UNITED STATES DISTRICT COURT
DISTRICT OF KANSAS
KANSAS CITY DIVISION

AMERICAN ALLIANCE FOR EQUAL RIGHTS,

Plaintiff,

v.

MOUNTAIN PLAINS MINORITY SUPPLIER DEVELOPMENT COUNCIL and NATIONAL MINORITY SUPPLIER DEVELOPMENT COUNCIL,

Defendants.

Case No. 26-cv-_____

COMPLAINT

Plaintiff, the American Alliance for Equal Rights, brings this action against Defendants, the National Minority Supplier Development Council and the Mountain Plains Minority Supplier Development Council, under 42 U.S.C. §1981. The Alliance seeks declaratory relief, injunctive relief, and nominal damages.

1. Racial discrimination is "invidious in all contexts." *SFFA v. Harvard*, 600 U.S. 181, 214 (2023) (cleaned up). The Reconstruction Congress understood this fact when it passed the Civil Rights Act of 1866, which bars discrimination "in the making and enforcement of contracts against whites as well as nonwhites." *McDonald v. Santa Fe Trail Transp. Co.*, 427 U.S. 273, 288 (1976). Better known as §1981, this law guarantees all Americans the "same right" to contract, 42 U.S.C. §1981(a), protecting "the equal

right of all persons … to make and enforce contracts without respect to race," *Domino's Pizza, Inc. v. McDonald*, 546 U.S. 470, 474 (2006) (cleaned up).

2. The National Council and Mountain Plains Council are violating §1981. Under Defendants' "minority business enterprise" certification program, Defendants charge money for a valuable certificate, exclusive data, proprietary materials, and networking opportunities in exchange for an annual fee. Once a business gets an MBE certificate, it unlocks exclusive opportunities to contract with Defendants' corporate sponsors. And if a company cannot afford to re-certify their business as an MBE, they can seek a rebate that reduces the cost of their certification.

3. Only businesses that are majority-owned by a "minority group" can get an MBE certification, access the exclusive "contract opportunities" an MBE certification provides, or get a discounted MBE certification. All other businesses cannot compete for any of these contracts. And all because of race.

4. That rank discrimination was never lawful, even before *Harvard* held that colleges cannot use race as a factor in admissions. But if Defendants needed a reminder, *Harvard* reaffirms that "[e]liminating racial discrimination means eliminating all of it." 600 U.S. at 206. Discrimination is never benign: It always "demeans the dignity and worth of a person to be judged by ancestry instead of by his or her own merit and essential qualities." *Id.* at 220 (cleaned up).

5. The American Alliance for Equal Rights has members who are being excluded from Defendants' program because of their race. It is entitled to relief.

PARTIES

6. Plaintiff, the American Alliance for Equal Rights, is a nationwide membership organization dedicated to ending racial and ethnic classifications across America. This case falls squarely within the Alliance's mission. *E.g.*, *AAER v. Fearless Fund*, 103 F.4th 765, 772 (11th Cir. 2024); *AAER v. Southwest Airlines*, 2024 WL 5012055, at *3 (N.D. Tex. Dec. 6); *AAER v. Founders First*, 2024 WL 3625684, at *2 (N.D. Tex. July 31).

7. The Alliance was founded in 2021. It was approved by the IRS as a 501(c)(3) tax exempt organization the same year. The Alliance has more than 300 members, and its membership continues to grow. The Alliance has members who are ready and able to apply to the MBE certification program but cannot because of their race, including Owners A-B.

8. The National Minority Supplier Development Council is "the nation's largest nonprofit organization focused on minority business development." The Council oversees a network of "23 regional affiliates" that certify minority-owned businesses in every State. Those affiliates connect thousands of minority-owned businesses with the Council's exclusive network of "member corporations." And they serve as a "vital link" in the Council's nationwide supplier pipeline, thereby ensuring that "corporate America" reliably contracts with "Asian, Black, Hispanic, and Native American-owned businesses."

9. The Council's MBE certification program has had a significant impact in Kansas. In 2022, there were 50 Council-certified MBEs in the State that collectively employed more than 3,800 Kansans and earned more than $2.2 billion in revenue. In 2023, these Kansas-based MBEs employed more than 4,400 Kansans and earned more than $2.4 billion in revenue. And in 2024, those same companies employed more than 4,900 people and generated more than $3 billion in revenue.

10. The Mountain Plains Minority Supplier Development Council is one of the Council's regional "affiliates." The Mountain Plains Council "serv[es]" Kansas. It has an office in Kansas. And it runs its MBE certification program in Kansas.

11. The Mountain Plains Council's program has had an outsized impact on Kansas and the surrounding region. The Mountain Plains Council has certified "over 500 minority-owned businesses," many of which have become "Fortune 500 companies." Dozens of those businesses are headquartered in Kansas. And the Mountain Plains Council hosts "a series" of exclusive events in Kansas, providing Kansas-based MBEs with "unique opportunities" to network, connect, and contract throughout the state.

JURISDICTION AND VENUE

12. This Court has subject-matter jurisdiction under 28 U.S.C. §1331 because this case "arise[s] under" 42 U.S.C. §1981, which is a federal law.

13. Venue is proper because "a substantial part" of the underlying events "occurred" here. 28 U.S.C. §1391(b)(2). Business A tried to sign up for an MBE certification through the Mountain Plains Council, which certifies businesses in the Kansas City area. But after Owner A completed Business A's MBE pre-qualification application, Defendants blocked Business A from the program because it wasn't "at least 51% ethnic minority owned" or "managed." Business A remains ready and able to apply for an MBE certification from the Mountain Plains Council, which operates in this district. Business A is headquartered in this district. It does business in this district. It would use its MBE certification in this district. And there is no other district where a more "substantial part of the events" took place. 28 U.S.C. §1391(b)(2).

14. Alternatively, venue is proper because the Court has personal jurisdiction over Defendants. §1391(b)(3). The Mountain Plains Council has intentionally entered Kansas's markets, certifying businesses in the state, hosting certification-related events in the state, and running a certification center in the state. The National Council has facilitated all those activities, creating a network of regional affiliates that serve Kansas, are headquartered in Kansas, and certify businesses in Kansas. And this case arises out of those activities because one of the Alliance's members started its MBE application with the Mountain Plains Council but was blocked from the program because of his race. The Mountain Plains Council also maintains its "Kansas/Missouri Office" in Lenexa, Kansas.

FACTS

I. The MBE certification program discriminates based on race.

15. The Council is focused on providing "business opportunities" to minority entrepreneurs. The Council seeks to "bridge the gap" between "minority-owned businesses and the broader corporate world" through contracting, networking, and education. And the Council accomplishes that purpose by connecting minority-owned businesses with the Councils' "corporate members, strategic partners, and peer businesses."

16. The MBE certification program is a core part of the Council's business. The Council has offered that certification "for more than 50 years." The MBE certification is "the key" to the Council's other benefits. And that certification "unlock[s]" access to many of the Council's remaining "opportunit[ies]," giving certified minority-owned businesses "exclusive" access to a range of products and services.

17. The MBE certification program discriminates. When businesses visit the Mountain Plains Council's "certification criteria" webpage, they learn that "an applicant's business must be owned, controlled and managed by U.S. citizens, a majority (at least 51%) of whom are racial or ethnic minorities." Those criteria further stress that "minority owners" must "have complete and absolute control of the company." They also state that minorities must "have numerical control of the corporation's Board of Directors." And they require "minority owners" to "be active in day-to-day management and daily business operations."

18. A separate section of the Mountain Plains Council's website—titled, "Groups that qualify as racial or ethnic minorities"—reiterates the program's racial bar. To qualify as a "minority," and thus participate in the MBE certification program, businesses must be majority-owned by "Native American[s]," "Hispanic[s]," "Black[s]," "Asian-Pacific[s]," or "Asian-Indian[s]." Businesses that are not majority-owned by those races are "not certifiable." So owners from "Northern Africa," the "Persian Gulf," and the "Iberian Peninsula" are all barred from the program because of race.

Groups that qualify as racial or ethnic minorities

Asian-Indian	A U.S. citizen whose origins are from India, Pakistan and Bangladesh.
Asian-Pacific	A U.S. citizen whose origins are from Japan, China, Indonesia, Malaysia, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Thailand, Samoa, Guam, the U.S. Trust Territories of the Pacific or the Northern Marianas.
Black	A U.S. citizen having origins in any of the Black racial groups of Africa.
Hispanic	A U.S. citizen of true-born Hispanic heritage, from any of the Spanish-speaking areas of the following regions: Mexico, Central America, South America and the Caribbean Basin only. Brazilians (Afro-Brazilian, indigenous/Indian only) shall be listed under Hispanic designation for review and certification purposes.
Native American	A person who is an American Indian, Eskimo, Aleut or Native Hawaiian, and regarded as such by the community of which the person claims to be a part. Native Americans must be documented members of a North American tribe, band or otherwise organized group of native people who are indigenous to the continental United States and proof can be provided through a Native American Blood Degree Certificate (i.e., tribal registry letter, tribal roll register number).

Groups not certifiable are those whose origins or heritage are of or from:

Iberian Peninsula	Spain, Portugal
Asia Minor Region	Peninsula between the Black Sea & the Mediterranean
Persian Gulf	Iran, Iraq, Saudi Arabia, etc.
Europe	All European countries
Northern Africa	Egypt, Libya, Morocco, Algeria, etc.

19. The National Council imposes the same race-based requirements as its Kansas-based affiliate. When applicants visit the Council's website, they can see a page, titled, "What are the criteria to apply for MBE Certification?" The Council's answer: "Minorities must own and control at least 51% of the business." And "for purposes of [the] certification, a recognized minority group member is an individual who … identifies as Asian-Indian, Asian-Pacific, Black, Hispanic, or Native American." If a business does not "meet" those race-based "criteria," the Council will not certify them.

20. The program's application page enforces that racial bar. When businesses apply for an MBE certification through their local diversity-council affiliate, the Council instructs them to "register as a user in the [national] system." To register, applicants must complete a "pre qualification form" to see if their business is eligible "for [an] MBE" certification. The first two questions on that form ask:

- "Is your firm at least 51% ethnic minority owned as defined by [the Council]?"
- "Is your firm at least 51% ethnic minority managed and controlled as defined by [the Council]?"

Both questions are mandatory. And applicants cannot submit a "pre qualification" application unless they answer them.

21. Defendants' discrimination is strictly enforced. The Mountain Plains Council "goes to great lengths to verify that [its] minority suppliers meet" all the eligibility "criteria," including the racial one. As part of that policy, Defendants insist that

every MBE applicant provides "proof of [their] eligible minority ethnicity." That way, only "truly minority-owned and operated" businesses will become "certified MBEs."

II. The MBE certification program is a contract.

22. The MBE certification program is a contract that charges a yearly fee in exchange for proprietary materials, networking events, and exclusive contracting opportunities.

23. Businesses must pay between $270 and $1,700 for an MBE certification from Defendants. And businesses must pay another $450 to $1,100 when they re-certify their business each year. All those fees "are non-refundable."

24. After a business completes its MBE application and pays the required fee, it can apply for an MBE certification. That certification offers many benefits.

25. When businesses get their MBE certification, they gain access to proprietary "market intelligence" reports about their "unique market." And they can use Defendants' exclusive "MBE Search Database," which lets certified MBEs find and "work with" other certified businesses.

26. Certified businesses also get access to Defendants' exclusive educational resources. "One of the top benefits of MBE certification," the Council says, "is that you gain access to experts and peers who can offer guidance to you." That guidance comes in several forms, from "educational programs," to "professional development sessions," to Defendants' exclusive "New MBE Orientation." And certified MBEs can

get training from Defendants' "team of small business experts" who offer specialized "consulting services at minimal cost to clients."

27. The MBE program also offers businesses a range of "networking" and "business events." Through those events, certified businesses "gain exposure" to Defendants' broad network of minority-owned businesses, "creating opportunities" for those businesses to "form partnerships, establish strategic alliances, and build joint ventures." To date, these opportunities have connected certified MBEs with thousands of Defendants' "corporate members," including "most of America's largest publicly-owned" companies.

28. Those connections lead to lucrative contracts. Indeed, one of the program's core "benefits," Defendants boast, is the "contract opportunities" that the MBE program provides. Certification offers MBEs "vital introductions to nationally known corporations." And Defendants "facilitat[e]" the relationships that flow from those introductions, thus laying "the groundwork for future partnerships" between certified MBEs and the companies they contract with. Defendants also negotiate contractual relationships themselves, pre-screening "appropriate candidates from [their] database of MBEs" and subsequently matching those candidates with "corporate members" who want to contract.

III. The MBE certification program injures the Alliance's members.

29. The Alliance has members who are harmed by the MBE certification program. Those members include Owners A and B. These business owners authorized the

Alliance to vindicate their rights in this suit because they lack the expertise and resources to bring a lawsuit themselves. And both are ready and able to apply for the MBE certification but cannot because of the owners' race.

30. **Owner A:** Owner A is able to apply to Defendants' MBE program because his business satisfies all the program's non-racial criteria. Business A is a real-estate company that is headquartered in Kansas. It is a for-profit business. It is more than 51% owned by U.S. citizens. And it is not a holding company.

31. Owner A is also "ready" to apply to the program. Business A "regularly seeks contracting opportunities" with the government and private parties. In Owner A's experience, being certified as a minority-owned business gives businesses an advantage in the marketplace, helping those businesses better compete for contracts. Owner A wants Business A to enjoy the same advantages as those businesses.

32. Consistent with that fact, Business A recently tried to get an MBE certificate from Defendants. In January 2026, Owner A tried to register his business through the Mountain Plains Council's website. Although Owner A filled out the online form in its entirety, Defendants did not let him proceed past the preliminary application because Business A was not "at least 51% ethnic minority owned" or "at least 51% ethnic minority managed." So Defendants refused to "pre-qualif[y]" Business A. If Defendants hadn't blocked Business A from the program, Owner A would have paid the application fee and completed any other requirements for certification.

33. Though Owner A finds Defendants' discrimination offensive, his intentions have not changed. He remains ready and able to apply for the program as soon as possible. If a court made the MBE certification program equally open to businesses and owners of all races, he would immediately submit an application.

34. **Owner B:** Owner B is able to apply to Defendants' MBE certification program because his business satisfies all the program's non-racial criteria. Business B is a consulting company that is headquartered in Ohio. It is a for-profit business. It is more than 51% owned by U.S. citizens. And it is not a holding company.

35. Owner B is also ready to apply for the MBE certification program. Business B regularly seeks contracting opportunities. And in Owner B's experience, being certified as a minority-owned business helps companies compete for contracts. Owner B also thinks that being a certified MBE is important for visibility and outreach.

36. Owner B recently tried to apply for Defendants' MBE certification. He filled out the online form in its entirety. In his application, he truthfully stated that his business is not "at least 51% ethnic minority owned" or "at least 51% ethnic minority managed." After Owner B submitted his online form, he received a message, saying that his company "has not been pre-qualified." Had Owner B been able to apply for the minority-business certification, he would have paid a reasonable application fee and completed any other requirements for certification.

37. Owner B has the same desires and intentions today. Though he finds it offensive that a company would block him from business opportunities based on his

skin color, he still wants to reapply to the certification program. And he would immediately reapply if a court ordered this certification program to be equally open to all businesses regardless of race.

CLAIM FOR RELIEF
Violation of the Civil Rights Act of 1866
42 U.S.C. §1981

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

39. Under §1981, "[a]ll persons within the jurisdiction of the United States shall have the same right … to make and enforce contracts." 42 U.S.C. §1981(a).

40. Section 1981 explicitly covers "nongovernmental discrimination." 42 U.S.C. §1981(c); *accord Johnson v. Ry. Express Agency, Inc.*, 421 U.S. 454, 459-60 (1975). It "provides a cause of action" to challenge private racial discrimination. *Jett v. Dall. Indep. Sch. Dist.*, 798 F.2d 748, 762 (5th Cir. 1986); *accord Johnson*, 421 U.S. at 459-60; *Fearless Fund*, 103 F.4th at 769; *Founders First*, 2024 WL 3625684, at *1 (applying §1981 to "a nonprofit organization").

41. Section 1981 also prohibits discrimination "against, or in favor of, any race." *Gratz v. Bollinger*, 539 U.S. 244, 276 n.23 (2003). Titled "Equal rights under the law," Section 1981 "guarantee[s] continuous equality between white and nonwhite citizens," *Jam v. Int'l Fin. Corp.*, 139 U.S. 759, 768 (2019), thus 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). Section 1981's "broad terms" ban discrimination against "any

race." *McDonald*, 427 U.S. at 286-96. And that ban covers Owners A and B, who are white. *Id.* at 288.

42. "[D]iscrimination against a business based on the race of its owner violates section 1981." *Nanko Shipping, USA v. Alcoa, Inc.*, 850 F.3d 461, 467 (D.C. Cir. 2017); *accord Henderson v. Golden Corral Franchising Sys., Inc.*, 663 F. Supp. 3d 313, 327 (S.D.N.Y. 2023); *e.g.*, *Fearless Fund*, 103 F.4th at 772-80; *Founders First*, 2024 WL 3625684, at *1-4.

43. The MBE certification is a "contract." 42 U.S.C. §1981(a). Under §1981, a contract is merely "'an agreement to do, or refrain from doing, a particular thing, upon sufficient consideration.'" *Fearless Fund*, 103 F.4th at 775. The certification program fits that definition: Businesses pay for the certification; and in exchange, they get exclusive data, coaching, connections, and more. *See Armed Citizens' Legal Def. Network v. Washington State Ins. Comm'r*, 28 Wash. App. 2d 64, 76 (2023).

44. The MBE program implicates a right that §1981 protects—the right to "*make* … contract[s]." 42 U.S.C. §1981(a) (emphasis added). "[A] contractual relationship need not already exist" to trigger §1981. *Domino's*, 546 U.S. at 476. Section 1981 "protects the would-be contractor along with those who already have made contracts." *Id.* The law thus provides relief when 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.*

45. The program also blocks Businesses A and B from all the contract opportunities that Defendants provide to certified MBEs. One of the core "benefits" of the MBE certification program is the exclusive "contract opportunities" the program provides. But Businesses A and B cannot compete for those contracts because Defendants are blocking them from the program.

46. Even if the MBE certification were open to everyone, the program would still offer different contractual "benefits" to different races. 42 U.S.C. §1981(a)-(b). As part of the certification program, businesses can participate in the Council's "Certification Reimbursement Initiative," which "reimburs[es] the cost" of the MBE application for certain businesses. But that initiative is open only to businesses that are "at least 51% minority-owned, managed, and controlled." Under that regime, minority-owned businesses can get discounts on their MBE certifications, but their white counterparts must always pay full price—no matter what. So the "benefits, privileges, terms, and conditions" of the MBE certification program are different for different races. 42 U.S.C. §1981(b).

47. The program intentionally discriminates based on race. "[P]roof of a facially discriminatory … policy"—or even "a corporate decision maker's express[ed] desire to avoid" contracting with members of a certain ethnicity—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 program "facially discriminat[es]" against anyone who isn't a racial minority. *Id.*; *see supra* ¶3, ¶¶17-21. And Defendants' "corporate decision

maker[s]" have expressed a "desire to avoid" contracting with non-minorities by broadcasting their racial bar online. *Amini*, 440 F.3d at 359; *see supra* ¶¶17-21. So the Alliance "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).

48. Because the program violates §1981, it is subject to strict scrutiny. *Gratz*, 539 U.S. at 276 n.23. "[A]ll racial classifications … must be analyzed by a reviewing court under strict scrutiny." *Adarand Constructors v. Pena*, 515 U.S. 200, 227 (1995); *see Gratz*, 539 U.S. at 276 n.23 (same for §1981). And Defendants "bea[r] the burden" of proving that their program satisfies that test. *Fisher v. UT-Austin*, 570 U.S. 297, 310 (2013) (cleaned up). They cannot meet that "daunting" standard. *Harvard*, 600 U.S. at 206-07.

49. To start, Defendants' interests are not compelling. The Supreme Court "ha[s] identified only two compelling interests that permit resort to race-based government action": "One is remediating specific, identified instances of past discrimination that violated the Constitution or a statute," and the other is "avoiding imminent and serious risks to human safety in prisons." *Id.* at 207. Neither exists here. Defendants do not even ask applicants if they have suffered prior discrimination. And a generalized interest in diversity is not compelling. *See Lutheran Church-Missouri Synod v. FCC*, 141 F.3d 344, 354 (D.C. Cir. 1998).

50. The program is not narrowly tailored to achieve any compelling interest. By barring all non-minorities from the program, the program imposes an illegal

"quota," which is not narrowly tailored to any permissible goal. *City of Richmond v. J.A. Croson Co.*, 488 U.S. 469, 507 (1989); *accord Hammon v. Barry*, 826 F.2d 73, 79 (D.C. Cir. 1987). That quota operates as a negative for non-minorities. *Harvard*, 600 U.S. at 218-19. And it has no "'end point.'" *Harvard*, 600 U.S. at 221. Defendants thus cannot show "the most exact connection between justification and classification" that strict scrutiny requires. *Wygant v. Jackson Bd. of Educ.*, 476 U.S. 267, 280 (1986); *Aiken v. City of Memphis*, 37 F.3d 1155, 1164 (6th Cir. 1994).

PRAYER FOR RELIEF

51. 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 MBE certification program violates 42 U.S.C. §1981.

B. A permanent injunction barring Defendants from knowing or considering race or ethnicity in any way in the challenged program—including by removing any criteria that are facially neutral but that can be used as, or are intended to be, proxies for race or ethnicity.

C. Nominal damages.

D. Reasonable costs and expenses of this action, including attorneys' fees and prejudgment interest, under 42 U.S.C. §1988 and any other applicable laws.

E. All other relief that the Alliance is entitled to.

Dated: March 9, 2026

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