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UNITED STATES DISTRICT COURT

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DISTRICT OF MAINE

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LAURIE CHADWICK,

)

CIVIL ACTION

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Plaintiff,

)

Docket No. 07-CV-70-DBH

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v.

)

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WELLPOINT, INC.,

)

8

and

)

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ANTHEM HEALTH PLANS OF
MAINE, INC.,

)

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Defendants.

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DEPOSITION of MARY STILL, taken pursuant to

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notice dated October 22, 2007, at the law offices of

15

Pierce Atwood, LLP, One Monument Square, Portland, Maine, on

16

November 2, 2007, commencing at 10:15 a.m., before Cindy

17

Packard, Registered Diplomate Reporter, a Notary Public in

18

and for the State of Maine.

19

20

APPEARANCES:

21

For the Plaintiff:

Matthew S. Keegan, Esq.

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For the Defendants:

Margaret Coughlin LePage, Esq.

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1 STIPULATION

2 It is hereby agreed by and between the parties
3 that signature is not waived.

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5 MARY STILL, having been duly sworn by the Notary
6 Public, was examined and deposed as follows:

7 EXAMINATION

8 BY MS. LEPAGE:

9 Q Could you please state your name for the record?

10 A Mary Still, S-T-I-L-L.

11 Q Where do you reside?

12 A Ithaca, New York.

13 Q And you've been designated in this case as the
14 plaintiff's expert; is that correct?

15 A Yes.

16 Q How should I address you?

17 A Mary is fine with me.

18 Q Whatever you're comfortable with.

19 A Do you prefer she calls me Dr. Still?

20 MR. KEEGAN: No.

21 Q (By Ms. LePage) Dr. Still, Professor Still?

22 A Mary is fine.

23 MR. KEEGAN: Mary makes it a lot more
24 comfortable, always prefer that, too.

25 Q (By Ms. LePage) Okay. Have you ever had your

1 deposition taken before?

2 A No, I don't believe I have had a deposition. I guess I
3 would remember that.

4 Q I'm sure Matt, Laurie Chadwick's attorney, has
5 explained a little bit what a deposition is all about?

6 A Uh-huh.

7 Q I'm going to be asking you a series of questions, and
8 then you will give answers to the questions. You need
9 to make sure that when you give me an answer that you
10 do so verbally so that the court reporter can take it
11 down. Right now you're nodding your head which is
12 fine. When you need to give an answer --

13 A Okay.

14 Q -- you need to say yes or no. If I ask you a question
15 that you don't understand, please let me know.

16 A Okay.

17 Q And I'll attempt to rephrase it. If you answer the
18 question without asking me to rephrase it, I'll assume
19 that you understand what I'm asking you.

20 Is there any reason why you can't testify
21 truthfully or effectively today?

22 A No.

23 Q I want to ask you just a few questions about your
24 background. I understand you have a Ph.D.; is that
25 correct?

- 1 A Yes.
- 2 Q And when did you receive the Ph.D.?
- 3 A Officially, May, 2007. I completed all my requirements
- 4 previous to that, but they only award it on twice a
- 5 year, so --
- 6 Q Was that through Cornell?
- 7 A Yes.
- 8 Q What was the area --
- 9 A Sociology.
- 10 Q The other ground rule is I have to get my question out
- 11 completely before you start answering.
- 12 A Okay.
- 13 Q So the court reporter can take both my question and
- 14 your answer.
- 15 A Okay.
- 16 Q Sociology. And you had a dissertation as part of that
- 17 Ph.D.; is that right?
- 18 A Yes.
- 19 Q What was the topic for your dissertation?
- 20 A The topic was on organizations' adoption of different
- 21 types of policies and practices, one of which being
- 22 work family practices, and the other being the
- 23 internet.
- 24 Q What do you mean by work family practices?
- 25 A Specifically, the practice I studied was flexible

1 scheduling, the adoption of flexible scheduling, why
2 companies adopted or didn't adopt that practice.

3 Q What did you conclude?

4 A I concluded that most companies were extremely reticent
5 to adopt flexible scheduling, even amongst my sample
6 which was the Fortune 100, which one would think would
7 be a group of companies very responsive to social
8 problems and, you know, demographic change.

9 And other conclusions were sort of characteristics
10 of companies that made them more likely to adopt these
11 practices, things like being a larger company, being a
12 more successful company. These were things that made
13 them more likely to consider doing this.

14 Q Did the demographics of the employees make a difference
15 and whether they were reticent or receptive?

16 A Well, in other work that I've done, my sample, I was
17 not able to get a full percentage of women in the
18 company and whether that predicted, but in other work
19 that I've done, I found that there is -- they're more
20 likely, the greater the number of women there are in
21 their work force, the more likely to try to accommodate
22 women.

23 Q Going back to your educational background, you also
24 have a master's degree; is that right?

25 A Yes.

1 Q And that is also in sociology?

2 A Yes.

3 Q Where was your undergraduate?

4 A University of Virginia.

5 Q And was your major sociology?

6 A No, it was English.

7 Q Okay. And what is your current position?

8 A My current position is I'm a post doctoral fellow. I
9 have a research faculty appointment at Cornell in the
10 Institute for the Social Sciences.

11 Q Are you teaching?

12 A Not this semester. I will be next semester in the
13 School of Industrial Labor Relations.

14 Q Are you conducting research now?

15 A Yes.

16 Q And what type of research are you conducting?

17 A A lot of different research, but the research -- the
18 funding from Cornell and the National Science
19 Foundation right now is research related to an area of
20 expertise that I have in social networks, which is sort
21 of the study of social relations and outcomes related
22 to people's connections to one another or companies'
23 connections to one another.

24 And in addition to that research, I'm also
25 continuing the research that I was doing at American

1 University on what we refer to as family caregiving
2 responsibility lawsuits.

3 Q Family caregiving responsibility lawsuits?

4 A Technically, the term that we've come up with is family
5 caregiver responsibilities lawsuits, FRD for short.
6 But they used to be referred to in the media and such
7 as maternal wall lawsuits.

8 But we have found -- we have cases that we've
9 found that involve men, that involve people caring for
10 family members other than children, so we felt that we
11 needed to broaden that terminology to reflect sort of
12 the changing demography of this issue.

13 Q So in the course of that work, you've discovered that
14 discrimination based on caregiving is not limited to
15 women; is that right?

16 A Yes.

17 Q You made a reference to your work at AU as involving
18 family caregiver responsibility lawsuits, are they
19 actively involved in lawsuits?

20 A "They" being American University?

21 Q Yes.

22 A No, this was -- we were -- I was at -- we were
23 specifically a, you know, research sort of policy
24 center, not involved in doing any kind of litigation or
25 anything like that.

1 I mean, the closest I would say that the actual
2 attorneys there at the center were -- had things like
3 for instance an attorney network where if attorneys
4 called wanting advice about how to -- how to deal with
5 these cases that didn't seem to -- initially didn't
6 seem to fit the prescribed, you know, law, they helped
7 them with that process.

8 So as -- that's as close I would guess you would
9 say they would get to any kind of actual dealing with
10 any lawsuits.

11 Q So they don't get into funding of litigation?

12 A No.

13 Q Or --

14 A No.

15 Q Providing testimony or research for the lawsuit?

16 A I don't believe, no, I don't believe anybody has -- I'm
17 the first -- I guess I'm the first person to have
18 provided testimony or to have been an expert witness.

19 Cynthia Calvert is the deputy director. She is a
20 practicing employer side, employment side attorney,
21 so -- with a separate practice. So she is, you know,
22 on the other side of the fence as it were. So she's
23 involved in her own practice, but that's separate from
24 anything with Work Life Law.

25 So I think one of the key distinctions is we were

1 at an academic -- in an academic institution, first of
2 all, so we had some funding from them. But largely we
3 were funded by the Alfred P. Sloan Foundation, which is
4 a very mainstream foundation that, you know, Alfred P.
5 Sloan, as you probably know, he was once, you know, CEO
6 of General Motors. And so the foundation is extremely
7 concerned with producing research and solving problems
8 in the workplace by working within the system that
9 exists.

10 Q And you mentioned Cynthia Calvert, she's the deputy
11 director of the Work Life --

12 A Law. Work Life Law.

13 Q Law foundation or Work Life --

14 A Center for Work Life Law. The name has changed a few
15 times, but that's currently what it is.

16 Q And does the center also provide support for employers?

17 A Yes.

18 Q And what kind of support?

19 A Basically, it would be, you know, counsel just the same
20 as it would be to attorneys. Oftentimes I guess
21 internal, what would be corporate counsel, they would
22 work with corporate counsel on sort of informing them,
23 keeping them abreast of, you know, cases and changes in
24 the law. And they've done I know several sort of
25 sessions with various companies, you know, in educating

1 them about these developments.

2 I think there's, you know, some concern obviously
3 for protecting companies from liability internally. So
4 Work Life Law sees itself very much as an intermediary
5 that provides objective, you know, scientifically based
6 research that everyone can make use of to work through
7 these issues with the ultimate goal of being, you know,
8 having a better, more fair workplace environment.

9 Q So I think you said this in your answer, but this is
10 the first time you've been an expert witness; is that
11 right?

12 A Yes.

13 Q Have you ever been retained as an expert, but not
14 testified?

15 A No. Sorry.

16 Q I'm sorry?

17 A I was asked to, and the case -- and I was asked to do
18 some statistical analysis, and -- but the case was
19 settled before it went to court.

20 Q Do you have a background in statistical analysis?

21 A Yes.

22 Q Have you been asked to do any statistical analysis in
23 this case?

24 A No.

25 Q Are there any treatises or books that you would

1 consider to be leading authorities on issues involving
2 sex stereotyping in the workplace?

3 A Yes. The 2002, I believe the year is, Joan Williams,
4 "Unbending Gender." And then her -- I guess the years
5 I'm going to -- somewhere, 2002, 2003, Joan Williams
6 and Nancy Segal, S-E-G-A-L. Do I need to spell names?

7 Q She will probably ask at a break, but it's helpful if
8 you would spell them.

9 A Wrote an article in the Harvard Women's Law Journal
10 that really spelled out the connections between sex
11 discrimination and discrimination against mothers or
12 family caregivers.

13 Q You produced this morning in response to your subpoena
14 a manila folder with a few documents in it. Are these
15 the sum total of the communications or documents
16 relating to the communications that you've had with
17 plaintiff's counsel?

18 A Yes. There was one email in which I sent Matt my CV
19 and I -- unfortunately, I was on vacation on my laptop
20 and using my email, you know, service that doesn't save
21 those messages. So it was just, you know, here's my
22 CV, and my CV was attached.

23 Q How many -- on how many occasions have you had either
24 telephone or in person communications with counsel for
25 the plaintiff?

1 A I believe -- in terms of conversations, I believe it's
2 three conversations.

3 Q To the best of your memory?

4 A To the best of my memory, and then, you know, we've
5 called, you know, I'll be there at this time and just
6 done those kinds of, but three --

7 Q Substantive?

8 A -- substantive conversations, yes.

9 Q When was the first one?

10 A I'm not sure, I'm sorry, I think it was -- was it June?
11 I know I was on vacation for the second one, that was
12 August.

13 Q Okay. So sometime --

14 A July.

15 Q -- before August was the first one?

16 A Yes.

17 Q Who did you speak to in the first conversation?

18 A Matt is the only person I've spoken with.

19 Q Matt Keegan?

20 A Matt Keegan, yes.

21 Q What did he tell you about the case in that
22 conversation?

23 A In the first conversation?

24 Q Yes.

25 A I have to remember these exactly the timing. The first

1 conversation, he told me that he had a client who
2 was -- had been passed up for a promotion who believed
3 that her -- the fact that she had children and a number
4 of -- quite a few children, had had -- been part of the
5 decision.

6 Let's see, what else did he tell me in that
7 conversation. He told me about her -- he laid out a
8 little bit of, you know, who made the hiring decision
9 and just sort of the narrative of what actually
10 occurred from I presume her point of view.

11 And mentioned the comment about that -- I believe
12 it was the woman who eventually made the hiring
13 decision, about when she learned that she had triplets,
14 made the comment, "bless you."

15 Q Is that significant to you?

16 A Yes.

17 Q Why?

18 A It indicates that -- it indicates her -- it's revealing
19 about what her sort of world view and expectations are
20 in regard to -- in regard to Laurie. Should I refer to
21 her by her first name or does it not matter or --

22 Q I think it would be helpful to refer to her by her
23 first name --

24 A All right.

25 Q -- for the record.

1 A So to me, again, and this is from a perspective of
2 having -- of being immersed in the literature that
3 speaks to these issues around discrimination, it
4 indicates someone who says "bless you," is essentially
5 saying you poor thing, you have a lot of work, that
6 must be really difficult for you.

7 You know, sort of the implication is that you're
8 maybe burdened or potentially overwhelmed by having
9 triplets.

10 And the assumptions, the implicit assumptions
11 there are that she is, you know, based on stereotypes
12 that we have that she is the primary caregiver.

13 It would be if the supervisor felt, you know, had
14 a world view in which men did half -- at least half the
15 work, or it was very likely or very possible that her
16 husband was a stay at home husband, or there was a
17 nanny involved, something like that, I doubt the
18 response would have been "bless you."

19 Q So you can read all that into two words without having
20 heard the person's actual explanation for why she used
21 those words?

22 A Yes. And hearing the person's explanation could be
23 revealing as well. But however, what the research also
24 shows is that people tend to sort of rationalize or
25 maybe try to cover up any biases they might have. So

1 it wouldn't surprise me if, you know, someone had an
2 explanation for saying that that had nothing to do with
3 what it appears to imply.

4 Q So whatever the explanation was, you would discount it
5 as being a rationalization for the comment?

6 A I would -- I'd have to -- I would, you know, would want
7 to -- it would be nice to know what it was. I would
8 be -- I would -- I would treat it as a -- potentially a
9 rationalization.

10 Q Regardless of what it was?

11 MR. KEEGAN: Objection.

12 Q (By Ms. LePage) You may answer.

13 A Yes.

14 Q Anything else you learned about the case from Matt
15 Keegan during that first conversation?

16 A I think, you know, just I learned -- I learned about
17 just the details -- I think of some of the details of
18 her job just in terms of she had been, you know,
19 certain -- she had been I think in sort of more a line
20 position, and this was more of a leadership position.

21 And at this point, my interpretation of our
22 conversation at this point was him wanting to explore
23 the possibilities that this was potentially going on in
24 the case, that discrimination based on her status of
25 motherhood with a potential explanation.

1 So I felt like it was very preliminary at this
2 point, I mean, I certainly didn't feel upon completing
3 that call that this was, you know, hands down -- that
4 was the only comment at that point that I recall him
5 mentioning. So at that point -- that's to me, it
6 indicated from the research that I've seen and all the
7 lawsuits, 1,200, over 1,200 lawsuits we've collected,
8 that that would be definitely a red flag. And
9 that's -- at that point that's where we were, I think.

10 Q What would be a red flag?

11 A The comment that was made.

12 Q The one comment, "bless you"?

13 A Uh-huh.

14 Q When was the next time you talked to Matt Keegan?

15 A I believe that was in August when I was on vacation. I
16 actually have this in my -- in my calendar at home.
17 Back in my office, but -- the dates.

18 Q What do you have in your calendar?

19 A Just that I spoke with him.

20 Q What did you learn about the case in that conversation?

21 A That conversation was about -- actually was about my --
22 about him preparing some kind of, you know, a statement
23 that I would make about this area of research and what
24 I know about, you know, the literature related to
25 stereotyping against mothers.

1 So that was specifically to go through, you know,
2 the statements that we had discussed on the phone, you
3 know, the things -- the social science that I sort of
4 imparted on the first conversation. And you know, then
5 he sort of formalized that.

6 And then we discussed which things were accurate
7 representations and which things -- and which were
8 supported by social science research and which I did
9 not feel were supported by.

10 Q Did he share with you a draft document?

11 A Yes.

12 Q What was the document?

13 A The document was very similar to what this is, you
14 know, a list of --

15 Q Can I see what you're looking at?

16 A Yeah, this is just -- what is that called, the notice
17 of expert designation or something like that.

18 Q As I'm looking at it, it's a letter dated August 20,
19 2007, to me?

20 A Right.

21 Q From Matt Keegan; is that right?

22 A Uh-huh.

23 Q Okay. So he sent that to you in advance?

24 A Yes.

25 Q And is the handwriting yours?

1 A Oh, this is just from -- this is just me going through
2 this last night, this was not anything I did at the
3 time. Actually, so that document that he sent me at
4 the time which was a draft, again, I was working on my
5 laptop on vacation, and so I don't -- you know, I
6 discussed it with him, pulled it up on my computer
7 screen, discussed it with him, and don't have that
8 draft version of it.

9 MS. LEPAGE: Could I mark an exhibit?

10 (Still Deposition Exhibit Number 1 was marked for
11 identification.)

12 Q (By Ms. LePage) I'm going to hand you what's been
13 marked as Still Deposition Exhibit Number 1, ask you to
14 look at it?

15 A Okay.

16 Q I think I gave you the wrong one.

17 MR. KEEGAN: I'm glad I'm not the only one
18 that does that, Meg. I always mark my copy.

19 MS. LEPAGE: I didn't write on it, but I did
20 highlight it. Can we do this again? Sorry about that.
21 (Still Deposition Exhibit 1 is remarked.)

22 Q (By Ms. LePage) I'm handing you again what's been
23 marked as Still Deposition Exhibit Number 1, ask you to
24 look at it, see if you can identify it?

25 A Do I -- yes, I identify it as what I was sent by Matt

1 Keegan.

2 Q This is the finalized version of what you were just

3 referring to that you were discussing?

4 A Yes.

5 Q So did you send him any draft --

6 A No.

7 Q -- to prepare this?

8 A No. I did not.

9 Q So as far as you know, Matt prepared the letter, and

10 then you reviewed it?

11 A Yes.

12 Q What else did he tell you about the case in this

13 conversation in August?

14 A I'm trying to remember if he told me there were --

15 mostly, again, it was going through the social science.

16 Trying to remember what else.

17 Q Did he tell you anything about the facts of the case as

18 he understood them?

19 A I don't believe he added additional facts at that

20 point. I guess I should take better notes or take

21 notes in these conversations. I'm trying to remember.

22 Q Were you given any documents that --

23 A No.

24 Q Any documents to review?

25 A No, I wasn't.

1 Q Have you today been given any documents?

2 A No, I have not.

3 Q So you haven't seen the complaint?

4 A No, I have not.

5 Q Have you read any depositions in this case?

6 A No, I have not. If I could look at my notes that I
7 gave to you, I might be able to remember. We spoke
8 yesterday, and he told me some additional things that I
9 didn't know, which is the second --

10 Q Okay.

11 MS. LEPAGE: Let me, just so the record is
12 clear, get copies of this, and then we can talk about
13 your notes.

14 (Recess at 10:44 a.m., to 10:46 a.m., after which the
15 following proceedings transpired.)

16 Q (By Ms. LePage) We'll come back to the notes in a
17 minute. I understand the second conversation occurred
18 sometime in August before the letter regarding your
19 opinion was sent to me?

20 A Yes.

21 Q And in that conversation, he may -- Matt may have told
22 you more about the case?

23 A I'm thinking there was an additional detail that he
24 might have mentioned in that conversation. And I
25 just -- I think if I look at my notes, it might jog my

1 memory.

2 Q Okay. Then you had a third conversation; is that
3 right?

4 A Yes. I'm sorry, I was just going to say, I do -- we
5 talked in the first conversation about performance
6 issues related to Laurie. Whether that -- obviously,
7 that would be important in determining potential
8 alternative explanations for why someone may have been
9 passed over for promotion.

10 And I do recall him saying that she was actually
11 asked to apply for the job, I believe, had gotten very
12 good -- had gotten excellent performance evaluations.
13 And told me the details, she had triplets, and she had
14 four children, and the ages of her children.

15 Q Did he tell you anything about the performance of the
16 person who was selected for the job?

17 A Not in that initial conversation that I recall. We did
18 discuss that yesterday, though.

19 Q Did he tell you anything -- did he tell you anything
20 about how well Laurie Chadwick interviewed during her
21 interviews for the promotion?

22 A Yes, he did. And he told me that -- we discussed that
23 on two separate occasions, one of which being
24 yesterday. And he had mentioned it more summarily
25 earlier in either the first or second conversation we

1 had, in which he said that -- something to the effect
2 that they were claiming that she had not done very well
3 in the interviews.

4 Q And if in fact she had not done well in the interviews,
5 do you think that's a legitimate factor for not
6 selecting an applicant for promotion?

7 A In and of itself, it would depend on other -- I mean,
8 other, you know, the other -- you could do terribly in
9 an interview if the other person has a lot less
10 experience and still get the job. So it's all
11 contingent, I think, but it would be surprising from an
12 organizational standpoint to --

13 (Recess at 10:49 a.m., to 10:55 a.m., after which the
14 following proceedings transpired.)

15 MS. LEPAGE: Can you read back where we were?
16 (Question appearing on Page 23, Lines 4 to 6, was read
17 back.)

18 MR. KEEGAN: Do you want her to answer that
19 question?

20 Q (By Ms. LePage) Have you given a complete answer to
21 that question?

22 A I think I was in the middle of it.

23 Q Okay.

24 A So I think I said basically that it would be -- it
25 would be contingent on other factors, I mean, the other

1 candidates, any number of things. But that it would
2 surprise me for -- it would surprise me at an
3 organizational level for a company to make a hiring
4 decision strictly on an interview when they have a lot
5 of information, if you have an internal candidate, you
6 have a long -- you know, you have a lot of information
7 at your disposal to be able to make a good decision,
8 more so than when you're just hiring from the outside.

9 So however, knowing what I know about human
10 tendencies and interactions, it wouldn't surprise me
11 that an interview with someone that didn't go well
12 where there wasn't -- you didn't feel comfortable with
13 the candidate for whatever reason, you know, there's a
14 lot of research about people preferring people in their
15 own group, you know, people who are similar to them.

16 And so if that -- if those dynamics don't work,
17 then people -- I can see people making a hiring
18 decision based on that intuition, but oftentimes, you
19 know, they would couch it in some other explanation.

20 Q Let me ask the question again. Is it your testimony
21 that it would be a legitimate factor for an employer to
22 take into consideration in making a promotion decision
23 how well the applicant did in an interview?

24 A Yes. It would be a legitimate factor.

25 Q And do you know as you sit here today whether or not

1 the employer in this case, WellPoint, or sometimes
2 referred to as Anthem, took into consideration factors
3 in addition to how Laurie performed during the
4 interview?

5 A Okay. Are you asking -- I know everything through Matt
6 Keegan about this case, obviously. So are you asking
7 me, did he tell me about --

8 Q What's your assumption about what the employer took
9 into consideration in making the decision not to
10 promote Laurie Chadwick?

11 A My assumption is that the employer took into
12 consideration her status as a mother.

13 Q You're assuming that for purposes of your opinion?

14 A I'm sorry, I don't understand the question. I'm
15 assuming that for purposes of my opinion?

16 Q Are you assuming that the company took into
17 consideration Laurie Chadwick's status as a mother in
18 making the promotion?

19 A I'm assuming that based on what I've been told about
20 the case and what I know about these kinds of hiring
21 decisions and evaluations in the work world and in --
22 through social science research.

23 Q So based on what Matt Keegan has told you, and then
24 your own unrelated I assume academic training and
25 education, you've formed an opinion that Laurie

1 Chadwick's status as a mother was the reason that she
2 was not promoted?

3 MR. KEEGAN: Objection.

4 THE DEPONENT: I would say I formed the
5 opinion that it was a significant factor which is not
6 to say that other factors didn't play a part, but given
7 the information I have, it appears very strongly to me
8 that it was a significant factor.

9 Q (By Ms. LePage) So tell me all the information --

10 A Okay.

11 Q -- that you have about this case that makes you
12 conclude that this --

13 A Okay.

14 Q Her status as a mother was a significant factor in the
15 promotion decision?

16 A Okay. So the initial piece of evidence about, you
17 know, the red flag about "bless you," in terms of, you
18 know, you have triplets, it means, you know, you
19 have -- you're doing a lot. You're overwhelmed. That
20 was the initial piece of evidence that certainly would,
21 you know, lead me to suspect it might have played a
22 role.

23 Then the information about the fact that she had
24 been -- had been -- had received excellent evaluations,
25 performance evaluations, and had been asked to apply

1 for -- had been suggested as a good candidate for the
2 job.

3 And then the outcome which, you know, she was
4 surprised about having been asked to apply for the job,
5 and knowing the additional pieces of information which
6 Matt told me about, and the sequence of which I'm not
7 totally sure, but I do know he told me about the
8 comment in -- when she was told she was not going to
9 get the position, the comment that was made by I
10 believe the hiring decision maker that they felt,
11 "they" being supervisors or whomever, that she had a
12 lot on her plate with these, you know, with her
13 children and her school.

14 And then finally, which -- the piece of
15 information which Matt told me yesterday about the
16 woman I guess above the supervisor who indicated -- who
17 in the interview setting, you know, clearly -- it's
18 clear from her comment about you're a mother, that
19 mothers -- her status as a mother was a salient
20 feature.

21 Q I'm not following you on this. What did Matt tell you
22 that the superior said --

23 A Asked her about how she would handle a particular
24 situation. And then when she responded, said something
25 to the effect of oh, you're a mother, you know -- I

1 can't remember the exact words, but would you let your
2 children get away with not picking up their toys or
3 something to that effect.

4 That to me is, you know, very concrete evidence
5 that her status as a mother was an important cognitive
6 factor when this particular supervisor was interacting
7 with her.

8 Q Would you think that's an important factor if in fact
9 the comment never happened?

10 MR. KEEGAN: Objection. You can answer.

11 THE DEPONENT: If -- okay. So the question
12 is, if the comment never happened, would the fact that
13 she was considering her status as a mother be
14 significant?

15 Q (By Ms. LePage) No.

16 A Okay.

17 Q Let's assume that when Laurie Chadwick alleged that the
18 supervisor made this comment in the interview about her
19 status as a mother, that testimony is false?

20 A Okay.

21 Q Would that change your opinion?

22 A Not -- no, not just the removal of that one piece of
23 information.

24 Q And let's assume that in fact the testimony about the
25 reasons for the promotion that you were given by Matt

1 were in fact inaccurate, would that change your
2 testimony?

3 MR. KEEGAN: Objection.

4 THE DEPONENT: The comments that the
5 supervisor made in telling her she didn't get the job?

6 Q (By Ms. LePage) Yes.

7 A So you're saying, we now have -- the hierarchy here, we
8 have now neither of those?

9 Q Yes.

10 A It would be -- it would be a more difficult -- less
11 clear -- I guess I would feel less certainty that that
12 was absolutely the cause if there were -- if in fact
13 these comments -- these two comments were never made.

14 Again, I still -- I still think that the "bless
15 you" and the fact that she had been a good performer,
16 things like that, raise questions.

17 Q Okay. What were you told about the performance of the
18 person who was selected for the position?

19 A I was told that it was good, although slightly lower
20 than Laurie's.

21 Q That is significant to you?

22 A Yes.

23 Q Why?

24 A Because again, past information, past performance is
25 the best indicator a manager can bring into a decision.

1 And two differing evaluations, one which is much -- or
2 I don't know exactly the degree to which it was
3 stronger, but it was clearly -- from what I understand,
4 clearly stronger than the other candidate's, would lead
5 you to think that in the rational -- the rationalized
6 world of companies and bureaucracy, that the decision
7 would be in favor of the person with the better past
8 performance.

9 Q Do you have any idea as you sit here today what the
10 past performance was based upon and who made the
11 evaluations of the past performance?

12 A Of the two different candidates?

13 Q Yes.

14 A I've just been told that both were good, that the --
15 Laurie's was better than the other candidate's.

16 Q But you weren't told what the data was upon which they
17 were reviewed?

18 A The data in terms of the actual criteria that were a
19 part of it or the scores or that kind of thing?

20 Q What were you told about what the review evaluated and
21 who did the evaluations?

22 A I was -- I was told -- I mean, in terms of what it
23 evaluated, I think that there's the assumption that it
24 evaluated their performance in their jobs. I mean, in
25 their, you know, in the past -- I believe it was

1 probably an annual review, but I don't think we
2 clarified that.

3 I was told that -- I think Matt Keegan was not
4 sure of the exact numerical scores, but that Laurie
5 Chadwick's were higher than the other candidate's.

6 In terms of who did the evaluations, I believe,
7 and I think my notes indicate that the other candidate
8 had worked before with the hiring supervisor, but I'm
9 not completely sure about that. So that's the extent
10 of what he told me about the performance.

11 Q So you don't know whether the hiring supervisor had any
12 participation in the performance reviews?

13 A No, I don't recall that.

14 Q And if the performance reviews were actually completed
15 by somebody else --

16 A Uh-huh.

17 Q -- does that affect your analysis as to their
18 relevancy?

19 MR. KEEGAN: Objection.

20 THE DEPONENT: No, it doesn't. Again, if in
21 the way that companies try to structure performance
22 reviews and try to structure promotion decisions is as
23 objective processes, rational, objective processes,
24 based on performance.

25 And so in a company where performance evaluations

1 are actually meaningful and are regarded as actually
2 legitimate, then to me, it wouldn't -- it wouldn't
3 matter if the supervisor -- the given supervisor hiring
4 had actually done that evaluation or if it were another
5 supervisor, assuming that they're all trained in how to
6 objectively measure and evaluate people. I mean, I
7 know in some organizations, performance evaluations are
8 not regarded as very good indicators.

9 Q (By Ms. LePage) And you don't know in this case --

10 A No, I don't.

11 Q -- whether or not these performance evaluations were
12 good indicators?

13 A No, I do not.

14 MR. KEEGAN: Objection.

15 Q (By Ms. LePage) And you don't know in this case
16 whether the person doing the performance evaluations
17 had any actual contact with the individuals that were
18 being reviewed?

19 A No, I do not.

20 Q And in fact, if the hiring manager had more opportunity
21 to observe the performance of the two candidates for
22 the promotion than the person doing the performance
23 evaluation had, would you agree with me that the hiring
24 manager would have a better sense of those candidates'
25 performance?

1 MR. KEEGAN: Objection.

2 THE DEPONENT: That's actually a tricky
3 question to answer given what I know in the sense that
4 there's evidence that -- in the social sciences that
5 when people hold stereotypes against others that they
6 essentially cannot evaluate those people's performance
7 objectively.

8 So if in fact the hiring supervisor held these,
9 you know, implicit or explicit stereotypes about
10 Laurie, then it would be very difficult for her to
11 actually give -- you know, review her performance in an
12 objective manner because she's viewing everything
13 through her expectations that come about as a result of
14 the stereotypes.

15 Q (By Ms. LePage) You don't know anything about what
16 stereotypes the hiring manager held in this case; do
17 you?

18 MR. KEEGAN: Objection.

19 THE DEPONENT: I know that the comments
20 strongly suggest a bias against Laurie for being a
21 mother, and particularly for being a mother of a lot of
22 children.

23 Q (By Ms. LePage) And the comments you're making --
24 you're referring to are just "bless you," and then the
25 comment that allegedly the manager made?

1 A We think you're overwhelmed.

2 Q We think you're overwhelmed, just based on that --

3 A Yes.

4 Q -- you've decided that she stereotyped against women
5 with children?

6 MR. KEEGAN: Objection.

7 THE DEPONENT: I've decided that it's very --
8 it's a reasonable conclusion, and it appears to be very
9 likely.

10 Q (By Ms. LePage) You don't need to hear the other side
11 of the story to make that conclusion?

12 MR. KEEGAN: Objection.

13 THE DEPONENT: I feel very comfortable with
14 the stance that I'm taking. It's always helpful to
15 have more information, but I think that the facts are
16 very indicative of what we've observed going on in the
17 workplace.

18 Q (By Ms. LePage) And by facts, you mean what Matt
19 Keegan told you; is that right?

20 A Yes.

21 Q And so if in fact you learned new facts or different
22 facts, you're saying that wouldn't change your opinion?

23 MR. KEEGAN: Objection.

24 THE DEPONENT: If I learned that there were
25 never any comments made at all, it would certainly

1 change the degree of certainty I would have about it.

2 If I learned some kind of very damning evidence
3 about performance, and there were no comments made, it
4 would change my evaluation.

5 Even with new performance information, the
6 performance information in and of itself and given the
7 comments, because of this relationship between how
8 people are viewed when they're stereotyped, the
9 performance information probably wouldn't be as --
10 wouldn't convince me otherwise.

11 Q (By Ms. LePage) Let's say all you know about this case
12 is that the hiring manager on one occasion said to the
13 plaintiff, "bless you," when she learned she had
14 triplets, based upon that, you would reach the
15 conclusion that the hiring manager was stereotyped
16 against women with children?

17 MR. KEEGAN: Objection.

18 THE DEPONENT: Based upon that fact alone,
19 and not knowing the other information in terms of the
20 performance evaluations, you know, her general high
21 performance, and being asked to apply for the position,
22 if I only knew "bless you," and nothing more at all, it
23 would be much more difficult to conclude, you know,
24 what I'm -- what I've stated.

25 Q (By Ms. LePage) Okay. Let's assume that you learn

1 that she wasn't asked to apply for the job, but she
2 asked a supervisor whether she'd be a good candidate
3 for the position, would that change your opinion?

4 MR. KEEGAN: Objection.

5 THE DEPONENT: Not if the supervisor said
6 yes, you'd be a good candidate.

7 Q (By Ms. LePage) And if the supervisor also said the
8 same thing to another applicant, would that change your
9 opinion?

10 MR. KEEGAN: Objection.

11 THE DEPONENT: No.

12 Q (By Ms. LePage) So let's assume the only facts in this
13 case are that the hiring manager said "bless you" in
14 response to learning that she had triplets, and that
15 when the plaintiff asked the hiring manager whether
16 she'd be a good candidate, the hiring manager replied
17 yes, would you conclude from those facts that the
18 hiring manager was stereotyped against her because she
19 had children?

20 MR. KEEGAN: Objection.

21 THE DEPONENT: I -- I would -- I wouldn't
22 conclude -- I would be -- I would feel like I needed
23 more information to make a certain conclusion.

24 Q (By Ms. LePage) What were you told about the children
25 that the woman who was actually selected for the

1 position had?

2 A I believe I was told she had two children, and they
3 were slightly older.

4 Q You weren't actually given their ages?

5 A I do think -- I think it was nine and 12.

6 Q What ages were you told that the plaintiff's children
7 were?

8 A The triplets I believe were six, and I think he said
9 that the -- there was an older child that I believe was
10 nine or somewhere older than the triplets, school age.

11 Q Might the older child have been 11?

12 A It's possible.

13 Q Does it matter to you how old the children were?

14 A Yes. Generally, the age of children is related to
15 people's perceptions of -- of sort of how much labor is
16 involved in caring for them.

17 So, you know, we think of -- we think that
18 parenting is the most -- at its most arduous point sort
19 of in infancy. And as they get towards school age that
20 it gets -- it starts to get easier to handle them.

21 There's a couple breaking points, you know, some
22 of the research points to as far as when people
23 perceive that children are going to take time and
24 effort away from a worker. And so that kindergarten
25 point, getting them to five, six years old, getting

1 them into kindergarten usually is somewhat of a relief,
2 they're in a school setting.

3 And then as they approach adolescence like 11, 12,
4 and can legally stay home by themselves, that's another
5 point at which children -- it's perceived that anyway,
6 that children are less time consuming.

7 So in terms of the age of the children, I just
8 think that in this case, I mean, having three either
9 kindergarteners or first graders is -- could be, you
10 know, regarded by someone as a potential -- a real
11 potential pull away from the workplace.

12 Q As you sit here, you don't know whether this particular
13 hiring manager perceived Laurie to have any pull away
14 from the workplace because of her kids; do you?

15 MR. KEEGAN: Objection.

16 THE DEPONENT: The statement, "bless you," is
17 again what indicates to me that there's a perception,
18 there's an assumption, a stereotyping that Laurie is
19 the primary caregiver and that she must be -- she must
20 have an extraordinary amount of caregiving to do.

21 Q (By Ms. LePage) And you read all that into those two
22 words?

23 A Yes.

24 MR. KEEGAN: Objection.

25 Q (By Ms. LePage) You have no other facts to support

1 your conclusion that the hiring manager viewed Laurie
2 as having -- as being the primary caregiver and being
3 pulled away from her work other than the hiring manager
4 allegedly saying "bless you"; is that right?

5 MR. KEEGAN: Objection.

6 THE DEPONENT: Again, the other fact again is
7 the one that to me, the "bless you" is a red flag that
8 makes you explore these possibilities of, you know,
9 it's something that I would, you know, want to
10 definitely look into more.

11 The additional comments, especially by more than
12 one person, by, you know, the person above suggests an
13 environment in which people's, you know, family status
14 is relevant. It's salient in this environment.

15 It's very surprising to hear a hiring manager talk
16 about somebody -- you know, equate somebody's mothering
17 skills or, you know, with a sort of theoretical, you
18 know, the situation that she proposed about the
19 employee didn't get their work done on time.

20 It's very jarring almost to hear somebody in an
21 interview situation, it's from an organizational, you
22 know, procedural standpoint, it's very surprising to
23 hear someone bring up someone's status as a mother in
24 that setting.

25 Q (By Ms. LePage) Are you assuming that the hiring

1 manager is alleged to have made that statement about --

2 A No, my understanding is it's the person above the
3 hiring manager. You know, as I understood it, there
4 were two people above the actual hiring manager who
5 also interviewed her and weren't favorably impressed
6 with her interview.

7 Q You don't know, in fact, whether the person who was
8 alleged to have made the comment about her status as a
9 mother was a peer to the hiring manager; is that right?

10 MR. KEEGAN: Objection.

11 THE DEPONENT: I understood it to be that she
12 was above the hiring manager in the hierarchy. I don't
13 know that that would make a difference necessarily,
14 but --

15 Q (By Ms. LePage) Would it make a difference if in fact
16 the statement hadn't been said?

17 MR. KEEGAN: Objection.

18 THE DEPONENT: I think I answered that, but
19 again, the more -- the statements in combination with
20 one another, and then the performance indicators
21 previously as a whole are what lead me to feel
22 confident that this was -- it was very likely a
23 consideration in the decision.

24 Q (By Ms. LePage) Whether it was said or not?

25 A Well, my assumption is that these things were said.

1 Q Okay. How would you define the term stereotype?

2 A A stereotype is essentially a set of norms of behaviors
3 that are associated with individuals that are
4 classified in particular groups. So they are -- a
5 stereotype -- stereotype is the expectation that a
6 member of a particular group will behave in a way
7 that's consistent with one's opinion -- with one's, you
8 know, views of that group.

9 Q So a stereotype is individual -- can vary depending on
10 the individual?

11 A You mean the stereotypes they hold or the stereotypes
12 that are held against them?

13 Q The stereotypes, for example, the stereotypes you hold
14 may be different than the stereotypes that Matt holds?

15 A Yes.

16 Q Do you have any stereotypes that you hold against women
17 in the workplace?

18 A I would like to think that I don't because I've been
19 educated not to hold any. And I think at one point I
20 probably did, but I am now -- I've hired people, and I
21 now know -- I've thought consciously through some of
22 the assumptions that I've made in hiring very carefully
23 and made a very conscious effort not to make
24 assumptions about individuals based on gender, race,
25 physical attractiveness, other potential status

1 characteristics.

2 Q So even if you held a stereotype at one point, let's
3 say a stereotype against women, you believe you can as
4 a result of education make a conscious decision not to
5 act in conformity with it?

6 A Yes, I do.

7 Q Do you think other people have the ability to act in
8 ways that are not consistent with a stereotype that
9 they might in fact hold?

10 A Yes, I do.

11 Q Is it possible that a person can act in a way
12 consistent with a stereotype, but -- on one day, and
13 then make a conscious decision not to act in accordance
14 with a stereotype on another day?

15 A Yes.

16 Q And in fact, a person can make a statement as a result
17 of a stereotype they may hold on one day, and then make
18 a conscious decision not to follow or act in accordance
19 with a stereotype on another day; is that right?

20 A Yes.

21 Q Do you believe there's a stereotype in today's society
22 that women should be the primary caregivers of
23 children?

24 A Yes.

25 Q Is that a stereotype you hold?

1 A No.

2 Q It's not a stereotype you act upon when you're making
3 employment decisions?

4 A No.

5 Q Is it a stereotype you once held?

6 A I don't think so. No.

7 Q Would you agree with me that that's a stereotype that
8 was more prevalent say prior to 1960 than it is today?

9 A Yes.

10 Q Would you agree with me that somebody who is older,
11 let's say, over 65, is more likely to adopt that
12 stereotype than somebody who is under 65?

13 A I don't know about the cutoff age of 65. That seems
14 somewhat arbitrary. I think that managers of, you
15 know, Gen X, Gen Y managers are much less likely to
16 hold those kinds of stereotypes.

17 Baby Boomer managers, I mean, the case law that --
18 you know, the cases that we've collected, 1,200 cases,
19 a lot of them are Baby Boomer managers who grew up in
20 an era of feminism and so that hasn't seemed to counter
21 a lot of actions that have been seen in the workplace.

22 So I think -- I'd have a hard time, you know,
23 putting a number and saying there's this monotonic
24 relationship between as you age, you become more likely
25 to stereotype against mothers.

1 I do think, though, that older employees are more
2 likely to have been raised and held those stereotypes a
3 little more strongly than -- been a little more
4 prevalent in their upbringing than it has been in later
5 generations.

6 Q Let's take a manager in her 30s, would she be more
7 likely to hold a stereotype that women should be
8 primary caregivers than -- would she be less likely to
9 hold that stereotype that women should be primary
10 caregivers than say a manager who is in her 60s?

11 A I -- I just want to be clear that even though I agree
12 that these -- the stereotype that women should be the
13 primary caregiver has declined somewhat, the analysis
14 that I've done of one particular -- the General Social
15 Survey which is a highly regarded instrument for
16 measuring social change and social attitudes still
17 shows that the majority of Americans agreed with the
18 statement that women with young children should stay
19 home and care for their children rather than work.

20 Now that used to be 80 percent, and it's still
21 above 50 percent, so yes, there's a decline. But when
22 you think about the workplace, it means that there are
23 a lot of people out there who still hold that
24 stereotype. It's still very prevalent.

25 Q My question is a little different than that. Is a

1 person in her 30s less likely to hold that stereotype
2 than a person in her 60s?

3 A I -- that is a hypothesis that I would agree with. I
4 haven't seen a test of that, however. But I could see
5 someone, you know, putting that in a model of
6 predicting who's stereotyping to see whether age, you
7 know, accurately predicts. And it would be something
8 that is a very plausible hypothesis based on other
9 factors that we know. However, I don't -- I don't have
10 hard evidence to bring to bear.

11 Q But you do have hard evidence as you call it to suggest
12 that the stereotype that women should be the primary
13 caregivers is one that's decreasing among the
14 population?

15 A Yes. I just want to add a point to that, it's, you
16 know, it's decreasing as far as, you know, in these
17 national surveys and public opinion indicators.

18 But when one views those as evidence, one assumes
19 that the respondents are not giving -- simply giving
20 what they perceive to be as socially acceptable
21 answers.

22 So there's always the possibility that people are
23 just aware that there's this, you know, more
24 egalitarian sort of norms out there, and that they will
25 look like they're chauvinist or, you know, if they

1 respond that in fact women should stay home.

2 Q So you can't really trust the results of the research
3 that's been done?

4 A I think in combination with other types of research,
5 and the other types of research that I have learned
6 which is either laboratory research or research on, you
7 know, earnings differentials and promotions
8 differentials between men and women, you know,
9 indicates that these stereotypes -- the stereotype is
10 alive and well.

11 Q But still decreasing or not?

12 A Again, it's sort of a matter of, you know,
13 unfortunately, we're not natural scientists, and we
14 can't say, you know, when water reaches this
15 temperature, it's going to boil. We can't say quite
16 as -- with quite as much certainty that, you know,
17 people responding on a survey is an actual indicator of
18 their beliefs.

19 Q But you would agree with me that it's become less
20 acceptable for a person to at least express the
21 attitude that women should be the primary caregivers?

22 A Yes.

23 Q I'm going to ask you to take a look at what's been
24 marked as Still Deposition Exhibit Number 1, on Page 4,
25 and do you see the first full paragraph that starts out

1 Ms. Still is expected to testify that women as well as
2 men engage in sex stereotyping. Ms. Still is expected
3 to testify that qualitative research shows that women
4 are just as likely to engage in sex stereotyping as
5 men.

6 A Yes.

7 Q Did I accurately read that?

8 A Yes.

9 Q And is that -- is that what you do expect to testify
10 about?

11 A Yes.

12 Q And when you use or when -- the phrase qualitative
13 research issues, what does that mean?

14 A That refers specifically, I mean, and it can be
15 considered quantitative as well, but here I'm
16 specifically seeing support for this in the lawsuits
17 that we've collected at Work Life Law.

18 And I refer to them as qualitative only because I
19 have yet to do a sophisticated statistical analysis of,
20 you know, the predictors of -- of whether gender of the
21 supervisor actually, you know, formally statistically
22 predicts stereotyping.

23 What we see qualitatively just reading through the
24 cases is that many of the cases are women supervisors
25 making the decisions about -- the decisions that are

1 later, you know, shown in court as to be discriminatory
2 against mothers.

3 Q When you say cases, what are you referring to?

4 A These are lawsuits.

5 Q What in particular are you referring to, a judicial
6 opinion?

7 A Well, we have a range of -- you mean in terms of
8 whether -- the outcome, how I know the outcome?

9 Q You were saying that your qualitative research is based
10 upon lawsuits?

11 A Uh-huh.

12 Q And my question is, what information do you have about
13 these lawsuits that you base your opinion on?

14 A These are -- in terms of -- these are, you know, any
15 court documents that would be filed, summary judgments,
16 some of them are EEOC claims. I'm actually -- because
17 I'm not the legal person, the legal researchers, the
18 law students actually find the cases under the
19 supervision of Cynthia Calvert, the deputy director,
20 and review the documents and then enter them into a
21 database which is what I use.

22 So I don't look at the actual documents. I read
23 the descriptions that the law students enter about the
24 case facts and that kind of thing.

25 Q So a law student might look at a judicial opinion and

1 enter in certain facts of the case into a database?

2 A Right.

3 Q And you assume for the purposes of your research that
4 the allegations are true?

5 A No, no. Okay. We have chronicled these cases. The
6 law students enter the facts of these cases, and
7 they're reviewed by Cynthia Calvert who is essentially,
8 you know, an expert in these types of cases in
9 determining whether these in fact have fact patterns
10 that exhibit family caregiver responsibilities
11 discrimination. So there's a determination based on
12 the case facts that they are these types of cases.

13 Q Excuse me --

14 A And then --

15 MR. KEEGAN: Can you let her answer the
16 question?

17 MS. LEPAGE: I just want to get a
18 clarification.

19 MR. KEEGAN: You have to let her answer the
20 question.

21 Q (By Ms. LePage) I'll let you come back and answer it.
22 When you're talking about facts --

23 MR. KEEGAN: You just can't interrupt her
24 question -- her answer.

25 MS. LEPAGE: I think she's answered the

1 question and went onto a few others.

2 MR. KEEGAN: She was still in the middle of
3 talking.

4 Q (By Ms. LePage) I'll let you come back to it. When
5 you use the word fact --

6 MR. KEEGAN: That's an objection.

7 Q (By Ms. LePage) What do you mean by fact?

8 A When I say case facts?

9 Q Facts, yes.

10 A The particulars that are, you know -- so put into the
11 case all the case filings that the law students get
12 access to. You know, the documents that are presented
13 to court, they get access to some of them, not -- you
14 know, it's not consistent, but they -- you know,
15 sometimes it's opinions, so sometimes they have enough
16 that goes all the way through where they get opinions.

17 Other times, it's -- there is the assumption that
18 what is in -- what's in the case that we read, the
19 filings that we read, that those things occurred.

20 I mean, we don't -- we see -- what we're talking
21 about is people alleging things essentially. And some
22 of them, the win rates are fairly large in these types
23 of cases, you know, and we determine what a win is, and
24 that's another issue.

25 But so yeah, there is the assumption that what

1 people -- especially if they survive summary judgment,
2 that there's some merit to the cases.

3 Q Do you know what a motion for summary judgment is?

4 A Do I know -- this is not my area of expertise. Again,
5 what I do with the information first from a social
6 scientific standpoint, these are -- these are -- these
7 lawsuits are stories, in essence, these lawsuits are
8 essentially work family conflict at its extreme where
9 it can't be resolved internally.

10 So whether you ask someone, you survey someone and
11 say have you been discriminated against, then we
12 report, you know, 50 percent of women say they've been
13 discriminated against, or whether you read a case where
14 someone alleges they've been discriminated against is
15 still evidence that people are dealing -- feel they've
16 been discriminated against, okay.

17 So in other words, what -- so what I am interested
18 in from a social scientific standpoint is what are the
19 trends around this. You know, what -- are women making
20 more claims, are more cases being heard, are more cases
21 being won. This is what I'm interested in is how the
22 courts mediate this mismatch that we are experiencing
23 right now between the needs of the workplace and the
24 needs of the work force.

25 Q Let me ask you this question. When a Judge issues a

1 decision on a summary judgment motion may describe a
2 series of facts of the case, is it your assumption in
3 looking at that -- those series of facts that they're
4 in fact true?

5 MR. KEEGAN: Objection.

6 THE DEPONENT: It's my assumption that the
7 person making the allegations believes that they have
8 occurred, that these events have occurred. It's my
9 assumption that the person feels they have been
10 discriminated against.

11 Q (By Mr. LePage) But it's not your assumption that
12 they're in fact true?

13 A It's -- if the case is dismissed, you know, I'm more
14 likely to be skeptical that they were true. If the
15 case is settled, or there's a jury, you know, verdict
16 in favor of the plaintiff, then I am more likely to
17 assume the facts were true.

18 Q Do you understand that when a Judge rules on a motion
19 for summary judgment, the Judge has to assume all the
20 facts as alleged by the plaintiff even if there's
21 overwhelming evidence to the contrary that they're in
22 fact not true?

23 MR. KEEGAN: Objection.

24 THE DEPONENT: I believe that's been
25 explained to me, yes. I guess I'm trying to

1 distinguish here between what, you know, what we can
2 actually learn from -- if we were flies on the wall and
3 could observe the workplace and what people are
4 experiencing in the workplace that takes them to the
5 point of filing a lawsuit.

6 Q (By Ms. LePage) I think I started in this topic by
7 asking you what the qualitative research was that shows
8 that women are just as likely to engage in sex
9 stereotyping as men. And your answer so far has been
10 based upon case law; is that right?

11 MR. KEEGAN: Objection.

12 Q (By Ms. LePage) And anything else?

13 A Well, not the qualitative research. The quantitative
14 research or the experimental research has several
15 studies that have been done, have not shown women to
16 favor -- in other words, that they look at, you know,
17 managers -- or evaluator's likelihood of rating someone
18 promotable, or rating somebody as competent or
19 whatever.

20 And they've considered maybe, you know, women have
21 an ingroup favoritism toward women candidates. So that
22 was -- several studies have looked at that and have not
23 found women to be less discriminatory in their
24 evaluations than men, which is something they thought
25 that they would find based on ingroup favoritism.

1 Q Who is "they"?

2 A Well, these were the studies, you know, specifically,
3 Correll and Bernard and Paik, P-A-I-K, which, you know,
4 they looked at gender of evaluators.

5 Q Where would I find those studies?

6 A Well, they're listed. I don't know if you actually
7 have copies of the actual studies, but they're listed
8 in the -- the attachment.

9 MS. LEPAGE: Let me mark two exhibits.

10 MR. KEEGAN: Are you at a good stopping
11 point?

12 MS. LEPAGE: Yes. Sure.

13 (Recess at 11:45 a.m., to 11:50 a.m., after which the
14 following proceedings transpired.)

15 (Still Deposition Exhibit Numbers 2 through 4 were
16 marked for identification.)

17 Q (By Ms. LePage) I'm going to hand you what's been
18 previously marked as deposition -- Still Deposition
19 Exhibit Number 2 and ask you to identify it?

20 A I acknowledge by saying yes?

21 Q Tell me what it is?

22 A It's my -- yes, it's my CV.

23 Q And then I also would like you to -- I'll hand you
24 what's been marked as Still Exhibit Number 3 and ask
25 you to identify it?

- 1 A This is my CV in October.
- 2 Q Are there any differences between the CV in August and
3 the CV in October?
- 4 A Probably. Yes. I've reconfigured the CV somewhat.
- 5 Q It appears to be reformatted?
- 6 A Yes, it's been reformatted and has -- presently has --
7 you know, I do a lot of different types of research,
8 and this is an emphasis on the things that I'm, you
9 know, particularly doing now with the Institute for the
10 Social Sciences.
- 11 Q Was the document that's marked Still Exhibit Number 2
12 prepared specifically for this litigation?
- 13 A Let's see, well, the document that's -- it was -- I was
14 on vacation, and it was what I had on my laptop when I
15 was on vacation. So it was not -- and so, you know, I
16 went, you know, went through it and made sure that any
17 relevant -- more relevant things that I had to my work
18 related to, you know, gender issues was on there.
- 19 These things can go on if you put everything on
20 there. So it's what I had on my laptop in August
21 basically.
- 22 Q And what you had on your laptop with some changes that
23 you made to emphasize the work that you thought was
24 relevant; is that fair to say?
- 25 A Well, for the different -- this one is, I guess this

1 comes from our web.

2 Q When you're saying "this one" --

3 A The October, it's come from our web site. And so this

4 one is, you know, geared more toward what I'm

5 specifically doing at Cornell, what they're paying me

6 specifically to do right now.

7 Q And when you say "this one"?

8 A October.

9 Q Is the October one, dated -- I mean marked as Exhibit

10 Number 3?

11 A Yes.

12 Q Okay. You were talking before we took a break about

13 research, I think you were talking a quantitative

14 research that shows that women are just as likely to

15 engage in sex stereotyping as men?

16 A Uh-huh.

17 Q And is the research that you were referring to listed

18 in your CV?

19 A Oh, in my CV.

20 Q It's not your research?

21 A Right. Right. You mean in the --

22 Q Is it listed in Exhibit Number 1?

23 A Yes. One I just referred to, the Correll, Bernard, and

24 Paik piece is listed there on the bottom of the first

25 page. The next one on the second page is one in

1 which --

2 Q Could I stop you for a second?

3 A Sure.

4 Q I just don't see where the first one is?

5 A It's at the bottom of the first page, the Shelley J.

6 Correll, it doesn't have the other coauthors listed.

7 Q It says Getting a Job: Is There a Motherhood Penalty?

8 A Yes.

9 Q Okay. Go ahead.

10 A And then the -- basically, a bunch of these studies
11 that look at penalties for women and mothers. From my
12 recollection, none of them has shown that women are any
13 easier on female candidates or that they, you know --
14 they show strong effects for the ratings of competence,
15 and you know, desirability for a promotion and hiring
16 when women are shown to be mothers, or just women in
17 general, they show strong, you know, effects of
18 downgrading their scores. And this does not vary by
19 the sex of the evaluator.

20 So the next one, the Amy Cuddy, et al., that's a
21 lab experiment. The other one, Shelley Correll, is
22 actually -- she does a lab and an audit study, where
23 she actually sent out resumes, you know, with equal
24 skills in both and then manipulated the sex, and
25 whether or not the person was a parent. And so that

1 one has the twin evidence from the lab and the quote,
2 real world.

3 Amy Cuddy, et al., is specifically a lab
4 experiment in which they add a line onto some people's
5 resumes saying, you know, she recently became a -- or
6 not resumes, but it's a statement. It's sort of a
7 summary of somebody, and they're to evaluate whether
8 they should get a job, how promotable they were, all
9 those kinds of things.

10 They add a line, she just became a new mother, she
11 and her husband had a baby, and they add to the man's,
12 he and his wife just had a baby. There's no penalty
13 for the male candidates, and there is -- and people
14 specifically are more likely, men or women are more
15 likely to than when they have that piece of information
16 about a woman being a mother, recommend not hiring or
17 not promoting, not investing in more education for her.

18 Q Any other studies that you're referring to when you
19 show -- when you make the statement about women -- I
20 just want to get the question out, likely to engage in
21 sex stereotyping?

22 A Yeah. Again, I could go through, I mean, there are
23 considerably more studies related to this. And again,
24 my -- I don't ever recall, and nobody has ever cited
25 anybody finding a difference in terms of the

1 evaluator's gender, which is not to say that there is
2 absolutely no evidence out there. There's always new
3 research, and this is a fairly coherent body of
4 research for the social sciences anyway.

5 They're very engaged with one another, they're
6 building on one another's findings in the model of the
7 scientific method that natural scientists use. So I
8 would think that I would have stumbled onto something.

9 Q I'm going to go to what's been marked as -- I'll give
10 you the marked version, Still Exhibit Number 4, you can
11 keep the original for your file, if you want. Were
12 these the notes that you were referring to that you
13 took when you spoke to Matt Keegan in August of 2007?

14 A Yes.

15 Q Have you had a chance to look at them?

16 A Yes, I just glanced over them.

17 Q And do these notes refresh your recollection about what
18 you were told about the case?

19 A Yeah, a little bit. I see here that the extra layer
20 that -- so the hiring manager had worked with the
21 woman, that is the woman who was actually hired, right,
22 Donna Willay?

23 Q Ouellette, O-U-E-L-L-E-T-T-E.

24 A Wow, okay, got that wrong. And then that this is --
25 this piece I had forgotten that Dawn had worked with --

1 no, that's right. Yeah, I knew that one of the
2 supervisors had worked with Laurie and given her high
3 evaluations.

4 Q That supervisor being Linda Brink, according to your
5 notes?

6 A Right. Yeah, I'm -- I remember Matt Keegan telling me
7 that there was something about maybe transfers in or
8 out or something like that, I don't remember exactly
9 that, the scenario there, though.

10 Q Okay.

11 A And I do remember a discussion that we had about this,
12 the issue of the fact that this was -- this new
13 position was a lead position, it was some kind of a
14 more responsibilities than what Laurie had previously
15 held.

16 Q And under the name Laurie Chadwick, I see some -- I
17 think it says from Feb., March, about three months. Do
18 you see that there?

19 A Yes, I do.

20 Q What does that mean?

21 A Believe it or not, I used to be a newspaper reporter.
22 I used to take really good notes. From February to
23 March, about three months. Gosh, I can't remember what
24 that refers to.

25 Q What about the numbers at the bottom of the page?

1 A This was a notebook in my office that I picked up that
2 already had writing on it. The same with the other
3 page.

4 Q That has nothing to do with the case?

5 A No, it doesn't, I'm sorry.

6 Q Okay. What about the page that says 11-1-07, 85, 86,
7 87?

8 A Again, it had -- it had -- I didn't think that I'd be
9 showing this to anyone, I didn't realize that, so it
10 had -- something I was doing in an analysis.

11 Q Okay. So it has nothing to do with this case?

12 A Nothing.

13 Q And then underneath it says Matt Keegan, from there
14 down, does that have anything to do with this case?

15 A Yes, that's all our discussion yesterday.

16 Q This was yesterday after the deposition that Matt took,
17 what time of day?

18 A What time of day was it, it's a blur. Yeah, so it was
19 before noon I think.

20 Q Okay. Can you read your handwriting below when it says
21 Matt Keegan?

22 A Uh-huh. You want me to read aloud?

23 Q Yes.

24 A Email from Nanci Miller. And then in the discussion --
25 I don't have everything written here, but he says when

1 she discussed why she didn't get the job, she said
2 something to the effect if we or if I were in your
3 shoes, if we -- he seemed not to be sure whether it was
4 I or we.

5 And then below, it continues, if we were in your
6 position, we feel like we'd be overwhelmed, there's a
7 lot on your plate with school work and children.

8 And then two people above decision maker did
9 briefer interviews.

10 Q Briefer, B-R-I-E-F-E-R?

11 A Yes, than Nanci Miller.

12 Q So if I'm reading, I'm just trying to read your
13 handwriting, it says email from Nanci Miller; is that
14 right?

15 A Uh-huh.

16 Q If we were in your shoes; is that right?

17 A Uh-huh.

18 Q Two P-P-L-E?

19 A Two people.

20 Q Above decision maker did briefer interviews; is that
21 right?

22 A Yes.

23 Q Decision maker said if we were in your position, we
24 feel like we'd be overwhelmed, a lot on your plate,
25 w/school work and children. Did I accurately read the

1 notes?

2 A Yes.

3 Q Okay. So what was your understanding of what Matt told
4 you yesterday?

5 A Well, as I've stated that in discussing why she didn't
6 get the position, the hiring supervisor said that
7 initially, she -- I think Matt Keegan informed me that
8 she said it was about experience.

9 And that -- and that sort of that they felt
10 that -- and again, it was -- I was unclear whether he
11 went back and forth between if we or I, whether she
12 actually said we or I, but that it was sort of stated
13 as if it was a decision made by an agreed upon -- a
14 consensus by Nanci Miller and the people above her.

15 That they felt that she was overwhelmed, that she
16 had a lot on her plate with having -- being in school
17 and having her children, and I think there's -- maybe I
18 didn't write it, but I think there was something to the
19 effect we think you should sort of focus on that. I
20 think there was something perhaps said.

21 Q So was it your understanding that all of this that's in
22 your notes on the second page of Exhibit Number 4 was
23 in an email from Nanci Miller?

24 MR. KEEGAN: Objection.

25 THE DEPONENT: I'm sorry. I'm not sure, you

1 know, he called me, and I just -- it's an old habit
2 that I have from being a reporter where I just start
3 writing, and I don't remember what he said about an
4 email because I had the impression that this was done
5 in person.

6 I could -- honestly, I was trying to get -- I had
7 a paper deadline and had to, you know, catch my flight
8 and all that. So we were talking, I was pretty -- had
9 people in my office. So I was a little bit distracted,
10 but it was very clear the part about the statement made
11 to her about her being distracted or being overwhelmed.

12 Q (By Ms. LePage) Matt was really clear as to what he
13 says that Laurie said that Nanci said?

14 A Yes.

15 Q But you haven't actually heard what Nanci said?

16 MR. KEEGAN: Objection.

17 THE DEPONENT: No. Everything I know about
18 the case is through Matt Keegan.

19 Q (By Ms. LePage) Would it be important to you in
20 forming your opinion to know what Nanci Miller actually
21 said she said?

22 MR. KEEGAN: Objection.

23 THE DEPONENT: Okay. Again, I think if this
24 particular statement were not made, it puts more onus
25 on the other things that I do know to be evidence for

1 some kind of discrimination. Each one sort of
2 cumulatively becomes -- makes the case more convincing
3 from the perspective of someone who knows research
4 around this area.

5 So I think I previously said, you know, if this
6 statement weren't made, I still would have concern, I
7 still would be very suspicious based on the other
8 pieces of information that I know.

9 Q (By Ms. LePage) I'll try to ask you a different
10 question and much more limited one. Is it important to
11 you for your decision to actually hear what Nanci
12 Miller said she said as opposed to just what Matt said
13 that Laurie said that Nanci said?

14 MR. KEEGAN: Objection.

15 THE DEPONENT: I think that my assumption in
16 hearing -- is that Matt -- is that there is strong --
17 that there's -- that the witness -- or excuse me, that
18 Laurie has credibility. If I believed that everything
19 that she said was not in fact true, if I had a reason
20 to think that, then no, I wouldn't be able to conclude
21 anything, if everything that she said was a
22 fabrication, of course, I would not be able to conclude
23 that.

24 Again, I'd like to just emphasize that the -- I
25 think that there's evidence from the social sciences

1 again that people are -- can be regretful of evidencing
2 some type of stereotyping, and therefore, can sort of
3 try to rationalize something they said. So I would
4 want to, you know, be certain that that wasn't going
5 on, if in fact that there's a -- you know, that the
6 Nanci Miller said I never said any of those things.

7 Q (By Ms. LePage) Let me ask you this way. Do you think
8 it's possible that when Laurie Chadwick who is bringing
9 a lawsuit might characterize events that happened a
10 year or more ago in ways that would help to justify her
11 bringing the lawsuit?

12 A Of course I think that's possible. I think it's
13 absolutely possible on the other side as well for, you
14 know, the supervisors to characterize it in a way that
15 would help them not lose the lawsuit.

16 Q Would it be fair to say that you as a social scientist
17 wouldn't conclude as to the facts of what -- what
18 transpired in a communication unless you had heard both
19 sides' testimony as to what occurred?

20 MR. KEEGAN: Objection.

21 THE DEPONENT: I can -- I can -- I feel that
22 I can make certain -- I can make certain evaluations
23 based on the verity of what -- of the facts that I've
24 been told. So if they're not -- so I feel like I
25 don't -- if these facts are true, I don't need to know

1 what Nanci said. This to me is strong evidence that
2 there was -- that motherhood was a consideration.

3 Q (By Ms. LePage) If these facts are not true, you can't
4 draw that inference; is that right?

5 MR. KEEGAN: Objection.

6 THE DEPONENT: If these facts, if none of
7 these facts is true, then no, I cannot, I cannot draw
8 that inference.

9 Q (By Ms. LePage) Is it important to you to understand
10 the context in which a statement was made before
11 drawing any inference as to what the speaker meant when
12 she used a phrase?

13 MR. KEEGAN: Objection.

14 THE DEPONENT: It's important to me, could
15 you ask that again?

16 MS. LEPAGE: Could you read that back?
17 (Question appearing on Page 67, Lines 9 through 12, was
18 read back.)

19 MR. KEEGAN: Objection.

20 THE DEPONENT: Again, I think I've said this.
21 More information is always better, but I think I still
22 believe that there's strong evidence without having to
23 hear the other -- the context as you put it.

24 Q (By Ms. LePage) On Page 4 of Exhibit 1, I believe, the
25 letter from Matt Keegan to myself, the second full

1 paragraph states that Ms. Still is expected to testify
2 that there is a stereotype in the United States that
3 the performance of women in the workplace who have
4 children will suffer because their primary
5 responsibilities for parenting as a mother will
6 interfere with their responsibilities as an employee.

7 Did I accurately read that?

8 A Yes.

9 MR. KEEGAN: Which paragraph?

10 MS. LEPAGE: The second full paragraph.

11 MR. KEEGAN: Okay.

12 Q (By Ms. LePage) First sentence. Do you believe that
13 there is a stereotype in the United States as stated in
14 this letter?

15 A Yes.

16 Q And what do you base that belief upon?

17 A This is, you know, based on a lot of again, these
18 social -- these -- the experimental evidence about, you
19 know, evaluations of women who are mothers and how they
20 are as employees.

21 This is also based on, you know, what I've
22 referred to as the survey data about, you know,
23 people's opinions. And it's based on the -- again, so
24 the laboratory experiments and the research around that
25 has really kind of -- there's 30 years of research

1 about stereotyping.

2 And now in the last about 10 years -- well, 20
3 years has been -- there's -- gender has been a big
4 focus of that effort. In the last five to 10, social
5 scientists are really narrowing it down to what is it
6 about gender and finding that in fact, motherhood is
7 really the crux of where a lot of these stereotypes
8 come from.

9 So there's literally dozens of studies. And the
10 evaluations about workers who are mothers, that lower
11 evaluations are based on the assumption that women are
12 primary caregivers.

13 And you know, there's -- not only there's
14 laboratory work, but there's, you know, historical work
15 on people who study the family historically, people who
16 study cultural artifacts such as television programs,
17 and you know, newspaper articles and magazine articles
18 that show that, you know, we have these -- there's this
19 public -- we have public furor over when some of these
20 things are challenged.

21 Think about Hillary Clinton's, I don't bake
22 cookies after school statement and how much -- what an
23 imbroglio that was. And things like Murphy Brown
24 having a baby out of wedlock, and things that are seen
25 as inappropriate things for motherhood. Britney Spears

1 going to parties even though she has -- going to
2 nightclubs even though she has children.

3 The assumptions in our society are very pervasive
4 about this distinction. And the research, in fact, the
5 research that Cuddy and Fisk have done, they refer to
6 it as the stereotype content model, has been replicated
7 in 24 samples throughout U.S. and internationally, and
8 shows these distinctions between motherhood, warmth,
9 nurturing, caring, and you know, men or fathers are
10 aggressive, competent.

11 And there's this dimension, and you either --
12 you're in one sort of area or another. And motherhood
13 is a very strong trigger for these feminine
14 characteristics that are antithetical in our society to
15 what an ideal worker or a good employee actually is.

16 Q Do you think women who are primary caregivers in
17 fact -- do you think the performance of women who are
18 in fact primary caregivers suffers because of their
19 responsibilities to the family?

20 A I don't --

21 MR. KEEGAN: Objection.

22 THE DEPONENT: I don't think -- I absolutely
23 don't think you can assume that, no. I think maybe
24 some of them do. And I think maybe probably a lot of
25 them work, you know, harder to dispel that notion.

1 Q (By Ms. LePage) You personally don't have that
2 stereotype?

3 A No.

4 Q And you in fact would believe that it's not true most
5 of the time, right, that a woman's -- even if she is
6 the primary caregiver, her performance is not going to
7 be adversely affected because of her child care
8 responsibilities?

9 A Yes, I think -- I just don't think there's compelling
10 evidence, so I would stay focused on the evidence that
11 I've seen. That's what I've been trained to do, and I
12 haven't seen -- there is some evidence that women's
13 performance -- I mean, actual, you know, evidence,
14 but -- that women's performance decreases.

15 And there's also evidence that mothers'
16 performance increases because they're more -- they're
17 more committed to, you know, earnings and things like
18 that sometimes being role models as mothers who work.
19 So there's conflicting evidence, and performance is
20 just notoriously difficult to actually measure.

21 Q So would you agree with me that there are other people
22 in this world who also don't believe that just because
23 a woman is a primary caregiver, she can't also be a
24 good employee?

25 A Yes.

1 Q Have you heard the stereotype that women are better at
2 multitasking than men?

3 A Yes.

4 Q Do you think that stereotype helps or hurts women in
5 the workplace?

6 MR. KEEGAN: Objection.

7 THE DEPONENT: Honestly, I don't think it has
8 much of an effect. I think it could go either way.
9 You know, depending on the organization, and the value
10 system in the organization, and the sense that nobody's
11 going to say oh, multitasking is bad.

12 But to be, you know, to be thought of as, you
13 know, to be sort of -- you have your femininity or your
14 gender, your sex, a salient trait like that in the
15 workplace. Somebody says well, she's good at that,
16 she's a multitasker because she's a woman could
17 potentially have ill effects in other ways.

18 If they're thinking of you in this way, and it's
19 going to -- it can also have negative -- it can bring
20 up negative associations with your gender.

21 Q Would you agree with me that some stereotypes can
22 actually benefit people in the workplace?

23 A Yes.

24 Q Would you agree with me that some people believe that
25 women who are also primary caregivers are more likely

1 to be effective in the workplace because they have a
2 better ability to juggle competing responsibilities?

3 MR. KEEGAN: Objection.

4 THE DEPONENT: I think that that's
5 potentially -- there are potentially people who feel
6 that way, but there's not -- there hasn't been a lot of
7 research showing there's a very strong opinion that --
8 in that direction.

9 Q (By Ms. LePage) Do you believe that's true?

10 A That women could be better because of their children's
11 responsibilities or responsibilities for children?

12 Q Yes.

13 A Not really. I mean, I don't -- I try not to, you know,
14 bring to bear sex related, you know, traits in thinking
15 about performance because I think it could be -- it
16 could be potentially negative for women.

17 Q Let's take the sex out of it. We're just dealing with
18 an employee who is also a primary caregiver of
19 children. Do you believe that somebody who is able to
20 be the primary caregiver is likely to be a more
21 effective employee because that person is able to
22 juggle both responsibilities?

23 A I think that they potentially could -- it could make
24 them more focused if they have competing obligations
25 that require them to be extremely focused and not, you

1 know, sort of stand around at the water cooler,
2 although that has a lot of benefits actually in
3 workplace outcomes. So but yeah, I think if it meant
4 really getting their act together so to speak and going
5 in and doing their work could potentially have some
6 benefits for men or women.

7 Q On Page 5 of Exhibit Number 1, the bottom of the page,
8 it states that Ms. Still is expected to testify that
9 certain phrases used by decision makers can indicate
10 that the decision maker is considering sex as a salient
11 characteristic in decisions about hiring or promotions.

12 Did I read that correctly?

13 A Yes.

14 Q Are you expecting to testify about this topic?

15 A Yes.

16 Q What certain phrases are you talking about?

17 A You know, the wording of that is maybe not as
18 appropriate as it should be. Really what --

19 Q It's Matt's fault.

20 A Sorry.

21 (Discussion had off the record, after which the
22 following proceedings transpired.)

23 THE DEPONENT: I approved it, so it's mine.

24 But what that refers to is that statements that are
25 made in the workplace, just as a hostile work

1 environment for women, statements that are made about
2 women that are inappropriate or, you know, it's similar
3 in the case of cases against -- with mothers, where for
4 instance, I can think of some of the work that I've
5 read, the qualitative work.

6 When I say qualitative, I mean for instance the
7 social scientist goes into an organization like, in
8 this case, it's Corning. And you know, studies the
9 workplace culture and writes Arlie Hoschild's book
10 where there are things that are said like, you know,
11 if, you know, at 5:00, when a mother is leaving to go
12 pick a child up, oh, you know, leaving early again.

13 Those statements, you know, that draw attention to
14 her responsibilities as a caregiver, you know, or well,
15 I would ask you, you know, you want to get this
16 assignment, you can't come to this tonight because
17 you've got kids.

18 So again, statements in the workplace that
19 indicate that, you know, people are very conscious of
20 somebody's status as a primary caregiver, and it
21 creates essentially a hostile work environment.

22 Q Creates a hostile work environment if supervisors are
23 conscious of somebody's status -- excuse me, status as
24 a parent?

25 MR. KEEGAN: Objection.

1 THE DEPONENT: No, not just if they're
2 conscious, there could be -- it could create a great
3 work environment if they're conscious. They could be
4 supportive supervisors, go to your kid's teacher
5 conference, you know. It can be a potential, you know,
6 good thing to be aware. And in fact, most companies
7 are -- you know, most supervisors that are trained to
8 be aware and sympathetic and flexible to individual's
9 family needs.

10 However, when it's said in a more derogatory
11 sense, such as leaving early again at 5:00, at a normal
12 time, then that creates an environment in which that
13 person is always feeling, you know, evaluated, judged,
14 and essentially penalized for having a life outside of
15 work.

16 Q (By Ms. LePage) If the supervisor in response to
17 requests, I have to leave early tonight to go to a
18 T-ball game or something like that, the supervisor
19 says, fine, go ahead, would you interpret that as being
20 a negative response or a positive response?

21 MR. KEEGAN: Objection.

22 THE DEPONENT: No, I would interpret a
23 supervisor's supportiveness of the individual's outside
24 life as a positive response.

25 I would like to just emphasize that in some

1 workplace settings, if a woman is in a position that's
2 very sex typical, she's a secretary, or, you know,
3 she's in a very -- sort of a line position, it's very
4 much expected that this is almost a tradeoff of lower
5 wages, fewer chances for advancement, that she's made
6 a -- she's made a compromise, and you know, to stay in
7 this position. You know, it's hard to get people who
8 want to stay secretaries all their lives. So it can
9 often be -- it's sort of a carrot, that well, but we're
10 going to let her go deal with her children.

11 So in that case, while on the one hand it appears,
12 you know, supportive, it also could -- the support
13 could be simply because the person is in a position
14 that's not one of a particular -- great
15 responsibilities and in which their presence is not as
16 essential.

17 Q (By Ms. LePage) And it could be just that the
18 supervisor wants to be supportive?

19 A Could be.

20 Q Do you have any evidence from what you've been told
21 about this case that Laurie Chadwick's supervisor
22 wasn't supportive of her family obligations?

23 MR. KEEGAN: Objection.

24 THE DEPONENT: No, I don't have any evidence
25 that she wasn't supportive.

1 Q (By Ms. LePage) Would you agree with me that there's
2 no federal statute that explicitly protects workers
3 from adverse actions by their employer because of
4 family obligations?

5 MR. KEEGAN: Objection.

6 THE DEPONENT: Yes, I would agree with you.

7 Q (By Ms. LePage) Are you aware of any Maine statute
8 that explicitly protects workers from adverse actions
9 by their employer because of family obligations?

10 MR. KEEGAN: Objection.

11 THE DEPONENT: Not at the federal level. I'm
12 aware of state and local protections.

13 Q (By Ms. LePage) Are you aware of any in Maine?

14 A I'm not aware of whether Maine has any.

15 Q You mentioned earlier the General Social Survey, did I
16 use that term correctly?

17 A Yes.

18 Q What is that?

19 A It's a survey conducted at the University of Chicago,
20 and the National Opinion Research Council or Center,
21 that has been done since the '70s, conducted since the
22 '70s using pretty much state of the art, or at the time
23 anyhow, survey collection methodology, random samples,
24 and looks -- it's a whole battery of opinions,
25 outcomes, just everything, a lot about American life.

1 And they -- some of the questions they do consistently
2 over time and ask it in the same way, which is very
3 important to be able to conclude anything.

4 And so these are -- this is a common source of
5 data for social scientists in talking about Americans'
6 life and social change.

7 Q What do you mean by common source?

8 A It's used very frequently. It's publicly available,
9 easy to access, high quality. So when you see research
10 papers, you see a lot of research papers using this
11 data.

12 Q And it's data that you can access through a web site
13 now; is that right?

14 A Yes.

15 Q How frequently is it updated?

16 A In terms of the survey, how frequently is the survey
17 conducted?

18 Q Yes.

19 A It's changed somewhat over the years, you know, so
20 depending on funding and various things, but it's done,
21 you know, pretty much every three to five years, I
22 believe, there's a whole new sample done, new survey.

23 Q When is the most recent sample, do you know?

24 A The most recent that I believe I have worked with is --
25 so there may be some new data out there, 2002 I think

1 is the most -- that's the most recent that I've used.

2 Q Can you also access the data that existed say in 1996?

3 A Yes.

4 Q And compare it to 2002?

5 A And 1975.

6 Q Is it fair to say that the research has shown that when
7 decision makers are under social pressure to control
8 sex stereotyping behavior that they in fact do so?

9 A I'm trying to think of research -- social pressure
10 to -- I don't -- nothing is coming to my mind. There
11 is -- and Matt Keegan has it in here, there is some
12 evidence, and I -- it's fairly recent. I don't recall
13 the actual authors' names, though, that certain --
14 doing certain very simple things can reduce bias in,
15 for instance, like the interview process.

16 And there's more recent research, though
17 controversial, there's a tool that's been developed now
18 called the implicit -- implicit, IAT, implicit -- A is
19 for assessment, I can't remember exactly. It's
20 measuring people's -- it's putatively measuring
21 people's implicit biases against groups.

22 And those researchers have argued that they have
23 evidence that sensitizing people to their biases can
24 help reduce their future discriminatory actions.

25 Or actually, I don't think they look at actions, I

1 think they just look at behavior -- opinions, but --

2 Q So what kinds of things -- what kinds of things can
3 change individuals and prevent them from acting on
4 stereotypes they may hold?

5 MR. KEEGAN: Objection.

6 THE DEPONENT: Well, the particular study
7 from 2002 that I'm -- that I've mentioned is -- shows
8 that for instance, just the simple act of having an
9 interview, either for a promotion for a hire that is a
10 structured interview, in other words, there are 10
11 questions that everyone is asked, and everyone's asked
12 in that order.

13 And it's very much a prescribed kind of
14 interaction helps reduce bias by not essentially
15 allowing some of the informal biases that might come
16 about from two people with the same or different, you
17 know, statuses interacting. So that -- so this is a
18 way of kind of taking it out of the realm of just, you
19 know, sitting and chatting informally, which leads to
20 sort of more bonding or not in the interview setting.

21 Q (By Ms. LePage) Okay. Let me back up here, on Page 6
22 of Matt Keegan's letter to me, which is Still Exhibit
23 Number 1, the first full paragraph, if you will, says
24 Ms. Still is expected to testify that when decision
25 makers are under social pressure to control their sex

1 stereotyping behavior, they can do so.

2 Did I read that correctly?

3 A Yes.

4 Q And is that in fact a true statement?

5 A That's -- this is based on what the evidence that I
6 just discussed, and it's, you know, there's not -- it's
7 very much kind of cutting edge in the sense that
8 there's not a lot of it, but there is some evidence
9 that decision makers can do this.

10 The social pressure part, that must be what threw
11 me when you read it because I'm not -- I don't -- these
12 studies don't evidence social pressures -- an
13 organization requiring, which I guess you could
14 interpret as social pressure, an organization
15 requiring, for instance, that you have a set way of
16 interviewing, and you have certain mechanisms for
17 reporting the outcome of that interview and reporting
18 your evaluation of that interview, formal mechanisms
19 that enable human resources or whomever to filter out
20 potential biases. So that's what I was referring to
21 there. The social pressure would be, you know,
22 organizations telling you this is what you have to do.

23 Q So you're suggesting that company policies perhaps can
24 have an effect on decision makers controlling their sex
25 stereotyping behavior?

1 A Yes. And the literature on formal organizations and
2 methods for reducing discrimination, that's out of
3 the -- this sort of cognitive bias sort of research
4 area. This is a separate stream of literature, more in
5 sociology than in social psychology, there's a
6 distinction there.

7 That literature that looks at companies and their
8 potentially discriminatory practices at the company
9 level, not talking to individual people about how they
10 feel discriminated, but looking at promotion rates and
11 outcomes and things like that, that research has shown
12 that there are very specific things a company can adopt
13 that will help reduce discrimination in general, not
14 just against mothers, or women, but against people of
15 other races or ethnicities, religious preferences, that
16 kind of thing.

17 That has to do with internal labor markets where
18 positions are posted for everyone, you know, systems --
19 again, systems -- bureaucratization essentially, but
20 accountability for decisions that are made.

21 Q Is there anything else that you -- in your opinion
22 could have the result of controlling the sex
23 stereotyping behavior of decision makers?

24 A Well, the evidence, the more recent evidence that again
25 is somewhat tentative, so about implicit stereotyping

1 suggests that sort of sensitizing managers just as one
2 was sensitized if you worked in organizations in the
3 '80s to sexual harassment problems, making people aware
4 of that -- they hold these stereotypes. A lot of times
5 people are completely unaware that they actually hold
6 these views.

7 Making people aware, you know, making them, you
8 know, see that this is not -- this is something the
9 company does not support, this is a view the company
10 does not support, those kind of things, typical sort of
11 managerial training.

12 Q What about the fact that they're aware that a law
13 exists prohibiting sex based stereotyping, does that
14 have an effect on a decision maker's ability to control
15 sex stereotyping behavior?

16 A I don't know of any social scientific evidence which is
17 what I could speak to about people, you know, that
18 actually look to see if awareness of a law had any
19 effect.

20 I think -- it seems intuitive that awareness of a
21 law -- it's tricky, though, with sex discrimination in
22 the case of maternal wall issues because people
23 generally know, you know, they can't say we won't hire
24 you because you're a woman.

25 But they don't seem to know that they can't say,

1 we're not going to hire you because you're a mother.

2 It seems to be yet -- you know, it's not -- it hasn't

3 quite -- the connection is not quite there at least

4 from what I'm aware of.

5 Q Do you have children yourself?

6 A Yes, I do.

7 Q How many do you have?

8 A Two.

9 Q And what are their ages?

10 A 19 and 14.

11 Q In your personal experience, what kind of child care

12 arrangements have you made as your children were young?

13 A Every kind of child care arrangement that could

14 possibly be made. I've done -- I've stayed home

15 full-time. I've done every configuration. I've worked

16 as a reporter 80 hours a week. I've been in graduate

17 school. I've, you know, raised them myself.

18 Q Have you had them in day care?

19 A Yes.

20 Q And do you feel that children are better off being at

21 home with a parent who is a primary caregiver than

22 being in day care?

23 A Not necessarily, no. If the day care is terrible, then

24 yes, they would be better off. If the day care is

25 good, and the evidence -- the social science research

1 shows if the day care is adequate to above, you know,
2 to good, they're fine.

3 Q Is there a stereotype in the workplace that men are
4 more confident than women?

5 A Did you say confident or competent?

6 Q Confident, F-I-D-E-N-T?

7 A That particular, yes, it's all bundled up with
8 masculinity traits which are strength, risk taking,
9 aggressiveness, individuality, competence. Those are
10 male traits.

11 Q If a male didn't exhibit those traits in the workplace,
12 in other words, he didn't exhibit confidence, would
13 that be held against him by an employer?

14 MR. KEEGAN: Objection.

15 Q (By Ms. LePage) Go ahead.

16 A Those are characteristics that are -- that embody the
17 ideal worker in the United States anyway. So in that
18 sense, anybody would -- the workplace wants that,
19 that's what we're modeled on.

20 There is research, though, that shows that men --
21 there's a leniency bias toward men in the sense that
22 they get, you know, more sort of -- that women and
23 mothers are held to higher standards, stricter
24 standards than men.

25 So in other words, for women to be promoted,

1 there's been research showing their performance
2 evaluations have to be even better than what a man
3 would be -- the same man would be promoted.

4 So yeah, that's -- confidence, I think that there
5 is an assumption that because someone is a male that
6 they embody these traits, that's where the stereotypes,
7 you know, live in us.

8 Q If in fact they demonstrate the exact opposite, that
9 they're very nonconfident, the male, what kind of
10 impact would that have on their perceived performance?

11 A I think male or female, a trait that is not part of a
12 desirable ideal worker trait would have consequences
13 eventually. I think it would take longer for a man to
14 feel those consequences, but that's just -- I'm just --
15 that's just supposition.

16 MS. LEPAGE: I think I'm going to take a few
17 minutes' break, I might be pretty much wrapped up here
18 if I take a few minutes' break.

19 (Recess at 12:49 p.m., to 12:58 p.m., after which the
20 following proceedings transpired.)

21 Q (By Ms. LePage) Back on the record. Do you have an
22 opinion in this case as to whether the plaintiff Laurie
23 Chadwick was discriminated against --

24 A Yes.

25 Q Let me finish the question. When she was not given the

1 promotion?

2 A Yes.

3 Q What is your opinion?

4 A That she was discriminated against.

5 Q What is that opinion based upon?

6 MR. KEEGAN: Objection.

7 THE DEPONENT: The evidence as I have been
8 presented it.

9 Q (By Ms. LePage) And the evidence as you have been
10 presented it as I understand was in the form of phone
11 conversations with the plaintiff's lawyer, Matt Keegan;
12 is that right?

13 A Yes.

14 Q Is it based on any other information?

15 A It's based on my training in this area of social
16 scientific research.

17 Q And so the record is clear, this opinion is not based
18 upon any review of the testimony of any of the
19 witnesses in the case; is that right?

20 A Yes.

21 Q And it's not based upon any review of documents that
22 may have been generated in this case; is that right?

23 A Yes.

24 Q Is it your testimony that it doesn't really matter how
25 the facts might differ from what you were told, you're

1 going to continue to have the same opinion?

2 MR. KEEGAN: Objection.

3 THE DEPONENT: No. I think I've stated
4 previously that if I learned that the facts as I've
5 been told were incorrect, it would alter my opinion.

6 If there were no statements made to her, it
7 would -- it would still -- her status would still be a
8 question mark given that she has, you know, these young
9 children or all these children, and given her previous
10 good performance, and before being interviewed.

11 But if none of the statements -- if the statements
12 were -- if I was told the statements were incorrect and
13 never occurred, then I would be much less willing to
14 say that she was discriminated against based on her
15 status as a mother.

16 Q (By Mr. LePage) I'd like you to take a look at what's
17 been marked as Still Exhibit Number 1, which is the
18 letter from Matt Keegan designating you as the
19 plaintiff's expert, and show me where in that document
20 it's been indicated that you're going to give an
21 opinion regarding whether or not the plaintiff in this
22 case was discriminated against based on her sex?

23 A It does not indicate that.

24 MS. LEPAGE: I have no further questions.

25 EXAMINATION

1 BY MR. KEEGAN:

2 Q I'm showing you what's been marked as Dawn Leno Exhibit
3 1, I'd like you to read -- the exhibit consists of two
4 emails, and I'd like you to focus on the second email
5 that begins approximately halfway down the page and is
6 from Laurie Chadwick to Patricia Shields. Do you see
7 that?

8 A Uh-huh.

9 MS. LEPAGE: Do you have another copy?

10 MR. KEEGAN: I don't, these are the originals
11 from it.

12 MS. LEPAGE: I'll take a break for a second,
13 I'll get someone to make copies so I can be looking at
14 it. Do you have any other exhibits?

15 MR. KEEGAN: I do. Let me see if I can find
16 copies. I'm just going from originals that I used at
17 the previous ones.

18 (Recess at 1:03 p.m., to 1:10 p.m., after which the
19 following proceedings transpired.)

20 MS. LEPAGE: I just want it to be clear for
21 the record that to the extent we're going forward with
22 redirect of Mary's testimony that this is not part of
23 the testimonial charge charged to the employer. In
24 other words, you know, she's here to give a deposition
25 at my request. I don't have any problem with you

1 putting on an opinion --

2 MR. KEEGAN: I see what you're saying, you
3 don't want to pay for her time during my section.

4 MS. LEPAGE: Yeah, if you're going to have
5 her here for a couple of hours. Don't mean to be
6 crass.

7 MR. KEEGAN: That's fine with me. I
8 understand. That's fair enough.

9 MS. LEPAGE: We can say it's about 1:10.

10 Q (By Mr. Keegan) I'm showing you again what's been
11 marked as Dawn Leno Exhibit 1. Have you had a chance
12 to read through that?

13 A You want me to read the whole thing?

14 Q The whole second email?

15 A No, I haven't finished it yet.

16 MS. LEPAGE: Which one are we talking about?

17 MR. KEEGAN: This is that one.

18 MS. LEPAGE: This one. I was looking for
19 Dawn's name on it, that's why I was confused.

20 THE DEPONENT: Okay.

21 Q (By Mr. Keegan) Are you done reading?

22 A Yes.

23 Q I want you to look at the second sentence of the email,
24 I'm going to read it to you. The reason that my
25 immediate supervisor stated why I did not get the

1 position was that I am not done with my bachelor's and
2 that I have my children and I have a lot on my plate.

3 What does that statement, if it's true what Laurie
4 is stating in the email, how does that affect your
5 opinion on whether or not sex was taken into account in
6 making the hiring decision?

7 A My opinion remains the same.

8 Q That sex was taken into account?

9 A Yes, sex was taken into account.

10 Q And what is it about that statement that makes you say
11 that?

12 A Well, again, this idea first of all that her status as
13 a mother is relevant. Secondly, that the stereotypes
14 of mothers as being the primary caregivers appears to
15 be activated here with the statement, I have a lot on
16 my plate -- I have my children, and I have a lot on my
17 plate, because the assumption again, there's no nanny,
18 there's no husband who can pick up the slack or would
19 pick up the slack.

20 Q The next sentence reads, when I questioned her, she
21 stated that they thought if they were in my shoes, they
22 would feel overwhelmed.

23 What do you see as the significance of that
24 statement?

25 MS. LEPAGE: Objection. Vague.

1 THE DEPONENT: Again, I think the
2 significance as I've stated before is that the
3 assumptions that are evidenced there that she could
4 be -- that she's overwhelmed because she has these kids
5 because it's -- she's the primary caregiver, you know.
6 The assumption appears to be that she's the one that's
7 doing all the work, and that is a common assumption
8 about women in the home.

9 Q (By Mr. Keegan) Based on your training, your
10 experience and education, is it your opinion that each
11 of those sentences makes it more likely that the hiring
12 decision was based on sex?

13 MS. LEPAGE: Objection. Lack of foundation.
14 Vague.

15 THE DEPONENT: I think they provide strong
16 evidence that stereotypes about motherhood were
17 enacted, and motherhood stereotypes are sex -- is
18 discriminating against mothers is discriminating based
19 on a sex role.

20 Q (By Mr. Keegan) Take a look at the second to last
21 sentence of the second paragraph. It reads she stated,
22 Laurie, you're a mother, would you let your kids off
23 the hook that easy if they made a mess in room, would
24 you clean it or hold them accountable.

25 Does that statement indicate that the interviewer

1 is considering sex as a salient characteristic in
2 making a hiring decision?

3 MS. LEPAGE: Objection, hearsay, lack of
4 foundation.

5 THE DEPONENT: That statement indicates to me
6 that the decision maker is -- sees the employee as a
7 mother, is aware of their status as a mother, and
8 clearly links her status as a mother with her
9 managerial potential.

10 Q (By Mr. Keegan) Can you take a look at the next page
11 with 471 in the lower right-hand corner, about halfway
12 through that paragraph, there's a sentence that begins
13 in the middle, that states if I was a man, would I have
14 been told that I had too much on my plate because of
15 one class and my children.

16 Is there anything in the scientific research that
17 indicates that it's less likely that a man would have
18 been told that he had too much on his plate because of
19 one class and his children than a woman would be told
20 that?

21 A Yes. There is a lot of qualitative, and by that again
22 I -- again, sort of historical analysis of roles, sex
23 roles of organizations and expectations as in cultural
24 analysis as well as laboratory evidence that men's
25 fathering, men's primary breadwinner role is --

1 definitely does not hurt them in the workplace, and
2 sometimes is even a bonus for them if it's perceived
3 that they're going to work harder to be the primary
4 breadwinner and care for their children.

5 So I think it would be very unlikely for someone
6 in -- a male to get that question. And again, the
7 assumption is we have this model of Ozzie and Harriet,
8 breadwinner, homemaker, that if this person is coming
9 up for promotion, is also in class, he probably has a
10 stay at home wife or a wife with flexibility in her
11 schedule that is going to enable him to be able to do
12 these things.

13 Q Now the statements that I've identified in this email,
14 do those statements indicate to you based on the
15 research, your training, your experience, that the
16 decision maker and the other person doing the
17 interviewing held the stereotype that you sort of
18 described in shorthand as the Ozzie and Harriet
19 stereotype?

20 MS. LEPAGE: Objection, vague.

21 THE DEPONENT: Yes. If in fact this is all
22 true.

23 Q (By Mr. Keegan) So those statements that I identified
24 in Paragraph 1 that Laurie attributed to the hiring
25 decision maker, do those statements based on your

1 scientific training, scientific literature, your
2 experience, indicate to you that the person making
3 those statements was making sex based assumptions about
4 Laurie?

5 MS. LEPAGE: Objection. Leading, vague.

6 THE DEPONENT: If this as presented is an
7 accurate description of what occurred, I think it's --
8 it appears to be a very classic case of maternal wall
9 discrimination.

10 Q (By Mr. Keegan) And is maternal wall discrimination --
11 well, let me ask you this, if somebody is treated
12 differently because they're a mother, is it your
13 understanding that they're being treated differently
14 because of their sex?

15 MS. LEPAGE: Objection, leading.

16 THE DEPONENT: The -- yes, because the two
17 are so intricately linked in people's cognitive schemas
18 and our cultural understandings of what it is to be
19 female.

20 Q (By Mr. Keegan) I'm going to give you a set of facts.
21 I'm going to ask you a question about them. I want you
22 to assume these facts are true.

23 In about May 30th, June 5th, and June 12th, on
24 each of those occasions, Laurie sent an email to her
25 supervisor informing her supervisor that she needed

1 time off concerning her kids for part or all of a day.

2 I want you also to assume that Laurie applied for
3 the position of team leader on June 6th, and that the
4 decision was made roughly July 13th.

5 Is there anything in the scientific literature or
6 you've encountered in your training, experience that
7 would indicate any connection between sex based
8 stereotyping and the fact that Laurie sent those emails
9 to her supervisor?

10 MS. LEPAGE: Objection, leading, lack of
11 foundation.

12 THE DEPONENT: The timing makes her status as
13 a mother more -- more immediate, more relevant or
14 salient for the decision maker who may or may not have
15 known -- let's say that the decision maker didn't know
16 she was a mother before that -- probably not the case.
17 But those -- the timing of those requests would be
18 unfortunate for any job candidate who was a mother.

19 Q (By Mr. Keegan) When you say unfortunate, what do you
20 mean unfortunate?

21 A Well, stereotypes that people have, especially
22 stereotypes that may be -- that may be implicit, they
23 may not know that they have, can be activated or
24 triggered by various events.

25 And so for instance, a sick child or bringing a

1 child into work, the more you essentially draw
2 attention to this stereotype that in the workplace is
3 ultimately a negative stereotype, and it has some nice
4 things about it, you're perceived as warm and likable.
5 But in terms of advancement, it's a very negative
6 stereotype. So these triggers would make it just
7 more -- it would just be more relevant being that
8 fresh.

9 MR. KEEGAN: I still don't have this yet.
10 Take a look at that, I'm just going to ask her about
11 the middle one. There's not a lot to keep in mind. Is
12 that all right?

13 MS. LEPAGE: Are you going to introduce it as
14 an exhibit?

15 MR. KEEGAN: Yes.

16 MS. LEPAGE: All right. Hang on a second.

17 (Recess at 1:23 p.m., to 1:24 p.m., after which the
18 following proceedings transpired.)

19 (Still Deposition Exhibit Number 5 was marked for
20 identification.)

21 Q (By Mr. Keegan) I'm showing you what's been marked as
22 Still Exhibit 5. And I'd like you to read -- there's
23 three emails on the first page of Exhibit 5. Can you
24 read those emails to yourself, please?

25 A Okay.

1 Q Now we mentioned -- you testified before about a
2 comment I had told you about the phrase "bless you,"
3 this is the comment that I was referring to. What --
4 to what extent do the contents of these three emails
5 provide any evidence that the decision maker, Nanci
6 Miller, was taking sex into account when making the
7 hiring decision?

8 MS. LEPAGE: Objection, leading.

9 THE DEPONENT: Well, really it's nice to see
10 the context around it. And it certainly seems that the
11 supervisor made this comment in a positive vein.

12 However, the fact really is still there that the
13 assumptions that are embedded in that statement are
14 assumptions that Laurie is the primary caregiver and
15 that she has a pretty daunting task in life.

16 Q (By Mr. Keegan) Thank you. Now I want you to assume
17 in addition to --

18 A Can I just add one point that I don't think I've made
19 yet, which is just seeing that email reminds me that
20 oftentimes managers are -- again, don't realize they
21 have the stereotypes that they hold or don't realize
22 there could be any negative consequences, and don't act
23 in malice or don't -- you know, don't maybe decide in
24 advance, I'm going to discriminate against this person
25 based on this.

1 I mean, she certainly appears very supportive in
2 that email. And I think it's important to distinguish
3 that it's not necessarily bad people who hold these
4 stereotypes most of us do.

5 Q You discussed before in response to some of Meg
6 LePage's questioning that certain supervisors can be
7 supportive of a mother's need to care for her children;
8 is that correct?

9 A Yes.

10 Q Is it true that someone who is supportive of mothers
11 could still also discriminate against mothers in making
12 hiring decisions?

13 MS. LEPAGE: Object, leading.

14 THE DEPONENT: Yes. And here we're talking
15 about what's referred to in the research most recently
16 as benevolent stereotyping really where you think
17 you're doing the right thing, for instance, or by not
18 asking somebody to work longer hours on that project
19 that's very high profile and might get them promoted
20 because you assume they can't because they have
21 caregiving responsibilities.

22 So you think you're doing a good thing because
23 you're not putting pressure on them, but on the other
24 hand, you're inadvertently perhaps denying them the
25 opportunity to perform the way they need to perform to

1 get ahead.

2 Q (By Mr. Keegan) I want you to assume that the team
3 lead position for which Laurie was applying was a
4 salaried position as opposed to her previous position
5 which was an hourly position. That it required some
6 supervisory responsibilities, and that it involved
7 periodically working more hours.

8 Does the -- how would you explain the relationship
9 between benevolent stereotyping as you discussed and
10 that particular fact situation?

11 MS. LEPAGE: Objection, leading.

12 THE DEPONENT: Well, again, the relationship
13 would be that you -- and I don't know that it's
14 necessarily benevolent stereotyping if you don't
15 promote somebody into long hours, it could be, it could
16 be you think you're really doing them a favor.

17 But what -- but given, you know, stereotypes about
18 motherhood and mothers' responsibilities, somebody who
19 held that stereotype would assume that a candidate with
20 a lot of young children or children -- a candidate with
21 children versus a candidate not with children would not
22 be able to be as available and committed.

23 A candidate with a lot of young children, as is
24 the case in Laurie's case, you know, you can see from
25 the evidence of all the appointments that she needs to

1 go to that this is clearly something that's salient in
2 the workplace. So the assumption would be -- the
3 assumption again would be that those long hours, the
4 mother has to cover those long hours with her children,
5 that there's nobody else that's going to do that. And
6 she would not be available or as available.

7 Q (By Mr. Keegan) Is it fair to say that somebody who
8 may be supportive of a -- what you've termed a front
9 line worker, in flexibly -- making flexible
10 arrangements in schedule to take care of children might
11 not be as supportive when considering that person for a
12 supervisory, leadership salary role?

13 MS. LEPAGE: Objection, leading.

14 THE DEPONENT: Yes. Do you want me to expand
15 or --

16 Q (By Mr. Keegan) Yes, can you explain why?

17 A Again, there are stereotypes that exist that are
18 pervasive, and sometimes they're activated, sometimes
19 they're not activated. It's very -- a woman in a very
20 sex typical job with maybe a set schedule that could
21 accommodate child care or school hours would not be as
22 scrutinized for her caregiving responsibilities as a
23 woman who is essentially being asked to take on more
24 male typical or masculine typical kinds of
25 responsibilities and traits.

1 Leading, you know, the research on, for instance,
2 leadership and what's referred to as role incongruity
3 shows that people are willing to let women have jobs
4 at, you know, at a certain level, like in sex typical
5 roles, but not -- they won't recommend promoting them
6 for levels where it appears it's going to be more
7 commitment needed or more masculine traits like
8 leadership, and, you know, being rational and not
9 emotional and that kind of thing.

10 Q In addition to the facts as I've presented them to you,
11 I want you to assume that the hiring decision maker
12 also told Laurie that it would be a blessing in
13 disguise that Laurie did not get the job. How does
14 that affect your understanding of the extent to which
15 sex might have played a role in the decision making
16 process?

17 MS. LEPAGE: Objection, leading.

18 THE DEPONENT: There was no other information
19 about why this would be a blessing in disguise?

20 Q (By Mr. Keegan) Let me give you additional facts.

21 A Okay.

22 Q There was a meeting in which Laurie alleges -- well,
23 I'm going to show you again Dawn Leno Exhibit 1. Do
24 you recall we went through some of the facts in
25 Paragraph 1 of that email?

1 A Yes.

2 Q And that email represents Laurie's description of at
3 least in part her meeting with Nanci Miller when Nanci
4 Miller told Laurie she did not get the job. Now what I
5 want you to add to those facts is that Dawn -- that
6 Nanci Miller also said that not getting the job was a
7 blessing in disguise for Laurie.

8 Based on those facts, how does that affect the
9 extent to which you believe there might have been sex
10 taken into account in making the hiring decision?

11 MS. LEPAGE: Objection. Leading.

12 THE DEPONENT: Well, I kind of wanted to know
13 in what -- was it said in the context of -- because
14 somewhere she talked about there may be better fits or
15 better places for you or something.

16 So was it in the context of oh, there's going to
17 be a great job that's coming ahead that we're saving
18 for you, or was it in the context of you're so busy,
19 you have so much on your plate, finish your class, and
20 take care of your children, and that's a blessing in
21 disguise, this will keep you from having to be stressed
22 out. I don't know where it fits in the order of this.

23 Q (By Mr. Keegan) If you assume that there were no
24 specific jobs available at that point for Laurie to go
25 into, and that the jobs that were referred to as

1 possibly coming down the line were jobs that Laurie was
2 not interested in, would that -- assuming those facts,
3 to what extent does the blessing in disguise comment
4 affect your understanding of whether sex might have
5 been a factor in the discrimination -- in the hiring
6 decision?

7 MS. LEPAGE: Objection, leading.

8 THE DEPONENT: Well, as I've said before, I
9 think each piece seems to make the case stronger. And
10 if in fact that statement was made in any proximity to
11 the statements about her overwhelming responsibilities,
12 I would say that, you know, it adds more credibility to
13 the idea that it was related to -- the decision was
14 related to her role as a mother.

15 Q (By Mr. Keegan) I want you to assume that the hiring
16 decision maker has testified that she has hired
17 anywhere from five to 10 people in the course of her
18 career at that point, and that she had had males apply
19 for several of those positions, but less than five, and
20 that she had never rejected a male candidate.

21 Does that fact make it more likely that the hiring
22 decision maker took sex into account when making the
23 hiring decision?

24 MS. LEPAGE: Objection. Leading, misstates
25 the evidence.

1 THE DEPONENT: I honestly don't -- I don't
2 think I can -- I don't -- that doesn't fit with exactly
3 what, you know -- I don't know. I can't really do that
4 well. I don't think I would have a clear opinion about
5 that. I mean the issue we're talking about is sex
6 discrimination because of her motherhood status, and
7 it's difficult when we start entering in decisions made
8 about men that aren't -- you know, that you don't know
9 if they're fathers or not, things like that. It just
10 gets a little bit complicated. I don't think I would
11 want to speculate.

12 Q (By Mr. Keegan) I may have already asked you this, but
13 just to be clear, assuming the facts as Laurie presents
14 them in her email in Exhibit 1, Leno Exhibit 1, and
15 then adding in the additional fact that in that
16 conversation Nanci Miller told Laurie that it isn't
17 anything you did or didn't do, does that make it --
18 that fact make it more likely that sex was a factor in
19 the decision making process?

20 MS. LEPAGE: Objection, leading, misstates
21 the evidence.

22 THE DEPONENT: It -- yes, in and of itself,
23 it looks very suspicious.

24 Q (By Mr. Keegan) Why?

25 A Well, in combination again with all these other

1 statements that were made, it is sort of like saying,
2 you know, you're a mother, it's nothing you can help,
3 it's nothing you can do.

4 And from what I've been informed of today, there
5 was discussion about her not doing well in the
6 interview process, which seems to contradict what this
7 statement is now, that there is nothing you did or
8 didn't do. So that would lead me to be a little bit
9 reticent about trusting the truthfulness of the
10 supervisor who made those statements.

11 Q So in that sense, if you had to say whether that
12 statement makes it more likely that sex was a factor in
13 the hiring decision or less likely that sex was a
14 factor in the hiring decision, would you say it was
15 more likely?

16 A Yes.

17 MS. LEPAGE: Objection. Leading. Vague.

18 THE DEPONENT: Yes.

19 Q (By Mr. Keegan) I'm going to give you some additional
20 facts. If the hiring decision maker testified that
21 both Laurie and Donna Ouellette, the person ultimately
22 obtained the position were qualified for the position,
23 and they were the top two candidates for the position,
24 does that make it more likely that sex was a factor in
25 the decision?

1 MS. LEPAGE: Objection, leading.

2 THE DEPONENT: No. I don't think so. Make
3 sure I understand, she was just told that they were the
4 two top candidates.

5 Q (By Mr. Keegan) Yes.

6 A And that's it?

7 Q And they were both qualified for the position?

8 A And they were both qualified, okay.

9 MS. LEPAGE: Same objection.

10 THE DEPONENT: Then I would be inclined --
11 she said they were both equally qualified?

12 Q (By Mr. Keegan) She didn't say they were both equally
13 qualified. What the testimony was is that they were
14 both qualified for the position, and that they were the
15 top two candidates for the position?

16 A Okay.

17 MS. LEPAGE: Same objection.

18 THE DEPONENT: Then I would -- it would -- I
19 think it would make it somewhat more likely that sex
20 was taken into consideration in making the decision.

21 Q (By Mr. Keegan) Is it more likely for a hiring
22 decision maker to act on any biases they might have
23 when the hiring process involves more subjective
24 criteria than objective criteria?

25 MS. LEPAGE: Objection, leading.

1 THE DEPONENT: Yes. I mean, that's what the
2 research indicates.

3 Q (By Mr. Keegan) Now I'm going to add an additional
4 fact to facts we've already discussed. And that fact
5 is that the hiring decision maker, Nanci Miller, filled
6 out a form called a candidate evaluation form. And on
7 that form, she rated Laurie lower by one point on a
8 zero to four point scale in every single category.

9 There were 12 categories except for one where they
10 were rated equally. And I also want you to assume that
11 Nanci Miller testified that she filled out the
12 candidate evaluation forms after she made the decision
13 to hire Donna Ouellette. Can you explain what
14 significance that might have to whether the hiring
15 decision was based on sex?

16 MS. LEPAGE: Objection, leading.

17 THE DEPONENT: What I -- what I can speculate
18 is that she may have -- after acting on this sex
19 stereotype, essentially adjusted her evaluation to
20 reflect objective criteria rather than to be perceived
21 as having some ulterior reason -- or that's common --
22 it's common in -- it's been shown in research that
23 people who hold the stereotypes and act on them in some
24 way will often inflate other reasons as for why they
25 did what they did.

1 So if they say no, we don't want to hire that
2 person, or we don't want to admit that person to our
3 college, and it's based on some stereotype, they will
4 say, you know, look, they don't have the grades. And
5 yet, in experiments with people of exact same grades,
6 it's been shown that they act differently according to
7 these, you know -- they would let that person in if
8 they didn't have these traits that they hold
9 stereotypes about.

10 MS. LEPAGE: Move to strike the answer on the
11 basis that it was based upon speculation as
12 characterized by the witness.

13 Q (By Mr. Keegan) Is there any scientific evidence that
14 supports the proposition that somebody who has made a
15 decision based on their bias would alter their
16 putatively objective ratings of an individual that
17 they're making a decision not to hire or to hire as a
18 way of covering up or making less visible their bias?

19 MS. LEPAGE: Objection, leading.

20 THE DEPONENT: The research that I know of
21 says that -- you know, finds that people do come up
22 with these, by inflating other pieces of information,
23 making them more salient than what they hold the
24 stereotype against. But it doesn't -- it doesn't --
25 what you suggest is that they do this to cover up.

1 The researchers use the word cloak, to cloak their
2 stereotypes, but they don't -- they never prove this
3 malicious sort of intent or this, you know, devious
4 sort of let me cover up my -- these things that I
5 intentionally am doing. So I think the evidence is
6 less clear about whether people unconsciously or
7 consciously do that.

8 Q (By Mr. Keegan) Assuming that Nanci Miller did fill
9 out the candidate evaluation forms after making the
10 decision on who to hire, and based on the other facts
11 that I've given to you, is her behavior in filling out
12 the candidate evaluation forms consistent with somebody
13 who has made a decision based on sex?

14 MS. LEPAGE: Objection. Leading.

15 THE DEPONENT: Yes. That's what you would
16 expect to see if somebody were making that decision
17 based on sex.

18 Q (By Mr. Keegan) I'm going to add an additional fact
19 for you. And I want you to assume that Donna Ouellette
20 and Laurie both had performance evaluations performed
21 about January, the January before the hiring decision
22 was made. And they were both performed by Linda Brink
23 who was one of the two secondary interviewers.

24 And I want you to assume that there were seven
25 categories on the candidate evaluation form that had

1 the same heading as seven categories in the performance
2 evaluation. Are you with me so far?

3 A Uh-huh.

4 Q Okay.

5 A Yes.

6 Q And I want you to assume that in five of those
7 categories, Laurie rated higher than Donna. And that
8 in two of those categories, Laurie rated the same as
9 Donna. But in all of those categories except for one
10 on the candidate evaluation form, Laurie rated one
11 lower than Donna except for one where they were equal.

12 Based on those additional factors, do they make it
13 more likely that sex was a factor in the decision
14 making process?

15 MS. LEPAGE: Objection. Leading.
16 Mischaracterized the evidence.

17 THE DEPONENT: Is the -- is the candidate
18 evaluation form an evaluation of the interview? Or is
19 it an evaluation of the skills as demonstrated at --
20 you know, through performance and through articulation
21 of skills?

22 Q (By Mr. Keegan) Assume that the testimony is that the
23 candidate evaluation form is based at least in large
24 part on the interview.

25 MS. LEPAGE: Objection. Is there a question

1 pending?

2 Q (By Mr. Keegan) Yes. She asked for clarification of
3 my original question.

4 MS. LEPAGE: Same objections as prior.

5 THE DEPONENT: And the categories are not
6 things like, you know, how well you present yourself or
7 things like that?

8 Q (By Mr. Keegan) I'll read you the categories.

9 MS. LEPAGE: I'm going to object to this line
10 of questioning.

11 Q (By Mr. Keegan) Okay. Business industry knowledge,
12 communication, customer focus, developing self and
13 others, innovation, leadership, and team work.

14 MS. LEPAGE: Same objections.

15 THE DEPONENT: It certainly -- I'm not sure
16 how to phrase this. Given the accumulation of facts,
17 it would certainly lead me to be inclined to think that
18 the evaluation was -- the candidate evaluation, not the
19 job performance evaluation, was a response to
20 stereotypes, that motherhood stereotype that had been
21 triggered recently through the care problems or issues
22 that Laurie was having.

23 Q (By Mr. Keegan) So is it fair to say that those
24 additional factors I described about the performance
25 evaluations and the candidate evaluation forms make it

1 more or less likely that sex was a factor in the
2 decision?

3 MS. LEPAGE: Objection, compound, leading.

4 THE DEPONENT: I feel fairly comfortable in
5 saying that they make it more likely sex was used.

6 Q (By Mr. Keegan) Based on the additional facts as I've
7 described them to you in my direct examination of you,
8 and the facts that you considered when forming your
9 opinions, and based on the research you reviewed, your
10 training, your education, your experience, is it more
11 likely than not that the hiring decision in which
12 Laurie was denied the job was motivated by Laurie's
13 sex?

14 MS. LEPAGE: Objection. Leading. And I
15 object to the use of the word facts as being anything
16 that's been presented in this deposition today. You
17 may answer.

18 THE DEPONENT: Based on again, the assumption
19 that these are in fact -- sorry, that these events as
20 described occurred, it would make it more likely than
21 not that sex was used as a factor.

22 Q (By Mr. Keegan) Again, based on your training, your
23 education, your experience, the research that you've
24 reviewed, and assuming the facts that I've described to
25 you in my examination of you, and the facts you

1 previously testified that you understood earlier, is it
2 your opinion that it's more likely than not that sex
3 was the determinative factor in the decision?

4 MS. LEPAGE: Objection, leading.

5 Q (By Mr. Keegan) By determinative factor, I want you to
6 consider the determinative factor means that if sex was
7 not taken into account, a different hiring decision
8 would have been made?

9 MS. LEPAGE: Objection, more leading.

10 THE DEPONENT: Yes, it's my opinion based on
11 my research and training and understanding of the facts
12 as they've been presented that sex was a strong factor,
13 and as you've described it, that it would -- if sex had
14 not been taken into consideration, that there would
15 have been a different hiring decision.

16 MR. KEEGAN: I have no further questions.

17 MS. LEPAGE: And I have no questions.

18 (At 1:55 p.m., the foregoing proceedings were
19 concluded.)

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MARY STILL

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Subscribed and sworn to before me

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this _____ day of _____, 2007.

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Notary Public

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1 CERTIFICATE

2 I, Cindy Packard, a Notary Public in and for
3 the State of Maine, hereby certify that the
4 within-named deponent was sworn to testify the truth,
5 the whole truth, and nothing but the truth in the
6 aforementioned cause of action.

7 I further certify that this deposition was
8 stenographically reported by me and later reduced to
9 print through Computer-Aided Transcription, and the
10 foregoing is a full and true record of the testimony
11 given by the deponent.

12 I further certify that I am a disinterested
13 person in the event or outcome of the above-named cause
14 of action.

15 IN WITNESS WHEREOF I subscribe my hand
16 this ____ of _____, 2007.

17 Dated at Falmouth, Maine.

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Notary Public

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My Commission Expires
November 9, 2008

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