup>[1]</sup> 104:8</p> <p><b>courage</b> <sup>[2]</sup> 53:15,21</p> <p><b>course</b> <sup>[7]</sup> 48:3,5 52:8 61:9 72:15 90:3 97:24</p> <p><b>COURT</b> <sup>[103]</sup> 1:1,14 3:11,14 5:3 6:4,6 12:12 13:2,11,15,23 15:17 19:16 20:20 22:5 23:11,18 30:11 40:10,25 41:2,19 42:8,11 47:6,7 48:15,25,25 49:8 52:17,19 56:16,21,23 57:5 58:1,2 59:10 73:23 74:13,22 75:5,6,9,12,21 76:11 77:17,17,24 88:25 90:10 95:2,3 96:11 97:6,7,9 98:10,12,13 99:1,4,16,17,25 102:10,12,17 103:11,13 104:3,17,22 105:22 106:22,24 107:8 108:7,12,13,19,21 109:11,17 111:23 112:2 114:7,16,18,20 115:1,18,23,24 116:1,4 117:10 118:20 119:18</p> <p><b>Court's</b> <sup>[16]</sup> 16:12 28:13 42:23 62:3 75:8 82:7 83:10 90:1,8 95:6 102:25 107:</p>	<p>21 113:22 114:24 115:8,16</p> <p><b>courts</b> <sup>[3]</sup> 51:14 60:2 102:10</p> <p><b>cover</b> <sup>[1]</sup> 61:7</p> <p><b>created</b> <sup>[1]</sup> 54:23</p> <p><b>creates</b> <sup>[1]</sup> 107:1</p> <p><b>creative</b> <sup>[1]</sup> 41:11</p> <p><b>credible</b> <sup>[1]</sup> 56:24</p> <p><b>credit</b> <sup>[5]</sup> 8:25 9:2 10:15,15 67:21</p> <p><b>crew</b> <sup>[1]</sup> 46:1</p> <p><b>criteria</b> <sup>[7]</sup> 25:13,14,16 26:19,20 28:19 71:16</p> <p><b>critical</b> <sup>[2]</sup> 41:7 96:1</p> <p><b>criticism</b> <sup>[1]</sup> 72:2</p> <p><b>criticized</b> <sup>[1]</sup> 37:24</p> <p><b>criticizes</b> <sup>[1]</sup> 38:1</p> <p><b>Croson</b> <sup>[2]</sup> 9:10 117:11</p> <p><b>cross-racial</b> <sup>[1]</sup> 34:17</p> <p><b>Crow</b> <sup>[2]</sup> 17:2 18:18</p> <p><b>Crowsa</b> <sup>[1]</sup> 18:22</p> <p><b>cultural</b> <sup>[1]</sup> 9:25</p> <p><b>culture</b> <sup>[1]</sup> 10:9</p> <p><b>curiae</b> <sup>[3]</sup> 1:24 2:11 94:24</p> <p><b>curious</b> <sup>[1]</sup> 32:7</p> <p><b>current</b> <sup>[2]</sup> 42:17 51:8</p> <p><b>currently</b> <sup>[3]</sup> 84:20 87:6 99:23</p> <p><b>cut</b> <sup>[2]</sup> 73:19,20</p> <hr/> <p><b>D</b></p> <p><b>D.C</b> <sup>[3]</sup> 1:10,20,23</p> <p><b>dangerous</b> <sup>[1]</sup> 101:1</p> <p><b>darn</b> <sup>[1]</sup> 93:22</p> <p><b>Dartmouth</b> <sup>[2]</sup> 38:13,14</p> <p><b>data</b> <sup>[6]</sup> 36:1 44:17 60:21 82:21 84:20 108:16</p> <p><b>date</b> <sup>[1]</sup> 85:11</p> <p><b>day</b> <sup>[2]</sup> 117:4 118:25</p> <p><b>de</b> <sup>[6]</sup> 20:8,12,14 21:3,10,19</p> <p><b>deal</b> <sup>[3]</sup> 7:17 74:20 110:2</p> <p><b>Dean</b> <sup>[3]</sup> 32:23 80:5 94:12</p> <p><b>dean's</b> <sup>[1]</sup> 44:16</p> <p><b>debate</b> <sup>[1]</sup> 13:21</p> <p><b>decades</b> <sup>[4]</sup> 42:20 77:23 79:25 80:23</p> <p><b>decided</b> <sup>[3]</sup> 48:14 51:3 93:25</p> <p><b>decides</b> <sup>[1]</sup> 51:10</p> <p><b>decile</b> <sup>[1]</sup> 64:3</p> <p><b>decision</b> <sup>[5]</sup> 28:13 81:6 95:7 99:1 102:12</p> <p><b>decisions</b> <sup>[6]</sup> 12:10 28:11 42:14 59:9 114:2 119:17</p> <p><b>declare</b> <sup>[1]</sup> 39:19</p> <p><b>declared</b> <sup>[1]</sup> 73:10</p> <p><b>decline</b> <sup>[8]</sup> 75:17,18 104:5 110:15 117:23,23 118:2,11</p> <p><b>declines</b> <sup>[2]</sup> 24:2 106:8</p> <p><b>decrease</b> <sup>[3]</sup> 35:14,19,20</p> <p><b>decreased</b> <sup>[1]</sup> 40:8</p> <p><b>deemed</b> <sup>[1]</sup> 46:3</p> <p><b>defend</b> <sup>[1]</sup> 117:21</p>	<p><b>deferred</b> <sup>[1]</sup> 23:11</p> <p><b>deferring</b> <sup>[1]</sup> 23:19</p> <p><b>define</b> <sup>[1]</sup> 11:3</p> <p><b>defined</b> <sup>[1]</sup> 107:8</p> <p><b>definitely</b> <sup>[1]</sup> 94:5</p> <p><b>definition</b> <sup>[1]</sup> 57:19</p> <p><b>definitive</b> <sup>[1]</sup> 74:14</p> <p><b>degree</b> <sup>[1]</sup> 53:22</p> <p><b>delays</b> <sup>[1]</sup> 117:3</p> <p><b>deleted</b> <sup>[1]</sup> 8:6</p> <p><b>deliberate</b> <sup>[1]</sup> 40:12</p> <p><b>delivering</b> <sup>[1]</sup> 96:5</p> <p><b>delta</b> <sup>[1]</sup> 36:4</p> <p><b>demonstrably</b> <sup>[1]</sup> 52:11</p> <p><b>denied</b> <sup>[2]</sup> 15:4 95:17</p> <p><b>denominations</b> <sup>[1]</sup> 87:16</p> <p><b>Department</b> <sup>[2]</sup> 1:23 27:23</p> <p><b>depend</b> <sup>[1]</sup> 16:16</p> <p><b>dependent</b> <sup>[1]</sup> 92:17</p> <p><b>depends</b> <sup>[1]</sup> 41:16</p> <p><b>derive</b> <sup>[1]</sup> 107:9</p> <p><b>descendants</b> <sup>[2]</sup> 15:8 16:2</p> <p><b>described</b> <sup>[1]</sup> 92:5</p> <p><b>describing</b> <sup>[1]</sup> 114:9</p> <p><b>description</b> <sup>[2]</sup> 70:17 115:18</p> <p><b>descriptive</b> <sup>[1]</sup> 64:11</p> <p><b>deserve</b> <sup>[2]</sup> 119:8,24</p> <p><b>designed</b> <sup>[2]</sup> 111:24 112:10</p> <p><b>despite</b> <sup>[1]</sup> 105:25</p> <p><b>destabilizing</b> <sup>[2]</sup> 96:12 98:14</p> <p><b>detail</b> <sup>[2]</sup> 50:15 110:13</p> <p><b>detailed</b> <sup>[3]</sup> 25:21 42:9 44:8</p> <p><b>details</b> <sup>[1]</sup> 5:18</p> <p><b>determinative</b> <sup>[5]</sup> 13:16 14:4,5 67:1,8</p> <p><b>determine</b> <sup>[1]</sup> 85:15</p> <p><b>determined</b> <sup>[1]</sup> 116:10</p> <p><b>determining</b> <sup>[1]</sup> 67:4</p> <p><b>devastating</b> <sup>[1]</sup> 96:8</p> <p><b>developed</b> <sup>[1]</sup> 60:13</p> <p><b>deviations</b> <sup>[1]</sup> 65:15</p> <p><b>difference</b> <sup>[12]</sup> 16:8 48:8 59:15,20,23,23,25 81:2,4 95:16 111:22 112:5</p> <p><b>different</b> <sup>[15]</sup> 10:6,20 15:15 21:20 37:21 43:4 64:24,25 65:3 66:2 68:21 69:12 87:16 93:12,16</p> <p><b>differently</b> <sup>[2]</sup> 20:15 117:7</p> <p><b>difficult</b> <sup>[1]</sup> 81:22</p> <p><b>dimension</b> <sup>[4]</sup> 49:2 75:16 78:21 92:21</p> <p><b>dimensions</b> <sup>[8]</sup> 27:7,8 31:22 66:15,16 69:2 91:8 107:10</p> <p><b>direct</b> <sup>[1]</sup> 62:3</p> <p><b>directed</b> <sup>[2]</sup> 19:12,13</p> <p><b>directly</b> <sup>[4]</sup> 16:14 17:16 102:25 106:21</p>
---	---	---	--	---

## Official - Subject to Final Review

<p><b>disabilities</b> <sup>[1]</sup> 9:19</p> <p><b>disadvantaging</b> <sup>[1]</sup> 81:11</p> <p><b>disagree</b> <sup>[3]</sup> 4:2 26:7 32:5</p> <p><b>disclaiming</b> <sup>[1]</sup> 47:1</p> <p><b>discovered</b> <sup>[1]</sup> 8:1</p> <p><b>discovery</b> <sup>[2]</sup> 42:7 53:5</p> <p><b>discriminate</b> <sup>[7]</sup> 10:22,23 17:15 18:19 42:16 84:1 119:19</p> <p><b>discriminated</b> <sup>[2]</sup> 17:2 53:10</p> <p><b>discriminating</b> <sup>[5]</sup> 26:10 63:1,12 71:15 74:12</p> <p><b>discrimination</b> <sup>[42]</sup> 3:21 6:1 7:12,18 8:14 9:2,4,9,16 10:20 11:3,10 17:11,19 19:22 20:8,12 21:1 52:21,25 55:24 57:1,18,20,23,24 58:3 59:12 60:19 62:21 63:8, 17 64:12 67:16 73:2,24 74:1, 15,15 111:13 115:9 118:25</p> <p><b>discuss</b> <sup>[1]</sup> 111:18</p> <p><b>discussed</b> <sup>[4]</sup> 50:14 68:9, 24 80:4</p> <p><b>discussing</b> <sup>[1]</sup> 115:25</p> <p><b>discussion</b> <sup>[6]</sup> 14:15 39:9 49:6 51:11 69:7,15</p> <p><b>disguise</b> <sup>[2]</sup> 37:24 38:1</p> <p><b>dismantle</b> <sup>[1]</sup> 42:20</p> <p><b>disparate</b> <sup>[1]</sup> 86:7</p> <p><b>disparities</b> <sup>[1]</sup> 23:5</p> <p><b>disparity</b> <sup>[8]</sup> 54:15,17 55:13 56:7 59:11 64:5 119:13, 16</p> <p><b>dispense</b> <sup>[1]</sup> 77:22</p> <p><b>display</b> <sup>[1]</sup> 56:20</p> <p><b>displayed</b> <sup>[1]</sup> 64:15</p> <p><b>displaying</b> <sup>[1]</sup> 65:7</p> <p><b>dispute</b> <sup>[1]</sup> 33:8</p> <p><b>distinguish</b> <sup>[1]</sup> 28:15</p> <p><b>district</b> <sup>[36]</sup> 12:12 13:2,11, 15,23 22:4 48:9,10,15,25 49:8 52:16 56:23 57:5 58:1 73:23 74:13,22 75:6,8,12 76:11 77:16 83:10 90:10 104:3,17,21 108:19 109:10, 17 113:22 114:7,16,18 119:18</p> <p><b>districts</b> <sup>[1]</sup> 21:16</p> <p><b>distrust</b> <sup>[1]</sup> 18:24</p> <p><b>diverse</b> <sup>[41]</sup> 23:12 24:6,11, 25 27:6,14,16,24,25 28:9, 17,20 30:4 31:21 34:10,20 41:17 43:8,11,14 50:18 68:4, 5,15,16 82:12 87:5 92:20 94:8 95:18,25 96:25 97:14 98:5,6 100:24 101:16 105:18 107:10 110:8 112:12</p> <p><b>diversify</b> <sup>[1]</sup> 50:23</p> <p><b>diversity</b> <sup>[86]</sup> 7:5 19:7 23:10 24:2,4,22,23 25:2,6 26:18 27:18 28:5 29:10,19 30:13, 14,19,23,23 31:9 32:16,</p>	<p>20,25 33:7 34:13 35:11 36:5, 23 37:7,15,18 41:9,20 43:24 44:20 46:3 50:11,17 61:12 66:3 67:22,23 68:2 69:3 70:21,25 78:10,14 79:10, 19 80:2,3,24 82:17,18 85:19 86:4,10,11,14,15 87:4 89:14 91:7 93:18 95:13 96:2, 4,10,24 98:8 99:5 102:20 105:8,10 106:2,8,8,12,12, 16,23,25 108:14 110:19 116:6</p> <p><b>doctors</b> <sup>[2]</sup> 27:16,19</p> <p><b>doctrine</b> <sup>[1]</sup> 111:24</p> <p><b>doing</b> <sup>[13]</sup> 4:3,3 6:25 37:17 78:18,23 79:19 82:3,17 83:3 92:6 102:21,21</p> <p><b>done</b> <sup>[9]</sup> 25:11 33:5 50:17 54:4 55:13 70:9 82:1,18, 19</p> <p><b>donor</b> <sup>[1]</sup> 48:1</p> <p><b>donors</b> <sup>[4]</sup> 23:13 46:15 96:18 102:19</p> <p><b>donors'</b> <sup>[1]</sup> 45:24</p> <p><b>door</b> <sup>[1]</sup> 50:11</p> <p><b>doubt</b> <sup>[2]</sup> 50:25 66:13</p> <p><b>down</b> <sup>[12]</sup> 9:19 41:6 44:21 49:12,21 58:25 75:24,25 76:7,9 79:16 110:16</p> <p><b>dozen</b> <sup>[1]</sup> 30:1</p> <p><b>drafters</b> <sup>[1]</sup> 18:14</p> <p><b>drafting</b> <sup>[1]</sup> 14:11</p> <p><b>dramatic</b> <sup>[3]</sup> 103:2,16 106:7</p> <p><b>dramatically</b> <sup>[2]</sup> 77:1 113:1</p> <p><b>draw</b> <sup>[1]</sup> 14:21</p> <p><b>drawing</b> <sup>[2]</sup> 16:17 114:7</p> <p><b>drawn</b> <sup>[1]</sup> 103:11</p> <p><b>dropping</b> <sup>[1]</sup> 100:12</p> <p><b>drops</b> <sup>[2]</sup> 24:3 103:3</p> <p><b>due</b> <sup>[2]</sup> 54:2 116:4</p> <p><b>durational</b> <sup>[5]</sup> 85:14 88:2,3, 11,22</p> <hr/> <p style="text-align: center;"><b>E</b></p> <hr/> <p><b>each</b> <sup>[4]</sup> 51:10 91:23 94:15 109:13</p> <p><b>earlier</b> <sup>[5]</sup> 8:17 9:12 23:15 100:19 109:21</p> <p><b>earliest</b> <sup>[1]</sup> 6:3</p> <p><b>early</b> <sup>[5]</sup> 74:18 81:5,6,10,10</p> <p><b>economic</b> <sup>[1]</sup> 30:3</p> <p><b>economically</b> <sup>[1]</sup> 35:10</p> <p><b>education</b> <sup>[7]</sup> 5:6 20:20 40:11 47:11 85:14 99:6 115:9</p> <p><b>educational</b> <sup>[23]</sup> 7:5 28:4 32:15,19 34:13,21 36:5 80:11 86:3,10 87:24,24 88:9 93:18 95:14,18 96:25 98:7 100:23 107:9 110:19 112:12 117:9</p> <p><b>effect</b> <sup>[3]</sup> 51:6 59:13 70:3</p> <p><b>effective</b> <sup>[4]</sup> 33:7,11 41:12</p>	<p>76:12</p> <p><b>effectively</b> <sup>[1]</sup> 51:21</p> <p><b>effects</b> <sup>[2]</sup> 96:8 97:24</p> <p><b>effort</b> <sup>[3]</sup> 50:23 91:7 105:6</p> <p><b>efforts</b> <sup>[2]</sup> 18:14 96:8</p> <p><b>egregiously</b> <sup>[1]</sup> 42:3</p> <p><b>either</b> <sup>[3]</sup> 12:9 60:22 82:22</p> <p><b>element</b> <sup>[1]</sup> 96:5</p> <p><b>eligible</b> <sup>[1]</sup> 66:5</p> <p><b>eliminate</b> <sup>[5]</sup> 4:22 6:7 22:14 67:16 102:18</p> <p><b>eliminated</b> <sup>[3]</sup> 44:18 55:25 64:15</p> <p><b>eliminating</b> <sup>[3]</sup> 38:4 48:7 96:22</p> <p><b>elite</b> <sup>[2]</sup> 34:11 51:20</p> <p><b>ELIZABETH</b> <sup>[3]</sup> 1:22 2:9 94:23</p> <p><b>elses</b> <sup>[1]</sup> 89:17</p> <p><b>empathy</b> <sup>[2]</sup> 53:15,22</p> <p><b>emphasis</b> <sup>[1]</sup> 102:25</p> <p><b>emphasize</b> <sup>[2]</sup> 42:13 99:18</p> <p><b>emphasized</b> <sup>[2]</sup> 100:19 101:12</p> <p><b>employment</b> <sup>[1]</sup> 97:19</p> <p><b>en</b> <sup>[1]</sup> 51:11</p> <p><b>enable</b> <sup>[1]</sup> 96:23</p> <p><b>encouraging</b> <sup>[1]</sup> 70:25</p> <p><b>end</b> <sup>[14]</sup> 5:13 6:22 7:24,25 17:18 78:7 81:20 83:21 91:25 92:4,8 98:22 100:21</p> <p><b>ended</b> <sup>[1]</sup> 81:17</p> <p><b>endorsed</b> <sup>[1]</sup> 91:2</p> <p><b>endorses</b> <sup>[1]</sup> 82:7</p> <p><b>endowment</b> <sup>[1]</sup> 45:21</p> <p><b>engage</b> <sup>[2]</sup> 42:14 46:4</p> <p><b>engaging</b> <sup>[1]</sup> 109:3</p> <p><b>engineering</b> <sup>[1]</sup> 94:6</p> <p><b>enjoyed</b> <sup>[1]</sup> 41:17</p> <p><b>enormous</b> <sup>[2]</sup> 70:3 112:19</p> <p><b>enough</b> <sup>[5]</sup> 25:12,18 26:3 36:10 40:17</p> <p><b>enrollment</b> <sup>[5]</sup> 22:9 97:14 101:15 104:8 107:7</p> <p><b>enterprise</b> <sup>[1]</sup> 12:17</p> <p><b>entire</b> <sup>[3]</sup> 20:7 51:18 63:13</p> <p><b>entirely</b> <sup>[4]</sup> 11:21 14:19 60:10 66:1</p> <p><b>entities</b> <sup>[2]</sup> 17:12,14</p> <p><b>entitled</b> <sup>[2]</sup> 42:4,5</p> <p><b>environment</b> <sup>[4]</sup> 78:2 95:18 98:7 112:13</p> <p><b>equal</b> <sup>[7]</sup> 9:2 19:4,13,20 36:24 64:11 111:24</p> <p><b>equality</b> <sup>[1]</sup> 118:19</p> <p><b>equally</b> <sup>[2]</sup> 29:7,12</p> <p><b>equivalent</b> <sup>[1]</sup> 112:16</p> <p><b>era</b> <sup>[1]</sup> 17:8</p> <p><b>erroneous</b> <sup>[1]</sup> 114:19</p> <p><b>error</b> <sup>[1]</sup> 114:23</p> <p><b>especially</b> <sup>[3]</sup> 18:15 27:8 100:10</p>	<p><b>ESQ</b> <sup>[4]</sup> 2:3,6,9,13</p> <p><b>ESQUIRE</b> <sup>[2]</sup> 1:18,20</p> <p><b>essay</b> <sup>[5]</sup> 7:11 8:5 9:1,3,23</p> <p><b>essays</b> <sup>[5]</sup> 8:12,18 11:20 12:2 55:5</p> <p><b>essence</b> <sup>[3]</sup> 35:2 91:4 104:14</p> <p><b>essential</b> <sup>[3]</sup> 90:7 96:2,5</p> <p><b>essentially</b> <sup>[3]</sup> 66:15 92:3 111:6</p> <p><b>establish</b> <sup>[2]</sup> 67:20 109:3</p> <p><b>et</b> <sup>[2]</sup> 88:17,17</p> <p><b>ethnic</b> <sup>[5]</sup> 80:3 93:15 94:9 106:25 108:25</p> <p><b>ethnicities</b> <sup>[1]</sup> 52:10</p> <p><b>ethnicity</b> <sup>[2]</sup> 52:6 91:8</p> <p><b>evaluating</b> <sup>[1]</sup> 104:23</p> <p><b>evaluations</b> <sup>[1]</sup> 72:10</p> <p><b>evangelical</b> <sup>[1]</sup> 86:8</p> <p><b>even</b> <sup>[20]</sup> 4:1,11,24 10:2 16:14 17:20 19:3 20:10,11 25:14 31:6 32:22 50:21 55:22 59:12 62:9 64:17 65:8,11 112:8</p> <p><b>eventually</b> <sup>[1]</sup> 99:25</p> <p><b>everybody</b> <sup>[3]</sup> 29:18,20 45:20</p> <p><b>everyone</b> <sup>[3]</sup> 5:22 18:17 19:20</p> <p><b>everything</b> <sup>[2]</sup> 12:17 100:11</p> <p><b>evidence</b> <sup>[36]</sup> 3:15,16 6:11, 12,15 7:4 23:14 25:21 27:18 28:2 32:12,21,22,24 41:1 46:9 48:7 52:15,20 54:1 55:23 56:19,24,25 57:14 58:3 59:12 60:18 63:13,17 64:12 79:24 80:20 84:10 109:1 120:1</p> <p><b>exact</b> <sup>[2]</sup> 19:17 27:10</p> <p><b>exactly</b> <sup>[6]</sup> 100:11 102:23 106:13,16 109:9,23</p> <p><b>example</b> <sup>[12]</sup> 8:16 13:23 43:23 49:9 54:3 68:8,9 69:3 74:5 80:7 82:22 92:24</p> <p><b>examples</b> <sup>[3]</sup> 17:10 101:20 105:3</p> <p><b>exceeds</b> <sup>[1]</sup> 36:11</p> <p><b>excellence</b> <sup>[4]</sup> 38:12 49:10 103:15 104:15</p> <p><b>excellent</b> <sup>[2]</sup> 43:4 76:6</p> <p><b>except</b> <sup>[1]</sup> 88:21</p> <p><b>exception</b> <sup>[2]</sup> 15:17 20:18</p> <p><b>exceptions</b> <sup>[1]</sup> 81:19</p> <p><b>exclude</b> <sup>[2]</sup> 111:25 112:7</p> <p><b>excluded</b> <sup>[1]</sup> 55:21</p> <p><b>exemplar</b> <sup>[1]</sup> 70:14</p> <p><b>exhaustive</b> <sup>[1]</sup> 42:7</p> <p><b>exist</b> <sup>[4]</sup> 99:23 101:3,7 114:9</p> <p><b>existed</b> <sup>[1]</sup> 109:1</p> <p><b>expect</b> <sup>[3]</sup> 34:22 84:11,20</p> <p><b>expectation</b> <sup>[1]</sup> 116:12</p> <p><b>expected</b> <sup>[2]</sup> 116:1,4</p>	<p><b>experience</b> <sup>[11]</sup> 8:14,16 41:14 52:5 69:14 93:11,14 97:23 98:6 118:5 119:9</p> <p><b>experienced</b> <sup>[1]</sup> 110:14</p> <p><b>experiences</b> <sup>[3]</sup> 8:21 41:4 68:18</p> <p><b>experimentation</b> <sup>[1]</sup> 120:9</p> <p><b>expert</b> <sup>[10]</sup> 23:2 35:22 42:9 54:20 57:21 59:21 64:10 72:21 74:2 118:11</p> <p><b>explain</b> <sup>[3]</sup> 4:12 39:13 74:22</p> <p><b>explained</b> <sup>[4]</sup> 95:25 105:24 110:13,17</p> <p><b>explains</b> <sup>[1]</sup> 62:10</p> <p><b>explanation</b> <sup>[4]</sup> 56:6,13,14 57:12</p> <p><b>explication</b> <sup>[1]</sup> 91:15</p> <p><b>explicit</b> <sup>[1]</sup> 26:22</p> <p><b>explore</b> <sup>[1]</sup> 99:21</p> <p><b>exposure</b> <sup>[1]</sup> 41:17</p> <p><b>express</b> <sup>[2]</sup> 8:19,20</p> <p><b>exquisitely</b> <sup>[1]</sup> 44:8</p> <p><b>extend</b> <sup>[2]</sup> 97:18 98:10</p> <p><b>extending</b> <sup>[1]</sup> 115:12</p> <p><b>extensive</b> <sup>[2]</sup> 42:10 49:6</p> <p><b>extent</b> <sup>[7]</sup> 23:18 58:21 70:18 86:24 92:16,18 97:5</p> <p><b>extracurricular</b> <sup>[4]</sup> 36:15 54:19 58:24 104:11</p> <p><b>extracurriculars</b> <sup>[1]</sup> 60:21</p> <p><b>extraordinarily</b> <sup>[2]</sup> 66:16 86:14</p> <p><b>extremely</b> <sup>[1]</sup> 22:8</p> <p><b>extricated</b> <sup>[1]</sup> 10:5</p> <hr/> <p style="text-align: center;"><b>F</b></p> <hr/> <p><b>face</b> <sup>[1]</sup> 3:20</p> <p><b>faced</b> <sup>[1]</sup> 108:13</p> <p><b>faces</b> <sup>[1]</sup> 27:9</p> <p><b>fact</b> <sup>[19]</sup> 7:24 11:8 15:1 43:5, 22 50:23 56:16 59:11 60:16, 19 61:7 62:3 68:13,23, 24 71:2 72:21 99:14 105:9</p> <p><b>factor</b> <sup>[12]</sup> 28:15 37:20,20 49:10 52:13 67:4,8 70:20 75:24 88:17 92:15,17</p> <p><b>factors</b> <sup>[4]</sup> 12:19 13:14 38:8 64:25</p> <p><b>facts</b> <sup>[2]</sup> 42:6 109:11</p> <p><b>factual</b> <sup>[5]</sup> 20:23 87:18 104:19 113:22 114:16</p> <p><b>faculty</b> <sup>[5]</sup> 7:15 44:14 91:21 93:2 96:19</p> <p><b>fades</b> <sup>[1]</sup> 59:7</p> <p><b>fail</b> <sup>[1]</sup> 39:14</p> <p><b>failure</b> <sup>[1]</sup> 39:20</p> <p><b>FAIR</b> <sup>[3]</sup> 1:3 3:4 72:2</p> <p><b>fairly</b> <sup>[3]</sup> 15:18 37:1 71:5</p> <p><b>fall</b> <sup>[1]</sup> 104:7</p> <p><b>falls</b> <sup>[2]</sup> 76:25,25</p> <p><b>false</b> <sup>[1]</sup> 42:19</p> <p><b>familiar</b> <sup>[3]</sup> 49:14,17 50:1</p>
---	--	--	--	--

## Official - Subject to Final Review

<p><b>family</b> [3] 10:4 11:6 41:23  <b>far</b> [6] 4:25 43:11 62:9,12 68:3 87:1  <b>fast</b> [1] 98:19  <b>favor</b> [2] 13:2 46:1  <b>feature</b> [2] 11:8 73:10  <b>federal</b> [9] 5:9 12:1,3 16:22 18:9,25 19:3,5 83:25  <b>Feeney</b> [1] 28:13  <b>FELLOWS</b> [2] 1:6 3:5  <b>female</b> [1] 54:5  <b>fencing</b> [1] 24:2  <b>few</b> [3] 5:11 116:22 117:14  <b>field</b> [1] 27:20  <b>fight</b> [3] 26:23 67:13,15  <b>fighting</b> [1] 26:15  <b>figure</b> [4] 54:23 79:17 89:23 106:14  <b>figures</b> [2] 36:23 109:22  <b>figuring</b> [1] 60:10  <b>file</b> [2] 59:1 60:13  <b>filed</b> [5] 52:3,4 105:23 110:11 117:19  <b>filibuster</b> [1] 58:14  <b>fill</b> [1] 35:4  <b>final</b> [1] 18:5  <b>financial</b> [3] 44:3 80:20,22  <b>find</b> [3] 30:2 59:10 118:8  <b>finding</b> [9] 13:2,10,11 17:13 74:17 83:10 104:19 113:23 114:17  <b>findings</b> [10] 12:13 41:1 42:10,12 44:10 56:15 75:8 77:16 80:6 81:2  <b>fine</b> [1] 85:8  <b>finely</b> [1] 9:14  <b>Finish</b> [7] 9:7 16:21 58:15,15 75:2 86:21 108:3  <b>firm</b> [1] 28:8  <b>firmly</b> [1] 79:21  <b>First</b> [15] 3:18 30:19 43:21 58:25 62:1 64:8 71:12 73:9 78:18 79:23 82:15 86:3 104:20 111:4 116:23  <b>Fisher</b> [6] 21:23,24 22:6 47:8 57:21 90:3  <b>Fitzsimmons</b> [1] 32:23  <b>five</b> [5] 24:3 40:6 81:20 83:5 98:19  <b>five-point</b> [1] 49:12  <b>flexible</b> [1] 88:16  <b>floor</b> [2] 35:23 118:13  <b>Florida</b> [2] 34:4 105:5  <b>flow</b> [1] 103:12  <b>flows</b> [1] 102:25  <b>fluctuation</b> [2] 113:12 114:1  <b>fluctuations</b> [2] 109:12,15  <b>focus</b> [1] 95:5  <b>focused</b> [1] 35:7  <b>follow</b> [1] 49:18  <b>Following</b> [2] 42:7 75:20  <b>force</b> [2] 93:3 101:4  <b>forces</b> [1] 22:13</p>	<p><b>forget</b> [1] 39:11  <b>form</b> [1] 11:9  <b>formed</b> [1] 83:4  <b>former</b> [7] 14:23 15:13 16:1,3,8 20:3 74:8  <b>forms</b> [1] 41:25  <b>formula</b> [1] 64:20  <b>forward</b> [5] 32:12 97:4 98:19 101:21 102:13  <b>found</b> [21] 6:23 13:16,23 22:5 44:15 48:15 49:1 51:14 52:17 56:23 57:5 58:2 60:2 73:23 74:19 75:13,21 79:2 81:20 91:1 104:17  <b>four</b> [6] 39:12 53:5 60:15 84:7 97:23 115:24  <b>Fourteenth</b> [11] 5:15,20,23 6:14,17 14:12 18:8,11,15 47:25,25  <b>framers</b> [1] 5:19  <b>framework</b> [1] 31:7  <b>free</b> [1] 20:3  <b>freed</b> [1] 18:2  <b>Freedmen's</b> [5] 14:16,20 15:4,14 16:21  <b>freshman</b> [1] 24:8  <b>friend</b> [2] 17:3 43:22  <b>friends</b> [1] 117:15  <b>front</b> [3] 50:11 56:20 75:15  <b>full</b> [3] 17:8 18:13 57:11  <b>fully</b> [2] 42:4 105:17  <b>function</b> [1] 97:2  <b>functioned</b> [2] 107:19,20  <b>functions</b> [1] 111:13  <b>funds</b> [2] 5:9 83:25  <b>further</b> [2] 39:5 110:17  <b>future</b> [3] 41:15 95:20 101:21  <b>fuzziness</b> [1] 33:18</p> <hr/> <p style="text-align: center;"><b>G</b></p> <p><b>gave</b> [8] 8:16 17:21,22 20:2 45:23 54:20 69:1,7  <b>gears</b> [1] 50:1  <b>gee</b> [1] 73:11  <b>GEN</b> [3] 1:22 2:9 94:23  <b>General</b> [38] 1:22 31:11 33:13 36:23 53:2 61:6 84:6 94:21 95:1 97:21 98:3,17,25 101:2 102:23 103:4,9,25 104:16 105:14 106:19 107:17,24 108:2,4,18 109:9 110:5,10,23 111:2,20 113:9,21 114:6,15 115:22 116:17  <b>General's</b> [2] 31:17 32:7  <b>generally</b> [1] 51:24  <b>generational</b> [1] 23:7  <b>generations</b> [2] 16:10 68:15  <b>genuine</b> [2] 41:20 70:21  <b>genuinely</b> [2] 68:4 82:12  <b>geography</b> [1] 50:24  <b>get-go</b> [1] 40:14</p>	<p><b>gets</b> [4] 9:13 61:18,19 62:2  <b>getting</b> [9] 3:22 16:9 32:15 47:15 60:8 80:14 94:3,5 119:4  <b>gist</b> [1] 48:22  <b>give</b> [6] 40:4 44:19 82:21 91:13 111:17 115:20  <b>given</b> [10] 18:7,10 27:8 31:20 54:10,11 56:8 73:17 79:12 111:9  <b>gives</b> [6] 3:23 4:9 8:25 53:14 59:4 76:4  <b>giving</b> [1] 29:5  <b>Gladwell</b> [1] 45:22  <b>glaring</b> [1] 110:20  <b>gleaned</b> [1] 33:9  <b>globally</b> [1] 41:10  <b>goal</b> [6] 29:2,3 79:18 107:14,18,19  <b>goals</b> [10] 29:19 78:14 96:24 102:20 105:9,10 106:12,16 107:9 118:18  <b>goods</b> [1] 70:11  <b>GORSUCH</b> [61] 14:10 15:23,25 16:6,20 18:4,21 23:8 45:2,7,10,14,18 46:11,18,21,24 47:3,13,19,24 48:4,13,16,17,19 49:14,17,21,25 51:15 76:15,21 83:15,16,20,23 84:14,17,23,25 85:3,6,17,20,23 89:15 96:14 107:13,23,25 108:3,11 109:5 112:22,23 113:10,17 114:3,10 115:2  <b>Gorsuch's</b> [1] 89:9  <b>got</b> [13] 12:14 21:24 33:15 38:15 40:2 49:22 57:22 60:9,16,20 74:5,6,8  <b>government</b> [3] 18:25 19:5 114:12  <b>government-licensed</b> [2] 17:12,14  <b>GPAs</b> [1] 12:21  <b>grades</b> [1] 64:21  <b>graduate</b> [1] 54:5  <b>graduating</b> [1] 93:5  <b>grant</b> [1] 107:15  <b>granting</b> [1] 67:20  <b>great</b> [8] 25:6 28:19 34:4,24 38:14 61:16 78:24 93:9  <b>greater</b> [3] 109:12 113:11 114:1  <b>greatest</b> [1] 96:11  <b>greatly</b> [1] 86:13  <b>grew</b> [1] 61:15  <b>grievous</b> [1] 112:17  <b>grossly</b> [1] 100:16  <b>ground</b> [1] 95:19  <b>group</b> [12] 3:20 17:22 27:14 34:12 52:8 53:18 54:12,14 74:7 93:2,16 109:13  <b>groups</b> [6] 4:9 86:11 108:25 109:8 112:9 113:25  <b>Groves</b> [1] 61:15</p>	<p><b>growing</b> [1] 7:12  <b>Grutter</b> [43] 3:12,18 4:7,18 5:4,7 24:13 28:6 32:4 33:19 39:9 40:2,16 47:8 57:21 80:7 82:8 83:23 84:10 90:2,21 92:9,10 93:25 96:7 97:16 98:11,21 99:3,8,16,24 100:16,18,25 103:12 106:22 111:7 114:25 115:7,13 116:25 117:17  <b>Grutter's</b> [2] 3:17 31:20  <b>guaranteed</b> [1] 36:9  <b>guardrails</b> [1] 107:1  <b>guess</b> [7] 9:11 12:25 64:8 78:15 104:18 106:10,15  <b>guidance</b> [8] 8:18 55:3 56:5 57:15 74:9 81:14 102:13 106:15</p> <hr/> <p style="text-align: center;"><b>H</b></p> <p><b>half</b> [3] 33:25 44:2 83:17  <b>hand-picked</b> [1] 53:6  <b>happen</b> [1] 86:20  <b>happened</b> [3] 50:8 69:5 80:24  <b>happening</b> [2] 21:9 108:20  <b>happenstance</b> [1] 86:21  <b>hard</b> [6] 19:4 46:8 106:17 108:14 117:15 118:7  <b>hardly</b> [1] 24:11  <b>hardship</b> [1] 84:3  <b>harm</b> [1] 95:10  <b>harms</b> [3] 6:10 112:19 117:1  <b>HARVARD</b> [149] 1:7 3:6,14,15,22,23,25 4:2,9,20,22,25 5:1,1,4 6:24 8:1,6 13:3,17 19:7 20:22 22:13 23:3,8,8 24:5,6,8,8,24 25:15,22 30:18 31:22 32:11,11,17,18 34:8 35:2,4,9 36:1,3,9,16 38:13,13 40:5,7 42:13 43:13,24 50:17,21 51:1,13,25 52:14 53:13 54:10 57:8 60:8 61:5,17,23 62:24,25 63:5,11 65:5,8 67:5 68:2,13 69:16 70:4,9,10,13,17,22,22,24 71:6 74:12 75:16 76:4 77:2 78:18,20,22 79:1,19,25 80:17 81:4 82:1,3,6,6,16,23,23 83:21,25 84:5,14,17,19 85:8,9,10,12 86:4,10,13,22,25,25 87:2,4 89:11 91:10,12,16 92:6,19,22 93:10,24 100:10 103:2,3 104:14 109:11 111:15 113:4,14 117:11,16 118:13,16,21,23 119:2,9,19  <b>Harvard's</b> [30] 6:20 14:8 24:14,23 26:9 32:24 37:24 38:2 42:1 49:3 50:7 51:8 70:1,7,17 71:14 76:5 84:4 85:4,10 90:17,20,22,23 92:2 93:8,13 116:24 119:7</p>	<p><b>120:9</b>  <b>Harvard-Radcliffe</b> [1] 67:10  <b>health</b> [1] 96:6  <b>hear</b> [2] 3:3 31:6  <b>heard</b> [8] 24:15 32:6 36:3 56:6 87:25 95:3 105:3 117:14  <b>heart</b> [2] 84:8 85:12  <b>hearts</b> [1] 112:3  <b>heavy</b> [1] 99:21  <b>held</b> [4] 41:20 70:13 90:25 99:20  <b>help</b> [1] 51:19  <b>helped</b> [2] 83:8 92:19  <b>heritage</b> [2] 10:1,10  <b>high</b> [4] 34:18 41:22 64:21 99:21  <b>higher</b> [11] 12:20,20,24 14:7 22:25 35:24 60:20 85:13 87:24 99:5 115:9  <b>highest</b> [1] 104:10  <b>highly</b> [2] 4:6 67:7  <b>Hispanic</b> [6] 10:14 29:6 35:15 36:14 66:20 109:24  <b>Hispanics</b> [10] 12:20 13:17 14:4 21:2 22:18 25:25 28:23 56:9 64:4 113:18  <b>history</b> [11] 5:19 6:13,14 11:8 14:13 18:22 50:4 71:2 90:17 111:12 118:24  <b>hit</b> [1] 38:2  <b>hold</b> [1] 29:8  <b>holding</b> [3] 90:19 115:8,16  <b>holds</b> [1] 82:10  <b>holistic</b> [5] 12:17 50:8 52:12 70:15 91:3  <b>Honestly</b> [1] 93:22  <b>Honor</b> [3] 13:1 14:20 23:21  <b>hope</b> [1] 118:25  <b>hoping</b> [1] 83:17  <b>horrible</b> [1] 111:12  <b>hospital</b> [1] 27:14  <b>hours</b> [1] 95:3  <b>However</b> [3] 20:22 65:24 84:2  <b>humanities</b> [4] 76:3,7 118:3,8  <b>hundred</b> [1] 71:3  <b>hundreds</b> [2] 56:12,12  <b>hypothetical</b> [8] 26:24 30:17 45:17 46:8 48:22 50:3 65:21 68:20  <b>hypothetically</b> [2] 45:3,3</p> <hr/> <p style="text-align: center;"><b>I</b></p> <p><b>idea</b> [3] 82:9 111:10,11  <b>identical</b> [1] 108:17  <b>identified</b> [1] 20:20  <b>identity</b> [3] 9:24 57:7 68:17  <b>ignore</b> [1] 14:12  <b>Il</b> [2] 21:24 22:6  <b>illegal</b> [1] 115:10  <b>imagine</b> [1] 98:18</p>
---	--	--	--	---

## Official - Subject to Final Review

<p><b>imagined</b> [2] 99:16,25  <b>immediately</b> [1] 6:6  <b>immense</b> [1] 3:20  <b>impact</b> [3] 47:10,16 104:9  <b>impacts</b> [1] 102:5  <b>impede</b> [1] 101:5  <b>imperative</b> [1] 96:1  <b>impermissible</b> [2] 108:20 114:20  <b>impetus</b> [1] 5:23  <b>implement</b> [1] 29:3  <b>implementing</b> [1] 106:1  <b>imply</b> [1] 110:7  <b>importance</b> [4] 32:25 62:7 68:18 69:2  <b>important</b> [18] 10:1,7 11:4 13:7,7 25:18 28:2 29:11 37:8 49:3 67:19 76:24 78:7 79:7 95:22 98:15 102:15 117:25  <b>impose</b> [2] 6:10 50:9  <b>impossible</b> [2] 100:8,15  <b>improper</b> [1] 56:25  <b>improperly</b> [1] 42:13  <b>improved</b> [1] 41:8  <b>inability</b> [1] 76:5  <b>INC</b> [1] 1:3  <b>include</b> [1] 65:1  <b>included</b> [1] 55:20  <b>includes</b> [2] 43:5 62:5  <b>including</b> [5] 27:7 75:16 80:2 94:13 106:3  <b>income</b> [4] 17:25 23:4,7 118:15  <b>incoming</b> [2] 24:7 103:17  <b>inconsistent</b> [1] 14:18  <b>incorrect</b> [1] 15:11  <b>increase</b> [12] 22:17,19,20, 23 35:15,16 45:21 66:6 80:2,19,19 117:3  <b>increased</b> [2] 21:8 80:8  <b>increasing</b> [1] 22:8  <b>incredible</b> [1] 69:13  <b>incumbent</b> [3] 97:3 101:17 109:2  <b>index</b> [5] 64:20,20 65:6,10 74:4  <b>indicate</b> [1] 86:24  <b>indicated</b> [2] 40:6 112:25  <b>indicates</b> [1] 13:6  <b>indistinguishable</b> [1] 61:6  <b>individual</b> [2] 10:16 65:5  <b>individuals</b> [5] 4:8 98:5 109:16 112:10 113:25  <b>industry</b> [2] 51:18 98:15  <b>inequality</b> [1] 20:5  <b>inference</b> [1] 74:12  <b>inferiority</b> [1] 112:1  <b>inflexible</b> [2] 107:19 116:11  <b>inflexibly</b> [1] 108:10  <b>influences</b> [1] 4:12  <b>injured</b> [1] 17:24</p>	<p><b>innovation</b> [1] 96:5  <b>innovative</b> [1] 41:10  <b>input</b> [1] 72:23  <b>insignificant</b> [2] 103:8,22  <b>insistent</b> [1] 92:9  <b>instances</b> [1] 66:20  <b>instead</b> [5] 23:4 39:21 107:8 116:11 118:15  <b>institution</b> [3] 34:11 47:11 95:23  <b>institutions</b> [4] 27:11 29:12 95:14 105:17  <b>instruction</b> [1] 8:7  <b>insubstantial</b> [1] 51:14  <b>integral</b> [1] 9:23  <b>integrity</b> [2] 53:15,21  <b>intended</b> [2] 112:7 117:2  <b>intentional</b> [1] 63:16  <b>intentionally</b> [1] 63:11  <b>interact</b> [1] 94:15  <b>interest</b> [33] 23:10,11,20, 25 24:1,12,21,22 25:2,4 27:6 28:6 30:13 31:20 33:18, 21,24 44:16 46:14,15,19 47:20 76:16 78:1 99:2,5,8, 10 100:23 101:3 106:21 107:5 108:23  <b>interested</b> [2] 76:3,25  <b>interests</b> [4] 19:8 23:19 41:5 68:6  <b>interpretation</b> [1] 57:2  <b>interrupt</b> [4] 15:24 33:24 47:15 108:1  <b>interviewers</b> [4] 55:8,14, 16,18  <b>interviewers'</b> [1] 55:5  <b>intimately</b> [1] 10:2  <b>introduction</b> [1] 7:21  <b>invidiously</b> [1] 17:2  <b>involved</b> [4] 13:24 20:21 30:12 72:6  <b>ironic</b> [1] 24:5  <b>irrelevant</b> [1] 117:8  <b>isn't</b> [7] 11:10 25:18 61:20, 22 63:3,6,7  <b>isolation</b> [1] 110:20  <b>issue</b> [2] 57:20 112:6  <b>issues</b> [1] 95:4  <b>itself</b> [20] 8:24 9:4 10:17 11:18 12:4 13:8 32:14 33:19 41:18,21 82:10,10,24 100:25 103:12 114:13 115:13, 23 116:25 119:11  <b>Ivy</b> [1] 65:11</p> <hr/> <p style="text-align: center;"><b>J</b></p> <p><b>Jackson</b> [1] 9:21  <b>Jam</b> [1] 19:17  <b>Jewish</b> [2] 50:10 118:24  <b>Jews</b> [2] 4:3 51:3  <b>Jim</b> [2] 17:2 18:18  <b>Joint</b> [5] 50:20 52:18,19 62:4 75:7  <b>judge</b> [9] 28:8,9,10,17,25</p>	<p>29:3 48:9,10 77:5  <b>judging</b> [1] 29:9  <b>judgment</b> [1] 91:20  <b>jure</b> [6] 20:8,12,14 21:4,10, 19  <b>Justice</b> [309] 1:23 3:3,10 5:10 7:6,24 8:11,13,16 9:5,7, 9,11,12,20 10:18 11:13,19, 24 12:5,11,16 13:9,20 14:10 15:7,11,12,19,22,23,25 16:6,20 18:4,21,21 19:10, 23 20:1,11 21:3,11 22:3,22 23:8 24:15,16,17,18,19,20 25:8 26:2,7,14 27:1,21 28:7,16 29:17 30:11 31:1,3,24 33:1,20,23 34:7,25 35:18 36:6 37:6,10 38:6,17,19,21, 23,25 39:1,2,2,3,4,5,6,7,16, 22,22,24 40:15,19,24 41:15 42:25 44:6 45:2,7,10,14, 18 46:11,18,21,24 47:3,6, 13,19,24 48:4,13,16,17,19 49:14,17,21,25 51:15 53:9, 11 54:7,9 55:7,12,17 56:3 57:4 58:5,9,9,10,12,15,18 59:15,18,22 60:1,3,5,24 61:1,2,10,22 62:11,16,20 63:3, 6,19,23 64:2,23 65:16,20 66:9,23 67:3,12,15 69:17, 21,23,24,25 70:1,11,12,16, 23 71:8,8,10,12,23,24,25 72:4,9,13,16,20 73:1,4,18, 21 74:20,25 76:14,15,18, 21,22 78:3,4,5 82:9 83:12, 13,15,16,20,23 84:7,9,14, 17,23,25 85:3,6,12,17,20, 23,24,24 86:1,16,19 87:7,9, 12,17 88:19,24 89:1,7,8,9, 15,21 90:11,14,14,16,19, 21,25 91:1,2,9,14,24 93:17 94:2,16,18,21 95:2 96:14, 17 97:16,21 98:1,17 99:12, 13 100:3 102:14,24 103:1, 6,9,19 104:13 105:2,15 106:10 107:13,23,25 108:3, 11 109:5,6,10,20 110:3,6, 10,22,24,25 111:1,2 112:21,21,23,24 113:9,17 114:3,10 115:2,3,3,5,7 116:14, 15,15,22 120:11</p> <p><b>justification</b> [1] 100:5  <b>justified</b> [2] 19:9 20:19  <b>justifies</b> [1] 26:22  <b>justify</b> [3] 20:25 25:5 116:2</p> <hr/> <p style="text-align: center;"><b>K</b></p> <p><b>KAGAN</b> [24] 8:11 9:12 11:19,24 24:16,18,20 25:8 26:2,8,14 27:1,21 28:7,16 29:17 30:11 38:19 39:5 78:4, 5 83:12 111:1,2  <b>Kagan's</b> [2] 31:3 89:8  <b>KAVANAUGH</b> [39] 15:7,11, 12,19,22 24:15,17,19 31:1,</p>	<p>24 33:1,20,23 34:7,25 35:18 39:6,7 85:25 86:1,16,19 87:7,9,12,17 88:19 89:1,7, 21 90:11 99:13 102:14,24 105:2 106:10 115:4,5 116:14  <b>Kavanaugh's</b> [1] 110:3  <b>keep</b> [2] 100:10 120:2  <b>Kentucky</b> [3] 17:5,20,23  <b>Khurana</b> [3] 50:20 68:25 69:1  <b>kids</b> [1] 21:17  <b>kind</b> [11] 4:1 10:20 11:14 31:8 77:18 78:1 81:14 97:8 102:8 109:1 111:15  <b>kindness</b> [3] 53:15,22 119:6  <b>kinds</b> [7] 24:22 27:9 30:14 96:22 97:4 102:5 103:16  <b>knowledge</b> [1] 28:14  <b>knows</b> [1] 5:22</p> <hr/> <p style="text-align: center;"><b>L</b></p> <p><b>lack</b> [1] 53:21  <b>language</b> [6] 18:7,10 19:18,21 88:24 115:24  <b>large</b> [4] 21:12,14 23:10,13  <b>largely</b> [1] 22:14  <b>last</b> [8] 5:13,13 9:21 60:8 65:19 70:3 89:8 105:11  <b>Lastly</b> [1] 118:23  <b>later</b> [1] 16:10  <b>latter</b> [2] 54:21 74:7  <b>Laughter</b> [3] 38:22 45:12 62:13  <b>law</b> [3] 15:3 20:18 28:8  <b>laws</b> [3] 17:2 18:18 19:12  <b>lawsuit</b> [1] 117:19  <b>lawyer</b> [1] 57:22  <b>lead</b> [2] 77:4,5  <b>leader</b> [1] 70:25  <b>leaders</b> [2] 41:16 95:20  <b>leading</b> [1] 95:14  <b>League</b> [1] 65:11  <b>learn</b> [3] 91:22 101:19 112:11  <b>learning</b> [4] 69:13 78:1 95:18 98:6  <b>least</b> [5] 43:6,14 48:21 50:7 75:25  <b>led</b> [2] 76:11 93:14  <b>legacies</b> [3] 22:15 23:15 45:24  <b>legacy</b> [9] 4:23 38:5 48:1,8 61:17 65:22 96:18 102:18 117:21  <b>legal</b> [5] 40:9 42:5 79:13 89:22 112:17  <b>legislation</b> [1] 20:2  <b>legislative</b> [1] 5:19  <b>legislature</b> [1] 17:13  <b>less</b> [6] 3:25 4:25 51:19 79:2 103:21 108:16  <b>letters</b> [4] 8:6 55:3,4,5</p>	<p><b>letting</b> [2] 4:5 5:5  <b>level</b> [5] 18:17 26:18,22 80:2,22  <b>levels</b> [1] 32:3  <b>life</b> [2] 10:8 97:25  <b>light</b> [2] 17:17 46:9  <b>Light's</b> [1] 69:4  <b>likability</b> [1] 119:6  <b>likable</b> [1] 3:25  <b>limit</b> [4] 26:16 36:11 88:3, 11  <b>limited</b> [3] 42:22 70:18 87:23  <b>limits</b> [4] 10:10 87:25 88:2, 8  <b>line</b> [2] 9:19 111:4  <b>lines</b> [3] 43:12 103:10 111:3  <b>list</b> [1] 44:16  <b>literally</b> [1] 44:12  <b>little</b> [5] 10:19 14:14 24:5 62:21 106:17  <b>live</b> [1] 41:24  <b>long</b> [4] 41:2 69:20 84:4 111:12  <b>longer</b> [8] 7:3 17:24 81:3 84:13 99:6 100:1 116:1 117:21  <b>look</b> [16] 12:7 20:13 28:21 29:18 32:23 33:10 36:22 47:4 54:24,25 59:20 72:23 73:8 82:25 101:21 107:25  <b>looked</b> [4] 12:17 54:4 70:6 74:3  <b>looking</b> [4] 12:22 33:1,2,2  <b>looks</b> [3] 64:21 73:12 108:16  <b>lost</b> [1] 116:23  <b>lot</b> [10] 12:19,23 16:25 27:4 61:4 64:7 78:6 91:25 107:1 111:9  <b>lots</b> [3] 35:16 38:7 68:6  <b>love</b> [1] 38:20  <b>loved</b> [1] 10:8  <b>low</b> [5] 23:2 37:1 80:12 81:12 119:4  <b>low-income</b> [1] 24:10  <b>Lowell</b> [2] 51:2 70:8  <b>lower</b> [11] 3:24 30:21 43:10 54:11 55:8 60:17 74:8 97:7 102:10 108:12 119:8  <b>lowest</b> [1] 53:17  <b>luxury</b> [1] 91:18</p> <hr/> <p style="text-align: center;"><b>M</b></p> <p><b>machine</b> [1] 45:22  <b>made</b> [24] 5:12 12:12 13:10 15:2 17:17 20:22 32:25 42:10 43:9 48:8 81:2,4,21 93:3 94:11 97:9 101:25 103:13 106:24 108:8,21 114:16 115:24 118:20  <b>main</b> [1] 23:5  <b>major</b> [4] 76:4,6 118:2,7</p>
---	---	---	--	--

## Official - Subject to Final Review

<p> <b>majoring</b> [2] 76:3 118:8  <b>majority</b> [1] 116:9  <b>majors</b> [1] 118:4  <b>Malcolm</b> [1] 45:22  <b>manifest</b> [1] 114:13  <b>manifestations</b> [1] 106:24  <b>many</b> [30] 12:19,21 13:13  18:3,17 19:11 51:3,16 52:13  65:3,3,4 66:21,22,25 68:15  70:20 78:12 86:24,24 88:17  91:6,6,7,8 92:16 95:13  101:13 106:23  <b>marginally</b> [3] 60:17,17,20  <b>mark</b> [3] 39:12 40:13 98:18  <b>Massachusetts</b> [1] 23:1  <b>massive</b> [2] 6:16 17:18  <b>matriculants</b> [3] 43:25 49:11  91:20  <b>matriculate</b> [3] 76:5 81:23  92:20  <b>matriculated</b> [1] 65:18  <b>matriculates</b> [1] 76:2  <b>matriculating</b> [3] 44:21 75:22  80:25  <b>matrix</b> [3] 36:20 37:1 76:24  <b>matter</b> [13] 1:13 6:8 26:5,8  27:21 31:4 48:6 59:2 60:5,7  67:17 68:13 79:7  <b>mean</b> [29] 8:12 9:14 17:25,25  22:16 24:20,23 25:1 26:4,15  27:3,3 28:1 29:1 30:4,16  31:19 33:11 38:9 54:1 60:4,22  61:12 62:12 91:1 92:10  100:4,22 118:5  <b>meaning</b> [2] 5:15 6:17  <b>meaningful</b> [3] 31:16 75:1 89:14  <b>meaningfully</b> [1] 90:24  <b>means</b> [1] 19:19 21:19 23:22  29:20,24 30:7 79:3 89:18  106:13,16 119:11  <b>meant</b> [2] 21:25,25  <b>measure</b> [7] 6:20,21,25 17:17  31:12 73:9 119:5  <b>measurement</b> [1] 33:12  <b>measures</b> [3] 6:2 7:1 18:12  <b>measuring</b> [3] 31:19,21 82:16  <b>mechanical</b> [1] 108:8  <b>mechanism</b> [1] 40:1  <b>mechanisms</b> [3] 78:10,11 79:18  <b>medial</b> [1] 100:4  <b>medical</b> [3] 27:20 41:12 96:3  <b>meet</b> [7] 4:2 59:7 96:23 102:20  106:12,16 118:17  <b>meets</b> [1] 51:10  <b>members</b> [1] 4:9  <b>memory</b> [1] 22:6  <b>mentioned</b> [2] 39:12 109:25  <b>Mercer</b> [2] 17:23 18:2 </p>	<p> <b>met</b> [2] 83:5 85:14  <b>meticulous</b> [1] 42:10  <b>metric</b> [4] 29:11 36:3,8 65:7  <b>metrics</b> [5] 37:21 44:8 60:15  100:12 118:17  <b>Mexican</b> [1] 10:3  <b>Michigan</b> [3] 33:3 105:5,21  <b>might</b> [12] 11:20 12:18 16:20  36:24 48:14 49:22,25 64:13,13  66:18 77:1,3  <b>military</b> [3] 41:13 95:24 98:4  <b>millions</b> [1] 112:19  <b>mind</b> [2] 20:4 79:21  <b>minds</b> [1] 112:3  <b>minister</b> [1] 87:15  <b>ministers</b> [1] 87:15  <b>ministry</b> [1] 87:15  <b>minorities</b> [7] 22:9,20 26:11  32:3 44:2 80:15 81:23  <b>minority</b> [8] 7:19 11:2 30:20  80:12,15 81:12 92:7 107:7  <b>minus</b> [3] 3:19 12:9 73:12  <b>minutes</b> [1] 5:11  <b>missing</b> [3] 113:2,8 114:14  <b>Mister</b> [1] 24:16  <b>misunderstand</b> [1] 11:24  <b>model</b> [12] 5:2 54:22 55:3 56:1  62:6 70:2,13 90:20 119:10,14,15,23  <b>modest</b> [1] 102:5  <b>moment</b> [3] 14:11,14 61:3  <b>Monday</b> [1] 1:11  <b>moral</b> [1] 112:17  <b>morning</b> [1] 68:11  <b>most</b> [9] 14:21 17:1 34:10,12  42:15 81:6 82:13 104:2 106:4  <b>mostly</b> [1] 14:25  <b>motion</b> [1] 45:22  <b>move</b> [3] 50:7 96:9 117:4  <b>moving</b> [1] 38:13  <b>much</b> [4] 14:7 42:23 90:6 92:13  <b>multi</b> [1] 74:2  <b>multi-dimensionality</b> [1] 74:3  <b>multiple</b> [5] 21:17 52:2 66:15,16  107:10  <b>multiplicity</b> [2] 41:4 52:10  <b>museum</b> [6] 23:14 46:16,19  76:23 77:7 100:13  <b>music</b> [2] 10:8,8  <b>Muslims</b> [1] 86:9  <b>must</b> [2] 25:17 113:1 </p> <p style="text-align: center;"><b>N</b></p> <p> <b>name</b> [1] 51:22  <b>names</b> [1] 50:15  <b>narrative</b> [1] 42:19  <b>narrow</b> [5] 15:18 48:11 77:18  89:3 99:18 </p>	<p> <b>narrower</b> [4] 31:2,5,13,15  <b>narrowly</b> [3] 3:13 25:10 46:6  <b>nation</b> [8] 41:5,18 95:7,8,11  100:1 101:19,22  <b>nation's</b> [3] 95:13 96:8,10  <b>national</b> [3] 4:16 77:25 96:1  <b>nations</b> [1] 93:12  <b>nature</b> [5] 26:4,5 99:1 100:20  107:5  <b>necessary</b> [10] 30:2 35:1 36:5  41:20 79:2 84:13 85:16  87:1 100:1 101:23  <b>need</b> [13] 10:15 20:24 23:12,23,23  29:6 31:18,20 32:11  39:17 41:21 73:20 87:3  <b>needed</b> [1] 28:3  <b>needing</b> [1] 105:18  <b>needs</b> [4] 32:19 67:10 82:18  108:19  <b>negative</b> [2] 57:6 95:20  <b>neutral</b> [1] 78:10  <b>neutrality</b> [4] 39:21 87:22 88:7  117:5  <b>never</b> [7] 3:15 4:11,20 8:8 36:3  37:24 40:6  <b>News</b> [1] 24:4  <b>next</b> [2] 3:4 83:6  <b>nine</b> [1] 101:11  <b>nobody</b> [1] 87:2  <b>non</b> [1] 43:3  <b>non-academic</b> [1] 74:4  <b>non-ADLCs</b> [1] 14:1  <b>non-African</b> [1] 69:14  <b>non-leader</b> [1] 72:11  <b>none</b> [5] 3:16 19:6 37:17 44:20  76:15  <b>Nonetheless</b> [1] 62:14  <b>NORRIS</b> [64] 1:18 2:3,13 3:7,8,10  5:10,14 7:23 8:23 9:6,8  10:9 11:11,15,23 12:1,8,15  13:1,15 14:2,19 15:10,16,21  16:7 17:7 18:20 19:15,24  20:6,17 21:5,22 22:6,24  23:21 25:3,20 26:7,21 27:17  28:1,12 29:1 30:10 31:18  32:10 33:17,22 34:6,9  35:6,20 37:3,9,22 38:9 39:10  40:5 116:18,19,21  <b>nose</b> [1] 117:16  <b>nothing</b> [7] 11:17 28:4 39:1 44:1,2  73:5,16  <b>noticed</b> [1] 70:6  <b>notion</b> [2] 51:7 82:2  <b>notions</b> [1] 111:25  <b>notwithstanding</b> [1] 77:16  <b>number</b> [4] 9:17 14:3,5,7,8,8  22:17,18,19 23:1,4 28:19  30:21 32:19 35:13,14,15,18,21,22,24  49:11 52:1 58:8,25  68:1 70:5 73:14,15,17,23  76:2,8 93:1 104:6, </p>	<p> 9 106:1 109:13 113:13,24 118:14  <b>numbers</b> [18] 12:24 21:14 22:17  26:9 36:25 38:2,8 43:11,21,23  59:4 72:22 73:5,7  75:1 106:17 110:9 113:19  <b>numerical</b> [6] 54:15,17 59:4  107:6,14,18 </p> <p style="text-align: center;"><b>O</b></p> <p> <b>O'Connor</b> [6] 39:16 40:16 84:7,9  90:21 91:2  <b>O'Connor's</b> [2] 85:12 88:25  <b>object</b> [1] 25:15  <b>objecting</b> [2] 12:6,8  <b>objection</b> [2] 7:7,21  <b>objections</b> [1] 15:1  <b>objectives</b> [1] 30:3  <b>obligated</b> [1] 40:4  <b>obligations</b> [1] 97:12  <b>oboe</b> [3] 67:9,10,13  <b>observation</b> [2] 41:15 97:22  <b>observed</b> [1] 99:8  <b>obstacle</b> [1] 11:14  <b>obstacles</b> [2] 9:18 11:4  <b>obtain</b> [1] 102:19  <b>obviously</b> [1] 92:16  <b>October</b> [1] 1:11  <b>offer</b> [3] 96:16,24 110:18  <b>Office</b> [1] 74:17  <b>officer</b> [2] 60:12 95:25  <b>officers</b> [6] 8:22 12:7 27:25  54:25 57:9 59:3  <b>Ohio</b> [1] 120:5  <b>okay</b> [32] 10:2 11:5 15:21 16:20  27:22 33:22 34:3 45:25  46:24,24 47:1 48:4,13,16  50:1 51:15 54:8,13 58:17  65:16 67:3 77:19 83:19 85:17  86:22 87:13 89:1,7 94:16  108:2,11 114:24  <b>once</b> [4] 4:21 36:17 59:6 94:15  <b>one</b> [53] 6:3 7:16 8:13 9:14 12:19  13:12 17:4,5,10 18:4 20:19  21:15,17 24:10 26:24 33:3  36:7 37:20 39:7 48:20  50:5,5,5,5,18 51:2,23 52:3,13  53:20 57:5 58:18,21  59:3 62:8 65:5 66:21,25  68:1 69:10 70:20 81:19  88:1,11,16 89:7,8 91:6,13  92:12,15 111:2 117:18  <b>one-third</b> [1] 64:16  <b>ongoing</b> [2] 17:19 78:19  <b>only</b> [25] 3:19 8:3 11:6 21:16  23:3 32:17,24 35:24 40:9  52:6 54:22,22 55:23 59:10  62:21 65:9,10 68:3,4,16 69:14  84:22 88:20 98:11 103:21 </p>	<p> <b>open</b> [1] 29:13  <b>opening</b> [2] 57:22 97:17  <b>operating</b> [1] 87:20  <b>opine</b> [1] 52:6  <b>opinion</b> [8] 49:8,9 84:8 85:13  88:25 90:19 115:7 116:9  <b>opponent</b> [1] 110:7  <b>opportunities</b> [2] 66:6 117:9  <b>opportunity</b> [3] 20:16 111:18  115:20  <b>opposing</b> [1] 110:7  <b>opposite</b> [2] 69:10 81:21  <b>optimistic</b> [1] 100:17  <b>options</b> [1] 97:4  <b>oral</b> [7] 1:14 2:2,5,8 3:8 40:22  94:23  <b>orchestra</b> [1] 67:10  <b>order</b> [3] 30:3 97:13 118:17  <b>organic</b> [1] 91:23  <b>organizations</b> [2] 52:3 80:10  <b>original</b> [2] 5:15 6:17  <b>originalism</b> [1] 5:12  <b>origins</b> [1] 70:15  <b>other</b> [48] 8:15 16:4 17:3 22:10  24:11,22 27:3,10 37:21 38:8  44:15 49:4,19 50:19 53:17,23  54:12 55:6,9,9 58:21  64:25 68:6,10 70:5 75:24  76:15 78:21 79:25 80:1  81:18,25 82:19 83:7 86:10,23  88:6,12,15 89:21,24 91:23  92:6 94:15 100:12 103:15  105:2,5  <b>others</b> [1] 92:21  <b>otherwise</b> [5] 13:6 32:3 37:1 48:15  89:18  <b>out</b> [12] 9:13 36:18 40:16 41:14  54:23 60:11 77:22 79:17  89:23 100:6 106:14 119:15  <b>outcomes</b> [6] 57:25 58:4 59:14,25  62:7 96:6  <b>outlier</b> [1] 113:8  <b>outreach</b> [1] 80:9  <b>over</b> [16] 9:6 28:20 40:7 43:1,6,8  44:2 50:17 64:17 79:1 80:23  99:8 108:25 109:14 113:1  116:3  <b>overall</b> [3] 22:19 24:1 30:14  <b>overcome</b> [1] 9:18  <b>overcomes</b> [1] 11:3  <b>overcoming</b> [6] 9:1,3,9,16 11:4,14  <b>override</b> [1] 98:13  <b>overruled</b> [1] 5:7  <b>Overruling</b> [5] 96:7,12 98:21  111:6 115:13  <b>oversees</b> [1] 91:22  <b>own</b> [10] 8:21 20:25 39:14 40:1,17  42:5,6 64:9 90:8 </p>
---	---	--	--	---



## Official - Subject to Final Review

<p>93:16</p> <hr/> <p style="text-align: center;"><b>P</b></p> <hr/> <p><b>p.m</b> [3] 1:15 3:2 120:14  <b>package</b> [1] 13:13  <b>PAGE</b> [10] 2:2 13:3 52:17, 19,23 57:2 62:4,15 63:25 113:3  <b>pages</b> [1] 75:7  <b>painstakingly</b> [1] 5:18  <b>paragraphs</b> [3] 39:12 84:7 115:25  <b>parental</b> [1] 23:7  <b>Parents</b> [3] 20:21 30:12 61:16  <b>parity</b> [1] 118:14  <b>part</b> [12] 7:19 14:21 23:19 33:17 34:1 41:24,25 56:21 79:8,18,22 82:15  <b>particular</b> [16] 7:22 53:3 60:14 65:4 67:24 69:5 75:4 77:13 104:1 105:21 106:6 107:7 108:24 109:16 112:8 115:21  <b>particularly</b> [3] 19:3 52:4 72:7  <b>partnering</b> [1] 80:9  <b>parts</b> [1] 78:17  <b>passed</b> [2] 17:1 20:2  <b>passion</b> [1] 10:7  <b>past</b> [1] 70:19  <b>path</b> [1] 97:4  <b>patients</b> [2] 27:15,19  <b>pattern</b> [1] 64:13  <b>pay</b> [6] 14:14 18:6,9 43:25 44:2 45:20  <b>people</b> [25] 15:3 17:23 18:2 21:15,18 28:21 29:7,15 36:10,18 39:11 44:15 60:23 64:23 66:23 68:16 71:20 81:10 93:12 117:7 118:2,6 119:20 120:4,7  <b>per</b> [1] 46:15  <b>percent</b> [48] 12:24 13:16, 18 14:3 21:23 22:7,25 24:7,9 25:24,25,25 26:3 30:24, 25 35:9,10,21,21,23 36:13 37:13 43:1,7,8,9,25 44:1, 24,25 49:13 52:9 56:2 75:24,25 76:1,7,9 81:9 83:9, 10 93:13,21,22 104:7 110:17 113:7,7  <b>percentage</b> [6] 75:22 81:8 108:24 114:11 118:1,10  <b>percentages</b> [1] 112:25  <b>percentile</b> [6] 38:11,11,15 49:22 75:19,19  <b>perfect</b> [3] 36:8,10 96:9  <b>Perhaps</b> [3] 26:12 99:15 100:18  <b>periodic</b> [1] 85:15  <b>permissible</b> [1] 102:17  <b>permit</b> [2] 74:11,11  <b>permitted</b> [1] 46:4</p>	<p><b>perpetual</b> [1] 45:21  <b>perpetuity</b> [1] 101:8  <b>person</b> [3] 10:13 11:5 108:10  <b>personal</b> [22] 3:24 53:2,13, 17,24 54:9,15,24 56:7 57:2, 8 58:7,22 59:13 60:18 71:13 72:3,7 119:4,9,10,15  <b>personnel</b> [2] 71:17,21  <b>perspective</b> [1] 66:3  <b>pertain</b> [1] 18:8  <b>pertaining</b> [1] 19:12  <b>Petition</b> [1] 13:3  <b>Petitioner</b> [10] 1:4,19 2:4, 14 3:9 43:1 71:14 95:9 101:12 116:20  <b>Petitioner's</b> [5] 78:22 98:12 109:21 111:5 113:3  <b>Petitioners</b> [3] 79:6 111:8 112:15  <b>physical</b> [1] 9:18  <b>picks</b> [1] 89:8  <b>pipeline</b> [1] 98:5  <b>places</b> [2] 21:19,21 101:8, 22 106:7  <b>plainly</b> [2] 19:6 107:21  <b>plaintiff's</b> [1] 63:14  <b>plaintiffs</b> [1] 53:4  <b>plan</b> [1] 37:13  <b>player</b> [2] 67:9,10  <b>players</b> [1] 67:13  <b>pleas</b> [1] 117:14  <b>please</b> [4] 3:11 40:25 79:23 95:2  <b>pleased</b> [1] 84:2  <b>Plessy</b> [1] 6:5  <b>plummet</b> [1] 95:13  <b>plus</b> [2] 3:19 12:9  <b>point</b> [37] 29:17 34:25 35:1 36:12 38:10 39:25 44:4 50:3 51:17 61:15 66:8 75:4 78:8 81:2,3 91:25 92:8,12 94:3,6 98:22,22 99:24 100:21 101:4,25 103:2,7,23 105:22 108:5,19 110:11 113:10 114:10 118:2,10  <b>pointed</b> [1] 9:13  <b>points</b> [8] 24:3 56:17 80:23 92:5 105:3 106:6 107:3 116:22  <b>poison</b> [1] 5:5  <b>poisonous</b> [1] 100:20  <b>police</b> [2] 27:23,25  <b>policies</b> [3] 107:12 112:6 116:3  <b>policy</b> [3] 50:22 51:13 52:12  <b>political</b> [1] 94:9  <b>poof</b> [1] 99:5  <b>pool</b> [4] 91:18 109:15 113:13 114:11  <b>poor</b> [1] 71:13  <b>population</b> [6] 52:9 87:5 98:9 109:25 110:9,16</p>	<p><b>position</b> [3] 6:22 14:18 96:16  <b>possible</b> [1] 99:9  <b>post-ratification</b> [3] 6:13, 14 14:13  <b>potential</b> [1] 80:11  <b>potentially</b> [2] 89:12 100:20  <b>Powell</b> [8] 47:6 70:1,11,12, 16,23 90:25 91:1  <b>Powell's</b> [2] 41:15 90:19  <b>powerful</b> [1] 52:4  <b>practice</b> [2] 16:23 99:22  <b>practices</b> [1] 18:7  <b>precedent</b> [7] 42:3,21 77:23 88:14 96:13 98:13 114:25  <b>precedents</b> [8] 16:13 87:20,21 88:13 90:2 100:6 107:22 117:12  <b>precipitous</b> [1] 104:5  <b>precise</b> [5] 38:2 106:15,20 107:6 108:24  <b>precisely</b> [1] 112:16  <b>predicated</b> [1] 64:19  <b>predictable</b> [1] 4:5  <b>prediction</b> [1] 40:15  <b>predominantly</b> [1] 46:1  <b>preference</b> [9] 13:4 29:5 35:25 44:13 48:8 78:24 82:9 108:6,9  <b>preferences</b> [14] 4:10,23, 24 21:6 22:14 39:13,19 44:20 45:24 47:16 84:12 85:16 96:22 117:21  <b>prejudice</b> [2] 41:6 63:16  <b>PRELOGAR</b> [30] 1:22 2:9 94:22,23 95:1 97:21 98:3, 25 101:2 102:23 103:4,9, 25 104:16 105:14 106:19 107:17,24 108:2,4,18 109:9 110:5,10 111:20 113:9, 21 114:6,15 115:22  <b>premise</b> [2] 25:9,13  <b>prep</b> [1] 81:15  <b>present</b> [4] 34:22 44:12,13 113:12  <b>presented</b> [5] 30:18 32:13 37:25 71:4,5  <b>PRESIDENT</b> [6] 1:6 3:5 11:7 51:2,14 70:8  <b>presidents</b> [1] 51:2  <b>pressed</b> [1] 19:8  <b>presume</b> [1] 71:23  <b>pretty</b> [6] 9:14 45:15 92:9 93:22 105:10 113:19  <b>prevent</b> [3] 37:5 111:14,14  <b>prevented</b> [1] 29:24  <b>prevents</b> [1] 37:4  <b>pride</b> [2] 9:22,25  <b>principle</b> [1] 19:5  <b>principles</b> [1] 48:11  <b>prior</b> [3] 15:18 21:1 70:24  <b>private</b> [1] 5:8</p>	<p><b>privileged</b> [1] 4:25  <b>probably</b> [3] 24:25 26:9 119:11  <b>probe</b> [1] 108:19  <b>problem</b> [4] 22:3 33:17 43:16 107:16  <b>problem-solving</b> [1] 41:8  <b>problematic</b> [1] 16:12  <b>problems</b> [1] 82:8  <b>procedures</b> [1] 8:2  <b>process</b> [14] 25:23 51:9 53:2 70:18 71:6 86:20,23 90:20,22,24 91:10 92:3,24 117:25  <b>process.</b> [1] 49:3  <b>processes</b> [1] 4:6  <b>produce</b> [1] 53:7  <b>professionals</b> [1] 41:12  <b>profile</b> [1] 117:24  <b>profound</b> [1] 95:6  <b>profoundly</b> [1] 112:14  <b>program</b> [9] 21:23 22:7 42:2 61:24 70:1,7,13,15 81:5  <b>programs</b> [2] 25:10 92:11  <b>progress</b> [5] 78:20 92:22 94:11 99:15 101:6  <b>proof</b> [4] 42:2 63:14 73:22, 25  <b>properly</b> [2] 77:17,25  <b>property</b> [1] 17:24  <b>proposals</b> [1] 33:2  <b>proposed</b> [1] 32:1  <b>proposition</b> [1] 81:5  <b>prospective</b> [1] 34:19  <b>protection</b> [1] 19:4  <b>proud</b> [2] 86:15 94:10  <b>prove</b> [3] 6:19 36:4 73:24  <b>proverbial</b> [1] 46:16  <b>proves</b> [1] 3:16  <b>provide</b> [4] 66:21 87:3 102:13 114:22  <b>provided</b> [2] 47:12 87:1  <b>provides</b> [1] 66:25  <b>proxy</b> [1] 16:18  <b>public</b> [2] 5:7 34:23  <b>published</b> [1] 69:4  <b>pure</b> [1] 35:11  <b>purely</b> [1] 17:9  <b>purport</b> [1] 18:11  <b>purpose</b> [2] 6:6 7:3  <b>purposes</b> [1] 47:21  <b>pursued</b> [1] 24:14  <b>pushback</b> [1] 6:12  <b>put</b> [9] 8:8 58:25 65:17,20 66:22 80:9 85:21 99:22 105:6  <b>putting</b> [5] 24:23 25:1 29:4 56:4 78:23</p> <hr/> <p style="text-align: center;"><b>Q</b></p> <hr/> <p><b>qua</b> [1] 92:17  <b>qualified</b> [3] 67:7 80:16 91:19  <b>qualify</b> [1] 102:8</p>	<p><b>quality</b> [2] 29:9 103:17  <b>question</b> [43] 15:19,24 18:5,6 26:15,16 29:14,23 30:6 31:11 33:13 39:7 47:5 56:18 58:10,19 62:25 66:10, 12 70:10 71:18 78:13,16 79:1,20,22 82:15 83:18 85:7 87:10,18 89:11,19,22 90:17 91:24 92:1 93:14 98:21 105:21 110:3 112:24 115:7  <b>questioning</b> [1] 111:10  <b>questions</b> [13] 27:13 42:24 51:4 71:11 78:6,7 86:2 89:9,15 93:5 96:15,18 115:19  <b>quite</b> [5] 23:2,5 48:12 52:16 69:9  <b>quits</b> [1] 40:3  <b>quota</b> [2] 50:9 107:20  <b>quotas</b> [3] 50:12 51:21 107:2  <b>quote</b> [1] 75:15  <b>quoted</b> [1] 88:25  <b>quoting</b> [1] 52:17</p> <hr/> <p style="text-align: center;"><b>R</b></p> <hr/> <p><b>race</b> [102] 3:13,18,19 4:6,12 5:1 7:4,8,22 8:4,7,24 9:4 10:5,17,25 11:17 12:3,9,18 13:8,12,13,16 14:3 16:18 17:3,15 19:14,21,24 20:20, 25 21:16,17 23:6 25:22 28:14 29:7,8,10,16,25 36:18, 24 37:7,9,15,19 39:18,20, 21 40:7,8,11 41:21 42:13, 22 44:18,19,23 46:4 52:13 55:10 62:7,9,9 63:1 65:1, 25 67:4,6 68:12 70:20 71:19 73:10 84:2 86:8 87:22, 23 88:7 90:3 91:3,5 92:4, 15,16,17,17 93:15 97:14 99:11 100:2,20 101:13 105:19 107:15 108:6,16 112:7,9 116:7  <b>race-based</b> [10] 15:6,9,14, 20 16:1,3,5,15,25 37:11  <b>race-conscious</b> [12] 25:16 26:20 30:9 78:11 79:3 88:8 89:18 92:11 95:12 100:9 101:23 116:2  <b>race-consciousness</b> [3] 80:1 98:23 111:15  <b>race-neutral</b> [59] 4:20 14:9 22:2,11 23:24 25:13,14 26:19,25 29:20,23 30:6 31:7 32:1,12 33:5,25 34:1 35:7 37:16,17 42:18 43:3 44:5,9 47:5,9 48:23 49:7 76:13 77:13 79:9,17 82:13,20, 25 84:22 88:1,10 89:4,6,10 90:4 92:18 94:6 95:15 96:15 97:2 99:23 102:4,9,16, 21 104:23 105:7 106:1 117:13,18,22</p>
--	--	--	--	--

## Official - Subject to Final Review

<p><b>Races</b> [8] 20:14 21:17 53:23 72:14,16 93:12 109:16 112:10</p> <p><b>racial</b> [88] 3:20 4:9,10,14 5:5,21 6:1,7,9 7:17 8:13,15,21 9:10,24,25 13:4 14:21 17:11,18,21 18:16 19:22 21:6,8 24:7,22 25:2,5,5 26:22 27:7,8 28:3 29:10,14,19 30:12 34:13,16 37:18,23,25 38:2 39:13,19 42:15 44:20 46:3 50:12 62:21 64:24 67:16 68:17,17 74:14 78:9,14 79:9,19 80:3,24 84:12 85:15 89:14 94:8 95:12 106:8,25 107:2 108:20,24 109:4,19 110:20 111:12,14 112:1,8 114:17,24 115:9 116:25 117:3,4 118:17,18 120:9</p> <p><b>racial-based</b> [1] 15:2</p> <p><b>racially</b> [3] 30:4 34:10 68:16</p> <p><b>racist</b> [1] 51:12</p> <p><b>rails</b> [1] 6:4</p> <p><b>raised</b> [3] 99:13,14 109:22</p> <p><b>raised-based</b> [1] 19:20</p> <p><b>ramifications</b> [1] 98:14</p> <p><b>rank</b> [2] 56:8,9</p> <p><b>ranked</b> [1] 34:23</p> <p><b>ranks</b> [1] 3:25</p> <p><b>rare</b> [1] 4:15</p> <p><b>rate</b> [3] 55:8 60:14 116:4</p> <p><b>rather</b> [4] 29:18,20 78:10 112:9</p> <p><b>rating</b> [22] 53:3 54:16,19,19,24 57:2,8 58:7,23,23,24,24 59:13 60:18,20 71:13,21 72:3,8 119:5,10,15</p> <p><b>ratings</b> [10] 3:24 55:1 71:17 72:7,17 74:8,10 104:11 117:24 119:9</p> <p><b>rational</b> [1] 60:10</p> <p><b>reach</b> [1] 99:25</p> <p><b>reaching</b> [2] 26:11 37:14</p> <p><b>read</b> [8] 5:17 10:13 31:5 71:17 88:13,14 99:3 116:9</p> <p><b>reader</b> [2] 59:1 73:9</p> <p><b>reading</b> [1] 8:2</p> <p><b>real</b> [3] 64:13 66:18 85:7</p> <p><b>realize</b> [1] 59:21</p> <p><b>realized</b> [1] 119:12</p> <p><b>really</b> [11] 8:9 21:24 33:12 34:18 37:7 53:21 56:10 72:6 80:16 92:13 119:24</p> <p><b>reargument</b> [1] 5:17</p> <p><b>reason</b> [9] 18:24 65:10 68:3,4 74:7 77:22 79:8 83:9 104:3</p> <p><b>reasons</b> [2] 77:12 118:22</p> <p><b>REBUTTAL</b> [4] 2:12 109:22 116:18,19</p> <p><b>receive</b> [1] 72:17</p> <p><b>recent</b> [1] 76:5</p>	<p><b>recently</b> [1] 18:2</p> <p><b>recited</b> [2] 49:5,6</p> <p><b>recognize</b> [2] 92:5 101:4</p> <p><b>recognized</b> [8] 6:6 15:17 24:13 40:10 41:2 100:25 106:22 112:2</p> <p><b>recognizes</b> [1] 82:7</p> <p><b>recommendation</b> [1] 8:6</p> <p><b>recommendations</b> [2] 56:4,5</p> <p><b>recommender</b> [1] 7:15</p> <p><b>Reconstruction</b> [2] 16:19 18:14</p> <p><b>record</b> [15] 13:22 16:16 20:23 23:17 25:21 48:21 50:13 53:16 57:11 58:22 77:21 81:25 93:1,7 120:1</p> <p><b>recounted</b> [1] 18:22</p> <p><b>recruit</b> [2] 81:22 92:7</p> <p><b>recruited</b> [2] 65:12,14</p> <p><b>reduced</b> [1] 41:7</p> <p><b>reduces</b> [2] 38:7,7</p> <p><b>reductions</b> [1] 104:9</p> <p><b>reference</b> [1] 62:15</p> <p><b>referred</b> [3] 53:12 90:21 105:22</p> <p><b>reflect</b> [3] 43:23 74:1 98:8</p> <p><b>reflected</b> [1] 111:11</p> <p><b>reflects</b> [1] 64:12</p> <p><b>refugee</b> [1] 14:23</p> <p><b>refugees</b> [1] 14:24</p> <p><b>refuses</b> [1] 4:22</p> <p><b>refuted</b> [1] 63:22</p> <p><b>regard</b> [3] 92:23 101:11 113:23</p> <p><b>regular</b> [1] 82:20</p> <p><b>reiterated</b> [1] 52:18</p> <p><b>reject</b> [3] 23:23 98:12 102:3</p> <p><b>rejected</b> [2] 74:22 104:4</p> <p><b>rejecting</b> [1] 12:23</p> <p><b>relate</b> [1] 93:11</p> <p><b>relates</b> [1] 72:5</p> <p><b>relationship</b> [2] 57:7 119:3</p> <p><b>relative</b> [2] 62:6 113:24</p> <p><b>relevance</b> [1] 8:21</p> <p><b>relevant</b> [3] 19:16 106:20 108:22</p> <p><b>relies</b> [1] 98:4</p> <p><b>religion</b> [4] 10:24 86:6,8,25</p> <p><b>religions</b> [1] 93:13</p> <p><b>religious</b> [6] 86:11,14,15 87:3,16 94:8</p> <p><b>religiously</b> [1] 87:5</p> <p><b>remain</b> [1] 99:7</p> <p><b>remains</b> [1] 99:19</p> <p><b>remand</b> [2] 77:20 117:14</p> <p><b>remedial</b> [12] 6:21,24 7:3 15:16 17:16 18:12 19:6,8 20:4,9,18 100:5</p> <p><b>remember</b> [1] 109:23</p> <p><b>remind</b> [1] 79:23</p> <p><b>repetitive</b> [1] 106:11</p>	<p><b>report</b> [9] 14:9 24:4 32:24 49:5 50:19,20 68:25 69:1 80:5</p> <p><b>reports</b> [3] 50:16,16 93:3</p> <p><b>represent</b> [1] 56:1</p> <p><b>representation</b> [5] 22:24 30:21,24,25 44:22</p> <p><b>represented</b> [1] 34:12</p> <p><b>represents</b> [2] 52:8 62:6</p> <p><b>reputation</b> [1] 103:14</p> <p><b>request</b> [1] 98:12</p> <p><b>require</b> [4] 49:1 65:12 75:14 90:4</p> <p><b>required</b> [1] 90:5</p> <p><b>requirement</b> [6] 85:14 88:22 89:3,4 92:10 99:19</p> <p><b>requirements</b> [2] 6:2 88:15</p> <p><b>researchers</b> [1] 96:4</p> <p><b>resemblance</b> [1] 51:12</p> <p><b>resentment</b> [1] 117:6</p> <p><b>residential</b> [2] 21:13 22:1</p> <p><b>resilience</b> [1] 9:15</p> <p><b>resistance</b> [1] 6:16</p> <p><b>resisting</b> [1] 102:1</p> <p><b>resources</b> [2] 80:9 81:14</p> <p><b>respect</b> [35] 8:12,17 44:9,10 45:1 48:23 49:9 52:14 54:3,15,18,21 55:15 56:18 57:14,17 59:13 61:11 80:24 82:22 88:22 94:13 100:11 101:8 103:25 104:17 105:20 107:24 108:16 109:11,13 111:21 113:13,24 114:1</p> <p><b>respond</b> [4] 51:16 76:18 105:13 115:14</p> <p><b>Respondent</b> [7] 1:8,21,25 2:7,11 40:23 94:25</p> <p><b>responds</b> [1] 48:21</p> <p><b>response</b> [3] 6:21 20:7 115:17</p> <p><b>responses</b> [1] 32:8</p> <p><b>responsive</b> [2] 101:24 108:5</p> <p><b>result</b> [4] 4:5 64:25 65:3 81:21</p> <p><b>results</b> [2] 43:4,12</p> <p><b>rethink</b> [1] 93:15</p> <p><b>return</b> [2] 14:11 112:23</p> <p><b>reverberations</b> [1] 95:21</p> <p><b>reverse</b> [1] 114:22</p> <p><b>review</b> [2] 83:1,3</p> <p><b>reviews</b> [1] 85:15</p> <p><b>rich</b> [1] 24:9</p> <p><b>Richard</b> [1] 69:4</p> <p><b>rid</b> [2] 47:15 119:12</p> <p><b>Rights</b> [5] 5:24,25 19:11,19 74:18</p> <p><b>rigorous</b> [1] 83:2</p> <p><b>risky</b> [1] 100:19</p> <p><b>ROBERTS</b> [42] 3:3 7:6 38:23 39:2,4,22 40:19 58:9 60:24 61:2,10,22 62:11,16,</p>	<p>20 63:3,6,19,23 64:2,23 65:16,20 66:9,23 67:3,12,15 69:17,21 71:8 78:3 83:13 85:24 90:14 94:18,21 110:22 112:21 115:3 116:15 120:11</p> <p><b>robustly</b> [1] 42:11</p> <p><b>rough</b> [1] 60:14</p> <p><b>row</b> [1] 45:25</p> <p><b>Rudenshtein</b> [1] 50:19</p> <p><b>rule</b> [1] 100:6</p> <p><b>rules</b> [1] 65:12</p> <p><b>ruling</b> [1] 95:9</p> <p><b>runs</b> [1] 109:18</p>	<p><b>S</b></p> <p><b>sacrifice</b> [6] 89:12,16,24 90:6 103:14 118:22</p> <p><b>sacrifices</b> [5] 38:16 49:2 75:14 90:5 118:16</p> <p><b>sacrificing</b> [2] 38:12 104:14</p> <p><b>sacrosanct</b> [1] 10:24</p> <p><b>salami</b> [1] 9:14</p> <p><b>same</b> [26] 4:15 6:25 17:8 18:24 19:19 27:10 31:10 33:12 53:22 65:23 66:5 74:9 81:18 82:3,4,4 91:4,11 92:3 98:21 100:11 113:17 114:12 118:18,22 119:1</p> <p><b>SAT</b> [7] 38:7,10,15 75:18 100:12 102:5 104:2</p> <p><b>satisfaction</b> [1] 93:9</p> <p><b>satisfy</b> [4] 23:25 32:4,6 119:20</p> <p><b>saw</b> [2] 5:20 13:22</p> <p><b>saying</b> [16] 11:12,15,20,25 24:20 36:22 37:2,7 39:17 47:20,23 72:21 79:6 102:16 105:14 120:2</p> <p><b>says</b> [13] 17:4 28:13,17 40:2,2 63:5 73:9,11 92:10 103:20,22 105:5 118:25</p> <p><b>scale</b> [3] 4:15 29:4 49:12</p> <p><b>Scalia</b> [2] 9:9 18:21</p> <p><b>scholars</b> [1] 52:5</p> <p><b>school</b> [8] 7:18 21:16 36:22 38:14 41:22 54:5 64:21 112:2</p> <p><b>school's</b> [1] 11:7</p> <p><b>schools</b> [9] 5:8,8 21:14 81:7 95:10,17 99:9 101:9 118:20</p> <p><b>sciences</b> [1] 118:7</p> <p><b>scientific</b> [1] 96:4</p> <p><b>scientists</b> [1] 41:11</p> <p><b>score</b> [8] 38:7 49:11 53:13,13,24 54:9,11 60:18</p> <p><b>scored</b> [1] 73:9</p> <p><b>scores</b> [12] 34:18 36:8,10 38:10,15 53:17 56:7 64:22 75:18 100:12 102:6 104:2</p> <p><b>scrupulously</b> [1] 89:5</p> <p><b>scrutiny</b> [11] 10:21 23:22</p>	<p>42:12 48:11 77:6,18 85:22 97:10 104:25 118:9 119:21</p> <p><b>se</b> [1] 46:15</p> <p><b>search</b> [1] 97:12</p> <p><b>Second</b> [5] 4:7 78:20 79:22 83:17 87:19</p> <p><b>Secondly</b> [1] 117:13</p> <p><b>security</b> [1] 96:1</p> <p><b>see</b> [12] 23:6 31:13,15 35:16 37:11 60:15 62:9,11 64:5 78:20 106:2 116:13</p> <p><b>seeking</b> [1] 86:3</p> <p><b>seeks</b> [2] 68:3 95:9</p> <p><b>seem</b> [3] 16:5 37:1 115:12</p> <p><b>seemed</b> [4] 76:23 97:18 110:1,6</p> <p><b>seems</b> [4] 43:15 71:13 76:14 89:11</p> <p><b>seep</b> [1] 5:6</p> <p><b>segregated</b> [2] 21:20,21</p> <p><b>segregation</b> [7] 20:12,14 21:4,12,14 22:1 112:18</p> <p><b>selection</b> [1] 70:2</p> <p><b>selective</b> [1] 106:4</p> <p><b>self-declared</b> [2] 73:14,15</p> <p><b>self-destruct</b> [1] 40:1</p> <p><b>sell</b> [1] 70:10</p> <p><b>send</b> [2] 104:24 114:21</p> <p><b>seniors</b> [2] 93:5,10</p> <p><b>sense</b> [5] 17:17 19:16 26:10 27:20 110:20</p> <p><b>sentence</b> [3] 39:8 58:16 91:13</p> <p><b>separate</b> [3] 107:3,4 111:24</p> <p><b>series</b> [3] 5:25 6:1 96:14</p> <p><b>serious</b> [1] 82:8</p> <p><b>seriously</b> [3] 4:19 93:14 117:16</p> <p><b>serve</b> [7] 3:3 27:14,23</p> <p><b>set</b> [7] 14:17 27:16,25 28:10,17,20 88:6</p> <p><b>set-asides</b> [1] 107:3</p> <p><b>SETH</b> [3] 1:20 2:6 40:22</p> <p><b>settled</b> [1] 42:3</p> <p><b>SFFA</b> [3] 42:1,4,19</p> <p><b>SFFA's</b> [1] 57:1</p> <p><b>shameful</b> [1] 4:4</p> <p><b>share</b> [1] 113:5</p> <p><b>Shaw</b> [1] 117:11</p> <p><b>shift</b> [1] 49:25</p> <p><b>shortly</b> [1] 16:24</p> <p><b>shouldn't</b> [1] 11:8</p> <p><b>show</b> [3] 32:14 60:21 73:22</p> <p><b>showed</b> [5] 48:7 66:14 74:4 81:1 93:9</p> <p><b>showing</b> [2] 52:7 93:17</p> <p><b>shown</b> [1] 96:21</p> <p><b>shows</b> [12] 9:15 44:17 46:10 50:14 53:16 76:24 80:22 83:11,11 93:19,20 119:16</p> <p><b>shred</b> [1] 7:3</p>
---	---	--	--	--	--

## Official - Subject to Final Review

<b>side</b> <sup>[6]</sup> 16:22,23 17:4 18:10 93:8 105:2 <b>significant</b> <sup>[4]</sup> 57:6 75:14 81:8 103:8 <b>significantly</b> <sup>[1]</sup> 3:24 <b>similar</b> <sup>[1]</sup> 113:19 <b>similarly</b> <sup>[2]</sup> 101:10 113:20 <b>simple</b> <sup>[2]</sup> 85:7 106:25 <b>simply</b> <sup>[5]</sup> 43:18 58:8 62:1 64:10 119:25 <b>Simulation</b> <sup>[14]</sup> 35:8 37:24 48:24,25 49:1 74:21,23,24, 25 75:1,13 103:20 104:1, 17 <b>since</b> <sup>[4]</sup> 45:15 84:10 92:13 105:21 <b>single</b> <sup>[4]</sup> 51:13 53:7 108:10,17 <b>sit</b> <sup>[2]</sup> 79:15 100:8 <b>situated</b> <sup>[1]</sup> 101:10 <b>situation</b> <sup>[2]</sup> 36:7 111:23 <b>situations</b> <sup>[1]</sup> 112:16 <b>six</b> <sup>[1]</sup> 64:17 <b>skeptical</b> <sup>[1]</sup> 48:10 <b>skeptically</b> <sup>[2]</sup> 77:5 89:5 <b>skills</b> <sup>[1]</sup> 41:8 <b>skin</b> <sup>[2]</sup> 66:7 67:21 <b>slave</b> <sup>[1]</sup> 14:23 <b>slavery</b> <sup>[1]</sup> 6:22 <b>slaves</b> <sup>[7]</sup> 15:8,13 16:1,3,9 18:2 20:3 <b>slicing</b> <sup>[1]</sup> 9:13 <b>slight</b> <sup>[4]</sup> 54:14,17 59:11 117:23 <b>slots</b> <sup>[1]</sup> 60:9 <b>slower</b> <sup>[1]</sup> 99:15 <b>small</b> <sup>[1]</sup> 7:19 <b>smarter</b> <sup>[2]</sup> 60:22,23 <b>Smith</b> <sup>[4]</sup> 49:5 75:10 80:5 94:12 <b>Smith's</b> <sup>[1]</sup> 80:6 <b>so-called</b> <sup>[4]</sup> 44:11 47:5 50:19 92:18 <b>society</b> <sup>[8]</sup> 20:15 27:9,11 84:10 99:15 101:1 116:5, 13 <b>socioeconomic</b> <sup>[12]</sup> 4:23 22:13 30:19 35:11,25 37:13 38:3 41:23 43:12,24 80:12 81:13 <b>socioeconomically</b> <sup>[3]</sup> 24:25 43:14,17 <b>socks</b> <sup>[1]</sup> 118:5 <b>sole</b> <sup>[1]</sup> 37:20 <b>solely</b> <sup>[2]</sup> 66:7 67:21 <b>Solicitor</b> <sup>[6]</sup> 1:22 31:11,17 32:7 33:13 84:6 <b>solutions</b> <sup>[3]</sup> 21:25 22:10 96:3 <b>somehow</b> <sup>[1]</sup> 11:2 <b>someone</b> <sup>[2]</sup> 8:4 10:6 <b>sophisticated</b> <sup>[2]</sup> 22:11 36:1 <b>sorry</b> <sup>[14]</sup> 9:7 15:24 18:10	<b>19:10 24:18 33:2,23 46:25 47:14 58:11 69:19 75:1 103:1 108:1</b> <b>sort</b> <sup>[6]</sup> 7:21 37:14 42:2 61:5 66:17 81:15 <b>SOTOMAYOR</b> <sup>[48]</sup> 10:18 11:13 12:5,11,16 13:9,20 19:10,23 20:1,11 21:11 22:3,22 36:6 37:6,10 38:6,17, 21 61:1 71:9,10,25 72:4,9, 13,16,20 73:1,4,18,21 74:20,25 76:14,18,22 103:1,6, 10,19 104:13 109:6,10,20 110:6,11 <b>Sotomayor's</b> <sup>[1]</sup> 112:24 <b>soundly</b> <sup>[1]</sup> 63:21 <b>sounds</b> <sup>[1]</sup> 10:19 <b>source</b> <sup>[5]</sup> 5:16 9:24 96:10 <b>South</b> <sup>[2]</sup> 17:5,10 <b>span</b> <sup>[1]</sup> 40:8 <b>speaking</b> <sup>[3]</sup> 103:5,18 118:5 <b>speaks</b> <sup>[1]</sup> 114:13 <b>specifically</b> <sup>[2]</sup> 31:25 51:25 <b>speed</b> <sup>[1]</sup> 40:12 <b>spend</b> <sup>[1]</sup> 5:11 <b>spirit</b> <sup>[1]</sup> 48:22 <b>spoke</b> <sup>[1]</sup> 83:23 <b>spot</b> <sup>[1]</sup> 36:9 <b>squash</b> <sup>[4]</sup> 23:16 45:25 77:8 100:13 <b>stability</b> <sup>[1]</sup> 113:24 <b>staff</b> <sup>[2]</sup> 44:15 96:19 <b>stain</b> <sup>[1]</sup> 71:2 <b>stake</b> <sup>[1]</sup> 117:22 <b>standard</b> <sup>[6]</sup> 40:9 65:15 97:8 99:21 102:11 104:22 <b>standards</b> <sup>[2]</sup> 10:21 108:14 <b>standing</b> <sup>[1]</sup> 72:22 <b>stands</b> <sup>[1]</sup> 43:25 <b>start</b> <sup>[1]</sup> 51:4 <b>state</b> <sup>[4]</sup> 16:23 18:7,17 23:1 <b>state-sponsored</b> <sup>[1]</sup> 112:18 <b>statement</b> <sup>[5]</sup> 57:22 82:7 97:18 115:6,11 <b>STATES</b> <sup>[20]</sup> 1:1,15,24 2:10 17:1,9 33:5 94:24 95:24 96:16,21 98:4 101:10, 11,14 102:2 105:5,16,24 116:24 <b>States'</b> <sup>[1]</sup> 5:17 <b>statistic</b> <sup>[1]</sup> 64:11 <b>statistical</b> <sup>[1]</sup> 59:25 <b>statistically</b> <sup>[3]</sup> 13:25 57:6 83:2 <b>statistically-significant</b> <sup>[2]</sup> 119:3,16 <b>statistics</b> <sup>[3]</sup> 24:7 94:1 113:4 <b>status</b> <sup>[3]</sup> 22:13 24:3 38:3	<b>statute</b> <sup>[3]</sup> 12:2 17:20 18:1 <b>statutes</b> <sup>[8]</sup> 17:1,8 19:3,9, 11,14,16 20:9 <b>steadiness</b> <sup>[1]</sup> 114:13 <b>step</b> <sup>[2]</sup> 95:5 96:12 <b>steps</b> <sup>[1]</sup> 79:25 <b>stereotype</b> <sup>[2]</sup> 67:22 68:22 <b>stereotypes</b> <sup>[1]</sup> 41:6 <b>stereotypical</b> <sup>[2]</sup> 61:23 68:22 <b>stigmatize</b> <sup>[1]</sup> 117:2 <b>still</b> <sup>[20]</sup> 16:12 17:19 20:4, 18 25:23 30:8 38:14 39:17 45:21 56:3,6 85:16 94:12 100:22 101:3,15,22 105:8, 10,12 <b>stimulation</b> <sup>[1]</sup> 74:23 <b>stood</b> <sup>[1]</sup> 68:10 <b>stop</b> <sup>[5]</sup> 26:10 40:7,11 47:13 53:12 <b>stopped</b> <sup>[2]</sup> 44:23,24 <b>Strauder</b> <sup>[1]</sup> 6:5 <b>strength</b> <sup>[1]</sup> 96:11 <b>strengthened</b> <sup>[1]</sup> 93:11 <b>strict</b> <sup>[14]</sup> 10:21 23:22 42:12 48:10 77:5,18 85:22 97:9,10 99:19 104:25,25 118:9 119:20 <b>strictly</b> <sup>[1]</sup> 89:4 <b>stringent</b> <sup>[2]</sup> 102:11 104:22 <b>strong</b> <sup>[2]</sup> 66:15,16 <b>structural</b> <sup>[3]</sup> 100:4,7 101:5 <b>struggled</b> <sup>[1]</sup> 105:25 <b>student</b> <sup>[26]</sup> 8:25 9:3,17 24:10 31:21 34:20 41:3,9 53:16 68:12,21,23 69:7,8 70:21 82:12 85:18 96:25 97:14 101:16 103:17 105:18 106:23 107:10 110:15 116:6 <b>STUDENTS</b> <sup>[33]</sup> 1:3 3:4 8:19 10:11 24:9 30:22 34:19 35:13,14,15,19 36:14 41:17 43:7,10 53:23 57:16 69:6 76:6 80:12 86:24 94:14, 14 95:10,16 97:23 104:6, 10 109:13 110:21 113:6 114:4 118:4 <b>studied</b> <sup>[1]</sup> 34:15 <b>studies</b> <sup>[1]</sup> 52:7 <b>study</b> <sup>[4]</sup> 54:4 93:2 101:19 119:12 <b>stuff</b> <sup>[3]</sup> 81:15 100:14 118:9 <b>subcommittees</b> <sup>[1]</sup> 59:6 <b>subject</b> <sup>[1]</sup> 68:24 <b>subjective</b> <sup>[2]</sup> 4:6 71:16 <b>subjectivity</b> <sup>[1]</sup> 72:6 <b>subjagate</b> <sup>[1]</sup> 112:1 <b>submission</b> <sup>[2]</sup> 31:6 32:9 <b>submit</b> <sup>[1]</sup> 119:10 <b>submitted</b> <sup>[3]</sup> 70:4 120:13,	15 <b>subset</b> <sup>[2]</sup> 55:20,21 <b>substantial</b> <sup>[6]</sup> 44:3 48:8 75:17 82:2 104:3 110:14 <b>substantially</b> <sup>[4]</sup> 47:10,16 80:8,19 <b>subterfuge</b> <sup>[1]</sup> 50:12 <b>subterfuges</b> <sup>[1]</sup> 37:14 <b>success</b> <sup>[2]</sup> 80:13 82:2 <b>successful</b> <sup>[2]</sup> 22:8 36:2 <b>sued</b> <sup>[1]</sup> 4:22 <b>suffered</b> <sup>[1]</sup> 112:20 <b>suffice</b> <sup>[1]</sup> 31:8 <b>suffices</b> <sup>[1]</sup> 90:12 <b>sufficient</b> <sup>[7]</sup> 31:9,16 32:2, 2 35:3 89:14 102:20 <b>suggest</b> <sup>[2]</sup> 101:7 114:23 <b>suggested</b> <sup>[3]</sup> 8:13 57:1 87:2 <b>suggesting</b> <sup>[2]</sup> 11:1 99:4 <b>super-important</b> <sup>[2]</sup> 27:15,24 <b>super-qualified</b> <sup>[1]</sup> 36:19 <b>support</b> <sup>[2]</sup> 20:24 40:14 <b>supported</b> <sup>[12]</sup> 15:3 119:25 <b>supporting</b> <sup>[3]</sup> 1:24 2:11 94:25 <b>supposed</b> <sup>[4]</sup> 5:2 10:22 108:15 119:5 <b>SUPREME</b> <sup>[2]</sup> 1:1,14 <b>supremely</b> <sup>[1]</sup> 91:18 <b>surely</b> <sup>[2]</sup> 47:15 111:13 <b>surprising</b> <sup>[1]</sup> 64:5 <b>surrounding</b> <sup>[1]</sup> 39:9 <b>survey</b> <sup>[2]</sup> 93:4,7 <b>swath</b> <sup>[1]</sup> 61:7 <b>swaths</b> <sup>[1]</sup> 21:13 <b>sweeping</b> <sup>[1]</sup> 95:9 <b>syllogism</b> <sup>[1]</sup> 54:2 <b>system</b> <sup>[7]</sup> 20:7 34:10,19 61:18 92:14 107:20 110:12 <b>systematic</b> <sup>[2]</sup> 83:1,2 <b>systems</b> <sup>[1]</sup> 105:23 <hr/> <b>T</b>	5 <b>terms</b> <sup>[10]</sup> 5:14 20:15 40:17 82:14,17 92:24 93:20 94:6 107:2 117:22 <b>terrible</b> <sup>[1]</sup> 71:2 <b>test</b> <sup>[7]</sup> 39:14 64:21 78:19 81:15 85:22 90:9,10 <b>tested</b> <sup>[1]</sup> 81:4 <b>testified</b> <sup>[5]</sup> 23:2 32:23 35:22 118:12 119:8 <b>testify</b> <sup>[1]</sup> 53:7 <b>testimony</b> <sup>[12]</sup> 32:18 42:8 44:10 52:25 59:5,21 62:19 65:9 66:14 80:6 81:1 119:21 <b>Texas</b> <sup>[2]</sup> 22:10 120:5 <b>text</b> <sup>[1]</sup> 6:17 <b>thankfully</b> <sup>[1]</sup> 118:23 <b>theme</b> <sup>[1]</sup> 33:9 <b>themes</b> <sup>[1]</sup> 33:4 <b>themselves</b> <sup>[8]</sup> 6:10,23 16:9 39:15 44:16 98:7 117:1 118:8 <b>there's</b> <sup>[1]</sup> 109:18 <b>There's</b> <sup>[29]</sup> 12:3,15,19 13:1,18 16:8 18:5,20,23 21:8, 12 23:13 24:9 26:21 28:2 36:20 50:25 51:18 55:2 61:4 62:21 64:7 80:20,21 84:10 89:19 100:4,21,23 <b>therefore</b> <sup>[1]</sup> 10:14 <b>thereto</b> <sup>[1]</sup> 19:12 <b>they'll</b> <sup>[1]</sup> 28:21 <b>they've</b> <sup>[3]</sup> 9:18 34:14 64:15 <b>thinking</b> <sup>[2]</sup> 41:7 92:4 <b>thinks</b> <sup>[3]</sup> 38:4 91:10 97:6 <b>Third</b> <sup>[6]</sup> 4:18 34:12 69:10 109:24,24,24 <b>THOMAS</b> <sup>[7]</sup> 5:10 38:25 39:1 42:25 44:6 69:23 110:24 <b>Thomas's</b> <sup>[1]</sup> 115:7 <b>though</b> <sup>[6]</sup> 4:1,24 23:9 45:3 55:22 87:23 <b>thousands</b> <sup>[1]</sup> 56:13 <b>three</b> <sup>[5]</sup> 4:21 69:5 86:2 113:6 117:18 <b>threshold</b> <sup>[1]</sup> 107:6 <b>throughout</b> <sup>[4]</sup> 95:11,22 101:22 105:4 <b>throwing</b> <sup>[1]</sup> 43:22 <b>thumb</b> <sup>[1]</sup> 29:4 <b>thumbed</b> <sup>[1]</sup> 117:16 <b>tie</b> <sup>[1]</sup> 36:13 <b>tie-breaker</b> <sup>[1]</sup> 36:25 <b>tied</b> <sup>[1]</sup> 10:2 <b>tiny</b> <sup>[1]</sup> 110:1 <b>tip</b> <sup>[10]</sup> 61:19 62:3 65:25 67:11 76:4 87:3 91:4,6 107:15 108:6 <b>tips</b> <sup>[2]</sup> 66:22 91:6 <b>Title</b> <sup>[2]</sup> 8:23 37:4 <b>today</b> <sup>[7]</sup> 6:25 7:2 15:7 21:4 23:6 78:6 105:17
--	---	---	--	--

## Official - Subject to Final Review

<p><b>together</b> [3] 91:19 112:11, 11</p> <p><b>toll</b> [1] 110:18</p> <p><b>tomorrow</b> [1] 83:25</p> <p><b>top</b> [4] 21:23 22:7 34:23 36:13</p> <p><b>total</b> [1] 53:6</p> <p><b>tote</b> [1] 73:8</p> <p><b>touching</b> [1] 12:6</p> <p><b>touting</b> [1] 37:16</p> <p><b>track</b> [4] 86:16,18,19 92:22</p> <p><b>tracking</b> [1] 86:23</p> <p><b>tracks</b> [1] 107:4</p> <p><b>tradition</b> [1] 10:10</p> <p><b>traditions</b> [1] 10:3</p> <p><b>training</b> [1] 95:19</p> <p><b>traits</b> [1] 53:14</p> <p><b>translated</b> [3] 34:8 35:2,3</p> <p><b>transpire</b> [1] 83:6</p> <p><b>treat</b> [2] 29:7 94:14</p> <p><b>treated</b> [3] 4:8 20:15 63:15</p> <p><b>treating</b> [2] 117:6 119:1</p> <p><b>treatment</b> [2] 64:3 86:7</p> <p><b>triage</b> [2] 59:3 60:8</p> <p><b>trial</b> [4] 7:25 42:8 56:16,20</p> <p><b>tried</b> [3] 30:8,8 83:7</p> <p><b>trivializes</b> [1] 112:17</p> <p><b>true</b> [3] 3:17 66:5 78:19 106:2,11 113:18 117:4 119:25</p> <p><b>truth</b> [1] 48:6</p> <p><b>try</b> [6] 39:21 57:5 92:6 99:24 106:19 108:5</p> <p><b>trying</b> [8] 58:13 69:16 74:21 79:17 83:7 97:22 108:23 113:10</p> <p><b>turned</b> [1] 25:22</p> <p><b>Twenty-four</b> [1] 64:1</p> <p><b>two</b> [22] 17:4,10 20:19 51:23,24 52:1 53:20 54:21 56:17,22 64:21 65:14,22 71:11 78:17 80:23 81:19 86:1 87:25 88:2,7,21</p> <p><b>two-part</b> [1] 78:15</p> <p><b>two-thirds</b> [1] 93:9</p> <p><b>type</b> [1] 41:22</p> <p><b>types</b> [1] 97:12</p> <p><b>typically</b> [1] 119:20</p>	<p><b>undergraduate</b> [2] 71:1 87:4</p> <p><b>undergraduates</b> [1] 34:16</p> <p><b>underrepresented</b> [8] 22:9,20 26:1,11 30:20 32:3 44:1 81:23</p> <p><b>underscored</b> [1] 47:7</p> <p><b>understand</b> [11] 37:19 46:11 50:3 64:14 79:12 86:4 87:12 88:1,23 99:12 117:20</p> <p><b>understanding</b> [3] 34:17 86:5 113:22</p> <p><b>understatement</b> [2] 48:12 52:16</p> <p><b>understood</b> [2] 84:6 115:23</p> <p><b>undertake</b> [1] 97:11</p> <p><b>undisputed</b> [3] 13:11 62:6 119:2</p> <p><b>undone</b> [1] 112:4</p> <p><b>union</b> [1] 96:9</p> <p><b>unique</b> [1] 10:16</p> <p><b>UNITED</b> [12] 1:1,15,24 2:10 5:17 94:24 95:24 96:16,21 98:4 102:2 116:24</p> <p><b>universities</b> [19] 3:12 4:5, 19 10:11 11:16,17 12:2 16:15,17 25:11 28:5 81:18 88:10 97:3,11 99:10,20 101:14 116:1</p> <p><b>university</b> [25] 8:25 11:21 27:5 34:9,23 41:3,21 45:20 47:17 54:6 89:24 90:5 96:23 101:18 102:3 103:13 105:23 106:5 107:7,14, 18,20 109:2 110:12 112:5</p> <p><b>university's</b> [1] 108:15</p> <p><b>unless</b> [1] 39:14</p> <p><b>unlikely</b> [1] 112:4</p> <p><b>unnecessary</b> [1] 39:15</p> <p><b>unobservables</b> [2] 119:23, 23</p> <p><b>until</b> [2] 4:21 117:18</p> <p><b>up</b> [20] 7:12 10:2 14:17 16:21 20:8 23:16 43:9 45:23 57:22 61:15 68:10 70:13 73:8,10 80:22 88:6 89:8 90:19,25 95:16</p> <p><b>upbringing</b> [1] 61:16</p> <p><b>upheld</b> [1] 28:6</p> <p><b>urge</b> [1] 102:12</p> <p><b>uses</b> [3] 5:1 51:9 71:16</p> <p><b>using</b> [12] 28:15,16 29:14 37:21 40:7,11 70:20 71:19, 20 78:24 108:6 111:16</p> <p><b>usual</b> [1] 45:5</p>	<p><b>variation</b> [1] 115:18</p> <p><b>variations</b> [1] 109:7</p> <p><b>varied</b> [2] 113:1,6</p> <p><b>various</b> [2] 50:16 80:23</p> <p><b>versus</b> [2] 3:5 16:9</p> <p><b>VI</b> [2] 8:23 37:4</p> <p><b>viable</b> [1] 102:8</p> <p><b>victims</b> [2] 120:6,9</p> <p><b>view</b> [10] 21:7 31:17 53:6 69:9,9,12 84:4 85:9,11 115:17</p> <p><b>viewpoint</b> [12] 10:20,23 11:2,9 50:23 61:13 67:23,24, 24 68:2,7 94:8</p> <p><b>viewpoints</b> [1] 61:13</p> <p><b>views</b> [5] 4:12 8:20 66:2,2 68:21</p> <p><b>violation</b> [1] 28:14</p> <p><b>Virginia</b> [1] 1:18</p> <p><b>vitality</b> [1] 41:5</p>	<p><b>week</b> [1] 56:22</p> <p><b>weeks</b> [1] 56:22</p> <p><b>welcome</b> [2] 42:23 94:22</p> <p><b>whatever</b> [7] 8:20 46:2 58:6 72:11 74:7 88:3 114:11</p> <p><b>whatsoever</b> [5] 51:12 52:22 59:16,20 102:1</p> <p><b>Whereupon</b> [1] 120:14</p> <p><b>whether</b> [24] 6:8 8:18,19 13:5 14:1 15:20 18:6,9 24:24 25:10,11 31:21,25 32:21 37:12,13 62:23 67:20 73:1 78:19 85:15 90:23 98:20 108:19</p> <p><b>white</b> [13] 4:25 11:7 12:23 14:25 21:18 22:14 30:22 35:13 46:2 61:14 63:15 74:5 109:24</p> <p><b>whites</b> [12] 3:22 6:9 12:21, 25 19:13,18,19 28:24 34:11 56:9 66:4 73:15</p> <p><b>who's</b> [2] 11:5 65:22</p> <p><b>whole</b> [5] 25:8 70:14 76:10 91:23 111:9</p> <p><b>whom</b> [2] 52:6 68:17</p> <p><b>wide</b> [1] 41:17</p> <p><b>will</b> [29] 27:2 28:21 39:14 40:7 57:11 58:18 66:22,24 67:1,11 68:23 77:21 83:5, 6,21 84:4,12,21 89:5 92:8, 25 99:7,25 101:22 105:7 106:11 115:10 117:20 118:6</p> <p><b>willing</b> [1] 23:3</p> <p><b>window</b> [1] 83:24</p> <p><b>winning</b> [1] 4:16</p> <p><b>wish</b> [1] 90:7</p> <p><b>within</b> [1] 87:20</p> <p><b>without</b> [9] 43:12 83:25 97:14 99:10 100:9 105:18 106:15 116:6 118:12</p> <p><b>witness</b> [1] 53:7</p> <p><b>witnesses</b> [2] 42:9 119:7</p> <p><b>word</b> [1] 102:21</p> <p><b>words</b> [9] 31:17 49:19 55:6 72:10 78:21 88:6 89:21 90:8 103:15</p> <p><b>work</b> [3] 17:25 77:6 94:12</p> <p><b>workable</b> [4] 42:17 76:12 102:9 104:4</p> <p><b>worked</b> [1] 71:6</p> <p><b>workforces</b> [1] 30:4</p> <p><b>working</b> [2] 40:3 93:2</p> <p><b>works</b> [2] 71:7 88:4</p> <p><b>World</b> [4] 24:4 34:11 111:22 112:4</p> <p><b>world's</b> [1] 52:9</p> <p><b>worse</b> [1] 63:15</p> <p><b>worth</b> [1] 4:15</p> <p><b>wrap</b> [1] 21:24</p> <p><b>writ</b> [1] 23:10</p> <p><b>write</b> [3] 4:11 9:17 68:19</p> <p><b>writes</b> [4] 9:1,3 13:5 68:12</p> <p><b>writing</b> [1] 10:6</p>	<p><b>written</b> [1] 9:16</p> <p><b>wrongs</b> [1] 112:18</p> <p><b>wrote</b> [7] 9:10,23 10:17 57:16,16 84:7 93:24</p> <hr/> <p style="text-align: center;"><b>Y</b></p> <hr/> <p><b>year</b> [13] 60:9 65:19 67:9 81:11 83:6 108:17,25,25 109:14,14 113:7,15 114:11</p> <p><b>years</b> [30] 4:21 28:21 39:17, 18 40:6,17 50:17 53:5 64:17 70:3,7,19 71:3 81:20 83:5 84:9,11 88:3 92:2 97:23 98:19,23 99:4 100:8 101:21 113:1 115:10,12 117:17,19</p> <p><b>yield</b> [1] 43:3</p> <hr/> <p style="text-align: center;"><b>Z</b></p> <hr/> <p><b>zero</b> [2] 62:17,18</p>
<p style="text-align: center;"><b>U</b></p> <p><b>U.S</b> [2] 24:3 114:12</p> <p><b>UC</b> [1] 34:19</p> <p><b>UCLA</b> [1] 106:6</p> <p><b>Uh-uh</b> [1] 24:19</p> <p><b>ultimate</b> [1] 107:11</p> <p><b>ultimately</b> [1] 89:23</p> <p><b>ultra</b> [1] 4:15</p> <p><b>unambiguous</b> [1] 52:24</p> <p><b>UNC</b> [2] 84:6 111:16</p> <p><b>unconstitutional</b> [1] 107:21</p> <p><b>under</b> [9] 10:21 16:6,12 31:6 32:14 61:17,23 112:20 114:24</p>	<p style="text-align: center;"><b>V</b></p> <p><b>vague</b> [1] 105:10</p> <p><b>valid</b> [1] 103:24</p> <p><b>valuable</b> [1] 77:2</p> <p><b>values</b> [3] 68:2 75:16 86:13</p>	<p style="text-align: center;"><b>W</b></p> <p><b>wake</b> [1] 80:7</p> <p><b>wanted</b> [3] 50:9 108:4 115:19</p> <p><b>wanting</b> [1] 68:4</p> <p><b>wants</b> [1] 100:10</p> <p><b>War</b> [7] 14:24 16:25 17:18 50:22 67:13,16 70:24</p> <p><b>Washington</b> [5] 1:10,20, 23 33:3 105:4</p> <p><b>WAXMAN</b> [132] 1:20 2:6 13:21 40:21,22,24 42:25 43:20 45:5,9,11,13,15 46:7, 13,20,22 47:1,4,18,22 48:3, 5,14,17,20 49:15,16,19,24 50:13 51:23 53:10,11,25 54:8,13 55:11,15,19 56:14 57:10 58:6,11,13,17,20 59:17,19,24 60:2,4,7 61:9,21, 25 62:14,18,23 63:5,7,10, 21 64:1,7 65:2,17,18 66:8, 11 67:2,6,14 68:1 69:18,19 70:16 71:22 72:1,5,12,15, 19,25 73:3,6,20,25 74:24 75:3 76:17,20 77:3 78:5 79:21 83:14,19,22 84:5,16, 19,24 85:1,5,10,18,21 86:13,18,22 87:8,11,14 88:14, 20 89:2,19 90:1,13,16 91:5, 12,15 92:14 93:19 94:4,17, 20 104:21 117:20,24 119:21</p> <p><b>way</b> [33] 3:13 11:3 13:21 22:2,16 24:11 26:12 27:10 43:15 51:8 54:22 55:2,21 56:9,10 59:6 60:10,14 61:6 78:15,19 80:18 81:6 82:3, 4,13,20 91:9 92:3 94:13 98:11 99:3 112:3</p> <p><b>ways</b> [2] 16:18 29:25</p> <p><b>wealth</b> [3] 23:3,7 118:14</p> <p><b>wealthy</b> [4] 4:25 24:9 43:7 45:19</p>	<p style="text-align: center;"><b>Z</b></p>	