

June 24, 2025



OPPOSE THE CONFIRMATION OF JOSHUA DIVINE TO THE U.S. DISTRICT COURTS FOR THE EASTERN AND WESTERN DISTRICTS OF MISSOURI

Dear Senator:

On behalf of The Leadership Conference on Civil and Human Rights, a coalition charged by its diverse membership of more than 240 national organizations to promote and protect the rights of all persons in the United States, we write to express our strong opposition to the nomination of Joshua Divine to the U.S. District Courts for the Eastern and Western Districts of Missouri. The Leadership Conference intends to include your position on the nomination of Mr. Divine in our voting record for the 119th Congress.

The civil rights community has long understood that for there to be equal justice in America, our federal courts must serve everyone and recognize the rights of all of us. This means we must build an equal justice judiciary by ensuring that all who are selected and confirmed to serve in our judiciary are fair-minded and ethical, possess diverse demographic backgrounds and professional experiences, and have a demonstrated commitment to advancing the rights of all people. The president has declared himself king, regularly attacks judges and the judiciary, indicates that he will only nominate those who are loyal to him rather than to the Constitution and laws, and already has a record of selecting those who have been at the forefront of rolling back our civil and human rights. For the future of our multiracial democracy and our freedom, it is imperative that any and all nominees are fair-minded, well-qualified, and committed to civil and human rights. Unfortunately, Mr. Divine does not meet these standards and is unqualified to serve on our courts.

Mr. Divine does not possess the requisite experience to be a federal judge, and in his limited legal career he has demonstrated significant hostility to our civil and human rights. A 2016 law school graduate, most of his career has either been clerking or working for Senator Josh Hawley. In his short time practicing in the Missouri solicitor general's office, Mr. Divine has tried to distinguish himself among extreme conservatives by attacking our civil and human rights. As the Missouri attorney general stated in response to the selection of Mr. Divine for the federal bench, Mr. Divine "has been the driving force behind some of the most consequential legal battles [the Missouri attorney general's] office has taken on"¹— and he specifically notes "[w]hether it was dismantling the Biden Administration unlawful student loan bailout or shutting down radical attempts to harm Missouri children, Josh brought...leadership every step of the way."² Loyal to the anti-civil rights agenda and the Trump administration, Mr. Divine frequently appeals to the

¹ Governor Andrew Bailey, Press Release: [*President Trump Names Two Members of Missouri Attorney General Offices Team to Serve as Federal Judgeships*](#), Office of the Missouri Attorney General (May 6, 2025).

² *Id.*

Trump administration in numerous cases. These include suing the Biden administration after they halted construction of President Trump's southern border wall³ and suing the state of New York after President Trump was convicted of 34 counts of falsifying business records, accusing the state of election tampering and claiming that the case was brought for politically motivated reasons to "assist Joseph Biden's campaign"⁴ — and that New York interfered when the "aim of millions of Missourians is to elect Trump to the Presidency."⁵

Even before his time as an attorney, Mr. Divine wrote extensively about conservative issues in extremely problematic ways. He authored nearly 50 columns for his college newspaper on a myriad of topics, some of which are detailed below. The topics also include appallingly calling for required literacy tests to vote,⁶ defending the man who murdered Trayvon Martin,⁷ and saying that opposition to burdensome voter ID laws is "ridiculous."⁸ During his Senate Judiciary Committee hearing and in questions for the record, he was asked about his writings and had the opportunity to distance himself from them — but he chose not to. These biases have translated to his legal career, as demonstrated below.

Mr. Divine is immersed in organizations and workplaces widely known to be architects in rolling back our civil and human rights. An active member in the Federalist Society, he served on the steering committee for the Jefferson City, Missouri chapter.⁹ This out-of-the-mainstream legal organization represents a sliver of America's legal profession, and it has played a large role in shaping the judiciary to produce results that limit the recognition and advancement of the civil rights laws and protections for all people.¹⁰ He was also a Blackstone Legal Fellow with the

³ [*Missouri and Texas v. Biden*](#), 722 F. Supp. 3d 710 (S.D. Tex. 2024).

⁴ [*Complaint*](#) in *Missouri v. New York*, 603 U.S. 159 (August 5, 2024).

⁵ *Id.*

⁶ See Senate Judiciary Questionnaire Attachments at 725, Josh Divine, *Literacy tests should be required for elections*, THE MIRROR (October 20, 2010) ("People who aren't informed about issues or platforms— especially when it is so easy to become informed these days— have no business voting, which is why I propose state-administered literacy tests...A progressive democracy consists of one with active, informed voters, but the mass population negates this ideal by voting emotionally and off misleading information. Literacy tests would reduce this problem.").

⁷ See Senate Judiciary Questionnaire Attachments at 683, Josh Divine, *Trayvon Martin case needs to be handled with investigation, not emotions*, THE MIRROR (April 9, 2012) ("The Media, however, characterized Zimmerman as a 'white Hispanic.' What does that even mean? Is president Obama a white black man? What about a Halffrican-American? 'White Hispanic' seems like a ploy towards branding the situation as racist profiling because it's easier, for many people, to envision white-on-black crime rather than Hispanic-on-black.").

⁸ See Senate Judiciary Questionnaire Attachments at 686, Josh Divine, *Voter identification laws not discriminatory, not unduly burdensome*, THE MIRROR (March 19, 2012) ("Many eligible voters do not have IDs; however it's not difficult to obtain one. Inconvenient? Yes, bit not excessively onerous.... The more pressing issue is whether it constitutes a poll tax and the responding answer is no because the primary purpose of IDs is not concerned with voting...Is it burdensome (and therefore illegal) that some voters live further from polling places than others? If paying for an ID is considered a poll tax then shouldn't the stamp on my mail-in ballot or the gas I use to get to the polling place be considered likewise?").

⁹ *Questionnaire for Judicial Nominees*, U.S. Senate Committee on the Judiciary (accessed June 9, 2025).

¹⁰ See Emma Green, [*How the Federalist Society Won*](#), THE NEW YORKER (July 24, 2022); Robert O'Harrow Jr. & Shawn Boburg, [*A Conservative Activist's Behind-the-Scenes Campaign to Remake the Nation's Courts*](#), THE WASHINGTON POST (May 21, 2019).

vehemently anti-civil rights organization Alliance Defending Freedom (ADF).¹¹ ADF, classified as a hate group by the Southern Poverty Law Center, has “supported the recriminalization of sexual acts between consenting LGBTQ adults in the U.S. and criminalization abroad; has defended state-sanctioned sterilization of trans people abroad; has contended that LGBTQ people are more likely to engage in pedophilia; and claims that a ‘homosexual agenda’ will destroy Christianity and society.”¹² Throughout his work with these organizations, and in his other legal positions, it is clear that Mr. Divine would not approach the bench without bias.

Hostility Towards Reproductive Rights

The right to access reproductive health care, including the right to access safe abortion care, is regularly under attack. Mr. Divine identifies himself as “a zealot” for the “pro-life” movement,¹³ and his bias is demonstrated throughout his record as solicitor general and his writings.

- Mr. Divine authored Missouri’s complaint after the state intervened in *FDA v. Alliance of Hippocratic Medicine*, a case that challenged the Food and Drug Administration’s approval of the drug mifepristone, one of the drugs used in medication abortion.¹⁴ Mr. Divine pursued this case in the Northern District of Texas in front of notorious anti-abortion judge Matthew Kacsmaryk,¹⁵ even after the first round of litigation ended with the U.S. Supreme Court dismissing similar plaintiffs on standing grounds.¹⁶ Mr. Divine cites no plaintiff harmed by the use of mifepristone, but he instead argues only hypothetical injury, lamenting that easier access to medication abortion was “depressing expected birth rates for teenaged mothers in Plaintiff States,” further stating that this would result in the state’s “loss of federal funds.”¹⁷ The complaint puts forth unsubstantiated claims about safety, including repeatedly calling the medication “dangerous”¹⁸ and claiming that it causes “significant morbidity and mortality.”¹⁹ In fact, repeated studies by the medical community demonstrate that mifepristone is safe,²⁰ and claims about fatality have been widely and thoroughly disproven.²¹
- In the 2024 election, Missouri voters passed Amendment 3, a ballot initiative that amended the Missouri Constitution and added the “fundamental right to reproductive

¹¹ *Id.*

¹² [Alliance Defending Freedom](#), Southern Poverty Law Center (accessed June 17, 2025).

¹³ See Senate Judiciary Questionnaire Attachments at 727, Josh Divine, *The justification of zealous behavior among pro-lifers*, THE MIRROR, (October 6, 2010).

¹⁴ [Motion](#) to Intervene by Missouri, Idaho, and Kansas, *FDA v. Alliance of Hippocratic Medicine*, 602 U.S. 367 (2024).

¹⁵ Caroline Kitchener & Ann E. Marimow, [The Texas judge who could take down the abortion pill](#), THE WASHINGTON POST (February 25, 2023).

¹⁶ [Amended Complaint](#) in *Missouri et al. v. U.S. Food and Drug Administration et al*, No. 2:22-cv-00223-Z (October 2024).

¹⁷ Supra note 14 at [190](#).

¹⁸ Supra note 14.

¹⁹ Supra note 14 at 12.

²⁰ [Press Release: Leading Medical Organizations Reaffirm the Safety of Mifepristone](#), The American College of Obstetricians and Gynecologists (May 22, 2025).

²¹ [Questions and Answers on Mifepristone for Medical Termination of Pregnancy Through Ten Weeks Gestation](#), U.S. Food and Drug Administration (last updated February 11, 2025).

freedom.”²² The day after this ballot measure was passed, Planned Parenthood of Great Plains and Planned Parenthood of Great Rivers sued to lift Missouri’s many laws that targeted the regulation of abortion providers, known as TRAP laws, which made abortion care nearly impossible to access.²³ Amendment 3 included, among many other provisions, the right to make choices about childbirth, which Mr. Divine distorted to argue is the right to “choose” childbirth, and argued that Missouri’s restrictions on abortion should be protected because these laws are the ones “enabling childbirth.”²⁴ Despite Amendment 3’s overwhelming support by a majority of Missouri voters, Mr. Divine made the outlandish argument that “women don’t actually want abortions” because “it’s against their moral beliefs” and that they are just “pressured” into an abortion because if “women can in fact make the choice” for their bodies, “they would choose childbirth.”²⁵ This ignores the realities facing pregnant people, as well as ignores the Missouri voters who enshrined these protections into their state constitution. This case is ongoing.

- Mr. Divine defended a Missouri law that imposed many restrictions limiting access to abortion care in the name of “Almighty God,” including a total abortion ban.²⁶ The state was sued by 14 clergy members from seven different religious denominations that support access to abortion services, who argued that the total abortion ban was a violation of the constitutional guarantee of the separation of church and state.²⁷ After Amendment 3 enshrined the right to abortion in the Missouri Constitution, plaintiffs withdrew their claim.²⁸
- Mr. Divine defended the state’s decision to bar Planned Parenthood clinics from receiving any Medicaid reimbursements because they offered abortion services, despite the state’s established, longstanding ban on using Medicaid funds for abortion services.²⁹ In court, Mr. Divine defended the decision to “simply exclude Planned Parenthood, just like they exclude many other organizations” from appropriations, yet he was not able to name any other excluded organizations when asked by the judge.³⁰ This decision blocked Medicaid users from accessing the full range of health services that Planned Parenthood offers, including STI and cancer screenings, gynecological exams, and access to contraception. Planned Parenthood prevailed, with the Missouri Supreme Court holding that the legislature could not exclude them from funding.³¹

²² [Missouri Amendment 3, Right to Reproductive Freedom Initiative](#), BALLOTPEDIA (accessed June 8, 2025).

²³ [Complaint](#) in *Comprehensive Health of Planned Parenthood Great Plains and Planned Parenthood Great Rivers v. State of Missouri* (Jackson County Cir. Ct, November 6, 2024).

²⁴ Jonathan Shorman, [Abortions could begin in Kansas City on Friday if Jackson Co. judge blocks restrictions](#), THE KANSAS CITY STAR (December 4, 2024).

²⁵ The Missouri Independent, [Judge could allow Planned Parenthood to begin performing abortions today in Missouri](#), FULTON SUN (December 6, 2024).

²⁶ MO H.R. 126, 2019.

²⁷ *Blackmon v. Missouri*, 2322-CC00120 (22d Cir., MO, 2024).

²⁸ Petitioners’ [Motion](#) To Dismiss Appeal in *Blackmon v. Missouri*, 2322-CC00120 (22d Cir., MO, 2024).

²⁹ [Planned Parenthood of the St. Louis Region v. Knodell](#), No. SC99966 (Mo. Sup. Ct., February 14, 2024).

³⁰ Clara Bates, [Missouri Supreme Court weighs state’s push to defund Planned Parenthood](#), THE MISSOURI INDEPENDENT (November 8, 2023).

³¹ *Id.*

- In an article, Mr. Divine accused the media of hostility against the “pro-life” movement, saying “[i]t seems that the media’s treatment of the March for Life is not just bias; it’s blatant agenda setting meant to marginalize the pro-life cause.”³² In another article about the “pro-life” movement, he said that abortion should not be “ethically permitted.”³³
- Mr. Divine claimed the insurance mandate to cover contraception in the Affordable Care Act was the Obama administration’s declaration that pregnancy was “inherently bad” and that the mandate “forces insurers to essentially provide the equivalent of abortions due to the fact that most hormonal and chemical birth control...ensures its death.”³⁴ In another article, he said “[s]tatistics show that the predominant use of birth control is not to deal with medical decisions but to subsidize lifestyle decisions. This, by itself, is enough reason to oppose the mandate. Health insurance isn’t supposed to fund lifestyle decisions.”³⁵

Hostility Towards LGBTQ Equality

Mr. Divine also has a disqualifying track record when it comes to LGBTQ equality, especially given his repeated attacks against the rights of transgender people — particularly transgender youth — and his hostility to marriage equality.

- Mr. Divine submitted an amicus brief in *U.S. v. Skrametti* that attacks the use of gender-affirming health care for transgender youth.³⁶ Mr. Divine based his arguments on the unsubstantiated testimony of a former employee of a Missouri transgender health care clinic, not in science or law.³⁷ He erroneously argued that transgender health care clinics coercively “bully” parents into consenting to “dangerous” procedures “without informed consent.”³⁸ These dangerous arguments ignore the prevailing scientific opinion about gender-affirming care³⁹ — that such care is medically necessary and appropriate — and instead use scare tactics to villainize clinics that provide transgender youth with life-saving health care. His perpetuation of disinformation attacks on transgender youth are deeply concerning given the unprecedented number of attacks on the transgender

³² See Senate Judiciary Questionnaire Attachments at 689, Josh Divine, *Continual media bias against pro-life side is failure of journalism ethics*, THE MIRROR (January 30, 2012).

³³ See Senate Judiciary Questionnaire Attachments at 702, Josh Divine, *Understanding the pro-life position, ethics of killing humans*, THE MIRROR (Oct. 3, 2011).

³⁴ See Senate Judiciary Questionnaire Attachments at 704, Josh Divine, *Shocking zealotry of pregnancy prevention instills social problems*, THE MIRROR (September 19, 2011).

³⁵ See Senate Judiciary Questionnaire Attachments at 689, Josh Divine, *Health and human services mandate violates health insurance purposes*, THE MIRROR (February 20, 2012).

³⁶ [Brief](#) of State of Missouri as Amicus Curiae in Support of *Skrametti* Respondents, *United States v. Skrametti*, 144 S. Ct. 2679, 219 L. Ed. 2d 1297 (2024).

³⁷ *Id.* at 5

³⁸ *Id.*

³⁹ [Medical Association Statements in Support of Health Care for Transgender People and Youth](#), GLAAD (June 26, 2024).

community at the federal, state, and local levels — and given that many of these cases are making their way through the court systems.

- Mr. Divine defended a Missouri law that barred transgender youth from accessing gender affirming health care and prohibited the use of Medicaid funds to cover gender-affirming care for transgender patients regardless of age.⁴⁰ This law also threatened health care professionals who offered such care with the potential loss of their medical license.⁴¹ He had previously targeted a pediatric health clinic that provided gender-affirming health care to transgender youth, arguing that the state should have access to all the clinic's records, including confidential patient health care records, under Missouri's consumer protection law, the Missouri Merchandising Practices Act (MMPA), by falsely claiming the clinic engaged in "deceptive practices."⁴² The clinic countersued after the state continued to ask repeatedly about accessing patient files, alleging that "the investigation was directed at medical decision making as much if not more than it was directed to sales or advertising."⁴³ The court disagreed with Mr. Divine and ruled that Missouri did not have the authority under the MMPA to access these legally protected medical records.⁴⁴
- Mr. Divine in his capacity as Missouri solicitor general, and anti-LGBTQ organization Alliance Defending Freedom, sued Kansas City and Jackson County, Missouri after the counties passed local ordinances that banned the dangerous practice of conversion therapy.⁴⁵ In this ongoing case, Mr. Divine once again perpetuates harmful disinformation and cites studies that have been widely disproven, including the Cass Report, which has been broadly criticized by major medical associations for excluding studies that support the benefits of gender-affirming care.⁴⁶
- He has exposed his hostility to the LGBTQ community in a number of writings. For example, he authored an article attacking marriage equality, claiming that "the vast majority believe same-sex marriage has a negative effect on both society and the constituents of gay relationships. That's not hate, that's concern."⁴⁷ He further claims marriage has been eroded though "easy divorce, cohabitation, increased single-parenting rates and recreational sex, but the simple fact that marriage has suffered traumatic digressions does not mean that same-sex marriage will not further this trend."⁴⁸ In another article, he says "[b]eing morally opposed to homosexuality does not constitute people as hateful nor does it make them homophobic. It simply means those persons are opposed to any form of sex that goes against the biological design of procreation and the nurturing of a family. This includes homosexuality, adultery, bestiality, fornication,

⁴⁰ *Noe v. Parson*, No. 23AC-CC04530 (19th Cir. MO, 2024).

⁴¹ *Id.*

⁴² Annelise Hanshaw, [Wash U alleges Missouri AG illegally sought patient records from transgender center](#), MISSOURI INDEPENDENT (December 6, 2023).

⁴³ *Washington University v. Andrew Bailey*, 2322-CC09640 (22nd Cir. MO, 2024).

⁴⁴ *Id.*

⁴⁵ [Wyatt Bury v. City of Kansas City](#), 4:25-cv-00084 (W.D. MO, February 7, 2025).

⁴⁶ Elsie Carson-Holt, [UK's largest doctors' union condemns Cass Review's attacks on gender-affirming care](#), LGBTQ NATION (August 2, 2024).

⁴⁷ See Senate Judiciary Questionnaire Attachments at 707, Josh Divine, *Hate improperly attributed to opponents of same-sex marriage*, THE MIRROR (August 22, 2011).

⁴⁸ *Id.*

polygamy and all other forms of sex that do not take place in a monogamous-marriage setting. Basically, these people oppose the hedonistic characteristic sex attains when it is performed outside of a unifying process. That doesn't make them hateful.”⁴⁹

Hostility Towards Student Loan Borrowers

Instead of protecting the interests of working families, Mr. Divine led efforts to block the Biden administration from providing relief to millions of borrowers from crushing student loan debt. These cases include denying emergency relief during the COVID-19 pandemic and disrupting affordable student loan repayment plans, leaving borrowers confused and at more risk of defaulting on their student loans.

- In *Biden v. Nebraska*, Mr. Divine challenged the Biden Administration's use of the HEROES Act to grant \$10,000 in loan forgiveness to borrowers under a certain income threshold, which denied relief to millions of borrowers and their families who were already facing the financial effects of the COVID-19 crisis.⁵⁰ While the U.S. Supreme Court ultimately agreed with him, it was nevertheless a devastating blow to borrowers.
- Mr. Divine led a lawsuit brought by 18 state attorneys general challenging the Saving on A Valuable Education (SAVE) plan, the U.S Department of Education's most affordable Income-Driven Repayment (IDR) plans, which student loan borrowers had already benefited from for several months.⁵¹ Mr. Divine argued that the plan was unfair to those that did not attend college, and that private loan servicer Missouri Higher Education Loan Authority (MOHELA) would be harmed by the decline in servicing fees the new plans would deprive them of.⁵²
- Mr. Divine again challenged the SAVE Plan⁵³ when it was brought back for rulemaking negotiations under a new authority.⁵⁴ Ignoring clearly established administrative law precedent, he did not wait until the rule was final before challenging it in court.⁵⁵ Further, in what appears to be an effort to seek out a sympathetic judge, Mr. Divine filed the case in the Southern District of Georgia. The case was immediately transferred to the Eastern District of Missouri, as Georgia had no standing to bring the case and thus Missouri could

⁴⁹ See Senate Judiciary Questionnaire Attachments at 714, Josh Divine, *Hate, ignorance are nothing more than emotional pejoratives*, THE MIRROR (February 23, 2011).

⁵⁰ *Biden v. Nebraska*, 600 U.S. 477 (June 30, 2023).

⁵¹ [Complaint](#) in *Missouri v. Biden*, 4:24-cv-00520-JAR (E.D. MO, 2024).

⁵² *Id.*

⁵³ Of note, Mr. Divine falsely claimed the SAVE plan was the result of negotiated rulemaking by the U.S. Department of Education's Student Debt Relief Committee in 2023, of which he was a part for a brief time before he resigned from the committee. In fact, the SAVE plan's rulemaking process occurred in 2021, well before he was involved with this rulemaking. See [Transcript](#) of *Missouri v. Biden*, 4:24-cv-00520-JAR (E.D. MO, 2024); Attachments to *Questionnaire for Judicial Nominees* at 965, U.S. Senate Committee on the Judiciary (accessed June 9, 2025); [Negotiated Rulemaking for Higher Education 2021-22](#), U.S. Department of Education (accessed June 9, 2025).

⁵⁴ [Complaint](#) in *Missouri v. U.S. Department of Education*, 224-103 (S.D. GA, 2024).

⁵⁵ *Id.*



not have their case heard there.⁵⁶ These cases demonstrate Mr. Divine's willingness to go to extreme lengths at the expense of working families and student loan borrowers.

As Mr. Divine's record demonstrates, he would not be a fair-minded judge committed to equal justice for all. We strongly urge the Senate to oppose his nomination. If you would like to discuss this matter further, please contact Lena Zwarensteyn, senior director and advisor of the fair courts program, at (202) 466-3311. Thank you for your consideration.

Sincerely,

Maya Wiley
President & CEO

Jesselyn McCurdy
Executive Vice President of Government Affairs

⁵⁶ *Missouri v. U.S. Department of Education*, 224-103 (S.D. GA, 2024).