

October 16, 2023

Vineet Bhatia
Susman Godfrey L.L.P.
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Dear Mr. Bhatia:

I am writing on behalf of my client, the American Alliance for Equal Rights—a membership organization of 1Ls and others who oppose racial classifications. For years, Susman has run the “Diversity Fellowship for 1L Students,” a summer-associate program that excludes certain applicants based on race. *See Diversity*, perma.cc/H7C5-PHH8 (requiring applicants to be “people of color ... or members of other groups underrepresented in today’s legal profession”); *Application*, tinyurl.com/ym4pu3ah (requiring applicants to “self-identify [their] status as a ... racial or ethnic minority ... or member of another underrepresented group”). Susman also runs the “Susman Godfrey Prize for Students of Color,” which, again, excludes certain applicants based on race. *See 2022 Susman Godfrey Prize for Students of Color*, perma.cc/FT35-CCEP (allowing only “students of color” to participate); *Inaugural Susman Godfrey Prize for Students of Color*, perma.cc/7FKK-AK7B (same). Susman has previously accepted nominations for this contest in February.

The Alliance has challenged similar “diversity fellowships” at other law firms. *See Monnay, Morrison Foerster Changes DEI Fellowship Criteria Amid Lawsuit*, Bloomberg (Sept. 6, 2023), perma.cc/BQ7U-L67B; Raymond, *Second Major US Law Firm Changes Diversity Fellowship After Lawsuit*, Reuters (Oct. 6, 2023), perma.cc/6NB7-QNCU. In its case against Perkins Coie, Perkins stipulated (1) that “Membership in a group historically underrepresented in the legal profession is not required under the new program”; (2) that Perkins will “not ask or require applicants to identify their race when applying”; and (3) that Perkins will not “rever[t] to a summer associate fellowship program that requires an applicant to be a member of a historically underrepresented group.” Dkt. 31, *AAER v. Perkins Coie L.L.P.*, No. 3:23-cv-01877-L (N.D. Tex.). Morrison & Foerster stipulated to the same. *See* Dkt. 39, *AAER v. Morrison & Foerster L.L.P.*, No. 1:23-cv-23189-KMW (S.D. Fla.). In both cases, the firms agreed to consider only an applicant’s individualized “discussion of how race affected his or her life, be it through discrimination, inspiration, or otherwise.” *Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll.*, 600 U.S. 181, 230 (2023). “In other words,” consideration for those fellowships is now “based on [an applicant’s] experiences as an individual—not on the basis of race.” *Id.* at 231.

The Alliance is considering similar legal action against Susman. In the hopes of avoiding litigation, the Alliance asks that you answer the following questions by October 20, 2023:

1. Does Susman plan to proceed with the 1L Diversity Fellowship and the Susman Godfrey Prize for Students of Color in 2024?
2. Is Susman changing the fellowship or prize? If so, will the new fellowship or prize refrain from asking participants about their race? Will they consider race as a factor when making selections?

3. If the new fellowship or prize consider race in any way, what role will race play?
We look forward to your response.

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