

July 24, 2025



Lourdes M. Rosado
President and General Counsel

The Equal Employment Opportunity Commission
Andrea R. Lucas, EEOC Chair
131 M Street, NE
Washington, DC 20507-0100

Via email andrea.lucas@eeoc.gov

Re: Investigating Consovoy, the Wisconsin Institute, Pacific Legal Foundation, and America First Legal

Dear Mrs. Lucas,

LatinoJustice PRLDEF writes pursuant to 29 C.F.R. § 1601.6(a), as an “organization ... request[ing] the issuance of a Commissioner charge for an inquiry into individual or systemic discrimination,”¹ related to the suspected discriminatory and illegal employment practices of Consovoy McCarthy PLLC (“Consovoy”), the Wisconsin Institute for Law and Liberty (“The Wisconsin Institute”), America First Legal (“AFL”), and the Pacific Legal Foundation (“PLF”) in violation of Section 703 of Title VII of the Civil Rights Act of 1964 (“Section 703”).

Following the President’s Executive Orders, you discussed your intentions to root “out unlawful DEI-motivated race and sex discrimination; protecting American workers from anti-American national origin discrimination; defending the biological and binary reality of sex and related rights, including women’s rights to single-sex spaces at work; protecting workers from religious bias and

¹ [https://www.eeoc.gov/commissioner-charges-and-directed-investigations#:~:text=%E2%80%99CAny%20person%20or%20organization%20may,%C2%A7%201601.6\(a\).](https://www.eeoc.gov/commissioner-charges-and-directed-investigations#:~:text=%E2%80%99CAny%20person%20or%20organization%20may,%C2%A7%201601.6(a).)



harassment, including antisemitism; and remedying other areas of recent under-enforcement."² The first step in addressing unlawful racial and gender discrimination is to thoroughly investigate organizations that are systematically excluding individuals of certain races, ethnicities and genders from leadership positions. Such a step is essential to ensuring accountability and to eliminating the barriers that perpetuate inequality at the top levels of decision-making.

Section 703 prohibits employers from discriminating against individuals in employment practices based on race, color, religion, sex, or national origin.³ Together, Consovoy, The Wisconsin Institute, PLF, and AFL have filed lawsuits and sent a number of letters to this Commission all in the name of fighting discrimination. Yet these same organizations seem to lack any racial/ethnic or gender diversity within their own ranks, calling into serious question their own compliance with Title VII.

Consovoy, a law firm with offices in Washington D.C., Utah, and Massachusetts, maintains a team of partners who are seemingly all white, with only two women,⁴ which stands in stark contrast to the diverse racial, ethnic, and gender demographics of each of these states. Washington, D.C. is one of the most racially and ethnically diverse cities in the United States, and the populations of Utah and Massachusetts are growing in their racial and ethnic diversity. And women represent roughly one-half of the community in all three locations. The makeup of Consovoy's leadership does not reflect the broader populations in these regions and this discrepancy highlights a gap between the firm's leadership composition and the diversity of the communities surrounding them.

Similarly, AFL is headquartered in Washington, D.C. The organization has three leadership positions—their Co-Founders, President, Vice President—and *every single one* of these roles is seemingly occupied by a white man.⁵ The Wisconsin Institute is headquartered in Milwaukee, Wisconsin. Its seven-member Board of Directors appear to be composed *entirely* of white men,⁶ which starkly contrasts with the gender, race, and ethnicity demographics of Wisconsin—and the legal professionals therein.

PLF also has four members on its executive leadership team: the President and CEO, the Vice President of Legal Affairs, the Executive Vice President and General Counsel, and the Vice President for Litigation, Policy and Research. Again, *each and every one* of these positions

² <https://www.foxnews.com/politics/unlawful-dei-motivated-workplace-discrimination-rooted-out-trumps-new-acting-eeoc-chair>

³ <https://www.eeoc.gov/statutes/title-vii-civil-rights-act-1964>

⁴ <https://consovoymccarthy.com/team/>

⁵ <https://aflegal.org/leadership/>

⁶ <https://will-law.org/board-of-directors/>



appears to be occupied by a white man,⁷ despite the racial and ethnic diversity of California, where the Foundation is headquartered.

We recognize that the leadership composition of organizations can mirror the communities they serve. We also recognize that many organizations serving Latino communities are themselves headed by Latinos. We believe that fact is consistent with the EEOC's emphasis on the importance of diversity in hiring and recruitment, and guidelines encouraging employers to adopt inclusive practices that ensure equal opportunity for all individuals, regardless of race, gender, or other protected characteristics.

However, each of the above organizations has made much of seeking a color-blind America, claiming discrimination against white people.

- AFL wrote a letter to the EEOC alleging that Nike's employment practices are seemingly designed and intended to discriminate against white men solely because of their skin color or sex.⁸ Even further, they allege that "the Company's employment practices favor some individuals over others because of their skin color and/or sex...[which is] is patently unlawful."⁹ AFL has also requested EEOC investigations into Amazon¹⁰ and Williams-Sonoma¹¹ regarding concerns of racial discrimination.
- PLF has made statements and arguments in various legal briefs and public communications that allege that certain Diversity, Equity, and Inclusion ("DEI") policies discriminate against white men. In amicus briefs filed in support of the plaintiffs challenging Harvard's race-conscious admissions practices, PLF stated that race-based preferences "discriminate against white and Asian applicants, while favoring black and Hispanic applicants" and that "by considering race in admissions decisions, Harvard deprives qualified applicants, especially white, of equal access to educational opportunities."¹²
- The Wisconsin Institute has also been involved with several legal challenges and actions related to DEI including filing a public records lawsuit against Madison Metropolitan School District arguing that their school policies discriminated against students based on

⁷ <https://pacificlegal.org/staff/>

⁸ <https://media.aflegal.org/wp-content/uploads/2024/01/11210910/Nike-EEOC-letter-01112024.pdf>

⁹ <https://media.aflegal.org/wp-content/uploads/2024/01/11210910/Nike-EEOC-letter-01112024.pdf>

¹⁰ <https://aflegal.org/press-release/afl-files-groundbreaking-class-action-lawsuit-against-amazon-for-illegal-racial-discrimination-egregious-violations-of-civil-rights/>

¹¹ <https://aflegal.org/press-release/america-first-legal-slams-williams-sonoma-inc-for-illegal-race-and-sex-discrimination-files-federal-civil-rights-complaint/>

¹² *Amicus Curiae Brief of Pacific Legal Foundation in Support of Petitioners, Students for Fair Admissions, Inc. v. President and Fellows of Harvard College*, No. 20-1199 (U.S. Supreme Court, filed February 2022).



race,¹³ and more notably, filing a lawsuit against the University of Wisconsin System arguing that the university's diversity and inclusion initiatives discriminated against individuals on the basis of race and were unconstitutional.¹⁴ Their deputy counsel has also stated that they want to "ensure that our laws are colorblind, and that no citizen's race is a disadvantage."¹⁵

- Consovoy has filed several lawsuits challenging the constitutionality of DEI policies, arguing that they violate the U.S. Constitution, including a suit on behalf of the American Alliance for Equal Rights against McDonald's HACER program, which offers scholarships and opportunities to Hispanic employees, alleging that the program discriminates against non-Hispanic individuals by offering preferential treatment based on ethnicity.¹⁶ They contend that this program unfairly discriminates, however, they have outwardly excluded Asian, Black, and Latino Americans from being a partner within their firm.

Consovoy, AFL, PLF, and the Wisconsin Institute are all taking legal action against organizations, arguing that their policies unfairly favor certain races and genders. However, these organizations seem to fall short in upholding the very standards they seek to enforce. Their advocacy for colorblindness appears to stop at their front doors, with seemingly no one other than white men welcome to lead. It cannot possibly be that the only people qualified to lead these firms are white men, and the EEOC routinely considers the extreme lack of diversity demonstrated by these firms' leadership structures relevant to an investigation of discriminatory practices.

And of course, the hypocrisy of these organizations is compounded by their reliance upon Title VII, the landmark legislation aimed at eliminating discrimination in employment based on race, color, religion, sex, or national origin. Its purpose was to create a level playing field in the workforce by prohibiting employers from making decisions on these protected characteristics, promoting equal opportunity and fairness in hiring, promotion, and compensation.

Therefore, LatinoJustice PRLDEF respectfully requests that if the Agency chooses to open a commissioners' charge on any organization targeted by AFL, PLF, and/or the Wisconsin Institute, it also at the same time open a parallel charge on the complaining firm.

¹³ <https://will-law.org/doe-v-mmsd/>

¹⁴ <https://pbswisconsin.org/news-item/lawsuit-alleges-state-bar-of-wisconsin-minority-program-is-unconstitutional/>

¹⁵ <https://will-law.org/will-launches-equality-for-all-agenda-following-supreme-court-decision-eliminating-affirmative-action/>

¹⁶ <https://americanallianceforequalrights.org/american-alliance-for-equal-rights-files-lawsuit-challenging-mcdonalds-hacer-hispanic-only-scholarship-program/>



Thank you for your prompt attention to this request.

Yours truly,

Lourdes M. Rosado