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Challenging Discrimination in America

Challenging discrimination in America has become a different sort of enterprise than it was 50, 25, or even 10 years ago. The post-Civil War amendments to the United States Constitution were interpreted starting in the early 1960s as prohibiting discrimination against minorities in addition to African Americans. The early definition of discrimination utilized the fancy court terminology of "invidiously discriminatory animus." In other words, if somebody was faced with mistreatment because of some quality of their being such as race, color, creed, or religion, the courts were able to act under the appropriate enabling legislation. With the passage of time, the categories of those who were protected increased. The crazy quilt of legislation we have to protect individual rights and liberties, is not always uniform.

Not so long ago, I was confronted with proposals to ban discrimination against LGBTQ+ individuals. My response to those proposals, to at a private employer and to the Pennsylvania Bar Association, was we should restate our opposition to discriminatory conduct regardless of the categorization of the victim. In other words, elevating the rights of some minorities, over others, is by definition discriminatory and therefore hypocritical. Back in the old days, we used to call that "reverse discrimination." Successful cases were brought by White people who were discriminated against in order to make way for minorities who traditionally faced discrimination in this country.

Let us make no mistake about it, slavery and the re-enslavement of African Americans, even after the Civil War, was not only unforgivable but has taught us a lesson about why no one should face discrimination based upon some particular characteristic. The words of Martin Luther King cannot be improved upon today; it is the quality of the character rather than the color of the skin which must and should control our national agenda.

However, we need to safeguard against discriminating against some in order to promote the virtues of others. When we were kids, our parents used to say, "two wrongs don't make a right." Our parents knew what they were talking about. That same philosophy should apply today when we go out of our way to benefit certain groups, causing deliberate discriminatory harm to others.

Our very own Rieders Foundation filed an Amicus Curiae Brief in the United States Supreme Court case of *Reynaldo Gonzalez vs. Google*. That case is examining the question as to how broad the exemption should be under the Communications Decency Act of 1996, providing social media platforms immunity from some civil and criminal claims. Section 230(c)(1) provides: "No provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider." The statute has been interpreted as protecting behemoths like Google, no matter what content they permit. Social media, and other platforms, make boatloads of money utilizing artificial intelligence to direct hate groups to potential co-conspirators whose very purpose is to cause harm to other groups, whether Asians, Jewish, African Americans, or the like.

It is time to eliminate and abolish artificial immunities and to require big tech to stand up and be counted among responsible citizens in the United States. It is well understood today that the internet is a cesspool used by the lowest order of human scum to organize their hatred and attacks against others.

Gonzalez is not the only case that the United States Supreme Court will be hearing of great importance to rescuing the American psyche from the gutter.

Recently, argument was heard in the United States Supreme Court in the case of *Students for Fair Admissions, Inc. v. President & Fellows of Harvard College.* In that case, Asian Americans sued Harvard University for deliberate discrimination, so that the University could admit a more "favored" minority. How insane is that? When I applied to law schools, it was made very clear to me that Jews could not get into certain schools, because of an understood "quota" system. In 1911, New York University adopted the first quota against the Jewish people, and it spread like wildfire throughout the university community.

While quotas were formally eliminated, or so it is claimed, there is no question that certain groups are favored and others disfavored in the university environment. So toxic have American colleges and universities become for Jewish students, that many of those students deny their heritage, fear attacks on the campus and in essence live a secret life. Much of the hatred against the Jewish people is stirred up by pop stars, athletes, and others whose ignorance is so enormous that "the big lie" sticks without being questioned. The present form of anti-Semitism, sometimes masquerading as anti-Israel sentiment, shows no sign of abating. The ancient and irrational hatred of the Jewish faith comes from both leftwing and rightwing. That confounds and confuses many Jewish people, who live in fear and insecurity. My mother's family, murdered by the Germans in World War II and enslaved by the Soviets after the war, had no appetite for either extreme. They would testify that bullets made by either fascists or communists and hatred spewed by all extremes kill.

It is a great honor and pleasure to work on these cases in the United States Supreme Court, where we will hopefully restore the balance to American culture and thinking. Hopefully, we can eliminate and ban all discrimination, although we cannot change the way people think except through education and experience. We can turn away from hatemongers, and we can support legal teams that believe colleges and universities should treat all people equally in terms of admissions, grading, and benefits while holding accountable internet providers for their misuse of artificial intelligence and algorithms that feed the frenzy of distrust all too common in our nation today.

Clifford A. Rieders, Esquire
Rieders, Travis, Dohrmann, Mowrey
Humphrey & Waters
161 West Third Street
Williamsport, PA 17701
(570) 323-8711 (telephone)
(570) 323-4192 (facsimile)

Cliff Rieders is a Board-Certified Trial Advocate in Williamsport, is Past President of the Pennsylvania Trial Lawyers Association and a past member of the Pennsylvania Patient Safety Authority. None of the opinions expressed necessarily represent the views of these organizations.