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May 22, 2024

**VIA U.S. MAIL**

Florida Commission on Human Relations  
4075 Esplanade Way Unit 110  
Tallahassee, FL 32399

### **COMPLAINT**

Dear Commissioners:

Section 760.11(1), Florida Statutes, authorizes “the Attorney General . . . [to] file . . . a complaint . . . with” the Florida Commission on Human Relations (the Commission). This Complaint concerns Starbucks Coffee Company (Starbucks),<sup>1</sup> which has employment policies that appear on their face to discriminate on the basis of race.

As the U.S. Supreme Court recently reaffirmed, “racial discrimination is invidious in all contexts.” *Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll.*, 600 U.S. 181, 214 (2023) (cleaned up). This is because it “demeans the dignity and worth of a person to be judged by ancestry instead of by his or her own merit and essential qualities.” *Rice v. Cayetano*, 528 U.S. 495, 517 (2000).

Notwithstanding the Supreme Court’s decision last year in *Students for Fair Admissions*, Starbucks’s website contains information regarding “annual

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<sup>1</sup> The Commission’s regulations ask a complainant to identify the address and phone number of the employer. Starbucks has hundreds of stores in Florida. Please refer to the “contact us” information on the company’s website, <https://www.starbucks.com/contact/>.

inclusion and diversity goals.”<sup>2</sup> The website sets forth a goal of “achieving Black, Indigenous, and People of Color representation of at least 30 percent at all corporate levels and at least 40 percent of all retail and manufacturing roles by 2025.”<sup>3</sup> The website also states that Starbucks executives have their “compensation tied to” meeting these “inclusion and diversity objectives.”<sup>4</sup>

While *Students for Fair Admissions* addressed university admissions policies, which are subject to the Equal Protection Clause, the Court also addressed claims under federal civil rights laws, which in many cases apply to private employers. *See* 600 U.S. at 198 n.2; *id.* at 290 (Gorsuch, J., concurring) (comparing the language of civil rights statutes). Florida’s civil rights laws, which the Commission enforces, are modeled after and interpreted consistent with federal civil rights laws. *See Fla. State Univ. v. Sondel*, 685 So. 2d 923, 925 n.1 (Fla. 1st DCA 1996); *see also* § 760.06, Fla. Stat. (discussing the enforcement powers of the Commission).

The Florida Civil Rights Act prohibits, among other things, limiting, segregating, or classifying employees or applicants for employment based on race in any manner that would deprive the person of employment opportunities. § 760.10(1)(b).<sup>5</sup> Courts have already recognized that racial set asides, also known as racial quotas, violate the Equal Protection Clause. *See City of Richmond v. J.A. Croson Co.*, 488 U.S. 469, 505 (1989). Courts have also recognized that racial quotas violate federal civil rights laws. *See Ricci v. DeStefano*, 557 U.S. 557, 581–82 (2009). There is no doubt that Florida courts would reach the same conclusion regarding the Florida Civil Rights Act. *Cf. In re: Amend. to Rule Regulating the Fla. Bar 6-10.3*, 335 So. 3d 77, 80 (Fla. 2021) (explaining that “[q]uotas depart from the American ideal of treating people as unique individuals” and “are based on and foster stereotypes”).

The Starbucks policies described above appear on their face to be racial quotas. They set specific race-based employment targets. And to the extent Starbucks

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<sup>2</sup> <https://stories.starbucks.com/press/2022/starbucks-equity-and-inclusion-timeline/>.

<sup>3</sup> <https://stories.starbucks.com/press/2022/starbucks-equity-and-inclusion-timeline/>.

<sup>4</sup> <https://stories.starbucks.com/stories/inclusion-diversity/>.

<sup>5</sup> Prohibited practices also include discharging or failing to hire an employee based on race, § 760.10(1)(a), and discriminating against an individual with respect to compensation or other terms of employment based on race, § 760.10(1)(a).

suggests that these are merely aspirational “goals,” and not quotas, that claim would be hard to square with Starbucks’s decision to *tie executive compensation* to meeting those targets.<sup>6</sup> Moreover, as the U.S. Supreme Court has explained, an employer seeking to meet numerical goals will likely “be careful to ensure that its programs are discussed in euphemistic terms, but will be equally careful to ensure that . . . quotas are met.” *Watson v. Fort Worth Bank & Tr.*, 487 U.S. 977, 993 (1988) (plurality opinion). In other words, even if Starbucks is claiming these goals are not operating as quotas, that claim should be viewed with significant skepticism.

At a minimum, Starbucks’s publicly available policies raise sufficient concerns that the Commission should use its investigatory powers to ensure Florida law is being followed. As part of that investigation, the Commission may also wish to review the “anti-bias” training provided by Starbucks to its employees. According to Starbucks’s own website, one purpose of this training is to convince white employees of Starbucks that they are “the problem.”<sup>7</sup> Depending on the facts revealed in your investigation, the Commission should evaluate whether the circumstances rise to the level of an “abusive work environment” in violation of the Florida Civil Rights Act. *See McCaw Cellular Commc’ns of Fla. v. Kwiatek*, 763 So. 2d 1063, 1066 (Fla. 4th DCA 1999).

Thank you for your consideration of this matter and for all you do to protect civil rights in Florida.

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<sup>6</sup> Although Starbucks recently modified these policies, a company spokesperson confirmed that “Starbucks retains inclusion and diversity goals within its overall compensation structure” and that “U.S. goals to achieve racial and ethnic diversity of at least 30% at all corporate levels and at least 40% across manufacturing and retail roles by 2025 are also still in place.” <https://www.bloomberg.com/news/articles/2024-03-15/starbucks-sbux-drops-executive-pay-package-tied-to-dei>.

<sup>7</sup> <https://stories.starbucks.com/stories/2018/beyond-may-29-lessons-from-starbucks-anti-bias-training-and-whats-next/>.

Respectfully submitted,

Ashley Moody  
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/s/ James H. Percival  
James H. Percival  
CHIEF OF STAFF

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Under penalty of perjury, I declare that I have read the foregoing complaint and that the facts stated in it are true and correct to the best of my knowledge.

5/22/2024

Date



James H. Percival