EEOC v. LTV Steel

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 *EEOC v. LTV Steel* currently pending in the U.S. District Court for the Central District of Illinois. This report was requested by Diane Smason and Mary Manzo, attorneys for Equal Employment Opportunity Commission, Chicago Office, 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. A copy of my fee schedule for professional services is attached as Appendix C. Attached as Appendix D is a list of the federal cases in which I have testified at deposition or trial over the last 4 years. Finally, the list of case materials on which my opinion is based is attached as Appendix E.

The specific issue addressed by this report concerns the organizational climate concerning sexual harassment at LTV Steel, and more specifically on the Pickle Line. 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 LTV Steel 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 *masculinized job gender context*, that is, a skewed gender ratio (*i.e.*, most employees are male, and women are relatively few) as well as 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 concepts of job gender context and organizational tolerance as they relate to this case are 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, Collinsworth, 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, 1988; 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

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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.

observed, "This study presents evidence 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., 1999; Magley, et al., 1999). 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 is 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 strong policies and clear 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 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 targets 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 targets 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 respond 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 (1988) 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 individuals 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; 1988; 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; 1988; 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 (1988) 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, 1988). 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 Fitzgerald, 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
LTV Steel

Analysis of Organizational Climate at LTV Steel

As discussed above, research indicates that the major reason harassment persists at high levels in organizations is a gender-segregated work force and management practices that tolerate its presence. Every study ever conducted has confirmed that organizations numerically dominated by men, in which the job duties and tasks are non-traditional for women, have higher levels of sexual harassment (see, e.g., Gutek, 1985; Fitzgerald, et al., 1997; and many others). In addition, many organizations have a high threshold for inappropriate or offensive behavior; 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. *Objectively, such organizations lack strong and well-publicized policies prohibiting harassment and retaliation backed by corporate and local management*; generally reactive in nature, their typical approach is marked by complacence, punctuated by flurries of highly publicized activity following the filing of a major complaint or law suit. Although late is certainly better than never in these matters, such an approach inevitably generates considerable cynicism among employees, thus undercutting the effectiveness of initiatives however sincere they may be.

In addition to such objective indicators, organizational climate also includes the 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 concerning whether (1) *employee complaints will be taken seriously*; (2) *it is risky for the complainant to come forward;* and (3) *offenders will be meaningfully sanctioned* (Hulin, et al., 1996).

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 repeatedly demonstrated that work groups in which 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 discriminated against (Glomb, et al., 1997).

The following report presents an analysis of the organizational climate at LTV Steel, and more specifically the Pickle Line. I was asked to examine the depositions, complaints, and other materials in the case and evaluate LTV on each of the dimensions described above and render an opinion concerning the organizational climate for sexual harassment at the Hennepin Plant of LTV Steel. Additionally, on June 15, 1999, Ms. Jill Miller was interviewed for approximately 6 hours.

Masculinized Job Gender Context

Skewed gender ratio. It is uncontested that the Hennepin workforce of LTV Steel is virtually entirely male, both historically and currently; indeed, during the time at issue in the present case, the Pickle Line had 3 female operatives (four, counting Marty Pratt Klieber) out of approximately 35. In addition, there were two female millwrights. Linda Love was the only female operative on her crew; Jill Miller and Beth Haffley were the only two female operatives on their crew, and Marty Pratt Klieber joined them for somewhat less than 3 months before her lay off. In addition, all supervisory and managerial positions were held by men.

This highly skewed gender ratio has a number of implications for the climate and culture on the Pickle Line at Hennepin-LTV Steel. First, generations of social psychological research on stereotyping confirm that individuals who are *solos* (the only person of their gender or race) or *tokens* (one of a very few individuals of their gender or race) are perceived mainly in terms of the characteristics that differentiate them from the group as a whole. In other words, a woman who is the only female in her workgroup is likely to be seen (and treated) mainly as a woman, not a coworker; her gender role is considerably more salient to her male colleagues than her workrole. Depending on various other factors, this situation can result in a variety of outcomes (e.g., paternalism, hostility); what is certain is that there will be considerable *sex-role spillover* (Gutek, 1985) in the ways she is perceived and treated. Such spillover can be exacerbated by a variety of factors (e.g., absence of clear performance standards, guidelines for evaluation) that allow room for stereotypes to operate.

Secondly, skewed gender ratios and their attendant sex-role spillover are empirically associated with higher levels of gender hostility and sexual harassment; every study ever conducted has confirmed that organizations with highly skewed ratios have considerably more problems with sexual harassment. The opposite is also true; recent

research confirms that gender hostility and sexual harassment decrease linearly as the gender ratio approaches parity (Waldo & Magley, 1997).

In addition, when job duties and tasks are traditionally masculine in nature (i.e., heavy, dirty, physically dangerous work, traditionally performed by men), there is increased incidence of harassment, over and above that associated simply with a skewed gender ratio (Konrad & Gutek, 1987); finally, some researchers have found that harassment is more common in work groups in which supervisors are mostly or exclusively male (Gutek, 1985).

All of these factors were clearly in play at the Hennepin plant of LTV-Steel in general and on the Pickle Line specifically; the workforce was predominantly male, the work was traditionally masculine in nature, and supervisory employees were all men. The likelihood that sex stereotyping would influence perceptions of ability and performance was exacerbated by the lack of clear performance criteria and performance appraisals; for example, Jeff Satterlee testified that there were no performance evaluations for permanent hourly employees. Similarly, there were no clear guidelines for the expected learning curve (i.e., how long it would take individuals to learn a job). The probable impact of gender stereotyping can be seen from the fact that whereas Marty Pratt Klieber (a woman) reported that others described her as having a "learning disability" (See Kleiber deposition, p. 87, 180-181) and thus a less desirable worker, men who had difficulty learning or performing (e.g. Terry Sledgister; see Bill Butler's deposition testimony) were not. Butler described Sledgister as a "bull in a china shop," indicating that he still struggled with the job after 20 years, but "that's the way he performs the job"--and "he's a good employee." Furthermore, Keith Stufflebeam testified in his deposition that he knew of two other male employees (a Mr. Zimmer and John Zawicki) who had difficulty mastering the crop shear on the Pickle Line. These individuals were given additional instruction until they were competent to perform the job. In contrast, Mary Pratt Klieber testified that at a meeting in July 1995, Jim Wright told her that she would have one more week to learn to operate the crop shear to his satisfaction or "there was a possibility that [she] could be let go" (Pratt Klieber deposition, p. 129). Finally, Industrial Relations Manager Jeff Satterlee testified that he had never given any thought to the special problems women might have on the job; this lack of awareness of the implications of this highly masculinized culture was no small contributor to the problems at issue in the present proceedings.

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.

The cornerstone of an organization's ability to effectively prevent and resolve sexual harassment and sex discrimination is the written document that the organization uses internally to tell employees what behaviors are not allowed in the workplace and how the organization will respond if these behaviors are exhibited or reported to management. Policies laid down in these documents provide a working definition of ethical and moral behavior in the workplace. If full in scope and supported by management, such policies help deter harassment. Written policies should explicitly reassure employees who may be victimized that a swift and fair response by management will resolve their problem and prevent further harm. Further, effective policies describe management's responsibilities in responding to complaints, thereby communicating clear expectations that all employees can understand. Finally, organizations must not only post their policy documents but also provide multiple opportunities for employees to read, understand, and possess the policy for later reference and use (See Lindemann and Kadue, 1992, and Salisbury and Sebek, 1996).

Because state laws and organizational cultures differ, there is no perfect template for a sexual harassment policy. However, there are components that must be included in a policy for it to effectively contribute to the prevention and resolution of sexual harassment. These components include:

(1) a clear statement of the organization's values regarding harassment;

(2) a synopsis of what federal and state laws prohibit, including examples;

(3) a discussion of who the harassment policy addresses as it pertains to potential complainants and harassers (e.g., employees, supervisors, bystanders, vendors, members of public, customers, etc.);

(4) a description of managerial responsibilities regarding harassment;

(5) a clear definition and prohibition of reprisal to protect those who resist harassment or file complaints;

(6) procedures that provide both local and centralized options for filing complaints as well as special procedures for those in high or unusual positions of power; and

(7) a statement defining the range of consequences the company will implement should someone violate the policy.

Organizations whose policies lack any of these elements may inhibit reporting of inappropriate behavior and enable it to continue (Lindemann and Kadue, 1992).

After studying the materials included in this complaint, it is my conclusion that LTV Steel's written policies and procedures and the methods for communicating them to LTV employees during the time at issue were minimal at best, and generally inadequate to either deter the problems alleged by the class members or resolve their specific complaints. This opinion is elaborated below.

Company "Policy" Documents. A number of documents included in this case purport to be statements of LTV Steel's policy on sexual harassment. These documents include:

- the EEO Policy Guide, of which two slightly different versions were made available to the consultant;
- the 8/91 Tremain letter to "All Employees";
- the 2/94, 10/96, and 5/97 Peter Kelly letters to "All Employees";
- the first and second editions of "Your Business Conduct Guide" (no date);
- the Guide for the Prevention and Elimination of Harassment in the Workplace, accompanied by a letter from David Hoag dated August 1, 1996.

None of these documents fully meet the criteria above. The most basic, and highly disseminated, of these documents is the EEO Policy Guide. The copy marked January 1, 1995, contains a brief section (9) entitled Sexual Harassment, which includes a very brief definition couched in regulatory language, and directs the reader to bring such matters to the attention of the "personnel representative" of his or her her unit. (Note that the Hennepin Plant had no individual bearing the title Personnel Representative). It further implies, but does not state, that the company will investigate and attempt to resolve all complaints; it does not say how this will be done or by whom. There is no mention of penalties, applicable state or federal laws, and no examples of prohibited behavior.

The successor to this document, dated March 1, 1996, no longer contains a separate section on sexual harassment. Section 9, now entitled simply "Harassment" begins with a statement that LTV will not tolerate any form of harassment of its employees; it enumerates but does not describe various forms of harassment and states that some of these are prohibited by law. It doesn't say which ones. The second paragraph retains the brief definition of sexual harassment promulgated in the previous edition, as well as a paragraph directing the reader to bring "all forms of prohibited discrimination" to the attention of the "Human Resources" representative for the "Unit". (Note that the Hennepin Plant had no individual bearing the title Human Resources representative). The remainder of the paragraph is the same as the previous one.

Of all the documents reviewed, only the Prevention Guide prohibits retaliation. Even this handbook, generally excellent, does not define it; however, none of the other documents (including the basic policy) even mention it. This is a serious failing because retaliation is what complainants fear most, imposing a serious obstacle to bringing complaints to management. Failure to clearly address retaliation in each of the policy documents undermines the safety that employees require if they are to come forward at the earliest possible time.

These memos and statements fall short in several other important ways. None mention federal and state laws and most have incomplete definitions and limited or no examples of prohibited behaviors. Defining sexual harassment through specific examples is important because the legal and social complexities of this topic continue to challenge many employees, particularly in male-dominated workplaces. Examples should be given to clarify not only prohibited "sexualized" behavior, but also demeaning and derogatory behavior toward an employee because of their gender (i.e., stereotyping, rude, hostile behaviors). For at least 20 years, social science research has documented that gendered hostility, that is, crude and offensive behaviors directed at women simply because they are women, is the most frequently experienced kind of sexual harassment (Koss, et al., 1994)[4]. Further, the presence of gender harassment in a workplace facilitates the development of an environment in which more explicitly sexualized behaviors are likely to occur (Fitzgerald, et al., 1995).

Company Procedures Policy statements should adequately explain complaint procedures by defining all the options available to employees if they have a problem with sexual harassment. An effective sexual harassment

[4] Note that the behaviors alleged by the complainants are of this variety (e.g., calling them "stupid bitch" or "cunt"; saying that women should be "barefoot and pregnant"; offensive and debased humor regarding women's sexuality).

complaint system includes both localized and central options for complaining. Successful systems allow the complainant to choose the avenue of complaint at any time. This multiple access system allows complainants with diverse concerns to choose a method of reporting that feels comfortable and accessible, thus making if safer to complain and increasing the likelihood that the organization will be notified at the earliest possible time. Multiple access systems are particularly important in an environment in which there is a dominant culture, such as the dominant male culture at LTV. Typically, options for reporting include any member of management as well as qualified professionals in an administrative, human resource, or EAP/ombudsman office. All personnel responsible for implementing these options must be well trained to consistently and collaboratively process a complaint.

To what degree do LTV Steel's procedures meet these criteria? *It is the consultant's opinion that LTV's statements on complaint procedures are ambiguous, fragmented, and poorly publicized.* The most common statement, and that most likely to have reached employees, is contained in the EEO Policy Guide; it is also the briefest and most ambiguous, offering minimal information concerning procedures for making complaints, and only one avenue for doing so. The 1991 Tremain letter outlines possible avenues in somewhat more detail, indicating that employees may complain to their supervisor or other management personnel; local Personnel Services or Labor Relations; or the Director of Human Resources, Bob Huenefeld. Mr. Huenefeld's address and phone number are included. In February, 1994, CEO Peter Kelly authored a letter reiterating a general anti discrimination policy, which was reissued in October, 1996. Finally, Kelly's May, 1997, letter reiterates the 1991 Tremain letter, with the addition of the Business Conduct Call Line 800 number and a post office box in Cleveland to which employees may write.

The distribution of these letters (particularly the 1991 Tremain letter and Kelly 1997 letter) is commendable; it is unclear to the consultant, however, the degree to which they reached all employees or were adequately posted in the plant. The EEO Policy Guide was distributed to all employees at orientation, but it is unclear that any meaningful discussion of the harassment provisions occurred. The Prevention Guide, unquestionably the most complete and well done of all the materials, was distributed only to supervisory and managerial personnel; thus, the individuals most in need of its information did not receive it. Although LTV Steel has obviously made efforts to improve its procedures since the filing of the present complaint, it is unclear to the consultant the degree to which these have been successful. An adequate policy statement is still not available to

hourly employees; and they are nowhere assured that they will be protected against retaliation. It is the consultant's opinion that policies and procedures at the Hennepin Plant remain inadequate.

Organizational Contingencies Concerning Sexual Harassment.

In addition to the policy and procedural issues 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 LTV Steel Plant in Hennipin, Illinois.

Degree to Which Complaints of Sexual Harassment Were Taken Seriously.

The failure of LTV Steel and Pickle Line supervisors, management, Labor Relations and Human Resources personnel, and even union representatives, to take sexual harassment complaints seriously is apparent throughout the case material.

First, complaints of sexually offensive behavior were frequently trivialized. Some of the most obvious examples of this problem can be found in the deposition of Tracy Smith, current Industrial Relations Manager at the Hennepin plant. For example, Heidi Templeton reportedly told Ms. Smith that Dave Rogowski had said to a female employee "they don't need any more cunts on the pickle line," and that there were many instances of verbal harassment of female employees on the Pickle Line. Ms. Smith, however, testified (p. 58) that unless a female employee confirmed what Ms. Templeton had witnessed, it was "basically rumor." (Later in her deposition, p. 107, Ms. Smith contradicts this procedure and says that she would confront an accused employee even if there were no witnesses; however there is no evidence that she ever did so). In a letter dated 12-9-96, Ms. Smith writes "in absence of anything more than a few comments reportedly made, with no real allegations from those harassed, there does not appear to be anything to call him [Dave Rogowski] in for...." Similarly, when a number of employees told Ms. Smith that there was objectionable graffiti written on the equipment and boards in the plant, Ms. Smith was

reluctant in her deposition to label the writing as graffiti and said it was "not necessarily" her job to know what kinds of graffiti were in the plant. When the plant's own operative (Koreen Griffin) accused Dave Smith of making a sexual remark to her, Ms. Smith spoke with Mr. Smith, but he was issued neither a verbal nor a written warning for his behavior. Ms. Smith apparently saw nothing objectively offensive about the words "bitch" and "rag." She testified in her deposition (p. 144) that she would not tell someone to stop using those words in the workplace unless someone was offended. When Kelly Spraggon complained to her that a male employee had called her a "useless bitch" and that she was being treated badly because she was a woman, Ms. Smith never spoke to the crew on which Ms. Spraggon had worked (See Ms. Smith's deposition, pp. 147-148). A female apprentice, Boni Reynolds, complained about sexual jokes being told in her presence and the preferential treatment that the male apprentices received from the instructor. When Ms. Reynolds complained, Ms. Smith told her that she "should not assume that everything that happens that she does not like happens because she's a woman." A record of the complaint was put in Ms. Reynolds' personnel file; it is unclear if it went in the alleged perpetrators' files. When confronted with a list of jokes about women (Jill Miller reported having found the list in the Pickle Line work area) including a reference to throwing one's wife against a wall as a means of painting it and another implying shooting one's wife, Ms. Smith testified that not only did she not find them offensive, she thought they were "kind of funny." When asked to characterize the sentence "She wants the fucking money, but she doesn't want to work" (stated by Dave Rogowski to Jill Miller), Ms. Smith declined to label that as inappropriate.

Similarly, confronted with another list of "jokes" Ms. Miller found on the welder's desk on the Pickle Line pertaining to "Twenty five things you'll never hear from your wife," Ms. Smith said "Well, some people might be offended.....it's a joke." The list contained such things as "I'm bored; let's shave my pussy" and "If I don't blow you soon, I'm going to bust."

Perhaps the most egregious example is Ms. Smith's failure to understand the seriousness of the incident involving Ron Klieber and Kathy Hansen, a contract nurse at the plant. Ms. Hansen reported that Mr. Klieber had spoken to her on multiple occasions about raping a woman while she was restrained with duct tape. Because none of the witnesses would acknowledge seeing the events, Mr. Klieber received only a verbal reprimand, and was told to stay away from Ms. Hansen in the future except when it was medically necessary. This action should be considered in light that another employee was suspended for three days for inappropriate remarks made about a crew chief.

In other depositions, including Pickle Line supervisors Bill Butler, Jim Wright, and Keith Stufflebeam, sexualized and degrading language (e.g., "fucking bitch," "cocksucker," "fucking cunt") is dismissed as "mill talk." The news that a new woman was coming on the line was allegedly greeted with anger from the male employees, who complained that before long they would be putting curtains on the crew trailer. Even though supervisors such as Bill Butler knew of stated resentments toward women working on the Pickle Line, it was dismissed as understandable resentment because the men had to change their behavior when women arrived. Larry Simpkins' overt remarks that women belonged "at home, barefoot and pregnant" were rationalized as "that's the way [Larry] is," that he was a "boisterous" individual and nothing could be done to change his behavior. A former temporary employee (Earl Northam) stated to Michael Thomas, the EEOC investigator, that at least one senior longtime male employee was very hostile towards women, treated Beth Haffley "poorly," and called her a "cunt," and said of her "there is a cunt doing a job that a man should be doing." According to Northam, this employee allegedly expressed his sentiments repeatedly and publicly, in front of the entire Pickle Line crew including supervisor Bill Butler. Butler himself testified that he had heard the word "bitch" frequently during his career at LTV Steel, as well as "cunt" and other degrading language. He seemed surprised in his deposition when asked if he had ever intervened to prevent abusive name-calling, stating that people would laugh at him ("...people think it's funny that I'm scolding people for doing these things" p. 226), and remarked "What am I supposed to say, call him Mr. So-and-So or Miss So-and-So?" (p.223)

In short, it seems clear that a number[5] of the male Pickle Line employees were hostile to the presence of women (see EEOC statement of Jim Coble) for a variety of reasons; some apparently felt that women simply had no business working in a steel plant (e.g., Larry Simpkins), whereas others resented the changes in behavior that were required. As Bill Butler stated, with women being there, "you can't chew tobacco and spit on the floor." Although corporate Human Relations at LTV Steel seems considerably more enlightened, their awareness apparently did not translate to the Hennepin Plant, at which Jeff Satterlee seemed oblivious there was a problem; Bill Butler was allegedly unconcerned and by his own account nonplussed about what to do; and Tracy Smith found degrading jokes about shaving women's "pussys" to be just that, jokes. These examples describe a text book case of what is meant by not taking the issue of sexual harassment seriously.

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[5] Note that there were only 9-11 employees working on the Pickle Line at any one time; if one, or at most two of these were female, then the entire male workgroup consisted of only 7-9 employees. If even a small number of these individuals are hostile and offensive to women, it can have a significant impact on the climate of the entire group.

Secondly, complaints were inadequately investigated. Perusal of the depositions of Ms. Smith and her predecessor, Jeff Satterlee, reveal that the typical procedure for investigating a complaint was to meet with the accused, go over the complaint, ask him for a response, and accept his denial. At this point, the investigation was considered complete. For example, when Ms. Reynolds complained of sexualized jokes and preferential treatment of the male apprentices, Ms. Smith interviewed the instructor and other male apprentices who ridiculed Ms. Reynolds' claims. The end result was Ms. Reynolds, but not the alleged offenders, received a note to her personnel file. In a second example, Jill Miller and Linda Love both complained extensively on separate occasions about Rod Holloway; their allegations included threatening behavior and use of sexually inappropriate language. During a 1994 meeting, Tom Shea reassured Ms. Love that he took her complaints very seriously and would investigate and get back to them; however, it is unclear that any action was actually taken. On at least one occasion, Mr. Satterlee interviewed Mr. Holloway, who denied the behaviors; Mr. Satterlee does not believe that Mr. Holloway received any sanctions despite the complaints of these two women, and the consultant could find no evidence that this was the case; a written reprimand directed towards Mr. Holloway was never signed and evidently never implemented.

Many complainants gave names of witnesses who allegedly saw or heard the events being complained about; these individuals, however, typically maintained that they had seen and heard nothing. Their denials were accepted, despite a certain cynicism even from Tracy Smith; referring to one incident in which she asked for witnesses she remarked, "He's a union representative, and he's not going to give me any information which might lead to any discipline on a fellow [member]." p. 51. Jim Wright similarly offered deposition testimony that witnesses rarely corroborated charges. In reference to an altercation between two employees, Mr. Wright testified, "Steve [Korba] interviewed the two employees, and of course by then nobody admitted to hitting or being hit. And none of the witnesses who were present would incriminate their union brothers or sisters....My understanding is that it is an expectation within the rank and file of the United Steel Workers of America." pp. 150-151). Despite their awareness that the union culture likely precluded witnesses from coming forward or answering truthfully, management refused to take action without such corroboration.

There was one exception, however, in the materials made available to the consultant. When Supervisor Tom Spelich told Tracy Smith that Dean Soldati had made remarks in the lunch room about a "crew chief's sucking and slurping," *Mr. Soldati was given a three-day suspension despite statements from all witnesses (with the exception of Supervisor Spelich) that they had seen and heard nothing.* In contrast, when witnesses failed to

corroborate the complaint of Kathy Hansen that Ron Klieber had threatened to tie her up with duct tape and rape her, Mr. Klieber was merely verbally reprimanded and encouraged to get psychological help. When Ms. Hansen's employer, St. Margaret's Hospital, attempted to investigate the matter further, the same witnesses refused to meet with them, and LTV declined to require them to do so.

Finally, it is unclear to the consultant that LTV conducted any meaningful investigation of Marty Pratt Klieber's complaint, even after being contacted by the EEOC. Mr. Huenefeld testified that he had directed Mr. Satterlee to investigate, but neither Mr. Huenefeld nor Mr. Satterlee was able to produce any document indicating that an investigation had been conducted. It seems likely that if Satterlee had actually talked to individuals on the Pickle Line (as opposed to supervisors) he would have learned of the training and other problems (e.g., Jill Miller, Red Tomasson, and Jim Coble all indicated that they were aware of the problem); Mr. Red Tomasson, the Union Griever, acknowledged to the EEOC investigator that Marty had discussed the problem with him while she was still employed and that he had asked Jill Miller to look into it, which she did). Mr. Satterlee indicates, however, that he knew nothing about any of this, denies meeting with anyone about it, and so forth; if this is true, the question then becomes "Why not?" A charge as serious as the present one cannot be considered adequately investigated via a conversation with the supervisor (Jim Wright), in which no notes were taken, and the "results" conveyed verbally to corporate level.

Third, LTV Steel failed to maintain reliable records of harassment complaints. The most obvious example of this point is that, during the time at issue, supervisors had discretion to determine whether something was harassment and should be sanctioned, although to my knowledge none of them had received any training in recognizing, preventing, and resolving sexual harassment complaints. Although Mr. Huenefeld indicated that Human Relations managers at the various plants were to notify him of any incidents of harassment, apparently none did so at Hennepin prior to 1996. The typical approach appeared to be to speak with the accused; when the allegations were denied, the matter ended. No written records were made of these conversations, and Labor Relations was typically not informed of them. Such a procedure is grossly inadequate. In the first place, it is inappropriate to leave such decisions in the hands of untrained individuals[6]. Secondly, supervisors typically kept no

[6] In this vein, it should be noted that even the Labor Relations Manager, Jeff Satterlee had had no training in conducting sexual harassment investigations and in fact no formal training in sexual harassment or discrimination at all. His successor, Tracy Smith, indicated that she had attended a half-day training session on investigation, the company policy, and racial and sexual harassment. Over all, training in this area appeared to range from cursory to none.

notes of complaints after the problem was "resolved." Because supervisors were not required to notify Labor Relations of any problems, there was no central record keeping and thus no institutional memory concerning individuals who were repeatedly accused. The virtue of written records, aside from their obvious legal protection, is that they would have provided a way to confront the pervasive tendency to deny engaging in or witnessing any inappropriate behavior. A series of complaints, documented over an extended period of time, provides strong inference that there is a problem that needs to be addressed. Because of its lack of systematic record keeping, LTV Steel lost the opportunity to intervene in many of these issues before they "blew up" into the present case.

Finally, LTV Steel'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. As Linda Love indicated in her statement to the EEOC, she had been employed at Hennepin since 1975, and "there has always been harassment towards the female employees." She further indicated that she had complained to Jim Wright, General Foreman, and Keith Stufflebeam with no effect. She acknowledged that the company had "come down hard on harassment" recently, but that she had little expectation that things would change. When Marty Pratt-Klieber reportedly complained to Bill Butler and Jim Wright about the inadequate training she was receiving on the Pickle Line, her complaints were not adequately addressed. During her interview with this consultant, Jill Miller reported that when she complained about the harassing behaviors she was experiencing, she felt that her supervisors told her what they thought she wanted to hear. They reportedly told her they would "handle it," but nothing was done; the complaints "yielded nothing." When organizations repeatedly fail to respond to complaints in a meaningful way, both common sense and research findings suggest that employees are discouraged from reporting further incidents.

Summary. In sum, the consultant concludes that the Hennepin Plant of LTV Steel failed to take the issue of sexual harassment seriously, a stance that was communicated to its employees in a number of ways. Not only were offensive incidents and complaints typically trivialized by management as "jokes" or "just mill talk," but they were investigated cursorily if at all, and record keeping was poor or non-existent. Finally, this sustained inattention at the plant level to the plight of its female employees had the effect of discouraging their complaints, and communicating to the male employees that their behavior was acceptable.

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 against, fear of being considered a troublemaker, and possibly losing their jobs[7] (Koss, et al., 1994). 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).

Based on the case materials, it is apparent that the perception among women at the Hennepin LTV plant and on the Pickle Line was that there would be negative consequences if they complained. Ms. Smith's deposition offers a number of examples of perceived risk of reporting. For instance, Heidi Templeton reportedly told Ms. Smith that Dave Rogowski had referred to women as "cunts." However, Ms. Smith could not convince Ms. Templeton to sign a written statement regarding the harassing behavior; indeed, she testified that the only way Ms. Templeton could be convinced to talk about the situation was under the condition that she (Templeton) would not have to sign anything. Ms. Smith testified, "very rarely are we able to convince an employee to sign a written statement." (p. 81-82). When Boni Reynolds' complained about off-color jokes being told in her presence, she (but not the alleged perpetrators) received a letter to her personnel file (See Smith's deposition, p. 167). Additionally, Ms. Smith reportedly told Don Burress that he should have a witness present whenever he talked with Jill Miller, in case she would report something he said "out of context" (Smith deposition, p. 192). However, she acknowledged that she never issued a similar caution to Ms. Miller; the inference is that the women's motives are suspect.

In an interview with this consultant, Ms. Miller emphasized her belief that it was very risky to complain of mistreatment at the Hennepin plant, and that in fact she has suffered many negative consequences, both personally and professionally. She reported that she has been labeled a "problem employee" as a result of her complaints (a

[7] 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.

perception confirmed by Tracy Smith in her deposition). Many of her co-workers now ignore her at work. She believes that she has been denied training (e.g., coordinator training), that her work has been unjustly criticized, and that people gossip about her. Ms. Miller was so afraid to come forward with her complaints for fear of reprisal that she initially refused to be interviewed by the EEOC, and complied only under order of subpoena (see also Linda Love's EEOC statement, in which she refused to answer further questions absent a subpoena).

Summary. It is the consultant's opinion that the complainants and other female employees at LTV Steel clearly believed that it was not safe for them to report incidents of harassment and intimidation, and that their perceptions were well-founded. There is no evidence that LTV Steel 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, until the Sexual Harassment Prevention Guide was published in 1996. This document, however, was not distributed to the hourly employees. The only statement by management suggesting that retaliation was prohibited came in the June 1998 meeting with Pickle Line employees in which the present case was discussed. Even in this meeting, management stated firmly that their investigation had shown the allegations to be untrue, and that they intended to "defend [the suit] vigorously." This statement was not only unnecessary, but could be expected to exacerbate resentment toward the female employees. In sum, the case materials suggest that although the complainants clearly understood the risk of retaliation, the organization did not.

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, 1999). Organizations in which employees believe that upper management will "follow through" with consequences for offenders have significantly fewer problems with this issue. Although LTV Steel maintains in its policy statements that offenders will be appropriately disciplined, the materials made available to the examiner suggest otherwise; rather, most complaints appear to have been only cursorily investigated and sanctions were the exception rather than the rule. LTV Steel's laxness in this respect is manifest in a number of ways.

First, LTV Steel failed to recognize the seriousness of the behaviors being complained about, and in the rare instance in which sanctions were imposed, it was not for sexual harassment. For example, Dean Soldati was suspended for three days for making remarks about a male crew chief "sucking and slurping." Similarly, as described in Keith Stufflebeam's deposition, Dave Smith was issued a three day suspension for calling Joe Rodriguez "a fucking liar." In contrast, Mr. Holloway reportedly never received any sanctions despite years of complaining by Linda Love of his behavior that included similar profanities. Furthermore, when the plant nurse complained of Ron Klieber's threatening behavior (discussing the possibility of raping a woman while her limbs were immobilized with duct tape), he was merely relocated to another area of the plant and told not to visit the nurse's station.[8] These examples illustrate a reversed sense of the seriousness of offenses.

As far as can be discerned from the records provided, complaints to supervisors and human relations personnel were ignored or dismissed as inconsequential. In her deposition, Ms. Smith testified that she was not offended (and in fact, found amusing) a page of jokes that included reference to throwing one's wife against a wall as a means of painting it. Mr. Satterlee, in his deposition, testified that his effort at investigation was to talk to the person accused. If that individual denied doing anything wrong (as he invariably did), the matter ended. For as many examples as there are of women experiencing harassing behaviors, the consultant could find no record of any employee receiving meaningful sanctions for inappropriate behavior (with the exception of the incident involving Mr. Soldati and the incident involving Dave Smith, neither of which involved female employees). The sanction against Mr. Klieber of moving him to a different area of the plant was, in fact, not the result of Ms. Hansen's complaints, but rather only occurred at the insistence of Ms. Hansen's employer, St. Margaret's Hospital. Several examples have been described earlier in this report in which no action was taken when women complained of harassing behavior. Additionally, Jill Miller reported showing Mr. Wright a picture that she had seen posted for two days in a Pickle Line work station. The picture of an obese woman in lingerie had Ms. Miller's name written in the crotch area. Mr. Wright's response to Ms. Miller's complaint reportedly was that she was "over-reacting," that she was "too sensitive," and that it was "child's play."

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[8] This instance illustrates another problem with LTV Steel's responses to complaints: that is, they appeared to view a complaint as representing a personal rather than an organizational problem. Although moving Mr. Kleiber may have ensured that he would not further frighten Ms. Hansen, it did nothing to prevent him from continuing his behavior in the presence of others, including other women. Although it was recommended that he seek counseling, there was no follow up to ensure that he did so; indeed, Tracy Smith testified that she had no right to know whether he went to counseling or not, a statement that is clearly wrong.

A final example of a lack of meaningful sanctions for inappropriate behavior on the Pickle Line is the ongoing difficulties that Linda Love experienced with Rod Holloway. Ms. Love testified in her deposition that she had complained numerous times over many years to supervisors about Rod Holloway's behavior that included among other things calling her "stupid fucking bitch" (Love deposition, p. 26) and allegedly assigning her and other women "a lot of dirty work" if they refused to go out with him (See Love's deposition, p, 21). Ms. Love further testified that the supervisors (including over the years Mr. Butler, Mr. Wright, and Mr. Stufflebeam) would call in Mr. Holloway and "talk with him." However, such talks reportedly had little lasting effect, as Love testified that after a couple of weeks Mr. Holloway "would be right back at it again" (Love deposition, p. 24). In one specific instance in which Mr. Holloway reportedly called Ms. Love a "bitch" again, Ms. Love had a witness (Ricardo Cabrales) who corroborated her charge. Even in this incident, although a reprimand was drafted for Mr. Holloway for his behavior, it was apparently never issued.

Summary. As far as can be determined by the documents reviewed, neither the Pickle Line supervisors nor the HR supervisors imposed any meaningful sanctions on employees when complaints were lodged against them. Although there may have existed a "code of silence" that prohibited supplying information on a fellow USW member, LTV failed to implement a documentation system that would have provided internal information regarding employees' inappropriate behavior. In those incidents in which either a witness was available (e.g., Linda Love's complaint re Rod Holloway) or an employee admitted inappropriate behavior (see Larry Simpkins' EEOC statement), LTV Steel failed to impose sanctions. The consultant concludes that employees who wished to do so could engage in inappropriate and even egregious conduct with relative impunity. Research (e.g., Pryor, et al., 1993; Williams, et al., 1999) has made very clear that such lack of sanctions communicates to employees that such behavior is acceptable, thus creating implicit norms for employee conduct. This appears to be the case at the Hennepin Plant of LTV Steel.

Part IV

Conclusions and Opinions

Conclusions and Opinions

Based on an analysis of the materials made available to me, relevant scientific research, and current professional standards for organizational practice, it is my opinion that:

1) The job gender context at the Hennepin Plant of LTV Steel including the Pickle Line was highly masculinized; it was clearly a "man's world" in virtually every sense of that phrase. Women constituted, conservatively, less than 10% of the workforce, and a number of male employees were openly hostile to their presence. The job duties and tasks were those which have been, traditionally, reserved for men, and all supervisory personnel were male. This context and culture set the stage for women to be viewed as outsiders, as well as making it inevitable that they would be viewed as women rather than as workers. This situation was exacerbated by the lack of clear training and performance guidelines, which facilitated the influence of sex stereotyping on perceptions of the female employees and their performance.

2) The sexual harassment policies and procedures at the plant during the time at issue were inadequate to communicate to employees what was expected of them as well as what they could expect from the company. Policies were minimal, procedures were unclear, and record keeping was often nonexistent.

3) The Hennepin Plant displayed every indicator of an organizational climate tolerant of sexual harassment that has ever been identified: the issue of sexual harassment was not taken seriously by either management or hourly employees, the female employees clearly believed that it was risky for them to complain of mistreatment, and there were few if any sanctions for offenders when they did so. In short, the Hennepin Plant presents a "textbook case" of an organizational climate tolerant of sexual harassment.

4) All opinions are held to a reasonable degree of scientific certainty.

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APPENDIX A

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Waldo, C.R., & Magley, V.J. (1997). Unpublished analysis. University of Illinois, Urbana-Champaign.

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

Williams, J.H., Fitzgerald L.F., & Drasgow, F. (1999). The effects of organizational practices on sexual harassment and individual outcomes in the military. Journal of Military Psychology, 11, 303-328.

Women's Legal Defense Fund (1991). Sexual harassment in the workplace. Washington, D.C.: Author.

APPENDIX B

Louise F. Fitzgerald

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and Women's Studies
University of Illinois
603 E. Daniel
Champaign, IL 61820

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EDUCATION

B.A.	(magna cum laude) - Psychology - 1974 The University of Maryland
M.A.	Psychology - 1975 The Ohio State University
Ph.D.	Psychology - 1979 The Ohio State University

POSITIONS HELD

1995-Present	Professor Psychology and Women's Studies University of Illinois at Urbana-Champaign
1987-1995	Associate Professor Psychology, Women's Studies, Educational Psychology University of Illinois at Urbana-Champaign
Spring, 1994	Visiting Scholar Departments of Data Theory and Women's Studies University of Leiden
Fall, 1990	Faculty Research Fellow Institute for the Study of Cultural Values and Ethics University of Illinois at Urbana-Champaign
1985-1987	Assistant Professor Graduate School of Education University of California, Santa Barbara
1981-1985	Assistant Professor Graduate School of Education Kent State University, Kent, Ohio
1980-1981	Senior Research Associate International Personnel Management Association Washington, D.C.

EDITORIAL BOARDS

Journal of Counseling Psychology	(1981-1987)
Journal of Vocational Behavior	(1984 - 1992)
Psychology of Women Quarterly	(1989 - 1995)
Journal of Career Assessment	(1992 -
Journal of Health Psychology	(1999 -

CONSULTING REVIEWER

Law and Human Behavior
Journal of Interpersonal Violence
Violence and Victims
Journal of Personality and Social Psychology
American Journal of Community Psychology
Journal of Applied Social Psychology
Sex Roles
British Journal of Social Psychology
American Educational Research Journal

HONORS

Magna Cum Laude (B.A.)
Distinction in Psychology (B.A.)
Departmental Honors (Ph.D.)
Fellow, American Psychological Association
Fellow, American Psychological Society
Holland Prize for Research in Personality and Career Development - 1992
Distinguished Contribution to the Psychology of Women – Div. 17 Committee on the Status of Women - 1992
Distinguished Contribution Award of the Washington Educational Press for Outstanding Treatment of a Public Concern – 1994

GRANTS

"Outcomes of sexual harassment: An integrative process model"
National Institutes of Mental Health
Shannon Award - $100,000 - 1994-1996
1996-2001- $750,000

"Sexual harassment on campus"
UIUC Campus Research Board
Spring, 1993 - $7350

"Sexual victimization in Brazil"
Edwin & Flora Hewlett Foundation
Summer, 1991 - $3,500

"A cognitive-behavioral intervention for reducing sexually aggressive behavior in college men"
University of Illinois Campus Research Board
1991 - $9,084

Tarnishing the ivory tower - sexual harassment on campus"
Women's Educational Equity Act
U.S. Department of Education
1984-1985 - $67,564.00

PROFESSIONAL ASSOCIATIONS

American Psychological Society
American Psychological Association
(Division 1, 17, 3 5 & 41)
(Fellow, 17 and 35)
Association for Women in Psychology
International Society for Traumatic Stress Studies
Law and Society
National Council for Research on Women
Society for Industrial/Organizational Psychology

PUBLICATIONS

BOOKS AUTHORED OR CO-AUTHORED

Koss, M. P., Goodman, L., Browne, A., Fitzgerald, L. F., Keita, G., & Russo, N. (1994). No safe haven: Violence against women at home, at work, and in the community. Washington, DC: American Psychological Association.

Betz, N. E., & Fitzgerald, L. F. (1987). The career psychology of women. New York: Academic Press.

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Fitzgerald, L. F. (in press). Who says? Legal vs. psychological constructions of welcomeness in sexual harassment litigation. In C. MacKinnon & R. Siegal (Eds.). Sexual harassment of working women, 1998, New Haven, CT: Yale University Press.

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Hulin, C., Fitzgerald, L. F., & Drasgow, F. (1996). Organizational influences on sexual harassment. In B. Gutek and M. Stockdale (Eds.), Women and work, Vol. 6. Newberry Park, CA: Sage.

Fitzgerald, L. F., Fassinger, R., & Betz, N. E. (1995). Theoretical advances in the study of women's career development. In W. B. Walsh & S. H. Osipow (Eds.), Handbook of vocational psychology (2nd ed.). Hillsdale, NJ: Lawrence Erlbaum and Associates.

Fitzgerald, L. F., Hulin, C., & Drasgow, F. (1995). The antecedents and consequences of sexual harassment in organizations: An integrated process model. In S. Sauter & G. Keita (Eds.). Job stress 2000: Emergent issues. Washington, DC: American Psychological Association.

Fitzgerald, L. F. (1994). No safe haven: Violence against women in the workplace. In Koss, et al., (Eds.), No safe haven: Violence against women at home, at work, and in the community. Washington, DC: American Psychological Association.

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Fitzgerald, L. F., & Omerod, A. J. (1993). Breaking silence: The sexual harassment of women in academia and the workplace. In F. L. Denmark & M. A. Paludi (Eds.), Handbook of the psychology of women. Westport, CT: Greenwood Press.

Betz, N. E., & Fitzgerald, L. F. (1993). Individuality and diversity: Theory and research in counseling psychology. Annual Review of Psychology, 44, 343-381.

Weitzman, L. M., & Fitzgerald, L. F. (1993). Employed mothers: Labor force profiles and diverse lifestyles. In J. Frankel (Ed.), Employed mothers and the family context. New York: Springer.

Fitzgerald, L. F., & Weitzman, L. M. (1992). The career development of women: Concepts and issues for theory and practice. In Z. Leibowitz & D. Lee (Eds.), Adult career development, (2nd ed.). Arlington, VA: American Association of Counseling and Development.

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MONOGRAPHS

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ARTICLES IN JOURNALS

Fitzgerald, L. F., Buchanan, N., Collinsworth, L. C., Magley, V. M., & Ramos, A. (in press). Junk logic: The abuse defense in sexual harassment litigation. Psychology, Public Policy, and the Law.

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Williams, J. H., Fitzgerald L. F. , & Drasgow, F. (in press). The effects of organizational practices on sexual harassment and individual outcomes in the military. Journal of Military Psychology.

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Cortina, L., Swan, S., Fitzgerald, L. F., & Waldo, C. R. (1998). Sexual harassment and assault in academia. Psychology of Women Quarterly.

Waldo, C. R., Berdahl, J. L., & Fitzgerald, L. F. (1998). Are men sexually harassed? If so, by whom? Law and Human Behavior, 22, 59-79.

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Goodman, L. A., Koss, M. P., Fitzgerald, L. F., Russo, N. F., & Keita, G. P. (1993). Male violence against women: Current research and future directions. American Psychologist, 48, 1054-1058.

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Shapiro, S., & Fitzgerald, L. F. (1989). The development and validation of The Orientation Toward Learning Scale. Educational Psychological Measurement, 49, 375-384.

Fitzgerald, L. F., et al. (1988). The dimensions and extent of sexual harassment in higher education and the workplace. Journal of Vocational Behavior, 32, 152-175.

Fitzgerald, L. F., & Osipow, S. H. (1988). We have seen the future but is it us: Vocational aspirations of counseling psychology graduate students. Professional Psychology, 19, 575-583.

Fitzgerald, L. F., et al. (1988). Academic harassment: Sex and denial in scholarly garb. Psychology of Women Quarterly, 12, 329-340.

Fitzgerald, L. F. (1988). On the importance of operational definitions: A comment on Hayden. Journal of Counseling Psychology, 35, 351-352.

Fitzgerald, L. F., & Hubert, L. J. (1987). Multidimensional scaling: Some possibilities for counseling psychology. Journal of Counseling Psychology, Special issue on quantitative methods), 34,469-480.

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Fitzgerald, L. F., & Cherpas, C. (1985). On the reciprocal relationship between gender and occupation: Rethinking the assumptions concerning masculine career development. Journal of Vocational Behavior, 27, 109-122.

Fitzgerald, L. F., a Betz, N. E. (1985). Astin's model in theory and practice: A technical and philosophical critique. The Counseling Psychologist, 12, 135-138.

Hughes, C., Mutinek, S., & Fitzgerald, L. F. (1985). Sex role attitudes and career choices: The role of children's self-esteem. Elementary School Guidance and Counseling, 20, 57-66.

Fitzgerald, L. F., & Shullman, S. L. (1984). The myths and realities of women in organizations. Training and Development Journal, 38, 65-70.

Fitzgerald, L. F., & Quaintance, M. K. (1982). Survey of assessment center use in state and local government. Journal of Assessment Center Technology, 5, 9-2 1.

Fitzgerald, L. F. (1980). Non-traditional occupations: Not for women only. Journal of Counseling Psychology, 27, 252-259.

Fitzgerald, L. F., & Crites, J. 0. (1980). Toward a career psychology of women: What do we know? What do we need to know? Journal of Counseling Psychology, 27, 44-62.

Fitzgerald, L. F., & Crites, J.0. (1979). Career counseling for women: Standards for practitioners. The Counseling Psychologist, 8, 33 -34.

Crites, J.0., & Fitzgerald, L.F. (1978). The competent male. The Counseling Psychologist, 7, 11-14.

TECHNICAL REPORTS

Fitzgerald, L. F., et al. (1997). Final Report - Attorney Survey. St. Louis, MO: U.S. Eighth Circuit Gender Fairness Task Force.

Fitzgerald, L. F., et al. (1997). Final Report - Judges Survey. St. Louis, MO: U.S. Eighth Circuit Gender Fairness Task Force.

Fitzgerald, L. F., et al. (1997). Final Report - Court Employee Survey, St. Louis, MO: U.S. Eighth Circuit Gender Fairness Task Force.

Fitzgerald, L. F., et al. (1996). Final Report: Vice-Chancellor's Survey on Campus Climate for Gender, Race and Sexual Orientation. University of Illinois at Urbana-Champaign, Urbana, IL.

OTHER

Fitzgerald, L. F. (1992). Sexual harassment in organizations. Washington, DC: American Society of Association Executives.

Fitzgerald, L. F. (1989). Vocational Assessment. In T. Husen & T. N. Postlethwaite (Eds.). International Encyclopedia of Education. Supplementary Vol. 1. Oxford: Pergamon Press. (Encyclopedia article)

Fitzgerald, L. F. (1980). Incidence and use of assessment centers in the public sector. IPMA Special Report: Washington, D.C.

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

Appendix C

Louise F. Fitzgerald, Ph. D.
603 E. Daniel Street
Champaign, IL 61820
Phone: 217-244-8320
lfitzger@s.psych.uiuc.edu

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[1], 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
- 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] In this case (EEOC v. LTV Steel), the Equal Employment Opportunity Commission (EEOC), a federal agency, has been extended a reduced rate of $200 per hour consulting fee; a $300 per hour trial fee; and a $300 per hour deposition fee if the EEOC pays for the deposition.

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

Appendix D

May 1999

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

1) *Valerie Scott v. John Dalton, et al.*, Civil Action No. 95-5124 (D NJ)).

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

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

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

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

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

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

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

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

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

11) *Victoria Loli v. Bayer Corporation*, W.D. Pa. C.A. No. 97-02117

12) *Elaina Gavin v. Pakistan International Airlines, et al.*, CA No. 97-1672 (JR) (District of Columbia)

Appendix E

List of Documents Reviewed

1. Deposition of Jim Wright
2. Deposition of Linda Love
3. Deposition of Marty Pratt Klieber
4. Deposition of Jill Miller
5. Deposition of Tracy Smith
6. Deposition of William Butler
7. Deposition of Robert Stufflebeam
8. Deposition of Robert Huenefeld
9. Deposition of Jeff Satterlee
10. Deposition of Donald Burress
11. EEOC Investigative file
12. Complaints
13. Answers to Interrogatories
14. Various documents provided by LTV Steel attached as exhibits to depositions
15. Beverly Fleming Benner's therapy notes for Jill Miller
16. Portions of LTV newsletters

U.S. DISTRICT COURT

SOUTHERN DISTRICT OF OHIO

WESTERN DIVISION

VICTORIA ELKINS, HOLLY LEWIS, MELISSA STRAIGHT, PATRICIA SUE SANDLIN, RAMONA JEAN COLEMAN, and DENISE WALRAVEN, Individually and on behalf of others similarly situated, Plaintiffs,

vs. : CASE NO. C-1-99-988

AMERICAN SHOWA, INC., Defendant.

- - -

Videotaped deposition of LOUISE F. FITZGERALD, Ph.D., a witness herein, taken by the plaintiffs as upon cross-examination, pursuant to the Federal Rules of Civil Procedure and pursuant to Notice To Take Deposition and agreement by counsel as to the time and place and stipulations hereinafter set forth, at the offices of Vorys, Sater, Seymour and Pease, 2000 Atrium Two, Cincinnati, Ohio, at 9:09 a.m. on Wednesday, January 30, 2002, before M. Sue Lopreato, a Registered Merit Reporter and Notary Public within and for the State of Ohio.

APPEARANCES:

On behalf of the plaintiffs:

RON PARRY, ESQ.
128 East Second Street
P.O. Box 2618
Covington, Kentucky 41012-2618
and
DIANE BRADLEY, ESQ.
Leeds, Morelli & Brown, P.C.
1029 Vermont Avenue, NW, Suite 300
Washington, D.C. 20005
and
LISA COGAN, ESQ.
Milberg, Weiss, Bershad, Hynes & Lerach, LLP
One Pennsylvania Plaza,
New York, NY 10119-0165

On behalf of the defendant:

DANIEL J. BUCKLEY, ESQ., and
SCOTT A. CARROLL, ESQ., and
VICTOR A. WALTON, JR., ESQ.
Vorys, Sater, Seymour & Pease
2100 Atrium Two
221 East Fourth Street
Cincinnati, Ohio 45202

ALSO PRESENT: Gary Gombita
Linda Collinsworth
Rick Grubb, Videographer

- - -

STIPULATIONS

It is stipulated by counsel for the respective parties that the deposition of LOUISE F. FITZGERALD, Ph.D., a witness herein, may be taken at this time by the plaintiffs as upon cross-examination and pursuant to the Federal Rules of Civil Procedure and Notice To Take Deposition, all other legal formalities being waived by agreement; that the deposition may be taken in stenotypy by the Notary Public-Court Reporter and transcribed by her out of the presence of the witness; that the transcribed deposition was submitted to the witness for examination and signature and that signature may be affixed out of the presence of the Notary Public-Court Reporter.

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Q. So now how did that work? They were sent a survey, and they were asked to fill it out and send it back?
A. That's correct.
Q. And so they could fill it out at home, at the coffee shop, wherever they chose to fill it out?
A. That's correct.
Q. By themselves, not being accompanied by anyone, anyone else?
A. That's correct.
Q. You've written a lot of articles, haven't you, published a lot of papers?
A. I have. I published, I did not perish.
Q. Publish or perish, is that how it goes?
A. Uh-huh.
MR. PARRY: This is Exhibit 7.
(Plaintiff's Exhibit No. 7 was marked for identification.)
Q. The title of Exhibit 7 is "Antecedents and Consequences of Sexual Harassment in Organizations, a Test of An Integrated Model"?

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A. Correct.
Q. And that appeared in the Journal of Applied Psychology in 1997?
A. That's correct.
Q. And you were one of the co-authors?
A. I was the first author.
Q. The first author, okay. Your name's first. What does that mean there? I'm sure that has some significance because there are one, two, three --
A. You betcha.
Q. -- five authors. You're first, which means you're the head honcho --
A. That's right.
Q. -- when it comes to writing this article?
A. Uh-huh.
Q. Okay. This was published in '97?
A. Correct.
Q. And can you tell me generally what the thrust of this article is, what information you're trying to convey to the reader?
A. Well, you can look in the abstract. That's a summary of that whole

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thing. And it says, "In this article, an empirical test of a recently proposed conceptual model is described. According to the model, organizational climate for sexual harassment and job gender context are critical antecedents of sexual harassment. Harassment, in turn, influences work-related variables; for example, job satisfaction, psychological states, for example, anxiety and depression and physical health.
"On the basis of the sample of women employed at a large, regulated utility company, the model's predictions were generally supported." And that's what we did, minus all the statistical stuff.
Q. Look on page 580 of that article, which I think is the third page over. The second column there, under the caption "Sexual Harassment" you say, "All participants completed the Sexual Experiences Questionnaire-Revised," and that's referred to as the SEQ-R. Do you see that?
A. Correct.
Q. And it says, "The SEQ-R is an 18-item measure developed by Fitzgerald and her

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colleagues." That would be you --
A. That's me.
Q. -- Fitzgerald there? And it cites a 1995 article?
A. It cites two articles, actually.
Q. Yeah, '95 and '88. Tell me about this SEQ. Is that something you developed?
A. Yes.
Q. In connection with other researchers, or --
A. I was funded by the Department of Education under the Women's Educational Equity Act to develop a reliable and valid measure, behavioral measure of sexual behavior, offensive sexual behavior in work organizations and educational institutions.
I had a co-PI on that grant, Sandra Shullman, and a bunch of graduate students. And we developed the original SEQ and validated it back in 1988.
Q. Okay. And then Exhibit 7 here, the '97 article, does that describe a revision of the SEQ from the original 1988 version?
A. It has been, yes.
Q. So the original would be the SEQ,

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tional occupations, we stratified on work site (oversampling field sites) and department (oversampling departments with job classifications that are nontraditional for women); all women within selected department–work site combinations were asked to participate in the study. Of 520 women selected for the sample, 473 came to the questionnaire administration session, and 459 women provided sufficient data to be included in some analyses (we discarded questionnaires with more than 50% missing data). After missing-data imputation (see below), 357 women provided data that could be used in analyses requiring complete data (e.g., maximum likelihood factor analysis and structural equations analysis).

Our sampling methods were successful in obtaining a relatively large proportion of female respondents employed in nontraditional jobs. Participants, who ranged in age from their early 20s to late 50s, were employed in a variety of departments in the company and located in diverse geographical areas around the state. The great majority were Caucasian (88%), had at least some college or technical training (91%), and were married or living with their partner. Participants' job classifications varied considerably, with 32% employed in the field (e.g., line crew or technician), 31% as professionals (e.g., engineering or management), and 19% as clerical workers; 18% of the sample did not identify their job classification, presumably to protect their (guaranteed) anonymity.

Measures

To facilitate review, measures are organized into four groups and presented in order of their appearance in the model. The four groups include organizational antecedents, sexual harassment, outcomes, and control and methodological variables.

Organizational antecedents. The organizational antecedents of sexual harassment were assessed via scales designed to tap the two aspects of the workplace hypothesized to contribute to higher levels of sexual harassment: organizational tolerance of sexual harassment (organizational context) and a masculinized job context (job gender context). We assessed organizational context through the Organizational Tolerance for Sexual Harassment Inventory (OTSHI; Hulin, Fitzgerald, & Drasgow, 1996). The OTSHI is operationalized according to procedures suggested by Naylor et al. (1980), who conceptualized climate as shared perceptions of contingencies between behaviors and organizational outcomes (sanctions or rewards). The OTSHI asks participants to report their perceptions of the likelihood of organizational reactions when superiors and coworkers engage in various forms of harassment. The measure consists of a series of six brief vignettes, in which characteristics of a male harasser (superior or coworker) are crossed with each of three types of sexual harassment (gender harassment, sexual coercion, or unwanted sexual attention). Each vignette is followed by three questions, asking about (a) the degree of risk to a female victim if she were to report such an incident, (b) the likelihood that her allegations would be taken seriously by the organization, and (c) the participant's perceptions of the likelihood that the harasser would receive meaningful sanctions. Each question uses a 5-point Likert-type response scale, with higher scores indicating perceptions of greater organizational tolerance of sexual harassment. The three subscales of the OTSHI (Risk of Reporting, Likelihood of Being Taken Seriously, and Probability of Sanctions) each yielded a coefficient alpha of >.9, with an overall coefficient alpha of >.96. Table 1 contains coefficient alphas for each scale. A complete account of the development and validation of this instrument is available in Hulin et al. (1996) and Zickar, Matt, and Hulin (1997).

In the present study, job gender context was assessed by means of three indicators taken from the U.S. Merit Systems Protection Board (1981, 1987). Participants were asked to indicate whether they were one of the first of their sex to do their job and whether their immediate supervisor was male or female. In addition, they estimated the gender ratio of their workgroup on a 5-point scale, ranging from 1 (*almost all men*) to 5 (*almost all women*).

Sexual harassment. All participants completed the Sexual Experiences Questionnaire—Revised (SEQ–R). The SEQ–R is an 18-item measure developed by Fitzgerald and her colleagues (Fitzgerald, Gelfand, & Drasgow, 1995; Fitzgerald et al., 1988) to assess the three behavioral categories of sexual harassment identified in factor analytic research (Gelfand, Fitzgerald, & Drasgow, 1995): Gender Harassment, Unwanted Sexual Attention, and Sexual Coercion. *Gender Harassment*, the most commonly reported form of offensive sex-related behavior, is not intended to elicit sexual cooperation but, rather, consists of crude verbal, physical, and symbolic behaviors that convey hostile, offensive, and misogynist attitudes. *Unwanted Sexual Attention* is just that—sexual attention that is unwanted and unreciprocated by the recipient—whereas *Sexual Coercion* refers to subtle or explicit efforts to make job rewards contingent on sexual cooperation. This last represents the behavioral exemplar of the legal concept of *quid pro quo*, whereas gender harassment and unwanted sexual attention are the two constituents of a hostile working environment. Fitzgerald et al. (1997) emphasized that situations measured by the SEQ cannot be equated with legally actionable behavior in any simple fashion, because the latter depends on a number of factors that survey instruments cannot assess. Rather, the SEQ assesses offensive sex-related behavior that is unwanted, unwelcome, and unreciprocated. All items are written in behavioral terms, and the words *sexual harassment* do not appear until the end, to avoid biasing participants and to improve reliability. Participants respond on a 5-point scale, ranging from 1 (*never*) to 5 (*most of the time*). For this study, participants were asked to report only situations they had experienced in the target organization in the past 2 years.

Fitzgerald et al. (1988) reported SEQ internal consistency estimates of .92 for a student sample and .86 for an employee sample; test–retest stability analyses computed on a small subsample (n = 46) yielded a coefficient of .86 over a 2-week period. Gelfand et al. (1995) confirmed the three-factor structure across two settings (workplace and university students) and cultures (the United States and Brazil). Coefficient alphas in the present sample were .81 for Gender Harassment, .82 for Unwanted Sexual Attention, and .41 for Sexual Coercion. (The low reliability for the Sexual Coercion scale is due to very low frequencies of endorsement for the items on this scale.) A complete account of the theoretical and empirical development of the SEQ is available in Fitzgerald, Gelfand, and Drasgow (1995).

Psychological outcomes. We used a variety of measures to assess the psychological impact of harassment, including the Mental Health Index (MHI; Veit & Ware, 1983), Satisfaction