



**Testimony of Kimberly McCullough, Policy Director
In Support of HB 4008 – Fair Calculations in Civil Damages
Senate Committee on Judiciary
02/23/2018**

Chair Prozanski and Members of the Committee:

The American Civil Liberties Union of Oregon¹ supports HB 4008, which would prohibit an arbitrator, mediator, or other factfinder from considering the race of a plaintiff when determining projected future earning potential to calculate damages in civil litigation. This bill will help promote equity in our legal system by eliminating a harmful practice that reinforces racial discrimination and wage gaps.

Though generations of civil rights activism have led to important gains in legal, political, social, employment, educational, and other spheres, **there are still many aspects of a system of racial injustice from which our country has yet to break free**. This bill addresses one such area of racial injustice that persists in our civil legal system.

In some civil cases—most often personal injury cases—damages are awarded to compensate plaintiffs for the loss of money they would have earned in the future if an injury had not occurred. **Under current Oregon law, the calculation of a person’s projected future earning potential may be negatively impacted by their race and gender**. More specifically, some projections of future earning potential are made by assuming that an individual has less future earning potential because they are a woman and/or a person of color.

Our legal system should treat all people with fairness and equity, and should not reinforce historic and present discrimination in our broader society. Passage of this bill is crucial for moving us closer to that goal.

This bill would make Oregon the first state to prohibit use of race-based data in damages awards. **Oregon has an opportunity to lead the way in reversing this harmful practice that perpetuates racial discrimination and wage gaps**. We hope other states will follow Oregon’s example.

The ACLU of Oregon urges you to Support HB 4008. Please feel free to contact me if you have any questions, comments, or concerns.

¹ The American Civil Liberties Union of Oregon (ACLU of Oregon) is a nonpartisan, nonprofit organization with more than 42,000 members in the State of Oregon.