

**TENDERED
FOR FILING**

DEC 29 2011

LEONARD GREEN, Clerk

Nos. 08-1387 & 08-1389 & 08-1534 & 09-1111
IN THE UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

COALITION TO DEFEND AFFIRMATIVE ACTION, et al.,
Plaintiffs-Appellants-Cross-Appellees,
and
CHASE CANTRELL, et al.,
Plaintiffs-Appellees-Appellants,
v.
REGENTS OF THE UNIVERSITY OF MICHIGAN, et al.,
Defendants-Appellees-Cross-Appellants,
and
BILL SCHUETTE, Michigan Attorney General,
Intervenor-Defendant-Appellee,
and
ERIC RUSSELL,
Defendant-Intervenor-Appellant.

On Appeal from the United States District Court
for the Eastern District of Michigan at Detroit
Honorable David M. Lawson, District Judge

**SUPPLEMENTAL BRIEF OF AMICI CURIAE
MICHIGAN CIVIL RIGHTS INITIATIVE COMMITTEE, ET AL.,
IN SUPPORT OF INTERVENOR-DEFENDANT-APPELLEE
BILL SCHUETTE ON EN BANC REVIEW**

SHARON L. BROWNE
JOSHUA P. THOMPSON, *Of Counsel*
Pacific Legal Foundation
930 G Street
Sacramento, California 95814
Telephone: (916) 419-7111
Facsimile: (916) 419-7747

Counsel for Michigan Civil Rights Initiative
Committee, American Civil Rights
Foundation, Pacific Legal Foundation,
Center for Equal Opportunity,
and National Association of Scholars

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

**DISCLOSURE OF CORPORATE AFFILIATIONS
AND FINANCIAL INTEREST**

Sixth Circuit Case Numbers: 08-1387, 08-1389, 08-1534, & 09-1111

Case Name:

Coal. to Defend Affirmative Action, et al. v. Regents of the Univ. of Mich., et al.

Name of Counsel: Sharon L. Browne

Pursuant to 6th Cir. R. 26.1, Michigan Civil Rights Initiative Committee, American Civil Rights Foundation, Pacific Legal Foundation, Center for Equal Opportunity, and National Association of Scholars make the following disclosure:

1. Is said party a subsidiary or affiliate of a publicly owned corporation? If yes, list below the identity of the parent corporation or affiliate and the relationship between it and the named party:

No.

2. Is there a publicly owned corporation, not a party to the appeal, that has a financial interest in the outcome? If yes, list the identity of such corporation and the nature of the financial interest:

No.

CERTIFICATE OF SERVICE

I certify that on December 29, 2011, the foregoing document was served on all parties or their counsel of record through the CM/ECF system if they are registered users or, if they are not, by placing a true and correct copy in the United States mail, postage prepaid, to their address of record.

s/ Sharon L. Browne

This statement is filed twice: when the appeal is initially opened and later, in the principal briefs, immediately preceding the table of contents. See 6th Cir. R. 26.1 on page 2 of this form.

TABLE OF CONTENTS

	Page
DISCLOSURE OF CORPORATE AFFILIATIONS AND FINANCIAL INTEREST	i
TABLE OF AUTHORITIES	iii
INTRODUCTION	1
I. SECTION 26 FALLS OUTSIDE OF THE <i>HUNTER/SEATTLE</i> DOCTRINE BECAUSE ITS PROHIBITION ON PREFERENTIAL TREATMENT ENHANCES PROTECTIONS AGAINST DISCRIMINATION	3
II. SECTION 26 IS NOT IMPLICATED BY THE <i>HUNTER/SEATTLE</i> DOCTRINE BECAUSE IT DOES NOT TREAT RACIAL MATTERS IN HIGHER EDUCATION DIFFERENTLY FROM ITS GENERAL PROHIBITION ON ALL GOVERNMENTAL RACIAL CLASSIFICATIONS	9
CONCLUSION	13
CERTIFICATE OF COMPLIANCE	14
CERTIFICATE OF SERVICE	15

TABLE OF AUTHORITIES

Page

Cases

Adarand Constructors, Inc. v. Pena, 515 U.S. 200 (1995) 12

Coal. for Econ. Equity v. Wilson, 122 F.3d 692 (9th Cir. 1997) 6-7, 9

Coal. to Defend Affirmative Action v. Granholm,
473 F.3d 237 (6th Cir. 2006) 5, 8

Coal. to Defend Affirmative Action v. Granholm,
539 F. Supp. 2d 924 (E.D. Mich. 2008) 8

Coal. to Defend Affirmative Action v. Schwarzenegger, No. 10-641 SC,
2010 U.S. Dist. LEXIS 129736 (N.D. Cal. Dec. 8, 2010) 8

Coral Construction, Inc. v. City & County of San Francisco,
235 P.3d 947 (Cal. 2010) 7-8

Crawford v. Bd. of Educ. of the City of Los Angeles,
458 U.S. 527 (1982) 5, 8-10, 12

Hunter v. Erickson, 393 U.S. 385 (1969) 2-13

La. Associated Gen. Contractors, Inc. v. Louisiana,
669 So. 2d 1185 (La. 1996) 2

Palmore v. Sidoti, 466 U.S. 429 (1984) 12

Washington v. Davis, 426 U.S. 229 (1976) 11

Washington v. Seattle Sch. Dist. No. 1, 458 U.S. 457 (1982) 2-13

Page

United States Constitution

U.S. Const. amend. XIV 2

State Constitutions

Ariz. Const. art. II, § 36 2

Cal. Const. art. I, § 31 2, 7

Mich. Const. art. I, § 26 1-3, 5, 8-13

Neb. Const. art. I, § 30 2

State Statute

Wash. Rev. Code Ann. § 49.60.400 2

Rule of Court

Fed. R. App. P. 29 1

Pursuant to Federal Rule of Appellate Procedure Rule 29 and the accompanying motion, Michigan Civil Rights Initiative Committee, American Civil Rights Foundation, Pacific Legal Foundation, Center for Equal Opportunity, and National Association of Scholars respectfully submit this brief amicus curiae in support of Intervenor-Defendant-Appellee Attorney General Bill Schuette.¹

INTRODUCTION

On November 7, 2006, Michigan voters reaffirmed their commitment to the principles of racial equality and nondiscrimination by adopting the Michigan Civil Rights Initiative by 58% of the vote, amending their organic law and adding Article I, Section 26, to the Michigan Constitution (Section 26). Section 26 prohibits the State, its political subdivisions, and all other governmental instrumentalities within Michigan from discriminating against, or granting preferential treatment to any individual or group on the basis of “race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting.” In enacting this ban on governmental racial classifications, Michigan joins a growing

¹ No party’s counsel authored any part of this brief nor contributed money that was intended to fund the preparation or submission of this brief. No one other than Amici and their counsel contributed money intended to fund the preparation or submission of this brief. Pursuant to Fed. R. App. P. 29, Amici have simultaneously filed a motion for leave to file this brief.

list of states around the country that forbid race- and sex-based discrimination and preferences.²

After Section 26 went into effect, it was immediately challenged as a violation of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. However, contrary to the claims of the plaintiffs, Section 26 does not implicate the political structure doctrine of the Equal Protection Clause as articulated in *Hunter v. Erickson*, 393 U.S. 385 (1969), and *Washington v. Seattle Sch. Dist. No. 1*, 458 U.S. 457 (1982). The Ninth Circuit Court of Appeals, the California Supreme Court, and, recently, the Northern District Court of California have all rejected the identical argument regarding Article I, Section 31, of the California Constitution, the sister initiative to Section 26. These decisions recognize that a constitutional provision outlawing race- and sex-based discrimination and preferences simply cannot violate the Equal Protection Clause.

Under *Hunter/Seattle*, a law is unconstitutional where it restructures the political process to the detriment of a minority race. Section 26, however, does not make it more difficult for minorities to assert their right to nondiscrimination, and

² At the time Section 26 was adopted, California, Washington, and Louisiana had already banned racial discrimination and preferences. *See* Cal. Const. art. I, § 31; Wash. Rev. Code Ann. § 49.60.400; *La. Associated Gen. Contractors, Inc. v. Louisiana*, 669 So. 2d 1185 (La. 1996) (interpreting Louisiana Constitution as banning all racial classifications). Since Section 26's adoption, Arizona and Nebraska have followed suit. Ariz. Const. art. II, § 36; Neb. Const. art. I, § 30.

therefore has no relation to the political structure doctrine. Moreover, by prohibiting preferential treatment on the basis of race, Section 26 only serves to enhance the protections afforded individuals under the Equal Protection Clause. Section 26 also differs from the laws at issue in *Hunter* and *Seattle* in that it does not treat racial matters in education differently than other racial matters in government; all racial classifications by government are universally prohibited under Section 26.

This Court should affirm the court below and uphold the constitutional validity of Section 26.

I

SECTION 26 FALLS OUTSIDE OF THE *HUNTER/SEATTLE* DOCTRINE BECAUSE ITS PROHIBITION ON PREFERENTIAL TREATMENT ENHANCES PROTECTIONS AGAINST DISCRIMINATION

Unlike the laws struck down in *Hunter* and *Seattle*, Section 26 prohibits government from granting racial *preferences* in the operation of public education, public contracting, and public employment. The Supreme Court decisions in *Hunter* and *Seattle* concerned enactments that made it more difficult for minorities to obtain protection from discrimination, not preferential treatment. In *Hunter*, the Akron City Council enacted a fair housing ordinance that required equal housing opportunities for all persons, regardless of race, color, or creed. 393 U.S. at 386. Nellie Hunter attempted to use that ordinance after being denied the opportunity to view prospective

houses because she was African-American. But, the voters of Akron had amended the city charter to require that any fair housing ordinance enacted by the city council—including the anti-discrimination ordinance Ms. Hunter attempted to invoke—be subjected to a referendum prior to taking effect. *Id.* at 390.

Thus, the charter amendment in *Hunter* discriminated against racial minorities by placing a special burden on them in their efforts to secure anti-discrimination housing laws. *Id.* at 390-91. While the provision provided “no right to discriminate in housing,” it still contained “an explicitly racial classification,” by treating “racial housing matters differently from other racial and housing matters.” *Id.* at 389. Although the amendment was facially neutral, in reality, “the law’s impact [fell] on the minority.” *Id.* at 391. The amendment placed a “special burden[] on racial minorities within the governmental process.” *Id.*

Similarly, in *Seattle*, the governing board of a Washington public school district adopted a plan to end *de facto* racial segregation by busing students to reduce racial imbalance in individual schools. 458 U.S. at 460-61. In response, the voters amended their state’s constitution to prohibit busing for the purpose of desegregation, while still allowing busing for other purposes, such as to provide transportation for special education and to reduce overcrowding. *Id.* at 461-63, 471. The Court invalidated the state initiative on equal protection grounds under *Hunter*. “[D]espite [the initiative’s] facial neutrality there [was] little doubt that the initiative was

effectively drawn for racial purposes.” *Seattle*, 458 U.S. at 471.

Both *Hunter* and *Seattle* necessitated the finding of an impermissible racial classification in the challenged law before the political structure doctrine was invoked. *See Hunter*, 393 U.S. at 391-92; *Seattle*, 458 U.S. at 484-86. Further, the *Seattle* Court explicitly recognized that “[t]his does not mean, of course, that every attempt to address a racial issue gives rise to an impermissible racial classification.” *Seattle*, 458 U.S. at 485 (citing *Crawford v. Bd. of Educ. of the City of Los Angeles*, 458 U.S. 527, 538 (1982)). Indeed, a panel of this Court, in ruling on a preliminary injunction in this very case, recognized this fundamental difference between the laws at issue in *Hunter/Seattle* and Section 26. This Court held that “[Section 26] is more akin to the ‘repeal of race-related legislation or policies that were not required by the Federal Constitution in the first place,’ an action that does not violate the Equal Protection Clause.” *Coal. to Defend Affirmative Action v. Granholm*, 473 F.3d 237, 251 (6th Cir. 2006) (quoting *Crawford*, 458 U.S. at 538).

Section 26’s ban on racial preferences is simply not enough to trigger heightened scrutiny under *Hunter/Seattle*, or to disenfranchise Michigan’s voters on the issue of racial preferences. The clear effect of Section 26 is to prohibit the state and its political subdivisions from adopting race- and sex-based preference programs. It guarantees equal opportunity in public education, employment, and contracting. It creates no racial classifications. As the Ninth Circuit found: “A law that prohibits

the State from classifying individuals by race or gender *a fortiori* does not classify individuals by race or gender.” *Coal. for Econ. Equity v. Wilson*, 122 F.3d 692, 702 (9th Cir. 1997). “The controlling words, we must remember, are ‘equal’ and ‘protection.’ Impediments to preferential treatment do not deny equal protection.” *Id.* at 708.

The Ninth Circuit’s decision in *Wilson* is particularly informative on this point. Immediately after the California Civil Rights Initiative was passed by the voters, it was haled into court as violating the *Hunter/Seattle* doctrine. *Wilson*, 122 F.3d 692. The Ninth Circuit rejected that argument. “The Fourteenth Amendment, lest we lose sight of the forest for the trees, does not require what it barely permits.” *Id.* at 709. It held that California’s Section 31 does not impede protection against discrimination, but prohibits preferential treatment. *Id.* at 708. The *Wilson* court distinguished Proposition 209 from the challenged enactments in *Hunter* and *Seattle*, as follows:

When, in contrast, a state prohibits all its instruments from discriminating against or granting preferential treatment to anyone on the basis of race or gender, it has promulgated a law that addresses in neutral-fashion race-related and gender-related matters.

Wilson, 122 F.3d at 707. “Impediments to preferential treatment do not deny equal protection.” *Id.* at 708. Thus, the Ninth Circuit held that Section 31 is constitutional in all respects, even as applied to college admissions, because a prohibition on racial preferences does not offend the Constitution. *Id.* at 701.

The Ninth Circuit is not alone in ruling California's Section 31 constitutional. In 2010, the California Supreme Court, "exercising [its] independent judgment on the matter," concluded that Section 31 does not violate the Equal Protection Clause under the *Hunter/Seattle* doctrine. *Coral Construction, Inc. v. City & County of San Francisco*, 235 P.3d 947, 959 (Cal. 2010). *Coral Construction* involved a challenge to a local ordinance that required San Francisco to grant race- and sex-based contracting preferences to minority-owned businesses. In defending its race-based preference, San Francisco claimed Section 31 was unconstitutional under the *Hunter/Seattle* doctrine. *Coral Construction*, 235 P.3d at 956. The California Supreme Court soundly rejected that argument in a 6-1 decision.

The *Coral Construction* court observed that *Hunter/Seattle* prohibits the creation of a political structure that ostensibly treats all individuals equally, yet subtly distorts governmental processes in such a way as to place special burdens on the ability of minority groups to achieve beneficial legislation. *Id.* (citing *Seattle*, 458 U.S. at 467). But the court found nothing in *Hunter* or *Seattle* that defined "beneficial legislation" to include race- or gender-based preferences. *Coral Construction*, 235 P.3d at 959. Following *Wilson*, the court held: "Even a state law that does restructure the political process can only deny equal protection if it burdens an individual's right to equal treatment." *Id.* at 960 (quoting *Wilson*, 122 F.3d at 707). Instead of burdening the right to equal treatment, the court concluded that Section 31

directly serves the principle that “all governmental use of race must have a logical end point.” *Coral Construction*, 235 P.3d at 960 (citation omitted).

More recently, the Northern District Court of California upheld Proposition 209 against a *Hunter/Seattle* challenge. *Coal. to Defend Affirmative Action v. Schwarzenegger*, No. 10-641 SC, 2010 U.S. Dist. LEXIS 129736 (N.D. Cal. Dec. 8, 2010). That court held that “the Equal Protection Clause is not violated by the mere repeal of race-related legislation or policies that were not required by the Federal Constitution in the first place.” *Id.* at 17 (quoting *Crawford*, 458 U.S. at 538).

Importantly, this Circuit reached the same conclusion in *Granholm*, 473 F.3d 237. In that case, a panel of this Court overturned a preliminary injunction issued against Section 26, reasoning that, “[i]n the end, a law eliminating presumptively invalid racial classifications is not itself a presumptively invalid racial classification.” *Id.* at 249. Similarly, the court below rejected the plaintiffs’ *Hunter/Seattle* argument, holding: “Because the political restructuring effectuated by Proposal 2 does not offend the Equal Protection Clause by distancing racial minority groups from the means of obtaining *equal* protection, the plaintiffs’ challenge to the measure based on these cases cannot prevail.” *Coal. to Defend Affirmative Action v. Granholm*, 539 F. Supp. 2d 924, 957-58 (E.D. Mich. 2008).

As these cases demonstrate, only laws that *obstruct* protection against discrimination violate the Equal Protection Clause's political structure doctrine. The Ninth Circuit recognized that "a state law that does restructure the political process can only deny equal protection if it burdens an individual's right to equal treatment." *Wilson*, 122 F.3d at 707. Because Section 26 prohibits discrimination and preferences, and thereby only enhances protections against discrimination, it does not conflict with the Supreme Court's decisions in *Hunter* and *Seattle*.

II

SECTION 26 IS NOT IMPLICATED BY THE *HUNTER/SEATTLE* DOCTRINE BECAUSE IT DOES NOT TREAT RACIAL MATTERS IN HIGHER EDUCATION DIFFERENTLY FROM ITS GENERAL PROHIBITION ON ALL GOVERNMENTAL RACIAL CLASSIFICATIONS

The Supreme Court has never hinted that sweeping antidiscrimination statutes like Section 26 are themselves racial classifications. *Hunter* and *Seattle* involved laws that prohibited antidiscrimination statutes in certain, specific policy areas. In *Crawford*, 458 U.S. 527, the Supreme Court limited the holding of *Hunter* and *Seattle* on precisely this point. *Crawford* clarified that voters were fully entitled to modify state constitutional provisions where the modification dealt with racial matters generally and evenly. "[W]e would not interpret the Fourteenth Amendment to require the people of a State to adhere to a judicial construction of their State

Constitution when that Constitution itself vests final authority in the people.” *Id.* at 540. Thus, the repeal of race-related legislation of policies that are *not required* by the Federal Constitution cannot violate the Equal Protection Clause. *Id.* at 539.

Were we to hold that the mere repeal of race-related legislation is unconstitutional, we would limit seriously the authority of States to deal with the problems of our heterogenous population. States would be committed irrevocably to legislation that has proved unsuccessful or even harmful in practice.

Id.

In enacting Section 26, the Michigan electorate determined that the harmful effects of racial preferences outweigh their benefits. Justice Blackmun, in his concurrence in *Crawford*, specifically rejected the idea that such a choice could run afoul of the Equal Protection Clause. “[R]uling for petitioners on a [*Hunter/Seattle*] theory would mean that statutory affirmative-action . . . programs could never be repealed, for repeal of the enactment would mean that enforcement authority previously lodged in the state courts was being removed by another political entity.” *Id.* at 546-47 (Blackmun, J., concurring). Thus, under *Crawford*, Michiganders may choose to change course on race and sex preferences without running afoul of the Equal Protection Clause.

Plaintiffs attempt to invoke the *Hunter/Seattle* doctrine by only considering the application of Section 26 to university admissions. They must do so because the political structure doctrine is an obstacle only to those reallocations of political power

which treat racial aspects of a specific policy area differently—either differently from other racial matters or differently from other matters of that specific policy area. *See Hunter*, 393 U.S. at 389 (finding equal protection violated by “an explicitly racial classification treating racial housing matters differently from other racial *and* housing matters.” (emphasis added)). But Section 26 does not single out a particular policy area for differential treatment; it prohibits discrimination and preferential treatment by the government in *all* cases. Plaintiffs fail to cite any precedent that supports isolating one particular application, of a single section of a law, for *Hunter/Seattle* analysis, nor can they offer any arguments to justify this treatment of Section 26.

Both *Hunter* and *Seattle* applied to laws which excepted racial aspects of a single policy area from the political process that controlled other aspects of that policy area. *See Seattle*, 458 U.S. at 469 (excepting school busing); *Hunter*, 393 U.S. at 387 (excepting housing regulations). The application of the political structure test focused only on the way in which the racial aspect was treated differently from other aspects of the policy area. *See Seattle*, 458 U.S. at 474; *Hunter*, 393 U.S. at 390. Neither *Hunter* nor *Seattle* cast any doubt over the constitutionality of a law which treats all racial matters according to the same rule. Section 26 does precisely this.

The language of the Equal Protection Clause prohibits “official conduct discriminating on the basis of race,” *Washington v. Davis*, 426 U.S. 229, 229 (1976), and its ultimate goal is to permanently forbid the government from discriminating on

the basis of race.³ *Palmore v. Sidoti*, 466 U.S. 429, 432 (1984); see *Adarand Constructors, Inc. v. Peña*, 515 U.S. 200, 227 (1995) (requiring strict scrutiny analysis for all governmental racial classifications). Plaintiffs' interpretation of the *Hunter/Seattle* doctrine, where university admissions are viewed in isolation, would pose an obstacle to accomplishing this goal. It would be impermissible for voters to outlaw preferences based on suspect classifications. This perverse result would run contrary to the Supreme Court's unequivocal approval of the use of voter referendums to address issues that have an impact upon race. *Crawford*, 458 U.S. 527. Indeed, the voters of Michigan have constitutionalized a ban on unequal treatment by government generally. "It would be paradoxical to conclude that by adopting the Equal Protection Clause of the Fourteenth Amendment, the voters of the State thereby had violated it." *Crawford*, 458 U.S. at 535.

Unlike the laws at issue in *Hunter* and *Seattle*, Section 26 does not address race only in a limited policy area. It prohibits all racial classifications in all areas of government decisionmaking. Mich. Const. art. I, § 26. The political structure doctrine simply does not apply to Section 26.

³ Thus, even if this Court subjected Section 26 to strict scrutiny, it would be constitutional as a narrowly tailored means of achieving the Equal Protection Clause's ultimate goal.

CONCLUSION

Plaintiffs here desire to use the judicial system to roll back the clock to a time where racial classifications mattered in Michigan government, but their legal arguments are without merit. The *Hunter/Seattle* doctrine is simply not implicated by Section 26, because Section 26 enhances protections against discrimination through its ban on all racial discrimination and preferential treatment by government. Thus, it is unsurprising that every court that has heard a *Hunter/Seattle* challenge to a statewide ban on preferential treatment has rejected it. This Court should do the same and uphold the constitutional validity of Section 26.

DATED: December 29, 2011.

Respectfully submitted,

SHARON L. BROWNE
JOSHUA P. THOMPSON, *of Counsel*

By /s/ Sharon L. Browne
SHARON L. BROWNE

Pacific Legal Foundation
930 G Street
Sacramento, CA 95814
Telephone: (916) 419-7111
Facsimile: (916) 419-7747
E-Mail: slb@pacificlegal.org
*Counsel for Michigan Civil Rights
Initiative Committee, American Civil
Rights Foundation, Pacific Legal
Foundation, Center for Equal Opportunity,
and National Association of Scholars*

CERTIFICATE OF COMPLIANCE

Pursuant to Federal Rule of Appellate Procedure 32(a)(7)(C), I hereby certify that the foregoing brief is proportionally spaced, has a typeface of 14 points or more, and complies with the page limitation of Federal Rule of Appellate Procedure 29(d) as it is no more than one-half the maximum length authorized by the Court's order filed September 28, 2011, for a party's principal brief, in that it does not exceed 12.5 pages.

s/ Sharon L. Browne
SHARON L. BROWNE

CERTIFICATE OF SERVICE

When Not All Case Participants are Registered for the
Appellate CM/ECF System

U.S. Court of Appeals Docket Number(s): 08-1387, 08-1389, 08-1534 & 09-1111

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Sixth Circuit by using the appellate CM/ECF system on December 29, 2011.

Participants in the case who are registered CM/ECF users will be served by the appellate CM/ECF system.

I further certify that some of the participants in the case are not registered CM/ECF users. I have mailed the foregoing document by First-Class Mail, postage prepaid, or have dispatched it to a third party commercial carrier for delivery within 3 calendar days to the following non-CM/ECF participants:

JOSHUA IAN CIVIN
NAACP Legal Defense & Educational Fund, Inc.
1444 "I" Street NW
10th Floor
Washington, DC 20005

MELVIN HOLLOWELL
400 Monroe Street
Suite 220
Detroit, MI 48226

ALAN K. PALMER
Kaye Scholer LLP
The McPherson Building
901 Fifteenth Street NW
Suite 1100
Washington, DC 20005-2327

LAWRENCE H. TRIBE
1575 Massachusetts Avenue
Suite 420, Hauser Hall
Cambridge, MA 02138

s/ Sharon L. Browne
SHARON L. BROWNE