

United States Court of Appeals
FIFTH CIRCUIT
OFFICE OF THE CLERK

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CLERK

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September 12, 2013

Mr. Bert Walter Rein
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No. 09-50822 Abigail Fisher, et al v. State of Texas, et al
USDC No. 1:08-CV-263

Dear Counsel:

This letter will serve to confirm our telephone conversation of this date advising the parties that the court has requested Supplemental Briefs to be electronically filed in this office in accordance with the briefing schedule below. Counsel will adhere to the usually page length requirements.

Plaintiff's Supplemental Brief is due on October 4, 2013

Defendants' Supplemental Brief is due on October 25, 2013

Supplemental Reply Brief will be due on November 8, 2013

Plaintiff's Counsel and Defendants' Counsel are to address any issue thought relevant including the following:

- (1) Should the court in its discretion remand to the district court for further proceedings?
- (2) Should any remand to the district court be accompanied by instruction from this court?
- (3) If this court elects to not remand how ought it apply strict scrutiny as directed by the Supreme Court on the record now before it?

- (4) Are there remaining questions of standing?
- (5) Is the University due any deference in its decision that "critical mass" has not been achieved?
- (6) Has the University achieved "critical mass"? If your answer is yes, please explain when it did. If your answer is no, please explain when it is likely to do so, should the *Grutter* plan remain in place.
- (7) What workable alternatives to the use of race were available to the University that were not being deployed?

Appeal 09-50822 Abigail Fisher v. State of Texas is set for Oral Argument on November 13, 2013 in the Homer Thornberry Federal Courthouse, 903 San Jacinto Boulevard, Austin, Texas, at 3:30 p.m.. Counsel will receive under separate cover further information concerning the Oral Argument.

Sincerely,

LYLE W. CAYCE, Clerk

By: Mary Stewart
Mary C. Stewart, Deputy Clerk
504-310-7694

cc: Ms. Lori Ann Alvino McGill
Mr. Gregory George Garre
Mr. James C. Ho
Ms. Maureen E. Mahoney