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5 **UNITED STATES DISTRICT COURT**
6 **WESTERN DISTRICT OF WASHINGTON**
7

8 DO NO HARM,

9 *Plaintiff,*

10 v.

11 UNIVERSITY OF WASHINGTON
12 SCHOOL OF MEDICINE; UW MED-
13 ICINE; GABRIEL SARAH, in his offi-
14 cial capacity as the Associate Dean for
15 Student Affairs of the UW School of
16 Medicine; BESSIE YOUNG, in her offi-
17 cial capacity as the Vice Dean for Eq-
18 uity, Diversity, and Inclusion of the UW
19 School of Medicine and the Medical Di-
20 rector for the UW Medicine Office of
21 Healthcare Equity; PAULA HOU-
22 STON, in her official capacity as the
23 UW Medicine Chief Equity Officer;
24 TIMOTHY DELLIT, in his official ca-
25 pacity as the Dean of the UW School of
26 Medicine and CEO of UW Medicine;
27 ANA MARI CAUCE, in her official ca-
28 pacity as the President of the University
of Washington; LEONARD
FORSMAN, LEONOR R. FULLER,
ALEXES HARRIS, LINDEN
RHOADS, CONSTANCE W. RICE,
ROGELIO RIOJAS, KEONDRA
RUSTAN, DAVID SCHUMACHER,
BLAINE TAMAKI, MAGGIE
WALKER, and DAVID ZEECK, in

Case No.: 2:24-cv-1678

COMPLAINT

1 their official capacity as members of the
2 Board of Regents of the University of
3 Washington,

4 *Defendants.*

5 Do No Harm brings this action against the University of Washington School of
6 Medicine, UW Medicine, and various University of Washington School of Medicine
7 and UW Medicine officials for violating the Fourteenth Amendment to the U.S. Con-
8 stitution, Title VI of the Civil Rights Act of 1964, and Section 1557 of the Affordable
9 Care Act. Do No Harm seeks declaratory and injunctive relief.

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11 1. “Racial discrimination is invidious in all contexts.” *SFFA v. Harvard*, 600
12 U.S. 181, 214 (2023) (cleaned up). Yet Defendants operate a networking directory that
13 permits medical students who are “Black, Indigenous, [or] People of Color” to access
14 a “secured database” of “BIPOC physicians” from across the country while excluding
15 white students and white physicians. *BIPOC Physicians Directory for UWSOM BIPOC*
16 *Students*, UW Med. Off. of Healthcare Equity (last visited Oct. 14, 2024) (Ex.A at 1),
17 perma.cc/TT8L-TC63.

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20 2. In Defendants’ own words, “Deciding on a career or residency program
21 is one of the most important decisions medical students make during their time in
22 medical school.” *Id.* at 2. To make an informed choice, Defendants acknowledge that
23 medical students must take it upon themselves to learn about the various careers, spe-
24 cialties, and residency programs that are available. As the American Medical
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1 Association put it in 2023, “having [a mentor] can make all the difference especially
2 when making tough decisions such as choosing a medical specialty.” Berg, *What I Wish*
3 *I Knew in Medical School About Finding Mentors*, Am. Med. Ass’n (Feb. 13, 2023),
4 perma.cc/Z9BR-5MLF.

6 3. Defendants should assist students in their efforts to network with expe-
7 rienced physicians and learn more about the profession that Defendants are preparing
8 them to join. But rather than offer networking resources to all students equally, De-
9 fendants have chosen racial stratification, creating and maintaining a special physician-
10 networking directory available only to BIPOC students.

13 4. Defendants’ Directory is doubly discriminatory—in addition to exclud-
14 ing white students who wish to take advantage of a valuable networking tool, the Di-
15 rectory excludes white physicians, even those who would be great resources for medi-
16 cal students of all races. Doctors have a professional obligation to give back to the
17 community. And as Defendants observe, when doctors connect with medical students,
18 they obtain the “[b]enefits” of “expand[ing] their network” and “support[ing] ... future
19 colleagues.” Ex.A at 2. But rather than allow any doctor to add his or her name to the
20 Directory based on neutral criteria, Defendants exclude white physicians because of
21 their race.

24 5. Defendants’ race-based exclusion of white students and physicians from
25 the Directory flouts the Equal Protection Clause of the Fourteenth Amendment. And
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1 because Defendants University of Washington School of Medicine and UW Medicine
2 are recipients of federal financial assistance, their actions also violate Title VI of the
3 Civil Rights Act of 1964 and Section 1557 of the Affordable Care Act.
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5 6. “Eliminating racial discrimination means eliminating all of it.” *Harvard*,
6 600 U.S. at 206. Do No Harm is entitled to relief.
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8 PARTIES

9 7. Plaintiff, Do No Harm, is a nationwide membership organization con-
10 sisting of healthcare professionals, students, patients, and policymakers who want to
11 protect healthcare from radical, divisive, and discriminatory ideologies.
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13 8. Do No Harm accomplishes its mission through education and advocacy.
14 It has, among other things, sued the federal government for introducing discriminatory
15 “equity” criteria into Medicare, sued private medical organizations for creating racially
16 exclusive fellowships, and filed Office of Civil Rights complaints against medical
17 schools that create fellowships and scholarships that exclude students based on race.
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19 9. Do No Harm has at least one member who is a physician and is ready
20 and able to add his name to the Directory once a court orders Defendants to stop
21 discriminating.
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23 10. Defendant, University of Washington School of Medicine, is a public
24 medical school in the State of Washington. *See* Wash. Rev. Code §28B.20.300. It oper-
25 ates the BIPOC Physicians Directory, which excludes white students and doctors, and
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1 is expressly designated as being “for [University of Washington School of Medicine]
2 BIPOC students.” Ex.A at 1.

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4 11. The University of Washington receives federal financial assistance. A
5 school “receives federal financial assistance when it enrolls students who receive fed-
6 eral funds earmarked for educational expenses.” *NCAA v. Smith*, 525 U.S. 459, 466
7 (1999) (citing *Grove City Coll. v. Bell*, 465 U.S. 555, 563-70 (1984)). Many UW students
8 use federal student aid to finance their education. *E.g.*, *Loan Resources and Debt Manage-*
9 *ment*, Univ. of Wash. Sch. of Med. Off. of Student Affs. (last visited Oct. 14, 2024),
10 perma.cc/BU2K-ZBP7. And the University of Washington system, including the med-
11 ical school, receives federal research grants. *See, e.g.*, *Funding Opportunities*, Univ. of
12 Wash. Off. of Rsch. (last visited Oct. 14, 2024), perma.cc/Z7S2-W6VG.

15 12. Defendant, UW Medicine, is an integrated clinical, research, and learning
16 health system based in Washington State. UW Medicine is made up of various public
17 and private entities, including the University of Washington School of Medicine. *See*
18 *UW Medicine Overview* 1-5, UW Med. (last visited Oct. 14, 2024), [perma.cc/C8EQ-](https://perma.cc/C8EQ-CQZZ)
19 [CQZZ](https://perma.cc/C8EQ-CQZZ). The Dean of the medical school, who holds a concurrent position as UW
20 Medicine’s CEO, is overseen by the Board of Regents of the University of Washington.
21 *See id.* at 6; *Executive Order No. 6*, Univ. of Wash. Pol’y Directory ¶3 (last visited Oct.
22 14, 2024), perma.cc/932Q-HF6H. UW Medicine’s senior leadership reports to its
23 CEO, and UW Medicine’s board “is accountable to the President and Board of
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1 Regents through the CEO.” *Executive Order No. 6* ¶3. UW Medicine operates the BI-
2 POC Physicians Directory together with the University of Washington School of Med-
3 icine for the benefit of the medical school and its students.
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5 13. UW Medicine both receives federal financial assistance and is composed
6 of two or more entities that receive federal financial assistance. UW Medicine directly
7 and indirectly accepts Medicare and Medicaid reimbursements. *Insurance & Coverage*,
8 UW Med. (last visited Oct. 14, 2024), perma.cc/WZ35-323A. And UW Medicine’s
9 “integrated health system” comprises various public and private entities that accept
10 federal financial assistance or hold themselves out as being principally engaged in the
11 healthcare business. *E.g.*, *UW Medicine Overview* at 1, 5. These entities include the Uni-
12 versity of Washington School of Medicine, UW Medical Center, Airlift Northwest,
13 Harborview Medical Center, and Fred Hutchinson Cancer Center. *Id.*
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17 14. Defendant, Gabriel Sarah, is the University of Washington School of
18 Medicine’s Associate Dean for Student Affairs. The Office of Student Affairs oversees
19 career advising for medical students. *See Student Affairs*, Univ. of Wash. Sch. of Med.
20 Off. of Student Affs. (last visited Oct. 14, 2024), perma.cc/45XM-QT23. The Office
21 of Career Advising, in turn, manages the BIPOC Physicians Directory. Ex.A at 3. Sarah
22 is thus responsible for maintaining and operating the Directory. Sarah is sued in his
23 official capacity.
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1 15. Defendant, Bessie Young, is the University of Washington School of
2 Medicine's Vice Dean for Equity, Diversity and Inclusion and the Medical Director
3 for UW Medicine's Office of Healthcare Equity. In these roles, Young is responsible
4 for implementing DEI policies at the medical school and working with UW Medicine's
5 Chief Equity Officer to run the Office of Healthcare Equity. *See Bessie Young Joins Office*
6 *of Healthcare Equity*, UW Med. Dep't of Med. News (Feb. 3, 2021), [perma.cc/8ZGG-](https://perma.cc/8ZGG-ULNQ)
7 [ULNQ](https://perma.cc/8ZGG-ULNQ). The Office of Healthcare Equity operates the BIPOC Physicians Directory
8 with and for the medical school and its students. Young is sued in her official capacity
9 as Vice Dean and Medical Director.
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12 16. Defendant, Paula Houston, is UW Medicine's Chief Equity Officer. *Office*
13 *of Healthcare Equity Team*, UW Med. (last visited Oct. 14, 2024), perma.cc/87TL-CB2V.
14 Houston is responsible for overseeing the Office of Healthcare Equity and implement-
15 ing UW Medicine's overarching DEI bureaucracy. *See Healthcare Equity Blueprint 2.0:*
16 *The Path to Health Justice*, UW Med. Off. of Healthcare Equity (Mar. 2022),
17 perma.cc/HD48-NHVD. As Chief Equity Officer, Houston is responsible for creat-
18 ing, implementing, and maintaining UW Medicine's DEI policies and practices, includ-
19 ing programs like the BIPOC Physicians Directory. The Office of Healthcare Equity
20 operates the Directory with and for the medical school and its students. Houston is
21 sued in her official capacity as Chief Equity Officer.
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1 17. Defendant, Timothy Dellit, is Dean of is the University of Washington
2 School of Medicine, UW Medicine’s CEO, and the University of Washington’s Exec-
3 utive Vice President for Medical Affairs. *Dr. Tim Dellit Named CEO of UW Medicine,*
4 *Dean of the University of Washington School of Medicine*, Univ. of Wash. News (Nov. 28,
5 2023), perma.cc/QK4T-RD2X. Dellit’s position as Dean and CEO means that he is
6 “responsible for the UW Medicine health system and for resource management of the
7 University of Washington’s School of Medicine and the University’s owned and man-
8 aged medical centers and their associated clinics and affiliated programs.” *Executive*
9 *Order No. 6* ¶1. He is also responsible “for the development and maintenance of aca-
10 demic programs in medical education, research, and training.” *Id.* As Dean, all Univer-
11 sity of Washington School of Medicine faculty and staff ultimately report to Dellit. As
12 CEO, the same is true for UW Medicine’s senior leadership team and board. Dellit’s
13 responsibilities include creating, implementing, operating, maintaining, and enforcing
14 University of Washington School of Medicine and UW Medicine policies and practices,
15 including DEI policies and practices like the BIPOC Physicians Directory. Dellit is
16 sued in his official capacity as Dean and CEO.

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22 18. Defendant, Ana Mari Cauce, is the President of the University of Wash-
23 ington. *Office of the President*, Univ. of Wash. (last visited Oct. 14, 2024),
24 perma.cc/D4ZU-CHDN. As President, Cauce is responsible for creating, implement-
25 ing, and maintaining University of Washington policies and practices, including the
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1 BIPOC Physicians Directory. Cauce is sued in her official capacity as University Pres-
2 ident.

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4 19. Defendants—Leonard Forsman, Leonor R. Fuller, Alexes Harris, Linden
5 Rhoads, Constance W. Rice, Rogelio Riojas, Keondra Rustan, David Schumacher,
6 Blaine Tamaki, Maggie Walker, and David Zeeck—are members of the Board of Re-
7 gents of the University of Washington. *Current Board Members*, Univ. of Wash. (last vis-
8 ited Oct. 14, 2024), perma.cc/6CTF-FUZK. These Defendants are responsible for
9 creating, implementing, and maintaining University of Washington and UW Medicine
10 policies and practices, including the BIPOC Physicians Directory. These Defendants
11 are sued in their official capacity as Board members.
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14 JURISDICTION AND VENUE

15 20. This Court has subject-matter jurisdiction under 28 U.S.C. §1331.

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17 21. Venue is proper in the Western District of Washington under 28 U.S.C.
18 §1391 because Defendants reside here and a substantial part of the events and omis-
19 sions giving rise to the claim occurred here.
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21 FACTUAL ALLEGATIONS

22 I. Defendants operate a BIPOC Physicians Directory that excludes 23 white students and physicians.

24 22. Defendants operate the BIPOC Physicians Directory, a secured database
25 of physicians from across the country who have agreed to serve as points of contact
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1 for BIPOC students at the University of Washington School of Medicine who may
2 have questions about specialties, residency programs, and regions. Ex.A at 1.

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4 23. The Directory’s goal is “to have a safe avenue for students to connect
5 with BIPOC physicians with identities similar to their own” and to enable “BIPOC
6 students [to] easily talk to physicians with identities similar to their own to find advice
7 and answers to their questions.” *Id.*

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9 24. Physicians participate in the program by “adding [their] name[s] to the
10 Directory.” *Id.* at 2-3. By doing so, physicians agree to “[s]erve as a resource to [Uni-
11 versity of Washington School of Medicine] BIPOC students, responding to occasional
12 inquiries,” and to “[a]ddress questions regarding [their] specialty choice, [and their]
13 residency program or institution.” *Id.* After requesting access through the Office of
14 Career Advising, BIPOC medical students can view a spreadsheet through the school’s
15 intranet that allows them to filter the Directory and find participating physicians with
16 similar interests and identities. *Id.*; *Diverse Identities & Affinity Groups—Resources for BI-*
17 *POC Students*, Univ of Wash. Sch. of Med. Off. of Career Advising (last visited Oct.
18 14, 2024), perma.cc/6MAR-NZMN.

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22 25. Defendants explain that participating physicians obtain the “[b]enefits”
23 of “[s]upport[ing] an important cause,” “[e]xpanding [their] network,” “[s]upporting
24 [their] future colleagues,” and “invest[ing] in [their] communities,” Ex.A at 2.
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1 26. The Directory also benefits participating BIPOC medical students. “De-
2 ciding on a career or residency program is one of the most important decisions medical
3 students make during their time in medical school.” *Id.* Students’ decisions about spe-
4 cialties and residency programs may be informed by conducting independent research,
5 including by networking with physicians working in specialties in which the students
6 are interested. The Directory is intended to “serv[e] as a point of reference for student
7 questions.” *Id.*

10 27. Defendants are actively “recruiting BIPOC physicians to be a resource in
11 the BIPOC Physicians Directory.” *E.g., BIPOC Physicians Directory Launch*, UW Med.
12 Dep’t of Pediatrics (last visited Oct. 14, 2024), perma.cc/Y8ZZ-GMQV. BIPOC med-
13 ical students receive “direct access to the Directory,” a readymade, nationwide physi-
14 cian network from which they can solicit useful and potentially career-shaping infor-
15 mation about the medical profession. *See Diverse Identities & Affinity Groups—Resources*
16 *for BIPOC Students.*

19 28. BIPOC is short for “black, indigenous, and people of color,” and is de-
20 fined by Defendants to include an itemized list of racial groups: “Black/African Dias-
21 pora,” “Native American/Indigenous,” “Native Hawaiian/Pacific Islander,” “Asian,”
22 “Latine/Latinx,” “Middle Eastern,” and “North African.” Ex.A at 3.

24 29. White medical students are ineligible to participate in the BIPOC Physi-
25 cians Directory. Thus, Defendants deprive white students of access to a nationwide
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1 network of physicians who can serve as points of contact, answer students’ questions
 2 about career choices and specialties, and otherwise inform students’ decisions about
 3 their future in medicine.
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5 30. White physicians are ineligible to participate in the BIPOC Physicians
 6 Directory, even if they would prove to be a great resource for medical students, BIPOC
 7 or not. Thus, Defendants deprive white physicians of the “[b]enefits” of “[s]up-
 8 port[ing] an important cause,” “[e]xpanding [their] network,” “[s]upporting [their] fu-
 9 ture colleagues,” and “invest[ing] in [their] communities.” *Id.* at 2.
 10

11 31. The Directory is managed by the University of Washington School of
 12 Medicine’s Career Advising Office. *Id.* at 3. The Career Advising Office manages the
 13 student registration process through the medical school’s intranet. *See Diverse Identities*
 14 *& Affinity Groups—Resources for BIPOC Students.*
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17 education.uwmedicine.org/career-advising/resources/diverse-identities-affinity-groups/

18 **Resources for BIPOC Students**

19 **Networking**

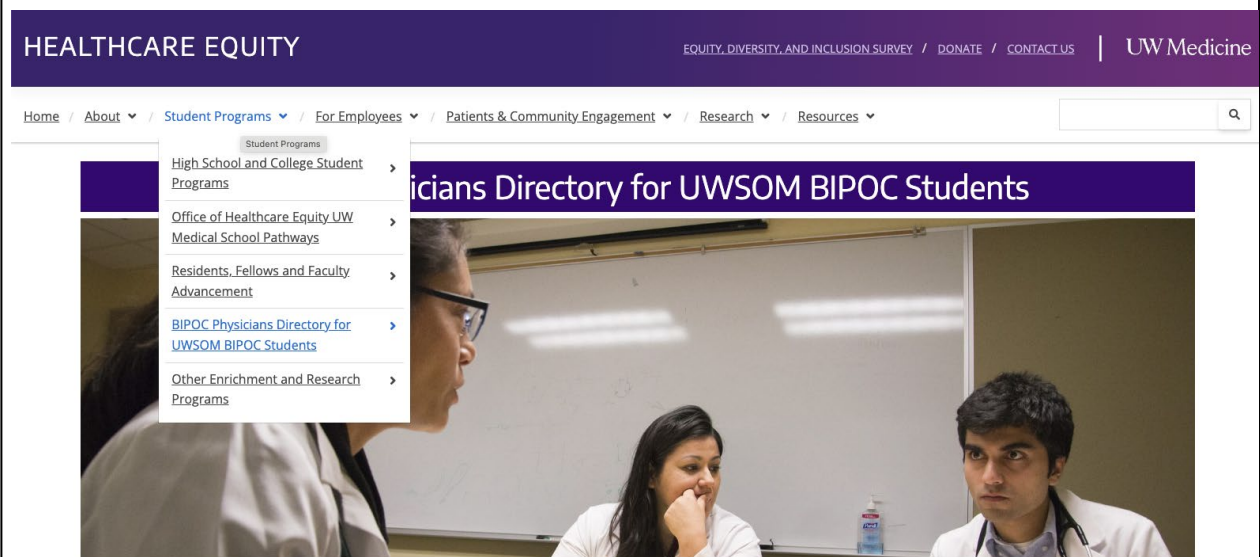
20 BIPOC Physicians Directory is a private, secured database of physicians nationwide (as well as from UW), who can serve as points of contact for
 21 UWSOM BIPOC student questions on specialties, residency programs, and regions. The Directory provides a safe avenue for students to
 22 connect with BIPOC physicians with identities similar to their own. This is not a mentorship directory or program. We thank former students
 23 Drs. Ashley Williams, L’Oreal Kennedy, and Bisu Asmerom, for their vision and collaboration with Career Advising and the Assistant Dean of
 24 Student Affairs, in creating this directory.

25 **Students: Request Access to BIPOC Physician Directory by completing the Student Use Form**

26 Completing the BIPOC Physicians Directory Student Use Form gives UWSOM students direct access to the Directory and takes just a minute.
 27 Additionally, your input in the optional 5-minute Questionnaire will assist UWSOM Career Advising in researching the tool’s utility and value, so
 28 your input is appreciated.

Physicians: Sign up to be listed in the BIPOC Physician Directory

32. UW Medicine’s Office of Healthcare Equity operates the BIPOC Physicians Directory together with the University of Washington School of Medicine. The main information page for the Directory is located on UW Medicine’s website (equity.uwmedicine.org). And the Directory’s “Sign up” link on the Office of Career Advising’s webpage redirects physicians to the Office of Healthcare Equity. *Diverse Identities & Affinity Groups—Resources for BIPOC Students*; Ex.A.



II. UW discriminates against Do No Harm’s members.

33. Do No Harm has at least one member—Member A—who is harmed by Defendants’ exclusion of white students and physicians from the BIPOC Physicians Directory.

34. Member A is an experienced physician in the State of Washington.

35. Member A considers it a professional obligation to give back to the medical community by serving as a mentor and a resource for current medical students and

1 residents who want to learn more about the medical profession, various career paths,
2 and specialties.

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4 36. Having completed residency at the University of Washington, Member A
5 would be an especially great mentor and resource for medical students of any race.

6 37. Throughout his career, Member A has mentored many medical students,
7 residents, and younger doctors. These conversations and relationships not only bene-
8 fitted the mentees, but also benefited Member A by giving him opportunities to give
9 back to the profession, think critically about his practice, and create future colleagues
10 and professional connections. Neither his race—nor the race of anyone he shared his
11 knowledge and experience with—ever mattered, or was even mentioned, in these con-
12 versations.
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15 38. Member A is ready and able to add his name to the Directory to serve as
16 a resource for students regardless of their race. If a court orders Defendants to stop
17 racially discriminating against physicians and students, Member A will do so.
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19 39. But because Member A is white, he is ineligible to add his name to the
20 Directory, participate in the Directory program, or serve as a resource to medical stu-
21 dents through the Directory.
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23 40. Member A finds it hurtful, unfair, and offensive that his race—which he
24 cannot control—is being used by Defendants to preclude him from serving as a re-
25 source for students who browse the Directory.
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1 41. Defendants’ use of race to exclude certain students from the Directory
2 also artificially limits the number of students and future colleagues that Member A
3 could mentor through the Directory. Thus, even if Member A could add his name to
4 the Directory, Defendants’ discriminatory practices would prevent him from “[s]up-
5 port[ing] an important cause,” “[e]xpanding [his] network,” “[s]upporting [his] future
6 colleagues,” and “invest[ing] in [his] communit[y]” to the fullest extent. Ex.A at 2.
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9 **CLAIMS FOR RELIEF**

10 **COUNT I**

11 **Violation of the Fourteenth Amendment**

12 **(Against Defendants Sarah, Young, Houston, Dellit, Cauce, Forsman, Fuller,**
13 **Harris, Rhoads, Rice, Riojas, Rustan, Schumacher, Tamaki, Walker, and Zeeck)**
14 **(U.S. Const. amend. XIV; 42 U.S.C. §1983)**

15 42. Do No Harm repeats and realleges the preceding allegations.

16 43. Section 1983 provides that “[e]very person who, under color of any stat-
17 ute, ordinance, regulation, custom, or usage, of any State or Territory or the District
18 of Columbia, subjects, or causes to be subjected, any citizen of the United States or
19 other person within the jurisdiction thereof to the deprivation of any rights, privileges,
20 or immunities secured by the Constitution and laws, shall be liable to the party injured
21 in an action at law, suit in equity, or other proper proceeding for redress.” 42 U.S.C.
22 §1983.
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1 44. Defendants Sarah, Young, Houston, Dellit, Cauce, Forsman, Fuller, Har-
2 ris, Rhoads, Rice, Riojas, Rustan, Schumacher, Tamaki, Walker, and Zeeck are “per-
3 son[s]” acting under the color of state law. *Id.*
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5 45. The Fourteenth Amendment provides, among other things, that no per-
6 son shall be denied “the equal protection of the laws.” U.S. Const. amend. XIV, §1.
7

8 46. The “central mandate” of equal protection is “racial neutrality” by the
9 government. *Miller v. Johnson*, 515 U.S. 900, 904 (1995). And the “‘core purpose’ of the
10 Equal Protection Clause” is to “d[o] away with *all* governmentally imposed discrimi-
11 nation based on race.” *Harvard*, 600 U.S. at 206 (emphasis added). “[W]henver the
12 government treats any person unequally because of his or her race, that person has
13 suffered an injury that falls squarely within the language and spirit of the Constitution’s
14 guarantee of equal protection.” *Adarand Constructors, Inc. v. Pena*, 515 U.S. 200, 229-30
15 (2000); *see also Muldrow v. St. Louis*, 601 U.S. 346, (2024) (Kavanaugh, J., concurring in
16 the judgment) (explaining that unlawful discrimination is itself a harm).
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19 47. Defendants maintain a BIPOC Physicians Directory that serves as a re-
20 source for BIPOC medical students while excluding white students and physicians.
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22 48. Defendants’ BIPOC Physicians Directory creates an explicit racial classi-
23 fication and determines eligibility for participation based on race.
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1 49. When the government “distributes ... benefits on the basis of individual
2 racial classifications, that action is reviewed under strict scrutiny.” *Parents Involved in*
3 *Cnty. Schs. v. Seattle Sch. Dist. No. 1*, 551 U.S. 701, 720 (2007).

4
5 50. “[A]ll racial classifications ... must be analyzed by a reviewing court un-
6 der strict scrutiny.” *Adarand*, 515 U.S. at 227. The Supreme Court has “insisted on
7 strict scrutiny in every context, even for so-called ‘benign’ racial classifications.” *Johnson*
8 *v. California*, 543 U.S. 499, 505 (2005). Strict scrutiny is required because “[r]acial clas-
9 sifications raise special fears that they are motivated by an invidious purpose.” *Id.* “Ab-
10 sent searching judicial inquiry into the justification for such race-based measures, there
11 is simply no way of determining ... what classifications are in fact motivated by illegit-
12 imate notions of racial inferiority or simple racial politics.” *Id.* (cleaned up).

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15 51. Strict scrutiny is a “searching examination, and it is the government that
16 bears the burden to prove ‘that the reasons for any racial classification are clearly iden-
17 tified and unquestionably legitimate.’” *Fisher v. Univ. of Tex.*, 570 U.S. 297, 310 (2013)
18 (cleaned up). The racial classification “must survive a daunting two-step examination.”
19 *Harvard*, 600 U.S. at 206. First, the racial classification must “‘further compelling gov-
20 ernmental interests.’” *Id.* at 207. Second, the government’s use of race must be “‘nar-
21 rowly tailored’—meaning ‘necessary’—to achieve that interest.” *Id.*

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23
24 52. Defendants cannot satisfy strict scrutiny.

1 53. Defendants cannot show a compelling governmental interest for exclud-
2 ing white students or physicians from the Directory. The Supreme Court has recog-
3 nized compelling interests in the use of race in only the narrowest of circumstances,
4 where those preferences are explicitly designed to remedy recent acts of discrimination
5 and to make the *individual subjects* of that discrimination whole. *Id.* There is no evidence
6 that Defendants created the Directory to remedy some past discrimination that they
7 took part in. Instead, Defendants want to give BIPOC medical students an additional
8 resource simply because they belong to certain racial groups. Such an outright race-
9 based distribution of governmental benefits and resources—especially in the educa-
10 tional context—is patently illegitimate and illegal. *See Brown v. Bd. of Educ.*, 347 U.S. 483,
11 493-94 (1954); *Harvard*, 600 U.S. at 216-18.

15 54. The BIPOC Physicians Directory is also not narrowly tailored.

16 55. Defendants cannot show that excluding white students and physicians is
17 necessary to achieve any of its interests.

18 56. White students' and physicians' race operates as a “negative” by categor-
19 ically excluding them from the Directory.

20 57. Defendants use race as a stereotype—for example, by proceeding from
21 the assumption that BIPOC students will not benefit from networking with white phy-
22 sicians and will only benefit from talking to a physician of the same race.

23 58. Defendants' use of race has no end date.

COUNT II

**Violation of Title VI of the Civil Rights Act of 1964
(Against Defendants University of Washington School of Medicine and UW
Medicine)
(42 U.S.C. §2000d et seq.)**

59. Do No Harm repeats and realleges the preceding allegations.

60. Title VI of the Civil Rights Act of 1964 provides that no person “shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.” 42 U.S.C. §2000d.

61. The BIPOC Physicians Directory is a “program or activity” under Title VI because it is an “operatio[n]” of the University of Washington School of Medicine. Title VI defines “program or activity” to mean “all of the operations of” a “university” “any part of which is extended Federal financial assistance.” §2000d-4a(2)(A). The University of Washington School of Medicine is a public university that receives federal financial assistance.

62. The Directory is also a covered “program or activity” because it is an “operatio[n]” of UW Medicine. Title VI applies to UW Medicine’s operations because UW Medicine is both an “instrumentality of a State” that receives federal financial assistance, §2000d-4a(1)(A), and a combination of covered entities, §2000d-4a(4). UW Medicine was established by the University of Washington, which is subject to Title VI under §2000d-4a(2)(A), and is made up of various public and private medical

1 entities “principally engaged in the business of providing ... health care,” §2000d-
2 4a(3)(A)(ii).

3
4 63. Private individuals can sue to enforce Title VI and obtain both injunctive
5 relief and damages. *See Alexander v. Sandoval*, 532 U.S. 275, 279-80 (2001).

6 64. Under §2000d-7(a)(1), a state is “not ... immune ... from suit in Federal
7 court for a violation of ... title VI.”

8
9 65. Defendants have caused and will continue to cause white students and
10 physicians to be “excluded from participation in,” “denied the benefits of,” and “sub-
11 jected to discrimination under” the BIPOC Physicians Directory program “on the
12 ground of race, color, or national origin.” §2000d.

13
14 66. At a minimum, because the Directory violates the Equal Protection
15 Clause of the Fourteenth Amendment, it also violates Title VI. *See SFFA v. Harvard*,
16 980 F.3d 157, 185 (1st Cir. 2020) (“Title VI’s protections are coextensive with the
17 Equal Protection Clause.”), *rev’d on other ground* 600 U.S. 181; *cf. Harvard*, 600 U.S. at
18 308-09 (Gorsuch, J., concurring) (observing that Title VI has “independent force”
19 and makes it “*always* unlawful to discriminate among persons even in part because of
20 race” without subjecting racial classifications to strict scrutiny).
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COUNT III

**Violation of Section 1557 of the Affordable Care Act
(Against Defendants University of Washington School of Medicine and UW
Medicine)
(42 U.S.C. §18116)**

67. Do No Harm repeats and realleges the preceding allegations.

68. Under Section 1557, “an individual shall not ... be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any health program or activity, any part of which is receiving Federal financial assistance, including credits, subsidies, or contracts of insurance” because of race. 42 U.S.C. §18116(a).

69. The BIPOC Physicians Directory is a “health program or activity” because it is an operation of both UW Medicine and the University of Washington School of Medicine.

70. Section 1557 covers UW Medicine’s operations because UW Medicine is an “integrated health system” principally engaged in the business of providing healthcare. *See UW Medicine Overview* at 2. At a minimum, “[t]he phrase ‘health program or activity’ in section 1557 plainly includes all the operations of a business principally engaged in providing healthcare.” *T.S. ex rel. T.M.S. v. Heart of CarDon LLC*, 43 F.4th 737, 743 (7th Cir. 2022). UW Medicine receives federal financial assistance through Medicare and Medicaid reimbursements.

71. Section 1557 separately covers the University of Washington School of Medicine’s operations because the medical school trains doctors and other healthcare

1 professionals. Operating a medical school is a “health program,” and educating doctors
2 is a “health ... activity.” *See also* 45 C.F.R. 92.4 (defining “health program or activity”
3 to include medical schools). The University of Washington School of Medicine re-
4 ceives federal financial assistance in the form of federal student financial aid and re-
5 search grants.
6

7
8 72. Private entities and individuals can sue to enforce Section 1557 and ob-
9 tain both injunctive relief and damages. 42 U.S.C. §18116(a).

10 73. Under §2000d-7(a)(1), a state is “not ... immune ... from suit in Federal
11 court for a violation of ... the provisions of any other Federal statute prohibiting dis-
12 crimination by recipients of Federal financial assistance.”
13

14 74. Defendants have caused and will continue to cause white students and
15 physicians to be “excluded from participation in,” “denied the benefits of,” and “sub-
16 jected to discrimination under” the BIPOC Physicians Directory program because of
17 their race. §18116(a).
18

19 75. Because Defendants violate Title VI and the Equal Protection Clause,
20 they also violate Section 1557.
21

22 PRAYER FOR RELIEF

23 Do No Harm asks this Court to enter judgment in its favor and against Defend-
24 ants and to provide the following relief:
25

26 A. A declaratory judgment that Defendants, through the BIPOC Physicians
27 Directory for University of Washington School of Medicine BIPOC
28

1 Students, are violating the Equal Protection Clause of the Fourteenth
2 Amendment, Title VI of the Civil Rights Act of 1964, and Section 1557
3 of the Affordable Care Act.

- 4 B. A permanent injunction barring Defendants from operating a directory
5 that excludes students or physicians based on race.
- 6 C. Reasonable costs and expenses of this action, including attorneys' fees,
7 under 42 U.S.C. §1988 and any other applicable laws.
- 8 D. All other relief that Do No Harm is entitled to.

9 Dated: October 15, 2024

Respectfully submitted,

10 Ard Law Group PLLC

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11 By: /s/ Joel B. Ard

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