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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

BEFORE THE HONORABLE VAUGHN R. WALKER

KRISTIN M. PERRY,)
SANDRA B. STIER, PAUL T. KATAMI,)
and JEFFREY J. ZARRILLO,)
)
Plaintiffs,)

VS.) NO. C 09-2292-VRW
)

ARNOLD SCHWARZENEGGER, in his)
official capacity as Governor of)
California; EDMUND G. BROWN, JR.,)
in his official capacity as)
Attorney General of California;)
MARK B. HORTON, in his official)
capacity as Director of the)
California Department of Public)
Health and State Registrar of)
Vital Statistics; LINETTE SCOTT,)
in her official capacity as Deputy)
Director of Health Information &)
Strategic Planning for the)
California Department of Public)
Health; PATRICK O'CONNELL, in his)
official capacity as)
Clerk-Recorder for the County of)
Alameda; and DEAN C. LOGAN, in his)
official capacity as)
Registrar-Recorder/County Clerk)
for the County of Los Angeles,)

) San Francisco, California
Defendants.) Friday
) January 15, 2010

TRANSCRIPT OF PROCEEDINGS

Reported By: *Katherine Powell Sullivan, CRR, CSR 5812*
Debra L. Pas, CRR, CSR 11916
Official Reporters - U.S. District Court

1 **A.** It certainly can, yes.

2 **Q.** And there is evidence that men who are married to women,
3 however, are less likely to drink heavily and less likely to
4 gamble, correct?

5 **A.** I've heard of that research. It's obviously outside of my
6 expertise -- range of expertise, yes.

7 **Q.** When it comes to parenting skills and abilities, you're
8 not saying that men and women are completely interchangeable,
9 correct?

10 **A.** What I'm saying is that where it comes to the aspects of
11 parenting that affect children's adjustment, it's the same
12 features of the parents' behavior that are important for their
13 children's adjustment.

14 **Q.** I would like to direct your attention to page 225 of your
15 deposition in this case, lines 9 through 14.

16 **A.** That's back to --

17 **Q.** Binder 1, the testimony binder.

18 **A.** Okay. Number 1. And what pages was that?

19 **Q.** 225.

20 **A.** Okay.

21 **Q.** And line 9, it says -- let me make sure I'm in the right
22 place here. All right. Line 9 through 14. Line 9 starts with
23 my question:

24 "Is it your opinion that men and women are
25 completely interchangeable in terms of

1 parenting skills and ability?

2 **"ANSWER:** Well, I'm not saying they are
3 completely interchangeable with respect to
4 skills and abilities."

5 And you gave that testimony, right?

6 **A.** I did. I continued for several paragraphs explaining what
7 I meant.

8 (Laughter)

9 **Q.** And we'll explore that in great detail today. You --

10 **A.** I just don't want you to lose sight of the fact that there
11 is more.

12 **Q.** You would concede that gender is a complicated variable,
13 and that it has ramifications for an individual's experiences
14 from the beginning of their life, correct?

15 **A.** That's correct.

16 **Q.** So gender likely would be related to some of the processes
17 related to raising a child, but not necessarily in a
18 straightforward way, correct?

19 **A.** Correct.

20 **Q.** And so you think gender is one of those variables that can
21 have ripple effects in a variety of different ways on the way
22 in which people behave, and can in a variety of ways affect the
23 way they behave with their children, correct?

24 **A.** It can, yes.

25 **Q.** Gender is something that actually has a wide range of

1 effects on a variety of different levels of our behavior,
2 correct?

3 **A.** That's correct.

4 **Q.** Fathers' biological and socially-reinforced masculine
5 qualities predispose them to treat their children differently
6 than do mothers, correct?

7 **A.** I'm not sure about that.

8 **Q.** Well, let's look at tab 9 of your binder, your second
9 binder. And this would be 9A, actually.

10 **A.** Uh-huh.

11 **Q.** And turning your attention -- this is called -- this is
12 from 2000. It's "Fatherhood in the 21st Century." And this is
13 something you were a coauthor of, correct?

14 **A.** That's correct.

15 And I'd like to direct your attention to page 130.
16 And in particular, to the right-hand column, the second full
17 paragraph. And it's the third sentence, that says:

18 "Fathers' biological and socially-reinforced
19 masculine qualities predispose them to treat
20 their children differently than do mothers."

21 **A.** And I'm still not sure where you are. Sorry. Oh, okay,
22 the second column. I have you now.

23 **Q.** Okay. And when you signed on to this paper as a coauthor,
24 you believed that to be true, correct?

25 **A.** Well, I think this is referring to David Popenoe, and

1 describing his position here.

2 (Laughter)

3 **Q.** Yes. And it -- well, and you believed it to be true,
4 didn't you?

5 **A.** I don't -- I don't read it that way. I read it as a
6 review which was trying to describe this position.

7 We were supposed to be reviewing the contributions to
8 the field over the previous decade. This was a *Millennial*
9 *Review* article. And, as you see, David Popenoe's name is
10 mentioned right at the end of this sentence preceding the one
11 that you just discussed.

12 **Q.** And you thought Mr. Popenoe's contribution was significant
13 enough to be noted in your review; is that your point?

14 **A.** He had made this point during the '90s and -- yeah.

15 **Q.** Well, let's --

16 **A.** Scholars like to be sure that they don't leave out things.

17 **Q.** Let me ask you this question. There is evidence that
18 father absence has its greatest and most predictable effects
19 when the father leaves earlier in the child's life, correct?

20 **A.** Sorry, can you repeat the question?

21 **Q.** Sure. There is evidence that father absence has its
22 greatest and most predictable effects when the father leaves
23 earlier in the child's life, correct?

24 **A.** Well, again, with the provisos around the term "effect" in
25 that context. Certainly, you have a very different set of

1 processes involved when you have something occurring very early
2 in the child's life. You have longer periods of time involved.
3 That's correct.

4 **Q.** The attachment between -- excuse me.

5 There are studies that show that the attachment
6 between babies and fathers is also strong, and that it might
7 serve needs that are not met in the infant-mother relationship,
8 correct?

9 **A.** I'm -- well, certainly, I conducted a lot of that area of
10 research on babies' attachments to mothers and fathers. And if
11 you're talking about babies being raised in families with two
12 parents, there's a significant amount of evidence that both of
13 those relationships have an important impact on those
14 children's development.

15 **Q.** And there is data that suggests that the differences
16 between maternal and paternal behavior are more strongly
17 related to either the parents' biological gender or sex roles,
18 than to either of their degree of involvement in infant care or
19 their attitudes regarding the desirability of paternal
20 involvement in infant care, correct?

21 **A.** I think that's generally not the case.

22 **Q.** Well, let's look at tab 12. And this is, "Attachment and
23 Affiliative Systems." And I'd like to direct your attention to
24 page 117. This is a -- do you recall writing chapter 10 of
25 this book, "Effect of Gender and Caretaking Role on

1 Parent/Infant Interaction"?

2 **A.** Believe it or not, I do, even though it was written in the
3 late 1970s, and published in 1982.

4 **Q.** Okay. And let's turn to page 117.

5 **A.** Uh-huh.

6 **Q.** And here, you, as an author wrote:

7 "The data suggests that the differences
8 between maternal and paternal behavior are
9 more strongly related to either the parents'
10 biological gender or sex roles, than to
11 either their degree of involvement in infant
12 care or their attitudes regarding the
13 desirability of paternal involvement in
14 infant care."

15 You believed that at the time you wrote this,
16 correct?

17 **A.** I wrote this chapter describing a particular study that
18 was conducted, as I said, in the late 1970s. And the sentence
19 that you just read was our summary of the results of that study
20 conducted in the late 1970s.

21 As I testified earlier, I certainly believed, at that
22 point, that these issues might be really important. And that's
23 why we did studies like this. As I also testified earlier,
24 that is a finding that has not held up in subsequent research.

25 **Q.** Well, so science was wrong?

1 (Laughter)

2 **A.** Science, as I understand it, is a cumulative process, in
3 which many individuals conduct many studies, asking lots of
4 related and unrelated studies.

5 And in that vast body of literature, you will
6 certainly find cases where a finding is not replicated by other
7 researchers. You will find cases where researchers find that
8 one of their conclusions was distorted because of a particular
9 measure they used and a particular procedure that they adopted.

10 And that's why it's important to view it as a
11 cumulative process, one where you look at the big picture and
12 the way in which multiple studies give insight into the
13 conclusions that you want to reach.

14 It's absolutely not the case that any particular
15 study, in and of itself, is going to establish an important
16 association.

17 **Q.** Both mothers and fathers play crucial and qualitatively
18 different roles in the socialization of the child, correct?

19 **A.** Well, both mothers and fathers can play importantly
20 different roles when children are being raised by two
21 heterosexual parents, where both of those parents have
22 significant roles in raising those children.

23 **Q.** And, indeed, there are qualitative differences between the
24 mother-infant and father-infant relationship, correct?

25 **A.** Well, there are often qualitative differences between the