

2025 IMPACT REPORT



Dismantling Barriers to Justice

REFLECTIONS

Jason Solomon, NIWR Director



It's a scary time for workers' rights in this country—and for the future of our multiracial democracy.

The federal government and its allies are trying to redefine anti-discrimination law and use it against those it was designed to protect. It's an Alice-in-Wonderland view of how bias operates in society and in the workplace. And it's having an effect: in a recent three-month period, nearly 300,000 Black women exited the workforce. That's no accident.

But here, at NIWR, we're fighting back and—despite everything—having some success. A recent report indicated that 68% of C-suite executives think that retreating from diversity, equity, and inclusion will create more liability risk for companies. That is precisely the message we've been pushing. Although some companies like Meta and Target have retreated considerably, many others are continuing their efforts to promote equal opportunity.

NIWR's efforts to protect equal opportunity are aimed at one aspect of the broader phenomenon at the heart of our mission: it's far too easy for employers to violate workers' rights and too difficult for workers to fight back. Workers who experience illegal treatment, such as discrimination, harassment, or wage theft, don't always know how to fight back, or if they should even try. Many workers are required to sign away their workplace rights as a condition of employment through corporate tactics such as forced arbitration and non-competes, which undermine the very rights established by our elected representatives.

Which brings us back to the future of our multiracial democracy. If people can be denied economic and other opportunities because of who they are, how they worship, or who they love—and then they can't even vindicate these rights—we shouldn't be surprised when they become cynical and wonder whether even voting is worth it. After all, without access to the benefits of our laws, what is democracy for?

Those are the stakes. While things may look bleak, there are also glimmers of hope in the work we are doing together. On behalf of NIWR's Board and staff, I extend our gratitude to the National Employment Lawyers Association (NELA), its Affiliates, and our other partners and supporters for joining us in this fight for our future.

A handwritten signature in black ink, appearing to read "Jason". The signature is fluid and cursive, with a large loop at the end.

PROTECTING EQUAL OPPORTUNITY AND OUR CIVIL RIGHTS LAWS

NIWR is engaged in an extensive advocacy campaign fighting for the value of diversity, equity, and inclusion initiatives in the workplace, with a particular emphasis on the risks of businesses backing away from them.

As the related public interest organization of NELA, NIWR has a deep understanding of the challenges advocates face in protecting the rights of workers.

In May, we published a policy brief, **Making Equal Opportunity Real: How Diversity, Equity, and Inclusion Efforts Combat Workplace Discrimination**, which builds on the public memorandum we published in October 2024, *Increased Liability Risk from Backing Away from DEI Initiatives*. At the same time, we released a strategy memorandum exclusively for plaintiffs' employment lawyers (available by request). This memo, *How to Use Companies' Retreat from DEI as Evidence of Discrimination*, offers recommendations on legal arguments and discovery requests.

The Reality of Discrimination in the Workplace

The retreat by companies from diversity, equity, and inclusion misses the salience of the following realities that lawyers representing workers see every day:

- 1 Biases against women, people of color, and others at work persist.
- 2 Diversity, equity, and inclusion initiatives counteract those biases.
- 3 Taking away such efforts will increase discrimination and liability risk.

Our advocacy promoting diversity, equity, and inclusion is influencing the national conversation on equal opportunity. Our October 2024 public memorandum was cited in an open letter from the Leadership Conference of Civil and Human Rights to leaders across business, philanthropy, education, law, non-profits, and health care, emphasizing that civil rights obligations remain unchanged despite pressure from the Administration.

NIWR also aims to reach policymakers and the public. NIWR Director Jason Solomon and 2024–2026 Paul H. Tobias Attorney Fellow Abby Frerick authored an op-ed in *Bloomberg Law*, **“DEI Reversals Swap Political Backlash for Higher Litigation Risk,”** published in January 2025. The op-ed examines how corporate retreats from initiatives to promote equal opportunity in the workplace might mean increased litigation exposure under Title VII of the Civil Rights Act.

Another op-ed by Solomon and Frerick, **“Congress Is About to Hand Corporate America a License to Discriminate,”** published by *Tech Policy Press* in June, underscores how our current civil rights laws may be inadequate for addressing algorithmic bias and argues that a contemplated ten-year Congressional prohibition on state legislative regulation of AI would leave workers

worse off against AI discrimination. NIWR also submitted letters to the Louisiana and Virginia state legislatures on related bills.

Significantly, corporate accountability work is a crucial component of NIWR's approach to advancing equal opportunity in the workplace. We joined Latino Justice in October 2024 in urging three of the country's largest public pension funds to divest from Tesla due to the company's record of discrimination and CEO Elon Musk's opposition to workplace equal opportunity initiatives. In April 2025, one of these funds—the New York City Employees' Retirement System—responded by pursuing a shareholder action against Tesla for the losses caused by Musk's actions. Highlighting Musk's spearheading of the Administration's attacks on civil rights laws, we then sent letters to the pension funds in California and Texas asking them to follow New York City's lead.

With NELA, NIWR wrote directly to Meta, Target, and Tractor Supply Company about the legal risks of their recent decisions to back away from diversity, equity, and inclusion programs. The letters call each company's attention to the fact that their initiatives were likely playing a role in counteracting biases in the workplace and that removing such initiatives will allow those biases to operate unchecked, thereby heightening the companies' liability exposure.

Notably, these efforts were recently cited in an *amicus* brief filed by Davis Wright Tremaine LLP in the Fourth Circuit on behalf of private employers, challenging the Administration's anti-diversity, equity, and inclusion executive order.

EXPLORING INNOVATIVE APPROACHES TO THE ENFORCEMENT CRISIS

NIWR and the NYU Wagner Labor Initiative co-hosted a convening in Baltimore in June to explore various models for expanding enforcement of our country's employment laws. With the private bar limited by forced arbitration and government enforcers underfunded, it is too easy for employers to violate workers' rights and get away with it. The enforcement crisis in workplace law demands strategic and creative problem-solving across sectors; therefore, we brought stakeholders and partners together from around the United States to explore these issues, including attorneys from the offices of state Attorneys General, state Departments of Labor, workers' rights non-profits, unions, and from the private plaintiffs' bar.



Topics examined at the convening included referral practices between the private bar and government, and government agencies hiring private law firms to litigate wage-and-hour enforcement actions on their behalf on a contingency-fee basis. NIWR is following up with practical guidance on how government agencies and private plaintiffs' firms interested in pursuing these sorts of collaborations may do so.

PROMOTING PRO-WORKER STATE POLICY

With federal agencies' commitment to enforcing workplace law in question, states can help safeguard and advance workers' rights. Lawyers who understand what is needed to dismantle barriers to justice can encourage policymakers to take these steps. Since fall 2024, NIWR has been facilitating collaboration on such efforts by bringing together lawyers from NELA Affiliates across the country engaged in state legislative advocacy to share ideas. Additionally, we have established a **clearinghouse for pro-worker policies at the state level**, which is housed on our website.

Through the clearinghouse, NIWR is collecting examples of pro-worker state legislation and supporting NELA Affiliates in their efforts to achieve or build on such examples. From increased statutes of limitations for workers' rights claims to state bans on non-competes and equal pay mandates for temporary workers, the clearinghouse is highlighting the most impactful pro-worker policies around the country.



STANDING UP FOR THE RIGHT TO “CONCERTED ACTIVITY”

Under the National Labor Relations Act, both union and non-union workers have the right to engage in discussions with their colleagues about working conditions and to join together to improve these conditions.

In April, **NIWR filed an unfair labor practice charge against the law firm Skadden, Arps, Slate, Meagher & Flom LLP** with the National Labor Relations Board. The charge alleges that the firm violated federal labor law by blocking their associates' access to email lists used to discuss concerns about the firm's \$100 million deal with the Trump Administration. Associates had reportedly used these channels to express concerns about pro bono commitments, reduced diversity, equity, and inclusion initiatives, and ethical obligations, activities that NIWR argues are protected under federal labor law as concerted activity for “mutual aid or protection.”

The filing of this unfair labor practice charge is part of NIWR's ongoing advocacy and education work centered on protecting workers' rights to concerted activities. This year we launched a collaboration with the Emergency Workplace Organizing Committee (EWOC). This ongoing partnership included a know-your-rights training on concerted activities protections on Instagram Live and the production of know-your-rights materials for workers.

NEWS & MEDIA IMPACT

As some DEI critics say victory is near, companies face new pushback over rollbacks

The Washington Post, October 28, 2025

Workers are getting fired, placed on leave over Charlie Kirk posts

The Washington Post, September 13, 2025

Skadden improperly limited lawyer access to email distribution lists, group claims in NLRB filing

ABA Law Journal, April 28, 2025

Skadden accused of blocking lawyers from discussing firm's deal with Trump

Reuters, April 24, 2025

Skadden to Face NLRB Probe of Email Policy Following Trump Deal

Bloomberg, April 24, 2025

A new Supreme Court case could change how employment law is practiced—and how HR leaders do their jobs

Fortune, February 28, 2025

'Lifting' becomes 'leveling': Companies reframe DEI amid Trump upheaval

The Washington Post, February 24, 2025

Despite Trump order, abandoning DEI could land companies in legal trouble

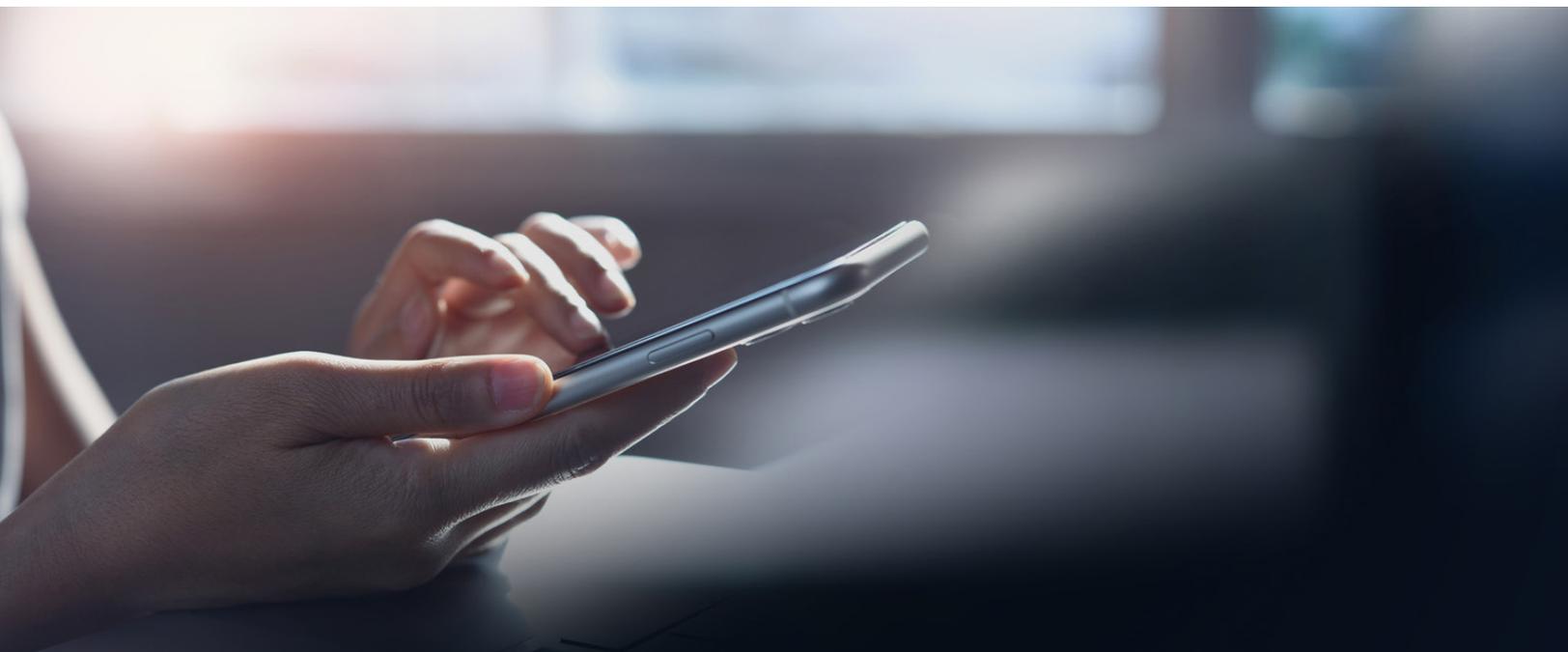
Reuters, January 24, 2025

Arbitrators Under Fire for Allegedly Forcing Workers to 'Stay or Pay' Employers

Law.com, January 13, 2025

Why employers are asking for written references from job seekers

The Indicator Podcast from Planet Money, December 17, 2024



THE FUTURE OF WORKER ADVOCACY

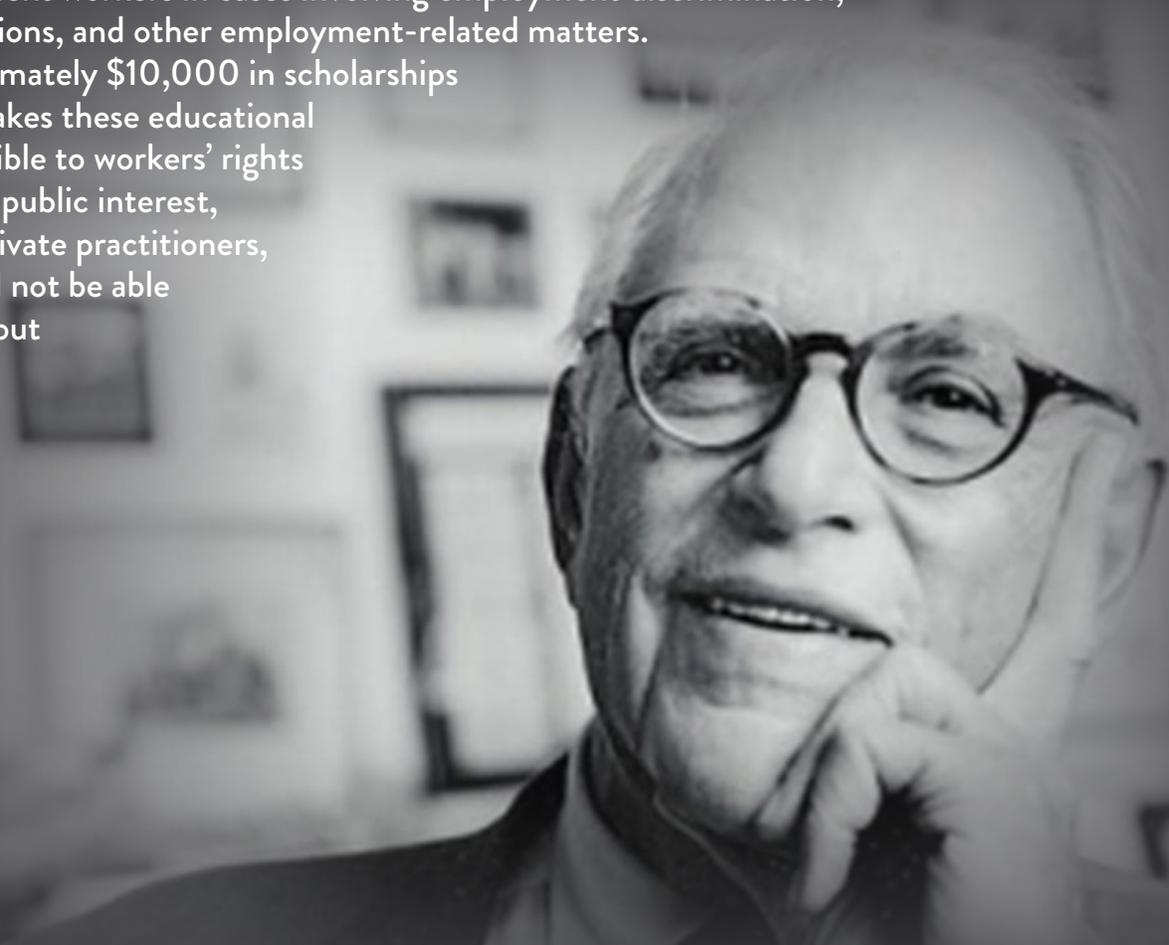
NIWR's commitment to securing the future of worker advocacy is exemplified by the Paul H. Tobias Attorney Fellowship Program and the Workers' Rights Advocacy Scholarship Program. Honoring NIWR's roots as NELA's public interest organization, the Tobias Fellowship is named for Paul H. Tobias, NELA's Founder and first Executive Director, for the boundless inspiration he had provided to plaintiffs' employment lawyers for more than 50 years. It offers a new lawyer who embodies Paul's indomitable spirit the opportunity to work on cutting-edge initiatives at NIWR for up to two years.

Our 2024–2026 Tobias Fellow, Abby Frerick, earned her JD in 2024, specializing in Labor & Employment Law with Honors at the University of Minnesota Law School. As an undergraduate, she was a member and organizer with the Union of Grinnell Student Dining Workers and helped to organize the first wall-to-wall undergraduate union in the country. As a first-year law student, Abby was selected as a Peggy Browning Fellow and began working with unions in a legal capacity. Before joining NIWR, she worked for union-side labor firms in Minnesota, Missouri, and New York representing clients on both labor and employment law matters.

The Workers' Rights Advocacy Scholarship Program represents the shared commitment of NIWR and NELA that all workers—especially those most vulnerable to illegal employment practices—receive expert legal representation when they are unlawfully mistreated in the workplace.

NELA's renowned continuing legal education (CLE) programs are designed specifically by and for attorneys who represent workers in cases involving employment discrimination, wage and hour violations, and other employment-related matters.

By providing approximately \$10,000 in scholarships each year, NIWR makes these educational opportunities accessible to workers' rights advocates, including public interest, legal services, and private practitioners, who otherwise would not be able to attend them without financial assistance.



THANK YOU TO OUR SUPPORTERS

Our work is fueled by a generous community of visionaries for workers' rights. The NIWR Board and staff offer our deepest gratitude to the individuals, law firms, foundations, and other organizations that have provided the financial support that makes our work possible. Please consider your own tax-deductible contribution to advance workers' rights. You can donate online at niwr.org/donate, by mail, or over the phone. We can also assist you in supporting NIWR through the transfer of stocks, your donor-advised fund, or a qualified charitable distribution. Our EIN is 26-2270705.

NIWR also has a strong track record as a *cy pres* beneficiary and has been awarded more than \$2 million in *cy pres* in 75 cases. These *cy pres* awards have bolstered our work and helped to improve the lives of workers across the United States. NIWR is a compelling *cy pres* recipient in employment discrimination, wage and hour, and other cases involving workplace violations.

For more information, please contact:

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