

## Ninth Circuit Nominee Supports Affirmative Action, Critical Race Theory, and “Equity” Programs

### Table of Contents

<b>KEY POINTS</b> .....	<b>1</b>
<b>NOMINATION</b> .....	<b>2</b>
<b>AFFIRMATIVE ACTION</b> .....	<b>2</b>
<b>CRITICAL RACE THEORY (CRT)</b> .....	<b>3</b>
Lawsuit Over CRT Ban .....	3
Relationship With Katie Hobbs .....	4
<b>DIVERSITY, EQUITY, &amp; INCLUSION (DEI)</b> .....	<b>5</b>

### KEY POINTS

- Joe Biden recently nominated Phoenix-based Democratic attorney Roopali Desai to the U.S. Court of Appeals to the Ninth Circuit. Last week, Desai painted herself as a moderate while appearing before the Senate Judiciary Committee. However, she has a long history of supporting liberal policies such as affirmative action and Critical Race Theory.
- In 2003, while in law school, Roopali Desai signed onto an amicus brief in *Grutter v. Bollinger* expressing support for the use of race-based affirmative action in college admissions. The brief argued that “discrimination persists ... in America” and that we should not be “denying persons of color the truth of their experiences.”
- In 2021, Roopali Desai was hired by the teachers union to oversee litigation that aimed to overturn Arizona’s ban on teaching Critical Race Theory in K-12 classrooms.
- In 2022, Roopali Desai’s law firm, Coppersmith Brockelman, promoted the importance of Diversity, Equity, and Inclusion (DEI) programs within companies. She also personally has been tasked with overseeing the state’s “social equity” program regarding marijuana licenses.
- Roopali Desai is a very close associate of Democratic Secretary of State Katie Hobbs, a chief backer of her judicial nomination. Desai is Hobbs’s longtime attorney, has contributed to her campaigns, and served on her transition team after being elected as

secretary of state. Hobbs, currently running to become the next governor of Arizona, is opposed to the state's Critical Race Theory ban.

## NOMINATION

### **Roopali Desai Is Joe Biden's Latest Nominee To The U.S. Court Of Appeals For The Ninth Circuit:**

**In June 2022, Joe Biden nominated Roopali Desai to the U.S. Court of Appeals for the Ninth Circuit.** (Press Release, "President Biden Names Nineteenth Round Of Judicial Nominees," [White House](#), 6/15/22)

**In July 2022, Roopali Desai appeared before the Senate Judiciary Committee.** (Hearing: "Nominations," Committee On The Judiciary, [United States Senate](#), 7/13/22)

## AFFIRMATIVE ACTION

### **While In Law School, Roopali Desai Expressed Support For Race-Based Affirmative Action:**

**From 2002 to 2005, Roopali Desai attended the University of Arizona's James E. Rogers College of Law.** (Roopali Desai — Questionnaire For Judicial Nominees, Committee On The Judiciary, [United States Senate](#), Filed 7/13/22)

**In 2002, the U.S. Supreme Court agreed to hear a case (*Grutter v. Bollinger*) involving the University of Michigan's use of race-based affirmative action in college admissions.** ("The Supreme Court agreed Monday to decide if minorities can be given a boost to get into universities, a subject still heatedly contested a quarter-century after the justices first addressed affirmative action in college admissions. The court will tell universities how much weight, if any, they may assign to an applicant's race. At stake are race-conscious admissions policies at many public and private colleges, law schools and medical schools." (Gina Holland, "Supreme Court To Decide If Minorities May Get College Admission Boost," Associated Press, 12/2/02)

- **The chief respondent in the case — Lee Bollinger, then-president of the University of Michigan — "reiterated his long-time support for affirmative action."** "Two cases were filed against the University of Michigan in the fall of 1997 that challenge the school's policies - *Grutter v. Bollinger*, a complaint against the university's law school and *Gratz v. Bollinger*, a challenge to the undergraduate school. Both cases name Mr. Bollinger because of his position as president of the school at that time ... In an interview with The New York Sun, Mr. Bollinger said he was pleased the court would hear the cases. He reiterated his long-time support for affirmative action." (Adam Daifallah, "Bollinger Welcomes Court Fight," New York Sun, 12/3/02)

**In 2003, Roopali Desai signed onto an amicus brief in support of the respondents (Lee Bollinger, et al.) in *Grutter v. Bollinger*.** (Docket No. 02-241 — Brief Of 13,922 Current Law Students At Accredited American Law Schools As Amici Curiae In Support Of Respondents, Page 125a, [Supreme Court Of The United States](#), Filed 2/18/03)

- **The amicus brief expressed support for affirmative action, arguing that “the consideration of race” in college administrations “is a permissible means of furthering diversity.”** “The Sixth Circuit was correct in holding that the promotion of diversity in higher education is a compelling governmental interest and that the consideration of race as one fact among many in admissions determinations is a permissible means of furthering diversity.” (Docket No. 02-241 — Brief Of 13,922 Current Law Students At Accredited American Law Schools As Amici Curiae In Support Of Respondents, Page 1-2, [Supreme Court Of The United States](#), Filed 2/18/03)
- **The amicus brief argued that “discrimination persists ... in America” and that, without affirmative action, we would be “denying persons of color the truth of their experiences.”** “What it does assume — with incontestable justification — is that certain applicants will bring to the classroom experiences borne of the social facts that race continues to matter, and that discrimination persists, in America. Equal treatment is the goal of the Equal Protection Clause. That goal cannot be pursued by denying persons of color the truth of their experiences or other students the benefit of that truth.” (Docket No. 02-241 — Brief Of 13,922 Current Law Students At Accredited American Law Schools As Amici Curiae In Support Of Respondents, Page 3-4, [Supreme Court Of The United States](#), Filed 2/18/03)

## **CRITICAL RACE THEORY (CRT)**

### ***Lawsuit Over CRT Ban***

#### **Roopali Desai Oversaw Litigation That Aimed To Overturn Arizona’s Ban On Critical Race Theory:**

**In 2021, Roopali Desai filed a lawsuit on behalf of the teachers union and allied groups seeking to overturn Arizona’s ban on teaching Critical Race Theory in K-12 classrooms.** “The lawsuit filed by a coalition of school board members, educators, child welfare advocates and others contends that the same legal flaws in enacting the prohibition against masks also invalidates a host of other issues. These range from prohibiting schools from requiring vaccination against COVID-19 to banning the teaching of what has been labeled as ‘critical race theory’ ... The problem, according to attorney Roopali Desai, is that the Arizona Constitution says each piece of legislation ‘shall embrace but one subject and matters properly connected therewith. ‘ And that same provision requires each element of what is in each bill to be laid out in the title. Now Desai wants Cooper to void provisions in each of those bills that do not relate to the subject of the bill.” (Howard Fischer, “Judge To Hear Arguments Over Legality Of Mask Prohibition,” [Capitol Media Services](#), 8/25/21)

## *Relationship With Katie Hobbs*

### **Roopali Desai Is A Very Close Associate Of Democratic Secretary Of State Katie Hobbs, A Chief Backer Of Her Judicial Nomination (And Current Gubernatorial Candidate) Who Supports Critical Race Theory In K-12 Schools:**

**Katie Hobbs is one of the chief Democratic backers of Roopali Desai's judicial nomination.**

HOBBS: "Roopali Desai is an exceptional attorney and will make an exceptional judge. I am thrilled with her nomination and grateful for all the work she has done on behalf of this office. She has always stood with us in defending Arizona's voters." (Secretary Katie Hobbs, [Twitter](#), 6/15/22)

- **Katie Hobbs has expressed her opposition to legislation banning Critical Race Theory in K-12 schools, saying: "Our history is fraught with uncomfortable race issues, and we shouldn't gloss over that."** "On Tuesday, the Arizona Supreme Court struck down a law that prohibited curriculum in public K-12 schools 'that presents any form of blame or judgment on the basis of race, ethnicity or sex,' that teaches that a person is inherently racist, sexist or oppressive due to their race, ethnicity or sex, or that 'an individual should feel discomfort, guilt, anguish or any other form of psychological distress because of the individual's race, ethnicity or sex' ... Hobbs said she would oppose the passage of a similar law. While parents should be involved in determining curriculum, Hobbs said students should be taught accurate accounts of U.S. and Arizona history, including sensitive issues surrounding race. 'Our history is fraught with uncomfortable race issues, and we shouldn't gloss over that,' she said." (Jeremy Duda, "Hobbs: Parents Should Be 'Partners' In The Education System, Not Adversaries," [Arizona Mirror](#), 11/4/21)
- **Katie Hobbs is running to become the next governor of Arizona.** "Secretary of State Katie Hobbs announced Wednesday that she will seek the Democratic Party's nomination for Arizona governor in 2022. Hobbs was widely expected to enter the race to succeed Republican Gov. Doug Ducey after his second term ends." (Andrew Oxford, "In Spotlight Of Audit, Secretary Of State Katie Hobbs Announces Run For Arizona Governor," [Arizona Republic](#), 6/2/21)

**Roopali Desai is Katie Hobbs's longtime attorney.** "In recent years, Desai had done paid and pro-bono work for Hobbs' office, according to invoices provided by the SoS in March." (Wayne Schutsky, "We Knew Her When," [Yellow Sheet Report](#), 6/15/22)

- **Roopali Desai has contributed to Katie Hobbs's campaigns.** Roopali Desai \$1,000 to Katie Hobbs on October 26, 2018, and \$1,000 to Katie Hobbs on May 22, 2019. (Elect Katie Hobbs For Secretary Of State — Amended 2019 8th Report (4th Quarter), [Office Of The Arizona Secretary Of State](#), Filed 1/15/19; Elect Katie Hobbs For Secretary Of State — Amended 2020 Annual Report, [Office Of The Arizona Secretary Of State](#), Filed 1/15/20)

- **Roopali Desai served on Katie Hobbs’s transition team.** “Secretary of State-elect Katie Hobbs today announced the members of her newly-appointed transition team ... Serving on the Hobbs transition team are: ... Roopali Desai, Attorney, Coppersmith Brockelman ...” (Hank Stephenson, “Hobbs Announces Transition Team,” [Yellow Sheet Report](#), 12/3/18)

## **DIVERSITY, EQUITY, & INCLUSION (DEI)**

### **Roopali Desai’s Law Firm Has Promoted Diversity, Equity, And Inclusion Programs, And She Is Involved In A “Social Equity Program” Regarding Marijuana:**

**In 2022, Coppersmith Brockelman, the law firm where Roopali Desai is a Partner, promoted the importance of creating DEI programs within companies.** “As more companies prioritize diversity, equity and inclusion (DEI), many wonder what such programs should include. In an In Business cover story highlighting companies with strong DEI initiatives, Sam Coppersmith and Malvika Sinha share how Coppersmith Brockelman attracts diverse attorneys and helps them thrive.” (Press Release, “Sam Coppersmith And Malvika Sinha Outline Components Of A Successful DEI Program For In Business,” [Coppersmith Brockelman PLC](#), 2/2/22)

**As of 2022, Roopali Desai has been tasked with overseeing the state health department’s “social equity program” regarding marijuana licenses.** “The law also allows for 26 ‘social equity’ licenses to be issued to people who have been unequally harmed by previous marijuana laws. Desai has been tapped by the state to help educate the potential applicants for those licenses and to help roll out that social equity program, a controversial task. Desai said that while legal marijuana programs and social-equity licensing have run into serious challenges in other states, she’s proud that Arizona’s program is moving along.” (Ryan Randazzo, “I Don’t Have A Lot Of Fear About Speaking Truth To Power’: Roopali Desai Honored By USA Today,” [Arizona Republic](#), 3/13/22)

- **The National Cannabis Roundtable applauded Roopali for “her deep commitment to social equity.”** ““Roopali’s leadership of Arizona’s of adult use legalization efforts, and her deep commitment to social equity within the Arizona program, give her invaluable perspective on the complex legal and regulatory issues with which we are grappling at the federal level,’ said Saphira Galoob, NCR Executive Director. ‘Her depth of experience within a state-level program is a perfect complement to the likes of James Cole, former Deputy Attorney General, and former Senator Cory Gardner (R-CO) whom she joins on the Advisory Board.’” (Press Release, “Roopali Desai Brings Cannabis Law And Social Equity Experience To National Cannabis Roundtable Advisory Board,” [Coppersmith Brockelman PLC](#), 11/5/21)

###