

'Reverse discrimination' claims rising

2 men lead complaints aimed at DEI initiatives

Jessica Guynn
USA TODAY

He has accused Macy's of discriminating against white men. McDonald's and IBM, too. Even NASCAR – a mostly white sport that banned Confederate flags only in 2020.

Stephen Miller, a senior adviser in the Trump administration, has leveled some two dozen complaints claiming that white Americans are being denied opportunities so corporations can hire and promote more people of color.

Emboldened by a 2022 Supreme Court decision striking down affirmative action in education, Miller and his organization America First Legal have taken the stance that all diversity, equity and inclusion programs are illegal. They're embracing "reverse discrimination," a concept that emerged in the 1970s as a backlash to 1960s civil rights laws.

Miller did not respond to requests for comment. America First general counsel Gene Hamilton told USA TODAY in September, "If a major corporation said in proxy statements to shareholders or in the HR section of their website 'We are going to increase the white composition of our workforce by 15% this year,' I think most folks would say, 'Well, that's kind of racist and that seems wrong.'"

Edward Blum, who helped bring the affirmative action case before the high court, is making similar claims. His organization, the American Alliance for Equal Rights, has taken legal action or threatened top law firms and other groups, alleging they have excluded white and Asian students from fellowship programs based on race.

"There is no such thing in the law as reverse discrimination," Blum told USA TODAY. "It is simply racial discrimination."

Federal law prohibits private employers from considering race and other protected characteristics in employment decisions, but they have the discretion to take steps to remedy racial imbalances in their workforces.



Stephen Miller, president of America First Legal, alleges that numerous major companies discriminate against white men. JACK GRUBER/USA TODAY

Corporations are closely watching a Supreme Court case that could make it easier for workers to pursue discrimination claims over job transfers by eliminating the requirement to show material harm. A broad ruling could cause a surge in "reverse discrimination" suits, legal experts say.

'Reverse discrimination' claims rare

Historically, "reverse discrimination" claims are relatively rare. Though white workers account for about two-thirds of the U.S. workforce, their discrimination claims make up only about 10% of race-based claims, according to data from the Equal Employment Opportunity Commission.

But attorneys say federal courts are beginning to see a small increase. Among them:

- USA TODAY parent company Gannett is facing a proposed class-action lawsuit that accuses the publisher of discriminating against white employees in an effort to diversify its newsrooms. Gannett says the suit is "meritless" and has asked a judge to dismiss it.

- Morgan Stanley is being sued by a white former managing director who claims he was fired to make way for a

less qualified and less experienced Black woman so the investment bank could meet diversity objectives. Morgan Stanley declined to comment.

- AT&T is being sued by a former assistant vice president who alleges he was laid off less than two months after being told he could not advance because he was "a 58-year-old white guy." AT&T denied the allegations and is contesting the lawsuit.

Some "reverse discrimination" complaints have been successful. In 2021, a Novant Health executive received a \$10 million jury award, later reduced to about \$4 million, after claiming he was fired despite strong reviews and replaced by two women.

In June, a New Jersey jury ruled in favor of a Starbucks regional director who said she was fired for being white. The court ordered Starbucks to pay \$2.7 million in damages.

Corporations quail

Growing attacks on workplace equity initiatives have prompted some corporations to retreat from public targets for racial diversity in their executive ranks and from leadership programs geared to underrepresented groups, bracing for "reverse discrimination" lawsuits.

At least six major companies including JPMorgan Chase modified policies meant to increase racial and ethnic representation after conservative groups threatened to sue, according to Reuters. New data from McKinsey & Co. show that fewer Black professionals are being promoted into management.

Instead of external forces pushing companies to invest in equity, "in some cases, external forces are pushing back on companies' investment in DEI," according to a recent report from diversity consulting firm Paradigm.

Despite the furor, the top ranks of America's largest corporations remain predominantly white and male, a USA TODAY analysis found. Women and people of color are concentrated at the lowest levels with less pay, fewer perks and rare opportunities for advancement.

Justin Gomer, associate professor at California State University, Long Beach, says conservatives are pushing concepts like "racial neutrality" in the workplace to maintain white dominance.

"White supremacy is so deeply rooted in our country and in our history that this is just the latest version of that, and it has proven very politically expedient," Gomer said. "It is framing discrimination as strictly personal and individual, and it is denying that discrimination is structural and institutional."

What voters think

A coalition of conservative groups including America First Legal have issued a manifesto for a prospective Republican administration that calls for the Justice Department and the Equal Employment Opportunity Commission to take action against corporate DEI initiatives.

That said, both Republican and Democrat voters believe companies have the right to pursue diversity policies as they see fit, according to new research from Penn State and Rakk Solutions provided exclusively to USA TODAY.

At the same time, voters on both sides are widely skeptical about the sincerity and effectiveness of corporate diversity programs, with Democrats more skeptical, the research found.