IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

Victoria Elkins, et al	Case No. C-1-99-988
Plaintiffs,	Judge Weber
v.	
American Showa, Inc.,	
Defendant	

DECLARATION OF DEBORAH KNAPP, Ph.D.

The defendant in the above mentioned-case has taken the position that social framework evidence is not an adequate or valid scientific method with which to investigate the existence a sexually-hostile work environment. In this regard, I have been engaged by plaintiffs' counsel to opine on the distinctions between social framework evidence and social fact evidence with respect to proving case-specific facts. My opinions are based on the documents reviewed, my professional experience and education, and established principles of social-science research. Discussed in this report are issues that address the use of social framework evidence vs. social fact evidence in forming expert opinions.

Social Framework Evidence and Social Fact Evidence Defined

Social Framework Evidence. Social framework refers "to the use of general conclusions [that is, they are based on a theory of some aspect of human behavior] from social science research in determining the factual issues in a specific case" (p. 362) [1] More specifically, social frameworks are typically used to make the existence of a fact at issue more or less probable than it would otherwise appear Further, social frameworks can assist triers of fact by providing them information about an unfamiliar concept or call attention to commonly-held but mistaken perceptions.

Generally, expert witnesses, using a social framework as an organizing concept, use research studies that have been published prior to the case under consideration (i.e., the studies they use were performed using subjects with no knowledge of the case) to demonstrate findings that may assist a trier of fact in deciding the specific factual issues

[1] Monahan, J. & Walker, L. (2002). *Social science in law: cases and materials (5th Ed.)* New York, NY. Foundation Press.

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in the case. Further, the studies may be useful in helping to resolve specific factual issues disputed by the litigants

Social fact Evidence Social fact evidence uses adjudicative facts (i e , facts that apply only to the particular case under consideration) to determine "what happened in [that] specific case" (p 93) [2] Generally, the information supplied in social fact evidence comes from surveys administered by an expert witness in an attempt to uncover case-relevant facts

Social framework evidence, while not used to determine adjudicative facts, does share a significant characteristic with social fact evidence That is, both use techniques aimed at generalizing their findings to the facts of the case In other words, each method uses the larger empirical relationships found in the respective studies they use to address issues relevant to the case. Similar to social framework evidence, social fact evidence (as was used by the defendant's expert), also attempts to make the existence of a fact more or less probable than it was before the evidence was proffered. Finally, as is the case in social framework evidence, social fact evidence need not be determinative of a fact, as long as it can demonstrate a scientific similarity with the fact in question [3]

In summary, social framework evidence and social fact evidence differ primarily because the empirical studies from which they develop evidence draw from different subject populations. However, they are similar in that the studies used by the respective experts, regardless of subject population, require review and integration by a social-science expert using established principles in social-science research to develop opinions relevant to the case in question

Social Framework Evidence vs. Social Fact Evidence

Social framework evidence often uses clinical evaluations in concert with the information available in the scientific literature to assist the trier of fact in making a just decision For example, in this case, the plaintiffs' expert, a forensic psychiatrist, used clinical evaluations of the plaintiffs in conjunction with social framework evidence (i.e., past research on sexual harassment) and offered it for the purpose of determining the probable experiences of other women at Blanchester's ASI facility On the other hand, the defendant's expert offers conclusions from surveys and interviews she performed at the plant to accomplish the same end.

In her deposition, the defendant's expert asserts that social fact evidence is "certainly more reliable and valid" than social framework evidence (p 62, *Deposition of Louise F. Fitzgerald, Ph.D.)*. I am aware of no scientific evidence in the social science literature that compares the validity and/or reliability of the two methods. What follows is further analysis of the defense expert's assertion.

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[2] Ibid
[3] Ibid

First, the plaintiffs' expert's analysis differs from that of the defendant's expert in that the clinical methods she employs tend to focus on the characteristics of individual case participants in order to find commonalities among them and to speak to the existence of a sexually-hostile environment at the facility. On the other hand, the statistical methods used by the defendant's expert focus on evaluating individuals according to predetermined rules for counting and weighing key characteristics to achieve these same objectives.[4] Hence, clinical method's focus is on the individual and the statistical method's focus in on the predetermined set of rules. The choice between the two methods is contingent upon the situation and the expert. In other words, no common wisdom exists to suggest that social fact evidence is superior to social framework evidence (or visa versa). What matters is what method or methods are most useful in determining the correct decision. For example, in this case, the plaintiffs' expert did not have access to the same information as did the defendant's expert (and visa versa-- e.g., the defendant's expert did not perform clinical evaluations of the plaintiffs)

More specifically, social framework evidence is a widely accepted method used by many social scientists to draw conclusions in sexual harassment cases. Both social framework evidence and social fact evidence are often used to address relevant issues in hostile work environment disputes and can assist triers of fact in determining whether the alleged misconduct is so severe and pervasive as to create a sexually-hostile work environment.[5] In fact, the defendant's own expert has used this method to opine in cases involving sexual harassment (e.g., see Expert Report of Louise F. Fitzgerald, Ph.D., *EEOC vs. I.T. Steel*, Civil Action No. 98-1160 (U.S. District Court [CD IL])

Given these facts, I conclude that the plaintiffs' expert's opinions in this case, based on social framework evidence, offer a valid assessment of the issues under consideration and that her opinions are based on established social-science principles.

I hold all of my opinions to a reasonable degree of scientific certainty

I declare under penalty of perjury that the foregoing is true and correct

Dated on February 13, 2002

Deborah Erdos Knapp, Ph.D

[4] Ibid

[5] See Weiner, R. L. (1995). Social analytic jurisprudence in sexual harassment litigation: The role of social framework and social fact. *Journal of Social Issues, 51*, 167-180