

No. 01-1447

IN THE UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT

---

BARBARA GRUTTER,

*Plaintiff-Appellee,*

v.

LEE BOLLINGER, et al.,

*Defendants-Appellants,*

and

KIMBERLY JAMES, et al.,

*Intervening Defendants.*

---

**On Appeal from the United States District Court  
for the Eastern District of Michigan (Friedman, J.)**

---

**BRIEF OF 3M, ABBOTT LABORATORIES, AMERICAN AIRLINES, INC.,  
ASHLAND INC., BANK ONE CORPORATION, THE BOEING COMPANY,  
THE COCA-COLA COMPANY, THE DOW CHEMICAL COMPANY,  
E. I. DU PONT DE NEMOURS AND COMPANY, EASTMAN KODAK COMPANY,  
ELI LILLY & COMPANY, ERNST & YOUNG LLP, EXELON CORPORATION,  
FANNIE MAE, GENERAL DYNAMICS CORPORATION, GENERAL MILLS, INC.,  
INTEL CORPORATION, JOHNSON & JOHNSON, KELLOGG COMPANY,  
KPMG INTERNATIONAL ON BEHALF OF ITS UNITED STATES MEMBER  
FIRM, KPMG LLP, LUCENT TECHNOLOGIES, INC., MICROSOFT  
CORPORATION, MITSUBISHI MOTOR SALES OF AMERICA, INC.,  
NATIONWIDE MUTUAL INSURANCE COMPANY AND NATIONWIDE  
FINANCIAL SERVICES, INC., PFIZER INC., PPG INDUSTRIES, INC.,  
THE PROCTER & GAMBLE COMPANY, SARA LEE CORPORATION,  
STEELCASE, INC., TEXACO INC., TRW INC., AND UNITED AIRLINES, INC.**

***AS AMICI CURIAE* IN SUPPORT OF DEFENDANTS-APPELLANTS  
SEEKING REVERSAL**

---

David W. DeBruin  
Deanne E. Maynard  
Shilpa S. Satoskar  
Daniel Mach  
Jeffrey S. Silver  
JENNER & BLOCK, LLC  
601 Thirteenth Street, N.W.  
Washington, D.C. 20005  
(202) 639-6000

Dated: May 31, 2001

*Attorneys for Amici Curiae*

*Of Counsel:*

John J. Ursu  
Senior Vice President &  
General Counsel  
3M  
3M Center  
St. Paul, MN 55144

Jose M. de Lasa  
Senior Vice President, Secretary &  
General Counsel  
Abbott Laboratories  
100 Abbott Park Road  
Abbott Park, IL 60064

Anne H. McNamara  
Senior Vice President &  
General Counsel  
American Airlines, Inc.  
DFW Airport  
P.O. Box 619616 MD 5675  
Dallas, Texas 75261-9619

Jeffrey H. Raines  
Associate General Counsel  
Ashland Inc.  
50 E. RiverCenter Boulevard  
Covington, KY 41012

Christine A. Edwards  
Executive Vice President &  
Chief Legal Officer  
Bank One Corporation  
1 Bank One Plaza  
Chicago, IL 60670

Douglas P. Kight  
Assistant General Counsel  
The Boeing Company  
7755 East Marginal Way South  
Seattle, Washington 98108

Deval L. Patrick  
Executive Vice President &  
General Counsel  
The Coca-Cola Company  
One Coca-Cola Plaza  
Atlanta, GA 30313

Mark D. Tucker  
Assistant General Counsel  
The Dow Chemical Company  
2030 Dow Center  
Midland, MI 48640

Stacey J. Mobley  
Senior Vice President &  
General Counsel  
E.I. du Pont de Nemours and Company  
1007 Market Street  
Wilmington, DE 19898

Gary P. Van Graafeiland  
Senior Vice President &  
General Counsel  
Eastman Kodak Company  
343 State Street  
Rochester, NY 14650

James T. Burns  
Assistant General Counsel  
Eli Lilly and Company  
Lilly Corporate Center  
Indianapolis, IN 46285

Kathryn A. Oberly  
Vice Chair and General Counsel  
Ernst & Young LLP  
787 Seventh Avenue  
New York, NY 10019

Randall E. Mehrberg  
Senior Vice President &  
General Counsel  
Exelon Corporation  
10 South Dearborn Street  
Chicago, IL 60603

Donald M. Remy  
Vice President &  
Deputy General Counsel  
Fannie Mae  
3900 Wisconsin Avenue, N.W.  
Washington, D.C. 20016

David A. Savner  
Senior Vice President and  
General Counsel  
General Dynamics Corporation  
3190 Fairview Park Drive  
Falls Church, VA 22042-4523

Siri S. Marshall  
General Counsel  
General Mills, Inc.  
One General Mills Boulevard  
Minneapolis, MN 55440

F. Thomas Dunlap, Jr.  
General Counsel & Secretary  
Intel Corporation  
2200 Mission College Blvd.  
Santa Clara, CA 95052

Roger S. Fine  
Corporate Vice President &  
General Counsel  
Johnson & Johnson  
One Johnson & Johnson Plaza  
New Brunswick, NJ 08933

Janet Langford Kelly  
Executive Vice President,  
General Counsel & Secretary  
Kellogg Company  
One Kellogg Square  
Battle Creek, MI 49016

John A. Shutkin  
General Counsel  
KPMG International  
345 Park Avenue  
New York, NY 10154

Richard J. Rawson  
Senior Vice President &  
General Counsel  
Lucent Technologies, Inc.  
600-700 Mountain Avenue  
Murray Hill, NJ 07974

Thomas W. Burt  
Deputy General Counsel  
Microsoft Corporation  
One Microsoft Way  
Redmond, WA 98052

Ellen J. Gleberman  
Senior Vice President, Legal,  
Govt. Relations & Public Affairs  
Mitsubishi Motor Sales of America, Inc.  
6400 Katella Avenue  
Cypress, CA 90630

Patricia R. Hatler  
Senior Vice President, General  
Counsel & Secretary  
The Nationwide Companies  
One Nationwide Plaza  
Columbus, Ohio 43215

Paul S. Miller  
Executive Vice President &  
General Counsel  
Pfizer Inc.  
235 East 42nd Street  
New York, NY 10017

James C. Diggs  
Senior Vice President &  
General Counsel  
PPG Industries, Inc.  
One PPG Place  
Pittsburgh, PA 15272

James J. Johnson  
Chief Legal Officer  
The Procter & Gamble Company  
One Procter & Gamble Plaza  
Cincinnati, OH 45202

Roderick A. Palmore  
Senior Vice President, General  
Counsel & Secretary  
Sara Lee Corporation  
Three First National Plaza  
Chicago, IL 60602

Jon D. Botsford  
Senior Vice President, Secretary &  
Chief Legal Officer  
Steelcase, Inc.  
901 44th Street, S.E.  
Grand Rapids, MI 49508

Joseph P. Moan  
Texaco Inc.  
2000 Westchester Avenue  
White Plains, NY 10650

Scott M. Barnes  
Vice President & Assistant  
General Counsel  
TRW Inc.  
1900 Richmond Road  
Cleveland, OH 44124

Francesca M. Maher  
Senior Vice President &  
General Counsel  
United Airlines, Inc.  
1200 East Algonquin Road  
Elk Grove Village, IL 60007

**TABLE OF CONTENTS**

INTEREST OF AMICI CURIAE ..... 1

INTRODUCTION ..... 4

ARGUMENT ..... 5

THE PURSUIT OF DIVERSITY IN HIGHER EDUCATION  
IS A COMPELLING STATE INTEREST BECAUSE IT  
PREPARES ALL STUDENTS TO SUCCEED IN AND  
ENHANCE THE GLOBAL COMMUNITY..... 5

CONCLUSION ..... 13

Certification Required By FRAP 32(a)(7)(C) ..... 13

**APPENDIX**

INDIVIDUAL STATEMENTS OF INTEREST OF  
AMICI 3M, STEELCASE, INC., KELLOGG COMPANY,  
THE PROCTER & GAMBLE COMPANY, TEXACO, INC.,  
TRW INC., MICROSOFT CORPORATION, AND FANNIE MAE ..... A-1

3M ..... A-1

STEELCASE INC. .... A-5

KELLOGG COMPANY ..... A-8

THE PROCTER & GAMBLE COMPANY ..... A-12

TEXACO INC. .... A-15

TRW INC. .... A-17

MICROSOFT CORPORATION ..... A-20

FANNIE MAE ..... A-24

## TABLE OF AUTHORITIES

### CASES

<i>Adarand Constructors, Inc. v. Pena</i> , 515 U.S. 200 (1995) .....	8
<i>Gratz v. Bollinger</i> , 122 F. Supp. 2d 811 (E.D. Mich. 2000) .....	8
<i>Grutter v. Bollinger</i> , __ F. Supp. 2d __, 2001 WL 293196 (E.D. Mich. Mar. 27, 2001), <i>stay granted</i> , __ F.3d __, No. 01-1447, 2001 WL 327822 (6 <sup>th</sup> Cir. Apr. 5, 2001) .....	8
<i>Keyishian v. Board of Regents</i> , 385 U.S. 589 (1967) .....	6
<i>Regents of the University of California v. Bakke</i> , 438 U.S. 265 (1978) .....	2, 5, 6, 7, 11, 12
<i>Sweatt v. Painter</i> , 339 U.S. 629 (1950) .....	6
<i>Sweezy v. New Hampshire</i> , 354 U.S. 234 (1957) .....	5
<i>Wygant v. Jackson Board of Education</i> , 476 U.S. 267 (1986) .....	7

### MISCELLANEOUS

Jon Meacham, <i>The New Face of Race</i> , Newsweek, Sept. 18, 2000, at 40 ....	9
Population Estimates Program, Population Div., U.S. Census Bureau, <i>Population Estimates for States by Race and Hispanic Origin: July 1, 1999</i> (rel. Aug. 30, 2000) .....	9
Population Estimates Program, Population Division, U.S. Census Bureau, <i>U.S. Population Estimates by Age, Sex, Race, and Hispanic Origin: 1980 to 1999</i> (rel. April 11, 2000) .....	9

## **INTEREST OF *AMICI CURIAE*<sup>1/</sup>**

*Amici* 3M, Abbott Laboratories, American Airlines, Inc., Ashland Inc., Bank One Corporation, The Boeing Company, The Coca-Cola Company, The Dow Chemical Company, E. I. du Pont de Nemours and Company, Eastman Kodak Company, Eli Lilly & Company, Ernst & Young LLP, Exelon Corporation, Fannie Mae, General Dynamics Corporation, General Mills, Inc., Intel Corporation, Johnson & Johnson, Kellogg Company, KPMG International on behalf of its United States member firm, KPMG LLP, Lucent Technologies, Inc., Microsoft Corporation, Mitsubishi Motor Sales of America, Inc., Nationwide Mutual Insurance Company and Nationwide Financial Services, Inc. and their affiliates, Pfizer Inc., PPG Industries, Inc., The Procter & Gamble Company, Sara Lee Corporation, Steelcase, Inc., Texaco Inc., TRW Inc., and United Airlines are global businesses that recruit at the University of Michigan or similar leading institutions of higher education. Many of the *amici* have substantial business presences in the state of Michigan, some are headquartered in Michigan, and all have ties to Michigan corporations and customers. Racial and ethnic diversity in institutions of higher education are vital to *amici*'s efforts to hire and maintain a diverse workforce, and to employ individuals of all backgrounds who have been

---

<sup>1/</sup> All parties have consented to the filing of this amicus brief.

educated in a diverse environment. Such a talented workforce is important to *amici*'s continued success in the global marketplace.

*Amici* have devoted substantial financial and human resources to create and maintain such a workforce. These extensive efforts are part of the very fabric of *amici*'s cultures, are implemented and overseen by senior managers, and are supported at the highest levels. As a group, *amici* pursue a variety of endeavors, including participating in numerous joint initiatives with the University of Michigan and other leading universities with strong academic programs and diverse student bodies, providing under-represented minority students with substantial financial assistance and summer internship opportunities, recruiting and mentoring, extending financial grants, and partnering with university staff and chapters of national minority professional organizations. *See* Appendix (describing more fully the specific initiatives of some of the *amici*).

If the University of Michigan is not able to consider all qualities of each applicant to the University, including his or her racial or ethnic background, the University will be hampered in its search for students with the most promise, and its graduates will be less likely to receive an education that gives them “‘wide exposure’ to the ideas and mores of students as diverse as this Nation of many peoples.” *Regents of the University of California v. Bakke*, 438 U.S. 265, 313



(1978) (opinion of Powell, J.). The University's graduates will therefore be less likely to possess the skills, experience, and wisdom necessary to work with and serve the diverse populations of the United States and the global community. Graduates with such an education are important to the community as a whole, as well as to the *amici* businesses. Accordingly, *amici* seek to add their collective voice in support of the University of Michigan.

## INTRODUCTION

Now more than ever, the ability of universities, such as the University of Michigan, to consider all of an applicant's attributes is essential to create the educational environment necessary to best train all their students to succeed. The students of today are this country's corporate and community leaders of the next half century. For these students to realize their potential as leaders, it is essential that they be educated in an environment where they are exposed to diverse ideas, perspectives, and interactions. In the experience of the *amici* businesses, today's global marketplace and the increasing diversity in the American population demand the cross-cultural experience and understanding gained from such an education. Diversity in higher education is therefore a compelling government interest not only because of its positive effects on the educational environment itself, but also because of the crucial role diversity in higher education plays in preparing students to be the community leaders this country needs in business, law, and all other pursuits that affect the public interest.<sup>2/</sup>

---

<sup>2/</sup> *Amici* address here only the compelling nature of the University's interest in admitting and educating a student body that, among other things, is racially and ethnically diverse. *Amici* recognize that any admissions program that considers race and ethnicity must be narrowly tailored to serve that compelling state interest. *Amici* do not address the specific means that may be employed to advance that interest, but seek to ensure that the University remains free to attain the diverse student body that is so essential to the quality of the education and training its

## ARGUMENT

### **THE PURSUIT OF DIVERSITY IN HIGHER EDUCATION IS A COMPELLING STATE INTEREST BECAUSE IT PREPARES ALL STUDENTS TO SUCCEED IN AND ENHANCE THE GLOBAL COMMUNITY.**

“[T]he attainment of a diverse student body . . . clearly is a constitutionally permissible goal for an institution of higher education.” *Regents of the University of California v. Bakke*, 438 U.S. 265, 311-12 (1978) (opinion of Powell, J.). As Justice Powell recognized in his controlling opinion in *Bakke*, a diverse student body promotes an atmosphere of “speculation, experiment and creation” that is “essential to the quality of higher education.” *Id.* at 312 (quoting *Sweezy v. New Hampshire*, 354 U.S. 234, 263 (1957)). Moreover, by enriching students’ education with a variety of perspectives, experiences, and ideas, a university with a diverse student body equips all of its students with the skills and understanding necessary to succeed in any profession. *Id.* at 314. Those skills include the ability to understand, learn from, and work and build consensus with individuals from different backgrounds and cultures. In finding the attainment of diversity to be a constitutionally permissible state interest, Justice Powell emphasized that “it is not too much to say that the ‘nation’s future depends upon leaders trained through

---

students receive.

wide exposure' to the ideas and mores of students as diverse as this Nation of many peoples." *Bakke*, 438 U.S. at 313 (quoting *Keyishian v. Board of Regents*, 385 U.S. 589, 603 (1967)).

Justice Powell's recognition of the compelling nature of the state's interest in diversity was not limited to undergraduate admissions. "[E]ven at the graduate level, our tradition and experience lend support to the view that the contribution of diversity is substantial." *Id.* Quoting the Court's decision in *Sweatt v. Painter*, 339 U.S. 629 (1950), Justice Powell observed that "The law school, the proving ground for legal learning and practice, cannot be effective in isolation from the individuals and institutions with which the law interacts. Few students and no one who has practiced law would choose to study in an academic vacuum, removed from the interplay of ideas and the exchange of views with which the law is concerned.'" *Bakke*, 438 U.S. at 314 (quoting *Sweatt*, 339 U.S. at 634).

Justice Powell thus concluded that "the interest of diversity is compelling in the context of a university's admissions program," and that "a university must have wide discretion in making the sensitive judgments as to who should be admitted." *Id.* Justice Powell emphasized that ethnic diversity is only one element in a range of factors a university properly may consider in attaining the goal of a heterogeneous student body. *Id.* "The diversity that furthers a compelling state

interest encompasses a far broader array of qualifications and characteristics of which racial or ethnic origin is but a single though important element.” *Id.* at 315.

In the years since *Bakke*, the Supreme Court has not considered issues of affirmative action arising in connection with the admissions policy of a public university. The holding in *Bakke* therefore remains controlling in this context. Moreover, current Justices of the Court have expressed support for the rationale of Justice Powell’s controlling opinion in *Bakke*. In a concurring opinion in *Wygant v. Jackson Board of Education*, 476 U.S. 267 (1986), Justice O’Connor emphasized that, in addition to the Court’s acceptance of affirmative action to remedy past or present discrimination by a state actor, “a state interest in the promotion of racial diversity has been found sufficiently ‘compelling,’ at least in the context of higher education, to support the use of racial considerations in furthering that interest.” *Id.* at 286 (O’Connor, J., concurring) (citing Justice Powell’s opinion in *Bakke*, 438 U.S. at 311-15; Justice Marshall’s separate opinion in *Wygant*, 476 U.S. at 306; and Justice Stevens’ separate opinion in *Wygant*, 476 U.S. at 315-17). *See also Wygant*, 476 U.S. at 313 (Stevens, J., dissenting) (“Rather than analyzing a case of this kind by asking whether minority teachers have some sort of special entitlement to jobs as a remedy for sins that were committed in the past, I believe that we should first ask whether the Board’s

action advances the public interest in educating children for the future.”); *cf. Adarand Constructors, Inc. v. Pena*, 515 U.S. 200, 269-70 (1995) (Souter, J., joined by Ginsburg and Breyer, JJ., dissenting).

In this case, both of the district court decisions concerning the University of Michigan’s admissions programs find that the attainment of a diverse student body is a critical educational goal. *See Gratz v. Bollinger*, 122 F. Supp. 2d 811, 822 (E.D. Mich. 2000) (“The University Defendants have provided this Court with solid evidence regarding the educational benefits that flow from a racially and ethnically diverse student body.”); *Grutter v. Bollinger*, \_\_\_ F. Supp. 2d \_\_\_, No. 97CV 75928-DT, 2001 WL 293196 at \*24 (E.D. Mich. Mar. 27, 2001) (“The evidence defendants submitted on this [diversity] issue, both at trial and in their summary judgment briefs, demonstrated that the educational atmosphere at the law school is improved by the presence of students who represent the greatest possible variety of backgrounds and viewpoints.”), *stay granted*, \_\_\_ F.3d \_\_\_, No. 01-1447, 2001 WL 327822 (6th Cir. Apr. 5, 2001).

In the practical experience of the *amici* businesses, the need for diversity in higher education is compelling. The nation’s future depends upon leaders trained through wide exposure to the ideas and mores of a diverse student body. The population of the United States is increasingly defined by its diversity. In 1999,

African Americans, Native Americans, Asian Americans, and Hispanics made up 28 percent of the population of the United States. See Population Estimates Program, Population Div., U.S. Census Bureau, *Population Estimates for States by Race and Hispanic Origin: July 1, 1999* (rel. Aug. 30, 2000), available at <http://www.census.gov/population/estimates/state/srh/srh99.txt>.<sup>3/</sup> By one estimate, these groups will constitute almost half – 47 percent – of the United States’ population by the year 2050. Jon Meacham, *The New Face of Race*, Newsweek, Sept. 18, 2000, at 40. The rich variety of ideas, perspectives, and experiences to which both non-minority and minority students are exposed, and the cross-cultural interactions they experience in a diverse university setting, are essential to the students’ ability to function in and contribute to this increasingly diverse community.

The experiences of the *amici* businesses demonstrate the vital need for the cross-cultural education that a diverse educational institution provides, as well as the talented diverse graduates it produces. Among other things, the changing face

---

<sup>3/</sup> In contrast, two years after the *Bakke* opinion was issued, the 1980 census showed that African Americans, Native Americans, Asian Americans and Hispanics constituted 20 percent of the nation’s population. See Population Estimates Program, Population Division, U.S. Census Bureau, *U.S. Population Estimates by Age, Sex, Race, and Hispanic Origin: 1980 to 1999*, (rel. April 11, 2000), available at <http://www.census.gov/population/estimates/nation/natdoc.txt>.

of America is reflected in the marketplace, as both the workplace and the purchasers of products and services become increasingly diverse. The individuals who run and staff the *amici* businesses must be able to understand, learn from, collaborate with, and design products and services for clientele and associates from diverse racial, ethnic, and cultural backgrounds. American multinational businesses, including *amici*, are especially attuned to this concern because they serve not only the increasingly diverse population of the United States, but racially and ethnically diverse populations around the world.

In the opinion of *amici*, individuals who have been educated in a diverse setting are more likely to succeed, because they can make valuable contributions to the workforce in several important ways. First, a diverse group of individuals educated in a cross-cultural environment has the ability to facilitate unique and creative approaches to problem-solving arising from the integration of different perspectives. Second, such individuals are better able to develop products and services that appeal to a variety of consumers and to market offerings in ways that appeal to these consumers. Third, a racially diverse group of managers with cross-cultural experience is better able to work with business partners, employees, and clientele in the United States and around the world. Fourth, individuals that have been educated in a diverse setting are likely to contribute to a positive work



environment, by decreasing incidents of discrimination and stereotyping. Finally, an educational environment created by consideration of the potential promise of each applicant in light of his or her experiences and background is likely to produce the most talented possible workforce.

Accordingly, if the University of Michigan and other top institutions are not permitted to pursue excellence in education by creating a diverse educational environment, their graduates also will likely be constrained in their pursuit of excellence. The experiences of *amici*, the demographic changes in the United States, and the increasing globalization that has occurred in the twenty-two years since Justice Powell wrote his controlling opinion in *Bakke* confirm his binding holding that the pursuit of diversity in higher education is a compelling state interest. The reasons given by Justice Powell are just as valid today, if not more so. Institutions of higher learning must be allowed to prepare students to thrive in an increasingly diverse environment. The best way to do this is to ensure that students learn in an environment of diversity, including racial and cultural diversity. Students from diverse backgrounds bring to school “experiences, outlooks, and ideas that enrich the training of the student body and better equip its graduates to render with understanding their vital service to humanity.” *Bakke*, 438 U.S. at 314. Accordingly, institutions of higher learning should be able to use

“competitive consideration of race and ethnic origin” in pursuit of a diverse student body. *Id.* at 320 (opinion of Powell, J., joined by Brennan, White, Marshall, and Blackmun, JJ.).

## CONCLUSION

For the foregoing reasons, this Court should find that the pursuit of diversity in higher education is a compelling state interest.

Respectfully submitted,

---

David W. DeBruin  
Deanne E. Maynard  
Shilpa S. Satoskar  
Daniel Mach  
Jeffrey S. Silver  
JENNER & BLOCK, LLC  
601 Thirteenth Street, N.W.  
Washington, D.C. 20005  
(202) 639-6000

Dated: May 31, 2001

*Attorneys for Amici Curiae*

### **Certification Required By FRAP 32(a)(7)(C)**

I certify that this brief contains 2435 words.

---

David W. DeBruin

**APPENDIX: INDIVIDUAL STATEMENTS OF INTEREST OF  
AMICI 3M, STEELCASE, INC., KELLOGG COMPANY,  
THE PROCTER & GAMBLE COMPANY, TEXACO, INC.,  
TRW INC., MICROSOFT CORPORATION, AND FANNIE MAE**

**3M**

3M is a \$16 billion diversified manufacturing and technology company with operations in more than 60 countries and customers in nearly 200 countries. Headquartered in St. Paul, Minnesota, 3M makes a wide variety of products serving customers in dozens of markets, including industrial, electronic, automotive, telecommunications, health care, transportation safety, consumer and office. 3M maintains manufacturing and sales facilities in Michigan, and has extensive ties with Michigan's auto industry. 3M is a truly global corporation, with more than 50 percent of its revenues coming from outside the United States.

Because it serves and works with an increasingly diverse group of communities in both the United States and around the world, 3M's future hinges upon its ability to attract, deploy, and maintain a diverse workforce capable of understanding, relating to, and satisfying the needs of its broad customer base. 3M invests heavily in research and development and is known widely as one of America's most innovative companies. As such, 3M has found that bringing together the collective talents and experiences of a diverse group of employees is

necessary to develop creative approaches to problem-solving, and to successfully market and sell its products to a wide range of communities. Time after time, 3M has found that input from employees who are members of the communities to which 3M markets and sells its products is crucial to ensuring that it can reach those communities in the most effective way.

3M dedicates extraordinary amounts of time and resources to increasing its diversity. The company has long relied on a highly structured program to recruit, hire and train engineers from underrepresented racial groups, and employs a Staffing Manager who oversees the various efforts the company makes to attain a diverse workforce.

3M works with universities across the country to recruit African American, Hispanic and Native American engineering students for summer internships and regular employment with the company. It targets certain “key schools,” including the University of Michigan, because of those schools’ strong engineering programs and their diverse student bodies. Each of these schools is partnered with a College Relations Team from 3M. The College Relations Team works closely with the university staff and the university chapters of national minority engineer organizations, such as the National Society of Black Engineers, the Society of Hispanic Professional Engineers, and the American Indian Science and

Engineering Society, to identify qualified students from underrepresented minority groups. The College Relations Teams also present workshops, attend career fairs, and interview on campus in an effort to attract qualified minority candidates for full time positions and summer internships.

3M bolsters its commitment to diversity with considerable financial support. Through its Minority Engineering Scholarship Program, 3M funds scholarships at nine top universities, including the University of Michigan, for promising engineering students from underrepresented minority groups. The program provides funding for both undergraduate and graduate programs, and also offers students the opportunity to work for 3M the summers after their freshman, sophomore and junior years in college. Once a student makes it through the course work and internships in good standing, he or she is offered regular employment with the company. Since the Minority Engineering Scholarship Program started in fall of 1986, 3M has provided University of Michigan minority students with \$375,000 in scholarship money, in addition to wages for summer employment. In a similar vein, 3M has made significant grant contributions to the University of Michigan in recognition of the University's commitment to diversity.

3M's efforts are a central component of its corporate mission and its vision for the future. Since 1986, 3M has provided summer internships for 33 minority students in the Minority Engineering Scholarship Program from the University of Michigan alone. As of August 31, 2000, the company had hired over 30 African American, Hispanic, or Native American engineers for regular positions this year. In addition, approximately 25-30 percent of 3M's interns each year are African American, Hispanic, or Native American students.

## **STEELCASE INC.**

Steelcase Inc., which is headquartered in Grand Rapids, Michigan, is the world's preeminent designer and manufacturer of products used to create high-performance work environments. Steelcase's products include office furniture, systems furniture, computer support furniture, office and lounge seating, desks, filing and storage cabinets, and task lighting and accessories. Its fiscal 2001 worldwide consolidated sales were \$3.89 billion. Steelcase is a global corporation that serves every country in the world through independently-owned dealers and with more than twenty-six manufacturing facilities in foreign countries. The company, its subsidiaries and joint ventures employ over 20,000 people worldwide.

Steelcase places a high value on attracting and maintaining a diverse workforce, which it believes is critical to maintain its competitive position in the global marketplace. Because Steelcase markets and sells its products to an increasingly diverse set of communities in the United States and around the world, it recognizes that it must have a diverse group of employees with backgrounds reflecting a variety of demographic groups and with experience interacting with individuals from cultures other than their own. Steelcase also believes that having a diverse group of employees who bring to the table different perspectives, ideas



and approaches to problem-solving is the best way to increase creativity and productivity within the company.

For these reasons, Steelcase, through its Diversity Work Team, is dedicated to increasing and maintaining diversity at the company. Steelcase recruits talented minority candidates from top universities including the University of Michigan, which is one of Steelcase's primary schools for recruiting undergraduate business students, engineering students and MBA candidates. In order to reach out to minority students at the University, Steelcase attends career fairs on campus and works directly with the University to identify strong minority candidates.

Steelcase utilizes two specific programs to provide employment experience for minority college students. First, more than ten years ago, Steelcase developed the Cooperative Education Program, which provides engineering students the opportunity to augment their education by working at Steelcase. The Cooperative Education Program targets educational institutions, such as the University of Michigan, with a diverse population of engineering students. This year, 37 percent of the program's participants were from minority groups.

Second, Steelcase provided startup funding to bring to Grand Rapids, Michigan the national INROADS program, which is dedicated to increasing

employment opportunities for minorities. Steelcase avidly supports the INROADS program and its senior management is represented on the INROADS Board of Directors. This year, Steelcase offered nineteen summer internships to minority college students through the INROADS program.

Steelcase also targets younger students in its efforts to increase diversity at the company. For example, through the Grand Rapids Area Pre-College Engineering Program, Steelcase focuses on identifying, supporting and educating economically disadvantaged minority and majority elementary and high school children through in-school and worksite programs designed to encourage them to explore the field of engineering.

Steelcase's commitment to diversity is evident at the highest levels of the corporation. The senior management meets quarterly to discuss and review the status of the company's various diversity initiatives, and the individual with primary oversight of those initiatives reports on his efforts directly to the CEO. The quest to attain and celebrate diversity within the company has long been part of the corporate culture at Steelcase.

## **KELLOGG COMPANY**

Headquartered in Battle Creek, Kellogg Company has been a major employer in western Michigan for nearly a century. With projected annual sales of more than \$9 billion, Kellogg is the world's leading producer of cereal and a leading producer of convenience foods, including cookies, crackers, toaster pastries, cereal bars, frozen waffles, meat alternatives, pie crusts, and ice cream cones. The company's brands include *Kellogg's*, *Keebler*, *Pop-Tarts*, *Eggo*, *Cheez-It*, *Nutri-Grain*, *Rice Krispies*, *Murray*, *Austin*, *Morningstar Farms*, *Famous Amos*, *Carr's*, *Plantation*, *Ready Crust*, and *Kashi*. Kellogg icons such as *Tony the Tiger*<sup>™</sup>, *Snap!*<sup>™</sup> *Crackle!*<sup>™</sup> *Pop!*<sup>™</sup>, and *Ernie Keebler*<sup>™</sup> are among the most recognized characters in advertising. Kellogg products are manufactured in 19 countries and marketed in more than 160 countries around the world.

We have great brands, a proud history, and an exceptional line-up of products. And all have been made possible by Kellogg people. Indeed, the strength of our organization is the people who plan, research, market, invent, produce, and perform here each day. Tapping the unique skills, ideas, and perspectives of those people – relying on that diversity to inspire the innovations that drive our business – will continue to be our source of competitive advantage.

Kellogg Company believes diversity is a rich, vital ingredient in our formula for success. Our diversity has a significant, positive impact on the lives of our employees, customers, and bottom line. Several national organizations have recognized the company's commitment to diversity.

Kellogg is keenly interested in diversity opportunities in the global marketplace. At all levels of the organization, we actively recruit and develop diverse candidates from around the world, including but not limited to women, people of color, and people from different geographic regions, to ensure that all consumers have a voice in product development, marketing, and business strategies. We look to our local educational institutions as a pipeline for diverse talent in our recruiting efforts.

Kellogg Company actively recruits talented University of Michigan students, including minority undergraduate and graduate candidates specifically in the areas of finance and marketing. Senior Kellogg management maintains a presence and connection to the University and regularly participates in speaking engagements and visits college classrooms. Carlos Gutierrez, Chairman, President and CEO, is a member of the Visiting Executive Committee at The University of Michigan Business School. Kellogg Company is also a significant contributor and program participant of the University's Consortium for the Graduate Study in

Management, which provides graduate fellowships for talented minorities and assists Kellogg Company in identifying minority candidates. Additionally, Kellogg Company has board member presence on and is a sponsor of the INROADS/Southwest Michigan Program, which gives students summer employment opportunities leading to permanent full-time employment upon graduation. Last summer, Kellogg Company placed six interns in the areas of human resources, global procurement, IT, sales, marketing, and finance.

At Kellogg, we keep diversity top-of-mind throughout the year. We do so by building a culture in which each person, in each Kellogg facility, takes personal ownership of diversity. Individually and collectively, our employees are seizing the opportunities our differences represent. We have assembled Diversity Leadership Teams (DLTs) at the corporate level as well as at our plants and within our sales team. These DLTs lead the charge by developing strategies, tearing down barriers, and crossing organizational boundaries to ensure positive changes. We continually invest in our people, providing them with mentoring opportunities, an ongoing feedback mechanism, and personal development programs through our on-site Learning Center. At Kellogg Company, we see diversity as a valuable fact of life. We embrace, encourage, and nurture it, not because it looks good to do so, but because it is good. It is good for every one of us. To drive our business

success, we rely upon the continued availability of talented students with diverse backgrounds at our local educational institutions.

## **THE PROCTER & GAMBLE COMPANY**

From its global headquarters in Cincinnati, Ohio, Procter & Gamble (“P & G”) enjoys unrivaled access to and understanding of the world’s consumers: their needs and wants, their attitudes and behaviors, their habits and practices. This year, 2.5 billion people will purchase a branded P&G product somewhere in the world, yielding more than \$40 billion in sales.<sup>1/</sup> To accomplish this, P&G employs approximately 40,000 people in the U.S. and a global total exceeding 100,000 individuals in 75 countries whose singular focus is to provide products of superior quality and value that improve the lives of the world’s consumers.

There is no question in the minds of Procter & Gamble’s leadership that its diverse workforce has been key to the achievements of this Fortune 25 company. “Our success as a global company is a direct result of our diverse and talented work force. Our ability to develop new consumer insights and ideas and to execute in a superior way across the world is the best possible testimony to the power of diversity any organization could ever have,” P&G’s Chairman of the Board John E. Pepper asserted years ago.

---

<sup>1/</sup> P&G products span a broad range from fabric and home care items like Tide®, to health care products such as Crest®, food and beverages like Folger® coffee, baby care products such as Pampers®, tissue and paper towel items like Charmin®, feminine care products including Tampax®, and beauty care products such as Oil of Olay®.

On October 11, 2000, A. G. Lafley, CEO of Procter & Gamble, wrote to the Company's global workforce, "Diversity is also a fundamental business strategy. ... [O]ur success depends entirely on our ability to understand these diverse consumers' needs and to work effectively with customers and suppliers around the world. All the data I've seen in 30 years of being in business – and all of my personal experience at P&G over the last 23 years – convince me that a diverse organization will out-think, out-innovate, and out-perform a homogenous organization every single time."

A promote-from-within employer, Procter & Gamble invests heavily in recruiting new employees into all areas of the Company's complex businesses each year to sustain its talent pipeline. Last year in the U.S., P&G hired approximately 3275 individuals, of whom 36.5 percent are minorities, which is fairly typical of the diversity of its recruiting for many years. As a result of its efforts to recruit and develop a diverse workforce, Procter & Gamble has been recognized for its achievements by the U.S. Secretary of Labor's Opportunity 2000 Award in 1994, the Martin Luther King, Jr. Foundation's Salute to Greatness Award in 1995, the NAACP Legal Defense and Educational Fund's Corporate Affirmative Action Award in 1996, the National Urban League's Donald H.



McGannon Award in 1998, and numerous other awards and statements of recognition by other organizations and publications.

Because P&G is a major employer in the Midwest with seven research and development centers, four manufacturing plants, and its global headquarters all in Ohio, the Company has historically relied upon nearby universities of superior academic training, such as the University of Michigan, as a key source of new employees. The University of Michigan consistently ranks among P&G's top 20 schools for the number of recruits the Company annually hires from college campuses, and for the last four years, Michigan has been among the top five schools for African-American new hires. Currently, nearly 300 U of M alumni work at Procter & Gamble.

Procter & Gamble continues to invest heavily in the University of Michigan as a valued and ongoing source of new talent needed by the Company to further grow its global business. The Company has been donating more than \$200,000.00 annually to the University of Michigan to support its academic programs, and each year sends numerous P&G managers to Ann Arbor to help educate students about marketing, technical and related careers. As customers of the students which the University of Michigan educates, Procter & Gamble strongly encourages the University of Michigan to continue to recruit and educate a diverse student body.

## **TEXACO INC.**

Texaco Inc., a Delaware Corporation, which is headquartered in White Plains, New York, is a major international integrated energy company. Texaco is principally engaged in the worldwide exploration for and production, transportation, refining and marketing of crude oil, natural gas liquids, natural gas and petroleum, power generation and gasification. Through its owned and affiliated companies, the company conducts business in some 150 countries and territories and employs over 18,000 employees worldwide.

In view of the increasingly diverse base of operations, employees, and customers in both the United States and globally, Texaco holds respect for the individual as one of its fundamental values. A key corporate strategy is to develop a world-class workforce. Texaco continually strives to: attract the best and brightest; create an environment where change is embraced and challenge accepted; inspire all employees to recognize their worth and the worth of others; and develop a highly competent, deep, and diverse leadership talent pool.

Texaco is committed to developing a diverse workforce and has dedicated significant time and resources to creating an environment that fosters diversity. In the ever-increasing global economy it is vital to recognize that people are our most

valuable resource. Our hiring and promotion activities continue to yield a rich and diverse talent pool.

Texaco recruits at universities across the country to hire top quality students for internships and regular employment upon graduation. The company has adopted a “dynamic” college recruiting program that targets a number of colleges and universities as “core” schools. These schools provide talented, diverse groups of highly qualified students from which to recruit. The University of Michigan is one of these “core” schools.

## **TRW INC.**

TRW is a global technology, manufacturing, and service company serving the automotive, aerospace, defense, and information systems markets. It has sales of \$18 billion, with 110,000 employees in over 30 countries. Headquartered in Cleveland, Ohio, TRW was founded in 1901 and will be celebrating its 100<sup>th</sup> anniversary in 2001.

Diversity has been a key strategic priority at TRW for many years. TRW's businesses, markets, customers, competitors, employees, and potential employees are becoming increasingly global and diverse. Global demographics suggest that the war for talent will continue to make competition for the best people a major issue for years to come. TRW, therefore, believes it makes good business sense for its people and business practices to reflect diversity as well. TRW has a number of practices in place to foster a more diverse world-class workforce and a more inclusive work environment. Our approach on diversity is rather focused – to make TRW “where the best people want to work.”

Over the years, TRW has used Diversity Advisory Committees to provide insight and guidance regarding diversity-related issues. TRW uses a variety of training and communications tools to equip managers and employees to deal with diversity. It also uses employee opinion surveys, skip-level sensing sessions, and

other “listening devices” to ensure employee voices – and diverse points of view – are heard.

TRW has been a leader in implementation of progressive Human Resources practices to promote diversity in the workplace. Examples include flexible work hours, flexible time off, child care facilities, and telecommuting to accommodate the need for balance between work and personal lives. TRW has been recognized externally for such efforts, including being named by *Working Mothers* magazine as one of the 100 best companies for working mothers, five of the last seven years. TRW also participates in a number of highly effective external and community outreach programs such as INROADS for development of high potential minorities, and many others.

In the area of university relations and recruiting, TRW has a long-standing commitment to hiring a diverse population of students. Through its Management Associates Program (MAP), TRW hires 10-15 graduate students per year in disciplines including Manufacturing, Finance, and Human Resources. The MAP is a highly selective, two-year rotational development program designed to develop participants to achieve senior level executive positions in TRW. Because the MAP serves as one important pipeline for senior level talent, TRW pays significant attention to the attraction of qualified female and minority applicants

for the MAP. Universities, including the University of Michigan, represent a critical source of high quality, diverse talent for high potential programs such as MAP.

Likewise, at the undergraduate level, TRW has relationships with schools like the University of Michigan, Southern University, and over 100 other universities worldwide, for critical skills in engineering, manufacturing, sales and marketing, purchasing, finance, human resources, and many other disciplines. TRW hires hundreds of undergraduates each year, including many women, minorities, and representatives of diverse countries and cultures.

The admissions practices, which ensure a diverse population of students at the University of Michigan and other schools, therefore, serve as a critical link in the diversity value chain. TRW depends on a steady flow of highly qualified, diverse talent from universities to fuel its growth, performance, and global competitiveness.

## **MICROSOFT CORPORATION**

Microsoft Corporation, a Washington corporation with its headquarters in Redmond, Washington, is a leading developer of a wide variety of software platforms, applications and tools that are used by millions of consumers and businesses worldwide. Diversity is a core value and component of Microsoft's business practices. The Company is 100% committed to diversity and firmly believes that a multicultural workplace enables it to attract and retain the most qualified employees and better serve the needs of a wide range of customers. Microsoft works actively to recruit, train and promote minority and women employees. Over the past three years, Microsoft's minority workforce has grown nearly twice as fast as the company's domestic workforce overall. The percentage of minority employees has risen steadily, from 16.8% in 1997, to 21.6% of Microsoft's domestic workforce today.

Microsoft is making progress attracting more minorities and women, but this is a challenging and complex issue across the high tech industry. Microsoft has invested more than \$80 million in cash grants and software in recent years to help stimulate interest among minorities and women in scientific and technical fields, including a \$71 million partnership with the United Negro College Fund's 39 member institutions.

Late last year, Microsoft's President Steve Ballmer established a goal for the Company of becoming the leader in diversity in the high tech industry. He asked Deborah Willingham, Microsoft's Senior Vice President, Human Resources, to champion a plan to increase Microsoft's progress in recruiting, hiring and developing women and minorities at Microsoft. Willingham responded with a detailed set of enhancements to Microsoft's existing diversity efforts that focused on three primary areas:

- *Manager and employee development:* Microsoft is expanding the professional development offerings available to its managers through a variety of programs, including a formal mentoring program, with an initial focus on underrepresented minorities and women; managers will include diversity-related goals in their management objectives; training for managers on diversity awareness, equal employment opportunity and affirmative action, as well as recruiting, hiring, performance management, and promotion decisions is mandatory; increased efforts are being made to identify and include women and minorities as candidates for senior positions in the company.
- *Recruiting:* Microsoft works closely with the minority affairs departments at various colleges and universities, including those that have significant



representations of minorities and women, to actively recruit new hires and interns and interest students in Microsoft. The Company has increased its participation in job fairs focused on minorities and women and has hired several Regional Diversity Recruitment Specialists across the U.S. to focus on minority and female recruitment and participation in and sponsorship of activities to increase Microsoft's presence in diverse communities. Various other outreach efforts are being implemented to assist in Microsoft's recruiting efforts, including enhancements to the minority and female internship components to the Microsoft College Internship Program.

- *Community and Customer Outreach:* Microsoft shares resources, innovative technology and ideas, and works in partnership with organizations that make a real and lasting difference in people's lives. In the last fiscal year, Microsoft contributed more than \$234 million in cash and software to nearly 5,000 nonprofit organizations, including \$44.2 million to match employee's individual giving. In early December, for example, Microsoft donated \$100 million in cash and software to the Boys & Girls Clubs of America to improve access to technology for children and young adults.

Microsoft is committed to these and its other efforts to foster an open and diverse work environment and to increasing the number of minorities and women in its employee population. To accomplish that objective, it is critical to Microsoft's interests that the number of minorities in technical degree programs be expanded, not reduced. Microsoft believes that college admission practices, such as those at the University of Michigan, that seek to ensure a diverse population of highly qualified and talented students, are vital to the continued success of Microsoft's diversity initiatives and to accomplishing Steve Ballmer's goal of making Microsoft the leader in diversity in the high tech industry.

## **FANNIE MAE**

At Fannie Mae, we are in the American Dream business. Our mission is to tear down barriers, lower costs, and increase opportunities for homeownership and affordable rental housing for all Americans – because having a safe place to call home strengthens families, communities, and our nation as a whole. Topping off a decade of consistent double-digit growth in operating earnings per share, Fannie Mae consistently demonstrates that our mission for American families is also a winning business model.

Our record performance to date illustrates that Fannie Mae is not the typical Fortune 500 financial services-related corporation. As the largest source of financing for home mortgages in America, Fannie Mae raises capital from investors around the world to keep mortgage finance flowing to lenders in every community, through all economic conditions, at the lowest rates in the market. By aggressively reaching out to underserved housing markets, tapping the U.S. and global capital markets to serve all consumers, and being a model for diversity, Fannie Mae has been able to grow our business at rates that beat both Wall Street's expectations and even our own stretch goals.

Our company made a commitment to incorporate diversity into our corporate strategy in 1992. Diversity is one of our company's ten core

commitments, and one of the six corporate goals. We have taken on and sustained numerous initiatives, of which our corporate mentor program, internship programs, and partnerships with professional associations are but a few.

The Corporate Mentor Program has been in existence since 1994 and was designed to enhance the personal and professional growth of all employees, particularly women and minorities. The Program is three-pronged and consists of the following segments: the Peer Mentor (new employee buddy) Program, the bi-monthly Speaker Series, and the Mentor/Protégé Pairing Program. The pairing segment consists of one-on-one relationships of mentors with protégé that are formally structured to share experiences, provide exposure, and increase networking opportunities. These alliances encourage the transfer of the knowledge base and experiences of successful employees to a broader spectrum of the work force, and provide protégés the opportunity to develop organizational knowledge, savvy, and insight.

The Corporate Internship Program (CIP) is a paid internship program designed to focus on recruiting and developing “star-quality” MBA students. The CIP allows the intern and Fannie Mae to gain first-hand knowledge of, and exposure to, one another. In addition, the Citywide High School Internship Program (CHIP) is designed to help District of Columbia public high school

students gain exposure to the working world, develop a network of contacts and mentors, and gain exposure to diverse cultures and a diverse work environment. The program also helps Fannie Mae develop a recruitment pool of exceptional diverse interns upon graduation from college, as well as provide a valuable community service.

Our recruitment strategy is demonstrated through partnerships and outreach with professional associations. Associations provide excellent networking opportunities for employees, and at the same time serve as links to a diverse group of qualified employment candidates. The Office of Diversity has formed strategic partnerships with: the National Society of Hispanic MBAs (NSHMBA), the National Black MBA Association (NBMBA), National Society of Black Engineers (NSBE), the Society of Hispanic Professional Engineers (SHPE), Business for Social Responsibility (BSR), Hispanic Association on Corporate Responsibility (HACR), and the National Association of Black Accountants (NABA). We have become major sponsors of conferences and local events, contributed to scholarship funds, and are active participants in local and national events.

We have made vast strides in diversity training over the years, and on-going, top notch diversity training will be critical to our continued success.

Reflective of our commitment, we rolled-out three different diversity training courses from 1994 to the present. Diversity training is mandatory for all employees and we have been successful in engendering a culture and work climate wherein attitudes of inclusiveness are pervasive. We also seized the opportunity to expand partnering relations with lenders with whom we do business. We designed, developed, and rolled-out a diversity course for lenders, “Perspectives on Diversity in Mortgage Lending.” Several of our lender-partners participated in a series of focus groups and pilots, enabling us to finalize the product well before the year’s end, and actually deliver the new course as part of three separate Housing and Finance Institute workshops. Additionally, we designed, delivered and conducted train-the-trainer sessions, enabling lender-partners to roll-out and conduct their own internal diversity training programs. Our success reinforces how vitally important an issue diversity is – and it is particularly true during current times of vast demographic shifts across our country and in the way these shifts play out in the housing market.

We truly value diversity here at Fannie Mae and we attribute much of our success in fourteen consecutive years of double-digit earnings per share to our diverse work force. From our viewpoint, it would be very difficult – perhaps impossible – to recognize new market opportunities, break down the barriers to

reaching these markets and build a strong business with them without a diverse set of eyes, ears, experiences and expertise. We consider our company a model for diversity, and it is our belief that this allows us an enhanced outlook on the market, greater opportunities for growth, and an ability to see new markets more clearly.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this \_\_\_\_\_ day of \_\_\_\_\_, 2001, I served a copy of the foregoing Brief of 3M, Abbott Laboratories, et al., as Amicus Curiae in Support of Defendants-Appellants Seeking Reversal, and five original Notices of Appearance by overnight mail on the following counsel:

John Payton  
Wilmer, Cutler & Pickering  
2445 M Street, N.W.  
Washington, D.C. 20037

Miranda K.S. Massie  
One Kennedy Square  
Suite 2137  
Detroit, MI 48226

Kirk O. Kolbo  
Maslon, Edelman, Borman & Brand  
300 Norwest Center  
90 South Seventh Street  
Minneapolis, MN 55402

Kerry L. Morgan  
Pentiuk, Couvreur & Kobiljak  
Suite 230, Superior Place  
20300 Superior Street  
Taylor, MI 48180

Michael E. Rosman  
Hans F. Brader  
Center for Individual Rights  
1233 20th Street, N.W.  
Washington, D.C. 20036

---

Shilpa S. Satoskar