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Plaintiff Class Counsel

IN THE UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

VICKI BUTLER, SUSAN ELLIS, FELICIA FUNDERBURK, JACQUELINE GENERO, SHERYLE JONES, KIMBERLY STODDARD, and CHERYL WILLIAMS, on behalf of themselves and all others similarly situated, and JAMIE WILSON, as an individual,

Plaintiffs,

vs.

HOME DEPOT, INC.,

Defendant.

TERESA FRANK, KATHERINE TOMA, and KATHLEEN YORK, on behalf of themselves and all others similarly situated,

Plaintiffs,

vs.

HOME DEPOT, INC.,

Defendant.

Case No. C 94 4335 (SI)
C 95 2182 (SI)
Consolidated

REPORT OF
CARL C. HOFFMAN, Ph.D.
ON BEHALF OF PLAINTIFFS

In accordance with the Federal Rules of Civil Procedure, at Rule 26(a)(2), I submit this report on behalf of plaintiffs.

◆ General Qualifications

My name is Carl C. Hoffmann, and I hold a doctorate in Sociology from the University of North Carolina at Chapel Hill. As President of Hoffmann Research Associates ("HRA"), a social science research firm headquartered in Chapel Hill, North Carolina, I consult in human resources research and systems development. I have also taught seminars in survey research and applied statistical analysis at the University of North Carolina at Chapel Hill, and have served as an expert witness in connection with various types of employment discrimination claims on behalf of both plaintiffs and defendants.

I have written and presented papers on statistics and the law before the American Statistical Association, have testified before the United States Congress on the potential effect of the proposed Equal Rights Amendment on income differences between men and women, as well as before the U. S. Commission on Civil Rights on matters relating to affirmative action. (My *Curriculum Vitae* is annexed as Exhibit "A;" a list of all the publications I have authored since 1986 to the present is annexed as Exhibit "B;" and a list of other cases in which I have testified as an expert witness or been deposed since 1992 to the present is annexed as Exhibit "C.")

• Experience Relating To Lack Of Interest Surveys, Survey Research, Job Analysis And Employment Discrimination Cases

I have extensive experience in the field of survey research done for professional associations, state licensing boards, law firms, as well as for corporate, municipal and state authorities. I have

performed statistical analyses and provided expert witness testimony in over 95 court cases and have used in-depth surveys in support of over 50 job analysis studies conducted as part of licensing examination and selection test validation and development.

In addition to the surveys I have performed in connection with employment discrimination practices, I have conducted or criticized surveys dealing with securities fraud, trademark infringement, libel, jury selection, the Lanham Act, corporate ethics, and the effect of jury instructions.

In particular, I have performed numerous employment surveys and several surveys over the past 17 years to assess the relative interest of men and women in seeking advancement at their places of employment. To my knowledge, I performed the first of this type of survey research in 1978 for Delta Air Lines in defense of a sex discrimination claim, *Thornberry, et al. vs. Delta Air Lines*. The results of this study were originally published in Public Interest and The Employee Relations Law Journal. Since then, results have been reprinted numerous times in many books and syllabi, and the survey is still actively referenced. I have also been called upon several times to evaluate *lack of interest surveys* with respect to litigation, most notably in *Stender vs. Lucky Stores*.

◆ Assignment In The Present Action

I have been retained by Saperstein Goldstein Demchak & Baller, and Lieff Cabraser Heimann & Bernstein, LLP, attorneys for plaintiffs in the within action to render my expert opinion on three basic issues:

1. Whether the preferences of male and female employees at Home Depot's West Coast Division stores can be determined by Home Depot managers based upon the impressions, opinions or experiences of managers based on:

    - the processing of job applications in the course of filling positions at Home Depot;

The sources of data and information which I have had available in preparing this report are listed in Exhibit "D." My hourly rate in connection with my assignment in the within matter is $200.00.

◆ Model Regarding Employee Interest

Before addressing these particular issues, I will briefly discuss a model of how individuals are hired and moved through organizations, from the perspective of my experience. Individuals may be hired into any number of specific departments or divisions within a corporation. Once there, their opportunities for advancement in pay and responsibility are based upon the interests, knowledge, skills and attributes they bring to the job, in addition to their increasing knowledge of the content of the jobs available to them, or the training made available to them, their exposure to openings for those positions, their performance of the work on the job, their natural inclination to do the work available within the company; and the interest that may have been stimulated or discouraged by the company.

The population employed within a company is filtered through the hiring process. This is a process of exchange of information between the organization and the individual. The individual comes to an organization with a specific set of skills, interests and desires, and the organization presents an individual with specific opportunities which are both immediate and long-term. Some candidates choose not to apply; other candidates apply and the company screens individuals to fit what is made available to the candidates. Companies control the kinds of people who are admitted into their organization through the employment process.

Once hired, employees are exposed to job knowledge, training opportunities and advancement opportunities that oftentimes are based upon the positions which they presently hold. Furthermore, the initial assignments tend to determine the kinds of behaviors the person can engage in for advancement. An initial assignment also tends to determine the risk reward ratio that will guide individual behavior. It may take a lot less effort for a more assured reward to advance within a known line of progression than to move across lines of progression and risk the uncertainty of failure. Clearly, this risk reward ratio will determine the level of interest which individuals have in specific jobs.

◆ Population And Representativeness Of Opinions Expressed By Home Depot Managers, Supervisors And Employees

Almost all companies seek people with a profile of knowledge, skills and attributes which they believe will fill their needs. Home Depot says that it seeks individuals who are customer-service oriented, are willing to fit a specific culture, and are seeking to contribute to that organization. If this selection process is biased, the pool admitted to work at Home Depot may be different with respect to ability and interests compared to those who apply. If women applying to merchandising areas felt capable and had the knowledge required to perform the jobs available in merchandising departments, but were perceived as unqualified, and not hired, then the pool of women with the requisite interests, knowledge, skills and attributes to progress within the merchandising departments would be artificially low compared to the available pool. If women interested in, or qualified for merchandising positions, were steered into cashier jobs and discouraged from seeking merchandising jobs, or had incentives (such as promotions) to remain in operations, that too would artificially affect the measurement of interests.

The appearance that women are not interested may have more to do with the initial selection process than with the innate qualities and preferences of women. First, if the population of women employed at Home Depot was somehow different from the population that applied for jobs at Home Depot, the level of interest presently reflected by employees would not be indicative of the level of interest of women who were potential employees. Secondly, if the actual interests of women employees change after the time managers form their perceptions, or if the managers simply do not know those interests (or make their own assumptions about what those interests are), the interest level reported by the managers will not be accurate.

Individual managers', supervisors' and employees' isolated statements which are often taken out of context, are not necessarily representative of the overall actions and interests in the work force. Consequently, managers and supervisors could be expressing their opinions based upon an already selected group of people, or on misperceptions of the interests of the group. The only way to estimate interest of a population with any precision and establish the pools of interested people is to execute a scientifically designed survey on a representative sample of the population.

◆ Reliability Of Application Information

Further, if there were indications of steering or differential selection of women to some jobs and men to others, then employees' applications may not reflect their initial interest. The steering may be quite subtle. A job in a sales department may be open at the same time as a job in the front end, and, for whatever discriminatory or non-discriminatory reason, the woman is directed to the cashier position, and the man is directed to the sales department. If those are the openings that these individuals are made aware of, then their applications may reflect what they were made aware of, not their initial interests.

Since individuals, at the time of hire, may have limited information about the opportunities available within an organization, their initial applications may be more indicative of that limited

information, and as they acquire more knowledge about the job, the pay, work hours, and advancement opportunities within the organization, they may become interested in positions of which they were totally unaware at the time of their application. For all of these reasons, the initial statement of interest on the application may not be indicative of employees' long-term interests as they mature through the organization.

◆ The Ability To Determine Qualifications And Interests Absent A Bidding And Posting System Or Registration Of Interest

Once hired, employees change. They acquire additional skills, different interests, different sets of knowledges and the conditions in their lives may also change. Strength and endurance may increase *or* decrease. Presence of obligations outside of work, such as church, school, family or community activities, may make it more or less difficult to work different hours or assume greater responsibilities at work. These obligations change over time as children grow older or degrees or training are completed. Experiences on the job or at informal and formal training may provide individuals the desire or ability to move into a position that they initially did not have the experience or knowledge to fill. It is difficult for a manager to keep up with changes, and to have the knowledge of these changes of an employee's circumstances coincide with the presentation of opportunities within the workplace. For instance, an individual may complete a carpentry course, and the individual's immediate supervisor might be unaware of the acquisition of those skills for some time after the individual's completion of that course. On the other hand, the immediate supervisor may know about that change in skill, but the hiring supervisor might be unaware of those skills at the time an opening presents itself. Even with periodic discussion with an immediate supervisor, it is difficult for a hiring supervisor in another department to know the developmental game plan for individuals who are not yet in his department, but who are seeking entrance to it, especially at the time an opening occurs. Without an opening posting and bidding system or registration of interest, it is difficult to maintain a timely and accurate inventory of

knowledge, skills and interests of employees, and therefore, it is very difficult for managers to know the level of interest and ability of employees for specific positions.

◆ Home Depot's Weightlifting Requirements

I have been asked to render an opinion about whether Home Depot's weightlifting requirements for sales positions have been properly validated by Home Depot. In the discovery which I have reviewed, I have not found a report documenting the process establishing weightlifting requirements by Home Depot. I found a proposal, a memorandum describing the execution of a study, and the job profiles that are presumably a result of these studies. Without a clear presentation of how that data was collected and analysis accomplished, it is difficult to speak to the validity of the requirements.

It is also unclear how, and whether, there are weightlifting requirements which are uniformly applied at Home Depot. It appears as if the job profile acts as a mechanism to disclose the kinds of activities that may be encountered on the job and the individual self-selects based upon whether s/he felt s/he could perform the job requirements.

I present **Table I**, from Bodyspace: Anthropometry, Ergonomics and Design, by Stephen Pheasant, which summarizes by gender the strength differences of various body parts. This table illustrates that, on average, women have less strength than men. Therefore, weightlifting requirements of a size approaching 95 pounds would most likely have a disparate impact on women, and therefore, it is my understanding of the law that this would require validation. This impact may exist whether weightlifting requirements are used as a formal requirement, or merely supplied to an applicant as information upon which to base his/her decision.

Table I.[1]

Part of Body	No. of Tests	F/M %			R^2(%)			% CEFEM		
		Min.	Ave.	Max.	Min.	Ave.	Max.	Min.	Ave.	Max.
Lower Limb	17	50	66	81	11	43	62	4	123	28
Push/Pull/Lift	41	38	65	90	3	33	72	1	14	37
Trunk	11	37	62	68	35	54	61	1	6	13
Upper Limb	29	44	58	86	7	53	77	1	8	35
Miscellaneous	14	43	53	61	35	63	85	0	5	16
All Tests	112	37	61	90	3	45	85	0	10	37

Validation is a rigorous process. I have not seen any documentation showing that Home Depot has undertaken any such rigorous validation study of its weightlifting requirements.

Dated: Chapel Hill, North Carolina
March 20, 1997

Carl C. Hoffmann

[1] This table is represented as *Table 3.2. Sex differences in strength (classified by part of body, etc., tested)*, in Bodyspace: Anthropometry, Ergonomics and Design, by Stephen Pheasant, (Taylor & Francis: London); 1988; at p. 46.

Exhibit "A"

Curriculum Vitae Of Carl C. Hoffmann

Carl C. Hoffmann

Hoffmann Research Associates, Inc., 919-489-8000

EXPERIENCE

Hoffmann Research Associates Chapel Hill, NC

President and Director of Hoffmann Research Associates, Inc. (HRA). Founded HRA in 1978 as a social research firm specializing in consulting in human resource research and development. Since that time, Dr. Hoffmann has directed projects to:

- Develop computerized personnel systems to record personnel histories, training, bidding and posting, disciplinary records, and applicant flow records.
- Analyze labor forces, compensation, movement, and utilization and to project supply and demand.
- Develop, administer, and analyze personnel surveys and job analysis studies for projects ranging from the study of an entire corporation workforce to surveys administered to a world-wide population.
- Support litigation efforts in the areas of employment practices, discrimination analysis, national labor relations matters and has testified before both the House and the Senate on EEO and Affirmative Action issues. He is a certified expert witness before the Federal Court system for EEO/AA matters.

Consultant with the Following Law Firms/Agencies: 1978 - Present:

Alston & Bird (Atlanta, Georgia)

Baker & Botts (Houston, Texas)

Balch & Bingham (Birmingham, Alabama)

Berman, Berkley & Laskey (San Francisco, California)

Brobeck Phileger & Harrison (San Francisco, California)

Chambers, Ferguson, Watt, Wallas, Adkins, & Fuller (Charlotte, NC)

Consultant with the Following Law Firms/Agencies - *continued*:

Equal Employment Opportunity Commission (New Orleans, LA; Atlanta, GA; Denver, CO; and Charlotte, NC)

Jackson, Kelly, Holt & O'Farrell (Charleston, West Virginia)

Kenneth M. Flaxman, Esq. (Chicago, Illinois)

Kilpatrick & Cody (Atlanta, Georgia)

King, Betts & Allen (Charleston, West Virginia)

Legal Aid Society (Durham, North Carolina)

McDonald & Rodecker (Charleston, West Virginia)

McWhirter & Wyatt (Memphis, Tennessee)

Meites and Frackman (Chicago, Illinois)

NAACP Legal Defense and Education Fund (New York, New York; and Washington, DC)

National Employment Law Project (New York, New York)

Patterson, Harkavy & Lawrence (Raleigh, North Carolina)

Patterson and Traynham (Tallahassee, Florida)

Paul, Hastings, Janofsky, & Walker (Atlanta, Georgia)

Paul Weiss Rifkind Wharton & Garrison (New York, New York; and Washington, DC)

Reed, Smith, Shaw, & McClay (Pittsburgh, Pennsylvania)

Rogers & Hardin (Atlanta, Georgia)

Saperstein, Goldstein, Demchak & Baller (San Francisco, California)

Smith, Helms, Mulliss & Moore (Greensboro, North Carolina)

Stoll, Keenon & Park, LLP (Lexington, Kentucky)

Squire, Sanders & Dempsey (Cleveland, Ohio)

Yablonsky, Both, & Edelman (Washington, DC)

Youngdahl & Larrison (Little Rock, Arkansas)

University of North Carolina at Chapel Hill Chapel Hill, NC

Visiting Lecturer. Department of Sociology, graduate seminar courses *1987-1988.*

- Graduate Seminar in Survey Research and Applied Statistical Analysis.

North Carolina Central University Durham, NC

Assistant Director for Research, Academic Skills Center.

- Designed a large-scale evaluation of the Remedial Program, examining causes for students' lack of preparation for college and the processes by which they were admitted to the center.
- Evaluated effectiveness of teaching techniques and support facilities for students and faculty.
- Assessed long-term effects of the remediation program.
- Designed an effective organization base for the center.

Visiting Associate Professor, Department of Sociology, University of North Carolina at Chapel Hill.. Conducted an Applied Research Seminar on Survey Research and Sampling Techniques.
1977 to 1978

Human Resource Consultants Chapel Hill, NC

Research Associate. Supervised the evaluation of the Statewide Pre-Kindergarten Screening Program for the State of North Carolina. The project included sample selection, questionnaire design, data processing and analysis, liaison with State Contract Officer, budgetary matters and report writing. Studies included test reliability and validity; longitudinal studies of the children tested, and evaluation of the impact of the program on other agencies, parents, and schools.
June, 1976 to September, 1977

University of Mississippi Medical Center Jackson, MS

Consultant, Research and Evaluation Unit, Nurse Midwifery Program, Department of Obstetrics and Gynecology. Evaluated effectiveness of the Nurse Midwifery Program and wrote reports on the effects of nurse midwife care on development of infants at one month and at 18 months, and a general overview and plan for a comprehensive evaluation.
August, 1975 to May, 1976

University of North Carolina Medical School Chapel Hill, NC

Consultant, Area Health and Education Centers. Evaluated doctor distribution in the state using Census figures to obtain baseline and determine important considerations on distribution. Critiqued existing projections of physician population in the state.

Lecturer and Coordinator. University of North Carolina Summer Institute for Introduction of Computers in Undergraduate Social Science Education.
Summer, 1973

Director, Educational Services and Coordinator of Computer Usage in Graduate and Undergraduate Education in the Social Sciences. Supervised a development team to conduct experimental design testing of the utility of computers for undergraduate education. Developed data bases and integrated curriculum involving methodology, computer usage, and substantiveness of materials.
1972 to 1973

Statistical Consultant and Research Advisor. Advised graduate students and faculty doing research in the thirteen social science departments at the University of North Carolina; advisor on approximately fifteen dissertations and thirty masters' theses; consultant on the establishment of a social services data bank in Chapel Hill.
1971 to 1972

Project Programmer and Research Consultant. Assisted Professor Glen Elder's study, "Children of the Great Depression," and Professor Francis Hall's study, "Chileans' Attitudes Toward Population Control." *1971 to 1972*

PUBLICATIONS

Decision Support Applications. Handbook of Human Resources Information Systems. New York, New York: Warren Gorham Lamont. 1993, ch. 7.

Complexities of the "Simple" Report Request. (with Kathleen P. Hoffmann and Emily D. Eason) HR Management. November 1992.

Detecting Bias in Employment Practices: Statistical Strategies in Affirmative Action Programs. International Forum on Pay Equity, March 1992. North Sydney, Australia.

Does Comparable Worth Obscure the Real Issues? (with Kathleen P. Hoffmann). Personnel Journal. January, 1987.

Multiple-Pay Systems: Are They Worth the Risk? Compensation and Benefits Review. 1987.

Survey Research in the Courts: Is it Legal or Scientific? Requested for submission by the Journal of Official Statistics, Stockholm, Sweden.

Reopening the Affirmative Action Debate. Personnel Administrator, 31 (March 1986): 36-40.

The Potential of Human Resource Data. Personnel Administrator, 30 (September 1985): 22-27.

Affirmative Action Programs that Work. New Perspectives, 17 (Summer 1985): 16-23.

Survey Research in the Courts: Is it Legal or Scientific? Research Methods. American Statistical Association, 1985 Proceedings of the Section on Survey Research Methods, pp. 29-37. Washington, D.C.: American Statistical Association: Washington, D.C.

Defining Minority and Female Utilization by Employment: Is it Consistent with OFCCP Regulations? (with Patricia Reed and Nancy Keeshan). Selected Affirmative Action Topics in Employment and Business Set-Asides: A Consultation/Hearing of the United States Commission on Civil Rights. March 6-7, 1985, pp. 33-54. Vol. 1. Washington, D.C.: U.S. Commission on Civil Rights:

Testimony of Carl C. Hoffmann, Ph.D., on the Equal Rights Amendment and Income Differences. Hearings before the Subcommittee on the Constitution of the Committee on the Judiciary United States Senate, 98th Congress, First and Second Sessions. pp. 289-329. Part 2. Washington, DC: U.S. Government Printing Office, 1985.

Public Opinion of the Criminal Justice System in the State of New York. Proceedings of the Third Annual Criminal Justice Retreat. November 16-19, 1983.

Testimony of Carl C. Hoffmann on the Equal Rights Amendment. Subcommittee on Civil and Constitutional Rights of the House Judiciary Committee. October 20, 1983.

Employee Surveys in Employment Discrimination Litigation. (with Hunter R. Hughes III, Esq.). The Employee Relations Law Review,.9 (July 1983).

Sex Discrimination? The XYZ Affair. (with John S. Reed). The Public Interest. (Winter 1981). Reprinted in: Across The Board, The Conference Board Magazine, 18 (April 1981).

Discrimination, Affirmative Action, and Equal Opportunity. W.S. Block and M.A. Walker, eds. Vancouver, British Columbia: Fraser Institute, 1982.

Policy Studies. Review Annual. Vol. 5, I. L. Horowitz, ed.. Beverly Hills, California: Sage Publications, 1981.

Working Changes and Choices. O'Toole, ed. San Diego, California: Human Sciences Press, 1982.

A Corporate Reader. Washington, DC: Children's Defense Fund, 1983.

Social Problems: A Case Book. Paul J. Baker, ed. New York, New York: Wadsworth, 1983.

Regression and Discrimination: A Case of Lack of Fit. (with Dana Quade). Sociological Methods and Research. 11 (May 1983). Beverly Hills, California: Sage Publications.

SAS Applications for Human Resource Planning. SAS Communications, 8 (Winter 1983): 28-29.

Agricultural Credit and Politics in Argentina. (with Joseph Tulchin and Kenneth Hardy). Previews, 20 (April 1973): 16-24.

An SPSS Primer. (with Kenneth Hardy). Chapel Hill, North Carolina: Institute for Research in the Social Sciences, 1972.

An Ecological Approach to Voting Behavior in Argentina. (with Joseph Tulchin). Proceedings of the American Historical Association, American Historical Association, 1977.

Review of Raymond L. Gorden's Unidimensional Scaling of Social Variables. Social Forces. 57 (2) 1978: 763-764.

PROGRAMMING LANGUAGES

High Level:	FORTRAN and JCL
Packages:	SPSS, Biostatistics TSL System, SAS, DATATEXT

PROGRAMS DESIGNED

- Statistical simulator for general linear model use in Monte Carlo Studies.
- Program to merge geographic descriptive codes on Master Enumeration District Files of the Census to tract level data.
- Time series analysis program with Quinielle Chi Square, Auto Regressive and Spectral Transformations.

- Markov Projections of the U.S. population given age- specific birth rates and age-specific death rates.
- Non-parametric analysis of covariance programs.
- Projections of labor force supply and demand.
- Transition and Flow analysis.
- Life Table applications to employment.

PROFESSIONAL ASSOCIATIONS

American Sociological Association
American Statistical Association
Human Resource Planning Society
Human Resource Systems Professionals

HONORS, AWARDS, FELLOWSHIPS

- Chi Epsilon National Honorary Fraternity in Civil Engineering, University of Wisconsin.
- National Institute of Mental Health Traineeship in Methodology, University of North Carolina, 1970-1971.

EDUCATION

Doctor of Philosophy, 1977; University of North Carolina at Chapel Hill Sociology.

Master of Arts, 1974, University of North Carolina at Chapel Hill Sociology.

Bachelor of Arts with Honors, 1970, University of Wisconsin
Major: Sociology; Minor: Ocean Engineering

Exhibit "B"

Publications Authored By Carl C. Hoffmann
1986 - Present

Decision Support Applications. Handbook of Human Resources Information Systems. New York, New York: Warren Gorham Lamont. 1993, ch. 7.

Complexities of the "Simple" Report Request. (with Kathleen P. Hoffmann and Emily D. Eason) HR Management. November 1992.

Detecting Bias in Employment Practices: Statistical Strategies in Affirmative Action Programs. International Forum on Pay Equity, March 1992, North Sydney, Australia.

Does Comparable Worth Obscure the Real Issues? (with Kathleen P. Hoffmann). Personnel Journal. January, 1987.

Multiple-Pay Systems: Are They Worth the Risk? Compensation and Benefits Review. 1987.

Reopening the Affirmative Action Debate. Personnel Administrator, 31 (March 1986): 36-40.

Exhibit "C"

Other Cases In Which Carl C. Hoffmann
Has Testified Or Been Deposed As An Expert Witness
1992 - Present

Cases In Which Carl C. Hoffmann Has Testified As An Expert Witness:

Re: Hiring Discrimination: Race, Sex, Age:

Alesci, Ayuso, et al. vs. Delta Air Lines (State of New York: Executive Department, State Division of Human Rights; Case Nos.:1A-E-MS-92-2301117E; 1A-E-ADNS-91-4600175-E.)

Retained by:
Rogers & Hardin, attorneys for defendant, Delta Air Lines
2700 Cain Tower, Peachtree Center
229 Peachtree Street, NE
Atlanta, GA 30303
(404) 522-4700

Re: Hiring Discrimination: Gender

Sondel vs. Northwest Airlines (U. S. District Court: District of Minnesota, Third Division at Minneapolis; Case No.: 3-92-381 [RHK])

Retained by:
Saperstein Goldstein Demchak & Baller, attorneys for plaintiff
1300 Clay Street, 11th Floor
Oakland, CA 94612
(510) 763-9800

Cases In Which Carl C. Hoffmann Has Been Deposed As An Expert Witness:

Re: Height/Weight Standards:

Raisler, et al. vs. Delta Air Lines (U.S. District Court, Northern District of Georgia; Atlanta Division; No.: 1: 95-CV-1068-RHH)
June 7, 1996

Retained by:
Kilpatrick & Cody, attorneys for defendant, Delta Air Lines
1100 Peachtree Street, Suite 2800
Atlanta, GA 30309-4530
(404) 815-6500

Re: Height/Weight Standards:

Horton vs. Delta Air Lines (U. S. District Court, Northern District of Georgia; Atlanta Division; No.: 1:95-CV-1068-RHH)

Retained by:
Kilpatrick & Cody, attorneys for defendant, Delta Air Lines
1100 Peachtree Street, Suite 2800
Atlanta, GA 30309-4530
(404) 815-6500

Exhibit "D"

Data Or Other Information Made Available
To Carl C. Hoffmann In Preparing This Report

- **Memorandum in Support of Plaintiffs' Motion for Class Certification.**
  Dated: May 5, 1995
    - **Declaration of William T. Bielby Pursuant to 28 U.S.C. §1746.**
      Dated: May 2, 1995
- **Defendant's Memorandum of Points and Authorities in Opposition to Motion for Class Certification .**
  Dated: May 26, 1995
    - **Declaration of Dr. Barbara Gutek in Opposition to Plaintiffs' Motion for Class Certification.**
      Dated: May 26, 1995
    - **Declaration of Judith Stoikov, Ph.D. in Opposition to Plaintiffs' Motion for Class Certification.**
      Dated: May 25, 1995
- **Supplemental Declaration of William T. Bielby Pursuant to 28 U.S.C. §1746.**
  Dated: June 7, 1995
- **Defendant's Objections and Responses to Plaintiffs' Twelfth Request for Production of Documents.**
  Dated: December 30, 1996
- **Order by the Hon. Susan Illston (USDJ) for Class Certification.**
  Dated: January 24, 1996
- **Defendant's Supplemental Response to Plaintiffs' Third Set of Interrogatories.**
  Dated: February 18, 1997
- **Defendant's Objections and Responses to Plaintiffs' First Set of State I Class Contention Interrogatories.**
  Dated: March 7, 1997
- **Agenda and Minutes of Employee Relations Managers' Meeting in Atlanta, GA.**
  February 8-9, 1996
- **Excerpts (pp. 61-98) from Plaintiffs' Responses to Defendant's First Set of Class Contention Interrogatories.**
  Dated: February 7, 1997
- **F.R.C.P., at Rule 26 (a) — Required Disclosures; Methods to Discover Additional Matter.**
- **Plaintiffs' Deposition Exhibit No.: 22 — The Product Knowledge Training Mauual for Depts. 21-22 [Lumber & Building Materials].**
  Pls 2043 — Pls 2111
- **Sample Product Knowledge Test.**
  D 86873 — D 86874

- **Sample Performance Evaluation.**
  D 86855 — D 86856
- **Home Depot Employee Application.**
  D 4300
- **Home Depot Diversity Management Leader's Guide.**
  D 5429 — D 5435
- **Home Depot Job Descriptions.**
  D 4888 — D 4887
- **Home Depot Job Profiles.**
  D 4927 — 4932
- **Home Depot Employee Action Notice.**
  D 5009 — D 5016
- **Home Depot Standard Operating Procedures — Employee Counseling.**
  D 5029 — D 5031
- **Home Depot Standard Operating Procedures — Terminations.**
  D 5032 —D 5042
- **Home Depot Standard Operating Procedures — Leave Of Absence.**
  D 5050 — D 5057
- **Home Depot Standard Operating Procedures — Pre-Employment Screening.**
  D 4958 — D 4968
- **Home Depot Standard Operating Procedures — Transfers And Relocations.**
  D 5076 — D 5088
- **Home Depot Standard Operating Procedures — Job Posting Program.**
  D 4978 — D 4982
- **Home Depot Standard Operating Procedures — Associate Personnel Files.**
  D 5060 — D 5062
- **Home Depot Standard Operating Procedures — Timekeeping And Payroll.**
  D 5063 — D 5071
- **Home Depot Standard Operating Procedures — Store Management Promotions.**
  D 5072 — D 5075
- **Home Depot Standard Operating Procedures — Employee Recognition Awards.**
  D 5141 — D 5144
- **Home Depot Standard Operating Procedures — Store Records Retention.**
  D 5193 — D 5198
- **Home Depot Standard Operating Procedures — Pre-Employment Screening 10/29/93.**
  D 4958 — D 4968

- **Home Depot Standard Operating Procedures — New-Hire Requirements 10/29/93.**
  D 4969 — D 4974
- **Home Depot Standard Operating Procedures — Lift Equipment Certification 3/1/91.**
  D 4983 —D 4984
- **Home Depot Standard Operating Procedures — Truck Driver Certification 9/10/93.**
  D 4985 — D 4997
- **Home Depot Standard Operating Procedures — Discrimination/Harassment/Mutual Attraction 2/25/94.**
  D 4998 — D 5001
- **Home Depot Standard Operating Procedures — Company Ethics 9/29/93.**
  D 5002 — D 5003
- **Home Depot Standard Operating Procedures — Rules of Conduct 9/26/94.**
  D 5004 — D 5006
- **Home Depot Standard Operating Procedures — Solicitations 2/22/93.**
  D 5007 - D 5008
- **Interoffice Memo 8/15/94 re Promotional Opportunities from Operational Areas to District Managers and Store Managers from Jeff Birren and Paul Rodriguez.**
  Pls 3280
- **Product Knowledge Initiative — Movement/Promotion Guidelines.**
- **Home Depot Cashier Performance Review.**
- **Home Depot Salesperson Performance Review.**
- **Home Depot Front End Supervisor Performance Review.**
- **Home Depot Merchandising Department Supervisor Performance Review.**
- **Home Depot Third Quarter Diversity Overview — West Coast.**
  D 25875 — D 25881
- **Home Depot — Self-Evaluation by Dane Englund (with exhibits) 8/30/96.**
  D 83702 — D 83788
- **Home Depot Standard Operating Procedures — Employee Evaluations 2/25/94.**
  D 5043 — D 5049
- **Draft Reports by Richard Drogin and William Bielby.**
- **Home Depot — Interoffice Memorandum to Larry Menter from Keith Rosenblum, dated March 4, 1993 re Physical Capability Testing/Post-Injury Employee Evaluations.**
  D 94297 — D 94299
- **Letter from Injury Reduction Technology, Inc. to Steve Taylor (Home Depot) dated December 15, 1995, Enclosing Updated Information on ADA.**
  D 94300 — D 94307

- **Article Entitled *Reduction of Acute Low Back Injuries by Use of Back Supports*, written by Jess F. Kraus, MPH, PhD., et al.**
  D 94308 — D 94317
- **Home Depot — Store Job Descriptions and Ergonomic Job Analyses April 1991.**
  D 94318 — D 94368
- **Home Depot Interoffice Memorandum from Keith Rosenblum to Don Singletary, Glenn Paul and Eric Noll, dated September 20, 1993, re Establishing Home Depot Physical Capability Standards.**
  D 94369 — D 94370
- **Home Depot Interoffice Memorandum from Keith Rosenblum to Larry Mentor, dated March 4, 1993, re Physical Capability Testing/Post-Injury Employee Evaluations.**
  D 94371 — D 94374
- **Letter from Robert L. Duston, Esq. to Larry Mentor dated August 12, 1992 re Injury Reduction Technology, Inc. Proposal for Pre-Employment Physical Capability Screening Program.**
  D 94375 — D 94393
- **Client Bulletin from Montstream & May Facsimiled to Ben Last from Larry Mentor on February 15, 1993 re U.S. Supreme Court Decision on Health and Welfare Benefits and its Effect on C.G.S. §31-284b.**
  D 94394 — D 94395
- **Letter dated July 17, 1992, from Injury Reduction Technology, Inc. to Rob Duston Enclosing Literature from Cybex.**
  D 94397 — D 94485
- **Article Entitled *Using Physical Measurements to Assess Low Back Pain*, by Tom G. Mayer, M.D., from the Journal of Musculoskeletal Medicine.**
  D 94486 — D 94493
- **Bibliography of Isokinetic Research, Clinical Study & Observation by Cybex.**
  D 94494 — D 94515
- **Letter dated March 17, 1992, from Thompson Henry Gwin Brittain & Stevens, P.A. to Injury Reduction Technology, Inc. Enclosing Excerpts from the CCH Accommodating Disabilities: Business Management Guide.**
  D 94516 — D 94526
- **The Home Depot: Store Job Descriptions and Ergonomic Job Analyses — April 1991.**
  D 94318 — D 94368
- **Letter dated July 31, 1991, from Seyfarth Shaw Fairweather & Geraldson to Injury Reduction Technology, Inc. Enclosing Updated Version of Final ADA Regulations.**
  D 94527 — D 94529

- **Employer's Guide to The Americans With Disabilities Act: From Job Qualifications to Reasonable Accommodations, by Lawrence Postol, Esq. & D. Kadue, Esq., 1991.**
  D 94530 — D 94600
- **Letter dated March 17, 1992, from Injury Reduction Technology to Lawrence Menter Iding Hazel Willacy from Sherwin Williams as Contact re INRTEK's Testing Program and Enclosing Copy of Letter From Larry Postol re his Interpretation of the ADA Strength Testing.**
  D 94601 — D 94604
- **Home Depot — Injury Analysis of Strains/Sprains — INRTEK's Findings.**
  D 94655 — D 94665
- **Memo From Don Singletary to "Larry" Attaching Copy of Thomas Gilliam's February 12, 1992, Letter to Keith Rosenblum re Initiating Pilot Program on Injury Reduction Technology.**
  D 94613 — D 94615
- **Proposal for a Physical Capability and Injury Reduction Prospectus Pilot Study to Home Depot by INRTEK, dated October 7, 1991.**
  D 94616 — D 94650

- **Deposition Transcripts:**

  Donald Singletary.
  Dated: April 25, 26, 29, 30, 1996

  Donald McKenna.
  Dated: November 14, 1996 (Vol. I); November 15, 1996 (Vol. II)

  Callista Lee Olivares.
  Dated January 7, 1997

  Michael Rodr.
  Dated: January 15, 1997

  Tammy Belanger.
  Dated: February 20, 1997

  Arthur Blank.
  Pages 129-144