

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN

BARBARA GRUTTER,)
)
)
for herself and all others)
similarly situated,)
)
Plaintiff,)
) Civil Action #
v.)
)
LEE BOLLINGER, JEFFREY LEHMAN,)
)
DENNIS SHIELDS, REGENTS OF)
THE UNIVERSITY OF MICHIGAN, AND) COMPLAINT
THE UNIVERSITY OF MICHIGAN LAW)
SCHOOL,) CLASS ACTION
Defendants.)

Nature of the Action

1. This is a class action brought for violations and threatened violations of the rights of plaintiff and the class she represents to equal protection of the laws under the Fourteenth Amendment to the United States Constitution, and for racial discrimination in violation of 42 U.S.C. §§ 1981, 1983 and 2000d et seq. Plaintiff seeks declaratory and injunctive relief and compensatory and punitive damages in an amount to be proven at trial.

Jurisdiction and Venue

2. This Court has jurisdiction of the action under 28 U.S.C. §§ 1331 and 1343. This action arises under the Fourteenth Amendment to the United States Constitution, and under federal laws, 42 U.S.C. §§ 1981, 1983, and 2000d et seq.

3. Venue in this Court is proper under 28 U.S.C. § 1391 and this Court has personal jurisdiction over the defendants in this matter because the events giving rise to this claim occurred, and will occur, in this district.

Plaintiff

4. Barbara Grutter is, and at all times relevant to this litigation was, a resident of the State of Michigan. She applied in 1996 for admission to the University of Michigan Law School (the "Law School") in the academic year 1997-98. After being placed on a "wait list," she was apprised by the Law School, by a letter dated June 25, 1997, that her application had been rejected. She has not attended any other law school, but still desires to attend the Law School and become a lawyer.

Defendants

5. The Regents of University of Michigan (the "University") is the governing body of the University of Michigan, a public educational institution in the State of Michigan. The University of Michigan Law School ("Law School") is a school under the supervisory authority of the University.

6. On or around February 1, 1997, Lee Bollinger became the President of the University. Prior to that time he was Dean of the Law School, and was responsible for the initial implementation of the admissions policies that were used at least from 1995 to the present and which led to plaintiff being treated unequally. As President, Bollinger has responsibility for all of the admissions programs at the University of Michigan, including those at the Law School. He is being sued in his individual and official capacities.

7. Jeffrey Lehman is Bollinger's successor as Dean of the Law School. As Dean, he continued Bollinger's admissions policies and was responsible for the admissions policies that were used in 1997 and which led to plaintiff being treated unequally. As Dean, Lehman has responsibility for the admissions program at the Law School. He is being sued in his individual and official capacities.

8. Dennis Shields is the Dean of Admissions at the Law School and was responsible for the admissions policies that were used at least from 1995 to the present and which led to plaintiff being treated unequally. He is being sued in his individual and official capacities.

9. Unless enjoined, defendants will continue to approve of, and implement, an admissions system for the Law School substantially the same as the system described below.

Class Action Allegations

10. Plaintiff brings this action as a class action pursuant to Rules 23(a), 23(b), and 23(c)(4)(A) of the Federal Rules of Civil Procedure on behalf of a class consisting of all students who:

(a.) applied for and were not granted admission to the Law School for all academic years since 1995-1998 through the entry of a judgment in this action or are ready and able to apply to the Law School; and

(b.) are members of those racial or ethnic groups, including Caucasian, that defendants have treated less favorably in considering their applications for admission to the Law School.

11. Plaintiff seeks to maintain this class, pursuant to Rules 23(b) and 23(c)(4), on the issues of whether defendants engaged in unlawful discrimination and whether defendants should be enjoined from continuing their discriminatory policies.

12. The class is so numerous that joinder of all its members is impracticable. Defendants receive thousands of applications for admission each year for the Law School and will continue to do so in the future. Plaintiff does not know addresses or the precise number of rejected applicants, but can ascertain this information from the defendants' records.

13. Common questions of law and fact exist as to all members of the class and predominate over any questions solely affecting individual members of the class. Among the questions of law and fact common to the class is whether defendants violated the Fourteenth Amendment to the United States Constitution, and federal laws, 42 U.S.C. §§ 1981, 1983, and 2000d et seq., by discriminating and by conspiring to discriminate against certain applicants on the basis of race, and whether they will continue to do so.

14. Plaintiff's claims are typical of the claims of the members of the class and she is an adequate representative of the class. Plaintiff and members of the class have sustained damages, or will sustain damages in the future if defendants policies are not enjoined, because of the unlawful activities alleged herein. Plaintiff has retained counsel competent and

experienced in race discrimination litigation and intends to prosecute this action vigorously. Plaintiff will fairly and adequately protect the interests of the class.

15. A class action is superior to other available means for the fair and efficient adjudication of the controversy.

Facts

16. The University is a State-run university which also receives federal funds. The Law School is an educational unit part of, operated by, and responsible to, the University. It also receives federal funds.

17. The Law School Admissions form asks each applicant to disclose his or her race.

18. Plaintiff identified her race by checking the box next to "white."

19. Defendants used the race information provided by plaintiff and other applicants to determine who would be admitted to the Law School.

20. Defendants used different admissions standards based on each student's self-identified race. As a result, students from favored racial groups had a significantly greater chance of admission than students with similar credentials from disfavored racial groups.

21. Applicants from disfavored racial groups were not compared directly to applicants from favored racial groups.

22. Plaintiff, categorized as white, was not in one of the favored racial groups that benefitted from less stringent admissions standards.

23. Defendants did not merely use race as a "plus" factor or as one of many factors to attain a diverse student body. Rather, race was one of the predominant factors (along with scores on the Law School Admissions Test and undergraduate grade point averages) used for determining admission.

24. Defendants had no compelling interest to justify their use of race in the admissions process, and were not motivated by either an interest in educational diversity or by a desire to

remedy the present effects of any past discrimination.

25. Assuming arguendo that defendants had a compelling interest for which they used race in their admissions criteria, defendants did not consider, and never employed, any race neutral alternative to achieve that interest.

26. As a result of defendants' racially discriminatory procedures and practices, plaintiff's application was rejected. Plaintiff suffered humiliation, emotional distress, and pain and suffering as a consequence of her application being rejected. She also suffered humiliation, emotional distress, and pain and suffering upon learning that defendants had discriminated against her on the basis of her race.

27. As a result of defendants' discrimination, plaintiff has never attended law school, and has suffered economic damages resulting from her inability to proceed with her planned career as a lawyer. Plaintiff still desires to attend the Law School, and to become a lawyer.

28. If not enjoined, defendants will continue to use race in selecting students for the Law School.

FIRST CLAIM

29. Plaintiff repeats and realleges the allegations and averments of paragraphs 1-28 as if fully set forth herein.

30. Bollinger acted under color of law in implementing policies that eventually led the Law School to deny plaintiff equal protection of the laws, and to discriminate against her on the basis of race, in violation of 42 U.S.C. § 1981 and 1983. Lehman and Shield acted under color of law in implementing the policy in 1997 that led the Law School to deny plaintiff equal protection of the laws, and to discriminate against her on the basis of race, in violation of 42 U.S.C. § 1981 and 1983.

31. Bollinger, Lehman, and Shields violated plaintiff's clear and well-established Constitutional right to receive the same consideration for admissions as applicants of other races.

SECOND CLAIM

32. Plaintiff repeats and realleges the allegations and averments of paragraphs 1-31 as if fully set forth herein. The University and the Law School, as recipients of federal funds,

discriminated against plaintiff on the basis of her race, color, and/or ethnicity in violation of 42 U.S.C. § 2000d et seq.

RELIEF

WHEREFORE, plaintiff demands judgment:

A. Declaring that defendants violated her rights to nondiscriminatory treatment under the Fourteenth Amendment and 42 U.S.C. §§ 1981, 1983, and 2000d et seq.;

B. Enjoining defendants from continuing to discriminate on the basis of race in violation of the Fourteenth Amendment;

C. Awarding her compensatory and punitive damages in an amount to be proven at trial;

D. Requiring the Law School to offer her admission;

E. Awarding attorneys' fees and costs pursuant to 42 U.S.C. § 1988 and any other applicable authority; and

F. Providing any other relief that is appropriate and just.
Respectfully submitted,

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