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What is "Eet"? A Proposal to Add a Series of Referent-Inclusive Third Person Singular Pronouns and Possessive Adjectives to the English Language For Use In Legal Drafting

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**WHAT IS “EET”?**  
**A PROPOSAL TO ADD A SERIES OF REFERENT-INCLUSIVE THIRD  
PERSON SINGULAR PRONOUNS AND POSSESSIVE ADJECTIVES TO  
THE ENGLISH LANGUAGE FOR USE IN LEGAL DRAFTING**

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I. INTRODUCTION

Like all living languages, the English language is an evolving work in progress.<sup>1</sup> One aspect of the evolutionary process is that new words are coined and added to an existing vocabulary so as to meet emerging linguistic needs. The English language does not include third person singular pronouns, possessive pronouns, and pronominal possessive adjectives that refer in the alternative to antecedents of the male gender, the female gender, or the neuter. The absence of such pronouns has proven to be an unfortunate linguistic deficiency in legal writing, particularly legislation and other rules serving normative functions. Much of the legislative<sup>2</sup> and scholarly<sup>3</sup> attention that has been devoted to this topic has addressed the absence of and the need for “gender-neutral pronouns.” This article proposes to add to the English language a series of complementary pronouns and pronominal possessive adjectives that refer in the alternative to antecedents of the male gender, the female gender, or the neuter gender (when the pronoun includes reference to an artificial person, such as a corporation, or to some other inanimate entity, such as a government). A principal objective in adding several of the proposed referent-inclusive<sup>4</sup> personal pronouns, possessive pronouns, and pronominal possessive adjectives to the English language is to eliminate the “masculine rule.”

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1. Judith S. Kaye, *A Brief for Gender-Neutral Brief-Writing*, N.Y.L.J., Mar. 21, 1991, at 2 (“change is part of any living language and English, which is an unusually rich tongue, is still evolving.”).

2. See, e.g., U.C.C. § 1-106 (2001) (“In [the Uniform Commercial Code], unless the statutory context otherwise requires: . . . (2) words of any gender also refer to any other gender.”); U.C.C. § 1-102(5)(b) (1978) (“In this Act, unless the context otherwise requires . . . words of the masculine gender include the feminine and the neuter, and when the sense so indicates words of the neuter gender may refer to any gender.”).

3. See, e.g., WILLIAM STRUNK, JR. & E.B. WHITE, *THE ELEMENTS OF STYLE* 60-61 (4th ed. 2000); Kaye, *supra* note 1, at 2; Gerald Lebovits, *He Said – She Said: Gender-Neutral Writing*, 74 N.Y. ST. B.J. 64 (Feb. 2002); Sandra Petersson, *Gender-Neutral Drafting: Recent Commonwealth Developments*, 20 STATUTE L. REV. 35 (1999); Sandra Petersson, *Locating Inequality—The Evolving Discourse on Sexist Language*, 32 U. BRIT. COLUM. L. REV. 55 (1998); Debora Schweikart, *The Gender Neutral Pronoun Redefined*, . 1 (1998); Christopher Williams, *The End of the “Masculine Rule”?* *Gender-Neutral Legislative Drafting in the United Kingdom and Ireland*, 29 STATUTE L. REV. 139 (2008); Margaret Wilson, *Gender-Neutral Law Drafting: The Challenge of Translating Policy into Legislation*, 13 EUR. J. L. REFORM 199 (2011).

4. Wilson, *supra* note 3, at 207 (“Technically . . . using ‘he’ or ‘she’ is not gender-neutral, but gender-inclusive . . .”).

## II. A PRINCIPAL OBJECTIVE – ELIMINATE THE MASCULINE RULE

Adoption of the new pronouns and possessive adjectives proposed below would put an end to the “masculine rule.” Under that rule of prescriptive grammar, the third person singular pronoun “‘he’ is both a male and an indefinite sex referent.”<sup>5</sup> By necessary extension, the third person singular pronouns “‘him’ and ‘his’ are also both male and indefinite sex referents. Use of masculine pronouns to refer both specifically to a male referent and generically to either a male or a female referent makes those pronouns “pseudogeneric.”<sup>6</sup> Despite the emergence of various techniques for avoiding application of the masculine rule,<sup>7</sup> it continues to survive as a rule of statutory construction. “Generally the masculine, but not the feminine, is considered to include all genders. A federal statute provides that in determining the meaning of any Act on Contract, unless the context indicates otherwise, words importing the masculine gender include the feminine as well.”<sup>8</sup> Despite mounting criticism of the masculine rule,<sup>9</sup> it continues to be applied in various primary legal authorities,<sup>10</sup> including statutes,<sup>11</sup> judicial opinions,<sup>12</sup> and jury instructions.<sup>13</sup>

A substantial commentary has demonstrated that the masculine rule is indefensible.<sup>14</sup> It is unabashedly sexist; it is discriminatory in its gender bias, and is therefore unfair.<sup>15</sup> Use of masculine pronouns and possessive adjectives to refer in the alternative to masculine or feminine antecedents is also imprecise and thus misleading.<sup>16</sup> The widely acknowledged and glaring deficiencies of the masculine rule have accelerated recourse to various mitigating techniques for avoiding application of that rule.

5. Schweikart, *supra* note 3, at 1.

6. *Id.* at 1-3.

7. *See infra* Part III.

8. Schweikart, *supra* note 3, at 2 (quoting 73 AM JR. 2D *Statutes* § 219 (1974 & Supp. 1997)).

9. *See supra* note 3 and accompanying text.

10. *See* Schweikart, *supra* note 3, at 1-2 (“Although the legal profession has promoted gender neutral language in recent years, many legal communications still maintain ‘he’ as a referent to both sexes.”) (footnote omitted).

11. *See, e.g.*, N.J. STAT. ANN § 2C:3-4(b)(2)(b) (West 1999) (“The actor knows that *he* can avoid . . .”) (emphasis added). *See also* Williams, *supra* note 3, at 139 (acknowledging “in English-language legislative texts . . . the traditional assumption that *he* subsumed *she*—a policy that has been called ‘the masculine rule . . .’”).

12. *See, e.g.*, State v. Stokely, 842 S.W.2d 77, 80 (Mo. 1992) (explaining “he” used in statutory rape provision refers to both men and women); Harris v. State, 500 So. 2d 1292, 1293 (Ala. Crim. App. 1986) (explaining “he” in sexual abuse statute refers to any person); Commonwealth v. Rebovich, 406 A.2d 791, 793 (Pa. Super. Ct. 1979) (explaining use of “he” in child neglect statute includes both men and women).

13. *See, e.g.*, State v. Wanrow, 559 P.2d 548, 558 (Wash. 1977) (noting use of masculine pronouns in jury instruction on self-defense in murder case against a female defendant).

14. *See supra* note 3 and accompanying text.

15. *See, e.g.*, Kaye, *supra* note 3, at 2; Lebovits, *supra* note 3, at 64; Schweikart, *supra*, note 3, at 2-4; Williams, *supra* note 3, at 139; Wilson, *supra* note 3, at 205.

16. *See, e.g.*, Lebovits, *supra* note 3, at 64 (promoting use of gender-neutral writing as being “both precise and non-sexist”).

### III. EXISTING TECHNIQUES FOR AVOIDING APPLICATION OF THE MASCULINE RULE

Legal writers have employed several mitigating techniques to avoid application of the masculine rule,<sup>17</sup> and several of those techniques are serviceable. For example, "repetition of the noun as opposed to use of the pronoun is . . . a way to achieve gender-neutrality[. . .] [though] [t]his method is not always ideal . . . because it lengthens the text and may result in inelegant drafting that looks and sounds awkward and contrived."<sup>18</sup> Another technique "is to omit the pronoun 'he' altogether from the text."<sup>19</sup> Gender-specific references may on occasion be avoided by using passive rather than active voice.<sup>20</sup> Nouns may be pluralized in order to use plural rather than gender-specific third person singular pronouns.<sup>21</sup> Gender neutrality is often properly ensured by using the word "one" as a generic referent rather than masculine pronouns.<sup>22</sup>

Other existing techniques for avoiding application of the masculine rule are less satisfactory. They include the use of alternative pronouns,<sup>23</sup> the use of "they" as referring to singular antecedents,<sup>24</sup> the use of "it" as a referent to both human and non-human antecedents,<sup>25</sup> and application of the "two-way rule," under which "either the masculine or feminine words could be used to include the other sex."<sup>26</sup>

The use of alternative pronouns is the most objectionable technique for avoiding the pseudogeneric *he*, *him*, and *his*. Coining a few simple gender-neutral pronouns would eliminate the need to use two pronouns or possessive adjectives in the alternative—*her or she*, *him or her*, *his or hers*, and *his or her*—when one pronoun or possessive adjective should suffice as a referent to either a female or male noun or owner. Moreover, coining a few simple antecedent-neutral pronouns would eliminate the need to use three pronouns or possessive adjectives in the alternative—*he*, *she*, or *it*, *him*, *her*, or *it*, and *his*,

17. Daniel Greenberg, *The Techniques of Gender-neutral Drafting*, in *DRAFTING LEGISLATION: A MODERN APPROACH* 63, 67-76 (Constantin Stefanou & Helen Xanthaki eds., 2008). See also STRUNK & WHITE, *supra* note 3, at 60-61; Kaye, *supra* note 3, at 2; Lebovits, *supra* note 3, at 64-65; Schweikart, *supra* note 3, at 7; Williams, *supra* note 3, at 140-41.

18. Wilson, *supra* note 3, at 207. See also Schweikart, *supra* note 3, at 7.

19. Wilson, *supra* note 3, at 207.

20. *Id.*

21. Kaye, *supra* note 1, at 2.

22. Lebovits, *supra* note 3, at 64 (giving as an example "Y2K Star Trek: 'To go boldly where no one . . . has gone before'") (emphasis added); Schweikart, *supra* note 3, at 7.

23. Lebovits, *supra* note 3, at 64; Schweikart, *supra* note 3, at 7; Williams, *supra* note 3, at 140 ("ensuring gender equality is achieved by inserting both male and female pronouns and adjectives, for example *he or she*, *him or her*, *his or her*:") (emphasis in original); Wilson, *supra* note 3, at 207.

24. Schweikart, *supra* note 3, at 6-7.

25. *Id.* at 7.

26. Wilson, *supra* note 3, at 206. See, e.g., U.C.C. § 1-106(2) (2001) ("In [the Uniform Commercial Code], unless the statutory context otherwise requires: . . . (2) words of any gender also refer to any other gender.").

*her, or its*—when one pronoun or possessive adjective should suffice as a referent to either a female, a male, or a non-human noun or owner.

The masculine rule has also been avoided by a usage under which the plural pronouns “they,” “them,” and “their” are used to refer in the alternative to a singular female or male noun.<sup>27</sup> Although the singular “they” usage is preferable to application of the masculine rule,<sup>28</sup> that usage is nonetheless objectionable. Just as the third person singular pronouns “he,” “him,” and “his” should refer exclusively to a masculine noun and should not be used to refer to a male or female noun, so the third person plural pronouns “they,” “them,” and “their(s)” should refer exclusively to a plural noun and should not be used to refer to a singular antecedent noun. “No singular can be *they*.”<sup>29</sup>

Using the gender-neutral pronoun “it” as “a third person singular, sex-indeterminate referent”<sup>30</sup> is another objectionable technique for avoiding application of the masculine rule. Use of the third person pronoun “it” should be restricted as referring exclusively to a *thing* previously mentioned and should not be used in the alternative to refer to a human antecedent of unspecified sex. Just as “he,” “they,” and their satellite pronouns should not do double duty as pseudo-generics, so the neuter pronoun “it” should not be made to do double duty as referring both to inanimate and animate antecedents.

In addition to avoiding application of the masculine rule and the inaccurate use of the pronouns “they” and “it,” several of the newly-minted pronouns proposed below complement the under-inclusive body of existing pronouns by referring in the alternative to non-human as well as to male and female antecedents. Many of the pronouns proposed below refer to an indeterminate antecedent that might be female, male, or some non-human entity such as a business or governmental entity. Adoption of those proposed pronouns would cure several deficiencies in existing usages. A single pronoun could be used to avoid recourse to verbose and awkward phrases such as “he, she, or it,” “him, her, or it,” and “his, her, or its.” A genuinely generic pronoun could be used to avoid the inaccurate use of the pseudo-generics “he,” “him,” and “his” when the antecedent might be female or non-human as well as masculine. Several of the proposed pronouns would be used in substitution for the “singular they” when that pronoun has been used to refer to only one person or entity. Those same proposed pronouns would be used in substitution for “it” when that pronoun has been used to refer in the alternative to human as well as non-human antecedents.

#### A. CRITERIA ON WHICH THE PROPOSED REFERENT-INCLUSIVE PRONOUNS ARE BASED

Adoption of the referent-inclusive pronouns proposed below would complement the existing body of third person singular pronouns and pronominal

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27. Schweikart, *supra* note 3, at 8.

28. *Id.*

29. Lebovits, *supra* note 3, at 55.

30. Schweikart, *supra* note 3, at 8.

possessive adjectives. Crafting these proposed pronouns comports with Judge Richard Klein's suggestion that "we desperately need some new words in the modern English language . . . such as heshe or himher or hishers, or . . . shehe or herhim or hershis."<sup>31</sup> All of the new pronouns proposed below meet several criteria. They are inclusive in referring to antecedents that might be masculine or feminine, or to antecedents that might be masculine, feminine, or non-human. They do not have any double meanings. They are egalitarian in their composition, being composed of letters taken from existing female, male, and neuter pronouns. They are brief, being composed of as few letters as possible. And they should be easily comprehensible to the reader or addressee.

## B. PROPOSED REFERENT-INCLUSIVE PRONOUNS AND PRONOMINAL POSSESSIVE ADJECTIVES

### 1. *Proposed Subjective Pronouns*

**ee** /ē/ *pron.* [*third person singular*] used to refer in the alternative to a person of unspecified sex; he or she.

The proposed gender-inclusive pronoun "ee" would be used in substitution for the nominative pronoun "he" when that masculine pronoun is used to refer to a person of unspecified gender; "ee" is also used in substitution for "he or she," "s/he," and "they" (when "they" is used to refer to only one person of unspecified sex). Although there is presently no word in the English language consisting of two identical letters, the advantages of supplementing existing pronouns with a new third person singular pronoun having a clear definition outweigh any reservations about coining a word whose alphabetic composition is unprecedented and therefore somewhat startling to the uninitiated. As a matter of etymology, the word "ee" is formed by adding the letter *e* in the pronoun "he" to the letter *e* in the pronoun "she." "Ee" is preferable for its brevity in comparison with the phrases "she or he" and "he or she." "Ee" is preferable for its elegance in comparison with the clumsy "s/he" and "(s)he" constructs.<sup>32</sup> "Ee" is preferable for its clarity in comparison with the pronoun "they" when that plural pronoun is used to refer in the alternative to only one person of unspecified sex.<sup>33</sup> **Examples: (1)** "A natural person who manifests assent to a transaction has full legal capacity to incur contractual duties thereby unless [ee] is [incapacitated for one or more reasons]."<sup>34</sup> **(2)** "A person incurs only voidable contractual duties by entering into a transaction if by reason of mental illness or

31. Richard B. Klein, *Make It Brief*, 10 VERDICTS, SETTLEMENTS & TACTICS 363, 366 (Nov. 1990).

32. Lebovits, *supra* note 3, at 55 ("Inelegance includes the clumsy *s/he* . . . [and] *(s)he* . . .").

33. STRUNK & WHITE, *supra* note 3, at 60 (criticizing use of the plural pronoun "they" when referring to a single antecedent).

34. RESTATEMENT (SECOND) OF CONTRACTS § 12(2) (1981) ("A natural person who manifests assent to a transaction has full legal capacity to incur contractual duties thereby unless *he* is [incapacitated for one or more reasons].") (emphasis added).

defect . . . [ee] is unable to understand in a reasonable manner the nature and consequences of the transaction . . . .”<sup>35</sup>

**eet** / ēt/ *pron.* [*third person singular*] used to refer in the alternative to a person of unspecified sex or to an inanimate actor; he, she, or it.

The proposed referent-inclusive pronoun “eet” would be used in substitution for the pronouns “he” or “it” when one of those pronouns is used to refer either to a person of unspecified gender or to a non-human antecedent, such as a business, a corporation, or a governmental entity; “eet” would also be used in substitution for “he, she, or it,” “she, he, or it,” “he/she/it,” and “s/he/it.”<sup>36</sup> “Eet” is preferable to the pronoun “they” when that plural pronoun is used to refer in the alternative to only one person of unspecified sex or to one inanimate actor. As a matter of etymology, the word “eet” is formed by adding the letter *t* in the pronoun “it” to the proposed third person singular pronoun *ee*. “Eet” and the verb “eat” would be homophones. “Eet” would be used as a pronoun when the antecedent could be a male, a female, or a non-human entity. **Examples: (1)** “Unless otherwise agreed . . . the place for delivery of goods is the seller’s place of business or if [eet] has none [the seller’s] residence . . . .”<sup>37</sup> **(2)** “A manifestation of willingness to enter into a bargain is not an offer if the person to whom it is addressed knows or has reason to know that the person making it does not intend to conclude a bargain until [eet] has made a further manifestation of assent.”<sup>38</sup>

## 2. Proposed Objective Pronouns

**herim** / (hər-im)/ *pron.* [*third person singular*] used **1.** as the direct object of a verb: *An officer shall assist herim.* **2.** as the indirect object of a verb: *The officer may offer herim assistance.* **3.** as the object of a preposition: *The statute applies to herim; her or him.*

The proposed gender-neutral pronoun “herim” is the objective case of the proposed subjective pronoun “ee.” “Herim” would be used as a pronoun in substitution for the phrases “her or him” and “him or her.” “Herim” replaces the pronoun “him” when that masculine pronoun is used to refer to a person of unspecified sex. “Herim” also replaces the pronoun “them” when that plural pronoun is used to refer to only one person of unspecified sex. As a matter of etymology, the word “herim” is formed by adding to the letter *h* in the pronouns

35. *Id.* § 15(1)(a) (1981) (“A person incurs only voidable contractual duties by entering into a transaction if by reason of mental illness or defect . . . *he* is unable to act in a reasonable manner in relation to the transaction . . . .”) (emphasis added).

36. Lebovits, *supra* note 3, at 55 (“Inelegance includes the clumsy . . . s/he/it (think about this one) . . .”).

37. U.C.C. § 2-308(a) (1964) (“Unless otherwise agreed . . . the place for delivery of goods is the seller’s place of business or if *he* has none [the seller’s] residence . . . .”) (emphasis added).

38. RESTATEMENT (SECOND) OF CONTRACTS § 26 (“A manifestation of willingness to enter into a bargain is not an offer if the person to whom it is addressed knows or has reason to know that the person making it does not intend to conclude a bargain until *he* has made a further manifestation of assent.”) (emphasis added.)

“her” and “him” the letters *er* in “her” and the letters *im* in “him.”<sup>39</sup> “Herim” would rhyme with the first two syllables in the word “perimeter.” “Herim” is preferable for its brevity in comparison with the phrases “her or him” and “him or her.” Adoption of the gender-neutral pronoun “herim” would avoid application of the masculine rule, under which the objective pronoun “him” has been used to refer in the alternative to either a male or a female antecedent. **Example:** “If the consideration received by [an] infant has been dissipated by [herim], the other party is without remedy . . . .”<sup>40</sup>

**herimt** /hər-imt/ *pron.* [*third person singular*] used to refer in the alternative to a person of unspecified sex or to a non-human entity; him, her, or it.

The proposed referent-inclusive pronoun “herimt” is the objective case of the proposed subjective pronoun “eet.” The word “herimt” would be used in substitution for the phrases “her, him, or it” and “him, her, or it.” “Herimt” would be used in substitution of “them” when that plural pronoun is used to refer to only one person of unspecified sex. “Herimt” would also be used in substitution for “it” when that neuter pronoun is used to refer in the alternative either to a person of unspecified sex or to a non-human entity. As matter of etymology, the word “herimt” is formed by adding the *t* in the pronoun “it” to the proposed gender-neutral pronoun “herim.”<sup>41</sup> “Herimt” is preferable for its brevity to the phrases “her, him, or it” and “him, her, or it.” “Herimt” is also preferable for its clarity in comparison with “them” when that plural pronoun is used to refer in the alternative to only one person of unspecified sex or to one non-human entity. **Example:** “[I]f . . . delay [in communicating an offer] is due . . . to the means of transmission adopted by [herimt], . . . a contract can [still] be created by acceptance [in specified circumstances] . . . .”<sup>42</sup>

### 3. Proposed Reflexive Pronouns

**herimself** /hər'imsɛlf/ *pron.* [*third person singular reflexive*] used as the object of a verb or preposition to refer in the alternative to a person of unspecified sex as the subject of the clause; herself or himself.

The proposed gender-inclusive pronoun “herimself” is the reflexive case of the proposed objective pronoun “herim.” “Herimself” would be used in substitution for “themselves” when that plural reflexive pronoun is used to refer to only one person of unspecified sex. “Herimself” is used in substitution for the phrases “herself or himself” and “her- or him-self.” The word “herimself” is

39. As a matter of pronunciation, *herim* is preferable to *himer*, because a reader might assume *himer* rhymes with “timer” rather than “simmer.”

40. RESTATEMENT (SECOND) OF CONTRACTS § 14 cmt. c (“If the consideration received by the infant has been dissipated by *him*, the other party is without remedy . . . .”) (emphasis added).

41. Although English words ending in the letters “mt” are rare, the word “dreamt.” provides at least one example.

42. RESTATEMENT (SECOND) OF CONTRACTS § 49 (“[I]f . . . delay [in communicating an offer] is due . . . to the means of transmission adopted by *him*, . . . a contract can [still] be created [in specified circumstances] . . . .”) (emphasis added).



formed by adding the letters *self* in the pronouns “herself” and “himself” to the proposed objective pronoun “herim.”

**herimself** / hær-imt-self / *pron.* [third person singular reflexive] used as the object of a verb or preposition to refer in the alternative to a person of unspecified sex or to a non-human entity as the subject of the clause; herself, himself, or itself.

#### 4. Proposed Possessive Pronouns

**hisers** / 'hiz-ærz/ *possessive pron.* used to refer to a thing or things belonging to or associated with a person of unspecified sex previously mentioned; his or hers

The proposed possessive pronoun “hisers” is gender-inclusive. “Hisers” would be used in substitution for the phrases “his or hers” and “hers or his.” “Hisers” replaces “his” when that masculine possessive pronoun is used to refer to a thing or things belonging to or associated with either a male or a female subject. “Hisers” would also be used in substitution for “theirs” when that plural possessive pronoun is used to refer to a thing or things belonging to or associated with only one person of unspecified sex. As a matter of etymology, the word “hisers” is formed by adding the letter *h* in both of the possessive pronouns “his” and “hers” to the letters *is* in “his” and the letters *ers* in “hers.” “Hisers” would rhyme with the word “scissors.” **Example:** When a divorce decree awards marital property to one of the spouses, the property becomes *hisers*.

#### 5. Proposed Pronominal Possessive Adjectives

**hiser** / 'hiz-ær/ *possessive adj.* belonging to or associated with a person of unspecified sex previously mentioned or easily identified; his or her.

The proposed possessive adjectival modifier “hiser” is gender-inclusive. “Hiser” would be used in substitution for the phrases “his or her” and “her or his.” “Hiser” would be used in substitution for “his” when that masculine word is used as a possessive adjective to modify or describe a noun that belongs to or is associated with a person of unspecified sex. “Hiser” would also be used in substitution for “their” when that plural possessive adjective is used to modify or describe a noun that belongs to or is associated with only one person of unspecified sex. As a matter of etymology, the word “hiser” is formed by adding to the letter *h* in both of the possessive adjectives “his” and “her” the letters *is* in “his” and the letters *er* in “her.” “Hiser” would rhyme with the word “scissor.” **Example:** “Even though understanding is complete, [a person] may lack the ability to control [hiser] acts in the way that the normal individual can and does control them . . . .”<sup>43</sup>

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43. RESTATEMENT (SECOND) OF CONTRACTS § 15 cmt. b (“Even though understanding is complete, [a person] may lack the ability to control *his* acts in the way that the normal individual can and does control them . . . .”) (emphasis added).

**hiserts** /'hiz-ərtz / *possessive adj.* belonging to or associated with either a person of unspecified sex or a non-human entity previously mentioned or easily identified; his, her, or its.

The proposed possessive adjectival modifier "hiserts" is referent-inclusive. "Hiserts" would be used in substitution for the phrases "his, her, or its" and "her, his, or its." "Hiserts" would be used in substitution for the masculine possessive adjective "his" and the neuter possessive adjective "its" when either of those words is used to modify or describe a noun that belongs to or is associated with a person of unspecified sex or a non-human subject. **Example:** "A contract which does not satisfy the requirements of subsection (1) but which is valid in other respects is enforceable . . . if the party against whom enforcement is sought admits in [**hiserts**] pleading, testimony or otherwise in court that a contract for sale was made . . . ."<sup>44</sup>

#### IV. CONCLUSION

The simplest way to avoid application of the masculine rule and related objectionable linguistic usages in drafting legislation and other legal rules is to adopt several new referent-inclusive pronouns. Modern precedent supports this solution. The official *National Encyclopedia* of Sweden recently incorporated a new gender-neutral pronoun into the Swedish language. That new pronoun—"hen"—is to be used in place of the masculine pronoun "han" and the feminine pronoun "hon."<sup>45</sup> Incorporation into the English language of new referent-inclusive pronouns such as those proposed above can be expected to achieve results comparable to the results that accompanied the recent incorporation into the English language of the word "Ms." as "a title used before the surname or full name of any woman regardless of her marital status (a neutral alternative to Mrs. or Miss) . . . ."<sup>46</sup> Like the new pronouns proposed in this article, "Ms." was formed by adding to the letter "M" in the titles "Mr.," "Mrs.," and "Miss" the letter "s" from the feminine titles "Mrs." and "Miss."

Adoption of such referent-inclusive pronouns as those proposed in this article would put an end to the masculine rule and avoid recourse to several of the clumsy or inaccurate usages that have been employed to avoid application of that rule. The proposed gender-neutral pronouns make the masculine rule obsolete. Unlike the "singular they" and the pseudo-generic "it," the proposed referent-inclusive pronouns would be accurate referents "to someone or something mentioned elsewhere in the discourse . . . ."<sup>47</sup> Use of the proposed

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44. U.C.C. § 2-201(3)(b) (2011) ("A contract which does not satisfy the requirements of subsection (1) but which is valid in other respects is enforceable . . . if the party against whom enforcement is sought admits in *his* pleading, testimony or otherwise in court that a contract for sale was made . . . .") (emphasis added).

45. Lindy West, *Sweden Introduces New Gender-Neutral Pronoun, Makes Being a Man ILLEGAL*, JEZEBEL (Apr. 11, 2013, 1:35 PM), <http://jezebel.com/sweden-introduces-new-gender-neutral-pronoun-makes-bei-472492079>.

46. THE NEW OXFORD AMERICAN DICTIONARY 1111 (2d ed. 2005).

47. *Id.* at 1357 (providing an alternative definition of "pronoun").

new pronouns is intended to complement rather than to supplant several of the existing techniques for avoiding application of the masculine rule. Those mitigating techniques include using plural antecedent nouns that agree with plural pronouns,<sup>48</sup> avoiding the use of a pronoun,<sup>49</sup> repeating the noun,<sup>50</sup> substituting generic nouns for gendered nouns<sup>51</sup> and using the generic pronouns “you”<sup>52</sup> or “one”<sup>53</sup> when appropriate. The proposed pronouns are, however, intended to be used in substitution for several of the other techniques that have been employed to avoid application of the masculine rule: Using two (such as “he or she”) or three (such as he, she, or it) pronouns when one should suffice; using plural pronouns (such as they, them, and theirs) to refer to singular antecedents; using the bloodless pronoun “it” to refer to human antecedents; and applying the “two-way rule”<sup>54</sup>

Despite recent expressions of legislative commitment to the policy of avoiding gender bias in statutory drafting, the masculine rule too often continues to be applied in drafting legislation.<sup>55</sup> The masculine rule would not survive adoption of the gender-neutral pronouns proposed in this article. Until use of those proposed pronouns becomes commonplace, drafters of legislation, regulations, and other legal rules should include a preliminary glossary defining those pronouns for the uninitiated reader or addressee. Adoption of many of the proposed pronouns would avoid application of certain other objectionable usages, such as using the plural pronouns “they,” “them,” and “theirs” in referring to a singular person or thing, and using the impersonal pronoun “it” in referring to human antecedents.

Legal writers should exploit the opportunity to avoid gender-biased language and other objectionable linguistic usages that adoption of the new pronouns proposed in this article would afford. Experience indicates that

48. STRUCK & WHITE, *supra* note 3, at 60 (preferring “Writers must address their readers’ concerns” to “The writer must address his readers’ concerns”); Lebovits, *supra* note 3, at 65 (“*Make the antecedent plural*”)(emphasis in original).

49. STRUNK & WHITE, *supra* note 3, at 60 (preferring “The writer must address readers’ concerns” to “The writer must address his readers’ concerns”); Lebovits, *supra* note 3, at 65 (“*Rephrase to eliminate the pronoun*”)(emphasis in original); Wilson, *supra* note 3, at 204.

50. Lebovits, *supra* note 3, at 55 (“Repeat the noun to avoid gendered writing.”); Schweikart, *supra* note 3, at 7 (gender neutrality achieved by “replacing pronouns with nouns”); Wilson, *supra* note 3, at 204.

51. *Id.* at 65 (“Use “*anyone, human, people, person, [or] someone . . .* for nouns like *man* and *woman*”)(emphasis in original).

52. STRUNK & WHITE, *supra* note 3, at 61 (preferring “As a writer, you must address your readers’ concerns” to “The writer must address his readers’ concerns”).

53. Lebovits, *supra* note 3, at 65 (preferring “To go boldly where no one . . . has gone before” to “*where no man*”)(emphasis in original).  
has gone before).

54. Wilson, *supra* note 3, at 206 (under the ‘two-way rule,’ “either the masculine or feminine words could be used to include the other sex”). See, e.g., U.C.C. §1-106(2) (“In [the Uniform Commercial Code], unless the statutory context otherwise requires . . . words of any gender also refer to any other gender.”).

55. Williams, *supra* note 3, at 153 (“the discrepancy in certain legislative bodies between the pledge to draft along gender-neutral lines and the reality of the texts actually drafted—which frequently contained instances of the masculine rule—was the result of a certain sluggishness or reluctance on the part of such bodies to apply the principles of gender neutrality.”).

existing techniques for avoiding the masculine rule have failed to achieve those results. The simplest way to ensure gender neutrality and greater accuracy in the use of third person pronouns and pronominal possessive adjectives is to accept the proposition that the English language must be expanded to include a new set of such pronouns such as those proposed in this article.