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## **ACLU, NAACP File Lawsuit to Allow University of Michigan Admissions Programs to Continue**

Michigan Proposal, Backed by Ward Connerly,  
Is Nearly Identical to California's Prop. 209

LOS ANGELES - The ACLU of Southern California joined with Michigan civil rights groups and 19 students, faculty and applicants to the University of Michigan in asking a federal court to declare that the newly passed state ballot initiative does not prohibit universities from considering race and gender as one factor among many in university admissions.

The ACLU/SC, the ACLU of Michigan and the NAACP among others filed the lawsuit Tuesday morning in U.S. District Court in Detroit. The lawsuit asks the court to issue a "declaratory ruling" explaining that Proposal 2, passed by Michigan voters in November, does not ban programs that use race or gender as part of the decision-making process in any manner whatsoever. Such a construction of the language of Proposal 2 would place an unconstitutional burden on the ability of protected groups to advance their interests and rights while leaving other members of the community free to advance theirs without any similar burdens.

The Michigan proposal is backed by former University of California Regent Ward Connerly and is nearly identical to California's Proposition 209, which was passed by voters here in 1996.

"Proposal 2 in Michigan is the offspring of Proposition 209 - an attempt to undo the hard fought gains of the civil rights movement to expand access to higher education to historically disadvantaged groups," said Mark Rosenbaum, legal director for the ACLU/SC and lead counsel in the challenge brought against Proposition 209. "We filed this case because in California Proposition 209 has left UCLA classrooms with few African American and Latino students and this effort must be stopped in its tracks."

The Michigan proposal also seeks to dismantle an admission program specifically approved by the U.S. Supreme Court, said Rosenbaum, who will also be the lead counsel for the ACLU in the Michigan challenge. As recently as 2003 the court stated that it is constitutionally permissible for universities to consider race and gender as one factor among many in university admissions.

Kary Moss, Executive Director of the ACLU of Michigan, said: "We are pleased to be able to represent current students and faculty, as well as prospective students, in a case that will be the first to evaluate exactly what Proposal 2 means in this state. The recent decisions by the United States Supreme Court made clear that it is entirely within the law for universities to consider race or gender as one of many criteria in selecting their student body. Proposal 2 should not change that."

Rev. Wendell Anthony, President of the NAACP, Detroit Chapter, said, "Affirmative Action is still the law of the land. Recent events in Michigan related to the passage of Proposal 2 have only increased our energy to keep the doors of equal opportunity open and accessible for all of America's sons and daughters. We have come too far to allow the doors of opportunity to be shut in the face of the American promise of liberty and justice."

Proponents of Proposal 2, called the "Michigan Civil Rights Initiative," have asserted from the beginning that it would not end all affirmative action but, instead, would only make it "unconstitutional to pick winners and losers based solely on race and sex."

One of the plaintiffs represented in today's lawsuit is Chase Cantrell, an African American Detroit native who is in his second year at the University of Michigan Law School. Cantrell also obtained his BA from the university and is the first in his family to attend graduate school.

"After many years as a student at the university, I have learned to achieve a better understanding of world culture through the eyes of students and faculty from a wide range of backgrounds," Cantrell said. "Although I was invited to attend Cornell Law School, I chose the University of Michigan because the student body is so much more dynamic."

In the 2003 case *Grutter v. University of Michigan*, the Supreme Court held that the equal protection clause of the U.S. Constitution does not prohibit the narrowly tailored use of race in admissions decisions to further a compelling interest in obtaining the education benefits that flow from a diverse student body. Moreover, the Supreme Court has found that a state law violates the equal protection clause when it makes it more difficult for certain racial minorities than for other members of the community to achieve legislation that is in their interest.

The plaintiffs are represented by Melvin Butch Hollowell of the NAACP; Moss, Michael Steinberg and Mark Fancher of the ACLU of Michigan; ACLU of Southern California Legal Director Mark Rosenbaum; Theodore Shaw and Victor Bolden of the NAACP Legal Defense and Education Fund; Dennis Parker and Alexis Agathocleous of the national ACLU Racial Justice Project; Harvard Law Professor Lawrence Tribe; Duke Law Professor Erwin Chemerinsky; and Reginald Turner of Michigan law firm Clark Hill.

The complaint is available online at: [www.aclu.org/racialjustice/aa/277411gl20061219.html](http://www.aclu.org/racialjustice/aa/277411gl20061219.html)

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