Rapier, et al. vs. Ford Motor Company, et al.

Expert Report

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Part I

Introduction and Overview

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The attached report details my opinions in the matter of *Rapier, et al., vs. Ford Motor Company* currently pending in the U.S. District Court for the Central District of Illinois. This report was requested by Darnley Stewart and Nancy Lipin, attorneys for the plaintiffs in this case, to address a number of specific questions based on the body of social science research on sexually harassing behavior in organizations and the facts of the present case. In the legal and psychological literature, such a report is referred to as *social framework* evidence; in other words, the consultant reviews the relevant facts and psychological literature, summarizes research findings, and offers an empirically-grounded opinion that responds to the questions posed. The aim of such an undertaking is to provide the parties and trier of fact with scientific and professional knowledge to assist in deciding disputed issues (Wiener, 1995). A list of specific studies referenced in this report is attached as Appendix A. My curriculum vita is attached as Appendix B, along with a list of the federal cases in which I have testified at deposition or trial over the last 4 years, the list of case materials on which my opinion is based, and a copy of my fee schedule for professional services.

The specific issue addressed by this report concerns the organizational climate concerning sexual harassment at the Chicago Assembly and Stamping Plants of Ford Motor Company ("Ford"). The report begins with an overview of what is known from social science research concerning sexual harassment in work organizations, particularly the specific role played by organizational climate in facilitating or inhibiting sexually harassing behavior. With that background, I then consider the facts of the case, as they have been made known to me, and opine concerning the organizational climate at Ford during the time period at issue.

Part II

Summary of Scientific Knowledge Concerning Sexual Harassment in Work Organizations

The nature and frequency of sexual harassment in work organizations.

Although the term *sexual harassment* is by now familiar to most people, there is still considerable confusion concerning exactly what is meant by this phrase as well as the distinction between statutory and legal guidelines, on the one hand, versus actual behavior on the other.[1] Social science research has identified three general categories of offensive sex-related behaviors: *gender harassment, unwanted sexual attention, and sexual coercion* (Gelfand, Fitzgerald, & Drasgow, 1995; Fitzgerald, Gelfand, & Drasgow, 1996; Fitzgerald, Swan, & Magley, 1997). *Gender harassment* is not sexual in the usual sense of erotic invitations but, rather, consists of crude, offensive, and derogatory sex-related behavior (*e.g.*, obscene jokes, sex-related insults) that serves to convey offensive or insulting attitudes about women[2]. Such behavior is not complimentary, seductive, romantic, or amusing; rather, it sends a hostile message to female employees that they do not belong in this particular workplace. Such hostility is directed at women simply because they are women and is by far the most widespread form of harassment found in work organizations: nearly half of all women who experience offensive sex-related behavior in the workplace describe experiences of gender harassment. The behavior described by the plaintiffs in the present case consists mainly although not exclusively of various forms of gender harassment (*i.e.*, gender hostility).

Unwanted sexual attention is just that, and consists of uninvited, unwanted, and non-reciprocal sexual attention and behavior that, although unwelcome to the recipient, is not tied to any job condition or reward. *Sexual coercion* refers to implicit or explicit attempts to extort sexual cooperation by the promise of job-related rewards or threats of punishment. As noted previously, this is a scientific, rather than a legal classification; however, sexual coercion parallels, from a *behavioral* perspective, the legal category of *quid pro quo*, whereas gender harassment and unwanted sexual attention represent the behavioral components of a hostile environment.

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[1] An individual may encounter any number of mildly offensive sex-related experiences that for various reasons (e.g., frequency, severity, duration) would not qualify as illegal sex discrimination. When social scientists speak of sexual harassment, they are referring to behavior, not a legal finding of fact; legal determinations turn on a number of considerations (e.g., proof of unwelcomeness, statutes of limitations, organizational response) that research can inform but not assess.

[2] Targets of sexual harassment are traditionally referred to in the female gender; this is not to deny that men can be and sometimes are harassed, see, for example, Berdahl, Magley, & Waldo, 1996; Waldo, Berdahl, Fitzgerald, 1998, and Magley, et al. (in press)

Causes of sexual harassment.

Many people believe that sexual harassment is an aberration, perpetrated by deviant individuals who have some sort of psychological problem. This is clearly wrong. In fact, a number of researchers have attempted to identify a pattern of easily recognizable demographic or interpersonal characteristics that characterize the typical harasser, but such attempts have been largely unsuccessful. Although it is certainly true that some men are more likely to harass than others, this propensity is grounded in attitudes towards sexuality and beliefs about the proper roles for men and women, characteristics not necessarily easily apparent (Pryor, 1987; Pryor, LaVite, & Stoller, 1993).

It is by now well accepted in the scientific community that it is organizational conditions rather than individual characteristics that are the most powerful predictors of sexual harassment (Hulin, et al., 1996; Pryor, et al., 1993). Organizations that are characterized by a skewed gender ratio (*i.e.*, most employees are male, and women are relatively few), job duties and tasks that are historically masculine in nature, and organizational tolerance of offensive behavior typically have far greater problems with sexual harassment. Organizational tolerance (sometimes known as organizational climate) is the single most powerful factor in determining whether sexual harassment will occur and will be damaging when it does. Studies have shown that strict management norms and a climate that does not tolerate offensive behavior can inhibit harassment even by those with a propensity to do so (Pryor, et al., 1993). The concept of organizational tolerance as it relates to this case is discussed in greater detail below.

Emotional and psychological consequences of sexual harassment.

Numerous studies document that offensive sex-related behavior has serious consequences, from embarrassment, anxiety, and lowered self-esteem to full-fledged psychological disorders such as Major Depressive Disorder and Post-Traumatic Stress Disorder (Dansky & Kilpatrick, 1997; Fitzgerald, Buchanan-Biddle, Collingsworth, Magley, & Ramos, in press; Koss, Goodman, Browne, Fitzgerald, Keita, & Russo, 1994; Schneider, Swan, & Fitzgerald, 1997). In one of the first large scale studies of its kind, the United States Merit Systems Protection Board (1981) reported that literally thousands of female employees experienced deterioration in their emotional or physical condition as a result of experiencing unwanted sex-related behavior at work. The USMSPB has twice replicated these findings (USMSPB, 1987; 1995).

In an early study, Crull (1982, 1984) described physical symptoms (e.g., headaches, sleep disturbance, disordered eating, gastrointestinal disorders, nausea, weight loss (or gain) and crying spells) in a sample of self-identified victims who sought assistance from Working Women United. In 1988, the Institute for Research on Women's Health (1988) declared that sexual harassment constitutes a serious threat to women's psychological and physical well-being, and the National Council for Research on Women (1991) noted that the American Psychiatric Association recognizes harassment as a severe stressor (see also Hamilton, et al., 1987).

Gutek and Koss (1993) reviewed the data on the outcomes of sexual harassment and reported findings of extensive stress-related physical symptoms, including gastrointestinal disturbances, jaw tightness and teeth-grinding, nervousness, binge-eating, headaches, inability to sleep, tiredness, nausea, loss of appetite, weight loss, and crying spells. Emotional reactions included anger, fear, depression, anxiety, irritability, lowered self-esteem, feelings of humiliation and alienation, and a sense of helplessness and vulnerability. To this list can be added disruption of sexual adjustment (e.g., loss of desire, flashbacks during intercourse) and difficulties with partners, families and significant others.

Although these early studies were based largely on reports of self-identified victims, and thus can be criticized on these grounds, a number of rigorous investigations have since confirmed that sexually harassing experiences can cause substantial emotional damage,[3] even when such experiences are less serious and intense than that typically required to trigger statutory relief. In the first of these studies to appear, Schneider, Swan, and Fitzgerald (1997) studied women employed in two different organizations; they examined the consequences of harassment on a variety of reliable and valid measures of psychological status, carefully controlled for the effects of other stressors or confounding influences. Their results demonstrated that the experience of sexual harassment exerted significant and substantial impact; women who had been harassed had significantly lower levels of general psychological adjustment as well as significantly elevated symptoms of Post-Traumatic Stress Disorder (PTSD). The impact of harassment remained significant even after controlling for other potential explanations; as the authors observed, "This study presents evidence

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[3] Other types of damage have also been demonstrated; for example, Morrow, McElroy, and Phillips (1994) found evidence that women who were harassed reported less satisfaction with work, supervision, coworkers, and promotions, as well as lower levels of organizational commitment, greater role ambiguity, role conflict, and job stress. Other researchers report similar results; see, for example, Schneider, et al., 1997.

that sexual harassment, even at relatively low frequencies, exerts significant negative impact on women's psychological well-being..." (p. 412).

Fitzgerald, Drasgow, Hulin, Gelfand, and Magley (1997) subsequently reported an even more stringent test of the relationship between sexually harassing behavior and emotional distress. Employing sophisticated statistical procedures, they documented a strong link between harassment and negative outcomes in a large sample of employed women. As they noted, "(O)ur results support the contention that sexual harassment is costly in both organizational and human terms. Women who were harassed not only experienced more psychological problems but also reported [more negative job outcomes]" (p. 586). Harassment significantly affected every aspect of these women's lives, from job satisfaction to physical health, providing strong evidence for the assertion that harassment causes significant emotional distress, even at levels far less serious than those that typically find their way to court.

These results have subsequently been replicated in large studies of the five military services, utilizing scientifically selected stratified random samples combining over 28,000 individuals (Fitzgerald, et al., in press; Magley, et al., in press). These researchers confirmed that harassment exerts significant negative influence on psychological status (e.g., anxiety and depression) and physical health, even after controlling for other factors; these effects "kick in" at relatively low levels of exposure.

Some of the most compelling research in this area can be found in recent studies linking sexual harassment not only to psychological distress (i.e., symptoms) but also to actual diagnosable psychological disorder (e.g., major depressive disorder, post-traumatic stress disorder). Based on data from the National Women's Study, Dansky and Kilpatrick (1997) reported that women who had experienced sexual harassment were significantly more likely to suffer from Post-Traumatic Stress Disorder and Major Depressive Disorder than other women. Based on a large, nationally representative random sample and state-of-the-art diagnostic techniques, this study is considered the "gold standard" in terms of scientific knowledge concerning the effects of sexual harassment on women who experience it.

Finally, Fitzgerald and her colleagues (Fitzgerald, et al., in press) conducted the only reliable study to date based on the responses of plaintiffs in sexual harassment litigation. Consistent with the Dansky and Kilpatrick research described above, they found that the most common diagnoses found in this population were Major Depressive Disorder

and Post-Traumatic Stress Disorder.

Summary. In sum, a large body of scientific data reliably demonstrates that experiencing sexual harassment, even at low levels of frequency and intensity, can lead to decrements in psychological well-being and elevations in psychological distress, up to and including major emotional disorders. Although not every individual who is exposed to such experiences will develop symptoms of emotional distress, such reactions are more common than not – indeed, they appear to be the normative response.

Factors and conditions that lead to psychological harm.

There are a number of complementary models of vulnerability and harm, of which Fitzgerald, Swan, and Magley's (1997) is the most detailed. Drawing on modern cognitive frameworks for understanding stressful life events, these authors outline three sets of factors that influence severity: *stimulus factors* (i.e., the behavior itself), *contextual factors* (i.e., the context in which it takes place), and *individual factors*, that is the vulnerability of the individual target.

Stimulus factors. Stimulus factors refer to objectively defined aspects of the harassing behavior itself; for example, was it public or private, isolated or repetitive, verbal, physical, or both. Such elements can be classified into three general categories: *frequency*, *intensity*, and *duration*. Frequency refers simply to the number of incidents, whereas duration refers to the length of time during which the woman was subjected to the stressful situation. Intensity refers to what is generally thought of as the magnitude of the stressor. Seven aspects of intensity have so far been identified:

(1) a powerful perpetrator

(2) multiple perpetrators

(3) behavior that is physical as opposed to verbal

(4) behavior that is frightening, as opposed to annoying

(5) behavior that is directly focused on the target

(6) restricted possibilities for escape

(7) multiple types of harassing behavior

A number of these have so far received empirical support. For example, the negative impact of frequency on

target well-being has been supported in a number of studies (Schneider, et al., 1997; Drasgow, et al., 1999; Brooks & Perot, 1991) and Pryor and Whalen (1997) found that targets who experience multiple types of harassment have worse outcomes than those who do not. Harassment by someone in a position of authority and control is virtually always experienced as more severe, and Drasgow, et al. (1999) have recently demonstrated an empirical link between perpetrator power and negative outcomes.

Contextual factors. The main finding in this area that harassment is more common and targets have worse outcomes in settings tolerant of such behavior – tolerance being defined as the perception that the issue is not taken seriously, that there is high risk for complaining, and little chance that perpetrators will be sanctioned. In other words, tolerance of harassment can be defined as the general perception that there is little that can or will be done to prevent or remediate it, combined with elevated levels of risk to victims for complaining.

Other aspects of tolerance that are of importance include the lack of policies or procedures for dealing with sexual harassment, normative behavior that appears to tolerate harassment, and simply being in an environment where other women are being harassed (such a situation is known to social scientists as ambient harassment, or "bystander stress"). Glomb and her colleagues (Glomb, et al., 1997) demonstrated that ambient harassment and a tolerant climate produced psychological distress equivalent to that of being directly harassed.

Individual vulnerability factors. Examining individual factors shifts the lens of attention from the harassment itself and the context in which it occurs to the individuals who are its target. It is well accepted that certain personal characteristics can exacerbate or buffer the effects of a stressor, leading to more or less severe outcomes than would otherwise be the case. This concept is known as *victim vulnerability*. Fitzgerald, et al. (1997) suggest five aspects of vulnerability that may affect outcomes:

1) victimization history

2) personal resources

3) attributions

4) attitudes

5) control

Considerable research has demonstrated that previous victimization increases not only the risk of subsequent

abuse, but also its consequences. In other words, women who have been previously assaulted, sexually abused, or raped have been found to experience more psychological damage in response to subsequent experiences. And, Dansky and Kilpatrick (1997) recently demonstrated that sexual harassment contributed to the risk of Major Depressive Disorder and Post-traumatic Stress Disorder, even after the effects of previous sexual assaults had been taken into account.

Similarly, individuals with few personal resources (financial, vocational, educational, etc.) have been shown to be more vulnerable to psychological damage in the face of stressful life events. It is both intuitively and empirically the case that those with few options and resources will be more severely distressed and damaged than other individuals, given an objectively equivalent injury. Finally, lack of control of an aversive situation has been both theoretically and empirically linked to subsequent psychological distress, specifically, depression.

Individual responses to sexual harassment.

Despite the widespread nature of sexual harassment and the seriousness of its consequences, it is by now well established that most victims do not report it and, in fact, the modal response of women who are harassed is simply to endure the situation and hope that it will somehow "go away." Although rigorous examination of women's responses to sexual harassment is only a decade old, it is already clear that a notable discrepancy exists between (1) how people believe that they *would* respond to harassment if they were exposed to it and (2) how victims actually *do* respond (Fitzgerald, Swan, & Fisher, 1995). Research demonstrates that the majority of women *say* they would respond assertively (Dunwoody-Miller & Gutek, 1985; Hogbacka, Kandolin, Haavio-Mannila, & Kauppinen-Toropainen, 1987) but the overwhelming majority of victims, however, clearly *do not* respond in this manner (Gutek & Koss, 1993). When individuals are asked what they would do if they were harassed, the majority responds that they would speak up and tell the person to stop (Dunwoody-Miller & Gutek, 1985; Gutek & Koss, 1993). Research also indicates that many people believe that women should be able to handle harassment themselves (Collins & Blodgett, 1981; Gutek, 1985; Sheppard, 1989).

Despite the widespread nature of such beliefs, it is clear that actual victims behave quite differently. USMSPB (1987) reported that the majority of victims in their second study either ignored the behavior or did nothing, and other studies confirm this finding (e.g., Fitzgerald, et al., 1988; Loy & Stewart, 1984). Gruber and Bjorn (1982) found that

23% of victims in their study said they simply ignored the behavior or put up with it, and results are similar in virtually all studies that have been reported.

If few victims actually confront their harasser, even fewer take any formal action such as reporting to management or filing a formal complaint. Only 18% of Gutek's (1985) victims reported their harassment to anyone in authority; comparable figures are reported by Culbertson, Rosenfield, Booth-Kewley, and Magnusson (1992) and Gruber and Bjorn (1982). Filing formal complaints is less likely still, with estimates ranging from 2% to 12%, depending on the sample studied. In 1991, the Women's Legal Defense Fund estimated that only 1% to 7% of victims file a formal complaint or seek legal help.

Fitzgerald, Hulin, and Drasgow (1995) provide the most complete examination to date of the research on how victims respond (i.e., cope with) sexual harassment, noting that such responses can be classified as either *internally focused* (endurance or extinction; denial, detachment, reattribution, and illusory control) or *externally focused* (avoidance, appeasement, assertion, seeking institutional relief, and seeking social support). Internal strategies are characterized by attempts to manage the thoughts and emotions associated with the experience (e.g., "I just tried to forget about it"; "I told myself it didn't matter") whereas externally focused strategies are more problem solving in nature (e.g., "I told him to leave me alone"; "I stayed away from him as much as possible"; "I reported him").

Differential Prevalence of Response Strategies.

Internally focused responses. One of the most frequent responses is simply to ignore the harassment and do nothing (*endurance/extinction*); such a response may reflect the target's belief that the behavior is irrelevant or non-threatening, that she has no effective alternatives, or that it is in her best interest to do nothing. A number of victims report that "doing nothing" is actually an effective practical strategy, in that resistance is often met with amusement and increased attention from the harasser; however, most research shows that the advice "just ignore him and he'll go away" is ill-founded, in that the behavior typically continues for some period of time. A closely related reaction is to pretend that the situation is not happening, that it doesn't matter, or has no effect (*denial*). Such responses are extremely common (Fitzgerald, et al., 1988; Gruber & Bjorn, 1982; Gutek, 1985; Gutek & Koss, 1993; Loy & Stewart, 1984; USMSPB, 1981; 1987; 1995).

Little is formally known concerning the prevalence of the other internally focused strategies that have been identified (*detachment, illusory control, reattribution*). Gruber and Bjorn (1982) found that 10% of the victims they studied used reattribution as a coping strategy, that is, reinterpreting the situation in such a way that it was defined as less threatening, that there were extenuating circumstances explaining the man's behavior (e.g., he was lonely, or drunk, etc.), or attempted to interpret his intentions as benign (Gutek, 1985; Rabinowitz, 1990). Self-blame, labeled here as illusory control, is rarely formally studied, although Rabinowitz (1990) notes that it appears to be common, an assertion born out by clinical observation as well as some research. Jensen and Gutek (1982) found that 25% of female victims attributed the problem in some way to their own behavior, an attribution that inhibited both reporting and seeking social support.

Externally focused responses. The most common problem-solving strategy appears to be avoidance; the literature suggests that large numbers of victims actively attempt to cope in this way (Culbertson, et al., 1992; Fitzgerald, et al., 1988; Gutek, 1985; McKinney, Olson & Satterfield, 1988; Schneider, 1991; USMSPB, 1981; 1987; 1995). Also common is appeasement, an attempt to "put off" the harasser without direct confrontation (e.g., humor, excuses, delaying, etc.), a response that Gruber and Bjorn (1982) labeled as *masking*. They reported that 10% of the victims they studied used delaying tactics hoping the harasser would "take the hint" that they were not interested.

Not surprisingly, a substantial number of individuals seek social support; 68% of the USMSPB (1981) targets discussed the experience with a co-worker and 60% talked about it with friends and family. What little research exists on the reactions of others, however, suggests they are less than uniformly supportive (e.g., Loy & Stewart, 1984). Targets also employ a variety of assertive responses to communicate that harassment is unwelcome, most commonly, a direct request that the offender stop his behavior and leave the woman alone; 44% of the female Merit Systems (1987) targets asked the harasser to stop. By far the most infrequent response is to seek some form of institutional relief (i.e., bring a formal complaint, file a lawsuit). Targets apparently turn to such strategies as a last resort when all other efforts have failed. Not surprisingly, the least confrontational responses are the most common; victims in the workplace are more likely to talk with a supervisor than file a formal complaint, and legal claims are by far the least common response.

Outcomes of Response Strategies. The issue most commonly raised concerning target response is "Why didn't she just report him?" Faced with this question, targets give a variety of answers. They believe that nothing can or will

be done (Gutek & Koss, 1993; Martindale, 1990; USMSPB, 1981), and many are reluctant to cause problems for the offender (Gutek, 1985; Jensen & Gutek, 1982; Martindale, 1990). The most common reason, however, is fear – fear of retaliation, of not being believed, or damaging one's situation, or being shamed and humiliated (Fitzgerald, et al., 1988; Gruber & Bjorn, 1982; Gutek, 1985; Gutek & Koss, 1993; Martindale, 1990; Phillips, Stockdale, & Joeman., 1989; Saunders, 1992; USMSPB, 1987). Unfortunately, such beliefs are often well founded.

Contrary to conventional wisdom, a number of studies have documented that assertive responses such as confronting the harasser or filing a complaint are not only frequently ineffective, but often actually make things worse. For example, Hesson-McInnis and Fitzgerald (1997) found that assertive responding was associated with more negative outcomes of every type (including psychological and health-related) even after severity of harassment was controlled. This finding was recently replicated by Drasgow, et al., 1999). Finally, Stockdale (1998) reported that individuals who experienced frequent harassment and used confrontive coping strategies tended to experience worse outcomes than did others. Furthermore, use of confrontive responses tended to amplify associations between harassment pervasiveness and consequences; in other words, the effects of frequent harassment were more damaging when the target confronted the problem directly.

In sum, despite pervasive public belief that victims should "handle" harassment assertively, confront the perpetrator immediately, and report him to the appropriate authorities, reactions to such responses are generally not favorable for those who actually "blow the whistle." As Livingston (1982) remarked, "Given the immense psychological and economic costs to individuals who use formal action, in contrast to the potentially meager gains, it is not surprising that so few victims choose this response" (p. 15).

Part III

Analysis of Organizational Climate

At

Ford Motor Company

Analysis of Organizational Climate at Ford Motor Company Chicago Plants

As discussed above, research indicates that a major reason harassment persists at high levels in organizations is that company management tolerates its presence; this concept is known in social science as *organizational tolerance for sexual harassment*, or more simply, *organizational climate*. An organizational climate tolerant of sexual harassment is characterized by a number of features. It is perhaps most obviously recognized through a high level of what is known as *ambient sexual harassment*; that is, highly sexualized atmosphere in which crude and offensive sexual materials are common and employees see that harassing behavior is normative. Research has shown that such an atmosphere has strong effects on the morale and psychological well-being of those who must work in it. A second characteristic of such a climate is that the *social norms set by management* are accepting of crude sexualized behavior (Pryor, Giedd, & Williams, 1995); such norms are conveyed in a number of ways, most obviously when managers themselves engage in sexually harassing behavior. Such "modeling" of inappropriate behavior sends a clear message to employees that such actions are acceptable, or the norm, particularly in *the absence of strong policies prohibiting harassment and retaliation and a clear and accessible grievance procedure*.

Each of these three characteristics (sexualized organizational ambience; lenient management norms; lack of adequate policies and procedures) can be considered objective indicators of tolerance of sexual harassment. Such characteristics create widely shared perceptions among employees concerning what scientists refer to as behavioral contingencies; that is, if-then relationships between behavior and consequences. In the case of sexual harassment, such shared perceptions include beliefs that (1) *employee complaints will not be taken seriously*; (2) *it is risky for the complainant to come forward*, and (3) *there will be few if any meaningful sanctions for offenders*.

Organizational climate and culture send a clear message to employees concerning what is acceptable behavior and what is not and companies characterized by the pattern described above promote sexual harassment by what they do as well as what they don't do. Research has shown that when managers model harassing behaviors, others follow their lead; conversely, strong norms discouraging harassment can inhibit undesirable behavior even from those who would otherwise have a propensity to do so (Pryor, et al., 1995). Other research has repeatedly demonstrated that work groups in which the members believe that harassment complaints are not taken seriously, that it is risky for women to complain, and that offenders will receive no meaningful sanctions, will experience significantly more harassing behavior

(Fitzgerald, et al., 1997). And, women who are harassed in such work groups have significantly worse outcomes (e.g., psychological distress, lowered job satisfaction, work withdrawal) than women who have similar experiences in a more supportive climate. Indeed, some work has shown that a tolerant climate can itself lead to negative outcomes, even for women who are not themselves harassed (Glomb, et al., 1997).

The following report presents an analysis of the organizational climate at the Chicago Stamping and Assembly Plants of Ford Motor Company. I was asked to examine the depositions, complaints, and other materials in the case and evaluate Ford on each of the climate dimensions described above and render an opinion concerning the degree to which Ford has tolerated sexual harassment of plant employees.

Objective Indicators of Organizational Tolerance for Sexual Harassment.

As described above, there are a number of ways that organizations convey to their employees their interest in preventing sexual harassment. These include the degree to which the organization tolerates a highly sexualized ambience (i.e., ambient harassment), the nature of social norms set and modeled by management figures, and the degree to which clear policies and accessible procedures are instituted, promulgated, and followed. The following section reviews each of these in turn.

Ambient Harassment. Closely related to the pervasiveness of offensive behavior is the concept of *ambient sexual harassment*. This concept refers to the experience of working in an environment permeated with sexually offensive and degrading behavior (Glomb, et al., 1997), whether or not it is specifically directed at the particular employee. It refers most obviously to "targetless" actions such as pornographic materials (e.g., posters, magazines) as well as to crudely sexualized and hostile graffiti[4] displayed in the workplace. It also includes such experiences as *observing* other women being harassed, *learning about* female coworkers who have been harassed, and *witnessing* retaliation toward others who complain.

Ambient harassment has been shown to give rise to "bystander stress" (Schneider, 1996), that is, negative job-related, psychological, and health-related consequences that result from witnessing or hearing about the sexually offensive experiences of others in one's work environment. Research has demonstrated that these effects are often

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[4] Although graffiti is sometimes at a particular individual, its effects are obviously considerably wider than its specific target.

equivalent to those of being a direct target; women who work in environments in which their coworkers are harassed display heightened anxiety, lower job satisfaction and other psychological and job-related consequences. The pervasiveness of this ambience is directly related to the degree to which the organization tolerates sexually offensive behavior by its employees; the extent to which harassment occurs across a workgroup, whether or not it is targeted at each of its individual members, reflects standards of acceptable behavior as well as the perceived risk for reporting or attempting to prevent the harassment of others.

Perusal of materials in the present case suggests that a high level of ambient harassment pervaded the Chicago Assembly and Stamping Plants. The plaintiffs, as well as women not involved in this suit, reported witnessing or knowing about harassment experiences of other women, and described widespread graffiti and pornography on open display inside the plants. These reports, summarized below, suggest that the female employees at these sites were surrounded by a sexualized work environment of the crudest and most degrading sort, an environment they could not avoid and of which they were constantly made aware.

Perhaps the clearest example is the graffiti that for many years was openly displayed in the plants. The walls in both the men's and women's bathrooms were covered with phrases and drawings that demeaned women, graffiti that also appeared in elevators and phone booths. Such phrases as "This bitch is mine (with name)," "Amy sucks dick," and "For a good time, call (name)" were displayed alongside drawings of female and male genitalia, including one depiction of a woman with her buttocks and legs spread that was videotaped and broadcast by a local news organization. Following the broadcast, elevators and bathrooms were repeatedly painted over and one bathroom was actually closed, but the graffiti persisted. Louis Lafayette acknowledged in his deposition that he had seen graffiti on the walls in the plant and he was offended by some as well. Pictures of women who were scantily clad or not wearing tops were reputedly posted in many areas of the plants, and "girly magazines" (e.g., Playboy, Penthouse) were on display in the "pit" area. Several women reported that drawers containing work materials also contained magazines and pictures of naked women.

Many women also described the classic example of ambient harassment, that is, observing female coworkers being sexually harassed, including seeing male supervisors and hourly employees touching and fondling other female workers. Althea Rapier and Victoria Williams both described observing supervisors touch other female employees on

the hips, waist, and legs. In addition, Deanne Harrigan and Victoria Williams each reported being aware of preferential treatment being given to women who were in sexual relationships or were flirtatious with supervisory staff members. Several women, such as Althea Rapier, reported observing various supervisors and hourly employees rub up against female employees, proposition them, and stare at their bodies when they stood on high platforms or bent over the cars as they worked.

A number of women also described hearing about harassment of other female employees, experiences not limited to activities related to this lawsuit or to the June 1, 1998 Dateline episode that chronicled many of the present allegations; several women, including Deanne Harrigan and Althea Rapier, stated that they had heard about the harassment of other women as early as 1993, either from the victim herself or via secondhand accounts. Employees of both sexes were reportedly aware that Bob Kern had taken female employees to Atlanta on business trips and that he had allegedly harassed both Rebecca Curwick and Jodi Farris. Many women could also name other female employees who had experienced harassment at the hands of the same men who had harassed them. For example, Althea Rapier knew of at least two other women and one man who were also harassed by Jim Sloat.

Female employees also were aware that those who complained of harassment were subject to negative consequences. For example, Althea Rapier testified that when Deanne Harrigan reported male co-workers having pornographic material, fellow employees stopped talking to her and treated her harshly. Others reported that they knew that actions were rarely taken in response to harassment complaints. Such experiences not only exacerbated the atmosphere of ambient harassment but also contributed to the overall organizational climate that tolerated such behavior.

Based on the materials and depositions made available in the case, it was virtually impossible to work at these Ford sites without becoming aware that women as a group were crudely and pervasively sexualized, the daily targets of lewd comments and gestures. Male employees reputedly licked their lips as women passed by, and yelled out "fresh meat" as new female employees passed their workstations. Although many of these behaviors were not targeted at any one woman in particular, they clearly threaten and demean women *as a group*. From the reports of these women, this ambience was nearly as demoralizing and distressing as being directly targeted, giving them a sense that their workplace was saturated with sexualized hostility from which it was difficult if not impossible to escape.

Management Norms. The behavior of managerial employees is a critical contributor to organizational climate. Whether supervisors, managers, or upper level executives, these individuals set the tone for appropriate behavior in the organization, communicating by what they do (and don't do) parameters of acceptable behavior. When managerial level employees model inappropriate behavior, it sends a message to others that such actions are acceptable to the company. Both field and laboratory research have demonstrated that the effects of such modeling are very powerful (e.g., Pryor, et al., 1995).

In the present case, there is abundant evidence that managerial employees at virtually all levels of the Chicago plants were among the worst offenders. One of the most obvious examples has to do with Bob Kern, second in charge at the Stamping Plant. In 1997, pointing to Jodi Farris' backside, he allegedly stated to Roy Vaga and Scott Jordan, "I'm going to have that" (Farris Dep., 60). According to Jordan, Kern said that "I guaren-fuckin'-tee that I will get some of that within the week" (CAP6 0912). Jordan characterized Kern's demeanor as "like a stalker" (CAP6 0912). Shortly after this incident, Kern invited Ms. Farris to accompany him on a trip to Atlanta for what were supposedly business-related purposes. During the trip, he allegedly made a number of advances to her, including taking her to a strip club ("Guys and Dolls") over her objections, and paying a male stripper to dance for her at their table. Telling her "what happens in Atlanta, stays in Atlanta," he allegedly bragged to her about how "well-endowed" he was and how he was "satisfying all his past women" (Farris Dep., 20-21, 33-34). He asked her if she was satisfied with her past lovers, and what was her last lover like, making comments such as "I never left anybody unsatisfied....Nobody ever complained about the size of my dick" (Farris Dep., 34). Also according to Mr. Jordan, after the harassment issue came out, Kern would stop by Farris' workstation several times an hour and tell her throughout the day that "No one has anything on me yet" (CAP 6 0913).

Ms. Farris was not Kern's only victim, as he also allegedly harassed Rebecca Curwick. According to Curwick's account, Kern would touch her, ask her out for drinks, and act "too friendly." He stopped by her workstation frequently, invited her to a "supervisors only" party, and then spent most of the evening at her side, acting as if he her "date" (CAP7 0943). As with Ms. Farris, he also took her to Atlanta. According to her account, he asked her to go to his hotel room and "iron his shirt" for him. Once there, he allegedly emerged from the bathroom dressed only in a towel which he proceeded to drop, thus exposing himself to her. She quickly left the room.

After returning from Atlanta, Curwick told Bill Warren about the incident. Warren indicated, "It seemed far fetched, but I could see it happening.... I don't know why she'd lie about it, but by the same token I have a hard time believing that man would be that stupid"(CAP7 1003). However, Warren also stated that it was odd to find Kern at Curwick's station so often--two to five times a day, and that Curwick complained of passes from Kern. She was reputedly nervous about going to Atlanta and felt that Kern might try to "do something." Forrest Fletcher also indicated that he had discussed the Atlanta incident with Bill Warren, and they had "laughed about it" (CAP6 1031).

Kern was reportedly angered that Curwick had disclosed the incident to anyone. He had reputedly always laughed at Curwick's complaints and said that if she ever complained about him, she would lose her job. Sometime after the Atlanta incident, Kern accosted Curwick while she was on break. When she attempted to leave, he grabbed her by the arm and sat her back in the chair. He told her that he was the boss and would tell her when she could leave. He indicated that he was angry with her for telling Bill Warren about the Atlanta hotel incident.

Other major examples of management involvement in harassing behavior involve Superintendent Will Hunt, Senior Supervisor Jerry Schoonover, and Supervisor Ray Holmes. In addition, the Rivera, et al., complaint named at least 10 Ford managerial and supervisory employees as offenders, at least one of whom is also named in the current suit. Many allegations against these individuals involve the grossest and most repulsive sorts of behavior, including grabbing, groping, and rubbing, as well as publicly referring to female employees as "bitches," "cunts," and other degraded names for female body parts. Much if not most of these behaviors were enacted publicly and in full view of other employees, both male and female. Given the tone set by so many Ford managers and supervisory personnel, it is not surprising to find that the male hourly employees followed suit.

Quality of Policies and Procedures. One of the most basic and visible means by which an organization communicates its stance on sexual harassment is via its policies and procedures, or lack of them. Organizations that take a strong stand against sexual harassment develop, disseminate, and enforce clearly written policies against it; policies that contain specific methods for employees to bring problems to the company's attention, encourage them to do so, and assure them that they will be protected from retaliation. In contrast, organizations that tolerate harassment have weak, ambiguous, or no guidelines; fail to publicize their policies widely; discourage complaints in a variety of ways; and fail to protect those who complain. Although a complete analysis of the policies and procedures at Ford's

Chicago Stamping and Assembly Plants is beyond the scope of this report, these components of organizational climate are discussed briefly below in terms of their contributions to employees' perceptions of Ford's tolerance of sexual harassment.

As far as can be determined from the materials made available, Ford never articulated or disseminated a specific sexual harassment policy. Although numerous documents exist that refer to Ford's "policy," I was unable to find a specific document entitled "Sexual Harassment Policy" (or the equivalent) that would convey in clear and understandable language the basic elements of an anti-harassment policy: that is, a definition of sexual harassment; a statement that it violates both state and federal law; a statement that Ford will not tolerate such behavior; a description of the specific steps employees can take to report; a guarantee of protection against retaliation; and a statement that violators will be disciplined with penalties up to and including termination.

The first sexual harassment communication at Ford seems to be a memo dated 6/11/79. This inter-office memo stated that those who harass (sexually, or sexually and racially) are to be "handled in accordance with established standards of employe [sic] discipline." Definitions of harassment and employee discipline are not specified, nor is the recipient group of the memo.

The file contains no further direct communication about sexual harassment from Ford until 1992, 13 years later. In August of 1992, the company produced an 8-page Equal Employment Opportunity Guide for Supervisors and Managers, which contained a section on discrimination. This section contained excerpts from the 6/11/79 letter, indicating that harassment is not tolerated, the supervisor is responsible for stopping harassment, and supervisors are prohibited from harassing. The booklet then contains EEOC Guidelines, including the agency's definition of harassment, and a statement that the employer is responsible for stopping it. Finally, the booklet contains various do's and don'ts for supervisors, including that they should inform employees of the policy, investigate complaints promptly and so forth. Based on the title, it appears that this booklet went to supervisors and managers, but there is no indication that its ideas were ever disseminated or mandated.

A document that may have reached a wider audience was dated 11/15 92. This appears to be a working letter, so final dissemination is unknown, especially given the lack of a final letter. The draft states that sexual harassment "violates Ford's long-standing policy against discrimination on the basis of sex" and defines it as "unwanted conduct

of a sexual nature that unreasonably interferes with an individual's work environment, including but not limited to ... unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when" the behavior is quid pro quo in nature, unreasonably interferes with work, or creates an intimidating or hostile or offensive work environment. The letter also states that reporting procedures and complaints will be handled in an expedient manner. How these are to be accomplished is unspecified.

The first notice of a reporting procedure is in a document dated 9/15/1993. This letter was addressed to Ernest Lofton (VP and Director of UAW in Detroit) from Jack Hall, VP of Employee Relations. The letter states that the company regards sexual harassment as "serious misconduct which will not be tolerated under any circumstances." Complaints should go through management or the UAW, but the procedure for doing this is unspecified, as is the process for reviewing them.

An undated EEO statement (CAP5 1135), signed by Assembly Plant Manager Randy Griffin, outlines a generic nondiscrimination policy in employment decisions; its only reference to harassment states "(Ford will) assure any claims of harassment of employees are promptly and thoroughly investigated and that supervisors take appropriate corrective action if harassment has occurred." As Chief Justice Rehnquist noted as far back as 1986 (*Meritor Savings Bank v. Vinson*), such generic statements do little to notify employees of management's interest in preventing specifically *sexual* harassment. This generic policy was allegedly posted outside of the Labor Relations office, but there is no evidence that it was disseminated in any way.

In October, 1997, Alex Trotman sent a letter to all U.S. salaried (but not hourly) employees stating that Ford has "zero tolerance" for harassment of all sorts (CAP5 1150). The phrase *sexual harassment* was not mentioned; the only specific reference implied in the entire letter consists of Trotman's mention of "sexually demeaning or other provocative language," along with racial and ethnic slurs, as examples of inappropriate behavior. There is no evidence that this letter was ever disseminated to hourly employees, although Louis Lafayette stated in his deposition that he did mention it in new employee orientation.

Despite these various piece-meal efforts, there is no evidence that Ford ever articulated and disseminated a single, clear, policy statement to its employees and managers concerning sexual harassment. In his deposition, Louis Lafayette, Senior Human Resources Representative, was unable to give a clear example of harassment, asserting that

he made no distinction between sexual harassment and harassment of other sorts; he acknowledged further that he didn't know what caused harassment and didn't know what its effects are (an admission also made by Dick Smith). Jerry Schoonover testified in his deposition that he had never seen the Equal Employment Opportunity Guide for Supervisors and Managers that outlined supervisors' responsibility to stop sexual harassment and also testified that he had not made or distributed copies of Trotman's 10/97 Zero Tolerance letter, remarking "Why would I do something that stupid?" (Schoonover Dep., 377). Lafayette also testified not only that there were no standard methods for conducting a sexual harassment investigation, but that he was unable to protect complainants against retaliation. As late as the Fall of 1997, 46 of 47 attendees at one of Fred Weber's skip-level meeting did not know of the existence of the Diversity Council, and supervisors were making statements such as "I can't control what comes out of a person's mouth" (Tony Perez) and were unclear that they could hold employees accountable for inappropriate behavior on breaks (Glen Stypula). It seems that even at this late date, supervisors were unclear concerning their responsibilities for stopping sexual harassment and how they were to go about doing so.

Many of the policy initiatives that Ford had initiated were unclear or largely unknown. As noted above, the majority of employees at the October skip-level meeting were unaware of the Diversity Council. Similarly, when Fred Weber asked in November 1997 how many people knew of the 800 line for making complaints "few hands went up." One skip level participant (identified only as Judy S.) asked "Due to the recent events, is something being done to let the hourly people know who to go to? Do they know that it is Inger Long?" Weber responded "It is not like nothing has been done. There are a lot of things that have been done that have been worked out successfully through the proper internal mechanism" – but he never specified what those "things" might be.

Apparently, the reporting procedure was not clearly specified for the hourly employees. Louis Lafayette indicated that Brian McDougall wanted all complaints to come to Labor Relations and thought that McDougall had informed supervisors and UAW reps; however, nothing was written down and there is no evidence that this information ever made its way to hourly employees. There was disagreement in the materials concerning whether the Open Door Policy applied only to salaried employees (as it formally states) or rather to all employees (as Lafayette testified). In short, to the degree that there *were* channels for reporting harassment, they were both unclear and not widely agreed on. I found at least four conflicting descriptions of the appropriate reporting procedure in the materials she reviewed.

Finally, investigative procedures, penalties for harassment, and the procedures for implementing them were never clearly articulated. From the first policy statement (6/11/79) to the most recent, there is never any clear statement of investigative or disciplinary procedures. The June, 1979 initiative states that offenses are "handled in accordance with *established standards* of employe (sic) discipline." The draft letter of November 1992 states that reporting procedures and complaints will be handled in an *expedient manner*. Similarly, Jack Hall's letter of September 1993 gives no specifics as to how complaints are to be made or how they will be reviewed. As late as October, 1997, Plant Manager Randolph Griffin stated only that "...(radios, cassette tapes, CD, Video, etc. that violate (plant) policies will subject the user to the *appropriate action* by the Company." There is no indication of what that might be.

It is unclear that the flurry of training and diversity activity that occurred in 1996-97 has significantly improved these problems. At the 1997 skip-level meetings, employees expressed considerable skepticism about the Diversity Council and other programs. An employee designated only as Carl H. stated "If this new council or whatever you call it is supposed to work and BZ (a Ford employee) is on it, forget it. It won't work...We can sit here and make things sound pretty and put it on paper...But as long as people like BZ are allowed to use the N word...Where can we go? We can't go to Lynn DeLong. (HR)...It doesn't stop because we have another pretty program." Other employees noted that people do not make complaints because of fear of retaliation, whereas another noted that it was inappropriate for those on the Council to have any control over promotions (because of this fear). Overall, it appears that Ford has focused its efforts mainly on asserting its opposition to sexual harassment and other forms of discrimination and less time on centralizing, clarifying, disseminating, and implementing actual policies and procedures. This is a critical issue for Ford to address if they truly wish to communicate to their employees that they do not tolerate sexual harassment.

Organizational Contingencies Concerning Sexual Harassment.

In addition to the factors described above, organizations create and communicate a climate and culture concerning sexual harassment through the behavioral contingencies that are "in play" at both the work group and organizational level. Such "if-then" relationships communicate to employees what will happen (and not happen) when they behave in certain ways. For example, in organizations that do not tolerate harassment, *if* a woman makes a complaint, *then* it will be taken seriously, investigated promptly, and resolved fairly. Similarly, employees believe that *if* a woman makes a complaint (*then*) she will not be retaliated against, either formally or informally. Finally, such a

climate communicates clearly that *if* an employee engages in harassing behavior, *then* that employee will be disciplined. The following section of the report examines this set of contingencies at the Chicago Assembly and Stamping Plants.

Degree to Which Complaints of Sexual Harassment Were Taken Seriously.

The failure of Ford supervisors, management, Labor Relations and Human Resources personnel, and even UAW representatives, to take sexual harassment complaints seriously was sufficiently well known to be a topic of cynicism among Ford employees. According to plaintiff Victoria Williams, the explanation of Ford's harassment complaint procedures elicited laughter and general mockery during the mandatory training instituted in 1998. "Well, from the laughter it sounds like many had experienced the same things I had...It sounded like they perceived it to be a joke that he was saying how procedure was carried out...I don't find it funny because if that's the avenue we have, and it's not working, where does that leave me?" (Williams Dep., 85-86). This failure to take female employees' complaints seriously was manifest in a number of ways.

First, women's complaints of sexual harassment were routinely trivialized. Some of the clearest examples are found in Rhonda Evans' deposition. For example, when she complained to John Hurd (union representative) about various incidents of harassment perpetrated by her supervisor, Mr. Hurd's response was, "Oh, Rhonda, you know you're pretty....I'm over here looking at you myself" (Evans Dep., 198). On another occasion , Mr. Hurd allegedly told her "Oh, you know, Willie likes you. And...you can't write a grievance for that" (Evans Dep., 191). When she complained that another employee was commenting about her breasts and repeatedly asking her out, Mr. Hurd allegedly laughed; when the employee subsequently approached her work area, Hurd would remark "Here comes your boyfriend" (Evans, 432). According to Evans' account, her subsequent complaint about this same employee elicited the comment "Oh, Rhonda,...you know he's crazy. Don't pay him any attention. He can't do nothing to you" (Evans Dep., 436).

Victoria Williams also testified that her concerns were dismissed by a union representative (Jerry Coppage) when she tried to file a complaint about Bob Madden (Area Manager) in the early 1990's. "And he said to me, I am your committeeman. If I say you don't have a case, you don't have a case. End of story. And he was basically showing me the door" (Williams Dep., 102-103). Similarly, when Deanne Harrigan tried to complain to Mr. Madden about an incident with her foreman, she was allegedly told that the foreman "did nothing wrong; that he was not out of line" (Harrigan Dep., 88).

Secondly, women were discouraged from complaining about harassment in a variety of ways. For example, when Althea Rapier threatened to report the supervisor who allegedly grabbed her buttocks in 1995, she testified that she was told by Carlos Bishop (union representative), "He didn't really mean anything by it. He's got 27 years. He's only got three more years to go. Why try to get the man fired" (Rapier Dep., 154-164). Bishop allegedly responded similarly to Suzette Wright when she wanted to file a complaint against a fellow employee; he is reported to have said, "Bill has more than thirty years seniority. He will lose his job and have no pension. How can Bill go home and tell his wife that he lost his job because he sexually harassed some 26-year-old girl. If you file a grievance I'm going to have to fight just as hard for him to get his job back" (Notes from Suzette Wright's documents). When Rebecca Curwick complained to her supervisor about comments made by Bob Kern, he reportedly replied that she should be "careful" about making statements like that unless she was absolutely sure.

Such responses were not limited to plaintiffs in the present case. For example, Sherry Fullerton filed a complaint in September 1998 alleging that her nipple was pinched by a fellow employee, Joe Thomas; the interviewer, Tim Caplice, responded, "Do you think [it] was intentional? Is it possible that [he] inadvertently touched your breast?...How did you get that close?" (CAP5 2414). Finally, when Ann McEwen complained in May 1998 about being poked in the chest, her foreman Kyle Cowgur responded, "If I write [him] up, I'm going to write you up for overstaying [your] lunch" (CAP5 2595).

Third, Ford failed to maintain reliable records of harassment complaints. One method of assessing the importance of an organizational issue is to examine its documentation. Despite maintaining records of absenteeism, pay changes, and even vacation days of its employees, the Chicago Assembly plant had no centralized record of sexual harassment complaints until 1997 (Lafayette, Dep., 30). Further, information about complaints was typically not circulated nor shared among the various individuals and departments responsible for responding to them.

Mr. Lafayette testified that Brian McDougall, Human Resources Manager at the Chicago Assembly Plant, first established a computerized complaint log in 1997; prior to that there was no centralized file of internal complaints. Although records of external complaints (e.g., EEOC charges) date back to 1992, each Labor Representative maintained his or her own internal complaint files and made determinations largely independently. Such files as were kept were largely informal: Lafayette admits, "I call it a file; it may not have been. Folders. Sheets of paper" (Lafayette Dep.,

44). Evidently, before the computerized system was established in 1997, there was no centralized knowledge of internal complaints that had been, or were currently being, investigated. In addition, Mr. Lafayette testified that there was no communication between departments that handled the various complaints, a practice that seems to have continued even after the establishment of the computerized complaint log. For example, when an hourly person would make a complaint against a salaried person, the complaint was turned over to Salaried Personnel; Mr. Lafayette does not know how they handled these complaints and does not remember ever receiving any feedback about their final disposition.

Such procedures not only underscore Ford's general failure to take harassment complaints seriously, but also make it difficult if not impossible to determine whether a particular employee has been accused on multiple occasions or to consider his past record when determining discipline. In his deposition, Dick Smith (Labor Relations) stated that there was no procedure in place to keep track of the alleged harassers in each case (Smith Dep., 123). In addition, Larry Escalante, who investigated complaints for both Chicago plants, reported that no one had briefed him on allegations raised in the earlier Rivera litigation involving the Stamping Plant before he began his investigation into the current claims. Although Mr. Escalante was investigating many of the same perpetrators accused in the earlier Rivera lawsuit (*Rivera, et al., vs. Ford Motor Company*), he only became aware of this situation after his investigation was completed. In general, he stated that he was never made aware of salaried employees' involvement in previous litigation.

The failure to take complaints seriously by documenting them adequately led to a number of other problems, primarily for female employees attempting to complain. For example, when Marla Graves-Mukes complained to Mr. Lafayette about an incident of harassment, he failed to take contemporaneous notes and thus her statement, as prepared by him, was inaccurate. Another plaintiff, Jodi Farris, reported complaining to Labor Relations about Claude Jones; when she was subsequently reassigned to him, she queried Labor Relations and was told they didn't remember the conversation and that she would have to report him again. Evidently, her initial complaint had not been recorded.

Fourth, Ford's standard response to complaints of sexual harassment was, typically, to do nothing. This was particularly the case prior to the airing of the Dateline special in 1998. Examples of sexual harassment complaints that were not acted upon abound in the depositions of women who tried to seek action against their perpetrators. Ms. Evans, who testified that she was routinely subjected to a variety of rude comments, staring, and fondling by her supervisor William Williams, complained to her union representative (John Hurd) nearly every day, but stated that

nothing was ever done. At one point, she approached Labor Relations and requested that she be transferred out of Williams' section; her request was initially denied. She was eventually transferred after making additional complaints, only to subsequently be returned to Williams' section. Ms. Evans testified further that she attempted in February, 1998, to report several incidents of ongoing sexual harassment to Greg Aquinto (Union Relations Manager); according to her account, Aquinto promised to come speak with her on her job site but never followed up. Ms. Evans stated in her deposition, "I went through the proper channels, that I thought were proper, to stop sexual harassment, to stop on the job harassment. Nothing was done" (Evans Dep., 537).

Another plaintiff, Gwajuana Gray, reports similar experiences. She complained to Jerry Coppage, a union representative, that her supervisor Ray Holmes refused to let other men speak to her and Victoria Williams. She testified that Coppage refused to talk to Holmes on the grounds that Holmes "knew [they] could have company" (Gray Dep., 207). Ms. Rapier testified that she complained to Jerry Coppage (union representative), Richard Jordan (Labor Relations), and Ken Jokerst (Area Manager), that her supervisor (Sloat) was harassing her, but he was never disciplined. Ford's alleged failure to take her complaints seriously led her to seek action externally and file an EEOC charge. "They didn't do anything; so I went down to EEOC and filed charges....I gave them time to deal with the problem, and they didn't deal with the problem. So therefore I said I had to take it a step further and that's what I did...he had not been disciplined" (Rapier Dep., 24-30).

Ms. Williams also complained several times to Labor Relations regarding sexual harassment by her supervisor Ray Holmes but testified that no action was ever taken. In reference to an incident in the early 1990's that she brought to the attention of Louis Lafayette, she states, "I could again not discern that this was the proper channel or the proper place to bring an issue of sexual harassment because there was no response" (Williams Dep., 236). Finally, several other women (e.g., Ms. Curwick, Ms. Harrigan) reported receiving no response to complaints about incidents such as men walking into women's bathrooms and offensive graffiti.

Ford's lack of response to complaints of sexual harassment was described not only by plaintiffs, but also by alleged perpetrators as well as management personnel. Raymond Holmes, a supervisor accused of sexual harassment by several women, testified that he was never told that he was considered to have a "cussing problem" and never received any counseling concerning his behavior from the company or anyone in Labor Relations (Holmes Dep., 162-

163, 230-231). Jerry Schoonover, another supervisor identified as a perpetrator by several women, testified repeatedly throughout his deposition that he was never counseled about his behavior with women employees and that no one at Ford had ever talked to him about the allegations against him (Schoonover Dep., 228). Mr. Lafayette (Senior Human Resources Representative) confirmed that nothing was ever done to Mr. Sloat following Ms. Rapier's complaint against him and that the investigation he conducted (in which it was determined that no violation had occurred) took five months to complete. When questioned about why complaints often take so long to be investigated and for a determination to be made, he replied that it depended on what else he has to do and what's "hot" (Lafayette Dep., 131).

In light of the considerable evidence that Ford did not take complaints of sexual harassment seriously, it is not surprising that many women reported feeling hopeless about their situations and at a loss to know what else to do to make the harassment stop. Rhonda Evans testified that she did not know what further steps to take to remedy her situation, "because all other attempts that I had made of complaints about anything, my issues were never addressed and nothing was never done about it" (Evans Dep., 239). She reports going on medical leave in February of 1998, hysterical and frustrated, because, although she had complained and talked to numerous individuals, no one would help her. Ms. Evans stated, "I didn't feel like anything would get done about it....It didn't matter what I had been through, what anybody had said or done. This was behavior that was happening day in and day out, and nobody did anything. Nobody cared" (Evans Dep., 408). When Ms. Curwick was interviewed by Larry Thompson about her sexual harassment charges against Bob Kern, he asked her to elaborate on her opinion that "women and other minorities are routinely subjected to severe retaliation when they complain to Labor Relations." Ms. Curwick replied that they are "blown off, belittled, its [sic] known for a fact, you see it over and over, anybody that's just a regular worker, they don't take their word for anything" (CAP7 0951).

Finally, Ford's failure to take complaints seriously had the effect of discouraging female employees from coming forward as it became evident that nothing would be done. Ms. Gray reports that she gave up complaining about Ray Holmes after an initial attempt was unsuccessful; she felt that it was useless. "We never knew anybody get disciplined for...vulgar comments or unwanted comments" (Gray Dep., 237). Similarly Ms. Rapier said she didn't file a complaint about a particular incident with a male coworker because "past experience of complaining to the union and complaining to Labor Relations and not seeing any results. So at that point, no, I was not going back to the sources that

I had already previously been through and didn't get – didn't see anything happen" (Rapier Dep., 293-296). Ms. Farris reported that she didn't file a complaint against Bob Kern because she didn't think it would do any good. Similarly, Ms. Evans said that she didn't complain to her supervisor again because, after several complaints, she didn't think it would do any good. Finally, Ms. Evans stated in her deposition, "I just didn't feel like there was anything that was going to be done about it. That's why there were some incidents where I said something to the union and others I just didn't say anything. It happened so much, so often, and it was kind of like the behavior pattern in the plant" (Evans Dep., 648).

Degree to Which It Was Risky for Employees to Complain.

The most common reason that women give for not reporting harassment is fear: for example, fear of not being believed, fear of being retaliated.[5] Unfortunately, such fears are often well founded. Research confirms that employees who report harassment experience worse outcomes, even after the effects of the harassment itself has been taken into account (Hesson-McInnis & Fitzgerald, 1997; Drasgow, et al., 1999; Stockdale, 1998). Organizations that are serious about preventing and stopping sexual harassment take proactive steps to communicate to employees that they will not be retaliated against for bringing harassment to the company's attention; in contrast, a defining characteristic of organizations with a high tolerance for sexual harassment is that employees believe that it is risky to make complaints (Hulin, Fitzgerald, & Drasgow, 1996; Fitzgerald, et al., 1997).

In the present case, plaintiffs described a number of incidents that clearly communicated to them and others that reporting harassing behavior to Ford carried considerable risk. Such incidents originated from all levels of the organization, including Labor Relations personnel, supervisory employees, and hourly employees (including UAW committee-people). Because of these actions and reactions, a number of women (e.g., Jodi Farris, Althea Rapier, Traci Graham) reported a general feeling of threat and intimidation, and described a widespread fear among employees that reporting or filing complaints might make their work situations worse, result in retaliation, or even jeopardize their jobs. In addition to this widespread perception of risk, a number of behaviors and comments explicitly and implicitly indicated such risk or retaliation.

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[5] Like sexual harassment itself, the word "retaliation" is a term of art in law. Social scientists use this term in its every day sense: that is, taking some sort of negative action against an individual for behavior to which the retaliator objects.

Behavior of Supervisors.

Explicit threats. The clearest indicators of risk came from supervisors, who reportedly threatened employees with specific negative consequences for filing complaints of harassment. For example, when Ms. Rapier complained to Carlos Bishop and Rich Jordan about Freddie Love's behavior (he allegedly grabbed her buttocks, and she responded to this by "shoving" him away from her), both men informed her that, if she pursued the matter, she could be fired for "hitting" Freddie. Bob Kern repeatedly warned Rebecca Curwick that, if she ever complained about him, she would lose her job. Finally, when Ann McEwen asked Kyle Cowgur (supervisor) to "'write up' Eddie Cope for poking her in the chest, Mr. Cowgur responded, "If I write Eddie up, I'm going to write you up for overstaying your lunch." These "if - then" threats from supervisors communicate a clear message about the cost of complaining about sexual harassment.

Intimidating or derogatory comments. A number of supervisors and even high level management personnel also responded to complaints with explicit intimidating or derogatory comments. For example, Ms. Rapier, Ms. Harrigan, and Victoria Williams all reported a comment by their plant manager, Randy Griffin, about "getting rid of all the women that were part of the lawsuit." In January 1998, Bob Kern (supervisor) reportedly intimidated Ms. Farris, saying "Young lady, I've got a question for you...Are you filing a harassment charge on me?" In addition, when Ms. Williams attempted to complain about her supervisor, Ray Holmes, Mr. Holmes accused Ms. Williams of being a "trouble-maker." Following the Dateline coverage of the events at Ford, Jerry Schoonover (supervisor) acknowledged writing a letter to Ford criticizing the "character" of the women suing the company. All of these behaviors exemplify clear retaliation against the complainants for reporting their experiences.

Change in job duties. A number of supervisory behaviors suggested more implicit forms of retaliation; although not involving direct reference to the complaints themselves, these behaviors followed them in time and represented a clear change from the supervisors' behavior prior to the complaints. First, a number of supervisors allegedly altered women's job duties or attempted to make them more difficult following the complaints. For example, Ms. Williams noted that, after it became common knowledge that she was part of the lawsuit, her supervisor, Perry Podolak, tried to relegate other employees' work to her and make her do tasks that were outside of her job description. Ms. Rapier alleged that Ray Clark (her foreman) told her that other employees did not want to work near her because afraid that they would be mentioned in her lawsuit, so Mr. Clark therefore instructed Ms. Rapier not to work out of her

area; Ms. Rapier contends that the particular job ("the California job") she was working required moving "all over the motor line," so the restriction on her movements caused her to fall behind. Following harassment complaints, a UAW committee-person told Rhonda Evans that her supervisor, Bob Devine, had instructed another employee to sabotage her work. Finally, after Ms. Graham reported Jerry Smith to Labor Relations, William Williams (her superintendent) gave her the job of sweeping floors for the remainder of the day, although there was other work to be done on her usual job.

Reprimands and discipline. Supervisors also allegedly retaliated against the plaintiffs by issuing unjust reprimands, warnings, and attendance-related discipline after the women filed complaints. For example, after Ms. Williams filed her EEOC charge in 1998, Mr. Podolak gave her what she alleges to be unfounded "reprimands and warnings," criticizing her job performance. She was also placed on the "critical attendance" list for no apparent reason. In 1997, just five days after Patricia Reid asked Ms. Rapier if she was organizing women to file a class-action lawsuit against Ford, Ms. Rapier was put on the "critical attendance" list, which later resulted in two one-week suspensions; according to Ms. Rapier, there was insufficient reason for her placement on this list. After Ms. Evans had complained to John Hurd (union representative) about Mr. Williams' inappropriate behavior, Mr. Williams accused her of poor job performance (specifically, doing poor quality inspections). At one point, Mr. Podolak accused Ms. Evans of having four unexcused absences; her committeeman verified that this number was erroneously inflated. The manner in which supervisors' behaviors toward complainants changed for the worse following complaints implies retaliation, and it is certainly the case that women experienced and interpreted it as such.

Behavior of Coworkers.

Explicit reactions. A number of hourly employees also "punished" women for complaining of harassment or filing charges. Some of this behavior was a clear and open reaction to the complaints. Also, after news coverage of the sexual harassment lawsuit, Ms. Farris described overhearing coworker John Schmidt saying "we need to show our women where their place is, and we won't have this crap with lawsuits going on;" he proceeded to refer to the plaintiffs as "money hungry bitches trying to find a way out" (Farris Dep., 347-348). Each day of the week following the Dateline episode, Ms. Rapier arrived at work to find that employees had taped retaliatory flyers to her workstation.

Shunning. Finally, a number of women reported considerable shunning and alienation from coworkers—a more subtle form of retaliation—following internal and external harassment complaints. For example, following a rumor

that Ms. Harrigan had reported an employee's pornography to Labor Relations, male employees allegedly ceased talking to her. Apparently, Ford did not consider this to be a problem, as Louis Lafayette testified in his deposition that he did not consider this to be retaliation and that "There is no cause to talk to her other than what pertains to [her] job"(Lafayette Dep., 263). Ms. Rapier described similar reactions to harassment complaints: "It's like 'oh, don't talk to her or don't say anything to her....I don't like her...You come to work, and almost the whole section done alienated themselves from you because you're standing up for what you think is right...They're alienating themselves from you because they feel what you're doing is wrong."

Summary. The complainants and other female employees at Ford described a pervasive atmosphere of intimidation related to reporting sexual harassment, and many of the incidents they describe are not contested. There is no evidence that Ford took any action to protect these women from retaliation by management, supervisors, or coworkers, or that they had any interest in doing so. I was unable to find any written statement that retaliation was prohibited. In fact, Senior Labor Relations representative Louis Lafayette testified that he was "unable to prevent [retaliation]" (Lafayette Dep., 203). Several women described complaining to Ford of retaliation, only to be met with silence or inaction. Based on the materials made available to me, it is my conclusion that female employees perceived that it was not in their best interest to make complaints of harassment and that such perceptions were well founded.

Degree to Which Management Imposed Meaningful Sanctions.

Research shows that policy implementation in the form of meaningful sanctions for inappropriate behavior is one of the most powerful deterrents to sexual harassment (Fitzgerald, Hulin, Drasgow, Gelfand, & Magley, 1997; Williams, Fitzgerald, & Drasgow, in press). Organizations in which employees believe that upper management will "follow through" with consequences for offenders have significantly fewer problems with this issue. Although Ford maintains in its policy statements that offenders will be appropriately disciplined, the materials made available to the examiner suggests otherwise; rather, most complaints appear to have been only cursorily investigated and sanctions were the exception rather than the rule. Ford's laxness in this respect is manifest in a number of ways.

First, Ford treated apologies as the response of choice for even the most egregious situations. For example, when Diane Hawkins accused Pat Murphy of sexually harassing her, he was allowed to apologize and the matter was dropped. In July 1994, Jim Sloat apologized to Althea Rapier for grabbing her hips; despite the seriousness of this

offense and although she made clear that she thought Sloat should be terminated, no further disciplinary action was taken. Similarly, John Ianucci was allowed to apologize after he acknowledged to Jerry Schoonover that he had harassed Jodi Farris. "I just told her, I bet I could throw her over and have a good time with her or something of that nature....I told her I could throw her over that rail and do her right here"(Schoonover Dep., 197-198). Schoonover testified that "...she got all upset, something of that nature" so he told Ianucci to apologize. Schoonover did not document this incident. Herschel Hawkins apologized to Jeanette Hodges for coming around her all the time and repeatedly asking her to go out; Schoonover told him to stop but did not document this incident either or take any other action. Hawkins allegedly apologized on his own. Finally, Bob Madden and Claude Ransom apologized to Valerie Johnson when Ray Holmes constantly swore at her, threatened to fire her, told her that women did not belong on the job, and called her a "heifer." Few if any of these instances led to further disciplinary action; each case was treated as an isolated instance of "inappropriate" behavior for which an apology would suffice.

There are a number of problems with this approach. First, treating such incidents as an isolated breach of manners trivializes the situation, reducing it to a lapse of interpersonal sensitivity as opposed to a breach of company policy. Second, it fails to convey to either the victim or the offender that Ford has a serious interest in prohibiting such behavior, thus failing to educate the offender or encourage targets to come forward. Finally, it sends the message to other employees that such behavior is not taken seriously and offenders will not be punished.

Second, even individuals with extensive histories of inappropriate behavior were rarely sanctioned in any meaningful way. Jerry Schoonover is a case in point; despite complaints from numerous women and being named as a perpetrator in at least two separate lawsuits. Schoonover asserted repeatedly in his deposition that no one at Ford had ever talked to him about his behavior and that he was unaware that there were any complaints about him. Larry Escalante, Personnel Relations Representative for the Vehicle Operations division, confirmed that he could not recall any discipline ever being taken against Schoonover. A related situation involved Paul McElroy who was suspended but was allowed to keep his job despite a number of serious complaints about him from multiple women. Asked in his deposition whether this discipline was consistent with a stance of zero tolerance, Greg Aquinto seemed uncertain (Aquinto Dep., 158). Finally, there is the case of Superintendent Will Hunt. According to the case materials, Hunt repeatedly asked women employees to go out, subjected them to crude and lurid sexual conversation, touched them,

kissed them, and otherwise conducted himself as a chronic harasser. Although complaints about Hunt are documented as far back as the 1980's, it was only in late 1997 that Ford took any action. At that time, Megan Pelhowski contacted Mr. Escalante (division personnel relations representative) to complain that Hunt would make jokes about her during meetings, treat her unfairly, and give her demeaning assignments; she also stated that she knew that he was doing this to at least one other woman. Ford determined to remove Mr. Hunt's supervisory responsibilities and return him to hourly level, at which point he retired. Thus, any improvements in the climate that might have occurred in response to discipline of a supervisor were vitiated.

Complaints against other men were met with equally weak and ineffective responses. For instance, in February 1994, a supervisor witnessed Sherman Hollivay grabbing Rosalind Warnell's waist and moving his hand down her behind, but presumably took no action. When Victoria Williams complained to Labor Relations about the "shorts incident" with Ray Holmes[6], their response was simply to tell Holmes that she could wear them; when Holmes continued to harass her, Labor Relations sent out a memo about the policy saying that shorts were allowed. Nothing, however, was done to Holmes. In August 1995, Freddie Love allegedly grabbed Althea Rapier's buttocks. She shoved him, told him to keep his hands to himself, and informed Labor Relations in the person of Rich Jordan, telling him that she thought Love should be fired. She does not know if Love was punished but does know that he was not terminated. In 1998, Bennie Sanders spoke with Dennis Washington concerning his conduct toward Victoria Williams. Sanders reportedly told Dennis to watch his language, warned him to stop, and mentioned something about sexual harassment; however, Sanders told Victoria that he could not write up another union member.

In many of the instances in which Ford has taken action against perpetrators, it has been ineffective. Illustrative of this is when Rosalind Warnell, in February 1994, reported to Labor Relations that Sherman Hollivay grabbed her waist and touched her buttocks. They were reportedly "unsympathetic" and directed her to go back to work. Ford took no action to discipline Hollivay for his sexually offensive conduct; rather, he was written up for being away from his work area. Such "masking" of sanctions effectively negates their benefit for the larger organizational

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[6] Shorts were acceptable work attire on the floor. According to Ms. Williams, however, Mr. Holmes yelled at her publicly concerning her shorts, screaming at her "You're naked. You're naked." He forced her to wear an apron and told her that she was preventing the men from working.

community; to demonstrate a zero tolerance attitude toward harassment, Ford should have made clear that Hollivay was written up for sexual harassment, thus communicating a serious stance on this issue.

Another facet of the "lack of meaningful sanctions" issue is that Ford appears to operate under the assumption that a one-time sanction, however weak, will be successful. Louis Lafayette confirmed that he did not follow up to determine whether sanctions were effective because if they weren't "(he) would hear about it " from the women (Lafayette Dep., 264). In February 1998, Carlos Bishop was suspended for one week for the "if it's got a slit, it ain't legit" comment, but no steps were taken to monitor his subsequent behavior.

It should be noted that, following the Channel 5 exposé and the 1998 Dateline episode, Ford apparently became somewhat more forceful in its attempts to discipline alleged harassers. For example, Patrick Feeney was terminated in May 1998, for yelling at Althea Rapier, pulling her to him, and kissing her; she reported being "very satisfied" with how the company dealt with the incident. Rapier stated that when she complained to Labor Relations during 1998, it was dealt with appropriately. Similarly, following the August, 1998, "stripper in the parking lot" parties, Ford allegedly disciplined several people involved. Although Daryl Lige was fired for harassing Cheryl Pearson, it is unclear whether Jack Peterson was terminated for harassing Tyrah Fulkerson, as was the recommendation.

Actions such as these represent an attempt to communicate to employees that Ford will not tolerate sexual harassment. However, there is an inevitable cynicism that obtains when such actions occur only after the filing of a lawsuit; as Louis Lafayette testified in reference to one employee terminated after the August 1998 parking lot incident: "[A] rumor was that there needed to be someone in management that answered for that" (Lafayette Dep., 81). Ford has a long history to overcome before its actions will gain sufficient credibility to begin to affect the organizational climate. For now, the situation may best be summed up by the sentiments of Rhonda Evans, who stated during her deposition "I believe that if the plant manager had taken a stand and imposed some sort of rules and regulations, guidelines, anything on sexual harassment and proper behavior between coworkers and supervisors that a lot of this could have been prevented" (Evans Dep., 559).

Part IV

Conclusions and Opinions

Conclusions and Opinions

Based on the foregoing analysis of the materials in this case and the social science literature on the nature, causes, and effects of sexual harassment, Ford present a "text book" case of an organization that tolerates sexual harassment.

1) There was a highly sexualized environment in which female employees were routinely degraded both publicly and privately. Even employees who were not themselves directly and individually harassed were exposed to pervasive pornographic graffiti and observed their coworkers being repeatedly targeted.
2) Management not only tolerated such behavior, it instigated and perpetrated much of it.
3) Policies, to the degree they existed at all, were vague, inaccessible and contradictory.
4) Complaints of sexual harassment were trivialized or ignored, and virtually no records were kept until at least 1997.
5) Female employees who complained were subjected to retaliatory actions from both management and coworkers.
6) There was virtually no discipline for even the most egregious behavior.
7) Since at least 1996, Ford has engaged in a number of activities designed to convince its employees and the general public that it has "Zero Tolerance" for sexual harassment. Such activities are commendable. The degree to which this commitment actually exists at the plant level, however, is highly questionable. It is difficult to determine whether Ford's recent "flurry" of activity is driven by a concern for the welfare of its employees or, rather, fear of bad publicity and high profile litigation. Given the employee cynicism born of literally decades of neglect and negligence on this topic, Ford faces an extremely difficult and very long term challenge in any attempt to improve its organizational climate concerning sexual harassment. Until that occurs, events such as those described in these pages will inevitably continue to occur.
8) All opinions are held to a reasonable degree of scientific certainty.

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Appendix A

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RECENT COLLOQUIA AND INVITED ADDRESSES

Duke University
Yale University
American Psychological Society
Northwestern University
American Association for the Advancement of Science
American Bar Association
American Psychological Association
Federation of Cognitive, Behavioral and Social Sciences
National Education Association
Leiden University (The Netherlands)
Carnegie Mellon University
Virginia Commonwealth University
The Ohio State University
Temple University
Harvard University, Kennedy School of Government
The First International Conference on Women's Mental Health (Amsterdam)
Sex and Power in the Workplace: A Conference on Women and Men Working Productively Together (Seattle)

SERVICE

GOVERNMENT

U.S. Eighth Circuit Taskforce on Gender Fairness in the Courts (Consultant) (1995-1997)
U.S. Equal Employment Opportunity Commission (Consultant) (1994-present)
U.S. Department of Defense, Defense Manpower Data Center (Consultant, 1993-present
U.S. Department of Defense Manpower Advisory Committee (1991-1996)
U.S. Department of Justice (Consultant) (1992-present)
State of Illinois Taskforce on Sexual Harassment (1992)
State of Illinois Legal Assistance Foundation (Consultant) (1992-present)
U.S. Internal Revenue Service (Consultant) (1994)

UNIVERSITY

Campus Level

Research Director, Campus Climate Survey (1993 -1995)
Chair, Campus Ombudsperson Search Committee (Fall, 1993)
Chancellor's Committee on the Status of Woman (1989-1992; Chair, 1991-1992)
Miller Committee (1992-1993)
Institutional Review Board (1992-1995)
Chair, UIUC Taskforce on Women in Science and Engineering (CIC) (1992-1993)
Faculty Senate (Spring, 1989)

College Level

Graduate College Behavioral and Social Sciences Committee (1990-1993)

Department Level

Psychology

- Faculty Advisory Committee (1993; 1996-1999)
- GEC (1995-96)
- Affirmative Action Officer (1990-1995)

Women's Studies
- Faculty Advisory Committee (1989-1992)
- Zero-time Appointment Committee (1992-1995)

Educational Psychology
- Division Chair, Counseling Psychology (1989-1993)

PROFESSIONAL

APA Taskforce on Male Violence Against Women (1992-present)
APA Division 35
- Chair, Taskforce on Victim Privacy Concerns (1998-present)
APA Division 17
- Scientific Affairs Committee (1990-1993)
  Chair, 1991-1992
- Committee on Women (1984-1987)
  Chair, 1985-1986
AREA Research Awards Committee

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Fee Schedule/Contract for Services by Dr. Louise F. Fitzgerald
Effective 9-1-98

Please read this carefully as this describes the terms of our agreement if you request my services. The basic fee for consulting services is $250, or $2000 per day, although some services (e.g., court appearances) are charged at a higher rate. We also provide pro bono services in some cases. If you would like to request services on a pro bono basis, or to discuss the possibility of a flat fee, please be sure to do so before we begin any work.

Professional/In-Office Services

- Initial Telephone Consultation: No charge
- In-office professional consultation: $250 per hour

Out-of Office Services

- Travel time, portal to portal: $200 per hour
- Professional consultation: $250 per hour

Retainers

- Based on services required
- $2000 (1 day) minimum
- Services will be billed against retainer

Forensic Evaluations:

- Champaign/Urbana: $2000-$4000[1]
- Outside of Champaign/Urbana: $3000 -$5000 plus travel expenses
- Records analysis, report preparation, collateral interviews, etc. $250 per hour
- Depositions and Court Appearances: $400/hr.

Please note: Attorneys and/or representatives may not sit in on forensic evaluations.

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[1]Note: These are estimates based on the expectation that an evaluation will take between one and two days of professional time.

Evaluations include detailed history, structured diagnostic interviews, administration of tests, verbal and/or written report. Review of voluminous records and lengthy, detailed (25-100+ page, single spaced) written report preparation if needed are charged at the standard hourly rate. Some tasks will be performed at flat rates or a fixed number of hours at Dr. Fitzgerald's discretion.

Travel time and expenses are added to costs of out-of-town evaluations, depositions, and court appearance. An assistant may accompany Dr. Fitzgerald on out-of-town evaluations; this individual's services are not billed, however, travel and other out-of-pocket expenses apply. Out-of-pocket expenses (ground transportation, lodging, evaluation rooms, mileage, parking, etc.) are billed at cost. Telephone, shipping charges, Federal Express, hand deliveries, conference calls, photocopies, and facsimile are provided with no charge.

Psychologists are ethically prohibited from performing forensic work on a contingency basis. If work is to be done pro bono, the request must be made in advance; otherwise, all services are billed at usual rates with no discounts. Clients agree to notify us promptly of any question or problem with any billing--within ten (10) days of invoice date.

Tax ID# for Dr. Fitzgerald: 265-66-5902

Accounting information

TERMS:
One-half (½) of anticipated fee due in advance of interview. Remainder due at time report is delivered. Post evaluation services are billed on a monthly basis

INTEREST:
1.5% /month, 18% per annum if payment delayed 60 days past invoice date. All invoices are billed in U. S. dollars. Please pay in U.S. dollars. Federal I.D. #265-66-5902.

Please sign below indicating your acceptance of the terms of this agreement and return to our office. Please keep one copy for your records.

_____ _____

Name: (Printed) Signature

_____ _____

Firm Date

October, 1998

Federal cases in which Dr. Louise F. Fitzgerald has testified as an expert at trial or by deposition within the preceding four years:

1) *Trini K. Stoddard v. City of Flagstaff,* No. CIV 94-0437-PCT-RCB (D. Az).

2) *Linda Felkar v. Reno, et al.,* No. 94-1288 (W.D. Pa).

3) *Valerie Scott v. John Dalton, et al.,* Civil Action No. 95-5124 (DRD).

4) *Beverly Johnson & Elizabeth Iehl v. City Colleges of Chicago,* No. 96C0862 (N.D. IL).

5) *Kalicki v. DuPont Nemours*, No. 96380 (DE).

6) *Kimberly Zerebnik v. Beckwith Machinery Co.*, CA 95-0008 U.S. District Court (W.D. PA).

7) *Debbie Keslar v. Bryce Bartu, et al.*, No. 4:96CV-3072 (District Court of Nebraska).

8) *Rush & Tracy v. Martin Herman & Mercer County IL.* No. 94-411(CD IL).

9) *Laura VanHook Phillips & Fanny Kuntz v. Heatco Jet Center, et al.*, No. 94-3265 (SD IL).

10) *Janice M. Gawley v. Indiana University,* No. IP 960466 (C M/S).

11) *EEOC, et al. v. Adam's Mark Hotel Indianapolis Corpor ation et al.*, CA IP96-1560 (C-D/F).

12) *Laura Lee Green, et al. v. Twin-State Engineering & Chemical Company, et al.*, No. 95-4104 (CD IL).