

1 Detroit, Michigan

2 February 25, 2014

3 10:45 a.m.

4 * * *

5 BY MS. STANYAR:

6 Q. And has that been steady over the course of that time
7 period?

8 A. It picked up in the late '80s. As I started doing research
9 in the area of adoption, I started getting a lot of referrals
10 from adoptive families that I work with to help them around
11 some of the normative issues, that I assume we'll talk about
12 later on around adoption.

13 Q. All right. During the entire, the entire span of your
14 clinical practice, how many families do you think you've
15 counseled?

16 A. I'm going to guess somewhere around 2,000.

17 Q. How many children?

18 A. Well, that's hard to estimate. Sometimes those families, I
19 only worked with the parents doing parent coaching. Sometimes
20 I work with multiple children in a family, and family
21 therapists. So even if we average one child per family, it
22 would be roughly 2,000.

23 Q. Do you counsel any families headed by same-sex parents?

24 A. I have, yes.

25 Q. Approximately how many? Give us a rough estimate.

1 A. Maybe a hundred.

2 Q. Okay. Have you counseled gay and lesbian parents who have
3 adopted or fostered children?

4 A. Yes.

5 Q. What types of issues do you address when you counsel
6 families with gay or lesbian parents?

7 A. Most of the same kind of issues that other families, you
8 know, encounter. Around adoption issues, it often has to do
9 with how do we talk to a child about adoption, particularly how
10 do we help them, how do we explain some of the more difficult
11 background issues that the child has faced: Abuse, neglect, a
12 birth parent who might have been a drug -- drug addicted or had
13 other kinds of problems.

14 So we help them to, to figure out how to talk to those
15 children about those issues in a way that doesn't unduly demean
16 the child's heritage.

17 Q. Do you counsel families who have experienced the, the
18 experience of divorce?

19 A. Yes, very often. I do a lot of custody work for the
20 courts. And I work with those families both sometimes -- not
21 the same families. I can't be an evaluator and a counselor in
22 the same case. But I often work with families after the
23 divorce or sometimes before counseling.

24 Q. Have you counseled children who have experienced divorce?

25 A. Many times, yes.

1 Q. Is that a significant percentage of your caseload?

2 A. It's a significant percentage, yes.

3 Q. Have you done any work evaluating children for court
4 proceedings?

5 A. Quite often; continue to do.

6 Q. Have you ever been qualified to testify, testify as an
7 expert witness in cases involving adoption issues?

8 A. Many times.

9 Q. How many times, approximately?

10 A. Qualified, that means I was testifying. Probably 40, 50
11 times.

12 Q. Have you ever been qualified to testify as an expert
13 witness in cases involving the well-being of children in -- of
14 same-sex parents?

15 A. Yes.

16 Q. How many times?

17 A. About ten times.

18 Q. Have you ever been involved in a marriage equality case?

19 A. Yes. I was one of the experts in the Hawaii same-sex
20 marriage case in the mid '90s.

21 Q. Your CV lists the Donaldson Institute. I think you've
22 touched upon that a little bit. Can you describe your work
23 there?

24 A. Sure. The Donaldson Adoption Institute, which is located
25 in New York City, is a nonprofit think tank. It's arguably the

1 preeminent think tank on adoption issues in the country.

2 Our primary mission is to foster the well-being of
3 children who are adopted to promote ethical adoption practice.
4 We do a lot of research in the area of adoption, training of
5 professionals. We are advocates, an advocates organization for
6 children in need of families, particularly kids coming out of
7 the foster system.

8 Q. Have you ever consulted with any government agencies?

9 A. I have. Pretty regularly, child welfare agencies in the
10 states here. And I've also counseled various ministries of
11 child welfare in England and Spain, and Italy, and Sweden.

12 Q. What sort of issues are you called upon to address with
13 state child welfare agencies?

14 A. A lot of it has to do with best practice issues in dealing
15 with adoption, training their professionals around -- you know,
16 establishing, you know, an appropriate atmosphere for doing
17 home studies.

18 Often times, it deals with helping them to set up or
19 to understand the need for post-adoption services. One of the
20 big emphases in adoption today is the need for ongoing
21 post-adoption services. And agencies are looking to figure out
22 how to do that in a timely and affordable manner.

23 Q. Have you ever received any honors in these areas?

24 A. I've received the U.S. Congressional Adoption Award. It's
25 called an Angel in Adoption Award.

1 MS. STANYAR: I move to qualify Dr. Brodzinsky as an
2 expert in the areas of child development, parenting by same-sex
3 couples and the well-being of their children, adoption and
4 fostering, including same-sex couples, and child and family
5 clinical psychology.

6 THE COURT: Counsel, would you like to voir dire or do
7 you have any objections? Other than your standing
8 objections --

9 MR. POTCHEN: Okay.

10 THE COURT: -- to the issue.

11 MR. POTCHEN: Other than the standing objection
12 regarding adoption, we have no objection.

13 THE COURT: Very well. He may be qualified.

14 BY MS. STANYAR:

15 Q. What is meant in the field of psychology by the term "child
16 adjustment"?

17 THE COURT: You know what? Why don't we take our
18 morning recess now. Then we won't have to interrupt his
19 testimony.

20 We'll take 15 minutes. That clock and mine are a
21 little bit off, but we'll start at ten after. Thank you.

22 (Recess taken, 10:50 a.m. - 11:08 a.m.)

23 THE CLERK: All rise.

24 THE COURT: Okay. You may be seated. Thank you.

25 You may proceed with your direct examination.

1 I understand that some people can't hear in the back.
2 We're going to try to get as close to the microphones as we
3 can. If you can't hear, raise your hand, let us know. Can you
4 hear now?

5 It's not better? Okay. We'll have to get I.T. in
6 here to find out why you can't hear back there.

7 Oh, you're instant messaging? Not I.T., though.

8 THE CLERK: I have to get it from them first, in order
9 to --

10 THE COURT: Okay. Can you ask, please. Thanks, Adam.

11 If you could ask them to call IT, tell them, and tell
12 them that they can interrupt us, because it's important; that
13 people can't hear in the back. We'll get it, we'll get it
14 taken care of, ASAP. So we'll get the people in here.

15 We're going to proceed. And, Ms. Stanyar, if you can
16 talk a little bit louder.

17 MS. STANYAR: Okay.

18 THE COURT: I know that's not your fault. It's the
19 mic. system.

20 MS. STANYAR: I pushed it away.

21 THE COURT: Great.

22 MS. STANYAR: It was scaring me.

23 THE COURT: That's fine. No. You have to be close
24 because it's also picking it up.

25 MS. STANYAR: Okay.

1 THE COURT: Not that close. I think you're fine.
2 They'll tell us. Because these microphones apparently they,
3 they took off the sound system and put it into the, the piping
4 into the other room. But we'll figure it out, we'll make sure.
5 It's important. This is a public courtroom, it's important
6 that everybody see, everybody hear. If you can't see and you
7 can't hear, let us know. I know you can't right now, but
8 they're getting someone in here right away. Okay.

9 MS. STANYAR: Can I have the last question read back?

10 THE COURT: Well, I don't think there's the last
11 question. You were starting to go into your, to your --

12 MS. STANYAR: What was the one before my question that
13 I didn't ask? Do you, are you able to go back? Or no? I'm
14 sorry.

15 (Brief pause.)

16 I moved to qualify him as an expert.

17 THE COURT: Yes. And I agreed.

18 BY MS. STANYAR:

19 Q. What is the meant in the field of psychology by the term
20 "child adjustment"?

21 A. Child adjustment has to do with the ability of a child to
22 function in one or more areas of their life. So, for example,
23 the ability to function well --

24 THE COURT: Excuse me. One more second. I see our
25 I.T.

1 Hey, Bob, here's what's happening. The people in the
2 back -- you can't hear either? The people in the back can't
3 hear. Are these microphones on or what's causing the problem?

4 (Brief pause.)

5 THE COURT: Not only can they not hear mine, but they
6 can't hear everything.

7 MR. GRATHOFF: Sounds pretty good across the hall.

8 THE COURT: Yeah, across the hall, I'm sure it's good,
9 but the people back here can't hear.

10 Can you hear better? Can everybody hear better? Yes?
11 Okay. Good.

12 Carole, if you don't mind trying that mic, too.

13 MS. STANYAR: Testing 1.

14 THE COURT: How is that? Everybody hear better?
15 Perfect. I hope they can hear it in the other room, too. I
16 won't -- okay. Great. I'm glad you said something. So if you
17 can't hear or see, either this room or the other room, let us
18 know.

19 Okay. Let's go.

20 BY MS. STANYAR:

21 Q. I believe that you were talking about the term "child
22 adjustment."

23 A. Yes. It has to do with the child's ability to function
24 well within the normal range in one or more areas of life. For
25 example, is the child progressing normally, motorically. Is

1 the child developing normal attachments with parents and with
2 others. Is the child progressing through school, doing well in
3 reading, math, etc., etc., forming appropriate peer
4 relationships, developing positive self-esteem and, you know,
5 integrating sense of self in terms of identity appropriately.
6 So there are many areas of development that we look at in terms
7 of adjustment.

8 Q. In the field of psychology, has there been research
9 conducted to learn what family circumstances promote positive
10 child adjustment?

11 A. Yes. There's a tremendous amount of research.

12 Q. How is child adjustment measured?

13 A. Well, it's measured in a variety of ways. We, we look at
14 quality of parent-child relationships, we look at
15 symptomatology of a child, the behavior of the child, whether
16 the child shows any evidence of any type of problematic
17 behavior, progress in school, peer relationships and so forth.
18 And we do so with, we do so with, in a variety of ways, too,
19 different methods they used.

20 Q. All right. Has researched identified any factors relating
21 to family circumstances that predict positive adjustment?

22 A. Yes.

23 Q. I'm going to ask you to look at the demonstrative here.
24 Can you tell us, are these the factors?

25 A. These are the primary factors that have been, time and

1 again, shown to be the key predictors of children's adjustment.

2 They are quality of parent-child relationships;
3 quality of the relationships between the parents. Harmonious
4 parents produce better adjusted children. Warmer parent-child
5 relationships produce better adjustment in children.

6 The characteristics of the parent, the styles that
7 they adopt, parental warmth and nurturance, emotional
8 sensitivity. The ability to employ age appropriate rules and
9 structure for the child.

10 And the kinds of educational opportunities that
11 children are afforded is important, as well as the resources
12 that are provided for the child, not only in the family itself,
13 but the resources that, from the outside, that impact the
14 family and the child in particular. And of course, the mental
15 health of, of the parents.

16 THE COURT: Excuse me. Bob, is everything working
17 good?

18 MR. GRATHOFF: Yes, it is.

19 THE COURT: Thank you, very much. We appreciate it.

20 Okay. I'm sorry. He was standing there. I wanted to
21 make sure everything was cool.

22 BY MS. STANYAR:

23 Q. Have studies looked at whether these factors predict
24 positive outcomes or positive child adjustment in families
25 other than married mother/father biological-parent families?

1 A. Yes. These are the predictors that, the key predictors
2 that predict child outcome regardless of the family form,
3 whether it's a two-parent married family, heterosexual, gay or
4 lesbian families, single parents, divorced families, families
5 of color, families from low SES status, that's socioeconomic
6 status or, you know, middle or upper socioeconomic status. All
7 families, these are the key predictors.

8 Q. Have they all been studied?

9 A. They've all been studied, yes.

10 Q. How well established in the field of psychology is it that
11 these factors that you listed are the factors that predict
12 positive child adjustment, regardless of family types?

13 A. It's very well established. The consensus in the child
14 development and family psychology literature is that these are
15 the factors that predict, you can open up any journal that's
16 studying this, and you'll see one or more of these represented.

17 MS. STANYAR: All right. I'm going to ask him to look
18 at Tab A of his binder. And here's where we're getting into
19 the point at which I'm going to lay a foundation for the
20 articles. And I think there's going to be an objection here,
21 but.

22 THE COURT: Okay.

23 BY MS. STANYAR:

24 Q. All right. Look at Tab A of your binder. Tab A.

25 A. I've got it.

1 Q. Yeah.

2 A. This is Tab A.

3 Q. First of all, could you identify the studies?

4 A. These are two articles. They are not empirical studies,
5 they are review articles, one by Michael Lamb that is entitled,
6 "Mothers, Fathers, Families and Circumstances: Factors
7 Affecting Children's Adjustment." It's a recent publication.

8 And the second is a chapter by Susan Golombok and
9 Fiona Tasker, which reviews social emotional development in
10 different types of families, particularly non-traditional
11 family forms.

12 Q. Do these articles summarize the body of research on the
13 factors that affect child adjustment?

14 A. Yes, they do.

15 Q. Are they representative of similar reviews of this nature?

16 A. They are.

17 MS. STANYAR: At this time, I would move to admit the
18 literature, these two.

19 THE COURT: Counsel?

20 MR. POTCHEN: Yes, your Honor. We're going to object
21 to, we'll start with these that we're objecting to.

22 This, apparently these are summary articles done by
23 people other than this witness. So these are summaries of the
24 research conducted by other people. That's hearsay on top of
25 hearsay. So this is not a summary even done by this witness.

1 And it is not a summary of even the people who are writing the
2 article.

3 So to the extent they are seeking to admit this, there
4 is no hearsay objection that would follow that this would be
5 admissible.

6 THE COURT: Counsel?

7 MS. STANYAR: Your Honor, we're in a unique situation
8 where we are proceeding both with our *Daubert* hearing, as to
9 all the witnesses that we objected to, and we're proceeding
10 with trial. So this is relevant for a number of different
11 reasons.

12 First of all, as to many of these articles that we're,
13 we're going to be talking about, Dr. Brodzinsky relied on them,
14 at least the ones that preceded his report of December 20th of
15 last year.

16 In addition, we don't intend on calling Dr. Brodzinsky
17 back. And so we are, we are, you know, trying to introduce the
18 rebuttal to the State's experts. They will -- they are going
19 to be talking about, for example, Loren Marks is going to be
20 talking about the research, but he stops at 2005 for some
21 reason. And so, you know, we want to, we want to talk about
22 that.

23 THE COURT: Well, I think the articles are not
24 admissible because they are hearsay, at least if not hearsay on
25 top of hearsay. However, Dr. Brodzinsky has been qualified as

1 an expert under *Daubert*, and all other standards, and he is
2 testifying as an expert. And he can certainly rely, if that's
3 what he did, on articles and studies and that he's done, and
4 others have done, because he's going to -- you've asked him --
5 you're going to ask him to render opinions. And so there's no,
6 there's no dispute at this point that he is an expert and he
7 may render opinions in the areas that you have indicated
8 before.

9 But the articles themselves would not be admissible
10 through this particular witness. And that doesn't mean that he
11 can't rely on them and talk about them in terms of putting his
12 opinion together. But I don't think the articles themselves,
13 not think, I know they aren't and, therefore, I'll sustain the
14 objection.

15 MS. STANYAR: I understand, your Honor. As I often
16 do, I may be trying to give you additional argument and legal
17 authority.

18 THE COURT: As you always do. I have no problem with
19 that.

20 MS. STANYAR: Okay.

21 THE COURT: But as I say, this one is going to be --

22 MS. STANYAR: I understand.

23 THE COURT: -- a very uphill battle. As I say, he may
24 use them in his testimony, and I suspect that he will because
25 he's an expert. And as an expert, he is allowed to do that.

1 But the articles themselves are not admissible under many
2 rules, the most important of which is hearsay.

3 MS. STANYAR: All right. Fine, your Honor.

4 BY MS. STANYAR:

5 Q. Is there research on the ways in which men and women parent
6 children in heterosexual couple families?

7 A. Yes, there are.

8 Q. What does the research indicate?

9 A. The research indicate there's a wide range of variability
10 between, for men and women, in how they parent. There's
11 variability. There's more overlap than difference. There's
12 variability from family-to-family. There's variability even
13 within the same family, depending upon whether you're parenting
14 a baby versus parenting a teenager. You would certainly,
15 either gender would parent the child differently. And there's
16 variability in how men and women parent from culture to
17 culture, as well.

18 Q. Does, does the research show any average differences in the
19 ways that mothers and fathers interact with their children?

20 A. Yes, it does, on average.

21 Q. Can you describe that?

22 A. Sure. Mothers tend to be more emotion focused. They tend
23 to be more calming and soothing with their children, with more
24 physical affection offered. They are more linguistically
25 oriented.

1 Fathers, in turn, are more playful, more boisterous in
2 their, in their interactions. They are a little bit more
3 task-oriented in their interactions.

4 But I would say that both men and women do the same
5 kinds of things; in other words, they can engage in the same
6 kind of behavior. It's a matter of distribution of different
7 behavior at different times, depending upon children's needs
8 and who is available for the child.

9 Q. Does the study of psychology consider these differences in
10 competency?

11 A. No. They are differences in style, not at competence.

12 Q. Are women more likely to be more skilled at parenting?

13 A. On average they probably are, because they spend more time.
14 And the more experience you have, the more skilled you become
15 in particular areas.

16 So women are, on average, more likely to be the
17 primary child care provider, more likely to feed and bathe the
18 child, more likely to take the child to different places, spend
19 more time with the child, and with time comes competence.

20 We know that when men spend more time, such as we're
21 finding a trend, you know, in terms of societal trends, men
22 spending more time being parents, and in some cases, men being
23 the primary care provider, we find that the same level of
24 competence occurs generally in men who are spending more time.
25 They look very much like what we see when women are spending

1 primary time.

2 Q. What is the reason for these stylistic differences?

3 A. Well, there's a couple of reasons. One is that it depends
4 on what role the person is playing. If you are feeding the
5 child or bathing the child, you're more directly involved with
6 the child. You're engaging more soothing behavior. You're
7 engaging more face-to-face interactions with the child. The
8 role elicits certain kinds of behavior. So the role that
9 people play, that they choose to play, that they negotiate
10 between themselves in terms of playing often elicits different
11 kinds of behavior.

12 But also, men and women socialize differently. We
13 socialize women, in general, in society to be more
14 emotion-focused. We promote emotion in women and we tend to
15 downplay the expression of emotion in men, on average of
16 course. And men are socialized, you know, to be more physical,
17 to be more, you know, more stoic in their emotions and so
18 forth.

19 So sometimes the socialization that men and women
20 experience growing up is brought into a family, and it impacts
21 on the kind of styles that they, they enact.

22 Q. Are you saying that only fathers engage in playful
23 activities with their children and the mothers don't do that?

24 A. No, of course not. In fact, probably, in an absolute
25 sense, probably mothers spend more time playing with their

1 children because they spend more time with their children,
2 period.

3 But in a relative distribution of time versus what
4 activities you're engaged in, men are more playful rather than
5 let's say in a soothing, calming sense, and women tend to spend
6 more time soothing and calming children relative to their
7 husbands.

8 Q. Are these differences in parenting style uniform across
9 couples?

10 A. No, they are not. There's quite, quite a difference from
11 couple to couple in distribution of, of the roles that people
12 play, of the kinds of interactions that they take -- that take
13 place and the kinds of behaviors that, that they manifest in
14 doing the same role, for example.

15 Q. Does the research suggest that children are better off if
16 their mothers adopt a typical maternal style and their fathers
17 adopt a typical paternal style?

18 A. No. There's no research that supports that.

19 Q. So, for example, if in, in a particular heterosexual parent
20 family, if the father happens to be more nurturing and soothing
21 and is less physically playful with the children, is it at all
22 harmful to the child?

23 A. No, it would not be.

24 Q. Is there any evidence that children need a male and female
25 parent for positive child development?

1 A. I assume you mean male and female in the same household?

2 Q. Yes.

3 A. The answer is no. It's not the gender of the parent that's
4 the key. It's the quality of parenting that's being offered by
5 whoever is there, husband or wife, two women, two men, a single
6 parent, as long as the factors that we listed up there are
7 present: Good mental health, good parent-child relationships,
8 what we call an authoritative parenting style, which is warmth,
9 stimulation, structure, and the availability of resources.
10 Then we're going to have a child who is much more likely to be
11 healthy.

12 Q. Do children in single-parent families, on average, do as
13 well as children in two-parent families?

14 A. No, they don't. On -- well, let me start by saying they
15 don't, but most children in single-parent families actually do
16 well. It's just on an on-average comparison. The reason --

17 Q. What does that mean? Because maybe you used this is a lot.

18 A. Oh.

19 Q. But what is an on-average comparison?

20 A. Well, when you take a group of single parents and a group
21 of two-parent families, we get a mean or an average of what
22 they are doing, and how the outcome is. And there's often an
23 overlap, there's always an overlap. And the difference between
24 the means is what we call the on-average difference. The means
25 could be very similar, but still statistically significant.

1 And most of the behaviors or the adjustments of
2 children in single parents would look like the behaviors and
3 adjustment of children in two-parent families. But on, excuse
4 me, on average, the, the children in two-parent families would
5 be doing a little bit better.

6 Q. What accounts for the higher rate of adjustment problems,
7 to the extent there are, in single-parent families?

8 A. There are a couple of reasons. First, let's talk about the
9 pathway to single parenthood. Many parents become single
10 parents following the break-up of a previous relationship.

11 Children who are the product of a previous failed
12 relationship experience, you know, the disruption of that
13 relationship. They frequently will experience the conflict
14 between the parents that preceded, unfortunately too often,
15 follows the break-up as well. So there's a lot of turmoil in
16 the child's life that leads the child ultimately to be raised
17 by that single parent.

18 Other times, parents become single parents, you know,
19 without the active involvement of the father. So the child is
20 born, but the father is just not involved in the child's life.

21 Both of those groups also have less resources. We
22 know that single parents are much less likely to, to be
23 economically as advantaged as two-parent families.

24 And anyone who is a single parent knows, or knows a
25 single parent, it's just more stressful. You are doing

1 everything by yourself. So you don't have someone else to help
2 in that regard.

3 Q. Would you say that most children raised in single-parent
4 families have adjustment problems?

5 A. No, they don't.

6 Q. Most?

7 A. Most are doing very well. You know, it's a matter of the
8 fact that many of these, most of these single parents end up
9 being described in very similar ways that we're talking about
10 the factors here, there. They are mentally healthy. They have
11 good parent relationships, they provide resources, and you
12 know, it works well for the child.

13 Q. When you say children don't need a male and female parent
14 to develop well, are you saying that moms and dads are not both
15 important to children?

16 A. Of course not. Moms and dads are important. They are
17 important as parents, though. They are not important as males
18 or females, women and men. It's what they bring to the, to the
19 parenting process are certain parenting qualities that we've
20 talked about up here, again. And it's those factors, not the
21 gender of the parent, that predicts to better outcomes.

22 Q. Is there a body of scientific research on same-sex parents
23 and their children?

24 A. There is, quite a bit.

25 Q. Is that research published in peer review journals?

1 A. Yes, it is.

2 Q. Have any of the studies appeared in top tier journals?

3 A. Yes, they have.

4 Q. What is the purpose of peer review?

5 A. Peer review ensures, or at least it protects against a
6 study being published that has poor methodology, that is using
7 inappropriate measures, that is doing inappropriate analyses or
8 drawing inappropriate conclusions from those analyses, or is
9 not integrating the findings into the body of literature in a
10 way that makes sense.

11 Q. Over what period of time has this research on gay and
12 lesbian parenting been accumulating?

13 A. Over 30 years now.

14 Q. In total, approximately how many peer reviewed articles are
15 there addressing parent -- are there addressing parenting by
16 same-sex couples or on the adjustment of children raised by gay
17 and lesbian parents?

18 A. Well over a hundred, probably getting close to 150 now.

19 Q. Can you say anything about the reputations of the
20 researchers working in this area?

21 A. Well, there's a large number of researchers working it.
22 But some of the top people are like Susan Golombok from
23 Cambridge University in England, and her colleague Michael Lamb
24 is also at Cambridge. Charlotte Patterson, at the University
25 of Virginia, very distinguished professor. Abbie Goldberg, a

1 younger, but very distinguished researcher at Clark University.
2 Nanette Gartrell, who is in San Francisco, a distinguished
3 researcher in this area. There are quite a few very
4 distinguished people who are working in this area.

5 Q. I'm going to ask you to turn to Tab B.

6 All right. Are these some samples of studies that
7 evaluated children raised in same -- in same-sex parent
8 families?

9 A. Yes, they are.

10 Q. Okay.

11 A. Samples.

12 Q. I'm going to have you identify them. We're not admitting
13 them, but we're identifying these studies.

14 A. Do you want --

15 Q. Yes.

16 A. One by one?

17 Q. Yes.

18 A. Okay. The first one is by Henny --

19 THE COURT: The microphone, just move it a little
20 closer.

21 THE WITNESS: Oh, I'm sorry.

22 THE COURT: Because they are in another room
23 listening.

24 THE WITNESS: Okay. The first one is by Henny Bos and
25 his colleagues. Do you want me to read the title?

1 BY MS. STANYAR:

2 Q. I'm sorry. Read the title.

3 A. Yes. "Lesbian and Heterosexual Two-Parent Families:
4 Adolescent-Parent Relationship Quality and Adolescent
5 Well-Being."

6 Q. Excuse me. Is Henny Bos a male or female?

7 A. Female.

8 Q. Okay. All right.

9 A. The second one is also by Henny Bos and her colleagues.
10 It's entitled, "Child Adjustment in Parenting and Planned
11 Lesbian-Parent Families."

12 Q. What year is that?

13 A. The first one is 2014. The second one is 2007.

14 The third article is by Raymond Chan and colleagues,
15 including Charlotte Patterson. Raymond Chan was a student or a
16 junior colleague of Charlotte Patterson. And it's entitled,
17 "Psychosocial Adjustment Among Children Conceived via Donor
18 Insemination by Lesbian and Heterosexual Mothers." And that
19 was published in 1998.

20 The fourth article is by Rachel Farr and colleagues.
21 And again that's Rachel Farr was -- is now a professor but was
22 a student at Charlotte Patterson. Charlotte Patterson is a
23 third author on this.

24 Q. Let me ask you, did you touch upon the Golombok/Mellish
25 2013 article?

1 A. Did I miss that one?

2 Q. Is that the one right before it?

3 A. I skipped him. I'm sorry.

4 So the, I guess the third article then is by Susan
5 Golombok and colleagues, including Michael Lamb, who is also
6 probably three, third or fourth distinguished professor of
7 child development in the world. And this is published in Child
8 Development. It's entitled, "Gay Adoptive Father Families:
9 Parent-Child Relationships and Children Psychological
10 Adjustment," 2013.

11 The fourth is Rachel Farr, Stephen Forssell and
12 Charlotte Patterson, published in Applied Development Science
13 in 2010 entitled, Parenting and Child Development in Adoptive
14 Families: Does Parental Sexual Orientation Matter?

15 And the fifth is Michael Rosenfeld, Nontraditional
16 Families and Childhood Progress Through School, published in
17 Demography in 2010.

18 Q. Are these examples of studies that evaluated children
19 raised in same-sex families?

20 A. Excuse me. Yes, they are.

21 Q. Have you, have you -- are you familiar with this
22 literature?

23 A. Yes, I am.

24 Q. Have you reviewed all of these?

25 A. I've reviewed these and, and many, many others.

1 Q. All right. And are these representative of the body of
2 research on same-sex parents and their children?

3 A. Yes, they are.

4 Q. With the exception of, I believe it's the Bos article from
5 2014, and that would have been February of 2014, with the
6 exception of that article, would you have relied on these
7 articles in forming, forming your opinions that you're going to
8 testify to today?

9 A. Yes, and obviously many other studies as well.

10 Q. Can you describe what this body of literature evaluated in
11 terms of parents and in terms of children?

12 A. The body of literature in this area evaluates both the
13 quality of parenting afforded children who were raised by
14 same-sex couples, versus heterosexual couples, as well as the
15 quality of the relationships of those parents, too.

16 And they also measured child outcome in a variety of
17 different ways. Child outcome will be measured probably
18 differently from one study to another, using different
19 measures. But generally, we're looking at psychosocial
20 adjustment. We're looking at gender role behavior. We're
21 looking at peer relationships. We're looking at school
22 functioning, school progress. We're looking at behavior and
23 symptomatology in some cases. We're looking at victimization
24 in other cases. We're looking at conduct problems and, and
25 related issues like illicit substance use and delinquency and

1 so forth.

2 There's a wide range of variables that are measured.

3 And these are all measured -- measures -- excuse me. These are
4 all variables that are known to predict long-term adjustment
5 difficulties.

6 Q. Let me ask you, and you may have touched on this with the
7 psychosocial thing. But did any studies assess children's
8 psychological well-being?

9 A. Yes. Many studies do.

10 Q. Did any of these studies have comparison groups of
11 heterosexual couples?

12 A. Yes. Most do.

13 Q. Did any of the studies evaluate children raised in planned
14 same-sex parent families, in other words, families created by
15 same-sex couples?

16 A. Yes, they, they do.

17 Q. Can you identify the studies that did that?

18 A. Well, there are the studies of planned lesbian families
19 that have conceived through donor insemination. So, Charlotte
20 Patterson's work is in this area, Henny Bos's work is in this
21 area, Susan Golombok is in this area, and there are others.

22 Q. We had mentioned a Farr -- Farr and Forssell?

23 A. Yes.

24 Q. Was that -- would that be one that involved planned
25 same-sex families or not?

1 A. I'm blocking on that. I'd have to go back and look.

2 Q. Did any of them involve families formed by assisted
3 reproductive technology or the use of donor sperm?

4 A. Yes. The ones that I've talked about generally are, are
5 studies of D.I. families, donor --

6 Q. Donor insemination?

7 A. Donor insemination, yes.

8 Q. Did any of the studies evaluate children adopted by
9 same-sex couples?

10 A. Yes. The Golombok, Mellish, including Michael Lamb does.
11 The Rachel Farr and Charlotte Patterson does, and other people
12 do as well.

13 Q. Do any of the studies on same-sex parents assess the
14 well-being of adolescents or young adults?

15 A. Yes. Charlotte Patterson and Wainwright do. Susan
16 Golombok does in some of her longitudinal work. Henny Bos does
17 in the 2014 article. There are a number of studies that look
18 at adolescents, and bordering on the adolescent/young adult
19 period.

20 Q. Do we have a study assessed on children raised by gay
21 fathers?

22 A. Yes.

23 Q. Can you identify some of the studies that evaluated gay
24 fathers?

25 A. Well, the study on adoption by Susan Golombok and Mellish

1 and Michael Lamb does, Rachel Farr and her colleagues do. Gay
2 fathers are included in other studies as well.

3 Q. What are the conclusions of the body of research on
4 same-sex parent families?

5 A. The conclusions are the --

6 MR. POTCHEN: That I'll object to on hearsay, your
7 Honor, the conclusions themselves. He can testify about the
8 studies, but he's bringing in what their conclusions are and
9 their opinions. Basically he's being used as a --

10 THE COURT: Sustained. He can testify as to what his
11 conclusions are based upon his research and based upon his
12 study and so forth, but not necessarily what somebody else's
13 conclusion was, because they are not here for cross. They are
14 not here for cross-examination.

15 MS. STANYAR: I'll have him answer your question.

16 THE COURT: No. It's your question, not mine.

17 BY MS. STANYAR:

18 Q. What is your opinion?

19 THE COURT: I made a ruling. My ruling is that he
20 can't testify as to their conclusions. He can testify as to
21 his conclusions that he reached as an expert, using all these
22 documents.

23 BY MS. STANYAR:

24 Q. What are your conclusions based upon the research that
25 you've reviewed?

1 A. My conclusions about the outcomes for children, based upon
2 this research, is that children of gay and lesbian individuals
3 show no discernable differences in outcomes and in general
4 characteristics, developmental characteristics, compared to
5 children of heterosexuals.

6 And the other conclusion that I reach is that the
7 parenting qualities of gays and lesbians are no different than
8 the parenting qualities of heterosexual individuals. And the
9 couple relationships of those who are parenting children are no
10 different in heterosexual families and gay and lesbian
11 families.

12 Q. All right. So are your, are your conclusions consistent
13 with the findings that we talked about?

14 A. Yes, they are.

15 Q. All right. Did the studies reach any conclusion about --
16 and it was kind of a longish answer, so we're going to make
17 sure we hit everything. Did the studies reach any -- or no.

18 Is your opinion -- what is your opinion about the
19 psychological well-being of children of same-sex parents?

20 A. My opinion is that their adjustment is, is the same as
21 children raised by heterosexuals.

22 Q. What is your opinion as to the educational development of
23 children of same-sex parents?

24 A. That it's the same as those raised by heterosexuals.

25 Q. What is your opinion as to whether or not children of

1 same-sex parents are able to form healthy peer relationships?

2 A. My opinion is that they form just as healthy peer
3 relationships as those raised by heterosexuals.

4 Q. Were the factors that predicted good child adjustment of
5 same-sex parent families any different than the factors that
6 predict adjustment in heterosexual families?

7 A. No. They are the same. When those -- there are studies
8 that not only address the issue of family structure, gay and
9 lesbian versus heterosexual, but they also incorporate family
10 process and resource variables of the sort that we're talking
11 about here.

12 And to a study, every one of those studies shows that
13 it's the family process and resource variables that predict
14 adjustment, not family structure.

15 Q. And are the findings consistent?

16 A. They are very consistent.

17 Q. What methodologies have researchers employed in their
18 studies of the adjustment of children raised by same-sex
19 parents, in terms of, first of all, talk about recruiting
20 samples.

21 A. Okay. We recruit samples in different ways. The majority
22 of the studies are used what are called convenience samples.
23 We, we take from the communities people who are readily, more
24 readily available. So if I wanted to do a study on children's
25 academic achievement, I might go to a school in a community,

1 get permission to work with that school and the families in
2 that, and pull from, the data from those children.

3 Similar kind of things are done, you know, in this
4 area. We recruit gay and lesbian families from various sources
5 that, without the assumption being that they are representative
6 per se of the broader population of gays and lesbians.

7 Q. We'll come back to that. But are there different methods
8 of assessment within this body of research?

9 A. Yes. We assess in a variety of ways. We do intensive
10 interviewing. We use structured --

11 Q. Interviewing of who?

12 A. Oh, I'm sorry. We do interviewing of, of parents, we do
13 interviewing of children, depending upon their age of course.
14 We do interviewing sometimes of teachers, and others that are,
15 you know, are part of the family system.

16 We use structured interviews filled out by parents, by
17 teachers sometimes, by the youth themselves, particularly in
18 the adolescent studies that focus on adolescents.

19 We do observations of parents and children interacting
20 with one another, usually around some kind of structured tasks.
21 Some studied, Henny Bos, for example uses daily diaries that
22 provide information about what's going on in the family.

23 Q. Do any use standardized testing?

24 A. Yes. Some use standardize testing, too.

25 Q. Okay. Do the studies look at subjects at one moment in

1 time or do they look at the subjects over time?

2 A. Both. The first is called a cross-sectional study where
3 you take a, a group of individuals at one point in the life,
4 kind of a slice-of-life look at them. Studies have looked at
5 children, you know, from very early childhood all the way
6 through adolescence that way. And there are other studies that
7 are longitudinal that follow a child or follow families,
8 children and their parents, from a particular point in time, to
9 a second or a third point in time.

10 Some studies have gone all the way through basically
11 the transition to, to young adulthood now, several studies
12 have.

13 Q. Are all of these methods accepted methods in the field of
14 psychology?

15 A. Absolutely. Over, I was going to say you can open any top
16 tier journal, Child Development, or Developmental Psychology,
17 or Journal of Family Psychology, you will find all of these
18 recruitment methods and methodologies and assessment techniques
19 represented in one or more studies in these journals.

20 Q. Is convenience sampling rare in the field of psychology?

21 A. No. It's the bread and butter of psychology.

22 Q. What are the sizes of samples in those studies that use
23 convenience samples to study children of same-sex couples?

24 A. It varies. It can be from a few dozen to over a hundred.

25 Q. How can you be confident in the results of studies that use

1 smaller samples like convenience samples?

2 A. Well, it depends on what you're trying to do. If you're
3 looking at a question of, of what is the relationship between a
4 variable such as family structure, what you do is you take a
5 group of individuals. You try to control for extraneous
6 factors like, let's say, income. We know that you want to
7 match for income, because income correlates with child
8 adjustment. So compare one group with another, and then you
9 replicate. You replicate it again and again. Not the exact
10 same study. You replicate the general question. Do -- does
11 sexual orientation, in this case, does sexual orientation, does
12 family structure make a difference in child lives.

13 We have now well over a hundred studies that have
14 replicated that question, again and again, using different
15 populations, different, in different areas of the country, in
16 different countries.

17 And so the assumption is when you get a pattern, a
18 consistent pattern over time, then the question -- then the
19 findings are valid and, and relate -- that relate to the
20 question of interest.

21 Q. Are you familiar with the term "statistical power"?

22 A. Yes.

23 Q. What is that?

24 A. Statistical power is the ability to detect a difference
25 between two groups that represent a true difference, you know,

1 as opposed to some random difference.

2 Q. And can you get sufficient statistical power with small
3 samples in the literature?

4 A. Statistical power is related to sample size. And when you
5 use small samples, sometimes you're not able to detect small
6 differences between two groups.

7 I would point out that even though, where we have
8 small samples in this, in this literature, but we are regularly
9 finding differences between groups, just not the differences
10 perhaps that the opponents of marriage equality are looking
11 for. We certainly find differences in parenting styles. So we
12 can detect, at least medium and large scale differences.
13 Sometimes we can detect small differences.

14 Q. Are you able to detect differences in maladjustment?

15 A. Generally, we can. Because the differences that were
16 generally -- the range of scores in these studies are generally
17 all within the normal range. So that if the difference is
18 small, they are really differences about normality, so to
19 speak, ranges, whether a person tends to be a little bit more
20 this way, or a little bit more this way. They are not -- we're
21 not talking about differences that are, that are failing to
22 detect gross maladjustment.

23 Q. When you're talking about this, this group of, this body of
24 research, the convenience sample, is there anything about that
25 body of research, considered as a whole, that makes you think

1 that it's unreliable in any way?

2 A. No.

3 Q. What is a representative sample?

4 A. A representative sample is a group of individuals that are
5 drawn from a larger group that we have reason to believe that
6 they are -- that they represent that larger group.

7 Q. What is a population study?

8 A. A population study is studying everyone in, you know, in a
9 particular population, a census. Studies that have used census
10 data or population studies because they pull from -- data from
11 everyone.

12 Q. Are representative or population studies commonly used by
13 psychologist?

14 A. No, they are not commonly used. We do use them
15 occasionally, but the bread and butter of developmental science
16 and family science is, in psychology, is convenience samples.

17 Q. Why not use representative or these broad brush population
18 studies?

19 A. Well, although there are some benefits, of course, to large
20 samples, the problem is that the small samples allow us to look
21 inside the family. We, when we're working with a smaller group
22 of individuals, we observe them. We intensively interview
23 them. It allows us to know what's going on.

24 Census data asks a few questions. It doesn't tell us
25 what's going on in a family. Large scale studies seldom

1 provide the ability, occasionally they do, but they seldom
2 allow the ability to look intensely inside the family.

3 And as a developmental scientist, what we're
4 interested in is what makes a difference in the family for the
5 child. What are the resources that parents bring into the
6 family, in terms of parenting styles, in terms of the
7 relationship that they have with children, in terms of their
8 relationship if there's a couple, that makes a difference in a
9 child's life. The only way to study that, really, is to get
10 actively involved with the families and get up close and
11 personal, so to speak.

12 Q. Is a representative or population-based standard essential
13 to assess the well-being of either children, of children raised
14 by same-sex parents?

15 A. In my opinion, no.

16 Q. Why not?

17 A. Because it doesn't ask -- population studies, like census
18 simply don't ask the questions that will allow us to assess the
19 critical factors that are, are relevant. Census data actually
20 doesn't even ask the very specific question of whether you're a
21 gay or lesbian, and so we have to infer from that, from what
22 information is available.

23 Q. What sort of variables do studies on gay-parent families
24 need to control for?

25 A. You need to control for a wide range of factors. You need

1 to control for the resources available. Usually, the proxy
2 variables are parent income or parent education. You need to
3 control for family stability.

4 Q. Let me stop you there. What, what does it mean to "control
5 for" a factor?

6 A. You either match the sample, so that children in the gay
7 and lesbian families are matched with children in heterosexual
8 families in terms of, so that the groups are, are the same in
9 terms of average parent income, or average parent education,
10 or, or the racial composition of the two groups.

11 We also are very concerned about family instability
12 and family transitions, particularly in this area, but in
13 general. We know that children who have experienced family
14 disruption through divorce --

15 Q. We're going to get to that.

16 A. Oh, I'm sorry.

17 Q. Let me just try to get you back over here.

18 A. Okay.

19 Q. Are there types of research for which a representative or
20 population-based sample is necessary?

21 A. Yes. If you want to know the rate of something, for
22 example, if you want to know the rate of children who are being
23 raised by gays and lesbians in the country, you need a
24 representative sample so that you can generalize to the general
25 population.

1 Q. You mention that there were some studies of children or
2 lesbian -- children of lesbian or gay parents that did use
3 population-based or representatives samples. Can you identify
4 a study that used a representative sample?

5 A. Wainwright and Patterson studies, they, they published
6 three articles, same sample set, but so it's not different
7 samples, but they used a national survey of adolescent health.
8 I may occasionally refer to it as the ADD health survey, A-D-D.
9 But it's an adolescent health survey. It's a survey of I think
10 12,000 or more representative teenagers.

11 This was an unusual study because they not only
12 collected survey data, but they actually interviewed the
13 adolescents as well, which is very unusual in large-scale data
14 sets.

15 So that's, those -- there are three publications from
16 them. Rosenfeld is a, is a population study, because he used
17 the census data.

18 Q. Is that Michael Rosenfeld?

19 A. I'm sorry. Yes. Michael Rosenfeld.

20 Q. Stanford University?

21 A. No. Yes, I'm sorry. Stanford University. I'm sorry. So
22 those are two examples of representatives -- representative
23 samples.

24 Q. All right. So if you're looking at the findings of
25 representative population-based or representative samples and

1 the findings from convenience samples, are the findings showing
2 up different?

3 A. They are not.

4 Q. Some of the defendants' experts the State defendants are
5 expected to testify that only long term, large-scale
6 representative samples provide reliable data on the well-being
7 of children of same-sex couples. What's your reaction to that?

8 A. I disagree completely. First of all, it makes the
9 assumption that, that somehow, knowledge about adults only
10 emerges in adulthood.

11 When you would have maladjustment in young adults or
12 middle-aged adults, it almost always is preceded by
13 maladjustment earlier in life. An example would be, you know,
14 delinquency behavior in the young adult, conduct problems.
15 Antisocial behavior is almost always preceded by problems in
16 childhood.

17 The literature in development science mostly focuses
18 on children and adolescents. We don't have studies going into
19 adulthood or middle-age, that's true, not in this area at
20 least. But we have really solid, reliable data on the
21 predictors of long-term adjustment. And there is --

22 Q. All children? You have solid research as to the predictors
23 of maladjustment as to all children?

24 A. All children. Exactly. And not just in, in the gay and
25 lesbian literature. But, you know, the kinds of measures that

1 are used in the, in this same-sex couple literature are the
2 ones that are used in other developmental science and ones that
3 we know do predict to maladjustment in young adulthood and
4 beyond.

5 So we have a lot of confidence in saying if we're not
6 seeing problems in early childhood, in middle childhood, in
7 adolescence in this group compared to heterosexuals, there is
8 absolutely no theoretical or empirical reason to expect that we
9 would suddenly see problems emerging when they are, you know,
10 in their late 20's or into their 30's and so forth. Just no --
11 it doesn't make any sense from both our theories and our data.

12 Q. How do you define adolescents? Up to what age?

13 A. Up to 18, let's say.

14 Q. All right. Let's go back. I don't know if you defined a
15 longitudinal study. Have you defined it yet?

16 A. I think I have, but.

17 Q. Are any of the studies of children of lesbian and gay
18 parents longitudinal?

19 A. Yes.

20 Q. Can you identify those?

21 A. Susan Golombok and Fiona Tasker followed a group of
22 individuals from failed -- who were recruited from failed
23 heterosexual marriages. They went into the young adult period,
24 early young adult period. Susan Golombok, in her fatherless
25 families studies have followed children, it's a separate study,

1 all the way now into, I think they are 17 or so, into the late
2 adolescent years, maybe approaching young adulthood, some of
3 them. Excuse me.

4 Henny Bos and his studies of D.I. families, donor
5 insemination families, have followed the children into roughly
6 I think they are 18, 19 years of age right now.

7 So we have at least three or four studies that have
8 followed children from earlier in life, in same-sex families,
9 in comparing them to heterosexual families through the
10 developing years into at least adolescence, if not into young
11 adulthood, early part of young adulthood.

12 Q. If you take the findings of the longitudinal studies that
13 you just talked about, and you take the findings of the other
14 studies, the convenience sample, the representative sample
15 studies, are the findings showing up consistent?

16 A. Yes, they are.

17 Q. Experts for the State are expected to testify that the
18 research methods used in the studies on same-sex families are
19 flawed, and thus, the studies are not reliable. What's your
20 reaction to that?

21 A. I completely disagree. That, that conclusion essentially
22 dismisses all of developmental, or most of developmental
23 science and most of psychology, since most of psychology uses
24 convenience samples.

25 Q. Experts for the State are expected to testify that we don't

1 yet have sufficient research to establish policy about same-sex
2 parents, because it's a nascent body of research. What's your
3 reaction to that?

4 A. It's hardly nascent. It's 30 years or more maybe, you
5 know, in its development with a hundred or more, maybe closing
6 in on 150 studies right now.

7 Q. One of the State's expert witnesses, Loren Marks, he's a
8 family studies professor, he did a review of the research on
9 gay parent families up until 2005. Has there been any research
10 in this area since 2005?

11 A. A lot of research. At least a couple of dozen studies that
12 have made direct comparisons between gay and/or lesbian
13 families and heterosexual families, as well as other studies
14 that have looked only at gay and lesbian families and looked at
15 the family process variables that predict adjustment within
16 those families.

17 Q. The research from 2005 to 2014, is it using all the
18 different methodologies we've just discussed?

19 A. It is.

20 Q. We've been talking about studies. I'd like to switch gears
21 for a moment to talk about your clinical experience with real
22 families.

23 You mentioned that you have clinical experience
24 working with families headed by same-sex couples. Is there
25 anything about your experience working with these families that

1 is inconsistent with the research findings that children's
2 adjustment is not affected by their parents' sexual
3 orientation?

4 A. Nothing. I mean, I've been working with gay and lesbian
5 families from probably the late '80s, 1980's to the present.
6 At any one time now in my clinical practice in California, a
7 third to 50 percent of the families I'm seeing are gay and
8 lesbian, usually adoptive families, but not always. And they,
9 they form families and parent their children in the same way,
10 just as in a healthy way as do heterosexual families.

11 Q. You've already testified as to your opinion on the impact
12 of parent sexual orientation on parenting ability and the
13 well-being of children.

14 Is there any basis for the assertion that children
15 raised by same-sex parents are at a greater risk of adjustment
16 problems?

17 A. In my opinion, no.

18 Q. How well established is it within the professional fields,
19 focused on children's well-being, that children raised by
20 same-sex couples fare as well as those raised by heterosexual
21 couples?

22 A. Very well. There is a consensus among all the major
23 professional organizations that focus on the physical and
24 mental health and welfare of children.

25 Q. What are those organizations?

1 A. You've got listed up there some of them, not all of them.
2 But certainly the American Psychological Association, the
3 American Psychiatric Association, the American Academy of
4 Pediatrics, the American Academy of Child and Adolescent
5 Psychiatry, the National Association of Social Workers, Child
6 Welfare League of America. And there are others.

7 Q. To your knowledge, have all of these professional
8 organizations issued policy statements that are supportive of
9 same-sex parenting?

10 A. Yes, they have.

11 Q. Could you turn to the next tab?

12 A. "C"?

13 Q. Yes. All right. This is a policy statement from the
14 American Psychological Association. Are you familiar with it?

15 A. I am, yes.

16 MS. STANYAR: I move for its admission.

17 MR. POTCHEN: I'm sorry. What exhibit number is this?

18 THE COURT: It's not, it's not "C" in mine. But any
19 objection? It's on there.

20 MR. POTCHEN: What exhibit number would that be?

21 THE COURT: It would be 100 --

22 MS. STANYAR: 111.

23 MR. POTCHEN: 111 is not --

24 THE COURT: It's not in the book, but that's okay. I
25 mean, any objection?

1 MR. POTCHEN: Oh, 112. Here it is, 112.

2 MS. STANYAR: 112.

3 MR. POTCHEN: No objection, your Honor.

4 THE COURT: Very well. It will be received.

5 (Exhibit #112 received, 12:01 p.m.)

6 MS. STANYAR: And we also move to admit the list of
7 organizations, which is exhibit number?

8 MR. POTCHEN: That's a demonstrative exhibit?

9 MS. STANYAR: Yes.

10 MR. POTCHEN: Well, you wouldn't admit a demonstrative
11 exhibit.

12 THE COURT: 110 will be admitted as a demonstrative.

13 MR. POTCHEN: Okay.

14 (Exhibit #110 received, 12:01 p.m.)

15 THE COURT: Is there -- while we're thinking about it,
16 all the demonstratives, do you have them?

17 MS. STANYAR: They are all in your book.

18 THE COURT: Okay. But in separate sections? Not all
19 at once. That's okay.

20 MS. STANYAR: They are just as they kind of come up.

21 THE COURT: I didn't see the other one. What's the
22 exhibit number for the one that the doctor testified to the
23 factors? They may be in here, but let's --

24 MS. STANYAR: One moment, Judge.

25 THE COURT: That's okay. Just because I'm trying to

1 keep track. I can look.

2 MS. STANYAR: Oh, the exhibit list identifies -- the
3 exhibit list that's in the front of your bench book.

4 THE COURT: Oh, okay.

5 MS. STANYAR: Identifies which exhibit. This would
6 be -- okay. So the exhibit that would --

7 THE COURT: Oh, I see. It would be 101.

8 MS. STANYAR: Yes.

9 THE COURT: That's fine. Good. I didn't see the list
10 and I didn't see 101.

11 Perfect. Thank you. You may proceed.

12 MS. STANYAR: All right.

13 BY MS. STANYAR:

14 Q. What is the policy statement with respect to same-sex
15 parenting and the outcomes for children of the American
16 Psychological Association?

17 A. Do you wish me to read this?

18 Q. Yes.

19 A. Okay.

20 THE COURT: You don't have to read it, because it's an
21 exhibit already.

22 THE WITNESS: I'm sorry. There is no scientific basis
23 for concluding that lesbian mothers and gay fathers are unfit
24 parents on the basis of their sexual orientation. Overall, the
25 results of research suggest that development, adjustment and

1 well-being of children of lesbian and gay parents do not differ
2 markedly than that of children raised by heterosexual parents.

3 BY MS. STANYAR:

4 Q. Do you believe this policy statement, which you just read,
5 accurately summarizes the state of the social science research
6 on the effect of gay and lesbian parenting on child adjustment?

7 A. I do.

8 Q. Is it consistent, not identical, but is it consistent with
9 the policy statements with some of the other organizations that
10 we talked about?

11 A. Yes, it is.

12 Q. You mentioned the Child Welfare League of America. Can you
13 describe that organization?

14 A. The Child Welfare League of America is an organizing body
15 that sets best practice standards for adoption and foster care.
16 It's a governing body for adoption agencies.

17 Q. Have you heard of a group called the American College of
18 Pediatrics?

19 A. I've heard of them, yes.

20 Q. What do you, do you know about this group?

21 A. I don't know much about them, except that I know that they,
22 they oppose marriage equality and parenting in adoption by gays
23 and lesbians. I've seen them referenced in articles by
24 opponents of gay and lesbian adoption in parenting.

25 Q. Is the American College of Pediatricians the mainstream

1 recognized professional group within the field of pediatrics?

2 A. In my view, yes.

3 Q. Okay. And that's distinct from this other group, the
4 American College of Pediatrics?

5 A. Yes.

6 Q. All right. Does the American College of Pediatrics publish
7 a journal, a peer review journal?

8 A. I don't know of any. The premier Journal of Pediatrics is
9 published by the American Academy of Pediatrics.

10 Q. Experts for the State are expected to offer the opinion
11 that a basis for limiting marriage -- okay. I may have
12 confused those two.

13 Which of those two is the mainstream group?

14 A. The American Academy of Pediatrics.

15 Q. Experts for the State are expected to offer the opinion
16 that a basis for limiting marriage to heterosexual couples is
17 that children are better off if raised by two biological
18 parents. What is your reaction to that?

19 A. Well, I would disagree. First of all, I would point out
20 that the vast majority of individuals who are raising
21 non-biological children are heterosexual individuals. Most
22 individuals who adopt children are heterosexual individuals.
23 Most children who conceive through donor insemination, other
24 artificial reproductive techniques, are heterosexuals. So the
25 vast majority of individuals are, of children who are being

1 raised by non-biological kin are being raised in heterosexual
2 families.

3 Secondly, from the perspective of adoption, we know
4 that the vast majority of adopted children are in the normal
5 range, and that they, they function generally the same,
6 particularly those who were placed as babies. It's the same as
7 children in -- raised by biological kin.

8 Q. Can children develop well, whether raised by biological or
9 non-biological parents?

10 A. Absolutely.

11 Q. The experts for the State are expected to testify that the
12 importance of a biological parent-child relationship to
13 children's positive adjustment is evidenced by studies showing
14 poorer outcomes among adopted children and children in
15 stepfamilies. I have some questions related to this.

16 First of all, starting out with adoptive families.
17 And to be clear, in this section, I'm talking about adoption
18 from -- adoption of children from outside the family, as
19 opposed to stepparent or second-parent adoption.

20 Is it correct that adopted children have poorer
21 adjustment on average than non-adopted children?

22 A. Yes. On average, they do show poorer adjustment. It has
23 less to do with being adopted, though, than the factors that
24 correlate with adoption.

25 Q. Do you know what causes more adopted children to have

1 adjustment problems?

2 A. Yes, I do. Shall I --

3 Q. Yes.

4 A. -- enumerate them? Okay. First, there is genetic risk.

5 Adopted children are more likely to come from families that are

6 more at risk for genetically-based problems. We see that

7 especially in children who are being adopted from the child

8 welfare system, which is the predominant type of adoption in

9 the U.S.

10 Parents who have had -- who have their rights

11 terminated, those rights are terminated for a reason, often

12 based in behavior or character --

13 Q. Let me just ask you, let's go back to the genetic risk.

14 What do you mean by more -- adopted children are -- have

15 genetic risk? What do you mean by -- give us an example.

16 A. What I mean --

17 Q. Real world.

18 A. Real world, they are more likely to come from families who

19 have conduct problems, or come from families who are drug

20 addicted or alcoholic. These characteristics, conduct

21 problems, antisocial behavior, substance abuse, have a strong

22 genetic component to it so that they inherit the susceptibility

23 for, not just for those particular problems, but for problems

24 in general. So there's genetic risk.

25 There's also prenatal risk. Again, adopted kids are

1 more likely to come from birth parents who use substances
2 during the prenatal period, particularly from the, children
3 from the foster care system.

4 Also, adopted children come from birth parents who
5 experience a high-stress pregnancy. It's almost by definition
6 a high-stress pregnancy. And we know that prenatal stress is
7 linked to the, the exposure to prenatal hormones that can alter
8 brain development and impact on children, not just immediately,
9 but long term, so that there is prenatal risk involved.

10 And then the more serious issues is what happens to
11 the child after the child is born, but before they enter the
12 adoptive family. So some children are adopted because of a
13 history of neglect. Not because they're -- but they are free
14 for adoption because a history of neglect.

15 Q. What do you mean by free for adoption?

16 A. Oh, parental rights from the biological parents are
17 terminated by the state for cause. And then that frees the
18 adoption, the child to be adopted by either kin or non-kin.
19 And we're talking about non-kin adoptions now, I think.

20 Q. Okay. So you're just talking about post birth experiences.
21 You talked about abuse and neglect history. Is there anything
22 else?

23 A. Multiple foster placements. Children in foster care,
24 unfortunately, are not in stable placements. The average child
25 is in multiple foster placement. Each change creates trauma

1 for the child.

2 And what we see is that as children move from home, to
3 home, to home, it increases their risk for adjustment
4 difficulties. And so by the time these children enter the
5 adoptive family, they are already disadvantaged for these
6 reasons.

7 Q. Is there a difference in outcomes between children adopted
8 during infancy versus those adopted at older ages?

9 A. Yes. There's a big difference. There's relative -- even
10 though there's genetic risk and prenatal risk, on average, also
11 for the kids placed as babies, for the most part, the
12 differences between those children placed as babies and
13 non-adopted kids is very small.

14 I find it in my research, my older research, because I
15 worked with early placed kids, but there's been a recent meta
16 analysis which has looked at hundreds of studies. And it does
17 find significance difference, but very tiny differences between
18 infant-placed and, and -- children and non-adopted children.
19 The difference is much larger for older-placed children. And
20 these are the kids who are coming from the foster care system,
21 and some of them who are adopted from abroad as well.

22 Q. Is there any basis for the suggestion that adoptive parents
23 are less committed to their children than biological parents?

24 A. None. I mean, for anyone who works in the area of
25 adoption, you know how absolutely motivated and committed they

1 are. They are extremely committed, extremely motivated
2 individuals.

3 There was also a recent representative study -- a
4 study by Hamilton and his colleagues that looked at a
5 representative sample from the early childhood, longitudinal
6 study looking at the degree of investment or commitment of
7 adopted and non-adopted children. We find -- he found no
8 differences.

9 Q. You explained that it's factors other than the lack of
10 biological relationships that account for the higher rates of
11 maladjustment in adopted children.

12 Are there any unique issues that adopted children may
13 experience related to being adopted?

14 A. Yes. I've written a lot about this. A loss. Adoption is
15 built on experience of loss. The separation of the child from
16 the birth family creates a sense of loss.

17 Early placed children don't recognize it until they
18 are old enough to understand what adoption means. But the
19 issue of loss itself is not pathology. It doesn't lead to
20 pathology automatically. In fact, it seldom leads to
21 pathology. The critical --

22 Q. When you talk about pathology, are you talking about
23 maladjustment?

24 A. Yes. I'm sorry, sometimes use those words interchangeably.
25 It usually doesn't lead to maladjustment. The critical factor

1 is how parents manage that issue with their child.

2 So the big focus in adoption for the last 20 or 30
3 years is preparing parents to help their children to understand
4 the unique circumstances of their family life. To be able to
5 talk about the birth family in a respectful way. To build a
6 bridge for the child, a psychological bridge in some cases, an
7 actual literal bridge in other cases, for the child and the
8 birth family so that the child, you know, comes to experience
9 adoption in a positive way, and most certainly do.

10 Q. Is there a term used in your field to describe this kind of
11 challenges in adoption?

12 A. It's called a normative challenge. And many families
13 experience normative challenges. Families of color, for
14 example, have to help their children negotiate the
15 institutionalized discrimination that they are inevitably going
16 to encounter. And families, where there are disabled children
17 or disabled adults, have to help their children to deal with
18 that, that normative challenge of other people's reactions to
19 the characteristic in the family that sets them slightly apart
20 from, from other families.

21 So all families experience some levels of challenge in
22 one or more areas. And it's how it's managed in the family
23 that differentiates those who are maladjusted from those who
24 are not.

25 Q. Let's talk about stepfamilies. Is it true children living

1 in stepfamilies have poorer adjustments on average than
2 children living with both of their parents?

3 A. That is correct. Although, most children in stepfamilies
4 end up doing well, but there is a significant group difference.

5 Q. Why is that?

6 A. Well, stepfamilies are formed following a failed previous
7 relationship. So that example of a mother and father are
8 married. They have children. The parents divorce.

9 At some point in time later on, assuming the usual
10 circumstances where the child is primarily being raised with
11 the mother, mother may enter into a new relationship. Children
12 may be four, six, ten, whenever that new parent comes into the
13 family. We have not only that new family created, but we have
14 a non-visiting, excuse me, a non-residential, in this case, a
15 father with the child is also relating to as well. That's the
16 traditional notion of what family -- a stepfamily is about.

17 Q. Is it true there's a higher risk of abuse in stepfamilies?

18 A. That's correct.

19 MR. POTCHEN: Your Honor, I'm just going to have a
20 standing objection, I guess, to the issues of stepfamilies.

21 THE COURT: Yeah. I think we're getting a little off
22 of -- I'll sustain that objection.

23 MR. POTCHEN: Thank you.

24 MS. STANYAR: The reason this comes up is this was
25 something in their, in their report had to do.

1 THE COURT: Oh, I see. You don't intend to get into
2 it with your experts; is that correct? Because I think they
3 are kind of covering it so they don't have to recall. If you
4 intend to get into that with your experts, then we'll let her
5 continue.

6 MR. POTCHEN: I'll withdraw the objection, your Honor,
7 because apparently one of our experts is going to be.

8 THE COURT: That's fine. I understand. You may
9 proceed.

10 BY MS. STANYAR:

11 Q. Is it true that there's a higher risk of abuse in
12 stepfamilies?

13 A. Yes, there is.

14 Q. Why?

15 A. Although, although obviously most stepparents don't abuse
16 their children, but there's a higher level of risk for abuse.

17 Q. How much higher?

18 A. I don't, I don't have the statistics readily available.
19 Significantly higher, though.

20 Q. Why is that?

21 A. Well, there's an ambiguous relationship between the
22 stepparent and the child. The stepparent comes in and often
23 times is exerting authority, maybe too soon, or in ways that
24 the child may not expect or want.

25 That often leads to what we call a pattern of coercion

1 and control where a stepparent might set down a rule. The
2 child resists it. That creates frustration in the parent,
3 which leads often to a more rigid pattern of parenting, which
4 leads to more resistance. It escalates. And all of a sudden,
5 we have a scenario where abuse occurs, a child gets hit or
6 something like that.

7 Q. Is your testimony about this based upon your research or
8 based upon your own clinical experiences?

9 A. Oh, it's both.

10 Q. Experts for the State are expected to testify that when
11 same-sex couples create families with children through assisted
12 reproduction, one adult is not biologically related to the
13 child, so they are really just like stepfamilies.

14 Are such families created this way considered
15 stepfamilies in the research literature?

16 A. No, they are not. I have never seen in the donor
17 insemination literature the term "stepfamily" applied to the
18 nonbiological parent. The term second-parent is used.
19 Co-parent is used. Non-legal parent is used. Maybe
20 non-biological parent is used.

21 I've never heard that term "stepparent" used with
22 regard to that. And the reason is the step-parenting term is,
23 is used, almost always used when a family is formed later in
24 the child's life and a new person comes in, a person who is not
25 part of the planning of that family, even through donor

1 insemination or through adoption.

2 Q. Are you familiar with the family make-up of the plaintiffs
3 in this case?

4 A. I am.

5 Q. Would a family like theirs be considered a stepfamily in
6 the literature?

7 A. Not in the literature, no.

8 Q. Is there a base -- any basis to expect that outcomes for
9 children in families formed by same-sex partners through
10 assisted reproduction would be comparable to the outcomes of
11 children raised in stepfamilies?

12 A. It would be --

13 THE COURT: One more time.

14 MS. STANYAR: Is there any basis --

15 THE COURT: I'm not sure exactly what you asked.

16 Doctor, you may, but I'm not sure.

17 MS. STANYAR: Let me try it again.

18 THE WITNESS: Yeah. I got a little confused myself.

19 MS. STANYAR: I was heading this way and I jagged this
20 way.

21 BY MS. STANYAR:

22 Q. Is there any basis to expect that outcomes for children in
23 families formed by same-sex partners through assisted
24 reproduction would be comparable to the outcomes for children
25 raised in stepfamilies?

1 A. If you mean by stepfamilies, what we traditionally call
2 stepfamilies?

3 Q. Yes.

4 A. The answer would be no. We would expect children from D.I.
5 families to be doing better because they had not experienced
6 the family disruption and the introduction of an unfamiliar
7 adult later in their life.

8 Q. Do the children born to lesbian couples through donor
9 insemination have that experience of the prior family
10 dissolution?

11 A. No.

12 Q. Is there any research on children conceived through donor,
13 sperm or ova?

14 A. Yes.

15 Q. Can you describe that research?

16 A. Well, there's a good body of research. It's Susan
17 Golombok's research, Henny Bos's research, Charlotte
18 Patterson's research. Some of it is cross-sectional, but Henny
19 Bos's and Susan Golombok's is longitudinal. And it follows
20 these families from the childhood areas, the longitudinal ones,
21 into adolescence, and that border between adolescence and young
22 adulthood, measuring the kinds of things that we -- that other
23 studies dealing with same-sex parenting usually measure.
24 Things like psychosocial adjustment or gender role behavior,
25 peer relationships. Parent-child relationships is a big

1 factor.

2 So they measure comparable things. And the results
3 basically follow what we've already been talking about, and
4 that is, that children of lesbian families that are created
5 through donor insemination show no differences compared to both
6 heterosexual families created through donor insemination, as
7 well as heterosexual families that from natural conception.

8 Q. So let me just understand this. Does the research on
9 families formed by donor insemination compare outcomes of
10 donor-conceived children to children raised by two biological
11 parents?

12 A. Yes.

13 Q. And are you familiar with that research?

14 A. I am.

15 Q. What is your opinion about whether or not, the comparison
16 between those two groups?

17 A. There is no differences.

18 Q. What accounts for the fact, in your opinion, that children
19 conceived through donor insemination do just as well as
20 children in two biological parent families, but children in
21 stepfamilies don't do as well?

22 A. They don't experience the previous family disruption or
23 dissolutionment. They don't experience often the conflict that
24 preceded that dissolutionment. There may be some selection
25 factors operating also in stepfamilies, where these are

1 individuals who are probably less healthy anyway.

2 Q. Do the --

3 A. Meaning the adults, not the children.

4 Q. Do the studies of donor-conceived children involve
5 heterosexual couples or same-sex couples or both?

6 A. Both. Some of the research, yeah.

7 Q. How do the outcomes of children conceived by donor
8 insemination to same-sex couples compare with those conceived
9 by donor insemination to opposite-sex couples?

10 A. They are the same, and the parent qualities are the same
11 and the outcomes for the children are the same.

12 Q. Does this body of research on donor insemination tell us
13 anything about whether biological relationship between parent
14 and child itself predicts children's well-being?

15 A. It does. It says that biology itself is, is less important
16 than the parenting qualities. And these studies often measure
17 those family process factors that we talked about and that you
18 demonstrated before, and the predictors from parental warmth
19 and the harmony in the couple relationship, and the
20 parent-child relationship predict outcomes. But the family
21 structure, donor insemination is -- I'm sorry. Heterosexual
22 couples that are biologically related versus donor insemination
23 where you only have one biological parent and one
24 non-biological parent, the biology doesn't predict.

25 Q. The defendants' experts are expected to testify about three

1 studies, one by Mark Regnerus, one by Douglas Allen, and one by
2 Sotirios Sarantakos. I'm going to ask you some questions about
3 those.

4 Let's start with the Regnerus study. Have you
5 reviewed his study, "How Different Are the Adult Children of
6 Parents Who Have Same-Sex Relationships? Findings From the New
7 Family Structures Survey"?

8 A. I have, yes.

9 Q. Did Regnerus evaluate outcomes for individuals raised by
10 same-sex parents?

11 A. He did not.

12 Q. What did that study evaluate?

13 A. He evaluated young adults who responded affirmatively to
14 the question, has one or your other, or both of your parents
15 had a same-sex relationship. And those were the families who
16 were described as "gay and lesbian" headed households.

17 But the majority of those families identified in those
18 categories had experienced a previous failed heterosexual
19 unions.

20 Q. We are going to talk about that in a second.

21 A. Okay.

22 Q. Why do you say that this isn't an evaluation of outcomes
23 for individuals raised by same-sex parents?

24 A. Because --

25 Q. Why is it not that?

1 A. Because they weren't raised by same-sex parents. They
2 lived with same-sex parents for, for very limited periods of
3 time, in some cases, never. In some cases, as few as maybe a
4 few months. In some cases, up to maybe a few years. But the
5 majority of them had not lived with the parent and their
6 same-sex partner.

7 Q. Where had they started the early part of their lives?

8 A. The majority started in heterosexual unions.

9 Q. Who is Regnerus's heterosexual comparison group?

10 A. The primary comparison group are young adults who were
11 raised in intact marital families. He stripped away from that
12 group any family that had experienced divorce, step-parenting
13 families, and so forth.

14 So what he had was a group of individuals that
15 remained intact; they were heterosexual; they were married all
16 the way through the child's --

17 Q. From birth to 18?

18 A. From birth, you know, through when the measure was taken.

19 Q. All right. In the other group, did Regnerus control for
20 children's experience of parents divorcing and separated?

21 A. I assume the other group, you mean the gay and lesbian --

22 Q. Right.

23 A. -- identified groups?

24 Q. Well, no. I'm sorry. Let me back up.

25 So what did he do with the, in the intact family group

1 about the stepparents or the, or the divorce parent situation?

2 A. He pulled them out of that group and made them separate
3 groups.

4 Q. What about the lesbian mother, gay father group?

5 A. He did not pull them out. They, they included anyone who
6 had -- where the young adult had identified that at one point
7 in time, the parent had had a same-sex relationship, romantic
8 relationship.

9 Q. Did Regnerus' study evaluate children reared in families
10 that had been actually created by lesbian or gay couples?

11 A. No, he did not.

12 Q. Does the Regnerus study allow for any conclusions to be
13 drawn about the impact being raised by same-sex parents?

14 A. In my opinion, no.

15 Q. Why is that?

16 A. Because the young adults were not raised in same-sex
17 parents. They were raised, first of all, in heterosexual
18 relationships that disrupted and they experienced the family
19 disruption and the transition.

20 At some point in time, later in their life, one of
21 their parents entered into a same-sex relationship. Some of
22 those individuals never lived with those couples. Some of them
23 lived for shorter, you know, maybe up to three years, and some,
24 some of them lived for only a few months, and some never lived
25 with them.

1 Q. What is the significance of the fact that most of the
2 individuals in the lesbian mother and gay father groups had
3 been through divorce or separation of their parents, and that
4 none of the heterosexual comparison group had had that
5 experience?

6 A. Well, it's comparing apples and oranges as, you know, in
7 one case, you have a group that is set up to create the very
8 best possible outcome, the heterosexual families.

9 In the other group, you've grouped together people who
10 have experienced something in their life that is a known
11 contributing factor to child maladjustment, and not just child
12 maladjustment. It predicts also into adulthood, and that is
13 family disruption, family transitions. And they allowed that,
14 those people to remain in that group.

15 You couldn't have set it up, a study to more -- you
16 couldn't set up a study better to create differences.

17 Q. I'm going to read you a passage from the Regnerus study.

18 "Child outcomes in stable "planned" gay, lesbian,
19 bisexual families, and those that are the product of previous
20 heterosexual unions are quite likely distinctive as previous
21 studies' conclusions would suggest."

22 A. I agree.

23 Q. Has there been any professional criticism of the Regnerus
24 study?

25 A. A great deal of criticism.

1 Q. Did the Social Science Research Journal publish any
2 response?

3 A. They did. They asked for an internal audit to be done to
4 assess that study and to write a report, which was subsequently
5 published. And the report condemned the study and said it
6 shouldn't be published.

7 And I want to comment on that, because that process
8 that they went through is extremely rare. No study is perfect.
9 All studies have some flaws. And the researchers are always
10 obligated at the end of their article or end of discussion to
11 acknowledge whatever limitations. And we do.

12 The way that's handled in, in the field is, you know,
13 if you know the study is flawed and you're working in that area
14 and you're doing a study, you will point out, well, such and
15 such study had a flaw, so I'm going to try to overcome that
16 flaw in my study. And I will do a study that hopefully
17 overcomes that flaw to add, you know, more knowledge and more
18 valid knowledge to the field. So that's the most common way
19 it's dealt with.

20 Occasionally what happens is that a study comes to a
21 conclusion that simply is not supported by the results or
22 misrepresents the field in such a way that someone decides they
23 want to write a rejoinder or a reply, if you will.

24 One of the experts wrote a reply, you know, to Michael
25 Rosenfeld's study. In my own work, I've written a reply to

1 someone who wrote an article on adoption that I thought that
2 they misrepresented the field and their data didn't show what
3 they thought they showed. So I wrote an article and it was
4 published. Usually journals don't publish those things, but
5 sometimes they do.

6 What is extraordinarily rare is what happened here.
7 In fact, in my field, I've never seen it before. It's
8 happened, and I know in areas that I don't work in. But in my
9 field, this has never happened that a journal orders an
10 internal audit, publishes it and says this study should not
11 have been published. Just didn't happen very often.

12 Q. Do you agree with the audit?

13 A. I do. I agree with the conclusion it should not have been
14 published in the form that it was.

15 Q. Let's turn to the Sarantakos study. Are you familiar with
16 his 1996 article, "Children in Three Contexts: Family,
17 Education, and Social Development," published in Children
18 Australia?

19 A. Yes.

20 Q. First of all, is Children Australia a known scientific
21 journal?

22 A. Not to my knowledge. I've looked at several, what we call
23 data -- databases that list the professional journals. I've
24 never -- I didn't see it listed before.

25 Q. What did Sarantakos's study purport to show?

1 A. It purported to show that children who grow up in gay and
2 lesbian households do more poorly than children growing up in
3 heterosexual households.

4 Q. Is that supported by the data in the study?

5 A. It is not.

6 Q. Why not?

7 A. Because like the Regnerus study, all of his subjects came
8 from previous heterosexual unions, either failed marriages,
9 failed cohabiting situations, or women who were unmarried and
10 the father was not involved.

11 Q. So this is the same issue, kind of, that you had with the
12 Regnerus study?

13 A. Exactly. And even the author acknowledges in the
14 discussion that the, the potential confounding variable might
15 influence the result. He didn't have an ability to take it
16 into account, I guess.

17 Q. And the potential confounding variable was what?

18 A. Family disruption transitions.

19 Q. All right. And for the same reasons that you said that it
20 skewed the results in Regnerus, is that also true in the
21 Sarantakos?

22 A. Yes. It is a known, very, very well known predictor of
23 child and even adult maladjustment.

24 Q. Let's turn to the study by Allen. Are you familiar with
25 his study, Douglas Allen, based upon the Canadian census?

1 A. Yes, I am.

2 Q. What does the Allen study purports to show?

3 A. It purports to show that young adults, his study he had 17
4 to 22-year-olds raised in heterosexual families have higher
5 graduation -- graduation rates from high school than comparable
6 people raised in gay and lesbian families.

7 Q. In your opinion, is that conclusion supported by the data
8 in his study?

9 A. No, I don't believe it is.

10 Q. Why not?

11 A. Well, all he knows about is where the children lived for
12 the first -- for the last, excuse me, last five years.

13 Q. So from the date of the study back five years?

14 A. Right. So the study was published in 2006. I forget
15 exactly when the data was collected. I think it was a 2006
16 census. I'm sorry. The study was published later. It was a
17 2006 census. So we know where the children lived from 2001 to
18 2006, roughly. The children were 17 to 22 years of age. That
19 means that they were born roughly in the mid '80s, to the end
20 of the '80s.

21 Given that time period, very few children in gay and
22 lesbian families are the product of planned D.I. or even
23 adoption during that period of time.

24 So the assumption that I think we can safely make is
25 that certainly many, and maybe a majority of the children of

1 gay and lesbian families, were also the product of failed
2 heterosexual unions and that the, the gay and lesbian families
3 were formed later on. That being the case, the same problem
4 exists as in the Regnerus and Sarantakos studies.

5 Q. With respect to family dissolution?

6 A. With respect to the impact of family dissolutionment.

7 Q. So for a 22-year-old in Allen's study, you wouldn't know
8 what kind of family the subject lived in before age 17?

9 A. Yes.

10 Q. And for a 17-year-old, you wouldn't know where he lived
11 before age 12?

12 A. Yes.

13 Q. Okay.

14 A. And by the way, why that's important, high school
15 graduation or high school success, if you will, doesn't occur
16 in a vacuum. If there are problems leading to the failure to
17 graduate, we're going to see those problems earlier on in
18 childhood, during elementary school, during middle childhood,
19 beginning of high school.

20 We don't know where these children were living. We
21 don't know the circumstances. And if the assumption that we
22 make, based upon the time when these children were born and is
23 accurate, these are children who experienced family disruption.
24 And it's likely to have undermined their academic progress,
25 even before they entered the gay and lesbian families. He has

1 no way of knowing, because he doesn't know where these families
2 were living, where these children were living. I'm sorry.

3 Q. And for the same reasons that you talked about with the
4 prior studies, if there had been a lot of dissolution, does
5 that affect -- would you expect that to affect child outcomes?

6 A. Absolutely. I mean, we know that family dissolutionment
7 impacts academic progress.

8 Q. Did Allen say anything about how many of the respondents in
9 the same-sex groups were adopted?

10 A. Not how many, but he indicated that, you know, it's likely
11 a larger, a fairly large number would be, proportionately
12 anyway.

13 Q. Would that be expected to affect the graduation --

14 A. Yes. When I saw that as an adoption expert, it jumped out
15 at me, because gays and lesbians, if they are adopting, are
16 more likely to be adopting children from the child welfare
17 system, including in Canada, older children, children in
18 special needs. And we don't know anything about the early
19 adverse experience these children have. It's not measured in
20 this study. And as a result, we can't take it into account.
21 And it may well contribute to, at least in part, to some of the
22 differences that he found in, in graduation rates.

23 Q. We've been talking about the Regnerus study, the Sarantakos
24 study and the Allen studies. Do any of these studies allow for
25 conclusions about the impact of being raised in a same-sex

1 parent family?

2 A. In my opinion, no.

3 Q. Why not?

4 A. Because none of them -- certainly, the first two, we know
5 by the author's own acknowledgment that these were children not
6 of planned lesbian or gay families being raised from birth, but
7 children who had experienced a previous heterosexual
8 disruptions, family transitions and so forth. So we know that
9 that -- and I should say before they entered into the gay and
10 lesbian family.

11 And we can make, I think, a reasonable speculation
12 that's likely to have occurred also in Allen, giving the time
13 period for when these families were formed, and the fact that
14 planned lesbian families and planned gay families were not the
15 norm in the '80s.

16 Q. Do these three studies tell you anything about the
17 well-being of children raised in families created by
18 same-sex --

19 A. They do not.

20 Q. Do we not know if they were created or they probably
21 weren't created by same-sex couples?

22 A. Well, in the Regnerus, and the Sarantakos, we know that
23 they weren't created by same -- by two gay men or two lesbians,
24 you know, from birth onward.

25 Q. You testified that the research evaluating children raised

1 by same-sex couples shows that children fare as well as
2 children raised by heterosexual parents. And I understand that
3 that's your opinion.

4 Let me ask you this: As an expert in children's
5 development, if there were research -- the State claims this,
6 this is the case and we disagree -- if there were research
7 finding poorer outcomes among children of same-sex parents, in
8 your opinion, given your expertise, your clinical experience,
9 would that be a reason to exclude same-sex couples from
10 marrying?

11 A. Absolutely not. If there were -- and of course, my opinion
12 and the consensus of the field is that there's no difference.
13 But if there were differences between gays and lesbians, in
14 their family, I'm sorry, the children of gays and lesbians, all
15 the more reason to stabilize these families through, through
16 marriage. We know that marriage stabilizes families and it can
17 benefit children in many ways.

18 Also, there are many groups that have known
19 differences that we allow to marry. Families from low economic
20 stratas. The children of these families do much worse than
21 children from middle and upper class. There's no prohibition
22 on marriage for that, even though we know that they are doing
23 more poorly.

24 Parent education, parent, you know, predicts to child
25 outcomes. Parents who don't have a high school degree, for

1 example, or you know, have not gone very far in school do worse
2 than children -- in parents, you know, who have a high school
3 or college education and so forth. Again, we don't put
4 prohibitions on marriage for that. And we try to support as
5 best we can through all different kinds of means, including
6 legal means, such as marriage.

7 Q. Do same-sex couples have children in states where they
8 can't marry?

9 A. Of course they do. Yes.

10 Q. How do you know that?

11 A. There's demographic data on that. Gary Gates has published
12 demographic data showing that gays and lesbians are raising
13 children in every state in this country.

14 Q. Does excluding same-sex couples from marrying prevent them
15 from forming families with children?

16 A. Of course they don't. They've been forming families for a
17 long time.

18 Q. Does it matter to children's well-being whether or not they
19 have a legally recognized parent-child relationship with both
20 their parents?

21 A. Yes. Absolutely.

22 Q. Why?

23 A. Well, first of all, it affords them what sociologists and
24 social scientists, psychologists call social capital. That
25 means recognition, legitimate -- legitimization in the eyes of

1 society. This is a real family. We're no different than
2 anyone else. So it affords, you know, children that sense.

3 Now, young children aren't going to necessarily
4 recognize that. They'll be too young for that. But you get
5 older children into the teenage years, and they do recognize
6 that, that difference that others might -- how others might
7 view their families. So there's social capital.

8 Q. Are there any issues relating to psychological adjustment
9 relating to the absence of a relationship with a second parent?

10 A. There could very well be. For example, if -- there's an
11 ambiguity in the relationship. Is this my mother or is it not
12 my mother? Is this my father or is it not my father? Again,
13 young children won't recognize the legality of the
14 relationship, but older children will.

15 And there's also that sense of potential uncertainty
16 about is this relationship everlasting or not. If there's not
17 a legal relationship, and the couple breaks up, then the
18 guaranteed continuity of that relationship and the attachment
19 that has been formed between parent and child may suffer.

20 And we know an awful lot about disrupted attachments
21 and its impact, not just on children, but even predicting into
22 the adult years.

23 Q. What are the harms of broken attachments? How are they
24 manifested in young children?

25 A. Okay. Well, this is an area I work a lot in. I do a lot

1 of assessments of children who experience broken attachments.
2 And there are a variety of, of symptoms that we -- behaviors
3 that we see, which might be different from one age to another.

4 But for example, younger children are likely to show
5 sleeping problems. There will be nightmares, night terrors,
6 difficulty getting to sleep, calling out for parents because
7 they are afraid. There may be disruptions in eating patterns.
8 They may overeat and gorge themselves. They may under-eat.

9 There is often times disruption in their toileting
10 behavior. In other words, children who have gained control,
11 you know, begin to lose it again, so they begin to soil
12 themselves or wet themselves.

13 We see it in terms of increased anxiety, in depressive
14 symptomatology. We see it often times in the failure, in the
15 failure to progress normally in school. We see it in
16 insecurity in relationships. You know, once the secure
17 attachment has been broken, then the ability to trust in other
18 relationships gets compromised as well. We see it in almost
19 every area of human functioning.

20 Q. How about older children?

21 A. Older children, it can, it can lead to oppositionalism and
22 conduct problems. It predicts -- disrupted attachment predicts
23 to illicit substance use, to delinquency. It predicts to
24 failure to progress in school, in school problems, troubles at
25 school.

1 Q. And are these long-term effects?

2 A. These are long-term effects, yes.

3 Q. Can these harms from broken attachment occur even in cases
4 in which a parent does not have a biological or adoptive
5 parent-child relationship with the child?

6 A. Yeah. These are, these are outcomes that occur regardless
7 of whether the child is genetically related, or legally related
8 to the child.

9 Q. All right. Are there any economic implications from the
10 failure to have a legally recognized parent-child relationship
11 with the second parent?

12 A. Yes.

13 MR. POTCHEN: Objection, your Honor. I'm just going
14 to be arguing about economic. He's not an expert.

15 THE COURT: Sustained.

16 BY MS. STANYAR:

17 Q. Are there any studies having to do with the effect on a
18 child's access to health insurance?

19 MR. POTCHEN: Again, objection, your Honor. Access to
20 health insurance is beyond --

21 THE COURT: Sustained. Beyond. The reason for, the
22 reason for sustaining it is it's beyond his expertise.
23 Although he may be an expert, that's not what he was qualified
24 at this point.

25 MS. STANYAR: I understand.

1 BY MS. STANYAR:

2 Q. What if a legal parent can establish a guardianship for the
3 partner, would that remove your concerns, the recurrent -- the
4 concerns that you raise about the absence of a second, a legal
5 relationship with the second parent, in terms of psychological
6 effects?

7 A. In my opinion, it doesn't afford the child the same level
8 of permanency. In my experience in doing work in this area,
9 particularly court-related work, guardianship can be challenged
10 by a biological parent. So if the guardianship is challenged,
11 then the, the guarantee of continuity of relationship is
12 challenged then, too.

13 Q. So from the child's perspective, is there that sense of
14 permanency in a guardianship situation, based upon your
15 experience?

16 A. For young children, they don't know the difference. But
17 older children do recognize the difference. And no, it doesn't
18 afford the same level of permanency as a legal tie, either
19 through adoption or through birth.

20 Q. When couples are married, does it afford social benefits to
21 their children?

22 A. Absolutely.

23 Q. What are those?

24 A. Well, again, social capital. Marriage brings a recognition
25 by society that, that this is a legitimate family; that you are

1 the same as any other family. And children experience that.
2 And in the absence of it, they also experience the reverse.
3 They experience the sense that others view them as different,
4 and different can lead to feeling a stigma.

5 Q. When couples are married, does it afford any, any benefits
6 concerning stability?

7 A. Absolutely. Marriage, married couples stay together longer
8 than cohabiting couples. That benefits children. It also,
9 married couples guarantees the child's, legally guarantees the
10 child's relationship with both couples, should the couple break
11 up.

12 Q. You touched upon the economic resources of the family in
13 your report, is that right, as it relates to being married?

14 A. I did.

15 Q. You did touch on that.

16 Okay. When couples are married, does it -- and does
17 your clinical experience allow you to say anything or talk
18 about the effect of the absence of marriage on economic
19 benefits?

20 A. Yes.

21 MR. POTCHEN: Well, I'll object to him getting into
22 these areas. This is beyond --

23 THE COURT: I sustain the objection.

24 MS. STANYAR: Okay.

25 BY MS. STANYAR:

1 Q. How many children in the foster care system in Michigan are
2 freed for adoption, but waiting for a family to come forward to
3 adopt them?

4 A. About 3,500, a little bit more.

5 Q. Where does that number come from?

6 A. It comes from the federal government from the, what's
7 called AFCARS. It's A-F -- I'll just say the name. The
8 Adoption and Foster Care Analysis Reporting System.

9 Q. You've already talked about, you've already told us what it
10 meant to be freed for adoption, that the parents' rights have
11 been terminated.

12 What are the characteristics of the children who are
13 waiting to be adopted?

14 A. They tend to be older. They tend to have what are called
15 special needs, which means possible medical problems, possible
16 psychological problems, developmental delays, academic
17 problems. They are more often proportionately children of
18 color. They are often sibling groups.

19 Q. What happens to these children if there are no families
20 available to adopt them?

21 A. They linger. They linger, and unfortunately, as I said,
22 it's not necessarily lingering in a single home. Too often,
23 they move from home to home for a variety of reasons.

24 Q. Do any of these children reach adulthood without being
25 adopted?

1 A. Yes. Nationally about 26,000 a year age out, it's the
2 term. They age out of the foster care system.

3 Q. What are the future prospects for children who age out of
4 the foster care without getting adopted into a family?

5 A. They are bleak. We have increased evidence of
6 homelessness, increased evidence of criminality, increased
7 evidence of illicit drug use, alcoholism, increased likelihood
8 of entering into, into incarceration, mental health problems.
9 They have no family to rely on. Their resources are extremely
10 limited. The outcome is bleak for these, these young men and
11 women.

12 Q. Based upon your work as related to adoption, based upon
13 your work with the Donaldson Institute, do you have an opinion
14 about whether the inability for a couple, same-sex couple to
15 adopt jointly would be a barrier to that couple adopting
16 children out of the foster care system?

17 A. I do have an opinion.

18 Q. What's your opinion?

19 A. Well, after 30 years in this field, working with agencies
20 around the country, talking about the barriers, you know,
21 helping them to remove the barriers, and institute writing
22 about these barriers, we know that if we can remove barriers of
23 all sort, legal barriers, the atmosphere barriers that exist in
24 the agencies, in terms of lack of training or attitudes about
25 gays and lesbians and so forth, we were -- we will likely

1 increase the pool of suitable adoptive parents and decrease the
2 number of children who will continue to wait in foster care.
3 In other words, we'll get them into permanent homes.

4 Q. Why would --

5 MR. POTCHEN: Your Honor, based on that answer, he's
6 made it very clear that the foster care system and the
7 adoption, second-parent adoption are not relevant to the issues
8 at this trial. We again restate it.

9 THE COURT: I'm not sure, but do you have many more
10 questions?

11 MS. STANYAR: I don't. I only have like four or five
12 more questions.

13 THE COURT: This point has gone over. Go on.

14 MS. STANYAR: Okay.

15 BY MS. STANYAR:

16 Q. Why would this particular thing, the refusal to have a
17 second parent adopt, why would that be something that
18 discourages?

19 A. Well, one of the barriers has to do with the environment
20 that exists when people come to adopt. I cannot think of
21 anything more disrespectful to the couple coming in, to be sit
22 down and to explore adoption, they are very motivated, they
23 want to adopt, and they are told, well, you can adopt, but you
24 can't. You can be the legal parent, but you can't. You can --
25 you have a guaranteed relationship with this child forever and

1 the child has a guaranteed relationship with you forever, but
2 we're not so sure about you.

3 That really undermines, you know, the whole adoption
4 process. It has to create, in my experience, it creates
5 difficulties for the individuals. And I suspect, and what
6 people have shared with me, as I've gone around consulting,
7 it's a barrier that sometimes people just don't know how to
8 overcome.

9 Q. Does it discourage them from adopting?

10 A. I think, in my experience, it can discourage some, some
11 people for adopting.

12 Q. Has the Donaldson Institute published any documents
13 addressing barriers to adoption by same-sex couples?

14 A. Yes. We have three articles, two authored by Jean Howard,
15 and one authored by myself, all of which have recommended the
16 states to allow both joint and second-parent adoption so as to
17 remove legal barriers for permanency for children in foster
18 care.

19 Q. Why has the Donaldson Institute advocated for removing
20 barriers to gay couples jointly adopting?

21 A. We are a child advocacy organization. We focus on the
22 needs of children, particularly the needs of children in care.
23 There are not enough families available nationwide, and clearly
24 also in Michigan, because we have children who are waiting.

25 We need a larger pool of interested, well trained,

1 capable individuals, including gays and lesbians. Removing
2 these barriers will increase the pool. When we don't have --
3 when we have these barriers in place, and historically there's
4 been a lot of barriers, we know the pool is much smaller.

5 Q. You mentioned earlier that children awaiting adoption are
6 often children of color, children of special needs.

7 Is there any research on same-sex couples' openness to
8 adopt interracially?

9 A. Yes, there is. And they are more likely to adopt
10 interracially than heterosexual couples.

11 Q. Is there any research on same-sex couples' general openness
12 to adopting, at least in states where they are able to adopt as
13 a couple?

14 A. I'm sorry. Repeat that.

15 Q. Is there any research on same-sex couples' openness to
16 adopt generally?

17 A. Yes. There, actually, the census data and other large
18 scale data sets published by Gary Gates indicates that gays and
19 lesbians are approximately four times more likely to adopt than
20 heterosexuals, and six times more likely to foster a child than
21 heterosexuals.

22 Q. And lastly, in your opinion, how does Michigan's
23 prohibition against joint adoption by same-sex couples affect
24 children awaiting adoption out of foster care?

25 A. It increases the potential risk for them, that they will

1 continue to linger longer and suffer the experiences of foster
2 care and, perhaps, even continue to linger in care to the point
3 where they age out.

4 MS. STANYAR: Thank you, Doctor.

5 THE COURT: Okay. We will stand in recess until two,
6 at which time the Government -- the State, so used to the
7 Government -- the State will have an opportunity, as well as
8 Clerk Brown to cross-examine.

9 We stand in recess until two.

10 THE CLERK: All rise.

11 (Recess taken at 12:55 p.m.)

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CERTIFICATE OF REPORTER

As an official court reporter for the United States District Court, appointed pursuant to provisions of Title 28, United States Code, Section 753, I do hereby certify that the foregoing is a correct excerpt transcript of the proceedings in the above-entitled cause on the date hereinbefore set forth.

s/ Christin E. Russell

CHRISTIN E. RUSSELL, RMR, CRR, FCRR, CSR
Federal Official Court Reporter