

# EXHIBIT 5

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF MASSACHUSETTS  
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4 \_\_\_\_\_  
5 STUDENTS FOR FAIR ADMISSIONS, INC.,  
6 Plaintiff,

7 v.

No. 1:14-cv-14176

8 PRESIDENT AND FELLOWS OF  
9 HARVARD COLLEGE  
10 (HARVARD CORPORATION),  
11 Defendant.

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16 VIDEO DEPOSITION of WILLIAM FITZSIMMONS  
17 Boston, Massachusetts  
18 August 3, 2017  
19  
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23 Reported by:

24 Dana Welch, CSR, RPR, CRR, CRC

25 Job #127104

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2 the race of the student, right?

3 A. Yes.

4 Q. So if a white student were active in the  
5 NAACP, you wouldn't rate that any differently as an  
6 extracurricular component than you would an African  
7 American student?

8 MS. ELLSWORTH: Objection.

9 A. No.

10 Q. Can you think of any occasion where race  
11 would factor into an athletic rating?

12 MS. ELLSWORTH: Objection.

13 A. No.

14 Q. Can you think of a situation where race  
15 would affect the personal quality rating?

16 MS. ELLSWORTH: Objection.

17 A. Not race per se.

18 Q. What goes into the personal quality  
19 rating?

20 A. It would really be a holistic view  
21 based -- the reader, readers and then ultimately  
22 the committee because the committee, you know,  
23 could get new information, say, an interview may  
24 come in during committee.

25 It would be looking at everything in the

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2 folder: The impression that the teachers and the  
3 counselor and other school personnel and, really,  
4 anyone else say; someone who'd been involved in a  
5 community activity when religious activity -- could  
6 be anything with the student along with interviews,  
7 obviously, really along with what the student's --  
8 the life trajectory of the student, where the  
9 student had grown up, what opportunities the  
10 student had had in his or her family, neighborhood,  
11 secondary school.

12 It would be a complete review of a life  
13 story, you know, in its entirety. Any information  
14 in that application that could give us a better  
15 sense of what kind of an educator that person would  
16 be of others and really try to project, you know,  
17 talk about creating citizens and citizen leaders at  
18 Harvard, but also for the world later.

19 So it's unique for every person and takes  
20 all factors into account.

21 Q. I thought you told me that whether someone  
22 would be a leader and would be a greater citizen at  
23 Harvard was one of the reasons why Harvard uses  
24 race.

25 MS. ELLSWORTH: Objection.

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2 quality, taking everything in the folder into  
3 account?

4 MS. ELLSWORTH: Objection.

5 A. It's simply one part of a person's life.

6 Q. Is it a part that can be taken into  
7 account when assigning a personal score?

8 MS. ELLSWORTH: Objection.

9 A. It depends on how that person -- let's  
10 say, for example, you had a student who had been  
11 the subject of discrimination as a result of racial  
12 and ethnic background. And, say, a teacher in the  
13 school talks about how that student had overcome  
14 that prejudice and had, let's say for example, gone  
15 on to try to help other students who had been the  
16 victims of discrimination and prejudice and perhaps  
17 helped some of the students who had been a part of  
18 discrimination and/or harassment in the first  
19 place. That -- I'm just giving you an example how  
20 a person's race might have interacted with  
21 circumstances in his or her life, whether it's in  
22 secondary school or beyond, that would indicate  
23 that that person might turn out to be a valuable  
24 leader and classmate at Harvard.

25 Q. So, in that case, are you evaluating the

CERTIFICATE

Commonwealth of Massachusetts  
Suffolk, ss.

I, Dana Welch, Registered Professional Reporter, Certified Realtime Reporter and Notary Public in and for the Commonwealth of Massachusetts, do hereby certify that WILLIAM FITZSIMMONS, the witness whose deposition is hereinbefore set forth, was duly sworn by me and that such deposition is a true record of the testimony given by the witness.

I further certify that I am neither related to nor employed by any of the parties in or counsel to this action, nor am I financially interested in the outcome of this action.

In witness whereof, I have hereunto set my hand and seal this 15th day of August, 2017.

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Dana Welch

Notary Public

My commission expires:

October 6, 2017