

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE**

AMERICAN ALLIANCE FOR EQUAL  
RIGHTS,

Plaintiff,

v.

No. 25-cv-\_\_\_\_\_

McDONALD’S CORPORATION;  
McDONALD’S USA, LLC; and  
INTERNATIONAL SCHOLARSHIP &  
TUITION SERVICES, INC.,

Defendants.

**VERIFIED COMPLAINT**

1. Following the Supreme Court’s landmark decision in *SFFA v. Harvard*, 600 U.S. 181 (2023), McDonald’s hired the law firm WilmerHale to do a “comprehensive” civil-rights audit of “all” the company’s DEI efforts. *Our Commitment to Inclusion at McDonald’s*, McDonald’s (Jan. 6, 2025), [perma.cc/BV2T-ZXQX](https://perma.cc/BV2T-ZXQX).

2. Last week, McDonald’s announced the results of that audit: *Harvard* has convinced it to “modify” several of its DEI programs. *Id.*; see Danzinger, *McDonald’s Joins the Stampede of Corporations Retreating from DEI*, Forbes (Jan. 9, 2025), [perma.cc/8KF8-JG42](https://perma.cc/8KF8-JG42). McDonald’s said it would now follow a “new” overarching concept: “trea[t] everyone with dignity, fairness and respect, always.” *Our Commitment to Inclusion*.

3. But when McDonald’s expressed this new commitment to treat “everyone” fairly, it didn’t mean everyone. Even after its civil-rights audit, McDonald’s has decided to continue a program that blatantly discriminates against high-schoolers based

on their ethnicity. Its HACER program awards college scholarships worth up to \$100,000 to 30 winners. But per McDonald’s, applicants must “have at least one parent of Hispanic/Latino heritage.” *Eligibility & Requirements* (archived Jan. 9, 2025), [perma.cc/39P3-FFEK](https://perma.cc/39P3-FFEK). So non-Hispanics—including non-Hispanic students with severe financial need and racial minorities like blacks, Arabs, and Native Americans—are flatly barred based on their ethnic heritage.

4. This kind of discrimination was never lawful, even before *Harvard* held that colleges cannot use race or ethnicity in admissions. Though McDonald’s civil-rights audit supposedly reviewed *Harvard*, the audit missed *Harvard*’s central command: “Eliminating racial discrimination means eliminating all of it.” 600 U.S. at 206. No racial discrimination is benign: It always “demeans the dignity and worth” of individuals “to be judged” by their race or ethnicity instead of their “own merit and essential qualities.” *Id.* at 220. That principle is true under the Constitution, true under Title VI, and true under 42 U.S.C. §1981—the federal statute that bars companies like McDonald’s from discriminating based on ethnicity when making contracts. Because McDonald’s program is a contract that discriminates on its face, it violates §1981.

5. McDonald’s program is operated in Nashville by a company headquartered in Nashville: International Scholarship & Tuition Services. McDonald’s and ISTS are currently harming members of the American Alliance for Equal Rights, including Member A—a high-school senior who wants to apply to the current round of HACER but can’t because she’s not Hispanic.

6. Because ISTS and McDonald's are violating §1981, the Alliance is entitled to relief. And because applications are due on February 6, 2025, the Alliance needs immediate temporary relief to give the parties and the Court time to resolve these serious claims.

## **PARTIES**

7. The American Alliance for Equal Rights is a nationwide membership organization dedicated to ending racial and ethnic classifications throughout America.

8. The Alliance was founded in 2021. It was approved by the IRS as a 501(c)(3) tax-exempt organization the same year.

9. Edward Blum is the Alliance's president; Richard Fisher is its treasurer; and Wai Wah Chin is its secretary.

10. The Alliance has more than 250 members, and its membership continues to grow.

11. The Alliance's members are actively involved in the organization and its affairs. Members voluntarily join the Alliance. They pay dues. They receive regular updates. And they offer input on the Alliance's litigation and other activities.

12. The Alliance has members who are ready and able to apply to McDonald's current contest for high-schoolers graduating in 2025. The application deadline for this current round is February 6, 2025. *Write the Next Chapter of Your Story with the McDonald's HACER National Scholarship*, McDonald's (archived Jan. 9, 2025), [perma.cc/G3QX-HUW6](https://perma.cc/G3QX-HUW6).

13. McDonald's Corporation runs all of McDonald's, the biggest fast-food chain in the world. And McDonald's USA, LLC runs McDonald's in the United States. Nashville is one of the ten cities where McDonald's has a field office. *McDonald's U.S. Landlord - Resource Directory* (archived Jan. 9, 2025), [perma.cc/EC63-7EDK](https://perma.cc/EC63-7EDK). McDonald's created, funds, sponsors, advertises, and owns HACER.

14. International Scholarship & Tuition Services, Inc. is a Tennessee corporation that specializes in managing sponsored educational-assistance programs. ISTS has its headquarters in Nashville. It administers HACER for McDonald's in Nashville, including by collecting applications in Nashville, reviewing applications in Nashville, enforcing the program's rules in Nashville, choosing winners in Nashville, and distributing the funds from Nashville.

## **JURISDICTION AND VENUE**

15. This Court has subject-matter jurisdiction under 28 U.S.C. §1331 because this case “arise[s] under” §1981, a federal statute. *Id.*

16. Venue is proper because a “substantial part” of the relevant events or omissions occurred in Nashville, where the challenged program is administered and the winners are chosen. 28 U.S.C. §1391(b)(2).

17. Alternatively, venue is proper because ISTS is subject to general “personal jurisdiction” here, and both ISTS and McDonald's are subject to personal jurisdiction “with respect to [this] action.” §1391(b)(3). McDonald's contracted with ISTS, a Tennessee corporation headquartered in Nashville, to administer HACER in Nashville.

McDonald's gave ISTS the power to choose the program's winners in Nashville. McDonald's advertises HACER widely, including with advertisements it knows reach Tennessee and Nashville. And McDonald's will send scholarship funds to Nashville—including funds to winners who attend, for example, "Vanderbilt University." *Brownsville Student Receives McDonald's HACER® National Scholarship*, Tex. Border Bus. (Sept. 11, 2023), [perma.cc/98MC-YD6K](https://perma.cc/98MC-YD6K).

## FACTS

### I. ISTS administers McDonald's HACER program.

18. ISTS administers the HACER program for McDonald's.
19. To apply, students must register with ISTS, make an account with ISTS, and agree to ISTS's privacy policy.
20. Once registered, students work on their HACER applications in an online platform that ISTS designed and operates. And when they're ready to submit their applications, students must use ISTS's platform. This platform and its websites are "solely owned and operated" by ISTS. *Privacy Policy*, ISTS (archived Jan. 9, 2025), [perma.cc/HY46-3C4R](https://perma.cc/HY46-3C4R).
21. After applications are submitted, ISTS is responsible for reviewing them and ensuring applicants meet the program's requirements, including the ethnic one.
22. ISTS selects the winners. That selection process is independent from McDonald's, by design. McDonald's does not review, approve, deny, or advise ISTS on who should win. ISTS's selections are final and cannot be appealed.

23. In short, ISTS’s administration of HACER is “comprehensive.” *Scholarship Management Services*, ISTS (archived Jan. 10, 2025), [perma.cc/5X6J-8YDM](https://perma.cc/5X6J-8YDM). It does “all day-to-day program administration, including applicant selection, financial need and merit assessment, scholarship funds disbursement, and reporting.” *Id.*

## II. HACER is open only to Hispanics.

24. HACER “is one of the largest programs committed to college scholarships and resources for Hispanics.” *McDonald’s USA Hosts Mentorship Session with Former Crew Member Turned Astronaut, Katya Echazarreta*, McDonald’s (Jan. 18, 2023), [perma.cc/L9MB-GRFZ](https://perma.cc/L9MB-GRFZ). To date, “more than \$33 million in McDonald’s HACER® National Scholarships have been awarded to Hispanic and Latino students.” *Write the Next Chapter*.

25. HACER awards thousands of dollars in scholarships to 30 students nationwide. *Id.* Recipients can receive from \$5,000 to \$100,000 in awards, *id.*, and the awards can be renewed in subsequent years.

26. But non-Hispanics are not eligible for HACER.

(a) On a page titled, “Eligibility & Requirements,” McDonald’s states that one of the “requirements” for HACER is that applicants “have at least one parent of Hispanic/Latino heritage.” *Eligibility & Requirements*. That requirement appears in a bullet-pointed list along with seven other requirements that are plainly required, like being a “high school senior” and having “a minimum GPA of 2.8.” *Id.*

(b) The HACER application makes the same point, stressing that “Applicants must meet **all** of the following criteria to be eligible to apply,” the last of which is “Must have at least one parent of Hispanic/Latino heritage.” To remove any doubt, the application formally defines “Hispanic/Latino.” “Applicants must be from a family that came from at least one of these countries/territories: Argentina, Belize, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Dominican Republic, Ecuador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Puerto Rico, El Salvador, Spain, Uruguay, or Venezuela.”

(c) On page one, the application forces students to answer a series of “Eligibility” questions. If an applicant answers no to one of these questions, they are not allowed to proceed with the application. The fourth question is “Are you of Hispanic/Latino heritage?”

27. McDonald’s has never awarded a HACER scholarship to a non-Hispanic. The company boasts that the program “awarded more than \$33 million in scholarship funds” to over 17,000 students, all 17,000 of whom are “Hispanic and Latino.” *Write the Next Chapter*.

28. McDonald’s advertising confirms the contest’s discriminatory purpose and operation.

(a) “HACER was established to help Latino high schoolers.” *Estamos Presente – Showing Up for our Latino Communities, Every Day*, McDonald’s (Nov. 17, 2022), [perma.cc/PP8F-J4A9](https://perma.cc/PP8F-J4A9).

(b) “*Hispanic* college-bound high school seniors and their parents are encouraged” to learn more about the program and apply. *I Won a \$100,000 McDonald’s HACER® National Scholarship This Year*, McDonald’s (Oct. 5, 2020), [perma.cc/D5A2-YPEW](https://perma.cc/D5A2-YPEW) (emphasis added).

(c) McDonald’s hired a group of Hispanic speakers to promote HACER and encourage students to apply for scholarships. *See McDonald’s HACER® Education Tour*, McDonald’s (archived Jan. 11, 2025), [perma.cc/K4WF-4M7M](https://perma.cc/K4WF-4M7M). The tour still has stops remaining on January 14, January 28, and January 30. *Calendar of Events*, CoolSpeak (archived Jan. 11, 2025), [perma.cc/RXK9-FEFS](https://perma.cc/RXK9-FEFS). One of the speakers, Ernesto Mejia, stresses that one of HACER’s “requirements” is that applicants “have at least one parent of Hispanic/Latino heritage.” *Instagram Post* (Dec. 6, 2024), [instagram.com/ernmejia/p/DDPXvM4O68h/](https://www.instagram.com/ernmejia/p/DDPXvM4O68h/).

(d) In a promotional video that was produced and published by McDonald’s, a 2022 winner of HACER says she found the program because she was looking for “scholarships that were specifically for Latinos,” like her. *Facebook Video* (Nov. 17, 2023), [perma.cc/GRT2-HGNH](https://perma.cc/GRT2-HGNH).



29. Informed third parties understand that HACER requires applicants to be Hispanic. Scholarship clearinghouses—companies whose entire business model is predicated on accurately conveying scholarship requirements and not discouraging applicants by stating false requirements—recognize that HACER is limited to Hispanics.<sup>1</sup> And schools—who also have an incentive to accurately describe scholarship requirements to their students—agree, stressing the obvious fact that HACER requires applicants to be Hispanic.<sup>2</sup>

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<sup>1</sup> *E.g.*, Scholarship Guidance, *McDonald's HACER National Scholarship* (archived Jan. 9, 2025), [perma.cc/Q3AM-KPQL](https://perma.cc/Q3AM-KPQL) (“Are you eligible? Check out the requirements below to find out if the McDonald’s® HACER® National Scholarship is right for you:~ ... You have at least one parent of Hispanic/Latino heritage.”); Scholarship GPS, *\$100,000 McDonald's HACER National Scholarship* (Jan. 6, 2025), [tinyurl.com/27yfe3d8](https://tinyurl.com/27yfe3d8) (“Eligibility: ... You have at least one parent of Hispanic/Latino heritage.”); School Sharp, *Scholarships!* (archived Jan. 9, 2025), [perma.cc/A984-MBWK](https://perma.cc/A984-MBWK) (“Eligibility: ... You have at least one parent of Hispanic/Latino heritage.”).

<sup>2</sup> *E.g.*, Garland Independent School District, *McDonald's HACER National Scholarship* (archived Jan. 9, 2025), [perma.cc/7FV5-5TWF](https://perma.cc/7FV5-5TWF) (“Eligibility Requirements: ... You have at least one parent of Hispanic/Latino heritage.”); Stuyvesant, *Apply for the McDonalds HACER Scholarship for students of Hispanic Descent* (Oct. 19, 2023), [perma.cc/X8P2-U8S2](https://perma.cc/X8P2-U8S2) (“Are you eligible? ... You [must] have at least one parent of Hispanic/Latino heritage.”); Douglas County High School, *McDonald's HACER National Scholarship* (archived Jan. 9, 2025), [perma.cc/JC5G-QWMP](https://perma.cc/JC5G-QWMP) (“Are you eligible? ... You [must] have at least one parent of Hispanic/Latino heritage.”); Sherman Oaks Center for Enriched Studies, *Scholarship Database* (archived Jan. 9, 2025), [tinyurl.com/yy7mhuey](https://tinyurl.com/yy7mhuey) (“You’re eligible for this scholarship if you have at least one parent of Hispanic/Latino heritage.”); Coral Gables Senior High School, *McDonald's Scholarship* (Oct. 16, 2023), [perma.cc/JA7D-TJHR](https://perma.cc/JA7D-TJHR) (“Are you eligible? ... You [must] have at least one parent of Hispanic/Latino heritage.”); *Van Buren High School Scholarships* (archived Jan. 9, 2025), [tinyurl.com/3tftcrw](https://tinyurl.com/3tftcrw) (“Are you eligible? ... You [must] have at least one parent of Hispanic/Latino heritage.”); University of the Cumberland, *Scholarships* (archived Jan. 9, 2025), [perma.cc/Q268-B9EB](https://perma.cc/Q268-B9EB) (“Eligibility Requirements: ... You have at least one parent of Hispanic/Latino heritage.”); Pinellas County Schools, *Scholarship Opportunities* (archived Jan. 17, 2024), [perma.cc/57E6-99VK](https://perma.cc/57E6-99VK) (“Requirements: ... You have at least one parent of Hispanic/Latino heritage.”); *Washington High School* (archived Jan. 9, 2025), [tinyurl.com/3cxw8fkc](https://tinyurl.com/3cxw8fkc) (“Eligibility Requirements ... You have at least one parent of Hispanic/Latino heritage.”);

30. The program’s administrator, ISTS, *cannot* allow non-Hispanics to apply or be chosen. Contractually, ISTS must follow the “program’s eligibility requirements” as specified by its client, McDonald’s. *Client Handbook 2024*, ISTS (archived Jan. 10, 2025), [perma.cc/HSJ6-XY4A](https://perma.cc/HSJ6-XY4A).

31. At the end of the application, applicants must agree to let McDonald’s “verify any of the information contained therein,” including their reported Hispanic heritage.

32. The application also makes applicants reveal, as a “required (\*)” field, their “Country of Family Origin” because “applicants must be from a family that came from at least one of the countries in the drop down.” The application also invites applicants to submit “a short video” of themselves explaining why they “deserve this scholarship.” According to the EEOC, asking applicants to provide their ethnicity or a video of themselves is evidence of an intent to discriminate. *Prohibited Employment Policies/Practices*, EEOC (archived Jan. 10, 2025), [perma.cc/DJU7-85TK](https://perma.cc/DJU7-85TK).

### **III. The HACER program is contract-based.**

33. HACER is contractual in nature.

34. The program is a contest. As part of their application, students must write a personal statement (a series of short essays) and do a personal interview. *Eligibility*

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*SHHS Principal’s Update* (Feb. 24, 2024), [tinyurl.com/45a6cs79](https://tinyurl.com/45a6cs79) (“Eligibility criteria: ... You have at least one parent of Hispanic/Latino heritage.”).

☞ *Requirements*. A panel of “judges” evaluates applicants’ performance on these metrics to help select the “winners.” *Id.*

35. Contests are classic contracts: performance in exchange for a chance at the prize. *E.g., Am. All. for Equal Rights v. Fearless Fund*, 2023 WL 6295121, at \*4 (N.D. Ga. Sept. 27) (agreeing that “courts construe contests as offers for a unilateral contract”). “[N]early all jurisdictions have adopted the rule that contract law governs the sponsor-contestant relationship.” *Hampton v. Dillard Dep’t Stores, Inc.*, 247 F.3d 1091, 1104 (10th Cir. 2001) (cleaned up). They recognize that “performance by the entrant of the act requested by the sponsor ... constitutes an acceptance of an offer and forms a binding contract.” *Id.* (cleaned up).

36. Applicants also must agree to ISTS’s “Privacy Policy.” To apply for HACER, applicants must make an account on ISTS’s platform. *HACER Login*, McDonald’s (archived Jan. 9, 2025), [perma.cc/CQL2-WTQK](https://perma.cc/CQL2-WTQK). And to make an account, applicants must “read and agree to [ISTS’s] Privacy Policy.” *Welcome!*, ISTS (archived Jan. 9, 2025), [perma.cc/Z95P-7BEM](https://perma.cc/Z95P-7BEM).

37. The privacy policy is a contract. In exchange for getting to use ISTS’s platform—the only way to apply to HACER—applicants agree to give up certain rights. They must share with ISTS their “address,” “tax information,” and “social security number.” *Privacy Policy*. They agree to let ISTS collect any “correspondence,” “emails,” or “letters” that an applicant submits. *Id.* And if an applicant is “required to

provide other information”—like their “gender, personal interests, academic performance data, extracurricular activities, or personal essays”—they agree that ISTS can keep that information too. *Id.*; *see also id.* (“We own all information collected from the users of the Site.”).

38. Applicants must also agree to let ISTS collect and store their “Personally Identifiable Information” for a host of proprietary purposes. *Id.* The company can use an applicant’s Personally Identifiable Information “to analyze trends, to administer the Site, to track users’ movements around the Site and to gather demographic information about our user base.” *Id.* ISTS also “share[s]” that information “with [its] partners,” thus disclosing “any and all of [an applicant’s] personal information” to a broad range of third parties—a fact that applicants must “acknowledge and agree” to when applying. *Id.* Those partners include “third party advertisers,” who can use an applicant’s Personally Identifiable Information “to send [them] promotional materials.” *Id.*

39. To submit an application, moreover, applicants must agree to McDonald’s “Application Terms and Conditions.” They cannot submit their application without checking a box stating their agreement to those terms.

40. The application terms and conditions are a contract. McDonald’s understands this, which is why it requires minors to get their “parent or guardian [to] agree to these Terms and Conditions.”

41. In exchange for the chance to win thousands of dollars, the application terms and conditions require applicants to give up certain rights. Winners agree to a

“code of conduct” with capacious limits on their actions and speech. They agree not to “engage in or partake in discriminatory conduct or discriminatory communications” on grounds “such as” gender, age, or even “religion.” They agree not to do anything that “reasonably may be perceived” as “harassment” or “bullying.” And they agree to “respect cultural differences.” These requirements are not suggestions: “Failure to adhere to this code of conduct,” McDonald’s warns, can trigger “termination of the scholarship.”

#### **IV. Defendants’ ethnic discrimination injures the Alliance’s members.**

42. The Alliance has members who are being harmed by Defendants’ racially discriminatory program, including Member A.

43. Member A is a dues-paying member of the Alliance. She voluntarily joined the Alliance and asked it to vindicate her rights in this lawsuit. The Alliance represents her in good faith.

44. Member A is a high-school senior in Arkansas who will graduate this spring. She is applying to multiple colleges now. She will seek a bachelor’s degree and is currently most interested in majoring in communications.

45. Member A is able and ready to apply for the HACER scholarship, once a court orders the program to be equally open to all ethnicities. If she could, she would apply for the current cycle—the only time she will be a high-school senior and thus eligible to apply for HACER under the existing rules. The application deadline for that cycle is February 6, 2025. The ultimate winners are chosen in June 2025.

46. Member A is able to apply because, except for the requirement of being Hispanic, she otherwise satisfies all of the contest's "eligibility requirements." She's a high-school senior. She's a U.S. citizen. She's 17 years old. She has a 3.8 GPA. She'll disclose her other scholarship applications. And she plans to attend—and is eligible to attend—college full-time in Fall 2025.

47. Member A is also ready to apply. Because she has been applying to colleges, she already has all the information and forms that HACER requires. If she could apply, she would finish the application quickly, before the deadline. And she would follow all instructions, provide all necessary information, and complete all the necessary steps to apply.

48. Member A sincerely wants to apply for the contest and win. Her parents cannot pay for her college. The college that admitted her costs over \$100,000 in tuition, books, room and board, and other necessities. Absent scholarships, Member A will have to incur substantial student loans. Member A would use the scholarship from McDonald's for tuition, reducing the amount of debt she must take on. Without the stress of heavy debt, Member A would be free to focus on her studies, choose the college that's the best fit for her, and pick a career that matches her passions.

49. Member A is a competitive candidate for HACER, aside from her ethnicity. She has a 3.8 GPA. She has logged hundreds of hours in community service, including volunteering at a clothing store for low-income women and many projects with her church. And she's participated in several extracurricular activities, like speech and

debate, track, swimming, and piano, where she's won competitions and competed on a national level.

50. But Member A cannot apply to HACER because she is not Hispanic. She is white. Her parents are not from Argentina, Belize, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Dominican Republic, Ecuador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Puerto Rico, El Salvador, Spain, Uruguay, or Venezuela. They are from Canada and Germany.

51. If Member A tried to apply to HACER, she could not proceed past the first page, since she could not say that she is "of Hispanic/Latino heritage." Nor could she fill out the "required" field asking her to identify a Hispanic country of origin for her family. For the same reason, she could not agree to the part of McDonald's application terms and conditions that requires her to "confirm" that she is "eligible to receive scholarships granted under the Program."

52. Member A is proceeding pseudonymously because she does not want her involvement in this lawsuit to be held against her, should she get the chance to apply to HACER. She also understands that universities have long supported race-based affirmative action, and she doesn't want them to hold her participation in this lawsuit against her while she's applying to college. And she does not want to endure harassment and bullying from the public, especially on social media.

**COUNT**  
**Violation of 42 U.S.C. §1981**

53. The Alliance repeats and re-alleges each of its prior allegations.

54. Section 1981 lets private parties sue for “both equitable and legal relief,” including “damages.” *Johnson v. Ry. Express Agency, Inc.*, 421 U.S. 454, 460 (1975).

55. Section 1981 guarantees “[a]ll persons ... the same right ... to make and enforce contracts,” 42 U.S.C. §1981(a), thus prohibiting “discrimination in the making or enforcement of contracts against, or in favor of, any race.” *Gratz v. Bollinger*, 539 U.S. 244, 276 n.23 (2003). Titled “Equal rights under the law,” §1981 “guarantee[s] continuous equality between white and nonwhite citizens,” *Jam v. Int’l Fin. Corp.*, 139 S.Ct. 759, 768 (2019), by protecting “the equal right of all persons ... to make and enforce contracts without respect to race,” *Domino’s*, 546 U.S. at 474 (cleaned up).

56. Section 1981 also bars discrimination based on ethnicity and ancestry. *Saint Francis Coll. v. Al-Khazraji*, 481 U.S. 604, 611-13 (1987).

57. §1981 covers McDonald’s and ISTS. The Act applies to governmental and “nongovernmental” actors, 42 U.S.C. §1981(c), “provid[ing] a cause of action for public or private discrimination based on race,” *Jett v. Dall. Indep. Sch. Dist.*, 798 F.2d 748, 762 (5th Cir. 1986); accord *Johnson*, 421 U.S. at 459-60 (1975).

58. HACER implicates rights that §1981 secures, including the right to “make ... contracts.” 42 U.S.C. §1981(a). “[A] contractual relationship need not already



exist” to trigger §1981. *Domino’s*, 546 U.S. at 476. The Act “protects the would-be contractor along with those who already have made contracts.” *Id.* Section 1981 thus “offers relief when racial discrimination blocks the creation of a contractual relationship.” *Id.* So “defendants” are liable “under §1981 when, for racially motivated reasons, they prevented individuals who ‘sought to enter into contractual relationships’ from doing so.” *Id.* (quoting *Runyon v. McCrary*, 427 U.S. 160, 172 (1976)).

59. As explained above, HACER is a contract and requires applicants to agree to at least two other contracts. Under §1981, a contract is merely “an agreement to do, or refrain from doing, a particular thing, upon sufficient consideration.” *Am. All. for Equal Rights v. Fearless Fund*, 103 F.4th 765, 775 (11th Cir. 2024).

60. ISTS and McDonalds are intentionally discriminating against Member A. “[P]roof of a facially discriminatory” policy—or even “a corporate decision maker’s express[ed] desire to avoid” contracting with members of a “protected group”—is “direct evidence of discriminatory intent.” *Amini v. Oberlin Coll.*, 440 F.3d 350, 359 (6th Cir. 2006) (cleaned up). Here, there’s both. The contest “facially discriminates” against non-Hispanics. *Id.* And Defendants’ “corporate decision maker[s]” have expressed a “desire to avoid” contracting with non-Hispanics. *Id.* The Alliance, therefore, “is not required to make any further allegations of discriminatory intent or animus.” *Juarez v. Nw. Mut. Life Ins.*, 69 F. Supp. 3d 364, 370 (S.D.N.Y. 2014).

## PRAYER FOR RELIEF

61. The Alliance respectfully asks this Court to enter judgment in its favor and against Defendants and to provide the following relief:

- A. A declaratory judgment that the HACER program, as currently constituted, violates 42 U.S.C. §1981.
- B. A temporary restraining order and preliminary injunction that bars Defendants, pending further order of the Court, from closing the current application window or selecting winners for HACER.
- C. A permanent injunction barring Defendants from knowing or considering the race, ethnicity, ancestry, or nationality of HACER applicants.
- D. Any equitable relief needed to undo Defendants' discrimination, including an order forcing Defendants to reopen the application process, to rerun the application process under neutral criteria, and to waive the age-related eligibility criteria.
- E. Nominal damages of \$1.
- F. Reasonable costs and expenses of this action, including attorneys' fees and prejudgment interest, under 42 U.S.C. §1988 and any other applicable laws.
- G. All other relief that the Alliance is entitled to.

Dated: January 12, 2025

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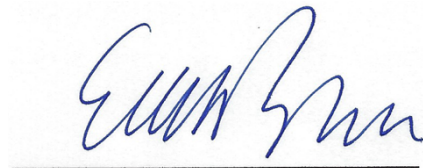
\*pro hac vice forthcoming

## VERIFICATION

I, Edward Blum, declare as follows:

1. I am the President of the American Alliance for Equal Rights, the plaintiff here.
2. I have reviewed this complaint.
3. For the allegations within my personal knowledge, I believe them all to be true.
4. For the allegations not within my personal knowledge, I believe them all to be true based on my review of the referenced documents and based on the Alliance's conversations with its members, including Member A.
5. I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 12, 2025



Edward Blum  
President of American Alliance for  
Equal Rights