

Perry v. Schwarzenegger(MOBILE)
Trial-Day 05 (Lamb-Zia)
1/15/2010

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 3 UNITED STATES DISTRICT COURT
 4 NORTHERN DISTRICT OF CALIFORNIA
 5 BEFORE THE HONORABLE VAUGHN R. WALKER
 6 KRISTIN M. PERRY
 7 SANDRA B. STIER, PAUL T. KATAMI,)
 and JEFFREY J. ZARRILLO,)
 8 Plaintiffs,)
 9 VS.) NO. C 09-2292-VRW
 10 ARNOLD SCHWARZENEGGER, in his)
 official capacity as Governor of)
 California; EDMUND G. BROWN, JR.,)
 in his official capacity as)
 11 Attorney General of California;)
 12 MARK B. HORTON, in his official)
 capacity as Director of the)
 13 California Department of Public)
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 14 Vital Statistics; LINE YTE SCOTT,)
 in her official capacity as Deputy)
 15 Director of Health Information &)
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 16 California Department of Public)
 Health; PATRICK O'CONNELL, in his)
 17 official capacity as)
 Clerk-Recorder for the County of)
 18 Alameda; and DEAN C. LOGAN, in his)
 19 official capacity as)
 Registrar-Recorder/County Clerk,)
 20 for the County of Los Angeles,)
 21) San Francisco, California
 Defendants.) Friday
 22) January 15, 2010
 23 TRANSCRIPT OF PROCEEDINGS
 24 Reported By: Katherine Powell Sullivan, CRR, CSR 5812
 25 Debra L. Pas, CRR, CSR 11916
 Official Reporters - U.S. District Court

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<p style="text-align: right;">5</p> <p style="text-align: center;">PROCEEDINGS 995 PROCEEDINGS</p> <p>1 JANUARY 15, 2010 8:42 a.m.</p> <p>2</p> <p>3</p> <p>4 THE COURT: Very well. Good morning, counsel.</p> <p>5 I wanted to discuss with you the matter that Mr.</p> <p>6 Boutrous raised at the close of proceedings yesterday and that</p> <p>7 consists primarily of the three documents that were attached to</p> <p>8 the plaintiffs' administrative motion for sealing, dated</p> <p>9 January 12th. And I have reviewed those documents, have</p> <p>10 reviewed the Ninth Circuit's order with respect to these</p> <p>11 documents. So let's chat about these very briefly.</p> <p>12 Mr. Boutrous, can you tell me what these documents</p> <p>13 are in your understanding?</p> <p>14 MR. BOUTROUS: Yes, your Honor. Thank you.</p> <p>15 Before I go into that, I did want to let the Court</p> <p>16 know that I have talked to Mr. Cooper and I think we have, at</p> <p>17 least, a proposal that might expedite things for the Court.</p> <p>18 THE COURT: Oh... Good.</p> <p>19 MR. BOUTROUS: I'm a bearer, I think, of good news.</p> <p>20 THE COURT: Bearer of good news, good tidings.</p> <p>21 MR. BOUTROUS: Yes. Maybe I will outline that and</p> <p>22 then if you still want me to describe the documents --</p> <p>23 THE COURT: Maybe that's not necessary.</p> <p>24 MR. BOUTROUS: Mr. Cooper and I discussed an</p> <p>25 arrangement where they -- the proponents would stipulate that</p>	<p style="text-align: right;">7</p> <p style="text-align: center;">PROCEEDINGS 997</p> <p>1 THE COURT: You can never stop a lawyer from</p> <p>2 elaborating, Mr. Boutrous.</p> <p>3 MR. COOPER: Mr. Boutrous, has described the</p> <p>4 agreement that we have tentatively reached and are presenting</p> <p>5 to the Court.</p> <p>6 I just want to emphasize that we do -- we do this</p> <p>7 subject to our continuing and standing First Amendment</p> <p>8 objection.</p> <p>9 As the Court knows, we are quite emphatic about our</p> <p>10 view on this, and while the documents that are -- that are</p> <p>11 before the Court are not within the Ninth Circuit's grasp of</p> <p>12 the core group of individuals who were involved in the</p> <p>13 development of the messaging and advertising strategy and,</p> <p>14 therefore, we concede are not within the First Amendment</p> <p>15 privilege as the Ninth Circuit has defined it.</p> <p>16 We do believe that these documents -- and in</p> <p>17 particular document Exhibit A -- which, as the Court may</p> <p>18 recall, was one in which Mr. Prentice and Mr. Schubert were</p> <p>19 invited to participate in a conference call organized by a</p> <p>20 pastor, Pastor Garlow, with a number of other pastors on it.</p> <p>21 They were invited to participate on that to -- early on in</p> <p>22 June, I think, of '08 to present their thoughts, and present</p> <p>23 their thoughts to individuals with whom they were allied in a</p> <p>24 common political associational purpose, which is to enact</p> <p>25 Proposition 8.</p>
<p style="text-align: right;">6</p> <p style="text-align: center;">PROCEEDINGS 996</p> <p>1 these documents could go into evidence, along with</p> <p>2 Mr. Prentice's declaration. They would redact the names of</p> <p>3 private individuals whose identities haven't been revealed</p> <p>4 previously, and they would then keep their standing objections</p> <p>5 on relevance and First Amendment grounds on the record. That</p> <p>6 would deal with those three documents.</p> <p>7 Then we today gave them, and I think we provided the</p> <p>8 Court with a packet of another 150 documents -- this is why I</p> <p>9 think you will like this proposal -- that we have culled out</p> <p>10 from the productions that have been made. And we would go</p> <p>11 through a similar process. They would look at them. We would</p> <p>12 try to work this out over the weekend, along with the issues</p> <p>13 concerning the two pastors' documents. And we will have</p> <p>14 another bunch of documents that we have been all busily</p> <p>15 reviewing.</p> <p>16 So when we come back Tuesday we, hopefully, would say</p> <p>17 to the Court, Here is the same arrangement with these</p> <p>18 documents. They'd go into evidence. They can reserve their</p> <p>19 objections and then we could use them with the remaining</p> <p>20 witnesses.</p> <p>21 THE COURT: I assume that's completely correct, is</p> <p>22 it, Mr. Cooper?</p> <p>23 MR. COOPER: It is correct. I would like to just</p> <p>24 elaborate momentarily, if I may.</p> <p>25 MR. BOUTROUS: I thought I said it so well.</p>	<p style="text-align: right;">8</p> <p style="text-align: center;">PROCEEDINGS 998</p> <p>1 So we believe that they are within the First</p> <p>2 Amendment privilege, as we conceive of it, and that the kind of</p> <p>3 information that was being provided there by Mr. Schubert and</p> <p>4 Mr. Prentice really brings into sharp focus our concern about</p> <p>5 this kind of document, because it was the -- it was a</p> <p>6 discussion of the kinds of messaging in the upcoming campaign,</p> <p>7 the campaign that was just then unfolding; that they were</p> <p>8 considering likely messaging, not the messaging themselves.</p> <p>9 So it -- it really is preliminary and we think -- we</p> <p>10 think privileged and beyond that, obviously, irrelevant.</p> <p>11 So I appreciate the opportunity to elaborate this</p> <p>12 point, your Honor, but the arrangement we have reached, we are</p> <p>13 fine with and will go forward with and try to work out the same</p> <p>14 type of thing on a document-by-document basis as the these come</p> <p>15 up.</p> <p>16 THE COURT: Very well. Well, I appreciate that very</p> <p>17 much, counsel, and commend you for your efforts and look</p> <p>18 forward to more good news on Tuesday.</p> <p>19 MR. BOUTROUS: And there are just two corollaries.</p> <p>20 Dr. Tam has now got -- retained separate counsel from the</p> <p>21 proponents. He has made a separate production of about 5,000</p> <p>22 documents. We have busily reviewed those and culled out about</p> <p>23 85 documents from that.</p> <p>24 I don't know if his counsel is here today, but we</p> <p>25 will try to work out something similar with Dr. Tam. We will</p>

9	<p style="text-align: center;">PROCEEDINGS 999</p> <p>1 probably end up calling him as a witness Tuesday or Wednesday. 2 And I think what I will -- we'll try and do the same 3 thing with him. If he's here today, we will try and do it 4 today and try and come back and report later. 5 THE COURT: I believe counsel is here. 6 MR. THOMPSON: Yes, sir. 7 MR. BOUTROUS: Your Honor, may I just ask counsel if 8 he would be willing to enter into that same kind of arrange 9 through you? 10 MR. THOMPSON: Yes. Good morning, your Honor. 11 THE COURT: Refresh me as to your name, sir. 12 MR. THOMPSON: My name is Terry Thompson, another 13 Thompson. 14 THE COURT: Yes, Mr. Thompson. 15 MR. THOMPSON: I could work with you and we will see 16 if we can't come out with a similar arrangement, but I'd like 17 to see what these documents. 18 THE COURT: Very well. That's most satisfactory. 19 MR. BOUTROUS: My final point is, we will be working 20 with our experts who will had been testifying next week, 21 particularly Dr. Segura, who is our political power and 22 political vulnerability expert. 23 And with the Court's permission, I would like to have 24 him sign the language of the protective order so he can review 25 the documents that we have culled out subject to the protective</p>	11
10	<p style="text-align: center;">PROCEEDINGS 1000</p> <p>1 order and subject to whatever arrangements are made with the 2 Court so we have the ability to prepare him for his testimony 3 before we get final agreement on these documents. So he would 4 be part of the group that would be covered by the protective 5 order. 6 THE COURT: That would appear to make sense. 7 MR. BOUTROUS: Thank you, your Honor. 8 MR. COOPER: Your Honor, we tried to be careful not 9 to include experts on either side within the protective order 10 that we have worked out. 11 One of our very real concerns here is that the kinds 12 of information, as I have related just a moment ago, that are 13 in some of these documents really go to very sensitive, very 14 real strategy issues within a political campaign, among the 15 individuals who were involved together, allied, in a political 16 campaign. 17 And it seems very likely that similar campaigns are 18 going to take place in the future on this very issue, and this 19 kind of information could be valuable to those who are allied 20 on the other side of the campaign. 21 And for that reason, to the extent that many of the 22 experts -- experts really on, I guess, both sides of this 23 issue -- are also individuals who are involved in the political 24 sphere, as well, where we are concerned. And I would like an 25 opportunity to consider this, this limited request with respect</p>	12
9	<p style="text-align: center;">PROCEEDINGS 1001</p> <p>1 to Mr. Segura before the Court grants the request. 2 THE COURT: All right. Well, that's fine. Of 3 course, as I'm sure you well know, it's quite customary for 4 experts to be included within a protective order when there are 5 documents covered by a protective order. 6 MR. COOPER: I do know that, your Honor. This is a 7 very unusual situation. 8 MR. BOUTROUS: More good news. 9 THE COURT: All right. 10 MR. BOUTROUS: I have more good news, your Honor. 11 The protective order which Magistrate Judge Spero 12 signed does include experts, as long as they sign. So my 13 proposal has already been enshrined in law in the case. 14 So I think we resolved another issue quickly. So I 15 think we will have him sign that -- our expert sign that 16 attachment. 17 Thank you. 18 THE COURT: He should go ahead and sign that and then 19 if there are problems with the actual implementation of it 20 because of the identity of this particular expert or some other 21 circumstance, we can sort that out. 22 MR. BOUTROUS: Thank you, your Honor. 23 MR. COOPER: Thank you. 24 THE COURT: All right. I believe that concludes our 25 preliminary matters for this morning.</p>	11
10	<p style="text-align: center;">PROCEEDINGS 1002</p> <p>1 Is there anything else we need to raise before we 2 commence with the next witness? 3 MR. OLSON: Nothing on our side, your Honor. 4 MR. COOPER: I don't think there is, your Honor. 5 Thank you. 6 THE COURT: Very well. Well, let's bring in the 7 folks so that we can resume. 8 And let me direct the clerk to turn on the video and 9 audio feed to the ceremonial courtroom and the other remote 10 location. 11 (Brief pause.) 12 THE COURT: Counsel, one other question with respect 13 to the discussion we just had. 14 I believe that discussion involved following of a 15 proprietary or sealed matter and so that discussion, it seems 16 to me, should be part of the public record. 17 MR. COOPER: We are fine with that, your Honor. 18 MR. BOUTROUS: We are too, your Honor. 19 THE COURT: All right. Fine. 20 (Brief pause.) 21 THE COURT: Very well. Mr. Boutrous, are we ready 22 with the next witness? 23 MR. BOUTROUS: We are, your Honor. Mr. McGill will 24 be examining. 25 THE COURT: Very well, Mr. McGill. Call your next</p>	12

13	<p style="text-align: center;">PROCEEDINGS 1003</p> <p>1 witness.</p> <p>2 MR. MCGILL: Thank you, your Honor. Matthew McGill</p> <p>3 Gibson, Dunn and Crutcher for the plaintiffs.</p> <p>4 The plaintiffs call Dr. Michael Lamb.</p> <p>5 MICHAEL LAMB,</p> <p>6 called as a witness for the Plaintiffs herein, having been</p> <p>7 first duly sworn, was examined and testified as follows:</p> <p>8 THE WITNESS: I do.</p> <p>9 THE CLERK: Thank you. Please have a seat.</p> <p>10 State your name, please.</p> <p>11 THE WITNESS: My name is Michael Lamb, spelled</p> <p>12 L-A-M-B.</p> <p>13 THE CLERK: Thank you.</p> <p>14 DIRECT EXAMINATION</p> <p>15 BY MR. MCGILL:</p> <p>16 Q. Good morning Dr. Lamb.</p> <p>17 A. Good morning, Mr. McGill.</p> <p>18 Q. Dr. Lamb, what is your current occupation?</p> <p>19 A. I'm currently a professor and head of the Department of</p> <p>20 Social and Developmental Psychology at the University of</p> <p>21 Cambridge in England.</p> <p>22 Q. And before you held your position at the University of</p> <p>23 Cambridge, what position did you hold before that?</p> <p>24 A. For 17 years before that I was head of the section on</p> <p>25 social and emotional development at the National Institute of</p>	15	<p style="text-align: center;">LAMB - DIRECT EXAMINATION / MCGILL 1005</p> <p>1 who had no significant behavioral or psychological problems,</p> <p>2 who was able to interact effectively and smoothly, not only</p> <p>3 with adults, but also with other children. Somebody who is</p> <p>4 able to perform well and achieve appropriately at school.</p> <p>5 If one is thinking about older children, often one</p> <p>6 side of maladjustment would be involvement in anti-social or</p> <p>7 delinquent behavior.</p> <p>8 Then as one goes into adulthood, adjustment would</p> <p>9 refer to the ability to form successful intimate relationships</p> <p>10 with other individuals and as well as perform effectively as a</p> <p>11 member of society.</p> <p>12 Q. Is there a body of literature that focuses specifically on</p> <p>13 the adjustment of children parented by gay men and lesbians?</p> <p>14 A. Yes, there is.</p> <p>15 Q. Can you describe in general terms the breadth and depth of</p> <p>16 that literature?</p> <p>17 A. Well, it's a fairly substantial body of literature by this</p> <p>18 point. This is a question that has been -- being researched</p> <p>19 since the late 1970's and early 1980's and over the succeeding</p> <p>20 decades there has accumulated a large number, maybe over 100</p> <p>21 separate peer-reviewed professional articles, many other</p> <p>22 reports in other fora. So that we now have, I think, a very</p> <p>23 good understanding of the factors that effect the adjustment of</p> <p>24 children being raised by gay and lesbian children -- excuse me,</p> <p>25 parents.</p>
14	<p style="text-align: center;">LAMB - DIRECT EXAMINATION / MCGILL 1004</p> <p>1 Child Health and Human Development in Washington.</p> <p>2 Q. And what did your duties as section head of the National</p> <p>3 Institutes of Health entail.</p> <p>4 A. My responsibilities were to conduct research and to direct</p> <p>5 the team of researchers studying issues that had to do with</p> <p>6 children's social and emotional development.</p> <p>7 Q. How long have you have you studied developmental</p> <p>8 psychology, Dr. Lamb?</p> <p>9 A. I began studying developmental psychology in the 1970's,</p> <p>10 early 1970's; so nearly 40 years.</p> <p>11 Q. And what are your primary areas of study within the field?</p> <p>12 A. There have been two broad areas of research on which I</p> <p>13 focused.</p> <p>14 The first, unrelated to the topic of this litigation,</p> <p>15 has to do with the investigation of sex crimes involving</p> <p>16 children and particularly in the development of appropriate</p> <p>17 means of interviewing young children who were allegedly</p> <p>18 victims.</p> <p>19 The second line of research has to do with the</p> <p>20 factors that affect children's development and adjustment.</p> <p>21 Q. What do you mean by the term "adjustment?"</p> <p>22 A. I use the term adjustment as a fairly broad term to refer</p> <p>23 to those aspects of children's development that allow them to</p> <p>24 function effectively in their current environment.</p> <p>25 So, for example, a well-adjusted child would be one</p>	16	<p style="text-align: center;">LAMB - DIRECT EXAMINATION / MCGILL 1006</p> <p>1 Q. Would you say that you are familiar with that body of</p> <p>2 research, Dr. Lamb?</p> <p>3 A. Yes, I think I am.</p> <p>4 Q. Did you provide peer review for any of the reports</p> <p>5 included within that body of literature?</p> <p>6 A. Yes, I have.</p> <p>7 Q. And what is the purpose of peer review?</p> <p>8 A. The purpose of peer review is a procedure that</p> <p>9 professional journals and publications use to ensure that the</p> <p>10 articles they publish, and report studies that have been</p> <p>11 appropriately conducted, and that the results obtained have</p> <p>12 been both appropriately analyzed and that they are not only</p> <p>13 reported accurately and appropriately, but, also, that they are</p> <p>14 integrated correctly into the wider body of literature on that</p> <p>15 topic.</p> <p>16 Q. Dr. Lamb, are you familiar with the various methodologies</p> <p>17 used in the field of developmental psychology?</p> <p>18 A. I am, yes.</p> <p>19 Q. Have you taught students on the subject of research</p> <p>20 methodologies?</p> <p>21 A. Yes, I do.</p> <p>22 Q. Have you --</p> <p>23 A. And I have.</p> <p>24 Q. Have you supervised other researchers in their own</p> <p>25 research efforts in developmental psychology?</p>

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1 A. Yes, I have.

2 Q. Dr. Lamb, have you authored or educated any books in the

3 field of developmental psychology?

4 A. Yes, I have. I have also edited about 40 books.

5 Q. And in addition to the books you have written, have you

6 published any other writings relating to child development and

7 adjustment?

8 A. I have, yes.

9 Q. Approximately how many?

10 A. I must have published in total maybe 500 articles. Not

11 all of them would be about adjustment, of course, some of them

12 would be about interviewing.

13 Q. And where, for the most part, were those 500 articles

14 published?

15 A. They have been published for the most part in professional

16 peer-reviewed journals or in chapters written for other

17 professionals in professional books.

18 Q. Do you serve on the editorial board of any academic

19 journals?

20 A. I do serve on several editorial boards and I have served

21 on others in the past as well, yes.

22 Q. Can you name a couple of the journals on which you've

23 served on their editorial boards?

24 A. I have served on the editorial board of Child Development

25 and Developmental Psychology, although I'm not currently a

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1 member of either of those boards.

2 I'm currently on the editorial board of Child Abuse

3 and Negligent, Developmental Review, Infant Behavior and

4 Development, some others as well.

5 Q. How often would you say that you provide peer review for

6 an academic article?

7 A. I would estimate that I review approximately two articles

8 a week, so maybe 100 articles a year.

9 Q. And over the course of your career, about how many would

10 that add up to?

11 A. Well, at the beginning of my career, happily, I wasn't

12 having to do as many as that, but I would say probably a good

13 two-and-a-half thousand to three thousand reviews in total.

14 Q. Dr. Lamb, have you received any honors recently from

15 professional associations?

16 A. Yes, I have. I received an award for Lifetime

17 Contributions to Psychology from the Association for

18 Psychological Science in 2003.

19 Q. Dr. Lamb, in front of you you have three books and then a

20 binder. Using the tabs at the bottom of the binder, please

21 turn to tab A. That document behind the tab there is Exhibit

22 PX-2327.

23 (Witness complied.)

24 Q. And, Dr. Lamb, is Exhibit PX-2327 a copy of your

25 curriculum vitae?

19

LAMB - DIRECT EXAMINATION / MCGILL 1009

1 A. It is, yes.

2 Q. And does that document list your educational degrees and

3 publications?

4 A. Yes, it does, yes.

5 MR. MCGILL: Your Honor, at this time I would like to

6 offer Exhibit PX-2327 into evidence.

7 MR. THOMPSON: No objection, your Honor.

8 THE COURT: Very well. 2327 is admitted.

9 (Plaintiffs' Exhibit 2327 received in evidence.)

10 MR. MCGILL: Then, your Honor, we would like to

11 tender Professor Michael Lamb as an expert in the field of

12 developmental psychology of children, including the

13 developmental psychology of children raised by gay and lesbian

14 parents.

15 MR. THOMPSON: No objection, your Honor.

16 THE COURT: Very well. Proceed then, Mr. McGill.

17 MR. MCGILL: Thank you, your Honor.

18 BY MR. MCGILL:

19 Q. Dr. Lamb, are you going to offer any opinions in this

20 case?

21 A. I am, yes.

22 Q. What are they?

23 A. I'm going to offer two broad opinions. The first is that

24 we have a substantial body of evidence documenting that

25 children raised by gay and lesbian parents are just as likely

20

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1 to be well adjusted as children raised by heterosexual parents.

2 And I'm going to offer the opinion that for a

3 significant number of these children, their adjustment would be

4 promoted were their parents able to get married.

5 Q. Dr. Lamb, is there a consensus within your field as to the

6 factors that most affect child adjustment?

7 A. There is, yes.

8 Q. At this time I would like to publish my first

9 demonstrative.

10 (Document displayed)

11 Q. Well, while that's getting up on the screen, Dr. Lamb, why

12 don't you tell us what the -- what those factors are?

13 A. Well, as I said, there was -- a substantial consensus has

14 developed over the last 30 or 40 years of research documenting

15 that the factors that affect children's development fall

16 broadly into these three broad categories of factors that are

17 summarized on your overhead.

18 The first of those is the quality of the

19 relationships that children have with their parents or the

20 people looking after them. There is a large body of evidence

21 showing that children are better adjusted when they have good,

22 warm, close relationships with parents who are committed to

23 caring for them and looking after them, and that children's

24 development is conversely hindered when they don't benefit from

25 such relationships with people offering such parental behavior.

21	<p style="text-align: center;">LAMB - DIRECT EXAMINATION / MCGILL 1011</p> <p>1 The second set of factors have to do with the 2 relationships between the individuals who are raising the 3 child. And, again, here we have a large number of studies 4 showing that children's development is adversely affected when 5 there is conflict between those individuals. And, on the other 6 hand, that children benefit from being in a situation where 7 those adults have harmonious relationships with one another. 8 And the final set of factors have to do with the 9 circumstances in which those children are being raised. 10 Children, on average, do better when the -- they grow up in 11 circumstances where there are adequate economic resources and 12 where the children and the parents have adequate social and 13 emotional supports. 14 Q. So, Dr. Lamb, what makes a good parent? 15 A. A good parent is somebody is somebody who is committed to, 16 loves, is engaged with and focuses their attention on that 17 parent -- on that child. 18 A good parent is one who is effective at reading the 19 signals of that child, understanding what that child needs and 20 providing appropriate stimulation, guidance, and setting 21 appropriate limits for their children. And parents who provide 22 that kind of committed, loving care have children who are more 23 likely to be well adjusted. 24 Q. Is it the same criteria that applied to mothers and 25 fathers of children?</p>	23
22	<p style="text-align: center;">LAMB - DIRECT EXAMINATION / MCGILL 1012</p> <p>1 A. There is a substantial amount of evidence documenting 2 precisely that; namely, that what makes for an effective parent 3 is the same regardless of whether that parent is a mother or a 4 father. 5 Q. I would now like to publish a second demonstrative, and 6 this one is a quote from Mr. Cooper's opening statement. And 7 here he was quoting a speech of President Obama. And I will 8 just read the quotation: 9 "We know the statistics, that children who 10 grow up without a father are five times more 11 likely to live in poverty and commit crime, 12 nine times more likely to drop out of 13 schools, and 20 times more likely to end up 14 in prison." 15 Dr. Lamb, how does -- how do you square that 16 statement with your understanding of the field of developmental 17 psychology? 18 A. Well, I think, there are a couple of things one needs to 19 note about this quote, first of all. 20 The first is that, of course, while it talks about 21 some individuals being five, nine or 20 times more likely to 22 have some adverse outcomes, it doesn't say in comparison to 23 what, which, of course, makes it somewhat difficult to 24 understand exactly what is being said here. 25 Presumably, these statistics refer to comparisons</p>	24
21	<p style="text-align: center;">LAMB - DIRECT EXAMINATION / MCGILL 1013</p> <p>1 between children being raised by two heterosexual parents, as 2 opposed to those who are growing up and living with a single 3 heterosexual mother. That is to say, the statistics probably 4 are not drawn from studies that are focused on children being 5 raised by same-sex parents, either singly or in couples. 6 The third point to note is that this citation of 7 statistics doesn't address the important distinction between 8 correlation and causality. It provides these statistics and 9 perhaps implies to many listeners that it is the absence of a 10 father in and of itself that causes the adverse outcomes that 11 are described here. 12 Actually, the research, now quite voluminous, shows 13 that the absence of a father in and of itself isn't the crucial 14 factor. Rather, what's important in accounting for these 15 differences are the factors that you showed in the initial 16 overhead; and that children are moral likely to have some of 17 these problems when they have suffered the separation from one 18 of their parents, for example and, therefore, have had the -- 19 been deprived of the benefits of that person's involvement in 20 their lives; when they have been exposed to significant degrees 21 of conflict between the parents; and when they have had to cope 22 with the significant degrees of economic deprivation that are 23 often associated with divorce or separation. 24 So those are the factors that better explain why you 25 might have some of these differences, and it's important for a</p>	23
22	<p style="text-align: center;">LAMB - DIRECT EXAMINATION / MCGILL 1014</p> <p>1 researcher to ask those questions about why these differences 2 exist, rather than simply to note the numbers themselves. 3 The final thing that's missing here, and that would 4 concern me as a summary of the evidence, is that it doesn't 5 acknowledge the fact that, notwithstanding these differences, 6 the majority of children growing up in families without their 7 father are perfectly well adjusted. 8 Q. Dr. Lamb, did you have hold the view that children need a 9 family structure with a male parent to adjust well? 10 A. You know, when I began my career in the early 1970's, that 11 was widely believed to be true. And so when I began my 12 research, it was with the presumption or prediction that this 13 was likely to be the case. 14 My first research was concerned with exploring the 15 attachments that young babies form to their mothers and 16 fathers. And I explored in that early research the differences 17 and the ways in which is mothers and fathers behaved and asked 18 whether those differences, in fact, were important, whether 19 they did show that children needed to be raised by a masculine 20 as well as by a feminine parent. 21 The results of both my research and, more 22 significantly, the larger body of research that developed since 23 the early 1970's has made clear that that initial prediction 24 was incorrect. 25 And we have now as a field come to the conclusion</p>	24

25	<p style="text-align: center;">LAMB - DIRECT EXAMINATION / MCGILL 1015</p> <p>1 that I stated earlier; that what makes for an effective parent 2 is the same whether or not you are talking about a mother or a 3 father, and that children do not need to have a 4 masculine-behaving parent figure, a father, in order to be well 5 adjusted. 6 Q. Is there any support for the view that children need to 7 have a female parent to adjust well? 8 A. No. The same is true with respect to that. 9 Q. How long has it been accepted as the consensus view within 10 your field that the three factors you described earlier, as 11 opposed to family structure, are the factors that most affect 12 child adjustment? 13 A. I think the fields began to coalesce around and to focus 14 on these issues from the early to mid-1980's. And I would say 15 that by the beginning of the 1990's, this would have been the 16 overwhelming consensus in the field. 17 Q. And if I could get into Cambridge and take a class in 18 developmental psychology, is this what I would be taught today? 19 A. It is. 20 Q. Do you have -- you should have in front of you a copy of 21 two books. One is your own book, the role of the father in 22 child development, and that has been marked as PX-2266. 23 And the other is a book by Susan Golombok entitled 24 "Parenting, What Really Counts." And that is marked as 25 DIX-792.</p>	27	<p style="text-align: center;">LAMB - DIRECT EXAMINATION / MCGILL 1017</p> <p>1 Europe. I think Dr. Charlotte Patterson and Jennifer 2 Wainwright at the University of Virginia would be among those. 3 My colleague Susan Glombok at Cambridge, and researchers such 4 as Ann Beauvais and Henny Bos in the Netherlands would be amo 5 some of the most significant contributors to the literature. 6 Q. What methodology did these researchers employ in their 7 studies? 8 A. Well, these researchers employ a wide variety of 9 methodologies. They use, first of all, different ways of 10 recruiting subjects for study, drawing upon both convenience 11 and representative samples in order to conduct their research. 12 And in the course of collecting data, they use 13 various techniques from survey responses, to the use of 14 standardized tests, to using systematic interviews of children, 15 of their parents, of their teachers, and, of course, doing 16 systematic observations of those individuals, both the parents 17 as well as the children. 18 So there's a wide a variety of techniques that have 19 been used in this field as in most other research on children's 20 adjustment. 21 Q. Are each of these methodologies you just described 22 accepted as reliable within your field? 23 A. Yes, they are. 24 Q. How would you say the researchers use of diverse 25 methodologies has affected the field?</p>
26	<p style="text-align: center;">LAMB - DIRECT EXAMINATION / MCGILL 1016</p> <p>1 Dr. Lamb, did these books inform your opinions in 2 this case? 3 A. Yes, they did. 4 Q. Are these books representative of the body of research on 5 the central factors that affect child adjustment? 6 A. Yes, they are. 7 MR. MCGILL: Your Honor, at this time I would like to 8 offer into evidence Exhibits PX-2266 and DIX-792. 9 MR. THOMPSON: No objection, your Honor. 10 THE COURT: Very well both are admitted. 11 (Plaintiffs' Exhibit 2266 received in evidence) 12 (Defendants' Exhibit 792 received in evidence) 13 MR. MCGILL: Thank you, your Honor. 14 BY MR. MCGILL: 15 Q. Dr. Lamb, have researchers within your field conducted any 16 studies of the adjustment of children raised by gay or lesbian 17 parents? 18 A. They have, yes. 19 Q. And these studies have appeared in peer-reviewed journals? 20 A. Yes, they have. 21 Q. And I believe you testified before it was approximately 22 100 journals -- 100 studies, is that correct? 23 A. There would be at least 100 peer-reviewed reports, yes. 24 Q. Who are the leading researchers in this field? 25 A. Well, there are a number of researchers, both here and in</p>	28	<p style="text-align: center;">LAMB - DIRECT EXAMINATION / MCGILL 1018</p> <p>1 A. Well, I think from my point of view, the broader the range 2 of methods employed, the more confident one can be about the 3 results in a body of research. 4 The more different sorts of techniques, the more 5 different types of research methods, of sampling, the more 6 different the groups and samples that have been studied, the 7 more confident one can be that -- that the results really are 8 painting a consistent body of literature and contributing to a 9 coherent understanding of the factors that affect children's 10 development. 11 Q. Dr. Lamb, what is a "representative sample," as that term 12 is used in your field? 13 A. Well, the term "representative sample" is one that is 14 employed particularly by sociologists and demographers, and 15 that involves trying to find a -- collect a sample of 16 individuals within some target population, say, the population 17 of the United States, and drawing a smaller number of people to 18 study more intensively who perfectly represent the 19 characteristics of the population as a whole. 20 Q. Dr. Lamb, please turn to tab D at the bottom of your 21 exhibit binder, and behind tab D you should find four exhibits 22 marked as PX-778, PX-1066, PX-1111, and PX-1116. 23 (Witness complied.) 24 Q. Dr. Lamb, did each of those studies employ a 25 representative sample in their research?</p>

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LAMB - DIRECT EXAMINATION / MCGILL 1019

1 **A. Yes. Each of these included representative samples.**
 2 Q. And did each of those studies study the adjustment of
 3 children of gay or lesbian parents?
 4 **A. They do, yes.**
 5 Q. Did the studies inform your opinions in this case?
 6 **A. They did, yes.**
 7 MR. MCGILL: Your Honor, at this time I would like to
 8 offer into evidence exhibits PX-778, PX-1066, PX-1111 and
 9 PX-1116.
 10 MR. THOMPSON: No objection, your Honor.
 11 THE COURT: Very well. They will be admitted.
 12 (Plaintiffs' Exhibits 778, 1066, 1111 and 1116
 13 received in evidence.)
 14 MR. MCGILL: Thank you, your Honor.
 15 BY MR. MCGILL:
 16 Q. Dr. Lamb, what is a convenience sample?
 17 **A. Well, a convenience sample is one that a researcher**
 18 **studies and -- because there are a group of individuals of the**
 19 **characteristics that you want to study who can conveniently be**
 20 **obtained for study.**
 21 **So, for example, for a researcher doing a study on**
 22 **any topic, but let's say on children being raised by lesbian**
 23 **parents living in the Bay Area, you would try and recruit**
 24 **lesbian mothers with children of the age you wanted to study**
 25 **who lived within easy access of the place where were doing the**

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LAMB - DIRECT EXAMINATION / MCGILL 1020

1 **research.**
 2 Q. And when do researchers in your field use convenience
 3 samples?
 4 **A. They use them quite frequently. I would say that the**
 5 **majority of the research done by developmental psychologists**
 6 **actually use convenience samples.**
 7 Q. Is research using convenience samples generally accepted
 8 as reliable within the field of developmental psychology?
 9 **A. Absolutely.**
 10 Q. Please, then, turn to tab E at the bottom of your binder.
 11 There you will find three exhibits PX-1055, PX-1101, and
 12 PX-1115. And, also, beside your binder you should find a book,
 13 PX-1396.
 14 (Witness complied.)
 15 Q. Did each of those exhibits, Dr. Lamb, use a convenience
 16 sample in the study of the adjustment of children raised by gay
 17 or lesbian parents?
 18 **A. Yes, they did.**
 19 Q. Did those -- each of those studies inform your opinions in
 20 this case?
 21 **A. Yes, they do.**
 22 MR. MCGILL: Your Honor, at this time I would like to
 23 offer into evidence exhibits PX-1055, PX-1101, PX-1115, and
 24 PX-1396.
 25 MR. THOMPSON: No objection, your Honor.

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LAMB - DIRECT EXAMINATION / MCGILL 1021

1 THE COURT: Very well. They will be admitted.
 2 (Plaintiffs' Exhibits 1055, 1101, 1115 and 1396
 3 received in evidence.)
 4 MR. MCGILL: Thank you, your Honor.
 5 BY MR. MCGILL:
 6 Q. Dr. Lamb, what makes a study longitudinal?
 7 **A. A longitudinal study is one in which the same individuals**
 8 **are studied at several points over the course of their**
 9 **development.**
 10 **That's contrasted with a cross-sectional study, which**
 11 **might involve choosing to study different people at chosen**
 12 **ages.**
 13 Q. And when might it be appropriate to use a cross-sectional
 14 design?
 15 **A. Well, it might be appropriate to use a cross sectional**
 16 **design as -- of course, in all of these cases the design you**
 17 **choose depends on the research question that you have.**
 18 But if, for example, your question was: Do the
 19 events that happen shortly after children begin school affect
 20 the adjustment of children? You might want to do a study
 21 comparing five-year-olds and ten-year-olds and see whether
 22 there were higher rates of maladjustment in the ten-year-olds
 23 than the five-year-olds as one way of seeing whether this was a
 24 significant period of time in which adjustment -- maladjustment
 25 emerged.

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LAMB - DIRECT EXAMINATION / MCGILL 1022

1 Q. Have any of the studies of the adjustment of children of
 2 gay or lesbian parents used a longitudinal design?
 3 **A. Yes, they have.**
 4 Q. Please turn to tab F at the bottom of your binder. There
 5 you will find just one exhibit, PX-1088.
 6 (Witness complied.)
 7 Q. Dr. Lamb, is that study PX-1088, is that a longitudinal
 8 study?
 9 **A. Yes, it is.**
 10 Q. And did that study inform your opinions in this case?
 11 **A. Yes, it did.**
 12 MR. MCGILL: Your Honor, at this time I would like to
 13 offer into evidence exhibit PX-1088.
 14 MR. THOMPSON: No objection, your Honor.
 15 THE COURT: 1088 is in.
 16 (Plaintiffs' Exhibit 1088 received in evidence.)
 17 MR. MCGILL: Thank you, your Honor.
 18 BY MR. MCGILL:
 19 Q. And now, I just, Dr. Lamb, want to refer you back quickly
 20 to tab E, which -- for two exhibits that have already been
 21 admitted, PX-1101 and then the book, PX-1396. The book is the
 22 book by Fiona Tasker and Susan Golombok "Growing Up in a
 23 Lesbian Family."
 24 Did both of those studies also usual a Longitudinal
 25 design?

33	<p style="text-align: right;">LAMB - DIRECT EXAMINATION / MCGILL 1023</p> <p>1 A. Yes, they did. 2 Q. Now, by contrast, have any of the studies of gay or 3 lesbian parents used cross-sectional designs? 4 A. Yes, they have. 5 Q. For that let's turn to tab G, and I will direct you to 6 exhibit PX-1072. This is a study by Chan and others. 7 (Witness complied.) 8 Q. Is this a cross-sectional study, Dr. Lamb? 9 A. Yes, it is. 10 Q. And did it inform your opinions in this case? 11 A. Yes, I did. 12 MR. MCGILL: At this time, your Honor, I would like 13 to offer into evidence Exhibit PX-1072. 14 MR. THOMPSON: No objection, your Honor. 15 THE COURT: Very well, 1072 is in. 16 (Plaintiffs' Exhibit 1072 received in evidence) 17 MR. MCGILL: Thank you. 18 BY MR. MCGILL: 19 Q. Now, referring back to tab D, just very quickly, PX-1066. 20 This is a study by Susan Golombok entitled "Children With 21 Lesbian Parents, A Community Study." 22 And then PX-1116. This is a study by Jennifer 23 Wainwright entitled "Psychosocial Adjustment, School Outcomes 24 and Romantic Relationships of Adolescents With Same-Sex 25 Parents."</p>	35	<p style="text-align: right;">LAMB - DIRECT EXAMINATION / MCGILL 1025</p> <p>1 admitted into evidence, what conclusions have you drawn with 2 respect to the impact of gay or lesbian parenting on children's 3 and adolescent's adjustment? 4 A. Well, I think those articles are representative of a much 5 larger body of research focused on this question documenting 6 very conclusively that children who are raised by gay and 7 lesbian parents are just as likely to be well-adjusted as 8 children raised by heterosexual parents. 9 That's a conclusion that has been documented in 10 studies using, as I said, a variety of methods, a variety of 11 ways of obtaining samples, asking different sorts of questions 12 about various aspects of adjustment involving children and 13 adolescents of different ages. 14 And the conclusiveness of that evidence is, in my 15 mind, further supported by the fact that the results obtained 16 in the studies that involve gay and lesbian parents are 17 completely consistent with our broader understanding of the 18 factors that affect children's adjustment, as I explained at 19 the beginning of my testimony. 20 Q. Would you say that your conclusions, Dr. Lamb, are 21 reflective of a consensus within the field of developmental 22 psychology? 23 A. Yes, they are. 24 Q. Could you please turn to tap I in your binder? There you 25 will find PX-766.</p>
34	<p style="text-align: right;">LAMB - DIRECT EXAMINATION / MCGILL 1024</p> <p>1 These have been previously admitted. Did those 2 studies also use a cross-sectional design? 3 A. Yes, they did. 4 Q. Now, Dr. Lamb, finally, what is a literature review? 5 A. Well, a literature review is a report, article, or chapter 6 written by a scholar attempting to synthesize the body of 7 literature with respect to some particular question or topic. 8 Q. And if you could, please, turn to tab H in your witness 9 binder there? There you should find three exhibits, DIX-2424, 10 PX-1384, and PX-1093. 11 (Witness complied.) 12 Q. Are these three exhibits literature reviews, Dr. Lamb? 13 A. Yes, they are. 14 Q. And did they inform your opinions in this case? 15 A. Yes, they did. 16 MR. MCGILL: Your Honor, at this time I would like to 17 offer those three exhibits, PX-1093, PX-1384 and DIX-2424 into 18 evidence. 19 MR. THOMPSON: No objection, your Honor. 20 THE COURT: Very well. 21 (Plaintiffs' Exhibits 1093, 1384 received in 22 evidence) 23 (Defendants' Exhibit 2424 received in evidence) 24 BY MR. MCGILL: 25 Q. So, Dr. Lamb, based on all of those studies we just</p>	36	<p style="text-align: right;">LAMB - DIRECT EXAMINATION / MCGILL 1026</p> <p>1 (Witness complied.) 2 Q. And what is that document, Dr. Lamb? 3 A. This is a policy statement issued by the American 4 Psychological Association entitled "Sexual Orientation, Parents 5 and Children" issued in 2004. 6 Q. And at this time I would like to publish a demonstrative 7 with some of the text from that policy statement. 8 (Document displayed) 9 Q. Dr. Lamb, could you please read the text in the 10 highlighted box to the top? 11 THE COURT: This is 766? 12 MR. MCGILL: PX-766. 13 THE COURT: Has that been admitted? 14 MR. MCGILL: Not yet, your Honor. 15 THE COURT: Let's admit it before we read from it. 16 MR. MCGILL: Okay. Thank you, your Honor. 17 At this time, your Honor, I would ask that you take 18 judicial notice of the American Psychological Association's 19 policy statement concerning the "Sexual orientation, Parents 20 and Children." 21 MR. THOMPSON: No objection, your Honor. 22 THE COURT: Very well. 766 will be admitted. 23 (Plaintiffs' Exhibit 766 received in evidence) 24 A. Would you like me to read? 25</p>

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LAMB - DIRECT EXAMINATION / MCGILL 1027

1 BY MR. MCGILL:
 2 Q. Please now read from the top box.
 3 A. The first box reads:
 4 "There is no scientific basis for concluding
 5 that lesbian mothers and gay fathers are
 6 unfit parents on the basis of their sexual
 7 orientation." Then they cite to three
 8 reports. "On the contrary, results of
 9 research suggest that lesbian and gay parents
 10 are as likely as heterosexual parents to
 11 provide supportive and healthy environments
 12 for their children."
 13 Q. Dr. Lamb, do you believe that this policy statement from
 14 which you just read accurately summarizes the state of the
 15 social science research on the effect of gay and lesbian
 16 parenting on child adjustment?
 17 A. Yes, I think it does.
 18 Q. And could you now read the second box, please?
 19 A. The second box reads:
 20 "Overall, results of research suggest that
 21 the development, adjustment and well-being of
 22 children with lesbian and gay parents do not
 23 differ markedly from that of children with
 24 heterosexual parents."
 25 Q. Dr. Lamb, do you believe that conclusion is adequately

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LAMB - DIRECT EXAMINATION / MCGILL 1028

1 supported by the research in your field?
 2 A. I do, yes.
 3 Q. Thank you.
 4 Now, are you aware of any other professional
 5 organizations that have issued policy statements on the subject
 6 of gay and lesbian parenting?
 7 A. There are a number of other professional organizations
 8 that have issued those, yes.
 9 Q. I would now like to publish a demonstrative with the lists
 10 of the various associations.
 11 (Document displayed)
 12 Q. I will read those. That would be the American Academy of
 13 Child and Adolescent Psychiatry, the American Academy of
 14 Pediatrics, the American Psychiatric Association, the American
 15 Psychoanalytic Association, the American Psychological
 16 Association, which we just discussed, the Child Welfare League
 17 of America, the National Association of Social Workers, and the
 18 North American Council on Adoptable children.
 19 Dr. Lamb, to your knowledge, have all of these
 20 professional organizations issued policy statements on the
 21 subject of gay and lesbian parenting?
 22 A. Yes, all of them have.
 23 Q. And could you please turn to tab J in your witness binder?
 24 And there you will find seven exhibits marked as PX-753,
 25 PX-757, PX-762, PX-763, PX-768, PX-1025, and PX-1032.

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LAMB - DIRECT EXAMINATION / MCGILL 1029

1 (Witness complied.)
 2 Q. Are these exhibits the policy statements from the
 3 organizations I just read into the record?
 4 A. They appear to be, yes.
 5 Q. And are these policy statements from these national
 6 professional associations consistent with the opinions you have
 7 developed in connection with this case?
 8 A. They are, yes.
 9 MR. MCGILL: Your Honor, at this time I would ask
 10 that the Court take judicial notice of the eight policy
 11 statements.
 12 You have already admitted one, PX-766, but I would
 13 ask that you now admit exhibits PX-753, PX-757, PX-762, PX-763,
 14 PX-768, PX-1025 and PX-1032.
 15 MR. THOMPSON: No objection, your Honor.
 16 THE COURT: Very well. Those will be admitted.
 17 (Plaintiffs' Exhibits 753, 757, 762, 763, 768, 1025
 18 and 1032 received in evidence.)
 19 BY MR. MCGILL:
 20 Q. Dr. Lamb, have you ever heard the view that children
 21 raised by gay or lesbian parents were at greater risk of
 22 suffering gender identity disorder than children raised by
 23 heterosexual parents?
 24 A. Yes, I have heard that.
 25 Q. Can you had explain what a gender identity disorder is?

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LAMB - DIRECT EXAMINATION / MCGILL 1030

1 A. Gender identity disorder is a psychiatric or psychological
 2 problem which involves an individual feeling uncomfortable with
 3 his or her gender.
 4 Q. And have researchers in your field studied whether
 5 children parented by gay men and lesbians suffer from gender
 6 identity disorders more frequently than children raised by
 7 heterosexual parents?
 8 A. They have, yes. Gender identity disorders, I should point
 9 out, are extremely rare. And there is no evidence that they
 10 are more common when children are being raised by gay and
 11 lesbian parents.
 12 Q. Please turn to tab B in your witness binder, which is
 13 marked as PX-2350. This is an email from Ron Prentice, which
 14 attaches an article entitled "21 Reasons Why Gender Matters."
 15 (Witness complied.)
 16 Q. Did you review this document in connection with your work
 17 in this case?
 18 A. I did, yes.
 19 MR. MCGILL: Your Honor, at this time I would ask
 20 that we admit PX-2350.
 21 MR. THOMPSON: No objection, your Honor.
 22 THE COURT: PX-2530 is admitted.
 23 MR. MCGILL: It's 2350.
 24 THE COURT: I'm sorry. 23 --
 25 MR. MCGILL: Yes. My mistake.

41	<p>LAMB - DIRECT EXAMINATION / MCGILL 1031</p> <p>1 THE COURT: Did I transpose them? Is it 2350?</p> <p>2 MR. MCGILL: Yes, it is, your Honor.</p> <p>3 THE COURT: All right. I'm sorry.</p> <p>4 (Plaintiffs' Exhibit 2350 received in evidence.)</p> <p>5 BY MR. MCGILL:</p> <p>6 Q. At this time I would like to publish a demonstrative from</p> <p>7 2350.</p> <p>8 (Document displayed)</p> <p>9 Q. Dr. Lamb, could you please the highlighted section?</p> <p>10 A. Yes. The text says:</p> <p>11 "One of the main examples of gender confusion</p> <p>12 is what some are calling gender</p> <p>13 disorientation pathology. This is the term</p> <p>14 used to describe homosexual, lesbian,</p> <p>15 bisexual and transgender relationships. In</p> <p>16 these and other cases, there was a major</p> <p>17 distortion or disordering of the male or</p> <p>18 female gender and a confusion of both gender</p> <p>19 and sexuality."</p> <p>20 Q. Dr. Lamb, are you familiar with the term "gender</p> <p>21 disorientation pathology?"</p> <p>22 A. I am afraid I'm not, no. I don't believe it's one that is</p> <p>23 used in the psychiatric or psychological literature.</p> <p>24 Q. As it's used in the field of developmental psychology,</p> <p>25 what is a pathology?</p>	43	<p>LAMB - DIRECT EXAMINATION / MCGILL 1033</p> <p>1 A. Yes. The highlighted text says:</p> <p>2 "While various studies indicate that around</p> <p>3 two to three percent of persons have ever</p> <p>4 practiced homosexual behaviors in their</p> <p>5 lifetime, a study in developmental psychology</p> <p>6 found that 12 percent of the children of</p> <p>7 lesbians became active lesbians themselves."</p> <p>8 Q. Dr. Lamb, does the text that you just read not call into</p> <p>9 conclusion -- not call into question the conclusion you just</p> <p>10 gave to the Court?</p> <p>11 A. No, it doesn't, because the referenced study that is cited</p> <p>12 here as footnote 84 reported that there was no significant</p> <p>13 difference between the group of children being raised by</p> <p>14 lesbian mothers and the groups of children being raised by</p> <p>15 heterosexual mothers.</p> <p>16 Q. You were familiar with the study cited in footnote 84?</p> <p>17 A. I am, yes.</p> <p>18 Q. Do you know who wrote that study?</p> <p>19 A. It was a study conducted by Susan Golombok and her</p> <p>20 colleagues.</p> <p>21 Q. How do you know Susan Golombok, Professor Lamb?</p> <p>22 A. Well, I have known of her research for many years. She is</p> <p>23 now a colleague of mine at the University of Cambridge.</p> <p>24 Q. Does the research in your field establish ways in which</p> <p>25 children raised by gay men and lesbians might differ from</p>
42	<p>LAMB - DIRECT EXAMINATION / MCGILL 1032</p> <p>1 A. A pathology is a psychological disturbance that makes it</p> <p>2 difficult for a person to function appropriately. And when one</p> <p>3 uses that term, it would signify that the disability is</p> <p>4 sufficiently great; that some kind of therapeutic or treatment</p> <p>5 is needed in order to deal with it.</p> <p>6 Q. Dr. Lamb, does the field of developmental psychology</p> <p>7 describe gay or lesbian sexual orientations as a pathology?</p> <p>8 A. No, it does not.</p> <p>9 Q. Why not?</p> <p>10 A. Those are not categorized as pathologies. They are parts</p> <p>11 as normal variation and are considered to be aspects of</p> <p>12 well-adjusted behavior.</p> <p>13 Q. Have studies in your field examined whether children</p> <p>14 parented by gay men or lesbians are more likely to develop a</p> <p>15 gay or lesbian sexual orientation themselves?</p> <p>16 A. Yes, they have.</p> <p>17 Q. What conclusions have those studies reached?</p> <p>18 A. Those studies have shown that there is no significant</p> <p>19 increase in the proportion of children who become gay or</p> <p>20 lesbian themselves when they are raised by gay or lesbian</p> <p>21 parents.</p> <p>22 Q. I would now like to publish my next demonstrative from the</p> <p>23 "Why Gender Matters" article.</p> <p>24 (Document displayed)</p> <p>25 Q. Dr. Lamb, could you please read the highlighted text?</p>	44	<p>LAMB - DIRECT EXAMINATION / MCGILL 1034</p> <p>1 children raised by heterosexuals?</p> <p>2 A. It does, yes. There have been a number of studies that</p> <p>3 have, for example, shown that in some cases children raised by</p> <p>4 gay and lesbian parents have less sex stereotyped attitudes</p> <p>5 than those being raised by heterosexual parents.</p> <p>6 Q. Can you give me an example of a sex stereotyped attitude?</p> <p>7 A. Well, the most obvious ones would have to do with</p> <p>8 children's understanding or aspirations for themselves.</p> <p>9 Children who are more sex stereotyped might think, for example,</p> <p>10 that girls should aspire to be nurses while boys aspire to be</p> <p>11 doctors; that there are certain behaviors that are more</p> <p>12 appropriate for boys than for girls.</p> <p>13 Q. Within your field is a child's failure to adopt sex</p> <p>14 stereotype attitudes viewed as a maladjustment?</p> <p>15 A. No, it's not. It's viewed as an aspect of normal</p> <p>16 variation.</p> <p>17 Q. Thank you.</p> <p>18 I would now like to turn to my next demonstrative</p> <p>19 from "21 Reasons Why Gender Matter" article.</p> <p>20 (Document displayed)</p> <p>21 Q. Could you read the two highlighted boxes, please,</p> <p>22 Dr. Lamb?</p> <p>23 A. (As read)</p> <p>24 "The sad truth is homosexual abuse of</p> <p>25 children is proportionally higher than</p>

45	<p style="text-align: right;">LAMB - DIRECT EXAMINATION / MCGILL 1035</p> <p>1 heterosexual abuse of children. It must be 2 stressed that most homosexuals do not abuse 3 children, and most are not pedophiles, but it 4 seems a significant number do and are. 5 "It is the right of the child to know and 6 have a relationship with their biological 7 mother and father. It is the right of the 8 child to be protected from sexual 9 exploitation. Gender disorientation 10 pathology greatly increases the risk that 11 children will suffer sexual exploitation. It 12 is our duty to protect them." 13 Q. Dr. Lamb, do you agree with the statement that 14 homosexual -- homosexual orientations, quote, greatly increases 15 the risk that children will suffer sexual exploitation? 16 A. Absolutely not. It is clearly established that children 17 are at no greater risk of abuse when being raised by gay and 18 lesbian parents. 19 Q. Do you agree with the statement that it is the right of 20 the child to be protected from sexual exploitation? 21 A. Absolutely. 22 Q. Then why do you not agree with the statement that being 23 raised by gay or lesbian parents increases the risk that 24 sexual -- that -- increases the risk that children will suffer 25 sexual exploitation?</p>	47	<p style="text-align: right;">LAMB - DIRECT EXAMINATION / MCGILL 1037</p> <p>1 relationships with peers than children raised by heterosexual 2 persons? 3 A. Yes, they have. 4 Q. What do those studies conclude? 5 A. Well, the studies conclude that whether or not children 6 are raised by heterosexual or same-sex parents, there were no 7 differences in their ability to establish appropriate social 8 relationships with peers, either as children or as adolescents. 9 Q. So what inference can be drawn from the fact that children 10 and adolescents raised by gay and lesbian parents are sometimes 11 bullied by their peers? 12 A. Well, the studies that have explored this in more detail 13 show that while children with gay or lesbian parents are more 14 likely to be teased about their family configuration, they 15 aren't more likely to be teased in general. 16 Children tease one another for a variety of reasons. 17 Children get teased because their ethnic group is different, 18 because they have curly hair, because they are fat, because 19 they have a funny accent. Children can be very cruel to one 20 another. 21 And when it's possible to tease somebody about the 22 sexual orientation of their parents, they may be teased for 23 that but that doesn't mean that they are more likely to be 24 teased overall. 25 Q. I would like to publish my next demonstrative from the "21</p>
46	<p style="text-align: right;">LAMB - DIRECT EXAMINATION / MCGILL 1036</p> <p>1 A. Because there is no evidence that gays or lesbians are 2 more likely to sexually abuse children. 3 Q. Has that hypothesis been disproven by researchers in your 4 field? 5 A. It has, yes. 6 Q. When was the first time you can recall it was disproven? 7 A. Well, this is one of those fairly old canards. So the 8 very earliest report that I'm familiar with was published in 9 the lately 70's. Then there have been parties published in the 10 70's, 80's and 90's documenting in various ways that this is 11 simply not true. 12 Q. Is one of the articles to which you are referring an 13 article by Carole Jenny entitled "Are Children At Risk For 14 Sexual Abuse By Homosexuals?" published in Pediatrics in 1994? 15 A. Yes, that would be one of them. 16 Q. Is there any social science in your field or any of which 17 you are aware that supports the notion that children need to be 18 protected from gay men or lesbians? 19 A. No, there is not. 20 Q. Is it true, Dr. Lamb, that children and adolescents raised 21 by gay and lesbian parents sometimes are teased or bullied by 22 their peers? 23 A. Yes, it is. 24 Q. Have researchers in your field studied whether children of 25 gay or lesbian parents have more difficulty forming healthy</p>	48	<p style="text-align: right;">LAMB - DIRECT EXAMINATION / MCGILL 1038</p> <p>1 Reasons Why Gender Matters" article circulated by Ron Prentice 2 for use in sermons. 3 (Document displayed) 4 Q. Could you read the highlighted box? 5 A. (As read) 6 "There was also the question of how children 7 fare when raised in same-sex families. One 8 person who has spent a lot of time looking 9 into this question is psychologist 10 Dr. Nicolosi. He argues that kids raised by 11 homosexuals are traumatized emotionally and 12 socially." 13 Q. Dr. Lamb, is there any social science in your field or any 14 of which you are aware that supports the notion that, quote, 15 Kids raised by homosexuals are traumatized emotionally and 16 socially? 17 A. No, there is not. 18 Q. Dr. Lamb, who is Dr. Joe Nicolosi? 19 A. Well, I have to confess, I didn't know who he was when I 20 saw this document, so I searched for him on the internet and 21 discovered that he is a psychologist who practices conversion 22 therapy for homosexual individuals. 23 Q. Dr. Lamb, are you familiar with the notion of the 24 necessity of gender differentiated parenting? 25 A. Yes, I am.</p>

49	<p style="text-align: right;">LAMB - DIRECT EXAMINATION / MCGILL 1039</p> <p>1 Q. Could you please describe what the concept of gender 2 differentiated parenting entails? 3 A. Well, this is a concept that we talked about briefly 4 earlier on, holding that in order to be well-adjusted, children 5 need to be raised by a male parent as well as by a female 6 parent. 7 And as I said earlier on in responding to you, there 8 is now a significant body of evidence documenting that that's 9 really not true; that what's important for children's 10 development and adjustment is the quality of the parenting that 11 they obtained from the people who are raising them, and that 12 the gender is not one of those important dimensions. 13 Q. I would like to publish my next demonstrative from the "21 14 Reasons Why Gender Matters" article circulated by Ron Prentice. 15 (Document displayed) 16 Q. Dr. Lamb, could you read the highlighted box, please? 17 A. (As read) 18 "We should disavow the notion that mummies 19 could make good daddies, just as we should 20 disavow the notion of radical feminists that 21 daddies can make good mummies. The two sexes 22 are different to the core and each is 23 necessary, culturally and biologically, for 24 the optimal development of a medium being." 25 Q. Dr. Lamb, in the quote you just read, to whom is it</p>	51	<p style="text-align: right;">LAMB - DIRECT EXAMINATION / MCGILL 1041</p> <p>1 A. Can you repeat the question? I'm sorry. 2 Q. Is there any basis for the conclusion that the absence of 3 a genetic relationship between parent and child increases the 4 likelihood of poor adjustment outcomes for the child? 5 A. There is no support for that. 6 Q. Is there any social science of which you are aware that 7 tends to contradict it? 8 A. There is. There have been a number of studies that 9 address that issue, including many studies that focus on 10 children who have been adopted, as well as a number of studies 11 focused on children who have been conceived through a variety 12 of reproductive technologies, which lead to them being raised 13 by parents who are not their biological parents. 14 Q. And what did those studies conclude? 15 A. Those studies showed that children are just as likely to 16 be well adjusted as children who are being raised by their 17 biological parents. 18 Q. If you would, please, turn to tab M in your witness 19 binder, Dr. Lamb? And there you should find three exhibits, 20 PX-779, PX-1100 and PX-1108. 21 (Witness complied.) 22 Q. Dr. Lamb, do these articles exemplify the research you 23 just described demonstrating that children without a genetic 24 relationship to parents are just as likely to adjust well as 25 children who are genetically related to their parents?</p>
50	<p style="text-align: right;">LAMB - DIRECT EXAMINATION / MCGILL 1040</p> <p>1 attributed? 2 A. It's attributed to David Popenoe, who is a sociologist 3 recently retired from Rutgers University. 4 Q. Is Dr. Popenoe a leading proponent of the notion of the 5 necessity of gender differentiated parenting? 6 A. Yes, he is. 7 Q. Is there anyone else you can think of who is a proponent 8 of the theory of gender differentiated parenting? 9 A. The other person who comes to mind is David Blankenhorn. 10 Q. And do you believe that the notion is adequately supported 11 by the social science in your field? 12 A. No, I believe it's not supported by the social science 13 research. 14 Q. Is there any social science in your field or any of which 15 you are aware that supports the conclusion that a parent's 16 failure to observe traditional gender roles will harm a child? 17 A. There is not. 18 Q. Dr. Lamb, are you aware of the notion that the ideal 19 family structure for children requires a child to be raised by 20 the mother and father who are the child's genetic parents? 21 A. Yes, I am. 22 Q. Is there any basis in the social science research in your 23 field for the conclusion that the absence of a genetic 24 relationship between parent and child will increase the 25 likelihood of poor adjustment outcomes for that child?</p>	52	<p style="text-align: right;">LAMB - DIRECT EXAMINATION / MCGILL 1042</p> <p>1 A. They do, yes. 2 Q. Do these articles inform your opinion in this case? 3 A. Yes, they do. 4 MR. MCGILL: Your Honor, at this time I would like to 5 move into evidence Exhibits PX-779, PX-1100 and PX-1108. 6 MR. THOMPSON: No objection, your Honor. 7 THE COURT: Very well. They are admitted. 8 (Plaintiffs' Exhibits 779, 1100 and 1108 received in 9 evidence.) 10 MR. MCGILL: Thank you, your Honor. 11 BY MR. MCGILL: 12 Q. Dr. Lamb, in your expert opinion is there any way that 13 prohibiting same-sex couples from marrying could be expected to 14 improve the adjustment outcomes of their children? 15 A. No, there is not. 16 Q. Is there any way that prohibiting same-sex couples from 17 marrying could reasonably be expected to improve the adjustment 18 outcomes of any child? 19 A. I don't think so. 20 Q. When an unmarried cohabitating couple marries, does that 21 improve the likelihood that their child will achieve a good 22 adjustment outcome? 23 A. Yes, it definitely can. 24 Q. Why? 25 A. Because it allows those children to benefit from some of</p>

53	<p style="text-align: center;">LAMB - DIRECT EXAMINATION / MCGILL 1043</p> <p>1 the advantages that accrue to marriage, including the fact that 2 it's a recognized social institution. And so being able to 3 consider themselves part of a well-recognized institution, can 4 be beneficial for some students -- some children. 5 Q. And is that study supported by social science in your 6 field? Is that conclusion supported by social science studies 7 in your field? 8 A. Yes. 9 Q. Is there any reason that conclusion would not hold true if 10 the unmarried cohabitating couple were gay or lesbian? 11 A. No, it is not. 12 Q. In the thousands of books and publications you have 13 written and reviewed in your career, have you ever encountered 14 a sound rationale for purposefully denying a child the 15 opportunity to achieve the best possible adjustment outcome? 16 A. No, I have not. 17 MR. MCGILL: I have no more questions, your Honor. 18 THE COURT: Very well. Thank you, Mr. McGill. 19 You may cross examine, Mr. Thompson. 20 MR. THOMPSON: Thank you, your Honor. 21 We have the first of several installments of binders. 22 We would like to hand out our first two sets of binders, if we 23 may. 24 May I approach, your Honor? 25 THE COURT: You may.</p>	55	<p style="text-align: center;">LAMB - CROSS EXAMINATION / THOMPSON 1045</p> <p>1 A. That's what I testified, yes. 2 Q. Okay. And you personally approve of same-sex marriage, is 3 that right? 4 A. I do. 5 Q. You are not a clinical psychologist, correct? 6 A. That's correct. 7 Q. You have never treated patients, correct? 8 A. That's correct. 9 Q. The last time you actually interviewed a child as part of 10 a study was over 20 years ago, correct? 11 A. Yes, that's correct. 12 Q. You have never interviewed -- 13 A. May I just interrupt. That was my best guess at the time 14 of the interview -- of the deposition. It's still my best 15 guess now. 16 Q. Okay. You can't remember the last time you interviewed a 17 child in a study, is that your testimony? 18 A. I can't remember the date of the last time I did it, 19 that's correct. 20 Q. But you think it was more than two decades ago? 21 A. I think it was around two decades ago, I think. 22 Q. You have never interviewed the child of a gay male couple 23 in any professional capacity, correct? 24 A. That's correct. 25 Q. You have never interviewed the child of a lesbian couple</p>
54	<p style="text-align: center;">LAMB - DIRECT EXAMINATION / MCGILL 1044</p> <p>1 (Whereupon, binders were tendered 2 to the Court, the witness and counsel.) 3 CROSS EXAMINATION 4 BY MR. THOMPSON: 5 Q. Good morning, Dr. Lamb. 6 A. Good morning. 7 Q. You have been a member of the American Civil Liberties 8 Union, is that correct? 9 A. That is correct. 10 Q. And a member of the National Organization of Women, is 11 that correct? 12 A. Yes, it is. 13 Q. And a member of the NAACP, is that correct? 14 A. Yes, it is. 15 Q. And a member of Amnesty International, is that correct? 16 A. Yes. 17 Q. And the Nature Conservancy, is that correct? 18 A. Yes. 19 Q. And you have even given money to PBS, is that correct? 20 (Laughter.) 21 Q. So we can agree you are a committed liberal, is that 22 right? 23 A. I wouldn't say I'm necessarily a committed liberal. 24 Q. You believe that gays and lesbians should have the right 25 to marry, correct?</p>	56	<p style="text-align: center;">LAMB - CROSS EXAMINATION / THOMPSON 1046</p> <p>1 in any professional capacity, is that correct? 2 A. Correct. 3 Q. You have never completed a study of children raised by gay 4 and lesbian parents, correct? 5 A. That's correct. 6 Q. You would doubt that the members of the American 7 Psychological Association would unanimously endorse the 8 positions you have taken in this case, correct? 9 A. Unanimously? No, probably not. 10 Q. And you don't have any idea as to what percentage would 11 agree with you, correct? 12 A. No. 13 Q. Okay. I would like to ask you a few questions about the 14 role of politics in modern day science. 15 You would agree that social sciences, like 16 psychology, are not hermetically sealed from political 17 influence, correct? 18 A. Well, I think none of us are hermetically sealed from the 19 world around us, if that's what you mean. 20 Q. Well, you would agree that governments in the United 21 States and Great Britain are not immune from the influence of 22 politics and ideology, correct? 23 A. Umm... 24 (Laughter.) 25 Q. That may be the second thing we can agree on today.</p>

57	<p style="text-align: right;">LAMB - CROSS EXAMINATION / THOMPSON 1047</p> <p>1 And universities are not free from the influence of</p> <p>2 politics, correct?</p> <p>3 A. Well, they are rife with politics with a small "p." How</p> <p>4 much they are influenced by politics with a big "P," I'm not</p> <p>5 sure.</p> <p>6 Q. Universities are not free from the influences of</p> <p>7 ideological forces, correct?</p> <p>8 A. I'm not quite sure I know what you mean.</p> <p>9 Q. Well, in other words, if there's a prevailing ideology</p> <p>10 within a society, that often manifests itself at universities,</p> <p>11 correct?</p> <p>12 A. Well, yeah. There would probably be some people who have</p> <p>13 a variety of ideological views, yes.</p> <p>14 Q. And think tanks often reflect a particular ideological</p> <p>15 view, correct?</p> <p>16 A. I think that's correct, yes.</p> <p>17 Q. And some major charitable organizations often reflect a</p> <p>18 particular ideological point of view, correct?</p> <p>19 A. I'm not sure about that, but perhaps. I can't think of</p> <p>20 any as we talk.</p> <p>21 Q. Funding for sophisticated high-quality psychological</p> <p>22 research is often provided by governments, universities, think</p> <p>23 tanks and major charitable organizations, correct?</p> <p>24 MR. MCGILL: Objection. Compound question.</p> <p>25 THE COURT: Sustained.</p>	59	<p style="text-align: right;">LAMB - CROSS EXAMINATION / THOMPSON 1049</p> <p>1 peer-reviewing process, politics can seep into that process?</p> <p>2 A. Well, I have to say, based on my experience doing it, that</p> <p>3 that's not seen to be a factor.</p> <p>4 Q. Now, let's talk about consensus and the importance of</p> <p>5 consensus within the scientific community.</p> <p>6 You would agree that history is littered with</p> <p>7 scientific theories that were widely accepted within a</p> <p>8 scientific community and that have proven to be wrong, correct?</p> <p>9 A. Well, I'm not sure about that.</p> <p>10 Q. Well, let's take phrenology. Phrenology was widely</p> <p>11 accepted within the scientific community, correct?</p> <p>12 A. I think -- and I'm not an expert on the history of science</p> <p>13 or on the history of phrenology, but I think it's more accurate</p> <p>14 to say that at a time there were several people who believed</p> <p>15 strongly in it. Whether it represented all the knowledgeable</p> <p>16 individuals who might have constituted the field of</p> <p>17 psychologists or neurologists at that time, it would be more</p> <p>18 debatable.</p> <p>19 Q. But all the scientists who believed it were wrong,</p> <p>20 correct?</p> <p>21 A. Yes.</p> <p>22 Q. And Freud's theory --</p> <p>23 A. May we just point out that many of them weren't</p> <p>24 scientists.</p> <p>25 (Laughter.)</p>
58	<p style="text-align: right;">LAMB - CROSS EXAMINATION / THOMPSON 1048</p> <p>1 BY MR. THOMPSON:</p> <p>2 Q. Funding for sophisticated high-quality psychological</p> <p>3 research is often provided by governments, correct?</p> <p>4 A. Yes. It's usually provided by government research</p> <p>5 agencies.</p> <p>6 Q. Okay. And the funding that is available for studies</p> <p>7 dictates to a large extent the type of studies that are</p> <p>8 conducted, correct?</p> <p>9 A. Can I just suggest, I think your question presumes that</p> <p>10 the decisions are being made by governments about what sorts of</p> <p>11 topics should be studied.</p> <p>12 In fact, certainly in this country, agencies like the</p> <p>13 National Science Foundation and the National Institutes of</p> <p>14 Health pride themselves on having peer reviewers evaluate the</p> <p>15 scientific quality and integrity and importance of the</p> <p>16 research, and I think they would vociferously object to the</p> <p>17 implication that it is a government ideological identification</p> <p>18 of the importance of a problem that determines what gets</p> <p>19 funded.</p> <p>20 Q. You've mentioned peer review here and in your direct</p> <p>21 testimony. Have you read any of the emails about the East</p> <p>22 Anglia Climate Gate?</p> <p>23 A. I haven't read any of the emails. I've certainly heard</p> <p>24 about them.</p> <p>25 Q. Okay. And isn't it possible that even in the</p>	60	<p style="text-align: right;">LAMB - CROSS EXAMINATION / THOMPSON 1050</p> <p>1 Q. Some of them were. The founder of it was Franz Gall, is</p> <p>2 that right? Do you know?</p> <p>3 A. I don't know.</p> <p>4 Q. But there was a time when Freud's theory of psychoanalysis</p> <p>5 was widely accepted by many psychologists, correct?</p> <p>6 A. Particularly by psychiatrists and treating clinical</p> <p>7 psychologists, that's correct.</p> <p>8 Q. But today most contemporary psychology bears little</p> <p>9 resemblance to and makes little more than passing references to</p> <p>10 psychoanalysis, correct?</p> <p>11 MR. MCGILL: Objection, compound.</p> <p>12 THE COURT: Do you understand the question?</p> <p>13 THE WITNESS: Yeah, I do.</p> <p>14 THE COURT: All right. Objection overruled.</p> <p>15 A. I think that that's probably true if you are referring to</p> <p>16 the body of scientific psychology and research.</p> <p>17 I think that that wouldn't necessarily be as true if</p> <p>18 you were talking about, you know, therapeutic, clinical</p> <p>19 contexts.</p> <p>20 There are certainly pockets of places where</p> <p>21 psychoanalysis holds, but, certainly, it's my view that it's</p> <p>22 beyond some rather broad contributions it made to the field and</p> <p>23 that it's not a major intellectual player today.</p> <p>24 Q. I would like to direct your attention to tab one of binder</p> <p>25 one, which is your deposition in this case, and to page 191,</p>

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LAMB - CROSS EXAMINATION / THOMPSON 1051

1 line 9. And please let me know when you are there.
 2 **A. I'm there.**
 3 Q. And you gave the testimony:
 4 "ANSWER: So that I think it's not unfair to
 5 say that most contemporary psychology bears
 6 little resemblance to and makes little more
 7 than passing references to psychoanalysis."
 8 And you gave that testimony, correct?
 9 **A. That's correct.**
 10 Q. All right. With respect to homosexuality, at the
 11 beginning of the twentieth century, there was widespread
 12 consensus within the psychological community that homosexuality
 13 was a pathological condition, correct?
 14 **A. I'm not a clinical psychologist, but I think that that's**
 15 **correct.**
 16 Q. And the psychological community was entirely wrong, wasn't
 17 it?
 18 **A. Well, that portion of the scientific -- of the**
 19 **psychological community that held that belief was wrong, yes.**
 20 Q. Now, I would like to direct your attention to your -- to
 21 tab seven, which is in your second binder.
 22 The way these binders are organized is tab one has
 23 your testimony in this and many other cases, and then the
 24 second binder has some --
 25 **A. I don't have it yet.**

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LAMB - CROSS EXAMINATION / THOMPSON 1052

1 Q. I apologize.
 2 (Whereupon, the binder was tendered
 3 to the Court, the witness and counsel.)
 4 THE COURT: These documents are upside down -- yes,
 5 okay.
 6 MR. THOMPSON: Oh, I apologize about that, your
 7 Honor.
 8 THE COURT: Oh, I see.
 9 THE WITNESS: We have the same problem.
 10 THE COURT: All right.
 11 MR. THOMPSON: Sorry about that, your Honor.
 12 THE COURT: Okay.
 13 MR. THOMPSON: Okay.
 14 BY MR. THOMPSON:
 15 Q. All right. Dr. Lamb, I would like to refer your attention
 16 to tab seven, and this is PX-1026. And it's a policy statement
 17 of the American Academy of Child and Adolescent Psychiatry.
 18 MR. THOMPSON: And I'm afraid I didn't memorize, your
 19 Honor, every PX-that was being moved in; but in an abundance of
 20 caution, I'd would like to ask the Court to take judicial
 21 notice of PX-1026.
 22 THE COURT: I assume there is no objection to
 23 admitting 1026?
 24 MR. McGILL: No objection, your Honor.
 25 THE COURT: Very well.

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LAMB - CROSS EXAMINATION / THOMPSON 1053

1 MR. McGILL: I don't believe it was previously
 2 admitted.
 3 THE COURT: Okay.
 4 (Plaintiffs' Exhibit 1026 received in evidence.)
 5 BY MR. THOMPSON:
 6 Q. Dr. Lamb, referring your attention to the second paragraph
 7 it says:
 8 "Lesbian, gay, bisexual or transgender
 9 individuals historically have faced more
 10 rigorous scrutiny than heterosexual people
 11 regarding their rights to be or become
 12 parents. The American Academy of Child and
 13 Adolescent Psychiatry opposes any
 14 discrimination based on sexual orientation or
 15 gender identity against individuals in regard
 16 to their rights as custodial, foster or
 17 adoptive parents."
 18 Dr. Lamb, there is not a rich empirical literature
 19 relating to child outcomes of transgender individuals, is that
 20 right?
 21 **A. I'm not familiar with it, no.**
 22 Q. And there is not a rich literature on the child outcomes
 23 of the children of bisexuals, correct?
 24 **A. That's correct.**
 25 Q. So this statement is not based on empirics, but, rather,

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LAMB - CROSS EXAMINATION / THOMPSON 1054

1 in politics, correct?
 2 **A. Well, I can't speak to the basis. That would be my**
 3 **understanding, yes.**
 4 Q. Okay. As for the American Psychological Association, you
 5 simply don't know whether any non-scientific considerations
 6 play a role in the APA's treatment of same gender issues,
 7 correct?
 8 **A. I'm not a member of the APA. I wasn't involved in its**
 9 **discussion, so I have no idea.**
 10 Q. During your -- I would like to ask you some definitional
 11 matters so that during our time today we are on the same page
 12 in terms of the terms we are using.
 13 You referred to "gays and lesbians" and my first
 14 question is: Is the accepted conclusion that there are
 15 probably somewhere around two percent of the adult population
 16 that is gay or lesbian?
 17 **A. I think that's the consensus. I think most people often**
 18 **express that as a range; but it would be a range around that,**
 19 **yes.**
 20 Q. And -- but for you, your belief is that the accepted
 21 conclusion is that there are probably somewhere around
 22 two percent of the adult population that is gay or lesbian,
 23 correct?
 24 **A. Yes. I'm not a demographer, but that sounds like about**
 25 **the right figure that I hear people talk about.**

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LAMB - CROSS EXAMINATION / THOMPSON 1055

1 Q. There are some individuals who might consider themselves
 2 to have a same-sex orientation, but do not have the erotic
 3 component as part of that identity, correct?
 4 **A. Again, that's moving outside the area of my expertise, but**
 5 **that's probably true.**
 6 Q. And for the purposes of most of the research you rely
 7 upon, you are talking about individuals who define themselves
 8 as having a sexual orientation towards members of the same sex
 9 and would self identify as lesbian, gay or heterosexual,
 10 correct?
 11 **A. That's correct.**
 12 Q. And you use the term "gender orientation" and "sexual
 13 orientation" interchangeably, correct?
 14 **A. I confess that I do. I'm trying to be better behaved and**
 15 **to talk about it more particularly.**
 16 **(Laughter.)**
 17 Q. In the past, you have used the term "gender orientation"
 18 as the sexual object focus of sexual romantic interest,
 19 correct?
 20 **A. I may have done it. It doesn't sound like a word that I**
 21 **would normally use, but I may well have done so.**
 22 Q. Well, let me just refresh your recollection. Let's turn
 23 back to binder one and to your deposition testimony in the
 24 Howard case. That was a case -- was it in Arkansas, Dr. Lamb?
 25 **A. Yes.**

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LAMB - CROSS EXAMINATION / THOMPSON 1056

1 Q. And that would be behind tab four, and I would like to
 2 direct your attention to page 18.
 3 **A. Uh-huh.**
 4 Q. And lines 11 through 15. And let me know, are you there,
 5 Doctor?
 6 **A. Which line? Sorry.**
 7 Q. Lines 11 through 15. You were asked:
 8 "QUESTION: You say gender orientation. How
 9 would you to define that?
 10 "ANSWER: Gender orientation as defining
 11 one's sexual -- the sexual object focus of
 12 sexual romantic interest" --
 13 MR. MCGILL: Objection.
 14 BY MR. THOMPSON:
 15 Q. (Continuing)
 16 "ANSWER: -- "whether that is focused on male
 17 or female."
 18 Did you give that testimony?
 19 THE COURT: Is there an objection?
 20 MR. MCGILL: Objection.
 21 THE COURT: What is the objection?
 22 MR. MCGILL: I'm sorry, your Honor. There is nothing
 23 to impeach.
 24 MR. THOMPSON: Your Honor, the witness said he
 25 wasn't -- he couldn't recall whether he had used it or not and

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1 I wanted to refresh his recollection.
 2 THE COURT: For that purpose, you may.
 3 BY MR. THOMPSON:
 4 Q. Does this refresh your recollection that you've defined it
 5 during your Howard deposition in the way that's reflected here?
 6 **A. Yeah. I suspect that the word "object" is a**
 7 **mistranscription of something that I said. But the focus of**
 8 **sexual romantic interest is what I was trying to say.**
 9 **So I'm not trying to dispute it. I suspect that the**
 10 **word "object" wasn't used, but I don't have a great problem**
 11 **with that.**
 12 Q. You also refer to the term "well-being" and "psychological
 13 adjustment" and you use those as synonyms, correct?
 14 **A. Yes.**
 15 Q. And you use both terms as fairly broad terms to comprise a
 16 variety of possible ways of assessing how well children are
 17 doing psychologically as individuals, correct?
 18 **A. That's correct.**
 19 Q. And you are not explicitly trying to exclude any index of
 20 mental health when you use the term "well-being," correct?
 21 **A. I think that's correct, yes.**
 22 Q. You would concede that there are still many differences
 23 between men and women in our society, correct?
 24 **A. Yes.**
 25 Q. Men are much more likely to be incarcerated for committing

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LAMB - CROSS EXAMINATION / THOMPSON 1058

1 a crime than women, correct?
 2 **A. That's correct.**
 3 Q. There is evidence that men are more likely to be engaged
 4 in violent altercations, correct?
 5 **A. Yes.**
 6 Q. Men are more likely to be aggressive, correct?
 7 **A. Yes.**
 8 Q. Men are more likely to be alcoholics than women, correct?
 9 **A. I think so.**
 10 Q. And having an alcoholic parent can affect a child's
 11 psychological well-being, correct?
 12 **A. Yes.**
 13 Q. Women live longer than men, correct?
 14 **A. On average, yes.**
 15 Q. The death of a parent is a traumatic event for a child,
 16 correct?
 17 **A. It can be, yes.**
 18 Q. Men and women get different types of diseases at different
 19 rates, correct?
 20 **A. Yes.**
 21 Q. And the health of parents can have an effect on the
 22 psychological well-being of children, correct?
 23 **A. Yes.**
 24 Q. The intelligence of parents can have an effect on the
 25 psychological well-being of children, correct?

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LAMB - CROSS EXAMINATION / THOMPSON 1059

1 A. That's a trickier one. I'm not sure that the intelligence
 2 of parents directly affects the well-being of their children.
 3 I --
 4 Q. It's certainly possible that if someone -- if someone were
 5 able to get into Cambridge than come -- learn about your
 6 processes, they'd be in a better position to be a good parent
 7 than if they were illiterate and never heard of them, right?
 8 A. Well, I'm not sure that that's true. I'm not sure that
 9 better-educated people are necessarily always better parents.
 10 I suppose that you could make the case that people
 11 who had extremely low levels of intelligence might make it
 12 difficult for them to perform some of the functions of
 13 parenting. It could -- it could indirectly affect children's
 14 adjustment.
 15 Q. All right. Well, let's look and see if there are any
 16 differences in the Bell curve between men and women. And I
 17 direct your attention to tab eight of your binder.
 18 A. Back to the other binder?
 19 Q. Yes.
 20 A. Okay.
 21 Q. And, in particular, I'd like to direct your attention to
 22 page 7 of 19, as reflected in the bottom right-hand corner.
 23 A. Uh-huh.
 24 Q. And it says, in the second to last sentence -- and this
 25 is -- I should say for the record, is a document written by a

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LAMB - CROSS EXAMINATION / THOMPSON 1060

1 Diane Halpern, who's a professor at Claremont McKenna, and she
 2 writes:
 3 "There are also disproportionately more males
 4 at the low end of cognitive abilities
 5 distribution, with males overrepresented in
 6 some categories of learning disabilities and
 7 retardation. The low end of verbal abilities
 8 provides a very clear example of this."
 9 Isn't it true that men -- if you look at the Homer
 10 Simpsons of the world, there are a lot more men than women?
 11 (Laughter)
 12 A. I suspect that she's talking of people who are performing
 13 much less well than Homer Simpson, but, yes.
 14 (Laughter)
 15 Q. I didn't know that was possible, but all right.
 16 Now, men drop out from high school at greater rates
 17 than women; isn't that right?
 18 A. Currently, I believe that's true, yes.
 19 Q. And men graduate from college at lower rates than women,
 20 correct?
 21 A. I'm not sure about that. I know those statistics have
 22 been changing, and probably are different in different
 23 contexts, so I'm not sure.
 24 Q. Educational attainment of the parents is a predictor of
 25 psychological well-being and adjustment, correct?

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LAMB - CROSS EXAMINATION / THOMPSON 1061

1 A. It can be associated with some of the processes we talked
 2 about, yes.
 3 Q. And we can also agree that men can't breastfeed, correct?
 4 A. That's correct.
 5 Q. And breastfeeding clearly has benefits for children
 6 insofar as it helps to provide sources of immunity to children
 7 that are beneficial to them, correct?
 8 A. That's correct.
 9 Q. Economic resources are quite reliably a predictor of
 10 differences in children's adjustment, correct?
 11 A. That's correct.
 12 Q. And it's a regrettable fact that women in the
 13 United States continue to earn less than men, correct?
 14 A. Yes, I think that's true.
 15 Q. And do you know whether lesbians on average have higher or
 16 lower household income than heterosexual couples?
 17 A. I'm not sure.
 18 Q. There are differences between the earning power of gay men
 19 and lesbians, correct?
 20 A. I'm not sure. That's --
 21 Q. Well, let's just look and see whether you have a reaction
 22 to the -- what's behind tab 9, which is DIX96. And this is the
 23 expert declaration of Lee Badgett -- of Lee Badgett, submitted
 24 in the In Re Marriage Cases in California.
 25 And she says, on page 5 of this document, in

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LAMB - CROSS EXAMINATION / THOMPSON 1062

1 paragraph 13:
 2 "Contrary to a popular stereotype, same-sex
 3 couples in California have household incomes
 4 that are comparable to their married
 5 counterparts. After controlling for
 6 educational attainment, race, and age, male
 7 couples' average household income is
 8 approximately 4 percent higher than married
 9 couples' average household income, while
 10 female couples' average household income is
 11 approximately 7 percent lower than married
 12 couples' household income."
 13 And that would be -- it'd be important to hold
 14 constant for the level of resources available to a family, in
 15 terms of doing the types of studies you rely on; is that fair
 16 to say?
 17 A. That would be fair to say. And I'm sure that
 18 Professor Badgett knows what she's talking about.
 19 I do want to draw your attention to the fact, though,
 20 this is talking about same-sex couples in general, not
 21 necessarily those who are raising children. And one would want
 22 to be focused on the particular group that you're talking
 23 about.
 24 Q. Now, are you familiar with evidence that wives spend money
 25 differently -- or, I should say, that women spend money

73	<p>LAMB - CROSS EXAMINATION / THOMPSON 1063</p> <p>1 differently than men in terms of as it relates to children?</p> <p>2 A. I'm not familiar with research on that.</p> <p>3 Q. Gender is also related to certain occupations, correct?</p> <p>4 A. There are certain occupations where some genders are more prominent than others, yes, although this has actually changed pretty dramatically over time.</p> <p>5 Q. Gender is associated with educational opportunities, correct?</p> <p>6 A. Uhm, I'm not sure it's associated with opportunities. It may be associated in some context with whether or not people take advantage of opportunities.</p> <p>7 Q. Men are more likely to perpetrate sexual abuse than women are, as a general characteristic, correct?</p> <p>8 A. That's correct.</p> <p>9 Q. As a result, stepfathers are much more likely to be perpetrators of sexual abuse than stepmothers, correct?</p> <p>10 A. That's correct.</p> <p>11 Q. And stepfathers are more likely than biological fathers to abuse their children, correct?</p> <p>12 A. I think that's correct, too, yes.</p> <p>13 Q. And stepfathers molest children at a higher rate than stepmothers, correct?</p> <p>14 A. Yes, correct.</p> <p>15 Q. And molestation of a child negatively impacts the child's development, correct?</p>	75	<p>LAMB - CROSS EXAMINATION / THOMPSON 1065</p> <p>1 parenting skills and ability?</p> <p>2 "ANSWER: Well, I'm not saying they are completely interchangeable with respect to skills and abilities."</p> <p>3 And you gave that testimony, right?</p> <p>4 A. I did. I continued for several paragraphs explaining what I meant.</p> <p>5 (Laughter)</p> <p>6 Q. And we'll explore that in great detail today. You --</p> <p>7 A. I just don't want you to lose sight of the fact that there is more.</p> <p>8 Q. You would concede that gender is a complicated variable, and that it has ramifications for an individual's experiences from the beginning of their life, correct?</p> <p>9 A. That's correct.</p> <p>10 Q. So gender likely would be related to some of the processes related to raising a child, but not necessarily in a straightforward way, correct?</p> <p>11 A. Correct.</p> <p>12 Q. And so you think gender is one of those variables that can have ripple effects in a variety of different ways on the way in which people behave, and can in a variety of ways affect the way they behave with their children, correct?</p> <p>13 A. It can, yes.</p> <p>14 Q. Gender is something that actually has a wide range of</p>
74	<p>LAMB - CROSS EXAMINATION / THOMPSON 1064</p> <p>1 A. It certainly can, yes.</p> <p>2 Q. And there is evidence that men who are married to women, however, are less likely to drink heavily and less likely to gamble, correct?</p> <p>3 A. I've heard of that research. It's obviously outside of my expertise -- range of expertise, yes.</p> <p>4 Q. When it comes to parenting skills and abilities, you're not saying that men and women are completely interchangeable, correct?</p> <p>5 A. What I'm saying is that where it comes to the aspects of parenting that affect children's adjustment, it's the same features of the parents' behavior that are important for their children's adjustment.</p> <p>6 Q. I would like to direct your attention to page 225 of your deposition in this case, lines 9 through 14.</p> <p>7 A. That's back to --</p> <p>8 Q. Binder 1, the testimony binder.</p> <p>9 A. Okay. Number 1. And what pages was that?</p> <p>10 Q. 225.</p> <p>11 A. Okay.</p> <p>12 Q. And line 9, it says -- let me make sure I'm in the right place here. All right. Line 9 through 14. Line 9 starts with my question:</p> <p>13 "Is it your opinion that men and women are completely interchangeable in terms of</p>	76	<p>LAMB - CROSS EXAMINATION / THOMPSON 1066</p> <p>1 effects on a variety of different levels of our behavior, correct?</p> <p>2 A. That's correct.</p> <p>3 Q. Fathers' biological and socially-reinforced masculine qualities predispose them to treat their children differently than do mothers, correct?</p> <p>4 A. I'm not sure about that.</p> <p>5 Q. Well, let's look at tab 9 of your binder, your second binder. And this would be 9A, actually.</p> <p>6 A. Uh-huh.</p> <p>7 Q. And turning your attention -- this is called -- this is from 2000. It's "Fatherhood in the 21st Century." And this is something you were a coauthor of, correct?</p> <p>8 A. That's correct.</p> <p>9 And I'd like to direct your attention to page 130. And in particular, to the right-hand column, the second full paragraph. And it's the third sentence, that says:</p> <p>10 "Fathers' biological and socially-reinforced masculine qualities predispose them to treat their children differently than do mothers."</p> <p>11 A. And I'm still not sure where you are. Sorry. Oh, okay, the second column. I have you now.</p> <p>12 Q. Okay. And when you signed on to this paper as a coauthor, you believed that to be true, correct?</p> <p>13 A. Well, I think this is referring to David Popenoe, and</p>

77	<p style="text-align: right;">LAMB - CROSS EXAMINATION / THOMPSON 1067</p> <p>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</p>	79	<p style="text-align: right;">LAMB - CROSS EXAMINATION / THOMPSON 1069</p> <p>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?</p>
78	<p style="text-align: right;">LAMB - CROSS EXAMINATION / THOMPSON 1068</p> <p>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</p>	80	<p style="text-align: right;">LAMB - CROSS EXAMINATION / THOMPSON 1070</p> <p>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</p>

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LAMB - CROSS EXAMINATION / THOMPSON 1071

1 ways in which mothers and fathers behave in interaction with
 2 their children, as I've testified earlier.
 3 Those differences don't always exist. There are many
 4 studies that don't show them. And it's now quite clear that
 5 those differences in and of themselves don't significantly
 6 affect the children's adjustment.
 7 Q. It is disturbing that there appears to have been a
 8 devaluation of the father's role in western society such that
 9 many children may suffer affective paternal deprivation,
 10 correct?
 11 A. That would depend on the context in which you are talking
 12 about. But, certainly, there are many situations in which
 13 children who do have a father and don't benefit from the
 14 committed involvement of that person in their lives.
 15 Q. Well, let's turn to tab 13. This is an article that you
 16 wrote while you were at Yale, entitled, "Fathers, Forgotten
 17 Contributors to Child Development."
 18 And I'd like to direct your attention to the
 19 conclusion on page 260, and, in particular, to the first full
 20 paragraph, the third sentence, which reads, in part:
 21 "It is disturbing that there appears to have
 22 been a devaluation of the father's role in
 23 western society such that many children may
 24 suffer affective paternal deprivation."
 25 What was the context in which you believed that

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LAMB - CROSS EXAMINATION / THOMPSON 1072

1 statement to be true?
 2 A. Well, as you pointed out, I wrote this when I was a
 3 graduate student beginning my career, studying the
 4 relationships between infants and fathers and infants and
 5 mothers.
 6 And in that context, in the context of a field where
 7 there was a tremendous focus on the relationships between
 8 children and their heterosexual mothers, and complete
 9 inattention to the possibility that children might have other
 10 significant relationships, I wrote this article, drawing
 11 attention to the fact that for those many children who grew up
 12 with two heterosexual parents it was important to study the
 13 role of those other individuals in the child's life.
 14 I wrote another article in the same -- in the same
 15 journal, a few years later -- and perhaps you have this under
 16 one of these other tabs, too, -- in which I pointed out --
 17 you've done a great job for me, in bringing back these great
 18 old memories --
 19 (Laughter)
 20 Q. There'll be more.
 21 A. I'm sure.
 22 -- where I focused on the fact that children actually
 23 grow up in more complicated social environments. Not only do
 24 many of them have significant relationships with fathers, many
 25 also have a significant relationship with a brother, a sister,

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LAMB - CROSS EXAMINATION / THOMPSON 1073

1 a grandmother, and that we needed to look more broadly at the
 2 environment in which children were raised.
 3 And I absolutely still believe that that's the case.
 4 And I think that's entirely consistent, with what I've been
 5 saying.
 6 Q. The increase in father's absence is particularly troubling
 7 because it is consistently associated with poor school
 8 achievement, diminished involvement in the labor force, early
 9 child bearing, and heightened levels of risk-taking behavior,
 10 correct?
 11 A. Again, this is something that we talked about earlier.
 12 That is correct. There are those associations.
 13 The interesting question is: Why do those
 14 associations come about and how can we understand those
 15 associations?
 16 Q. And boys growing up without fathers seem especially prone
 17 to exhibit problems in the areas of sex role and gender
 18 identity development, school performance, psychosocial
 19 adjustment, and self-control, correct?
 20 A. And I think some of those findings have held up, and some
 21 of those conclusions have not been substantiated by a lot of
 22 the recent research.
 23 Q. Well, let's look at -- just to make sure we're getting on
 24 the right page on the time frame, if you look at tab 15 in your
 25 binder, this is an article from 2000.

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LAMB - CROSS EXAMINATION / THOMPSON 1074

1 A. Uh-huh.
 2 Q. It's entitled "Fatherhood in the 21st Century." And you
 3 were a coauthor of it; is that right?
 4 A. That's right, yeah.
 5 Q. Okay. And if we turn to the second page, which is page
 6 128, in the left-hand column, second full paragraph, the second
 7 sentence says, "Boys growing up with [sic] fathers seem
 8 especially prone to exhibit problems in the areas of sex role
 9 and gender identity development."
 10 Has that finding that was in your article held up?
 11 A. Uhm, that finding is not as clear in the larger sample
 12 studies that have been conducted. The quotation there was
 13 citation to a study done by a psychologist, Mavis Hetherington.
 14 And most of the research on the effects of father
 15 absence, as we've discussed it here, doesn't show those
 16 differences in sex role and gender identity development.
 17 Q. All right. Now, how about the finding that you reference
 18 in your 2000 paper, about boys without fathers being prone to
 19 poor school performance. Has that held up?
 20 A. Yes.
 21 Q. And what about psychosocial adjustment, has that finding
 22 with respect to that held up?
 23 A. Yeah, we talked about that on -- in the direct
 24 examination. There are those correlations.
 25 Q. And is there -- what about self-control?

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LAMB - CROSS EXAMINATION / THOMPSON 1075

1 A. Uhm, there certainly are differences associated with
 2 self-control; particularly manifest, say, in difficulties with
 3 delinquent behavior in adolescence.
 4 Q. Is there a causal connection between father absence and
 5 these problems?
 6 A. No. As I tried to explain earlier, the literature
 7 suggests that the processes that I talked about, the quality of
 8 the relationships with the parents, the quality of the
 9 relationships between the parents, and the social, emotional
 10 and economic resources available to the family, are the most
 11 important factors in directly explaining those differences.
 12 Q. All right. Now, you would agree that nurturant fathers
 13 may contribute greatly to the psychological adjustment of their
 14 daughters, correct?
 15 A. Yeah.
 16 Q. And they may facilitate their happiness in subsequent
 17 heterosexual relationships?
 18 A. Yes.
 19 Q. All right. And there is evidence suggesting that
 20 disturbed father-child relationships and the failure to achieve
 21 same-sex identification may be pathogenic; is that correct?
 22 A. Can we take those two things apart?
 23 Q. Sure.
 24 A. Just repeat them again for me. The first, in terms of the
 25 importance of a satisfying relationship with a parent, that's

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LAMB - CROSS EXAMINATION / THOMPSON 1076

1 absolutely what I've been testifying, yes.
 2 I lost the second part of your --
 3 Q. Yeah. The failure to achieve same-sex identification may
 4 be pathogenic. Are there some studies that suggest that?
 5 A. Hmm.
 6 Q. Well, I'm happy to refresh your recollection.
 7 A. Please.
 8 Q. Let's look at tab 17. This is a book you edited, entitled
 9 "The Role of the Father in Child Development."
 10 This is the 1976 version. And page 21, the first
 11 full paragraph, it's the second to last sentence, which reads:
 12 "On the other hand, both disturbed
 13 father-child relationships and the failure to
 14 achieve same-sex identification may be
 15 pathogenic."
 16 A. I see that sentence, yeah.
 17 Q. And there are studies that support that, right?
 18 A. Well, again, as you pointed out, this is a chapter
 19 published in 1976, written, again, when I was a student. And
 20 the citations here are to one paper from 1961, two from the
 21 '50s, and one from 1965. And we've had a lot of research
 22 since, that was written.
 23 Q. And so those --
 24 A. As you pointed out, there have been subsequent editions of
 25 this book, reflective of the fact that we've learned more and

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LAMB - CROSS EXAMINATION / THOMPSON 1077

1 our understanding of these phenomena has improved.
 2 Q. Would you agree that the importance of fathers in
 3 fostering academic success, particularly in their sons, is
 4 clearly relevant to intervention programs aimed at improving
 5 the intellectual performance of deprived children?
 6 A. There is a substantial amount of evidence, which I think I
 7 referred to, already showing that when children are living with
 8 or have two parents, it's important to get as much involvement
 9 by both of those parents.
 10 Children clearly benefit when they have two parents,
 11 both of whom are actively involved. And that's certainly true
 12 around school issues, as well.
 13 Q. Several studies have shown that fathers are more concerned
 14 than mothers about the adoption of cultural values and
 15 traditionally-defined sex roles; is that right?
 16 A. That was certainly true of a lot of the earlier research.
 17 I'm not sure about that today. And when I say I'm not sure
 18 about it, I can't think of much research on that, as I sit
 19 here.
 20 Q. Moral development also appears to be affected by father
 21 absence, correct?
 22 A. There was talk about that in the earlier literature. It's
 23 not something that has been explored as much more recently.
 24 But I suspect it's because researchers have shifted from
 25 focusing on some -- you know, a broad term like "moral

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1 development" to focusing more narrowly on something like
 2 encounters with the police or delinquent behavior, say.
 3 Q. Studies of father absence confirm that fathers influence
 4 sex roles, morality, achievement, and psychological adjustment,
 5 correct?
 6 A. Again, I think that that's a -- it sounds like a
 7 relatively older conclusion about the initial work on this
 8 topic.
 9 Q. Well, and --
 10 A. But, you know, it's consistent with the overall notion
 11 that children who don't benefit from good relationships with
 12 parents, who don't benefit from harmonious relationships with
 13 their parents, can have difficulties in their psychological
 14 development.
 15 THE COURT: Mr. Thompson, when would be a convenient
 16 time to take a morning break?
 17 MR. THOMPSON: This would be a delightful time to
 18 take a break, Your Honor.
 19 THE COURT: Very well. Why don't we take until five
 20 minutes of the hour.
 21 (Recess taken from 10:40 to 11:01 a.m.)
 22 THE COURT: Mr. Thompson, you may continue your
 23 cross-examination of the witness.
 24 MR. THOMPSON: Thank you, Your Honor.
 25

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1 BY MR. THOMPSON:
 2 Q. Dr. Lamb, there is evidence showing that boys growing up
 3 without fathers seem to have problems in the areas of role --
 4 in the areas of sex role and gender identity; and there's
 5 evidence that comes from the 1990s on that issue, correct?
 6 **A. Uhm, I'm not familiar with research on gender identity**
 7 **issues from the 1990s.**
 8 Q. Let's look at tab 19 --
 9 **A. Uh-huh.**
 10 Q. -- of your book. This is The Role of the Father in Child
 11 Development. And this is your 1997 edition, right?
 12 **A. That's right.**
 13 Q. And if we turn to page 10, and we see in the second full
 14 paragraph, you talk with -- and this is the second to last
 15 sentence in that paragraph. It's describing Chapter 11 of the
 16 volume. You talk about:
 17 "Boys growing up without fathers seem to have
 18 problems in the area of sex role and gender
 19 identity development, school performance,
 20 psychosocial adjustment, and perhaps in the
 21 control of aggression."
 22 And when you wrote this introduction to your 1997
 23 book, you were describing the state-of-the-art literature,
 24 correct?
 25 **A. Actually, if you look at this paragraph in context, it**

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1 specifically refers to the early studies and cites, then, a
 2 number of studies, the latest of which were the Whitehead and
 3 Blankenhorn reviews that we talked about earlier. But it's a
 4 reference to the earlier studies. It's tried to put into
 5 context the research. And, absolutely, these topics are
 6 discussed by Hetherington and her coauthor.
 7 Q. And discussed -- you intended your 1997 book to be
 8 up-to-date and current, correct?
 9 **A. I intended it to be up-to-date and current, and to put the**
 10 **results in context. And this paragraph clearly tries to put**
 11 **into context the early father absence studies. That's --**
 12 **that's the -- to quote from the previous sentence.**
 13 Q. Now, there is increasing evidence that the relationship
 14 with the father may have an especially long-term impact on the
 15 child's adjustment, particularly as he or she starts to
 16 establish mature romantic relationships in adolescence,
 17 correct?
 18 **A. It is correct that children who grow up in heterosexual**
 19 **families do benefit in those regards when they have a good --**
 20 **good relationship with their fathers. And, contrarily, that**
 21 **there may be difficulties when they don't have a good**
 22 **relationship. That's absolutely correct.**
 23 Q. And they have some fairly long-term associations between
 24 the quality of the relationship that young children have with
 25 their fathers and the way that they interact as young adults

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LAMB - CROSS EXAMINATION / THOMPSON 1081

1 with their own peers, correct?
 2 **A. That's correct. If you look at children being raised in**
 3 **those sorts of families, the equality of the relationships that**
 4 **children have with their parents have short- and long-term**
 5 **influences on their development.**
 6 Q. Now, our expert in this case, David Blankenhorn, wrote a
 7 book Fatherless in America, correct?
 8 **A. That's correct.**
 9 Q. And you've read that book, yes?
 10 **A. A very long time ago, but I have read it, yes.**
 11 Q. And you wrote a review of it, correct?
 12 **A. I did.**
 13 Q. And you thought it was easily the most interesting,
 14 provocative, and eloquent piece of social commentary published
 15 in 1995, correct?
 16 **A. Uhm, okay. I'm glad that I did say that, because I recall**
 17 **it being a -- and he certainly perceived it to be a rather**
 18 **negative review of his book. I'm glad that I couched my**
 19 **comments politely.**
 20 **(Laughter)**
 21 Q. Let's see how you concluded your review, which is behind
 22 tab 21. And you concluded by saying, "It" -- meaning the
 23 book -- "deserves to be widely read and thoughtfully
 24 discussed."
 25 Do you recall saying that?

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LAMB - CROSS EXAMINATION / THOMPSON 1082

1 **A. Well, I can see it here, yes.**
 2 MR. THOMPSON: Your Honor, we move the admission and
 3 we ask the Court to take judicial notice of DIX103.
 4 THE COURT: I assume no objection, Mr. McGill.
 5 MR. MCGILL: No objection.
 6 (Defendants' Exhibit 103 received in evidence.)
 7 THE COURT: Very well.
 8 BY MR. THOMPSON:
 9 Q. And you would concede -- in terms of your current view,
 10 you would concede for children who have two parents, those two
 11 parents are often quite different in a number of different
 12 ways, correct?
 13 **A. Yes.**
 14 Q. And some of those differences between the parents may be
 15 related to their gender, correct?
 16 **A. Some of them certainly may be, yes.**
 17 Q. And the point you would want to emphasize is, it's
 18 probably beneficial for children to have relationships with
 19 people who are different, correct?
 20 **A. Yes. The point that I've made repeatedly, over time, is**
 21 **that children benefit from having good-quality relationships.**
 22 **But the more people you have deep, intimate relationships with**
 23 **the better, the broader the range of important experiences you**
 24 **can learn. That's certainly true.**
 25 Q. You would concede that it's not irrelevant for a boy to

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LAMB - CROSS EXAMINATION / THOMPSON 1083

1 have a role model insofar as his development is concerned,
 2 correct?
 3 **A. You said irrelevant? Sorry.**
 4 Q. Sorry. Maybe I misspoke.
 5 You would concede that it's -- well, it's relevant
 6 for a boy to have a male role model, correct?
 7 **A. Both boys and girls do copy other people in a variety of**
 8 **ways. And to the extent that that's what you mean by having**
 9 **role models, yes, that's one way in which children learn about**
 10 **different ways of behaving.**
 11 Q. But just so the record is clear, it's not irrelevant for a
 12 boy to have a male role model insofar as his development is
 13 concerned, yes or no?
 14 **A. Well, of course, I think I just said children do benefit**
 15 **from and use role models. And society is replete with role**
 16 **models.**
 17 Q. So that's a yes?
 18 (Laughter)
 19 **A. Yeah.**
 20 Q. And there is certainly research that talks about the
 21 influence on children's gender roles, as it relates to the
 22 availability of role models outside the home and in society at
 23 large, correct?
 24 **A. Yes, there is. The evidence more specifically is on the**
 25 **extent to which children do seem to make a great deal of use of**

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LAMB - CROSS EXAMINATION / THOMPSON 1084

1 **role models both inside and outside the home.**
 2 Q. And, in your opinion, there isn't any evidence that
 3 suggests that it's really important for children to see
 4 traditional role modeling between a man and a woman in the home
 5 in which they are living, correct?
 6 **A. Whenever I hear the word "any" my antenna usually start to**
 7 **wiggle.**
 8 Q. Well, let me refresh your recollection. If you turn to
 9 your Howard deposition, which is in your testimony binder, and
 10 that's behind tab 4. And I'd like to direct your attention to
 11 the deposition at page 50. And let me know when you're there.
 12 **A. Uh-huh, I'm there.**
 13 Q. And you were -- you said -- well, you were asked on line
 14 19:
 15 "Do you think it is important for children
 16 who are brought into foster care to see
 17 traditional role-modeling between a man and a
 18 woman?
 19 "ANSWER: There isn't any evidence that
 20 suggests that it's really important to see
 21 that in the home in which you're living. And
 22 in part that may be because kids are exposed
 23 to so many examples of different forms of --
 24 of roles and role models outside the family
 25 as well."

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LAMB - CROSS EXAMINATION / THOMPSON 1085

1 Did you give that testimony?
 2 **A. Yeah, it looks like it.**
 3 Q. And when you talk about role models outside the home, you
 4 would include in that group people on TV to be a role model for
 5 a boy without a father, right?
 6 **A. Yes, I think that that's often what people mean. But I**
 7 **think in most real-world situations it's often other people**
 8 **that the child comes in contact with: teachers, relatives,**
 9 **friends.**
 10 Q. And assuming all other things being equal, children who
 11 have a good relationship with a committed, involved, caring
 12 father would do better than those who didn't have that
 13 relationship, correct?
 14 **A. Yeah, when children do have a father, having that father**
 15 **involved in their life is very important to their development,**
 16 **for the reasons that I explained earlier.**
 17 Q. Having a mother is also important for child development,
 18 isn't it?
 19 **A. Having a -- having an important supportive relationship**
 20 **with the people who are taking care of you is really important,**
 21 **that's correct.**
 22 Q. Do you think having a mother is important to a child's
 23 development; yes or no?
 24 **A. To a child's -- I would have to say it depends.**
 25 Q. So there are some circumstances in which it would be

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LAMB - CROSS EXAMINATION / THOMPSON 1086

1 absolutely irrelevant to a child whether they were -- they were
 2 not with their mother?
 3 **A. There are certainly some circumstances in which children**
 4 **do perfectly well when they are raised by somebody other than**
 5 **their biological mother.**
 6 Q. And is there a rich empirical literature in your field
 7 demonstrating that mothers are irrelevant to the psychological
 8 well-being of their children?
 9 **A. I think you've misstated what I said.**
 10 Q. I'm asking a question. So -- and my question is -- I'm
 11 not misstating, I'm just asking a question -- is there a rich
 12 empirical literature in your field showing that mothers are
 13 irrelevant to the psychological well-being of their children?
 14 **A. I think one would have to ask what is meant by the terms**
 15 **"mothers" in that context. It's obviously a term used to mean**
 16 **a number of different things. And it's important to determine**
 17 **whether you're talking about the person who's biologically**
 18 **conceived, bore, and delivered the child, or whether you're**
 19 **talking about the person who is playing a key role in the**
 20 **raising of that child and forming a social role as a parent.**
 21 I've testified not only here but in everything that
 22 I've written, about the importance of the relationships that
 23 children have with the people who are taking care of them.
 24 And, certainly, when that person is a woman and is identified
 25 as a mother, that relationship is a supremely important element

97	<p style="text-align: right;">LAMB - CROSS EXAMINATION / THOMPSON 1087</p> <p>1 in shaping their child's development.</p> <p>2 By the same token, we know that the gender of that</p> <p>3 person is not the important factor that makes that person an</p> <p>4 important contributor to that child's development.</p> <p>5 Q. Now, in your report in this case you made reference to a</p> <p>6 traditional family. Do you recall that?</p> <p>7 A. Yes, I did.</p> <p>8 Q. And a traditional family, as you were using that term, was</p> <p>9 a family with a married biological mother and father; is that</p> <p>10 right?</p> <p>11 A. Well, I think I usually mean broadly -- broader than that,</p> <p>12 cases where there's not only a married family with a biological</p> <p>13 mother and father, but the term usually refers also to the ways</p> <p>14 in which children are reared; with a stay-at-home mother and a</p> <p>15 bread-winning father, with the early childcare predominantly</p> <p>16 provided within the home. And anything that would involve a</p> <p>17 deviation in some respect from those would be seen as a</p> <p>18 nontraditional family.</p> <p>19 Q. And there are some elements of society broadly defined</p> <p>20 that still assume that a traditional family is best for</p> <p>21 children, correct?</p> <p>22 A. I think that there are probably elements in society who</p> <p>23 might believe that, yes.</p> <p>24 Q. And even among social scientists there is a diversity of</p> <p>25 opinion about those factors, correct?</p>	99	<p style="text-align: right;">LAMB - CROSS EXAMINATION / THOMPSON 1089</p> <p>1 Usually, those differences themselves wouldn't represent</p> <p>2 differences in adjustment. Those would be normal variations in</p> <p>3 temperament or personality.</p> <p>4 But you could conceive of a situation where</p> <p>5 somebody's temperament, something that makes them irritable,</p> <p>6 makes them impatient, that that might affect their parenting.</p> <p>7 So in that way it might affect the child's adjustment.</p> <p>8 Q. Well, now, you said it might affect the adjustment, just</p> <p>9 now. Let's look at what you said during your deposition. I'd</p> <p>10 like to direct your attention to binder 1, your deposition in</p> <p>11 this case, which is behind tab 1.</p> <p>12 A. Uh-huh.</p> <p>13 Q. And it's page 257. And let me know when you're there,</p> <p>14 sir.</p> <p>15 A. Okay.</p> <p>16 Q. All right. And line 7:</p> <p>17 "Certainly, we know that personality or</p> <p>18 temperament is something that is under</p> <p>19 genetic influence. And there are</p> <p>20 similarities between genetic parents and</p> <p>21 their offspring with respect to some of those</p> <p>22 sorts of factors, and those would influence</p> <p>23 children's adjustment. So genetic factors in</p> <p>24 that sense are significant issues to take</p> <p>25 into account when trying to understand</p>
98	<p style="text-align: right;">LAMB - CROSS EXAMINATION / THOMPSON 1088</p> <p>1 A. Well, I think that the -- the consensus among -- in the</p> <p>2 field is that family structure variables like those are not</p> <p>3 causally important in identifying or affecting children's</p> <p>4 adjustment.</p> <p>5 Q. I'd like to ask you a few questions about the importance</p> <p>6 between the genetic link between parent and child.</p> <p>7 Certainly, we know that personality or temperament is</p> <p>8 something that is under genetic influence; yes or no?</p> <p>9 A. Yes.</p> <p>10 Q. And there are similarities between genetic parents and</p> <p>11 their offspring with respect to some of those factors, correct?</p> <p>12 A. There can be similarities. Of course, since people have</p> <p>13 two biological parents who may be different on a</p> <p>14 characteristic, it's quite common for the offspring's</p> <p>15 characteristics to be like those of neither of the parents;</p> <p>16 that it blends. It is also quite common for a child to be like</p> <p>17 one parent and unlike the other.</p> <p>18 So it's certainly not the case that children are</p> <p>19 always similar to their biological parents with respect to</p> <p>20 temperament or personality; although, that's certainly one of</p> <p>21 the factors that influence those things.</p> <p>22 Q. And those similarities between genetic parents and their</p> <p>23 offspring would influence children's adjustment, correct?</p> <p>24 A. If there were similarities between parents and children,</p> <p>25 it might influence the child's adjustment in a variety of ways.</p>	100	<p style="text-align: right;">LAMB - CROSS EXAMINATION / THOMPSON 1090</p> <p>1 children's adjustment."</p> <p>2 You gave that testimony?</p> <p>3 A. Yeah.</p> <p>4 Q. All right. Now, I'd like to ask you some questions about</p> <p>5 the importance of family structure.</p> <p>6 You would agree that marriage is correlated with some</p> <p>7 of the child outcomes described in your report, correct?</p> <p>8 A. Yes. It's certainly correlated with them.</p> <p>9 Q. And the ways in which marriage is associated with those</p> <p>10 outcomes are complicated, vary both in -- varied in both direct</p> <p>11 and indirect pathways of influence, correct?</p> <p>12 A. Yes. Yes, I'm sorry.</p> <p>13 Q. And let's look at another type of family structure, a</p> <p>14 reconstituted family.</p> <p>15 Would you agree that there's a fairly substantial</p> <p>16 body of evidence suggesting that the addition of a stepfather</p> <p>17 into the home is often not a positive event for children, and</p> <p>18 that it affects the dynamics within the home in negative ways?</p> <p>19 A. That's certainly true, yes.</p> <p>20 Q. But you don't think family structure affects family</p> <p>21 processes, correct?</p> <p>22 A. Well, in that particular example, the difference in the</p> <p>23 family structure would be associated with the process. That</p> <p>24 is, the entry of the stepfather in trying to establish</p> <p>25 relationships with the children would set in various kinds of</p>

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LAMB - CROSS EXAMINATION / THOMPSON 1091

1 important relationships that may have both positive or negative
 2 influences on children.
 3 It changes the dynamics of the relationships between
 4 the resident mother and the child, as she tries to change the
 5 dynamics within that family. So in that situation, there
 6 clearly would be a correlation between the structure and those
 7 important processes.
 8 Q. Do you think there's a -- that family structure matters,
 9 as between a married biological family and a cohabiting family,
 10 those two structures would have any impact on the process of
 11 raising --
 12 A. Well, you'd have to look at the processes and have to
 13 understand what is happening in those different families. And,
 14 you know, the evidence shows that it's those within the family
 15 processes that are ultimately important in shaping those
 16 children's adjustment.
 17 Q. So as between a married biological family and a cohabiting
 18 family, you don't think family structure affects family
 19 processes, correct?
 20 A. Well, it may be correlated with family processes. And I
 21 just tried to explain what I meant by that, in my response to
 22 your previous question.
 23 Q. Well, just to refresh your recollection, I'd like to turn
 24 your attention to your deposition in the Cole case. This is a
 25 deposition you gave about five weeks ago. Is that right?

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LAMB - CROSS EXAMINATION / THOMPSON 1092

1 A. Or four weeks, yeah.
 2 Q. Yeah.
 3 A. Recent.
 4 Q. Okay. This is behind tab 3, page 93.
 5 And tell me when you're there, Dr. Lamb.
 6 A. I'm there.
 7 Q. Okay. It says:
 8 "How does the married biological family
 9 structure affect family processes?"
 10 This is line 15. Sorry.
 11 "How does the married biological family structure
 12 affect family processes in a way different from cohabiting
 13 couple where only" --
 14 A. I'm sorry, I can't find the cite. Page 93?
 15 Q. Yes. Line 15. Of the Cole deposition.
 16 A. Yeah, I have line 15 as in the middle of an answer by me,
 17 so maybe I've got something wrong. Page 93?
 18 Q. Yes.
 19 A. Which is on transcript page 24?
 20 Q. Yes, sir. Well, we can return to that. Maybe at the
 21 break I'll check and make sure our binders are all on the same
 22 page.
 23 But it was a question that actually started on line
 24 18 -- 13.
 25 A. Okay. Now, I have it now. Okay.

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LAMB - CROSS EXAMINATION / THOMPSON 1093

1 Q. Oh, you have it now?
 2 A. Yes. Sorry.
 3 Q. All right. So, as I was saying, line 15:
 4 "How does the married biological family
 5 structure affect family processes in a way
 6 different from cohabiting couple where only
 7 one parent is related to the child affect
 8 family processes?
 9 "Objection. Form.
 10 "ANSWER: I don't think family structure
 11 affects family processes."
 12 You gave that testimony, right?
 13 A. Yes.
 14 Q. Okay. Now, if we were to randomly look at a thousand
 15 married heterosexual couples, and then compare them with a
 16 random selection of a thousand cohabiting couples, you would
 17 find a difference if we didn't hold constant for other factors
 18 that are related to relationship quality, correct?
 19 A. You said if we did not control for those?
 20 Q. Yes.
 21 A. Yes, you probably would.
 22 Q. I'd like to direct your attention to binder 2, tab 22.
 23 This is a report by the Child Trends research group. And it's
 24 written by Kristin Anderson Moore. And she is a -- she works
 25 at Child Trends and a has -- were you aware that she's won the

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LAMB - CROSS EXAMINATION / THOMPSON 1094

1 American Psychological Association's Distinguished Contribution
 2 Award?
 3 A. I wasn't aware of that, but I'm pleased. She certainly
 4 deserves it.
 5 MR. THOMPSON: Your Honor, we'd ask the Court to take
 6 judicial notice of DIX26.
 7 MR. MCGILL: We object, Your Honor.
 8 This is an article that was relied upon by their
 9 expert, Dr. Loren Marks, who they have withdrawn as a witness.
 10 And it seems to me improper for them to try to get the
 11 materials their other expert relied upon through my expert,
 12 through some kind of judicial notice.
 13 THE COURT: Well, I think the witness can be asked
 14 about the article. Whether it will be admitted into evidence
 15 may be another matter.
 16 MR. THOMPSON: Well, your Honor, if I just may
 17 respond to that with two points.
 18 First of all, we withdrew Dr. Marks and the other
 19 experts because of the concerns about the video recording. As
 20 the Court will note, they were withdrawn on the eve of trial,
 21 before we had the stay from the Supreme Court. They were
 22 extremely concerned about their personal safety, and did not
 23 want to appear with any recording of any sort, whatsoever. And
 24 so that's one issue.
 25 But second and apart from that is, there's no

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1 limitation on the Court's ability to take judicial notice of
 2 this sort of material. It's precisely the sort of thing that
 3 the Supreme Court, in Brown, and Roe, and Grutter, and Lawrence
 4 took judicial notice of.

5 THE COURT: Well, and there's nothing that prevents
 6 you from putting this document before the witness and getting
 7 his reaction to it. That's what I'm suggesting that you do.

8 MR. THOMPSON: Yes, Your Honor. Okay. Very well.

9 BY MR. THOMPSON:

10 Q. All right. So, now, turning to page -- let's see. It's
 11 the second page of this document, what we've -- and it's at the
 12 last carryover sentence.

13 She talks about -- the author states:
 14 "It is not simply the presence of two
 15 parents, as some have assumed, but the
 16 presence of two biological parents" -- and
 17 they've italicized "two biological
 18 parents" -- "that seems to support children's
 19 development."

20 You didn't even consider this document when you put
 21 together your first report, did you?

22 A. I don't know whether I considered it or not. I've
 23 certainly seen it. It's a research review put together by
 24 these very well-respected people as a public education
 25 document. It's not a scholarly publication; although, it does

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1 review such scholarly work. It's primarily designed to
 2 contribute to the -- to the popular understanding of these
 3 issues.

4 If you -- and so I'm not -- I want to make clear that
 5 while I may not have cited it, it's certainly not something
 6 that I would want to distance myself from.

7 It's also clear that what it provides is a review of
 8 the research on the adjustment of children being raised by
 9 heterosexual parents.

10 And its focus is on reviews, and summarizes research
 11 that concerns the adjustment of children to have been born to
 12 heterosexual parents and grow up in either two-parent families
 13 with those biological parents or in families where they are
 14 only with one of those biological parents.

15 And I believe -- and I haven't had a chance to reread
 16 it -- it probably also talks about the effects of
 17 step-parenthood. So one has to put that in context. And in
 18 that context, I think that that particular summary statement
 19 that you read seems to be a reasonable summary of it.

20 And I would say that this article uses causal
 21 language probably more often than I think is warranted. And I
 22 suspect that that's because it was written not for an academic
 23 audience but primarily as a public education document.

24 MR. THOMPSON: Your Honor, we would renew our request
 25 that the Court take judicial notice.

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LAMB - CROSS EXAMINATION / THOMPSON 1097

1 And I would add that this is a material that
 2 Mr. Blankenhorn considered and will testify to. Mr. McGill and
 3 his colleagues will be able to cross-examine Mr. Blankenhorn
 4 about this. So we'd renew our request.

5 THE COURT: Very well.

6 MR. THOMPSON: Thank you, Your Honor.

7 BY MR. THOMPSON:

8 Q. Now, Dr. Lamb, I'd like to turn your attention to the next
 9 tab in binder 2, tab 23. This is an article entitled "The
 10 Impact of Family Formation Change on the Cognitive, Social, and
 11 Emotional Well-Being of the Next Generation," by Paul Amato.
 12 And Professor Amato is well-respected, is he not?

13 A. He absolutely is, yes.

14 MR. THOMPSON: This is DIX2, Your Honor. We'd
 15 request that judicial notice be taken of DIX2.

16 THE COURT: Very well.

17 BY MR. THOMPSON:

18 Q. And Professor -- Dr. Lamb, turning your attention to page
 19 89 of this document, and to the bottom of the left-hand column,
 20 where it says -- and let me know when you're there.

21 A. Yes, since I'm having trouble. It's 89, bottom of the
 22 left-hand column?

23 Q. Yes, sir.

24 A. The general conclusion?

25 Q. Yes, sir.

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LAMB - CROSS EXAMINATION / THOMPSON 1098

1 A. Yeah.

2 Q. It says:
 3 "Research clearly demonstrates that children
 4 growing up with two continuously married
 5 parents are less likely than other children
 6 to experience a wide range of cognitive,
 7 emotional, and social problems not only
 8 during childhood but also in adulthood."
 9 Do you agree with that statement?

10 A. That is a summary of the research that he has reviewed
 11 here. And, again, the important thing to remember is that he's
 12 reviewing large-scale studies of children being raised by
 13 heterosexual parents in various family configurations.

14 Q. And he concludes that paragraph by saying, "This
 15 distinction is even stronger if we focus on children growing up
 16 with two happily married biological parents."
 17 And has he accurately summarized literature, in your
 18 opinion?

19 A. Well, I think that's entirely consistent with what I
 20 testified about the importance of the relationships between the
 21 individuals raising the child.

22 Q. So that would be a yes, he accurately summarized the
 23 literature?

24 A. Yes. Sorry.

25 Q. Turning your attention to tab 4, this is a document by the

109	<p>LAMB - CROSS EXAMINATION / THOMPSON 1099</p> <p>1 Institute for American Values entitled "The Consequences of 2 Marriage for African Americans, a Comprehensive Literature 3 Review." 4 MR. THOMPSON: And it's DIX107. Your Honor, we'd ask 5 the Court to take judicial notice of this document. 6 MR. MCGILL: Your Honor, we object. This, again, 7 like the Child Trends Kristin Moore document, is a document 8 that was relied upon by Professor Marks, and we object to its 9 being admitted as substantive evidence. 10 If the Court wishes to take judicial notice of its 11 existence, it can, of course, do that. But we do object to its 12 admission of substantive evidence for the truth of the matter 13 asserted in the document. 14 MR. THOMPSON: Well, Your Honor, we would say as, 15 we've said before, that the judicial notice provisions permit 16 the Court to take cognizance of these documents for the truth 17 of the matter asserted, which is what the Supreme Court has 18 done many times. 19 THE COURT: Well, I'll take judicial notice of the 20 document, and you can inquire of the witness with respect to 21 whatever portion of it you wish to do so. 22 MR. THOMPSON: I appreciate that, Your Honor. 23 BY MR. THOMPSON: 24 Q. Okay. Turning your attention to page 54, Dr. Lamb. Let 25 me know when you're there.</p>	111
110	<p>LAMB - CROSS EXAMINATION / THOMPSON 1100</p> <p>1 A. Okay. 154. 2 Q. And in the sixth paragraph, it reads: 3 "For African American children, parental 4 marriage produces important benefits. Black 5 children of married parents typically enjoy 6 better infant health, receive better 7 parenting, are less delinquent, have fewer 8 behavior problems, have higher self-esteem, 9 are more likely to delay sexual activity, and 10 have moderately better educational outcomes. 11 These findings almost certainly reflect more 12 than correlations. Marriage itself appears 13 to be contributing strongly to better 14 outcomes for black children." 15 Does this statement accurately summarize the state of 16 the literature on African American families? 17 A. Uhm, I wouldn't want to say that I'm familiar with all the 18 research on African American families. And I'm not familiar 19 with this particular report, so I don't know what research that 20 it summarized. 21 Again, I would suggest that it is on rather shaky 22 grounds when it proposes the fact that this likely reflects 23 more than mere correlations. 24 Q. I'd like to turn your attention to your next tab in your 25 binder, which is DIX113. This is an article by William Doherty</p>	112
1109	<p>LAMB - CROSS EXAMINATION / THOMPSON 1101</p> <p>1 and others entitled "Responsible Fathering, an Overview and 2 Conceptual Framework." 3 And Professor Doherty is well-respected, is he not? 4 A. Yes. 5 MR. THOMPSON: Your Honor, we'd ask the Court to take 6 judicial notice of DIX113. 7 THE COURT: Very well. 8 BY MR. THOMPSON: 9 Q. All right. And turning your attention, Dr. Lamb, to page 10 286, and the right-hand column. 11 The authors conclude in the last sentence in that 12 second full paragraph on the right-hand column: 13 "We conclude that, in practice, the kind of 14 mother-father relation-" -- 15 A. Sorry. I don't know what's the matter with me today, but 16 I keep not finding your things. We're in the right-hand column 17 on 285? 18 Q. 286. 19 A. Okay. 20 Q. And second full paragraph. 21 A. Yes. 22 Q. And then the last sentence -- or last two sentences. Are 23 you there, sir? 24 A. Okay. Yes, I'm sorry. 25 Q. No problem.</p>	1110
1110	<p>LAMB - CROSS EXAMINATION / THOMPSON 1102</p> <p>1 "We conclude that in practice the kind of 2 mother-father relationship most conducive to 3 responsible fathering in contemporary U.S. 4 society is a caring, committed, collaborative 5 marriage. Outside of this arrangement, 6 substantial barriers stand in the way of 7 active, involved fathering." 8 Does this statement accurately summarize the 9 literature? 10 A. It accurately summarizes the literature that they're 11 talking about, which is studies of heterosexual parents raising 12 children, yes. 13 Q. All right. And let's turn to the next tab in your binder, 14 tab 26. This is another report by the Institute for American 15 Values. It's DIX38. 16 MR. THOMPSON: And we'd ask the Court to take 17 judicial notice of DIX38. 18 THE COURT: Very well. 19 BY MR. THOMPSON: 20 Q. And turning your attention, Dr. Lamb, to page 32 of this 21 report, under the conclusion. Are you there? 22 A. Yeah. 23 Q. Okay. It says, in the second paragraph, under conclusion: 24 "But marriage matters. Children in average 25 intact married families do better than</p>	1111

<p style="text-align: right;">113</p> <p style="text-align: right;">LAMB - CROSS EXAMINATION / THOMPSON 1103</p> <p>1 children in average single and stepparent 2 families." 3 Do you agree with that statement? 4 A. On average, yes, I think that's -- that's true. 5 Q. Okay. 6 A. As I've testified earlier. 7 Q. I'd like to direct your attention to the next tab in your 8 binder, 27, which is DIX121. This is a document from the 9 Progressive Policy Institute entitled, "Putting Children 10 First" -- 11 THE COURT: Before you go on to that -- 12 MR. THOMPSON: Yes. 13 THE COURT: -- let me ask the witness: With 14 reference to the statement that counsel has referred you to in 15 DIX38, is that statement based upon evidence drawn from 16 opposite-sex couples? 17 THE WITNESS: Not to my knowledge. 18 THE COURT: So this would include same-sex couples? 19 THE WITNESS: I believe it does not. 20 THE COURT: Does not? 21 THE WITNESS: Correct. I'm sorry. 22 THE COURT: So it would be based solely upon evidence 23 drawn from studies of opposite-sex couples; is that correct? 24 THE WITNESS: I believe that's true, yes. I'm not 25 familiar with this document. But the -- you know, it's -- the</p>	<p style="text-align: right;">115</p> <p style="text-align: right;">LAMB - CROSS EXAMINATION / THOMPSON 1105</p> <p>1 Q. Okay. Are you familiar with the sociological literature 2 on parenting, or are you focused only on the psychological 3 literature? 4 A. No, I've tried to cover the sociological and demographic 5 literature as well, as you know from our previous discussions 6 and from my report. 7 Q. Let's turn to -- back to DIX121, which was behind tab 27. 8 It's "Putting Children First: A Progressive Family Policy for 9 the 1990s." And it's DIX121. 10 MR. THOMPSON: And we'd ask the Court to take 11 judicial notice of this document. 12 THE COURT: Very well. 13 BY MR. THOMPSON: 14 Q. And turning to page 2, Dr. Lamb, in the second full 15 paragraph, second sentence from the bottom, it says: 16 "As we will see, a large body of evidence 17 supports the conclusion that, in the 18 aggregate, the intact two-parent family is 19 best suited to the task of" -- it is "as to 20 this task," but it's raising children. 21 Would you agree that the intact two-parent family is 22 best suited to the task of raising children? 23 A. Well, I think it depends. If you're talking about the -- 24 you know, again, this is making reference to the research we've 25 talked about a lot today, showing that, on average, children</p>
<p style="text-align: right;">114</p> <p style="text-align: right;">LAMB - CROSS EXAMINATION / THOMPSON 1104</p> <p>1 Institute for American Values is a lobbying group that promotes 2 a particular view of marriage. And most of their focus has 3 been on promoting marriage among heterosexual couples. And I 4 believe that the research that they reviewed, as I quickly spin 5 through it, seems to involve studies of such families. 6 BY MR. THOMPSON: 7 Q. Well, now, just -- you say this is a lobbying group. I'd 8 like to direct your attention to the second page of this 9 document. It says: 10 "This statement comes from a team of family 11 scholars, chaired by Brad Wilcox of the 12 University of Virginia." 13 And the University of Virginia is a distinguished 14 university, is it not? 15 A. Yes, it is. 16 Q. And William Doherty, who you just said is well-respected, 17 also was a coauthor, correct? 18 A. Was he? If you say so. 19 Q. And it also lists Norval Glenn of the University of Texas. 20 He's highly regarded in his field, is he not? 21 A. I think he's regarded highly in his field, yes. He is 22 quite ideologically committed. 23 Q. But he's highly regarded as a talented sociologist; is 24 that correct? 25 A. I'm not a sociologist. I've certainly heard his name.</p>	<p style="text-align: right;">116</p> <p style="text-align: right;">LAMB - CROSS EXAMINATION / THOMPSON 1106</p> <p>1 being raised by two, married heterosexual parents do better 2 than children being raised by single or divorced heterosexual 3 parents. 4 Q. And I'd like to direct your attention to tab 28, which is 5 Growing Up With a Single Parent: What Hurts, What Helps, by 6 Sara McLanahan and Gary Sandefur. 7 Sara McLanahan is a professor at Princeton 8 University; is that right? 9 A. Yes. She wrote this when she was in Wisconsin, but she's 10 at Princeton now. 11 Q. And she's very highly respected in her field; is that 12 right? 13 A. Yes. 14 MR. THOMPSON: And this is DIX124. And we'd ask the 15 Court to take judicial notice of DIX124. 16 THE COURT: Very well. 17 BY MR. THOMPSON: 18 Q. And direct -- this -- are you familiar with this study, 19 Dr. Lamb? 20 A. Yes, I am. 21 Q. And this was based on a very large set of data; is that 22 correct? 23 A. That's correct. 24 Q. And turning your attention to page 1, the italicized 25 portion.</p>

117	<p>LAMB - CROSS EXAMINATION / THOMPSON 1107</p> <p>1 A. Yeah.</p> <p>2 Q. Okay. In the second paragraph the italics start:</p> <p>3 "Children who grow up in a household with</p> <p>4 only one biological parent are worse off, on</p> <p>5 average, than children who grow up in a</p> <p>6 household with both of their biological</p> <p>7 parents, regardless of the parents' race or</p> <p>8 educational background, regardless of whether</p> <p>9 the parents are married when the child is</p> <p>10 born, and regardless of whether the resident</p> <p>11 parent remarries."</p> <p>12 And is that an accurate statement of the literature?</p> <p>13 A. That's an accurate summary of the studies that they did</p> <p>14 here, which involved comparing children being raised by</p> <p>15 heterosexual parents in different family configurations.</p> <p>16 Q. Do you know of any study of comparable size that reaches a</p> <p>17 contrary conclusion?</p> <p>18 A. No.</p> <p>19 Q. And I'd like to direct your attention to tab 30 in your</p> <p>20 binder. And this is entitled "Adolescent Well-Being in</p> <p>21 Cohabiting, Married, and Single-Parent Families." It's DIX21.</p> <p>22 And it's produced by Wendy Manning and Kathleen Lamb. I take</p> <p>23 it that's no relation?</p> <p>24 A. No relation.</p> <p>25 Q. Okay.</p>	119	<p>LAMB - CROSS EXAMINATION / THOMPSON 1109</p> <p>1 Q. Well, give me a yes or no, please, and then you can go on.</p> <p>2 A. No, there -- all of the research on -- I was trying to</p> <p>3 give you a broader answer, that all of the research that</p> <p>4 involves focusing on children raised by heterosexual parents in</p> <p>5 different family configurations gives you essentially the same</p> <p>6 conclusion.</p> <p>7 Q. Now I'd like to direct your attention to tab 31. And this</p> <p>8 is a document coauthored by Sara McLanahan of Princeton</p> <p>9 University, and Cynthia Harper. It's called, "Father Absence</p> <p>10 and Youth Incarceration." And it's DIX116.</p> <p>11 MR. THOMPSON: And, Your Honor, we would ask the</p> <p>12 Court to take judicial notice of DIX116.</p> <p>13 THE COURT: Very well.</p> <p>14 BY MR. THOMPSON:</p> <p>15 Q. And turning your attention, Dr. Lamb, to the first page,</p> <p>16 page 369, says in the fourth -- starting in the fourth</p> <p>17 sentence:</p> <p>18 "Results from longitudinal event history</p> <p>19 analysis show that although a sizable portion</p> <p>20 of the risk that appeared to be due to father</p> <p>21 absence could actually be attributed to other</p> <p>22 factors, such as teen motherhood, low parent</p> <p>23 education, racial inequalities, and poverty,</p> <p>24 adolescents in father-absent households still</p> <p>25 faced elevated incarceration risk. The</p>
118	<p>LAMB - CROSS EXAMINATION / THOMPSON 1108</p> <p>1 MR. THOMPSON: And, Your Honor, we'd ask the Court to</p> <p>2 take judicial notice of DIX21.</p> <p>3 THE COURT: Very well.</p> <p>4 BY MR. THOMPSON:</p> <p>5 Q. And this was -- you can see in the second sentence,</p> <p>6 Dr. Lamb, this had a sample size of 13,231 families. Is that</p> <p>7 right?</p> <p>8 A. Well, that was the sample size for the whole of the --</p> <p>9 that health sample.</p> <p>10 Q. Okay.</p> <p>11 A. There weren't that many being raised by cohabiting or in</p> <p>12 stepfamilies.</p> <p>13 Q. And turning your attention to page 890 of this document,</p> <p>14 under "Discussion," it states, in the second sentence:</p> <p>15 "Adolescents in married,</p> <p>16 two-biological-parent families generally fare</p> <p>17 better than children in any of the family</p> <p>18 types examined here, including single mother,</p> <p>19 cohabiting stepfather, and married stepfather</p> <p>20 families. The advantage of marriage appears</p> <p>21 to exist primarily when the child is the</p> <p>22 biological offspring of both parents."</p> <p>23 Do you know of any study of comparable size that</p> <p>24 reaches a different conclusion?</p> <p>25 A. Now, all of the literature using these sorts --</p>	120	<p>LAMB - CROSS EXAMINATION / THOMPSON 1110</p> <p>1 adolescents who faced the highest</p> <p>2 incarceration risk, however, were those in</p> <p>3 stepparent families, including</p> <p>4 father-stepmother families."</p> <p>5 Do you know of any study of equal size to this one,</p> <p>6 that reached a contrary conclusion?</p> <p>7 A. No.</p> <p>8 Q. All right.</p> <p>9 A. With the same qualifications.</p> <p>10 Q. I'd like to direct your attention to tab 32 in your</p> <p>11 binder. This is a study by Susan Brown entitled "Family</p> <p>12 Structure and Child Well-Being: The Significance of Parental</p> <p>13 Cohabitation." DIX8.</p> <p>14 MR. THOMPSON: And, Your Honor, we'd ask the Court to</p> <p>15 take judicial notice of DIX8.</p> <p>16 THE COURT: Very well.</p> <p>17 BY MR. THOMPSON:</p> <p>18 Q. And turning your attention, Dr. Lamb, to page 364.</p> <p>19 And I should first ask, this was a very large sample</p> <p>20 size; is that right?</p> <p>21 A. Well, it was drawn from a large national sample, but I</p> <p>22 think the actual study focuses on a relatively small number of</p> <p>23 individuals.</p> <p>24 Q. Is that a potential problem?</p> <p>25 A. No, it's not a potential problem. I'm just clarifying in</p>

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LAMB - CROSS EXAMINATION / THOMPSON 1111

1 response to your question.
 2 Q. Okay. Now, under "Discussion," the left-hand column --
 3 this is a very long paragraph.
 4 **A. Wait.**
 5 THE COURT: What page?
 6 MR. THOMPSON: Oh, sorry, Your Honor. Page 364.
 7 Left-hand column.
 8 BY MR. THOMPSON:
 9 Q. Let's do it from the back. One, two -- the third sentence
 10 from the bottom. It reads:
 11 "Adolescents living in cohabiting
 12 stepfamilies have significantly higher levels
 13 of behavioral and emotional problems and
 14 lower levels of school engagement, on
 15 average, than those in two-biological-parent
 16 married families."
 17 And you don't know of any study of comparable size
 18 that reaches a different conclusion, correct?
 19 **A. Not involving adolescents, no.**
 20 Q. All right. I'd like to direct your attention to tab 33.
 21 And this is a study by Paul Amato, entitled "Parental Absence
 22 During Childhood and Depression in Later Life."
 23 MR. THOMPSON: And, Your Honor, we would ask the
 24 Court to take judicial notice of DIX103.
 25 THE COURT: Very well.

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LAMB - CROSS EXAMINATION / THOMPSON 1112

1 BY MR. THOMPSON:
 2 Q. And, Dr. Lamb, turning your attention to the summary at
 3 the beginning of this document, it's the second page of the
 4 exhibit. Professor Amato states in the second sentence:
 5 "Whites and African Americans, male and
 6 female, separated from the parent score
 7 higher on a measure of depression than those
 8 raised in continuously intact families."
 9 And is that consistent with your understanding of the
 10 findings of the social literature?
 11 **A. That is, yes.**
 12 Q. Okay.
 13 THE COURT: Give me the page reference again, please.
 14 MR. THOMPSON: Yes, Your Honor. That is the -- it's
 15 page 543.
 16 THE COURT: Thank you.
 17 MR. THOMPSON: Yes, certainly.
 18 BY MR. THOMPSON:
 19 Q. And, Professor, turning your attention to tab 34, which is
 20 a document authored by Bruce Ellis. It's called "Does Father
 21 Absence Place Daughters at Special Risk for Early Sexual
 22 Activity and Teenage Pregnancy?" And this is DIX114.
 23 MR. THOMPSON: And, Your Honor, we would ask the
 24 Court to take judicial notice of DIX114.
 25 THE COURT: Very well.

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LAMB - CROSS EXAMINATION / THOMPSON 1113

1 BY MR. THOMPSON:
 2 Q. And if we look at the first sentence of the summary, on
 3 the next page, which is page 801, do you see, Dr. Lamb, that it
 4 says:
 5 "The impact of father absence on early sexual
 6 activity and teenage pregnancy was
 7 investigated in longitudinal studies in the
 8 United States and New Zealand."
 9 And those N numbers of 242 and 520, that represent
 10 the sample size; is that right?
 11 **A. That's correct.**
 12 Q. All right. And then I'd like to direct your attention to
 13 page 818. 818. It's the very last paragraph of the report.
 14 And it says -- tell me when you're there, sir.
 15 **A. I'm there.**
 16 Q. It says:
 17 "In conclusion, father absence was an
 18 overriding risk factor for early sexual
 19 activity and adolescence pregnancy."
 20 Do you know of any study of comparable size that
 21 reaches a different conclusion?
 22 **A. Well, actually, this is an interesting one for you to**
 23 **raise, because in the most recent issue of Child Development**
 24 **there's another paper focused on precisely this question, and**
 25 **designed to address the one weakness that these authors**

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LAMB - CROSS EXAMINATION / THOMPSON 1114

1 **themselves acknowledge in their discussion here, which is the**
 2 **fact that they weren't able to control for the possibility that**
 3 **there were genetic differences, ones that we talked about**
 4 **earlier in this discussion.**
 5 **That analysis by Mendel and his colleagues makes**
 6 **clear that this conclusion was incorrect, and that those**
 7 **differences had to do not with father absence but with the**
 8 **differences in the inherited dispositions of the individuals in**
 9 **the study.**
 10 Q. And was that study of comparable size, the one -- do you
 11 know what the sample size was?
 12 **A. I don't remember the sample size, no.**
 13 Q. All right. I'd like to direct your attention to the next
 14 tab, which is tab 35. This is a document entitled "The
 15 Prevalence and Seriousness of Incestuous Abuse, Stepfathers
 16 Versus Biological Fathers." DIX133. And it's authored by
 17 Diana Russell.
 18 MR. THOMPSON: Your Honor, we'd ask the Court to take
 19 judicial notice of DIX133.
 20 THE COURT: Very well.
 21 BY MR. THOMPSON:
 22 Q. And turning your attention, Dr. Lamb, to the first page of
 23 the report, in the abstract it states, "An analysis of
 24 interviews obtained from a random sample of 930 adult women in
 25 San Francisco revealed that 17 percent, or one out of every

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LAMB - CROSS EXAMINATION / THOMPSON 1115

1 six, women who had a stepfather as a principal figure in her
 2 childhood years was sexually abused by him. The comparable
 3 figures for biological fathers were 2 percent."
 4 Do you know of any study of comparable size that has
 5 reached a contrary conclusion to this one?
 6 **A. Well, there's been much more work on the incidence of**
 7 **sexual abuse. This was an early study. And none of it**
 8 **contradicts the conclusion that girls are at greater risk of**
 9 **abuse by stepfathers. But I think the specific figures have**
 10 **been put into question.**
 11 Q. All right.
 12 MR. THOMPSON: And with the Court's permission, we'd
 13 like to pass out volume 3 of our binders.
 14 THE WITNESS: Can I put away the previous one?
 15 MR. THOMPSON: Well, not 1, not your prior testimony.
 16 But you may put away 2.
 17 THE COURT: Very well. How many more binders do we
 18 have with this witness?
 19 MR. THOMPSON: We're halfway home, Your Honor.
 20 BY MR. THOMPSON:
 21 Q. Dr. Lamb, I'd like to change topics now, from the
 22 biological parenting, to talk for a moment about divorce.
 23 And divorce typically has painful adverse effects on
 24 mothers, fathers, and their children, correct?
 25 **A. That's correct as a summary, yes.**

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LAMB - CROSS EXAMINATION / THOMPSON 1116

1 Q. Isn't it true there is substantial evidence that children
 2 with divorced parents score more poorly than do children with
 3 married parents, with respect to many aspects of psychological
 4 adjustment and well-being?
 5 **A. On average, yes, that's what I testified earlier.**
 6 Q. And, unfortunately, stepfathers typically do not develop
 7 authoritative relationships with their children either, so most
 8 of these children are doubly disadvantaged, correct?
 9 **A. That's often the case, yes.**
 10 Q. On average, children whose parents were divorced are more
 11 likely to be maladjusted than children whose parents have not
 12 divorced, correct?
 13 **A. That's correct.**
 14 Q. Many gay fathers have children in the context of
 15 heterosexual relationships, before coming out, correct?
 16 **A. That was certainly true. I'm unclear to what extent that**
 17 **that's the case today.**
 18 Q. Difficulties faced by their children involve coming to
 19 terms with the sexual orientation of their fathers, correct?
 20 **A. That's certainly reported in some cases, yes.**
 21 Q. And the majority of lesbian couples who have children have
 22 them as a result of heterosexual relationships, correct?
 23 **A. Again, I think that used to be true. I'm not in**
 24 **possession of the data to suggest whether that's still the**
 25 **case.**

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LAMB - CROSS EXAMINATION / THOMPSON 1117

1 Q. For those whom it is true for, those children would have
 2 suffered the trauma of divorce or the death of a parent,
 3 correct?
 4 **A. Presumably so, yes.**
 5 Q. Now, I'd like to switch gears again. You've talked about
 6 the rich literature of same-sex parenting, and I want to delve
 7 into exactly how rich this literature is, and start with some
 8 general questions.
 9 It's sort of standard practice within a study to look
 10 closely at the sample and closely at the methods, correct?
 11 **A. Yes.**
 12 Q. Any individual, small study is always potentially suspect,
 13 correct?
 14 **A. I would say that any individual study is always**
 15 **potentially suspect, yes.**
 16 Q. And if a study takes who's ever available, you would call
 17 that a nonrandom sample, correct?
 18 **A. That's right.**
 19 Q. None of the studies on gay parenting rely on a random
 20 sample of the gay and lesbian population in the United States,
 21 correct?
 22 **A. Well, that's not entirely true, no.**
 23 Q. Which study draws on a random sample of gay and lesbian
 24 individuals in the United States?
 25 **A. Well, I'm only interested, of course, in those who are**

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LAMB - CROSS EXAMINATION / THOMPSON 1118

1 **raising children. So I presume that that's what you meant in**
 2 **your question.**
 3 Q. Well, let's start with a first proposition. There's no
 4 study that can speak to the parenting abilities of gays and
 5 lesbians who don't have children, correct?
 6 **A. In the entire United States?**
 7 Q. Right.
 8 **A. Not that I can think of, no.**
 9 Q. Okay. And with respect to those same-sex couples who do
 10 have children, is there any study that purports to be a random
 11 sample, nationally, of opposite sex -- excuse me, same-sex
 12 couples in the United States?
 13 **A. Well, the closest that would come would not be a random**
 14 **sample. It would be an analysis of the U.S. Census data. That**
 15 **doesn't have to be a sample. It includes the entire**
 16 **population. And there are now data drawn from the U.S. Census**
 17 **with respect to children's adjustment in the care of gay and**
 18 **lesbian parents.**
 19 Q. Yes, but they don't purport to be a random sample of the
 20 entire U.S. population of same-sex couples, correct?
 21 **A. No, you don't have a random sample when you sample the**
 22 **entire population. You have the population.**
 23 **(Laughter)**
 24 Q. Right. A random sample of that population, none of them
 25 purport to be that, do they?

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LAMB - CROSS EXAMINATION / THOMPSON 1119

1 A. I think most of us would consider this to be better.
 2 (Laughter)
 3 Q. Which study purports to be a random sample of the entire
 4 population of same-sex couples in the United States, with
 5 children?
 6 A. I said, I don't know that there is one that is a random
 7 sample of all gays and lesbians in the United States.
 8 Q. Well, my question just now was gays and lesbians with
 9 children.
 10 A. Correct.
 11 Q. Okay. Do you know of any study that purports to be --
 12 reflect a random sample of all gay and lesbian couples in the
 13 United States who are raising children? Yes or no?
 14 A. Uhm, we may be getting confused, and I don't -- and I
 15 don't want to be argumentative.
 16 We have one study that involves looking at all gays
 17 and lesbian couples in the United States raising children. So
 18 it's not a sample. It's a population analysis.
 19 And we have another series of studies conducted by
 20 Wainwright and Patterson that involve a focus on children being
 21 raised by lesbian mothers, drawn from a nationally
 22 representative sample of teenagers, 12- to 18-year-olds, in the
 23 United States. So it's not representative of all gays and
 24 lesbians raising children. It's representative of that
 25 population with children in that particular age range.

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LAMB - CROSS EXAMINATION / THOMPSON 1120

1 Q. And which is the study that is drawn from the U.S. Census
 2 data?
 3 A. It's a study by Rosenfeld, which is to appear in a journal
 4 called Demography.
 5 Q. Which is to appear in a journal called Demography?
 6 A. That's correct.
 7 Q. So that's not something you've disclosed in your expert
 8 materials in this case, correct?
 9 A. I don't think so, no.
 10 Q. Now, do you know what percentage of male same-sex couples
 11 in the United States have a child?
 12 A. Well, there are varied estimates out there. And I'm
 13 not -- the figure that comes to mind is somewhere around
 14 20 percent. But I'm not sure of that particular figure.
 15 Q. Okay. Well, let's look at tab 38 of your binder. This is
 16 PX1030. It's a APA policy statement on sexual orientation,
 17 parents and children.
 18 And it says, in the first sentence:
 19 "Many lesbians and gay men are parents. In
 20 the 2000 U.S. Census, 33 percent of female
 21 same-sex couple households and 22 percent of
 22 male same-sex couple households reported at
 23 least one child under the age of 18."
 24 So that's consistent with your understanding?
 25 A. Yes. Sorry.

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LAMB - CROSS EXAMINATION / THOMPSON 1121

1 Q. And there's -- most of the studies listed in your
 2 materials considered -- addressed lesbians, is that correct, as
 3 opposed to gay men?
 4 A. Most of the studies do, that's correct.
 5 Q. And there's much less research on gay fathers, primarily
 6 because there are many few -- fewer gay fathers than there are
 7 lesbian mothers who are living with and raising their children,
 8 correct?
 9 A. I think that was certainly true initially. And, also, gay
 10 fathers were much more difficult to locate.
 11 Q. And the lesbians that have been studied tend to be better
 12 off than average, correct?
 13 THE COURT: Better off financially?
 14 MR. THOMPSON: Yes. Yes, Your Honor. Thank you.
 15 THE WITNESS: I don't know about that.
 16 BY MR. THOMPSON:
 17 Q. Well, all right. We'll explore that later.
 18 I'd like to direct your attention to tab 39, which is
 19 a document called "Whose Gay Community? Social Class, Sexual
 20 Self-Expression, and Gay Community Involvement, from the
 21 Sociological Quarterly.
 22 And I'd like to direct your attention to page 454. I
 23 apologize. I'm just looking for the place.
 24 Let me ask you it this way, Professor: Would you
 25 admit that one obvious concern brought up by trying to research

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1 gays and lesbians is that you're confined to a sample of those
 2 who in some ways identify themselves as gay and lesbian?
 3 A. Yes.
 4 Q. And will you agree that there's some suggestion that the
 5 samples that are drawn tend to be from the experiences of
 6 middle-class gay and lesbian individuals, and don't reflect the
 7 full totality of the gay and lesbian community?
 8 A. No, that wouldn't be true.
 9 Q. All right. Well, let's look at 39A, which is the next tab
 10 in your binder. And I'd like to -- this is a document called,
 11 "Appearances Can Be Deceptive, Self-Selection, Social Group
 12 Identification, and Political Mobilization." And it's authored
 13 by Scott Gartner and Gary Segura.
 14 Professor Segura will be testifying next week on
 15 behalf of the plaintiffs.
 16 MR. THOMPSON: This is DIX1100, and we would ask the
 17 Court to take judicial notice of this document.
 18 THE COURT: Very well.
 19 MR. THOMPSON: All right.
 20 BY MR. THOMPSON:
 21 Q. And turning to page 133. And let me know when you're
 22 there.
 23 A. Yes.
 24 Q. Okay. And specifically looking at the second to last
 25 paragraph, where it says -- full paragraph. And this is in the

<p style="text-align: right;">133</p> <p style="text-align: center;">LAMB - CROSS EXAMINATION / THOMPSON 1123</p> <p>1 third full sentence. It says: 2 "If the ability to mobilize is one of the 3 incentives for identification, then the 4 individuals" -- 5 A. Yes, okay. 6 Q. (As read) 7 "If the ability to mobilize is one of the 8 incentives for identification, then the 9 individuals we observe from invisible groups 10 are likely to be more politically active than 11 visible groups; that is, there is a selection 12 effect. Those repressed invisible minorities 13 who allow us to see them do so for a reason, 14 and this reason tells us something about 15 their likely behavior." 16 Isn't there -- isn't Professor Segura right about 17 this point, that the sorts of individuals who are willing to 18 step forward and volunteer to be in these studies are not 19 necessarily representative of the overall gay and lesbian 20 community? 21 A. Well, I obviously don't know this literature that's being 22 discussed here. I'm here to talk about child adjustment. And, 23 as far as I can tell, this paper has nothing to do with 24 parents. 25 Certainly, gays and lesbians who are raising children</p>	<p style="text-align: right;">135</p> <p style="text-align: center;">PROCEEDINGS 1125 P R O C E E D I N G S JANUARY 15, 2010 1:03 P.M.</p> <p>1 2 3 4 (Whereupon, proceedings were resumed 5 after noon recess.) 6 THE COURT: Very well. I understand from the clerk, 7 Mr. Boutrous, that you have a scheduling matter to take up. 8 MR. BOUTROUS: Your Honor, actually, it was an issue 9 concerning something that Mr. Thompson said, and I wanted to 10 just make sure that the record was clear on an issue concerning 11 the withdrawal of the expert witnesses by the proponents. 12 Mr. Thompson had said that they withdrew their expert 13 witnesses because of the witnesses's concerns about the 14 cameras. 15 I just wanted to make it very clear on the record 16 that not one time did the proponents suggest that in anything 17 that they filed in the court, that the withdrawal of those of 18 witnesses was because of the cameras. They -- in fact, they 19 withdrew them after the Supreme Court had granted the temporary 20 stay, which I think undermines the credibility of that 21 statement. 22 And we had predicted back at the pretrial that they 23 would be seeking to withdraw their expert witnesses because of 24 the cross-examination that had occurred and that would occur. 25 And I wanted to make that clear on the record.</p>
<p style="text-align: right;">134</p> <p style="text-align: center;">LAMB - CROSS EXAMINATION / THOMPSON 1124</p> <p>1 are already visible, and those groups tend to be of the ones 2 that I've been concerned with. 3 Q. Yes. All right. Now, let's turn to tab 41 of your 4 binder. 5 MR. THOMPSON: And, Your Honor, we are at a logical 6 breaking point, but I'm happy to continue on, whatever the 7 Court's pleasure is. 8 THE COURT: A logical breaking point is as good as 9 any. 10 (Laughter) 11 Why don't we then, logically, break for lunch, and 12 I'll see you at 1 o'clock. 13 MR. THOMPSON: Thank you. 14 (Noon recess taken from 12:07 to 1:03 p.m.) 15 16 17 18 19 20 21 22 23 24 25</p>	<p style="text-align: right;">136</p> <p style="text-align: center;">PROCEEDINGS 1126</p> <p>1 And, also, we will be playing some clips later today, 2 time permitting, of two of those experts. 3 THE COURT: Very well. 4 Now, is there a scheduling matter that you want to 5 take up? 6 MR. BOUTROUS: I don't think we have a scheduling 7 matter, but let me make sure with my colleagues. 8 (Discussion held off the record 9 amongst plaintiffs' counsel.) 10 MR. BOUTROUS: I think we're okay. We had a 11 potential issue, but I think we have got it resolved. 12 Thank you. 13 THE COURT: All right. 14 MR. THOMPSON: And, your Honor, I would like to 15 respond for the completeness of the record to what Mr. Boutrous 16 said. 17 We, in our papers, advised that our witnesses had 18 these significant concerns about the televising and we only had 19 a temporary stay when trial commenced. And Mr. Boutrous and 20 the plaintiffs exacerbated our concerns when they asked that 21 the recording continue on Monday morning. 22 So I think the record is quite clear as to the chain 23 of events. 24 THE COURT: Well, wait a minute. Before you start, 25 let me ask a couple of questions.</p>

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1 MR. THOMPSON: Yes, your Honor.
 2 THE COURT: And if you want to follow up, Mr.
 3 Thompson, you can.
 4 Dr. Lamb, you said, if I understood your testimony
 5 correctly, that there is not a basis that the absence of a
 6 genetic relationship increases the likelihood of adverse
 7 outcomes for children; that is, the absence of a genetic
 8 relationship between the child and the parent.
 9 Was that your testimony?
 10 THE WITNESS: That was, yes.
 11 THE COURT: All right. Will, purely a layperson's
 12 question: Why, then, is it common or, at least, said to be
 13 common that adopted children often seek out their biological
 14 parents?
 15 THE WITNESS: I think that that's because many of
 16 them, of course, know that they are adopted and feel that there
 17 is something important about their origins that might be
 18 revealed by finding their biological parents.
 19 That wouldn't be viewed as an index of maladjustment,
 20 but would be viewed as something that reflected an
 21 individual's, you know, trying to understand literally where
 22 they came from in the same way that, for example, many people
 23 are interested in genealogy and want to know a little bit more
 24 about their family histories.
 25 THE COURT: But that phenomenon, you say, would not

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1 have any relationship to any social behavior on the part of
 2 those children, is that correct?
 3 THE WITNESS: That's what the data suggest, yes.
 4 THE COURT: You also testified, if I understood your
 5 testimony correctly, to say there is no reason to protect
 6 children from lesbians and gays.
 7 We have all read about the reports of widespread
 8 priestly abuse in the Roman Catholic Church and the litigation
 9 that has been spawned by those reports.
 10 How do you square your statement with that
 11 phenomenon?
 12 THE WITNESS: Well, the data with respect to sexual
 13 abuse -- and I assume that's what you mean, your focus here is
 14 on that protection there -- shows that the individuals who have
 15 a same-sex orientation are no more likely to abuse other
 16 children. That doesn't mean that they don't sometimes abuse
 17 other children -- sorry, abuse children, just as heterosexuals
 18 do abuse children. And I'm not familiar with all the details
 19 of the abuses conducted within religious orders.
 20 I do know, for example, that many of the cases in
 21 Ireland that have recently been disclosed in a huge
 22 multi-volume report involve heterosexual abuse by religious
 23 individuals.
 24 And I assume -- again, I'm assuming because I don't
 25 know the details here that -- that the abuse that you are

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1 talking about involves both heterosexual and homosexual abuse.
 2 And I don't want to convey the fact that homosexual
 3 people never abuse children, simply that they are no more
 4 likely to do that than are heterosexual individuals.
 5 THE COURT: Have you studied that subject?
 6 THE WITNESS: I have studied it in terms of trying to
 7 know what is in that literature. My own work on child abuse is
 8 mostly about the effects of abuse and the interviewing of the
 9 victims.
 10 THE COURT: So you focused on the children more than
 11 the individuals who were thought to be the abusers, is that
 12 correct?
 13 THE WITNESS: In terms of my own research on child
 14 abuse, yes.
 15 THE COURT: All right. Very well. You may continue,
 16 Mr. Thompson.
 17 MR. THOMPSON: Thank you, your Honor.
 18 CROSS EXAMINATION RESUMED
 19 BY MR. THOMPSON:
 20 Q. And I would like to follow up one of those lines of
 21 questions.
 22 Dr. Lamb, why is it if the genetic connection is
 23 absolutely irrelevant for childhood outcomes, that so many
 24 couples pay the money, the considerable expense to go through
 25 in vitro fertilization rather than adopt one of the many

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1 children that needs to be adopted?
 2 A. Well, it certainly can be important to individuals. The
 3 fact that somebody would seek to engage in IVF using their own
 4 sperm and eggs would be an indication that it's important to
 5 them.
 6 Again, the systematic research that we have on the
 7 adjustment of the children shows that children raised --
 8 conceived using IVF technologies are just as likely to be
 9 well-adjusted as those conceived through natural conception, as
 10 those conceived with egg donation, as those conceived with
 11 donor insemination. So the data are what they are.
 12 Q. Well, now, let's return to the subjects we were discussing
 13 before lunch.
 14 Let me ask you: Is it true that despite the
 15 diversity of gay fatherhood, research to date has, with some
 16 exceptions, been conducted with relatively homogeneous groups
 17 of participants?
 18 A. The research on gay fathers?
 19 Q. Yes, sir.
 20 A. I think the research on gay fathers, which is certainly
 21 less extensive than that on lesbian mothers, has -- you know,
 22 does include the population study that I mentioned to you
 23 earlier. It does include recent studies of adoption by gays.
 24 So I'm not sure about the -- the term "homogeneous"
 25 in this context.

141	<p style="text-align: center;">LAMB - CROSS EXAMINATION / THOMPSON 1131</p> <p>1 Q. Well, let's look at your fourth edition of the "Role of 2 the Father in Child Development." This is 2004. It's behind 3 tab 40 in your binder. And I would like to will direct your 4 attention to page 402. 5 And this is a chapter written by Charlotte Patterson 6 called "Gay Fathers" and you have a high regard for Charlotte 7 Patterson, correct? 8 A. Yes. 9 Q. And turning to page 402, the last full paragraph, it 10 starts by saying: 11 "Despite the diversity of gay fatherhood, 12 research to date has, with some exceptions, 13 been conducted with relatively homogeneous 14 groups of participants." 15 When Professor Patterson wrote that, that was an 16 accurate statement, correct? 17 A. I believe so, yes. 18 Q. She continues: 19 "Samples of gay fathers have been mainly 20 Caucasian, well educated, affluent and living 21 in major urban centers." 22 And that's an accurate statement, too, correct? 23 A. That was, I believe, an accurate statement at the time, 24 yes. 25 Q. (As read)</p>	143	<p style="text-align: center;">LAMB - CROSS EXAMINATION / THOMPSON 1133</p> <p>1 specifics of these studies. 2 In fact, the literature on gay males and their 3 parenting skills is so sparse that you are starting a study of 4 your own in the United Kingdom, correct? 5 A. Well, I am starting a study of my own in the United 6 Kingdom, that part is correct. 7 Q. And you are hoping to do a similar study in the United 8 States, correct? 9 A. Correct. 10 Q. And in your study you are going to try to match the nature 11 of the parent's prior relationships, correct? 12 A. Well, you want to match as many issues as you can in order 13 to refine the value of informativeness of your study, that's 14 correct. 15 Q. So one of the factors you are going to focus on is the 16 nature of the parent's prior relationships, correct? 17 A. That's right. 18 Q. But many of the studies you have relied on in your expert 19 report in this case don't attempt to match the prior 20 relationships of parents, correct? 21 A. Some do and some don't, that's correct. 22 Q. We know that economic resources are an important factor in 23 the psychological well-adjustment of children, correct? 24 A. Yes, I testified, correct. 25 Q. And you would agree that if you had two households and in</p>
142	<p style="text-align: center;">LAMB - CROSS EXAMINATION / THOMPSON 1132</p> <p>1 "Although the available evidence suggests 2 that self-identified gay men are much more 3 likely to live in large cities than 4 elsewhere, the representativeness of the 5 samples of gay fathers studied to date cannot 6 be established." 7 That's an accurate statement, true, correct? 8 A. That was true then, yes. 9 Q. Most research has been cross-sectional in nature and has 10 involved information provided through interviews and 11 questionnaires by gay fathers themselves, correct? 12 A. Yes. 13 Q. And her conclusion: 14 "Caution in the interpretation of findings 15 from research in this new area of work is 16 thus required." 17 And when you edited this book, you agreed with that 18 statement, correct? 19 A. It was an accurate statement in 1996, yes. 20 Q. No, this was 2004. 21 A. Okay. In 2002. 22 Q. So this was a new area of research when you edited this 23 book? 24 A. That's correct. 25 Q. Okay. All right. Now, let us turn to some of those</p>	144	<p style="text-align: center;">LAMB - CROSS EXAMINATION / THOMPSON 1134</p> <p>1 the first household it had a combined income of \$100,000, but 2 only one child, and you had a second household that had a 3 combined income of \$100,000, but had 10 children, that the 4 resources available to those children would be quite different, 5 correct? 6 A. That's correct. 7 Q. And in your study that you are doing in Great Britain, you 8 are going to try to hold -- to control for that in your study, 9 correct? 10 A. That's correct. 11 Q. But many of the studies you rely on for your opinions in 12 this case don't control for that factor, correct? 13 A. I think that's not correct. 14 Q. Some of them don't, isn't that correct? 15 A. Some of them may not. 16 Q. Some of them don't even compare the parenting outcomes to 17 any control group, isn't that right? 18 A. Not the status that I would rely on to be informing and 19 understanding of the comparative differences. 20 Q. The studies that are listed in your "Materials 21 Considered," some of them don't have any control group 22 whatsoever, is that right? 23 A. That is right, yes. 24 Q. All right. Now, many of those studies -- you would agree 25 that taking into account age gives you another proxy index of</p>

145	<p style="text-align: right;">LAMB - CROSS EXAMINATION / THOMPSON 1135</p> <p>1 the degree to which an individual is ready to function as a 2 parent, correct? 3 A. Age of a parent can make a difference to parenting, yes. 4 Q. But many of the studies you rely on don't hold constant 5 for age, correct? 6 A. I'm not sure that's true, but maybe there are some that 7 do. 8 Q. And some don't though. You are just not sure of the state 9 of the literature, whether they -- 10 A. Well, I'm trying to really understand your question, 11 because there is quite a large literature on the effects of 12 parental age and it identifies certain groups as problematic. 13 And there is fairly large portions of the lifespan where you 14 don't see differences associated with age. 15 So what would be important in a situation is not to 16 be mixing teen parents with mature parents and, likewise, not 17 to focus on some of the difficulties that may occur when older 18 people have children. 19 So this is not something which is just linearly 20 related to the ability to parent. 21 Q. In your study in Great Britain you are going to be asking 22 whether the parents are sexually exclusive, correct? 23 A. I told you that we might do that, yes. Again, as I told 24 you, we are about to begin the study. 25 Q. And that becomes especially important because it's one of</p>	147	<p style="text-align: right;">LAMB - CROSS EXAMINATION / THOMPSON 1137</p> <p>1 Q. The study you are designing for the United Kingdom focuses 2 on children who have been adopted at birth, correct? 3 A. It will, yes. 4 Q. But many of the studies you look at, the children are the 5 products of heterosexual unions, the children of the gay and 6 lesbian couples, correct? 7 A. Correct. And that's why you want to have different sorts 8 of circumstances studied. 9 Q. And educational background, occupational choices, income 10 available, these factors relate to aspects of parenting, so 11 they are important ones to consider, correct? 12 A. To consider, yes. 13 Q. And most of the studies listed in your materials address 14 white, middle-class lesbians, correct? 15 A. I think many of them do, that's correct. 16 Q. Several of the studies listed in your materials considered 17 don't have a control group against which the parenting skills 18 of gays and lesbians can be measured, correct? 19 A. Some of the studies don't have a comparison group of 20 heterosexual parents, because for the purpose of those studies 21 those weren't necessary. 22 Q. We know that the child outcomes are better on average for 23 children raised by two parents rather than one, correct? 24 A. On average that's correct, yes. 25 Q. But many of the studies you rely on in forming your</p>
146	<p style="text-align: right;">LAMB - CROSS EXAMINATION / THOMPSON 1136</p> <p>1 the issues that is sometimes raised in discussing children's 2 adjustment, correct? 3 A. Well, the nature of the relationship between the parents 4 is certainly one of the important issues, yes. And to the 5 extent that sexual exclusivity was important to those parents 6 and affected the quality of therefore relationship, then that 7 could be an important issue. 8 Q. And that's why you are going to try to hold constant for 9 it in the study you are conducting, correct? 10 A. As I just said, I'm not sure that we will, but I think 11 when we discussed this at deposition, I said that that seemed 12 like a reasonable issue to consider. 13 Q. But many of the studies you rely on have not held constant 14 for the prior relationships of the parents who are studied, 15 correct? 16 A. It's true in studies of both heterosexual and homosexual 17 parents, that's right. 18 Q. And your study that you are launching is probably going to 19 be extended in the future so that you can look at developmental 20 trajectories as the children pass through other portions of 21 their lifespan, correct? 22 A. Yes, it might be. 23 Q. But many of the studies you rely on are single time 24 snapshots and don't follow developmental trajectories, correct? 25 A. Some of them are, yes.</p>	148	<p style="text-align: right;">LAMB - CROSS EXAMINATION / THOMPSON 1138</p> <p>1 opinions in this case compare the children of lesbians to 2 single mothers, correct? 3 A. Some of them compare them to single mothers, some to 4 two-parent families. 5 Q. And some of them show that the children of the lesbian 6 couples are only doing as well as the children of the single 7 mothers, correct? 8 A. Some of them show that they are doing as well as the 9 children of the lesbian -- sorry, that the children being 10 raised by lesbians and singles are similar, that's right. 11 Q. We also know from the literature that the presence of a 12 stepfather can increase the likelihood of negative childhood 13 outcomes, correct? 14 A. Yes. The entry of any additional person into a child's 15 rearing environment can have an influence. 16 Q. Many of the studies you rely on are not a comparison 17 between married biological parents as compared to gay or 18 lesbian parents, correct? 19 A. I would hope so. What I tried to do is summarize a large 20 body of research that studies lots of different types of 21 families. 22 Q. In terms of outcomes, many studies look at educational 23 attainment as a measure of childhood well-adjustment, correct? 24 A. To some extent, yes. In particular, with the level of 25 things like completion of schooling, adequate schooling.</p>

149	<p style="text-align: right;">LAMB - CROSS EXAMINATION / THOMPSON 1139</p> <p>1 Q. And many of the studies are of young children, so there is 2 no meaningful track record of educational achievement, correct? 3 A. Yeah. A variety of ages have been studied. 4 Q. And some of the studies that do attempt to measure 5 educational attainment look to grade point averages, correct? 6 A. Some do, yes. 7 Q. But none of the studies try to compare the difficulty of 8 the subject matters that the children are taking or the 9 difficulty of their schools, correct? 10 A. I think that's correct, yes. 11 Q. If you wanted to measure whether a child had reached his 12 or her intellectual potential, you would want to compare their 13 native intelligence, perhaps measured by IQ, and compare that 14 to their grade point average or some other metric of 15 educational attainment, correct? 16 A. That would be nice. That tends not to be the case in most 17 of the research that people do on educational attainment, 18 regardless of the gender orientation of the parents. 19 Q. Right. In fact, there is not one single one of the 20 studies you rely on in this case which has tried to measure the 21 educational attainment of these children as compared to their 22 potential, correct? 23 A. Probably correct. 24 Q. And there is fairly reliable association between family 25 size and IQ, correct?</p>	151
150	<p style="text-align: right;">LAMB - CROSS EXAMINATION / THOMPSON 1140</p> <p>1 A. It's not a very sizeable correlation. There is a reliable 2 correlation. 3 Q. And having one sibling turns out to be quite positive, 4 correct? 5 A. It seems to have positive benefits. Relatively small, but 6 reliable. 7 Q. But many of the studies listed in your expert report do 8 not hold constant for the number of siblings, correct? 9 A. They may not hold it constant -- yes, that's correct, some 10 of them don't. 11 Q. And for those that look at educational attainment of 12 children and they look at college -- there are some that look 13 at college matriculation, is that right? 14 A. I think that's correct, yes. 15 Q. But they -- those studies don't try to measure the caliber 16 of the university; they treat a degree from your university the 17 same as a degree from a community college, correct? 18 A. Umm, I think a degree from a community college is usually 19 distinguished; but, yes, going to some further education is 20 usually the marker. 21 Q. But they don't try to distinguish between, let's say, a 22 four-year degree at Cambridge University and a four-year degree 23 at a far less prestigious university, correct? 24 A. That's correct. 25 Q. And it's important to be as precise as possible in making</p>	152
	<p style="text-align: right;">LAMB - CROSS EXAMINATION / THOMPSON 1141</p> <p>1 comparisons, correct? 2 A. As a general rule, yes, of course. 3 Q. The resources available to a child are an important 4 variable in predicting childhood outcomes, correct? 5 A. Yes, absolutely. 6 Q. But not one of the studies you have looked at considers 7 the resources that grandparents make available to children, 8 correct? 9 A. I think that's not correct. 10 Q. Some of them look at the financial resources that 11 grandparents make available? 12 A. You said "resources." You didn't say "financial 13 resources." 14 Certainly, there have been studies about the extent 15 of involvement with grandparent generations, that's correct. 16 Q. And that's because grandparents can be important to a 17 child's psychological adjustment, correct? 18 A. That's correct. 19 Q. But none of the studies you rely on take into account the 20 financial resources that grandparents might make available to a 21 child, correct? 22 A. Can I just -- when you talk about "none of the studies," 23 we're talking about the thousands of studies of children's 24 adjustment? 25 Q. We are talking about the hundred or so studies about</p>	
	<p style="text-align: right;">LAMB - CROSS EXAMINATION / THOMPSON 1142</p> <p>1 same-sex parenting. 2 A. Okay. I'm not sure that any of them have looked at 3 financial transfers specifically. 4 Q. You can't identify a single one, correct? 5 A. Not as I sit here today, no. 6 Q. And none of the studies look at the educational attainment 7 of grandparents either, correct? 8 A. Many of them do as part of the process of describing the 9 backgrounds or origins of those individuals. 10 Q. They look at the educational attainment of the 11 grandparents? 12 A. Or something that would be related to that, some measures 13 of social class backgrounds. 14 Q. Clearly, we know that the psychological well-being of 15 parents affects their ability to parent and affects the quality 16 of the relationships they have with their children, correct? 17 A. I said so, yes. 18 Q. But when it comes to minority stress syndrome that 19 Dr. Meyer testified to, you're not familiar with that 20 literature, correct? 21 A. No. I'm not an expert on that literature. 22 Q. You would agree that lots of researchers have shown that 23 being a depressed parent changes the way you behave and 24 interact with your child, and that can indirectly affect the 25 child's adjustment as well, correct?</p>	

153	<p style="text-align: right;">LAMB - CROSS EXAMINATION / THOMPSON 1143</p> <p>1 A. Yes, that's correct.</p> <p>2 Q. I would like you to turn to tab 41 in your binder, which</p> <p>3 is DIX-131. This is the affidavit of Steven Nock that was</p> <p>4 submitted to the Superior Court of Justice in Ontario as part</p> <p>5 of the Canadian same-sex marriage legal battle.</p> <p>6 And Professor Nock was a professor of sociology at</p> <p>7 the University of Virginia, is that right?</p> <p>8 A. I understand so, yes.</p> <p>9 Q. And he was a well-known family sociologist, is that</p> <p>10 correct?</p> <p>11 A. I know he was a family sociologist.</p> <p>12 Q. Well, let's look at what you said during your deposition,</p> <p>13 page 243. You said at line 11:</p> <p>14 "ANSWER: I know that he was a well-known</p> <p>15 family sociologist."</p> <p>16 A. Okay.</p> <p>17 Q. Does that refresh your recollection?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. And he is, unfortunately, deceased at the present,</p> <p>20 correct?</p> <p>21 A. I believe so, yes. I think you told me so at the</p> <p>22 deposition.</p> <p>23 Q. Yes, that's right.</p> <p>24 I would like to direct your attention to page seven</p> <p>25 of this document. In particular, to paragraph 20. And it says</p>	155	<p style="text-align: right;">LAMB - CROSS EXAMINATION / THOMPSON 1145</p> <p>1 Do you agree with that?</p> <p>2 A. Yes. That's what I was talking about and I called that a</p> <p>3 representative sample.</p> <p>4 Q. All right. And then turning to Paragraph 23, he states in</p> <p>5 the first sentence:</p> <p>6 "A probability sample is required whenever a</p> <p>7 researcher wishes to make claims about the</p> <p>8 larger population from which the sample was</p> <p>9 drawn."</p> <p>10 Do you agree with that statement?</p> <p>11 A. Well, that's a sociologist's version. Psychologists don't</p> <p>12 usually do studies that way.</p> <p>13 Q. Okay.</p> <p>14 "And if the goal is to make general claims</p> <p>15 about same-sex parental relationships and the</p> <p>16 children who might be affected by them, then</p> <p>17 we must have a probability sample drawn from</p> <p>18 the larger population of homosexual parents</p> <p>19 and children."</p> <p>20 Do you agree with respect Professor Nock's statement?</p> <p>21 A. Well, I would expand on his statement and say that we need</p> <p>22 many studies using a variety of different sampling procedures,</p> <p>23 and that's what I testified to this morning.</p> <p>24 Q. Now, I would like to turn your attention to Paragraph 29,</p> <p>25 and in particular to the last full sentence on page 10. It</p>
154	<p style="text-align: right;">LAMB - CROSS EXAMINATION / THOMPSON 1144</p> <p>1 in the last sentence of that paragraph:</p> <p>2 "If a valid and scientifically adequate study</p> <p>3 were to show that there is no correlation</p> <p>4 between having gay or lesbian parents and a</p> <p>5 child's well-being, based on a comparison of</p> <p>6 representative groups of each type of parent</p> <p>7 and differing only on sexual orientation,</p> <p>8 then most scientists would accept that there</p> <p>9 is no causal link between the two."</p> <p>10 Would you agree with that statement?</p> <p>11 A. Yes, I think so.</p> <p>12 Q. And turning your attention to the next paragraph. In</p> <p>13 particular -- sorry -- to Paragraph 22 under "Sampling," where</p> <p>14 he says:</p> <p>15 "First and foremost, the ability of any</p> <p>16 social science evidence to apply to a larger</p> <p>17 group depends on the way the sample of cases</p> <p>18 was obtained."</p> <p>19 Would you agree with that statement?</p> <p>20 A. No, I wouldn't. I would agree that it is related to</p> <p>21 understanding and specifying how you obtained your sample.</p> <p>22 Q. In the second sentence he says:</p> <p>23 "A probability sample is one in which every</p> <p>24 member of a definable population has a known</p> <p>25 probability of being included in the study."</p>	156	<p style="text-align: right;">LAMB - CROSS EXAMINATION / THOMPSON 1146</p> <p>1 says -- Professor Nock says:</p> <p>2 "Moreover, we do not have an agreed-upon</p> <p>3 definition of homosexuality. Is a homosexual</p> <p>4 a person whose erotic interests are focused</p> <p>5 on those of the same sex? Is a homosexual a</p> <p>6 person who sometimes engages in sexual acts</p> <p>7 with a member of the same sex? Is a</p> <p>8 homosexual a person who thinks of him or</p> <p>9 herself as a homosexual? Does a single</p> <p>10 sexual act with a person of the same sex</p> <p>11 define a person as a homosexual? Also</p> <p>12 important in the case is how to define</p> <p>13 bisexual. Are bisexuals to be treated as</p> <p>14 homosexuals? Heterosexuals? Or both? And</p> <p>15 how does one decide? Is homosexuality</p> <p>16 learned, i.e., socially constructed, or is it</p> <p>17 transmitted genetically? Finally, is male</p> <p>18 homosexuality the same phenomenon as female</p> <p>19 homosexuality? Answers to such questions</p> <p>20 have direct and important consequences for</p> <p>21 one how investigates the topics in this</p> <p>22 case."</p> <p>23 Would you agree that coming to a settled definition</p> <p>24 of homosexuality so that you can at least define the relevant</p> <p>25 population is important for social science looking into these</p>

157	<p style="text-align: right;">LAMB - CROSS EXAMINATION / THOMPSON 1147</p> <p>1 sorts of issues?</p> <p>2 A. I think neither Steve Nock nor myself are experts on</p> <p>3 homosexuality. Certainly, in the literature that explores the</p> <p>4 effects of parenting, the issues are focused on self-definition</p> <p>5 of individuals as either same-sex oriented or opposite-sex</p> <p>6 oriented.</p> <p>7 Q. Now, I would like to direct your attention to the -- let</p> <p>8 me ask you this: In order to determine that specific</p> <p>9 characteristics of the father/child relationship affect certain</p> <p>10 aspects of the child's personality, it is necessary to use</p> <p>11 those correlational strategies that permit causal inferences,</p> <p>12 such as cross-lagged panel correlations, to supplement</p> <p>13 experimental and quasi-experimental studies.</p> <p>14 Would you agree with that statement?</p> <p>15 A. Yes. I think that's another statement of my belief, that</p> <p>16 you need to use multiple techniques and multiple approaches in</p> <p>17 order to understand a phenomenon.</p> <p>18 Q. All right. Now, I would like to direct your attention to</p> <p>19 page 18 of the Nock affidavit. Please let me know when you're</p> <p>20 there.</p> <p>21 A. Yes, I'm there.</p> <p>22 Q. In addition to identifying and obtaining a sample, a</p> <p>23 researcher must identify --</p> <p>24 A. Can you tell me where this is?</p> <p>25 Q. Well, let me just ask a question and we can see if we need</p>	159	<p style="text-align: right;">LAMB - CROSS EXAMINATION / THOMPSON 1149</p> <p>1 certainly with have to write it, that's correct.</p> <p>2 Q. And these are important parts of determining the</p> <p>3 reliability and validity of a study, is that right?</p> <p>4 A. I'm not sure that that follows from what you said, but it</p> <p>5 is certainly important to establish the reliability and</p> <p>6 validity of whatever measures you use, that is correct.</p> <p>7 MR. THOMPSON: Your Honor, at this point we would ask</p> <p>8 the Court to take judicial notice of DIX-131.</p> <p>9 THE COURT: Very well.</p> <p>10 BY MR. THOMPSON:</p> <p>11 Q. And, Professor, I would like to direct your attention to</p> <p>12 tab 44. This is a document entitled "No Basis, What the</p> <p>13 Studies Don't Tell Us About Same-Sex Parenting" by Robert</p> <p>14 Lerner and Althea Nagai.</p> <p>15 And have you had reviewed -- did you review this</p> <p>16 document in connection with your testimony in this case?</p> <p>17 A. I have read this document in the past. I don't think I</p> <p>18 have read it in connection with this case, no.</p> <p>19 Q. But you have read it in the past?</p> <p>20 A. Uh-huh.</p> <p>21 MR. THOMPSON: Okay. Your Honor, we would move</p> <p>22 the -- we would ask the Court to take judicial notice of</p> <p>23 DIX-734.</p> <p>24 THE COURT: Well, I will do that if you ask him a</p> <p>25 question about it, since we are proceeding under 803(18), I</p>
158	<p style="text-align: right;">LAMB - CROSS EXAMINATION / THOMPSON 1148</p> <p>1 to get into the details of this in a moment.</p> <p>2 Would you agree that in addition to identifying and</p> <p>3 obtaining a sample, a researcher must determine how information</p> <p>4 is to be obtained from the sample; is that right?</p> <p>5 A. Yes.</p> <p>6 Q. All right. And when Professor Nock says in the first</p> <p>7 sentence of Paragraph 49:</p> <p>8 "Before gathering a single datum from a</p> <p>9 sample, one must first translate the concepts</p> <p>10 of interest into indicators that can be</p> <p>11 measured."</p> <p>12 Would you agree with that?</p> <p>13 A. Yes.</p> <p>14 Q. And when he goes on to say:</p> <p>15 "This is a central part of the entire process</p> <p>16 of designing the data-gathering procedure."</p> <p>17 Would you agreed?</p> <p>18 A. Yes.</p> <p>19 Q. Sometimes the project calls for a questionnaire survey;</p> <p>20 would you agree?</p> <p>21 A. I believe so, yes.</p> <p>22 Q. Typically in such cases the concepts to be investigated</p> <p>23 are translated into specific questions on a questionnaire;</p> <p>24 would you agree?</p> <p>25 A. If you were going to use a questionnaire, you have would</p>	160	<p style="text-align: right;">LAMB - CROSS EXAMINATION / THOMPSON 1150</p> <p>1 believe it is.</p> <p>2 MR. THOMPSON: Okay.</p> <p>3 BY MR. THOMPSON:</p> <p>4 Q. And, Professor, the conclusion that Dr. Lerner reached is</p> <p>5 that the same-sex parenting literature was not sufficiently</p> <p>6 reliable to draw conclusions one way or the other about the</p> <p>7 parenting skills and abilities of same-sex couples, is that</p> <p>8 right?</p> <p>9 A. That was the conclusion he reached then, and this is about</p> <p>10 a 10-year old document; but that's correct.</p> <p>11 Q. Yes, yes.</p> <p>12 MR. THOMPSON: Now, your Honor, we would request the</p> <p>13 Court to take judicial notice.</p> <p>14 THE COURT: That will be fine.</p> <p>15 MR. THOMPSON: Thank you, your Honor.</p> <p>16 THE CLERK: I'm sorry. Can I get the number?</p> <p>17 MR. THOMPSON: DIX-734.</p> <p>18 THE CLERK: Thank you.</p> <p>19 BY MR. THOMPSON:</p> <p>20 Q. Dr. Lamb, turning to the next tab in your binder, 45, this</p> <p>21 is an article by Walter Schumm of Kansas State University.</p> <p>22 "What Was Really Learned From Tasker and Golombok's Study of</p> <p>23 Lesbian and Single-Parent Mothers."</p> <p>24 Have you reviewed this article ever?</p> <p>25 A. Yes, I have. I have seen this before. It's published in</p>

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LAMB - CROSS EXAMINATION / THOMPSON 1151

1 a journal where one has to pay to have articles published, so
 2 it's not usually considered part of the scientific literature;
 3 but since he was involved in previous cases I saw it in that
 4 context.
 5 Q. You have squared off against Professor Schumm in some
 6 other cases, is that right?
 7 A. I have seen him there, yes.
 8 Q. And he says -- at the end of them document, he says:
 9 "Policymakers should interpret research on
 10 gays and family life or on any very small
 11 subset of any population with extreme
 12 caution."
 13 And would you agree, at least, that when you are
 14 talking about a very small subset of any population, a
 15 researcher should proceed with caution?
 16 A. Could you repeat the question?
 17 Q. Yes. Would you --
 18 A. I think researchers should always proceed with caution and
 19 make sure that there was adequate basis for whatever
 20 conclusions that they draw.
 21 MR. THOMPSON: Your Honor, we would request that the
 22 Court take judicial notice of DIX-779.
 23 THE COURT: Very well.
 24 BY MR. THOMPSON:
 25 Q. Then turning to the next tab in your binder, 46, this is

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LAMB - CROSS EXAMINATION / THOMPSON 1152

1 "Families With Young Children - A Review of Research in the
 2 1990's."
 3 And have you reviewed this document in connection
 4 with the case?
 5 A. No, I have not.
 6 Q. All right. I would like to ask you to turn to page 889.
 7 Let my know when you are there.
 8 A. I'm there.
 9 Q. And looking at the right-hand column, the last paragraph,
 10 second sentence says:
 11 "One relatively new line of inquiry is the
 12 development and adjustment of children living
 13 in families headed by lesbian, gay or
 14 bisexual parents."
 15 And then if we skip down --
 16 THE COURT: Let's see. Where are you reading from?
 17 MR. THOMPSON: Yes, your Honor. It's the --
 18 THE COURT: 889?
 19 MR. THOMPSON: It's the last paragraph on the page,
 20 the second sentence.
 21 THE COURT: Yes. Thank you.
 22 MR. THOMPSON: Certainly.
 23 BY MR. THOMPSON:
 24 Q. And then turning to the -- skipping down to the last --
 25 excuse me, the second to the last sentence on the page, it

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LAMB - CROSS EXAMINATION / THOMPSON 1153

1 says:
 2 "A persistent limitation of these studies,
 3 however, is that most rely on small samples
 4 of white, middle class, previously married
 5 lesbians and their children."
 6 And at least at the time this was written, that was a
 7 true statement, wasn't it?
 8 A. I think that that's a true statement as a description of
 9 the majority of the studies at that time, that's true.
 10 Q. They conclude:
 11 "As a result, we cannot be confident
 12 concerning the generalizability of many of
 13 the findings."
 14 And that's a fair point, isn't it?
 15 A. Well, it continues to talk about a more broad question
 16 there.
 17 Q. Let me just ask it as concern.
 18 Based on the concern, the persistent limitation they
 19 have just identified, would you agree that we cannot be
 20 confident concerning the generalizability of many of the
 21 findings?
 22 A. If you are -- you would have to be careful about that if
 23 you are relying on a relatively small body of research that
 24 involved only a small group of individuals -- homogeneous,
 25 sorry, a more homogeneous set of individuals.

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LAMB - CROSS EXAMINATION / THOMPSON 1154

1 MR. THOMPSON: And, your Honor, we would ask the
 2 Court to take judicial notice of DIX-749.
 3 THE COURT: Very well.
 4 BY MR. THOMPSON:
 5 Q. Turning to tab 47 in your binder, Dr. Lamb, this is an
 6 article "Does the Sexual Orientation of Parents Matter?" And
 7 it's by Judith Stacey of the University of Southern California
 8 and a colleague of hers.
 9 Are you familiar with Professor Stacey's work at all?
 10 A. Yes.
 11 Q. And she is an advocate for the rights of gays and
 12 lesbians, correct?
 13 A. I don't know about that, but..
 14 Q. All right. Let's turn to page 168 of this document and,
 15 in particular, footnote nine.
 16 And she has just -- in the text she has talked about
 17 that there are studies showing greater gender conformity --
 18 well, I will read the sentence to which footnote nine is
 19 appended.
 20 "However, on other measures such as
 21 occupational goals and sartorial styles,
 22 they" -- and this means, I believe, the
 23 children -- "of lesbians also exhibit greater
 24 gender conformity" -- I'm sorry. Let's see.
 25 THE COURT: I don't find that in paragraph nine. Am

165	<p>LAMB - CROSS EXAMINATION / THOMPSON 1155</p> <p>1 I missing something?</p> <p>2 MR. THOMPSON: Your Honor, let me try this again.</p> <p>3 BY MR. THOMPSON:</p> <p>4 Q. Page 168. It is the last paragraph on the page, and I --</p> <p>5 the point I want to focus on is footnote nine and --</p> <p>6 THE COURT: You were reading from the text?</p> <p>7 MR. THOMPSON: I was reading from the text just to</p> <p>8 try to give the context and I think I didn't back up far</p> <p>9 enough.</p> <p>10 THE COURT: All right.</p> <p>11 BY MR. THOMPSON:</p> <p>12 Q. Dr. Lamb, why don't you read the text to which footnote</p> <p>13 nine is appended and then I will ask you a question about</p> <p>14 footnote nine.</p> <p>15 A. (As read)</p> <p>16 "Sons appear to respond in more complex ways</p> <p>17 to parental sexual orientations. On some</p> <p>18 measures, like aggressiveness and play</p> <p>19 preferences, the sons of lesbian mothers</p> <p>20 behave in less traditionally masculine ways</p> <p>21 than those raised by heterosexual single</p> <p>22 mothers. However, in other measures, such as</p> <p>23 occupational goals and sartorial styles, they</p> <p>24 also exhibit greater gender conformity than</p> <p>25 do daughters with lesbian mothers, but they</p>	167	<p>LAMB - CROSS EXAMINATION / THOMPSON 1157</p> <p>1 DIX-782. It's entitled "Science and Advocacy Issues in</p> <p>2 Research on Children of Gay and Lesbian Parents," and it's</p> <p>3 written by Virginia Schiller of Yale University.</p> <p>4 She writes in the very last sentence on the page, the</p> <p>5 first page:</p> <p>6 "Given that opponents make egregious</p> <p>7 statements about the unfitness of gay and</p> <p>8 lesbian parents and the pathology of their</p> <p>9 children, are we justified in lowering our</p> <p>10 standards about how scientific research is</p> <p>11 described and reported?"</p> <p>12 And would you agree with the proposition that</p> <p>13 scientific standards have been lowered in this area precisely</p> <p>14 because of the need to combat prior bias in the medical</p> <p>15 community against gays and lesbians?</p> <p>16 A. I don't know anything about the medical community, but I</p> <p>17 don't think it's true of the research that I'm familiar with.</p> <p>18 Q. You don't think that there was bias previously in the</p> <p>19 psychological community against gays and lesbians?</p> <p>20 A. I understood you to be asking me to comment on a</p> <p>21 specific -- well, maybe you want to ask the question again.</p> <p>22 Q. That's all right. We can move on.</p> <p>23 I would like to turn your attention to the next tab,</p> <p>24 which is 49. This is a document entitled "Children In Three</p> <p>25 Contexts: Family, Education and Social Development." And this</p>
166	<p>LAMB - CROSS EXAMINATION / THOMPSON 1156</p> <p>1 are not more conforming than sons with</p> <p>2 heterosexual mothers."</p> <p>3 And there is a citations to two studies, one by</p> <p>4 Richard Green and the other by Ann Steckel.</p> <p>5 Q. And then in the footnote it says:</p> <p>6 "Many of these studies use conventional</p> <p>7 levels of significance on miniscule samples,</p> <p>8 substantially increasing their likelihood of</p> <p>9 failing to reject the null hypothesis."</p> <p>10 Is professor Stacey right, that if you use a</p> <p>11 miniscule sample, you substantially increase the likelihood of</p> <p>12 failing to reject the null hypothesis?</p> <p>13 A. Yes.</p> <p>14 Q. And she concludes this footnote by saying:</p> <p>15 "For very small samples, conventional levels</p> <p>16 of" -- statistical significance she is</p> <p>17 referring to -- "can actually be too</p> <p>18 restrictive."</p> <p>19 Would you agree with that statement?</p> <p>20 A. Yes.</p> <p>21 MR. THOMPSON: Your Honor, we would ask the Court to</p> <p>22 take judicial notice of PX 1394.</p> <p>23 THE COURT: Very well.</p> <p>24 BY MR. THOMPSON:</p> <p>25 Q. Turning to tab 48 in your binder, Dr. Lamb, this is</p>	168	<p>LAMB - CROSS EXAMINATION / THOMPSON 1158</p> <p>1 is a document that concludes that the children of gays and</p> <p>2 lesbians do less well, have worse outcomes than the children of</p> <p>3 heterosexuals, is that correct?</p> <p>4 A. It is, yes.</p> <p>5 Q. But you ignored this study in your opening report in this</p> <p>6 case, correct? It wasn't something you even considered, was</p> <p>7 it?</p> <p>8 A. Well, I didn't list it. As I think I pointed out in my</p> <p>9 report, I tried to consider thousands of contributions to the</p> <p>10 literature. I certainly didn't list all the things that I was</p> <p>11 taking into account.</p> <p>12 This study is a complete outlier from the rest of the</p> <p>13 research and by the author's own admission, it contains</p> <p>14 problems in the design and interpretation that make it very</p> <p>15 hard to justify the conclusion that the author reaches.</p> <p>16 Q. It has a larger sample size than any of the gay parenting</p> <p>17 literature that you cite to, isn't that right?</p> <p>18 A. Absolutely not.</p> <p>19 Q. Which of your articles in your materials considered has a</p> <p>20 larger sample size than -- with respect to -- that compares the</p> <p>21 childhood outcomes of the children of gays and lesbians as</p> <p>22 compared to heterosexuals?</p> <p>23 A. Well, the larger sample, of course, is the Rosenfeld one,</p> <p>24 which is the national sample, and that one was not in my</p> <p>25 initial report because I wasn't aware of it at that time.</p>

169	<p style="text-align: right;">LAMB - CROSS EXAMINATION / THOMPSON 1159</p> <p>1 This one doesn't -- includes a total of 58 children 2 being raised by lesbians and gay parents. 3 Q. Yes. And then it has a control group, correct? 4 A. And it has two comparison groups, in fact, one of married 5 heterosexuals and one of cohabiting heterosexuals. 6 MR. THOMPSON: Your Honor, we would ask the Court to 7 take judicial notice of DIX-775. 8 THE COURT: Very well. 9 BY MR. THOMPSON: 10 Q. All right. Turning to tab 50, this is entitled "Parenting 11 and Planned Lesbian Families" and this was one of the studies 12 you considered in forming your opinions in this case, is that 13 right? 14 A. That's right. 15 Q. If we look to page 68, I would ask you to look at. 16 A. I notice this is incomplete. Is that intentional? 17 Q. Yes. We just wanted to -- notwithstanding the heft of 18 these binders, we wanted to kill one less tree. 19 But let's see. So turning to page 68, it concludes 20 under "Differences and Parental Behavior" the last sentence on 21 that page: 22 "These differences indicate that lesbian 23 biological mothers scored lower on structure 24 and limit setting than did the heterosexual 25 mothers."</p>	171	<p style="text-align: right;">LAMB - CROSS EXAMINATION / THOMPSON 1161</p> <p>1 right? 2 A. I believe so, yes. 3 Q. Okay. And this one looked at only young children, is that 4 correct? 5 A. At this point, yes. 6 Q. And, again, this study did not compare childhood outcomes 7 of the children of same-sex couples with the children of 8 married biological parents, correct? 9 A. I think that's correct, yes. 10 Q. Let's turn to -- 11 MR. THOMPSON: Your Honor, we would ask the Court to 12 take judicial notice of PX 1075. 13 THE COURT: Why don't you ask him a question about 14 the exhibit? That's the precondition for -- condition notice 15 803(18). 16 MR. THOMPSON: Yes, your Honor. 17 Well, this study -- I guess the question, your Honor, 18 I had -- I'm trying to ask is that it doesn't compare with 19 these -- to try to speed things up, my main question to him is 20 going to be that these studies don't actually compare the 21 children of married biological parents to same-sex couples, and 22 so that's really the question. 23 I'm getting him to prove a negative in the sense 24 of -- 25 THE COURT: Ask the witness.</p>
170	<p style="text-align: right;">LAMB - CROSS EXAMINATION / THOMPSON 1160</p> <p>1 And you would agree that setting limits is an 2 important parenting skill, correct? 3 A. I agree, yes. 4 THE COURT: Perhaps this is not the only area in 5 which setting limits would be helpful. 6 MR. THOMPSON: I appreciate that, your Honor. 7 (Laughter.) 8 MR. THOMPSON: It's unfortunately an extensive 9 literature, as the doctor says. 10 BY MR. THOMPSON: 11 Q. Turning to tab 51, this is another one of the studies you 12 relied on, is that correct? 13 A. I think this is a report drawn from the one that we just 14 talked about. 15 Q. Okay. And it does not explicitly say that it's comparing 16 the childhood outcomes of same-sex couples with married 17 biological parents, correct? 18 A. This one does not, no. 19 Q. And let's -- 20 MR. THOMPSON: Your Honor, we would ask the Court to 21 take judicial notice of PX-1055. 22 THE COURT: Very well. 23 BY MR. THOMPSON: 24 Q. Then turning to tab 52 in your binder. This is PX-1075, 25 and this is another document that you relied upon, is that</p>	172	<p style="text-align: right;">LAMB - CROSS EXAMINATION / THOMPSON 1162</p> <p>1 MR. THOMPSON: I apologize, your Honor. 2 BY MR. THOMPSON: 3 Q. Okay. So, Dr. Lamb, just to be clear, the comparison 4 group here is not of married biological parents. There's 5 nothing in this study you can point to that would establish 6 that comparison group, correct? 7 A. I'm sure that neither you nor the judge wants me to read 8 it through to check. 9 My understanding is that they didn't exclude people 10 depending on whether or not they were married. 11 Q. Okay. 12 MR. THOMPSON: And I would -- 13 THE COURT: All right -- 14 MR. THOMPSON: Thank you, your Honor. 15 THE COURT: Judicial notice will be taken of 1075. 16 You may move on. 17 MR. THOMPSON: Okay. 18 BY MR. THOMPSON: 19 Q. Tab 53, PX-1115. Again, this one did not have a control 20 group of married biological parents, correct? 21 A. It had a comparison group of heterosexual parents. My 22 understanding was, they didn't exclude people who were not 23 married in the heterosexual group. 24 MR. THOMPSON: Your Honor, we would ask the Court to 25 take judicial notice of 1115.</p>

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LAMB - CROSS EXAMINATION / THOMPSON 1163

1 THE COURT: Very well.

2 BY MR. THOMPSON:

3 Q. Turning to tab 54, Dr. Lamb. This is one of the studies

4 you relied on in this case, is that right, PX-1072?

5 A. Yes.

6 Q. Okay. And it, too, did not have a control group of

7 married biological parents, correct?

8 A. Well, it had a comparison group of heterosexuals again. I

9 don't know, as I'm trying to respond to you quickly here,

10 whether they excluded people in the heterosexual group who were

11 not married.

12 Q. So you just don't know how many of these studies compared

13 married biological -- the children of married biological

14 parents to the children of same-sex couples?

15 A. It would -- comparing people being raised by their

16 heterosexual parents with individuals being raised by lesbian

17 couples, that was the focus on these studies as I recall.

18 MR. THOMPSON: Your Honor, we would ask the Court to

19 take judicial notice of PX-1072.

20 THE COURT: Very well.

21 BY MR. THOMPSON:

22 Q. Turning to tab 55, Dr. Lamb. This is PX-1049. And this

23 is another study that you considered in forming your opinions

24 in this case, correct?

25 A. This is -- sorry, which one? This is under tab 55, the

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1 adoption study? This is one, yes.

2 Q. And it, too, does not have a control group of married

3 biological parents, correct?

4 A. Again, I believe that it compared -- it did not exclude

5 people who were not married from the heterosexual group --

6 Q. Okay.

7 A. -- to the best of my recollection.

8 Q. And turning --

9 MR. THOMPSON: Your Honor, we would ask the Court to

10 take judicial notice of PX-1049.

11 THE COURT: Very well.

12 BY MR. THOMPSON:

13 Q. Turning to tab 56, Dr. Lamb, this is PX-1088. This is a

14 document you considered in connection with this case, correct?

15 A. Correct.

16 Q. And it, too, does not have a control group of married

17 biological parents, correct?

18 A. I believe that's correct, that they did not exclude people

19 who were not married.

20 MR. THOMPSON: Your Honor, we would ask the Court to

21 take judicial notice of PX-1088.

22 THE COURT: Very well.

23 BY MR. THOMPSON:

24 Q. Turning to tab 57, Dr. Lamb, this is PX-1066. This is

25 another document you considered in connection with this case,

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1 is that right?

2 A. That's right.

3 Q. And it does not have a control group of married biological

4 parents, correct?

5 A. Like the others, it did not exclude people in the

6 heterosexual group who were not married.

7 Q. All right. And I would like to direct your attention to

8 page 27 of this document, the second column. And tell me when

9 you are there.

10 A. Page 27, second column? Yes, I'm there.

11 Q. Okay. So it says in the first sentence of the second

12 column:

13 "Five of the 38 rated children in lesbian

14 mother families, 13 percent, were classified

15 as showing psychiatric disorder; one with

16 conduct disorder, one with conduct and

17 emotional disorder, two with attention

18 deficit hyperactivity disorder, and one with

19 developmental disorder, compared with 12 of

20 the 134 children in heterosexual families,

21 nine percent."

22 So this is a study that you relied on that -- on this

23 metric of psychiatric disorders shows that children of gays and

24 lesbians at almost a 50 percent greater risk, is that right?

25 A. No. Actually, if you read the preceding sentence, it says

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1 there were no differences between the children in those two

2 groups. That difference that you just referred to is not

3 statistically significant.

4 Q. Oh, 50 percent isn't statistically significant because

5 it's such a tiny sample size, is that it?

6 A. No, it's not statistically significant.

7 Q. Because it's a small sample size, right?

8 A. Because the difference isn't large enough to be

9 statistically significant. Sample size is one of the factors

10 that determines statistical significance. The second is the

11 magnitude of the difference.

12 Q. Right. And here it was 50 percent, but that's not enough

13 because the sample is so small, right?

14 A. It's not statistically significant. It's not a

15 difference.

16 Q. It's not a statistically significant difference?

17 A. That's correct.

18 Q. Yes.

19 A. Therefore, it's not reliable. It's not a difference in

20 terms of the literature.

21 MR. THOMPSON: Your Honor, we would ask the Court to

22 take judicial notice of PX-1066.

23 THE COURT: Very well.

24 BY MR. THOMPSON:

25 Q. Turning to tab 58 in your binder. This is a PX-1061.

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1 It's a document you relied upon in reaching your conclusions in
 2 this case, is that right?
 3 **A. That's right.**
 4 Q. And it doesn't compare the outcomes of married biological
 5 parents to the outcomes of the children of same-sex couples,
 6 correct?
 7 **A. Again, to the best of my knowledge, they did not exclude**
 8 **people who were not married from the heterosexual comparison**
 9 **group.**
 10 MR. THOMPSON: Your Honor, we would ask the Court to
 11 take judicial notice of PX-1061.
 12 THE COURT: Very well.
 13 BY MR. THOMPSON:
 14 Q. Turning to tab 59, this is PX-1073. And it's a document
 15 that you considered in reaching your conclusions in this case,
 16 is that correct?
 17 **A. That's correct.**
 18 Q. And it did not control for married biological parents,
 19 correct?
 20 **A. It did not exclude unmarried biological parents from the**
 21 **heterosexual group, is that --**
 22 MR. THOMPSON: Your Honor, we would ask the Court to
 23 take judicial notice --
 24 THE COURT: Wait a minute. I think the witness was
 25 asking for a clarification of the question.

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1 MR. THOMPSON: I'm sorry. I'm sorry.
 2 **A. What was the question?**
 3 **BY MR. THOMPSON:**
 4 Q. My question is: Is the control group married biological
 5 parents, their children?
 6 And I understood you to say that, no, it's not
 7 because it was all heterosexuals and unmarried hadn't been
 8 excluded.
 9 **A. To the best of my knowledge, and you are not -- I don't**
 10 **have time to read through them, I think that's correct.**
 11 Q. So yes.
 12 **A. So that in all of these cases, certainly from the early**
 13 **eras, the majority of them would have been married. But the**
 14 **unmarried ones were, so as far as I recall, not excluded from**
 15 **those.**
 16 Q. Very well.
 17 MR. THOMPSON: Your Honor, we would ask the Court to
 18 take judicial notice of PX-1073.
 19 THE COURT: Very well.
 20 BY MR. THOMPSON:
 21 Q. Turning to tab 60, this is PX 1160. And this is a
 22 document you considered in connection with this case, is that
 23 right?
 24 **A. That's right.**
 25 Q. And it does not have a control group of married biological

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1 parents, correct?
 2 **A. It, again, did not exclude people who were not married,**
 3 **so as far as I recall.**
 4 Q. All right. And I'd like to turn your attention to the --
 5 well, it's page 787, which appears in small font in the upper
 6 right-hand corner of these pages. It's about the fifth page of
 7 the exhibit.
 8 **A. Okay.**
 9 Q. Sorry, sixth page of the exhibit.
 10 And do you see the chart that says "Table 2, Group
 11 Comparisons on Measures of Children's Emotions, Behavior and
 12 Relationships"?
 13 **A. Uh-huh.**
 14 Q. And --
 15 **A. I do.**
 16 Q. In the fourth row down it says "Cognitive Competence," can
 17 you see that?
 18 **A. On the second table, yes.**
 19 Q. Yes. And can you help us out, what the vertical column
 20 that means x, what that stands for?
 21 **A. So --**
 22 Q. There is an "N," an "X" and an "SE." And is the "N" the
 23 number of people in the sample?
 24 **A. Yes. The "N" should be the number of people. The "X"**
 25 **should be the main score. And the "SE" would be the standard**

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1 **error of the measure.**
 2 Q. And so we see for the heterosexual two parents, the
 3 cognitive competence of their children was higher than the
 4 cognitive competence of the children of the single heterosexual
 5 mothers, is that right?
 6 **A. That appears to be true in the sample, yes.**
 7 Q. And that the -- and it's also higher than the children of
 8 the lesbian mother families, correct?
 9 **A. Well, you have got the comparisons at the end, and one of**
 10 **those differences seems not to be significant and the other is.**
 11 Q. And the one for the lesbian families is statistically
 12 significant, correct?
 13 **A. Well, that's what I'm trying to understand what the --**
 14 **what the --**
 15 Q. Well, it's certainly a worse outcome, isn't it?
 16 **A. In this case it seems to be, yes.**
 17 Q. All right.
 18 MR. THOMPSON: Your Honor, we would ask the Court to
 19 take judicial notice of PX-1160.
 20 THE COURT: 1160 or 50? 60, very well.
 21 MR. THOMPSON: Thank you, your Honor.
 22 BY MR. THOMPSON:
 23 Q. Turning to tab 61. This is PX-1065. And this is a
 24 document you considered in connection with this case, is that
 25 right?

181	<p style="text-align: right;">LAMB - CROSS EXAMINATION / THOMPSON 1171</p> <p>1 A. That's right.</p> <p>2 Q. And this document does not have a control group of married</p> <p>3 biological parents, correct?</p> <p>4 A. It's a follow-up of one of the other studies you</p> <p>5 already -- groups you already asked me about, so I think the</p> <p>6 answer is the same here.</p> <p>7 Q. All right. Very well.</p> <p>8 MR. THOMPSON: Your Honor, we ask the Court to take</p> <p>9 judicial notice of PX-1065.</p> <p>10 THE COURT: Very well.</p> <p>11 BY MR. THOMPSON:</p> <p>12 Q. Turning to tab 62. This is PX-1081. And this is a study</p> <p>13 that you relied upon, correct?</p> <p>14 A. Sorry, got to catch up. 1081?</p> <p>15 Q. Yes, sir.</p> <p>16 A. Yes.</p> <p>17 Q. All right. And it does not have a control group of</p> <p>18 married biological parents, correct?</p> <p>19 A. That's correct.</p> <p>20 Q. All right.</p> <p>21 MR. THOMPSON: And, your Honor, we would ask the</p> <p>22 Court to take judicial notice of PX-1081.</p> <p>23 THE COURT: Very well.</p> <p>24 BY MR. THOMPSON:</p> <p>25 Q. Turning to tab 63. This is another study that you relied</p>	183	<p style="text-align: right;">LAMB - CROSS EXAMINATION / THOMPSON 1173</p> <p>1 A. That's correct.</p> <p>2 Q. And it does not have as a control group married biological</p> <p>3 parents, correct?</p> <p>4 A. As far as I can tell, this is a literature review rather</p> <p>5 than a study, but maybe it does -- it focuses on the results of</p> <p>6 one of the studies that I think we have already talked about.</p> <p>7 And, again, it's probably the case that they did not exclude</p> <p>8 from the heterosexual group people who were not married.</p> <p>9 Q. All right. And turning to tab 66. This is another one of</p> <p>10 the studies that you relied upon in this case, correct?</p> <p>11 A. Yes.</p> <p>12 MR. THOMPSON: Oh, and I believe my haste I forgot to</p> <p>13 ask the Court, your Honor, please, to take judicial notice of</p> <p>14 PX-1427.</p> <p>15 THE COURT: Very well.</p> <p>16 BY MR. THOMPSON:</p> <p>17 Q. Turning to tab 66, Dr. Lamb. This is PX-1079. And this</p> <p>18 is a document you considered, correct?</p> <p>19 A. That's correct.</p> <p>20 Q. And it doesn't have as a control group married biological</p> <p>21 parents, correct?</p> <p>22 A. That's correct.</p> <p>23 MR. THOMPSON: Your Honor, we would ask the Court to</p> <p>24 take judicial notice of PX-1079.</p> <p>25 THE COURT: Very well.</p>
182	<p style="text-align: right;">LAMB - CROSS EXAMINATION / THOMPSON 1172</p> <p>1 on in connection with this case. It's PX-1092, is that</p> <p>2 correct?</p> <p>3 A. Yes.</p> <p>4 Q. And it does not have as a control group married biological</p> <p>5 parents, correct?</p> <p>6 A. I think that's correct. Again, the same point I made</p> <p>7 earlier, yes. I think that's correct.</p> <p>8 MR. THOMPSON: Your Honor, we would ask the Court to</p> <p>9 take judicial notice of PX-1092.</p> <p>10 THE COURT: Very well.</p> <p>11 BY MR. THOMPSON:</p> <p>12 Q. Turning to tab 64. This is PX-1428. And this is one of</p> <p>13 the studies you relied upon in this case, is that right?</p> <p>14 A. I'm certainly familiar with it. I don't remember, as I</p> <p>15 sit here, whether I listed it, but yes.</p> <p>16 Q. All right. And it doesn't have as a control group married</p> <p>17 biological parents, correct?</p> <p>18 A. That may be correct. Again -- yes, that's correct.</p> <p>19 MR. THOMPSON: Your Honor, we would ask the Court to</p> <p>20 take judicial notice of PX-1428.</p> <p>21 THE COURT: Very well.</p> <p>22 BY MR. THOMPSON:</p> <p>23 Q. Turning to tab 65. This is PX-1427. And it doesn't --</p> <p>24 you considered this document in connection with your opinions</p> <p>25 in this case, right, Dr. Lamb?</p>	184	<p style="text-align: right;">LAMB - CROSS EXAMINATION / THOMPSON 1174</p> <p>1 BY MR. THOMPSON:</p> <p>2 Q. Turning to tab 67. This is another study that you relied</p> <p>3 upon in this case, is that right, Dr. Lamb?</p> <p>4 A. That's correct.</p> <p>5 Q. And it doesn't have as a control group married biological</p> <p>6 parents, correct?</p> <p>7 A. Again, they did not exclude people who were not married.</p> <p>8 I think that almost all of the people in the comparison group</p> <p>9 were married.</p> <p>10 MR. THOMPSON: Your Honor, this is PX-1125, and we</p> <p>11 would request that judicial notice be taken of it.</p> <p>12 THE COURT: If that same question applies to all of</p> <p>13 these, perhaps you can summarize them in some fashion?</p> <p>14 MR. THOMPSON: Well, the only point, your Honor, is</p> <p>15 that Dr. Lamb likes to talk about this rich, deep literature.</p> <p>16 And we want to show that he doesn't have any studies that are</p> <p>17 married biological parents, which is our core position in this</p> <p>18 case, that that's the optimum environment for raising</p> <p>19 children --</p> <p>20 THE COURT: Counsel, counsel, counsel.</p> <p>21 MR. THOMPSON: I apologize.</p> <p>22 THE COURT: Counsel, we are trying a case.</p> <p>23 MR. THOMPSON: Yes.</p> <p>24 THE COURT: Is there a way to shorten the</p> <p>25 presentation of the point that you are trying to make with</p>

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1 these documents by putting them all in together? One question
 2 with respect to a whole group?
 3 MR. THOMPSON: Well, maybe we could just -- I could
 4 get him to confirm that each one of these he looked and then
 5 ask him one question at the end and get them all in. Would
 6 that be all right?
 7 THE COURT: Same question with respect to each?
 8 MR. THOMPSON: Yes, yes.
 9 THE COURT: Maybe that would be helpful.
 10 MR. THOMPSON: Yes, yes. Okay. And maybe one or two
 11 variance in the middle.
 12 THE COURT: Okay.
 13 MR. THOMPSON: Thank you, your Honor. That's a very
 14 good suggestion.
 15 BY MR. THOMPSON:
 16 Q. So, Professor Lamb, PX-1133 is a document you considered,
 17 is that right -- sorry, PX-1131 behind tab 68.
 18 A. Yes.
 19 Q. All right.
 20 MR. THOMPSON: And, your Honor, may I ask that
 21 judicial notice be taken along the way?
 22 THE COURT: Why don't you ask that at the end.
 23 MR. THOMPSON: Okay, I will make a list.
 24 THE COURT: And PX-1083 was a document relied upon in
 25 connection with the witness's testimony?

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LAMB - CROSS EXAMINATION / THOMPSON 1176

1 MR. THOMPSON: With the witness's testimony.
 2 BY MR. THOMPSON:
 3 Q. Is that right, Dr. Lamb? It's behind tab 69.
 4 A. **This is 1131 that we're talking about? No. You want to**
 5 **go to the next one.**
 6 BY MR. THOMPSON:
 7 Q. We are asking you with respect to each whether this is
 8 something you considered in connection with the case?
 9 A. **I'm familiar with these studies, yes.**
 10 Q. And let's go to tab 70, which is PX-1116.
 11 A. **Uh-huh.**
 12 Q. And you considered this in connection with this case, is
 13 that right?
 14 A. **Yes.**
 15 Q. And let's go to tab 71, which is PX-778. And it does not
 16 have a -- you considered this document, correct?
 17 A. **Yes.**
 18 Q. And let's go to tab 72. It's PX-1111. And you considered
 19 this document in this case, correct?
 20 A. **Yes.**
 21 Q. And let's go to tab 113. It's PX-1049. And you relied
 22 upon this document in this case, correct?
 23 A. **Yes.**
 24 Q. And let's go to tab 74. And -- well, I think these next
 25 tabs we can actually probably just skip.

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LAMB - CROSS EXAMINATION / THOMPSON 1177

1 So let me ask you, Dr. Lamb, with respect to all the
 2 studies we just looked at, isn't it true that none of them had
 3 as a control group married biological parents?
 4 A. **I think most of them had as a control group married**
 5 **biological parents, but for -- for the most part, but they, so**
 6 **as far as I remember not having a chance to review these**
 7 **papers, that they did not exclude people on the grounds that**
 8 **they were not married.**
 9 Q. Right. So if you don't exclude someone who is not
 10 married, that means the control group could have unmarried
 11 people in it?
 12 A. **That's what I'm saying, yes.**
 13 Q. Okay.
 14 MR. THOMPSON: Your Honor, we will skip many of these
 15 tabs.
 16 With the Court's permission, we have one last binder,
 17 which will not take long, I think with this new procedure we
 18 have in place to work through it expeditiously.
 19 May we pass that out?
 20 (Whereupon, binders were tendered
 21 to the Court, the witness and counsel.)
 22 THE WITNESS: I can put away this one, counsel?
 23 MR. THOMPSON: Yes, sir.
 24 (Brief pause.)
 25

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LAMB - CROSS EXAMINATION / THOMPSON 1178

1 BY MR. THOMPSON:
 2 Q. Now, we have been looking at a lot of individual studies,
 3 but you also relied on some so-called meta-analyses, is that
 4 right?
 5 A. **I think there was only one meta-analysis, but maybe there**
 6 **were more than that. There have been several meta-analyses,**
 7 **especially in the research of adopted children.**
 8 Q. And can you explain what a meta-analysis is?
 9 A. **A meta-analysis is a procedure to combine the results of**
 10 **multiple studies in order to assess the reliability of**
 11 **findings, recognizing the fact that from one study to another**
 12 **you often have minor variations in results.**
 13 **You will sometimes have a result in one study that is**
 14 **not repeated in others. And it's important to get a sense of**
 15 **the whole rather than to over emphasize those local variations.**
 16 Q. All right. And tab 83, which is the first tab in this
 17 binder, is PX-1090. Do you see that, sir?
 18 A. **Yes.**
 19 Q. And this is a document you considered in connection with
 20 this case, is that right?
 21 A. **Probably. I don't specifically remember this one, but I**
 22 **probably did.**
 23 Q. It was listed in your "Materials Considered," I will
 24 represent to you.
 25 And isn't it true that this meta-analysis, none of

189	<p style="text-align: right;">LAMB - CROSS EXAMINATION / THOMPSON 1179</p> <p>1 the studies that it surveys have married biological parents as 2 the control group. And we have attached all of them to this, 3 all that we haven't already looked at. 4 We have looked at most -- since these are summaries 5 and surveys, we have looked at most of the literature already, 6 but any that we haven't already covered, we attached to this. 7 And isn't the point that there isn't a single study 8 referenced in this survey that has as its control group married 9 biological parents? 10 A. I'm a little confused, and maybe I've got the wrong 11 binder. I don't have a meta-analysis as the paper that you are 12 talking about. 13 This is a short literature review. It's not a 14 meta-analysis. So we are talking about the same piece. 15 Q. Okay. But it's a literature review? 16 A. Okay. 17 Q. And that's what I meant, so maybe we will just say 18 "review" rather than "meta-analysis." 19 This review, none of the studies that it reviews have 20 married biological parents as the control group, isn't that 21 right? 22 A. Again, I don't -- I don't want to attest to that 23 affirmatively. It's my understanding that the researchers 24 listed in this reference list probably did not exclude from the 25 comparison group people who were not married.</p>	191	<p style="text-align: right;">LAMB - CROSS EXAMINATION / THOMPSON 1181</p> <p>1 biological parents, correct? 2 A. Wait. I'm sorry. There's two under this tab. Let's see. 3 You have got other things attached. 4 Q. What we did was -- most of the things that are surveyed, 5 we have already talked about, but there were a couple that 6 weren't. 7 So we are not trying to give you memory test, but we 8 just want to make sure the record is complete, that none of the 9 articles surveyed in this piece had married biological parents 10 as the control group, correct? 11 A. Again, as I -- I suspect that they did not exclude people 12 on that basis. 13 Q. Okay. And turning to tab 87, which is PX-1064, they did 14 not exclude unmarried people from their control group, correct? 15 A. That is probably true. I mean, again, I don't know. You 16 are asking me in very rapid frame to talk about a large number 17 of studies. 18 I would suspect that most of these individuals didn't 19 exclude individuals for that reason. 20 Q. And let's turn to tab 89, which is PX-1384. This is 21 another literature review you relied upon? 22 A. Yeah. 23 Q. It, too, did not have a control group of married 24 biological parents, correct? 25 A. Well, this is a very long literature review, which also</p>
190	<p style="text-align: right;">LAMB - CROSS EXAMINATION / THOMPSON 1180</p> <p>1 Q. All right. And let's look at the next tab, which is tab 2 84. And this is another summary, is that right? 3 A. It's another review, as it says at the top, yes. 4 Q. Yes. And none of the articles that are reviewed in this 5 document had married biological parents as the control group, 6 correct? 7 A. That's probably true, with the same qualifications I just 8 gave you. 9 Q. All right. And just so the record is clear, we are 10 talking about PX-1091. 11 And then turning to tab 85. This is PX-1123. This 12 is another material you considered in connection with the case, 13 correct? 14 A. That's correct. This is another literature review. 15 Q. Right. And none of the studies in this review had married 16 biological parents as the control group, correct? 17 A. That's probably correct. 18 Q. All right. Let's turn to -- and so the record is 19 complete, that was PX-1123. 20 Let's turn to tab 86. That's PX-1089. This is 21 another document you considered in connection with this case, 22 is that right? 23 A. It's another literature review, yes. 24 Q. And there is not one of the studies that was reviewed in 25 this survey that had a control group that was married</p>	192	<p style="text-align: right;">LAMB - CROSS EXAMINATION / THOMPSON 1182</p> <p>1 includes some studies by Kurdek, who certainly did, and some of 2 the titles here specifically refer to "Heterosexual," "Married" 3 and "Not." 4 So in this case I feel comfortable saying that what 5 you said is not true. 6 Q. Well, and this is -- Kurdek, though, isn't he studying the 7 parents? 8 A. He's studying couples, but that's -- 9 Q. He's studying the couples, but he is not looking at 10 childhood outcomes, is he? 11 A. That's correct. This is a review article about family 12 relationships you just gave me. 13 Q. Right. I just want the record to be clear that you are 14 not identifying a study that measures childhood outcomes of 15 same-sex couples as opposed to married biological in connection 16 with this document, correct? 17 A. Yes, that's right. 18 Q. All right. And let's turn to tab 90. This is "Parenting 19 and Child Development," PX-810, is that correct? 20 A. Well, I have -- I'm sorry. 89 we are on? 21 Q. No. 90, sorry. 22 A. Yes. Okay. 23 Q. All right. And the literature that's reviewed in this 24 document doesn't have married biological parents as the control 25 group, correct?</p>

193	<p>LAMB - CROSS EXAMINATION / THOMPSON 1183</p> <p>1 A. Again, yes. It was reviewing most of the same studies 2 and, as I said before, I suspect that most people did not 3 exclude individuals for that reason. 4 Q. All right. And turning to tab 91, PX-1093. Again, none 5 of the articles that are surveyed in this survey had married 6 biological parents as the control group, correct? 7 A. I think that's correct. 8 Q. And turning to tab 92, PX-1130. Same answer? None of the 9 materials or articles surveyed in this document you considered 10 had married biological as a control group? 11 A. I'm sorry. We are talking about the Kurdek article? This 12 is about gay and lesbian couples. It's not about parents at 13 all. 14 Q. Okay. Well, I just want to make clear that this is not -- 15 you are not relying on this article for your same-sex -- for 16 the motion that the childhood outcomes of gays and lesbians, 17 their children, would be the same as for married biological 18 parents, correct? 19 A. Well, this is a review, a very short review of the 20 literature on the dynamics of relationships between gays and 21 lesbians and heterosexuals and different sorts of family 22 structures. 23 The relevance of this is that it shows that the 24 dynamics of those different families are very similar, 25 regardless of whether the individuals are same sex or</p>	195	<p>LAMB - CROSS EXAMINATION / THOMPSON 1185</p> <p>1 MR. MCGILL: Thank you, your Honor. 2 REDIRECT EXAMINATION 3 BY MR. MCGILL: 4 Q. Dr. Lamb, do you need a break? Are you all right? 5 A. Well, I see the end in sight. 6 (Laughter.) 7 A. I'm looking at that door. 8 Q. It is. 9 Let's warm up our time machine and go way back in 10 time before that cross-examination began and all the way back 11 to 1975, when you held the view that the presence of a father 12 itself could be a determinative factor in adjustment outcomes. 13 Was that a fair characterization of your views as you 14 held it in 1975? 15 A. Well, I think that the issue had to do with the specific 16 characteristics of the father and whether it was -- there was 17 something specifically important about the maleness of the 18 parent that was important. 19 I still think that fathers are important figures in 20 children's development and that when children do have father 21 figures, that those relationships are very significant ones. 22 Q. And why is it that your views between -- from before I was 23 born to now -- 24 (Laughter.) 25 THE COURT: This is your witness, Mr. McGill.</p>
194	<p>LAMB - CROSS EXAMINATION / THOMPSON 1184</p> <p>1 heterosexual. 2 But none of the studies that are reviewed here are 3 themselves studies that focus on adjustment of children. I 4 think that's the case. Yes. 5 Q. You are not aware of any study that looks at the specific 6 benefits flowing to children whose parents are together under 7 domestic partnership law in California, correct? 8 A. I'm not aware of any study of that, no. 9 Q. And we don't have any studies that look at the behavioral 10 outcomes for children with married same-sex parents, correct? 11 A. That's correct. 12 Q. And on aggregate, the children being raised by gays and 13 lesbians are comparable in their outcomes to those being raised 14 by heterosexual parents, correct? 15 A. Sorry. Could you repeat that? 16 Q. On aggregate, the children being raised by gays and 17 lesbians are comparable in their outcomes to those being raised 18 by heterosexual parents, correct? 19 A. That's correct. 20 Q. And that's true even though none of those gay and lesbian 21 couples were married, correct? 22 A. That's correct. 23 Q. Thank you. 24 MR. THOMPSON: No further questions, your Honor. 25 THE COURT: Very well. Mr. McGill, redirect?</p>	196	<p>LAMB - REDIRECT EXAMINATION / MCGILL 1186</p> <p>1 Q. (Continuing) -- have changed? What has changed your views 2 in the intervening 35 years? 3 A. Well, the body of evidence has been what's changed it. 4 The original view, as I said, was a hypothesis that came 5 from -- largely from theory at the time. And since then we 6 have had hundreds, thousands of articles that have explored the 7 implications of that belief and found it to be wanting. 8 Q. Now, when the literature in your field speaks of 9 fatherless families or father absence, what family structures 10 is the literature describing when it uses those terms? 11 A. Well, overwhelmingly, that term is used to describe 12 heterosexual families in which single heterosexual women are 13 raising their children, either by choice or as a result of a 14 family dissolution. 15 Q. In your experience in the field does the -- when a study 16 identifies a group of fatherless families, does that group ever 17 include families headed by lesbian mothers? 18 A. That term has been used in some of the studies in the 19 field, yes. 20 Q. And how frequently? 21 A. There are a small number of studies that use that term, 22 particularly because some of them were designed to explore this 23 issue about the importance of having a male parent present in 24 the lives of those children. And so to underscore that 25 question, that term is used.</p>

197	<p style="text-align: center;">LAMB - REDIRECT EXAMINATION / MCGILL 1187</p> <p>1 But in the main, in the vast majority of the studies 2 when people talk about the literature on father absence, they 3 are talking about the literature of children being raised by 4 heterosexual women, not -- without a partner in the home. 5 Q. What conclusions, then, can one draw about the adjustment 6 of children with lesbian parents from a body of literature that 7 studies fatherless families? 8 A. Well, the studies of children being raised by lesbians, 9 children who are growing up without having a father figure in 10 the home, provide one way of determining whether children 11 develop well adjusted when they don't have a male parent 12 figure. 13 Q. Can the -- does the fatherless family's research allow us 14 to draw any conclusion about the adjustment of children raised 15 by lesbian parents? 16 A. No. No, it does not. 17 Q. Does the research on fatherless families tell us anything 18 about the adjustment of children with gay parents? 19 A. Not directly, no. 20 Q. Now, how about the literature concerning divorced 21 families? In your experience in the field, can we extrapolate 22 any conclusions from the literature on divorce about the 23 adjustment of children of -- with gay or lesbian parents? 24 A. No, not directly. 25 Q. Why not?</p>	199	<p style="text-align: center;">LAMB - REDIRECT EXAMINATION / MCGILL 1189</p> <p>1 BY MR. MCGILL: 2 Q. Dr. Lamb, do you agree with Dr. Marks' view that gay and 3 lesbian parents should be viewed as a, quote, discrete category 4 with -- when studying the adjustment of children? 5 A. Well, in order to understand the influence on children's 6 adjustment, yes. 7 Q. Now, in the course of Mr. Thompson's examination -- or 8 cross-examination of you, you mentioned a new study by Michael 9 Rosenfeld based on the census data. 10 That study has now been marked -- or it was marked as 11 Plaintiffs' Exhibit 2299. 12 Can you tell us, Dr. Lamb, why that study is 13 important? 14 A. Well, I think it's very important because it is the only 15 study that we have -- it's a very rare study actually -- which 16 compares all the children in the country with respect to the 17 family environments in which they are reared. 18 And that study shows by looking at the couple of 19 thousand children in the country being raised by lesbian 20 couples, a couple of thousand children in the country being 21 raised by gay couples, and compares them with children being 22 raised by heterosexual couples with respect to one important 23 index, which is the extent to which children are withheld or 24 held back at school, and shows that when you use the 25 appropriate controls, there were no differences in this index</p>
198	<p style="text-align: center;">LAMB - REDIRECT EXAMINATION / MCGILL 1188</p> <p>1 A. Well, because they are not -- they are not exploring the 2 influence of the sexual orientation of the parent. 3 Q. And what about the research, the body of research 4 concerning step families? Can the research about step families 5 tell us anything about the adjustment of children with gay or 6 lesbian parents? 7 A. No. 8 Q. Who, Dr. Lamb, is Loren Marks? 9 A. Loren Marks was one of the experts that has been 10 identified on the other side in this litigation. 11 Q. And in connection with your work on this case, did you -- 12 did you review Dr. Marks' report in this litigation? 13 A. Yes, I did. 14 Q. And did you review the deposition I took of him? 15 A. Yes, I did. 16 Q. And at this time of, with your Honor's permission, I would 17 like to play a clip of Dr. Marks' deposition. This clip is 40 18 seconds in length. 19 THE COURT: Very well. 20 DEFENDANT'S ATTORNEY: 21 MR. THOMPSON: Your Honor, we would certainly object 22 to it being in evidence. We don't object to it being played. 23 THE COURT: Very well. 24 (Videotape played in open court.) 25</p>	200	<p style="text-align: center;">LAMB - REDIRECT EXAMINATION / MCGILL 1190</p> <p>1 of adjustment between children who have been raised by gay, 2 lesbian or heterosexual parents. 3 Q. And would -- in your experience in the field of 4 developmental psychology, is a sample based on the United 5 States census of adequate size to be reliable? 6 A. Yes, I think so. 7 Q. And I want to return briefly to Mr. Thompson's -- I guess, 8 his main point was that the Rosenfeld study compared 9 heterosexual couples and not married heterosexual couples. 10 Why would it make sense in your field of 11 developmental psychology to maintain as a control group for 12 unmarried gay and lesbian parents a -- the control group of 13 heterosexual couples raising children? 14 A. Well, that seems the most appropriate comparison in this 15 case. 16 Q. And why would it be the most appropriate comparison? 17 A. Because you have unmarried parents in all of those groups. 18 Q. Now, in your field of developmental psychology, how is the 19 term "biological parent" or "biological father" or "biological 20 mother," how is that used in the literature of child 21 adjustment; specifically the adjective "biological"? 22 A. Well, it's used in a multiple -- a number of ways. It's 23 sometimes used in the -- to refer specifically to the 24 biological genetic DNA sharing link between individuals. 25 But in many studies, actually, the term is used more</p>

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LAMB - REDIRECT EXAMINATION / MCGILL 1191

1 inclusively to include individuals being raised in intact
 2 families. And so children, for example, who have been adopted
 3 into a two-parent family would often be included with the
 4 biological, the children who are being considered to be in a
 5 biological family.
 6 Q. So it would include within the term "biological parent" a
 7 child that had -- or a parent that had no genetic relationship
 8 to the child?
 9 A. That's correct, yes.
 10 Q. And I would like to at this point publish a demonstrative
 11 of PX-1040.
 12 All right. I will just read from this. This is from
 13 Robert Johnson's study entitled "The Relationship Between
 14 Family Structure and Adolescent Substance Abuse."
 15 Thus, the first relation, quote, mother might be
 16 either a biological or an adoptive mother.
 17 Similarly, the third relation, quote, father might be
 18 either abiological or an adoptive father.
 19 Is that consistent with your views of how the term
 20 "biological" is used in the field of developmental psychology?
 21 A. That's the frequent way in which it's used in the survey
 22 literature, yes.
 23 Q. And I would like to publish another demonstrative from
 24 that same study.
 25 My screen is not working.

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LAMB - REDIRECT EXAMINATION / MCGILL 1192

1 A. Neither are ours --
 2 Q. Oh, there we go.
 3 Can you, Dr. Lamb, please read the bottom -- the
 4 footnote -- the highlighted text from the footnote there?
 5 A. It says:
 6 "Most studies do not distinguish biological
 7 parents from adoptive parents, since the
 8 latter is a rare family form in virtually all
 9 studies. Presumably, though, families in
 10 which both parents have adopted the child are
 11 considered to be intact."
 12 Q. Is that footnote, again, consistent with your view of how
 13 the term "biological" is used in the field of developmental
 14 psychology?
 15 A. It is, yes.
 16 MR. MCGILL: Your Honor, at this time I would offer
 17 into evidence Plaintiffs' Exhibit PX-1040, which is the
 18 aforementioned study, and, also, the exhibit I mentioned
 19 before, Plaintiffs' Exhibit 2299, which is the Rosenfeld study.
 20 MR. THOMPSON: No objection, your Honor.
 21 THE COURT: Very well. They were admitted.
 22 (Plaintiffs' Exhibits 1040 and 2299 received in
 23 evidence.)
 24 MR. MCGILL: Thank you.
 25

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LAMB - REDIRECT EXAMINATION / MCGILL 1193

1 BY MR. MCGILL:
 2 Q. Now, you were shown a number, a great number of documents
 3 by Mr. Thompson, and one of them was a literature review by
 4 Brad Wilcox, which is located in binder two.
 5 Do you still have binder two?
 6 A. Yes. Just one minute.
 7 (Brief pause.)
 8 Q. And it's at tab 26 of binder two.
 9 A. Counsel, which tab?
 10 Q. Tab 26 of 113. And if you would turn to page 24, I will
 11 just read for you. It starts at the bottom of page 24 and then
 12 it carries over on to page 25.
 13 It says:
 14 "Data from the National Household Survey on
 15 Drug Abuse show that even after controlling
 16 for age, race, gender and family income,
 17 teens living with both biological parents are
 18 significantly less likely to use illicit
 19 drugs, alcohol and tobacco."
 20 How do you suspect Mr. Wilcox was using the term
 21 "biological" in this sentence?
 22 A. I assume that he was using it to include adopted children,
 23 since the reference, I believe, is to the same SOMSA that you
 24 just gave us.
 25 Q. Would you be referring to the study of --

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LAMB - REDIRECT EXAMINATION / MCGILL 1194

1 A. The Johnson report.
 2 Q. -- the Johnson study that has just been admitted into
 3 evidence as PX-1040?
 4 A. That's correct.
 5 Q. And it would normally be the case within your field of
 6 developmental psychology that when you cite to a source, you
 7 use the terms in the same manner in which the source does?
 8 A. Unless you clarify that you are not doing so.
 9 Q. So now I would like to play a second clip from the
 10 deposition of -- of Dr. Marks concerning the Wilcox study and
 11 the Johnson study. This one is somewhat longer.
 12 (Videotape played in open court.)
 13 BY MR. MCGILL:
 14 Q. Dr. Lamb, do you think Dr. Marks was correct based on his
 15 reading of the research that he cited to at his deposition,
 16 withdraw his emphasis on the word "biological"?
 17 A. Certainly, his use of this document, yes.
 18 Q. Do you think he was wrong to even offer that he should
 19 delete the word "biological"?
 20 A. I don't have his statement in front of me. But, yes, the
 21 word "biological" clearly is not supported in this context.
 22 MR. MCGILL: Your Honor, I would ask the Court take
 23 judicial notice of the two deposition clips of Dr. Marks.
 24 THE COURT: Very well. You will have to supply the
 25 specific page and line reference to the written transcript of

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LAMB - REDIRECT EXAMINATION / MCGILL 1195

1 the deposition, as we discussed this morning.
 2 MR. MCGILL: Of course, your Honor.
 3 MR. THOMPSON: Your Honor, we would object to
 4 judicial notice being taken of, you know, a snippet of the
 5 deposition without the report and context coming in.
 6 If they want to -- first of all, we don't think it's
 7 appropriate; but even if it were, we would then say Dr. Marks'
 8 report should come in so the record is complete and it can be
 9 seen in its totality.
 10 THE COURT: Let's take that up at the time we begin
 11 to sort out some of these evidentiary issues, but what I'm
 12 interested in right now is the page and line references so that
 13 we know precisely what testimony you are talking about.
 14 MR. MCGILL: Do you want that right now?
 15 THE COURT: Oh, of course not.
 16 MR. MCGILL: Okay. I will be happy to provide that
 17 at the appropriate time, your Honor.
 18 THE COURT: Fine.
 19 BY MR. MCGILL:
 20 Q. Now, I would now quickly like to turn to
 21 Defendant-Intervenors' Exhibit 108. This is the book
 22 "Fatherless America."
 23 You don't have a copy of it, but it was one of the
 24 many documents you were asked to opine on. And you mentioned
 25 that you wrote a book -- you wrote a book review concerning

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LAMB - REDIRECT EXAMINATION / MCGILL 1196

1 "Fatherless America," is that right?
 2 **A. Yes, that's right.**
 3 Q. And can you just -- do you recall what you wrote about,
 4 about Mr. Blankenhorn's book?
 5 **A. Well, I was concerned that Mr. Blankenhorn had**
 6 **misrepresented much of the research, particularly the research**
 7 **on what I think you've called today "gender differentiated**
 8 **parenting."**
 9 Q. And do you recall if your review was otherwise a favorable
 10 review of his book?
 11 **A. Well, there was a second concern, which was the fact that**
 12 **Blankenhorn's book a -- confused the issues of correlation and**
 13 **causality, shall we say and, really, I think, misrepresented**
 14 **the state of knowledge at that point regarding the ways in**
 15 **which children's adjustment might be affected by their**
 16 **experiences. And we went through some of the reasons for that**
 17 **earlier on today.**
 18 Q. I would now like to publish a demonstrative of page 527 of
 19 that, of that book review.
 20 (Document displayed)
 21 Q. Would read it Dr. Lamb?
 22 **A. (As read)**
 23 **"Blankenhorn's tendency to paint alternative**
 24 **visions in absurd or ridiculous terms in**
 25 **order to facilitate his dismissal of them**

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LAMB - REDIRECT EXAMINATION / MCGILL 1197

1 **leads him in at least one important case to**
 2 **undercut his own thesis.**
 3 Q. Would you characterize that as a favorable review of any
 4 book?
 5 **A. No.**
 6 Q. All right.
 7 MR. MCGILL: Your Honor, we have marked Dr. Lamb's --
 8 the totality of Dr. Lamb's review as Plaintiffs' Exhibit 2548,
 9 and we ask that it would be admitted into evidence.
 10 MR. THOMPSON: No objection, Your Honor.
 11 THE COURT: 258 is admitted.
 12 (Plaintiffs' Exhibits 2548 received in evidence.)
 13 BY MR. MCGILL:
 14 Q. Do you recall among the documents you reviewed, Mr. Lamb,
 15 Dr. Lamb, the Sarantakos --
 16 THE COURT: I think I misspoke. It's 2548, isn't it?
 17 MR. MCGILL: Yes, Your Honor. It's Exhibit 2548.
 18 That is Dr. Lamb's book review of Fatherless America.
 19 THE COURT: Beg your pardon. Sorry for the
 20 interruption.
 21 MR. MCGILL: Not at all.
 22 BY MR. MCGILL:
 23 Q. Dr. Lamb, do you remember your brief review of the
 24 Sarantakos study with Mr. Thompson?
 25 **A. Yes, I did.**

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LAMB - REDIRECT EXAMINATION / MCGILL 1198

1 Q. And that appeared at tab 49, I believe, which would now be
 2 binder three.
 3 **A. Do I need to get that out?**
 4 Q. You needn't bring it out. I just wanted to ask you if
 5 there was anything else you wanted to say about the Sarantakos
 6 study.
 7 **A. Well, the key thing about the Sarantakos study are**
 8 **actually some problems that Sarantakos himself acknowledges in**
 9 **this report.**
 10 **And most importantly is the fact that while it's a**
 11 **study that ostensibly compares the adjustment of children being**
 12 **raised by two parent married -- two heterosexual parent**
 13 **married, two heterosexual parent cohabiting, and gay and**
 14 **lesbian families, the groups are clearly not comparable in very**
 15 **important ways.**
 16 **Notably the fact that the children in the cohabiting**
 17 **and the same-sex parents groups had frequently experienced the**
 18 **separation and divorce of their parents, in many cases not long**
 19 **before the data about them were gathered.**
 20 **And, as we have talked about today, there's a**
 21 **substantial body of evidence showing that the experience of the**
 22 **parents' divorce, the conflict around that and, as Sarantakos**
 23 **noted, the fact that many of these children frequently moved**
 24 **home are all factors that would have affected their adjustment,**
 25 **as well, and that that would clearly be needed to be taken into**

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LAMB - REDIRECT EXAMINATION / MCGILL 1199

1 account in trying to interpret the results.
 2 In many ways, this is more illustrative of the
 3 effects of divorce than it is a study that really illustrates
 4 much about the effects of same-sex parenting.
 5 A second problem, again, as Sarantakos does
 6 acknowledge later in his article, is the fact that all of the
 7 data were gathered by interviewing the teachers. And he
 8 recognizes this as a particular problem in this case because
 9 many of the teachers acknowledged having homophobic attitudes;
 10 and the fact that that may have biased their reports is clearly
 11 something that one would need to take into account.
 12 Finally, they used very different ways of selecting
 13 the samples for this study; which, again, compromises the
 14 ability to use that in the body of literature.
 15 And so while the results themselves are out of step
 16 with the results of the rest of the research, understanding
 17 those deficiencies of the study makes it clearer to understand
 18 exactly why those results are so far out of step with the rest
 19 of the literature.
 20 Q. Have the findings of the Sarantakos study ever been
 21 corroborated or duplicated in another study?
 22 A. They have not.
 23 Q. Are you aware of any other study that finds children who
 24 are parented by gays or lesbians to be less well-adjusted than
 25 children who are parented by heterosexual parents?

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LAMB - REDIRECT EXAMINATION / MCGILL 1200

1 A. No, there's no other study that finds that as the major
 2 report. There are a couple of studies that we talked about
 3 over the course of the day, in which there would be one measure
 4 showing a difference one way or another.
 5 And, clearly, you expect to find those kinds of local
 6 variations when you are talking about a large body of
 7 literature. But there is no other study that shows, in this
 8 way, major problems on the part of children being raised by gay
 9 and lesbian parents.
 10 Q. Do you recall where the Sarantakos study was published?
 11 A. It was published in an Australian magazine called Children
 12 Australia.
 13 Q. Is that a peer-reviewed journal, to your knowledge?
 14 A. I don't think so, but I don't know.
 15 Q. Does it appear on any of the electronic databases that are
 16 used in your field?
 17 A. No, it does not.
 18 Q. Has it ever been relied upon in -- by one of your
 19 colleagues, or someone else who's viewed as an authority in the
 20 field of developmental psychology?
 21 A. I think most people in the field of studying children's
 22 adjustment have the same concerns about this study that I do.
 23 Q. Why do the hundred or so studies on which you rely provide
 24 a reliable basis for your opinion in this case?
 25 A. Well, I think they provide a reliable basis because,

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LAMB - REDIRECT EXAMINATION / MCGILL 1201

1 firstly, they provide a very consistent account of the healthy
 2 adjustment of most children being raised by gay and lesbian
 3 parents.
 4 But, secondly, I think what makes that literature
 5 persuasive is the fact that the patterns of results are very
 6 similar to the patterns of results that have been obtained in
 7 the wider body of research on factors that affect children's
 8 adjustment.
 9 For example, children whose lesbian parents have a
 10 conflictual relationship are less well-adjusted than children
 11 with lesbian parents who have a more harmonious relationship,
 12 just as you find in the literature on heterosexual families.
 13 So with respect to all of the broad factors that we
 14 spoke about first thing this morning, we see that it's the same
 15 factors that predict the adjustment of children in gay and
 16 lesbian families as they do in when children have heterosexual
 17 parents. And that, as I said before, the evidence makes clear
 18 that having a gay or lesbian parent does not make children more
 19 likely to be maladjusted than if those children were raised by
 20 heterosexual parents.
 21 Q. You testified that there were fewer studies of gay parents
 22 than lesbian parents and the adjustment of their respective
 23 children. Is that correct?
 24 A. That is correct, yes.
 25 Q. Why, in the absence of an equal number of studies of gay

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LAMB - REDIRECT EXAMINATION / MCGILL 1202

1 male parents and the adjustment of their children, are you
 2 comfortable opining that their children are no less likely to
 3 be well-adjusted than children of heterosexual parents?
 4 A. Well, I think that I feel comfortable doing that because
 5 one has to look at the totality of the evidence base, and start
 6 off from the fact that we do have a good understanding of what
 7 it is that affects the adjustment of children.
 8 And in the context of understanding that, it's also
 9 very clear, from lots of research, that the gender and the
 10 sexual orientation of the parent is not one of those factors
 11 that's important.
 12 Secondly, we have the evidence that shows that it is
 13 the same factors that affect children's adjustment, regardless
 14 of the sexual orientation of their parents.
 15 Third, we do have a growing number, much smaller
 16 number, but a growing number of studies that look directly at
 17 the adjustment of children being raised by gay parents.
 18 And the combination of these different bodies of
 19 literature, I think, makes me confident that the outcomes for
 20 children raised by gay fathers are the same as those for
 21 children raised by lesbian mothers and the same as those for
 22 children being raised by heterosexual parents, taking into
 23 account all the other factors that we have spoken about.
 24 Q. At the start of Mr. Thompson's cross-examination, you
 25 confessed membership in the ACLU, the NAACP, the Nature

213	<p>LAMB - REDIRECT EXAMINATION / MCGILL 1203</p> <p>1 Conservancy, Amnesty International. And Mr. Thompson even 2 identified you as a supporter of Public Broadcasting. 3 (Laughter) 4 Did the Corporation for Public Broadcasting influence 5 your opinion in this case? 6 A. No, it did not. 7 Q. Did anything other than the social science research in 8 your field influence your opinion in this case? 9 A. No, it did not. 10 MR. MCGILL: Thank you, Dr. Lamb. 11 THE COURT: Very well, Dr. Lamb. Thank you for your 12 testimony, sir. You may step down. 13 And can we call the next witness? 14 MR. BOIES: Your Honor, the next witness will be 15 Helen Zia. 16 THE COURT: Thank you. 17 THE CLERK: Raise your right hand, please. 18 HELEN ZIA, 19 called as a witness for the Plaintiffs herein, having been 20 first duly sworn, was examined and testified as follows: 21 THE WITNESS: I do. 22 THE CLERK: Thank you. 23 MR. RAUM: Excuse me, Your Honor. Before we proceed 24 with Ms. Zia's testimony, it appears that she is being offered 25 to give testimony regarding her sexual orientation, her</p>	215	<p>LAMB - REDIRECT EXAMINATION / MCGILL 1205</p> <p>1 MR. CHOU: Her testimony is highly relevant. It is 2 illustrative of much of the expert testimony that has come out. 3 She also exemplifies some of the City's harm, showing 4 the differences between how domestic partnership is treated 5 versus marriage, and how marriage would generate far more 6 revenue than domestic partnerships. 7 With respect to the descriptions of her testimony, 8 first of all, with respect to the documents on the messaging, 9 these are all messages that she saw during the campaign for 10 Proposition 8. These are all examples of incidents of 11 discrimination that she experienced as a lesbian in California. 12 And those are all clearly covered by the description of her 13 testimony that we presented to the defendant-intervenors. 14 MR. RAUM: Your Honor, I would take issue with that 15 description being consistent with what was just represented. 16 But to the extent that this testimony is consistent 17 with the expert testimony and the prior testimony, it would 18 certainly be needlessly cumulative. We've had four experts 19 testify as to the history of discrimination, the distinction 20 between domestic partnership and civil marriage, including the 21 four plaintiffs. 22 For one person, taken in what is in reality off the 23 street, to testify in this case as to her particular experience 24 with those things, it's not relevant because she can't speak as 25 an expert. She hasn't been designated as such.</p>
214	<p>LAMB - REDIRECT EXAMINATION / MCGILL 1204</p> <p>1 experiences with discrimination, the effects of being denied 2 the right to marry, and the importance to her and her family of 3 ultimately being able to marry. 4 The relevance of this testimony is very unclear in 5 that she's not a plaintiff in this case; she's not an expert in 6 this case. And her particular experiences as one person 7 certainly is not, as we've been talking about, a reliable 8 sample of these issues. 9 So her testimony, as described here, has no probative 10 value to the facts at issue in this case. If Counsel would 11 like to clarify, that would be fine. 12 Also, on top of that, they have identified a host of 13 documents that will be used in connection with Ms. Zia, that 14 are of the same nature as we saw with Dr. Chauncey, some 15 involving Dr. Tam, and otherwise appearing to be directed to 16 the Chinese American community. None of that was disclosed. 17 And we have been given no indication of what the relevance of 18 that is in this case. 19 MR. CHOU: Your Honor -- 20 THE COURT: Who's going address that? 21 MR. CHOU: I will address that, Your Honor. 22 THE COURT: And you are? 23 MR. CHOU: Danny Chou from the San Francisco City 24 Attorney's Office. 25 THE COURT: Very well.</p>	216	<p>LAMB - REDIRECT EXAMINATION / MCGILL 1206</p> <p>1 Her opinion in regard to those things is also not 2 probative of the fact in this case. And that's the standard 3 for her testimony, has to make a fact in this case either more 4 likely or less likely. Her experience with discrimination or 5 same-sex marriage is not probative of any fact in this case. 6 MR. CHOU: Your Honor, if I could address that, in 7 addition, the other important aspect of Ms. Zia's testimony is, 8 she has actually gotten married. 9 And this whole case is about how marriage is going to 10 change things for same-sex couples, and enhance their 11 relationships, and enhance their relationships with their 12 families. Here, she's a real-life example of that. 13 And everything is sort of in theory. And what she 14 is, is she demonstrates in fact that marriage does change 15 things for people, and it's very important to same-sex couples, 16 and it does indeed have a transformative effect. 17 And there is nothing about that else in this case. 18 And this bookends the plaintiffs who are telling you that they 19 want to get married, and these are the reasons why. Well, 20 she's an exact example of what they are looking for. And, in 21 that respect, she adds an incredible amount of probative value 22 to this case. 23 MR. RAUM: Your Honor, not to belabor the point, that 24 kind of evidence is the kind of evidence that is demonstrated 25 through scientific and expert testimony.</p>

217	<p style="text-align: right;">LAMB - REDIRECT EXAMINATION / MCGILL 1207</p> <p>1 If the City would like to demonstrate that, then they 2 should present a study with a reliable sample size of 3 individuals that have experienced the things that Ms. Zia has 4 experienced. 5 One single, solitary individual to get up on the 6 stand and to testify to her experiences can't possibly 7 demonstrate what the experience of all same-sex couples has 8 been. It's not scientifically reliable. It's completely 9 inappropriate in this context. 10 THE COURT: Submitted? 11 MR. CHOU: If I could just add one thing. 12 MR. BOIES: No. Submitted. 13 MR. CHOU: Submitted. Sorry, Your Honor. 14 (Laughter) 15 Little too anxious. I apologize. 16 THE COURT: Experience counts. 17 MR. CHOU: Thank you, David. 18 THE COURT: One of the advantages of a bench trial is 19 that evidence can be heard, its relevance and its weight can be 20 considered and determined as the evidence is presented. 21 And counsel for the defendant-intervenors has made 22 arguments that the evidence that the witness is going to 23 present is not relevant or of little weight. That is certainly 24 something that can be considered after the Court has heard the 25 evidence and evaluated it.</p>	219	<p style="text-align: right;">ZIA - DIRECT EXAMINATION / CHOU 1209</p> <p>1 BY MR. CHOU: 2 Q. How long have you lived in California? 3 A. For about 18 years. 4 Q. How many siblings do you have? 5 A. I have five siblings. 6 Q. Are any of them married? 7 A. Four of them are. 8 Q. Are your parents still alive? 9 A. My mother is still living. 10 Q. And where does your mom live? 11 A. My mom lives in the Bay Area. 12 Q. Where did you go to school? 13 A. Went to high school at John F. Kennedy High School in 14 New Jersey. And I went to college at Princeton University. 15 Q. Did you graduate? 16 A. Yes, I did. 17 Q. And what degree did you earn? 18 A. A bachelor's of arts degree. 19 Q. And do you have any other degrees? 20 A. I have an honorary doctor of law degree. 21 Q. From where? 22 A. From the City University of New York School of Law. 23 Q. And what do you do? 24 A. I'm a writer. 25 Q. Have you written any books?</p>
218	<p style="text-align: right;">LAMB - REDIRECT EXAMINATION / MCGILL 1208</p> <p>1 It does appear, from plaintiffs' counsel's 2 representation, that the witness is going to speak to issues 3 that have been raised in the case and which are important for 4 the ultimate resolution of the issues here. 5 So I will permit the witness to testify, and make a 6 final evaluation with respect to how much weight to give to 7 that testimony and how to weigh it in the entire case, as we go 8 along. But it does appear that she is being offered on 9 subjects that are pertinent to the overall issues in the 10 litigation. 11 All right. Thank you. 12 MR. CHOU: Thank you, Your Honor. 13 DIRECT EXAMINATION 14 BY MR. CHOU: 15 Q. Good afternoon, Ms. Zia. 16 Let's begin by having you tell the Court a little bit 17 about yourself. 18 How old are you, Ms. Zia? 19 A. I'm 57 years old. 20 Q. Where did you grow up? 21 A. In New Jersey. 22 Q. How long have you lived in California? 23 THE COURT: Be sure, Counsel, you keep your voice up, 24 and the witness. 25 MR. CHOU: Sure.</p>	220	<p style="text-align: right;">ZIA - DIRECT EXAMINATION / CHOU 1210</p> <p>1 A. I have written two and -- two books, and I've edited a 2 number of publications. 3 Q. Can you briefly tell us a little bit about the two books 4 that you've have written. 5 A. My first book is called Asian American Dreams: The 6 Emergence of an American People. And it's a book about the 7 contemporary history of Asian -- Asian Americans, particularly 8 around civil rights matters and struggles, trials and 9 tribulations over the last, I'd say, 40 years. 10 Q. And your second book? 11 A. My second book was about -- was entitled My Country Versus 12 Me, and was the story of the Chinese American scientist at Los 13 Alamos National Labs, whose name is Wen Ho Lee, who was false 14 accused of being a spy for the People's Republic of China. And 15 I co-authored that with him, to tell his story. 16 Q. Have you ever worked for any publications? 17 A. I've worked for a number of publications. 18 Q. What was the last publication that you worked for? 19 A. The last one was Ms. Magazine. 20 Q. And what was your position? 21 A. When I left, I was executive editor. 22 Q. Ms. Zia, are you a lesbian? 23 A. I am. 24 Q. How long have you been a lesbian? 25 A. I think I've been a lesbian all my life.</p>

221	<p style="text-align: center;">ZIA - DIRECT EXAMINATION / CHOU 1211</p> <p>1 Q. And when did you come out?</p> <p>2 A. Coming out is a process. And so there are a lot of ways</p> <p>3 to describe what coming out is.</p> <p>4 I think I first became aware that I was a lesbian</p> <p>5 when I was -- or that I might be a lesbian when I was in</p> <p>6 college, when I first learned the word "lesbian."</p> <p>7 But there were a lot of experiences I had when I was</p> <p>8 younger, starting when I was even about six or seven years old,</p> <p>9 that I -- I look back now and realize that they were clear</p> <p>10 signs of that I -- what team I was on.</p> <p>11 (Laughter)</p> <p>12 Q. Can you give an example -- can you give an example of one</p> <p>13 of those experiences when you were very young?</p> <p>14 A. Well, when I was about six or seven or eight, I was just a</p> <p>15 school kid. You know, maybe I was in school. And there was a</p> <p>16 neighbor lady or a couple of adults around who typically asked</p> <p>17 kids, you know, What do you want to be when you grow up?</p> <p>18 And she asked me, "So, do you want to get married</p> <p>19 when you grow up?" in the kind of tone that I would -- that the</p> <p>20 expectation was the answer should be "yes."</p> <p>21 And I was just a kid, but I immediately said, "No, I</p> <p>22 don't want to get married." And I remember this because she</p> <p>23 was really surprised that, you know, here I was a little girl</p> <p>24 and I, you know, was so definite and emphatic that I didn't</p> <p>25 want to get married.</p>	223	<p style="text-align: center;">ZIA - DIRECT EXAMINATION / CHOU 1213</p> <p>1 this particular time, around ending discrimination in the</p> <p>2 construction trades for federally-funded projects, which, at</p> <p>3 that time, didn't hire women. They didn't hire people of color</p> <p>4 at all. They were very restrictive but very high-paying jobs.</p> <p>5 So I was involved with a lot of people in my</p> <p>6 neighborhood, community groups, especially in an Asian -- an</p> <p>7 Asian community organization and an African American communit</p> <p>8 organization. We were working together to do this kind of</p> <p>9 antidiscrimination work.</p> <p>10 And one day I was called to a meeting. And I didn't</p> <p>11 know the purpose of the meeting except that there was a</p> <p>12 meeting. And when I got to the meeting, there was a group of</p> <p>13 people, all my friends, all these people in these community</p> <p>14 groups that I looked at as my family, my community. We worked</p> <p>15 hard together with each other for these causes. And they</p> <p>16 told -- they were sitting in a semicircle, and they asked me to</p> <p>17 sit down in the middle of the circle.</p> <p>18 And at the time when I was doing this community work,</p> <p>19 I was also involved in a lot of women's organizing. There was</p> <p>20 a very active women's movement in Boston, as well. And I was</p> <p>21 involved in that.</p> <p>22 And so they called me to the meeting, knowing that I</p> <p>23 did this work in the women's movement, you know, and they said:</p> <p>24 So, sit here. We want to ask you some questions.</p> <p>25 We've noticed that you seem to be working with a lot of women,</p>
222	<p style="text-align: center;">ZIA - DIRECT EXAMINATION / CHOU 1212</p> <p>1 And it was very clear to me, even at that time, that</p> <p>2 I really couldn't imagine getting married, married to a man.</p> <p>3 It just was not in my -- in my world view or imagination.</p> <p>4 Q. And you mentioned that you were first aware that you might</p> <p>5 be a lesbian when you were in college. When did you actually</p> <p>6 come out?</p> <p>7 A. Well, I guess the clearest way to say that is I had my</p> <p>8 first relationship with a woman in the mid 1980s, when I was in</p> <p>9 my 30s.</p> <p>10 Q. And how much after that was when you were in college?</p> <p>11 A. That would have been about 12 years, 10, 12 years after</p> <p>12 college.</p> <p>13 Q. Why did it take so long between college and your first</p> <p>14 relationship with a woman?</p> <p>15 A. There were many, I guess I would say, social pressures</p> <p>16 to -- to -- to steer me away from the person I really was,</p> <p>17 to -- for me not to be a lesbian.</p> <p>18 Q. Can you give me an example?</p> <p>19 A. Well, I actually had an incident that I think of as a</p> <p>20 lesbian trial, where after I had left college I had for a time</p> <p>21 attended medical school. And I quit medical school and</p> <p>22 realized that I wanted to spend more of my time doing community</p> <p>23 organizing, like our president.</p> <p>24 And so I was involved in my neighborhood in Boston,</p> <p>25 doing a lot of community work, community organizing work, in</p>	224	<p style="text-align: center;">ZIA - DIRECT EXAMINATION / CHOU 1214</p> <p>1 and you seem to be working with a lot of lesbians. And, you</p> <p>2 know, in our communities of color, the Asian American</p> <p>3 community, there -- we don't have homosexuals in our community.</p> <p>4 And it would be really terrible to have somebody who was a</p> <p>5 homosexual, a lesbian, working with us, because it would --</p> <p>6 because homosexuality is a symptom of white -- of white petty</p> <p>7 bushwa -- petty bushwa decadence. And, so, we really wouldn't</p> <p>8 want to have you with us, working with us on these causes, if</p> <p>9 you are a lesbian.</p> <p>10 And the leader of the African American group said</p> <p>11 very similar things; that homosexuality is not something they</p> <p>12 could accept in the African American community.</p> <p>13 And after they laid out these things, as I sat in</p> <p>14 front of my friends, my community, people I considered my</p> <p>15 extended family, they laid that out and then they said, "So,</p> <p>16 Helen, tell us, are you a lesbian?"</p> <p>17 And I was about 23 then. And I sat there looking at</p> <p>18 the people that I trusted in this world, asking me that. And I</p> <p>19 had friends who were, indeed, lesbians. And I didn't know at</p> <p>20 first how to answer that question. It was, "Are you a</p> <p>21 lesbian?" What would make me a lesbian?</p> <p>22 I knew that I had had lesbian thoughts, whatever</p> <p>23 those are, that I had had attractions to women. But I didn't</p> <p>24 have a girlfriend. I didn't have a membership card that said I</p> <p>25 was a lesbian. I didn't get a toaster oven or a congratulatory</p>

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ZIA - DIRECT EXAMINATION / CHOU 1215

1 message saying, Welcome to lesbian-hood.
 2 (Laughter)
 3 And so -- but there they were, all staring at me,
 4 these people I trusted. And, "Helen, are you a lesbian?" So I
 5 said, "No, I'm not."
 6 And that made them happy. And for me it was -- it
 7 was -- that was the end for them. The meeting disbanded; the
 8 trial was over. And for me it was that I had stepped into the
 9 closet and slammed the door shut.
 10 Q. Did you do anything else in response to the lesbian trial?
 11 A. I'm sorry?
 12 Q. I'm sorry. Did you do anything else in response to the
 13 lesbian trial? You mentioned you stepped in the closet and
 14 slammed the door. Is there anything specific that you did?
 15 A. Well, I got the message very clearly that the thought I
 16 might be a lesbian and that doing work with other women in the
 17 women's movement and having friends who were lesbians was
 18 something that was unacceptable.
 19 And, so, having said that I was not a lesbian and
 20 stepping right into the closet, I stopped seeing my friends. I
 21 cut off my ties with my dear friends in the women's movement
 22 there in Boston. I stopped going to meetings.
 23 I had been involved in a leadership capacity. I
 24 stopped completely. I really did shut the door.
 25 Q. Did you also used to have diaries?

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ZIA - DIRECT EXAMINATION / CHOU 1216

1 A. Yes.
 2 Q. Did you do anything to those diaries after the lesbian
 3 trial?
 4 A. I am a writer today, but I think I started that a long
 5 time ago, even before I realized I would become a writer. And
 6 I was an avid journal keeper. I wrote diaries from the time
 7 that I was quite young.
 8 And after my lesbian trial, I knew that I had
 9 explored the thought -- I had written down thoughts that, Maybe
 10 I'm a lesbian. I find so and so to be very attractive. I have
 11 these feelings.
 12 And so shortly after the -- this trial, I was going
 13 to move. I was going to move from Boston to Detroit. And I
 14 was going to pack up my little car with all my small number of
 15 worldly possessions. And then there came a question of, What
 16 do I do with these diaries? And I was -- I became so concerned
 17 that what if I was driving on the highway and I got into a car
 18 accident and was killed, and there are my diaries that say I
 19 think I might be a lesbian.
 20 I took my diaries, which at that time was probably
 21 more than ten years worth of diaries, and I went out to a field
 22 nearby, a construction site where there was a barrel. I put
 23 them in and I lit them up, and I burned my diaries.
 24 Q. Ms. Zia, have you ever experienced any discrimination
 25 relating to your work due to your sexual orientation?

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ZIA - DIRECT EXAMINATION / CHOU 1217

1 A. Related to my work?
 2 Q. Yes.
 3 A. Yes, on a few occasions.
 4 Q. Can you provide an example?
 5 A. Well, there was a time when I was invited to give a
 6 speech. I do some lecturing, and I was invited to give a
 7 speech to Notre Dame University. And it was in the 1990s,
 8 early 1990s, when there was a lot of anti-gay campaigns going
 9 on.
 10 And the person who invited me was aware that I was a
 11 lesbian. So one day, after I got the invitation that she had
 12 extended to me, she asked me, "By the way, are you going to say
 13 anything about sexual orientation or about being a lesbian?"
 14 And I hadn't really thought much about what I was
 15 going to say yet, but I said, "Well, I'm not sure, but now that
 16 you've asked me, I might." And she said, "Well, in that case,
 17 I don't think you should come." And she rescinded the
 18 invitation. So that was one incident.
 19 Q. Have you ever experienced any discrimination from family
 20 members due to your sexual orientation?
 21 A. Yes, I have. When -- when I came out to -- well, when I
 22 was delivering a lecture in the New York area, I have a cousin
 23 out there. And he was very interested in the books I had
 24 written. He was very interested in hearing my lecture. He
 25 came to my lecture.

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ZIA - DIRECT EXAMINATION / CHOU 1218

1 And in my lecture I talked about being lesbian. I
 2 talked about the discrimination that's faced by people of
 3 color, by lesbians, and the fact that I -- that I was a
 4 lesbian. And it was a very small part of my -- my lecture, but
 5 after that he completely cut off all ties.
 6 I had even made attempts to contact him when I was
 7 going to be visiting New York, but he never -- has never
 8 returned a single phone call or message since then.
 9 Q. Ms. Zia, do you ever feel physically threatened because of
 10 your sexual orientation?
 11 A. I feel constantly aware that my sexual orientation could,
 12 for whatever reason, provoke violence toward me or toward my
 13 loved ones.
 14 And so I do feel that I -- as I walk through life, as
 15 I go through the streets of San Francisco or anywhere else,
 16 especially when I am with my -- my wife, that we -- I feel very
 17 aware of whether we express our affection toward each other
 18 publicly, have any public displays of affection, whether we
 19 hold hands in public, where we -- where that might be.
 20 And my spouse is very affectionate. There are
 21 oftentimes if we go to the movies or go have dinner, like any
 22 other committed married couple, there might be a time where you
 23 would want to put your arm around the other and just hold each
 24 other, hug each other. And Lia is very inclined to do that.
 25 And I feel there are a lot of times when I have to -- I do

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ZIA - DIRECT EXAMINATION / CHOU 1219

1 actually push her away and say, "Look where we are. We have to
 2 be careful."
 3 And even within our own neighborhood I feel alert.
 4 And I feel -- and I feel bad about that, but I feel very
 5 conscious that there are people who hate us, and just for who
 6 we are, and that we have to be careful about that.
 7 Q. Ms. Zia, do you remember the Proposition 8 campaign?
 8 A. Yes, I do.
 9 Q. Did you encounter any discrimination during that campaign?
 10 A. Yes, I did.
 11 Q. Can you describe some?
 12 A. Well, I guess I would just begin with the very notion of a
 13 campaign that would degrade and devalue the marriage that I
 14 have with my wife, the most important person in my life.
 15 And to see the -- the ads and the misinformation and
 16 the deceptive kind of things that are said about us, I -- I
 17 would say that I -- I feel that that's highly discriminatory.
 18 To have to read or experience people saying to me,
 19 coming up to me and making slurs, calling me names, telling me
 20 that I'm an abomination, that my marriage to Lia and other
 21 people like us -- people have said, when we were working on the
 22 Prop 8 campaign, the effort to -- we had worked on the campaign
 23 to -- to try to get people to vote no on Proposition 8.
 24 And when we would be out on the streets of
 25 San Francisco or in Oakland, handing out fliers, people would

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ZIA - DIRECT EXAMINATION / CHOU 1220

1 just come up to us and say, you know, "You dike." And excuse
 2 my language, Your Honor, but, "You fucking dike." Or, "You're
 3 going to die and burn in hell. You're an abomination."
 4 And to read the materials and to see the kind of
 5 things that have been put out there about us, like our
 6 marriage, our existence, my marriage to Lia is going to cause
 7 people to have sex with animals, to contribute to bestiality in
 8 society, or that my marriage to Lia is going to, I guess, cause
 9 them to marry other people so that there will be more polygamy
 10 in society, or that my marriage to Lia is going to cause great
 11 harm to their children and lead to the molestation of children,
 12 and that my marriage to Lia is going to cause the end of the
 13 human race.
 14 And while we were handing out fliers, dozens of
 15 people, separate people in separate locations, separate times
 16 in different cities, would look at the flier, laugh, or just
 17 look at us, or say something with a -- the most derisive kind
 18 of expression, and say, "No more people. With this, no more
 19 people. No more human race." That we, such abominations,
 20 would be the cause of the end of the human race.
 21 And, to me, these were all highly discriminatory
 22 because, in essence, they're saying that we are so offensive
 23 that we are so not worthy of being human beings, of having the
 24 full rights and equality that every other human being,
 25 heterosexual human being, can enjoy to just be married to each

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ZIA - DIRECT EXAMINATION / CHOU 1221

1 other, that we would cause the end of the human race.
 2 And if we were to cause all of these things, then we
 3 would be -- what do you do when somebody is going to end the
 4 human race and cause great harm to your children and cause all
 5 of this terrible stuff? Well, you are going to want to stamp
 6 them out.
 7 And, to me, that was a highly painful and
 8 discriminatory and hurtful message, that I -- I also felt
 9 endangered us, as well.
 10 Q. Ms. Zia, if you could turn to the binder in front of you.
 11 And it's PX2119. Can you take a quick look at it?
 12 A. Yes.
 13 MR. RAUM: Your Honor, object. This was not one of
 14 the documents that was identified as an exhibit that was used
 15 in connection with Ms. Zia.
 16 MR. CHOU: Your Honor, we disclosed this exhibit on
 17 Wednesday, and we alerted them. It's now Friday. They have
 18 had it for 48 hours.
 19 I don't see any prejudice to this. They have had
 20 plenty of time to take a look at it and observe it.
 21 THE COURT: All right. As long as it was disclosed
 22 prior to the witness's testimony and in accordance with the
 23 standing order that we have in the case, this will be fine.
 24 You may present the exhibit to the witness.
 25 MR. CHOU: Thank you, Your Honor.

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ZIA - DIRECT EXAMINATION / CHOU 1222

1 BY MR. CHOU:
 2 Q. Do you recognize this exhibit?
 3 A. Yes, I do.
 4 Q. Can you tell me what it is?
 5 A. It is one of the pages from a website called, "One Man,
 6 One Woman."
 7 Q. When did you first see this page?
 8 A. I saw this website and this page during the Yes On 8
 9 campaign.
 10 MR. RAUM: Objection, Your Honor. The document does
 11 not appear to be a document that was put out by
 12 ProtectMarriage.com. And, as we've indicated earlier, those
 13 documents have been excluded already as not indicative of what
 14 was conveyed to the public from --
 15 THE COURT: You can take that up on
 16 cross-examination, Counsel.
 17 MR. RAUM: Thank you, Your Honor.
 18 BY MR. CHOU:
 19 Q. Can you read the, I guess, the first sentence in red.
 20 A. Homosexuality is -- "Homosexuality linked to pedophilia."
 21 Q. Then can you read the next sentence below that.
 22 A. "Studies show that homosexuality is linked to pedophilia."
 23 And then there is a dot dot dot "and more," a link to "more of
 24 that."
 25 Q. And you recently -- just a few minutes ago you described,

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ZIA - DIRECT EXAMINATION / CHOU 1223

1 basically, these types of messages that you found offensive and
 2 hurtful. Is this an example of one of those?
 3 A. Yes, this is an example of one of those.
 4 MR. CHOU: Your Honor, I would like to move this into
 5 evidence.
 6 MR. RAUM: Objection, Your Honor.
 7 THE COURT: I'm sorry, I missed the -- the number of
 8 this document is?
 9 MR. CHOU: Is PX2199.
 10 MR. RAUM: There's no indication that this -- there's
 11 any foundation for this document. As I've indicated a moment
 12 ago, it's not an official campaign document from
 13 ProtectMarriage.com. It's highly prejudicial if it's
 14 associated with the campaign as an official document, and it
 15 should be excluded.
 16 THE COURT: All right. You made a 403 objection.
 17 I'll reserve until your cross.
 18 MR. CHOU: Thank you, Your Honor.
 19 BY MR. CHOU:
 20 Q. Ms. Zia, you've mentioned that you're married. What's
 21 your wife's name?
 22 A. Her name is Lia Shigemura.
 23 Q. And before you married -- I'm going to call her Lia -- had
 24 you been married before?
 25 A. No.

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ZIA - DIRECT EXAMINATION / CHOU 1224

1 Q. Can you tell me a little bit about how you feel about Lia?
 2 A. I feel that Lia is my soulmate in life. I love her. I --
 3 she's the person I want to spend the rest of my life with.
 4 She's the most important person to me.
 5 Q. When did you first meet Lia?
 6 A. I first met Lia in 1983, here in San Francisco. I was
 7 living in Detroit at the time. And we were both involved in a
 8 civil rights campaign that revolved around the hate crime
 9 against a Chinese American man in Detroit, named Vincent Chen.
 10 And I was in Detroit, part of that campaign. And we came to
 11 San Francisco as part of the educational piece of that
 12 campaign. And Lia was on the organizing committee here in
 13 San Francisco.
 14 Q. When did you and Lia start dating?
 15 A. We didn't start dating until many years after that, about
 16 1992.
 17 Q. And when you started dating, where were the two of you
 18 living?
 19 A. Lia was still here in San Francisco, and I was in New York
 20 at that time.
 21 Q. And did you eventually decide to get together in the same
 22 area?
 23 A. Yes.
 24 Q. And I assume one of you moved?
 25 A. Yes. I moved out here.

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ZIA - DIRECT EXAMINATION / CHOU 1225

1 Q. And when you moved, did you give anything up when you
 2 moved to San Francisco from New York?
 3 A. Uhm, well, I had been born and raised in New Jersey. I
 4 was an East Coast person. So I left the East Coast.
 5 But I was well-entrenched, I guess I'd say, in my
 6 journalism career. I was at Ms. Magazine. I was executive
 7 editor. And I was in the succession to be the editor-in-chief
 8 of Ms. Magazine, at that time.
 9 And then I met Lia. And Ms. magazine, the job I had,
 10 was really the job I had always wanted. It was -- it was where
 11 I wanted to be. But when I met Lia, I knew that this was the
 12 woman I wanted to be with. This was the person I wanted to be
 13 with for all my life. And -- and so there was no real decision
 14 to make. I -- I left New York, the East Coast, the home I had.
 15 But I left the job that I had always wanted.
 16 Q. Have you and Lia ever registered as domestic partners?
 17 A. Yes.
 18 Q. When did you first register as a domestic partner?
 19 A. Uhm, we registered as domestic partners, first, in the
 20 city of San Francisco in 1993, shortly after I moved here to be
 21 with Lia.
 22 Q. Can you describe the process of registering for a domestic
 23 partner at that time?
 24 A. Yes. It was actually a little anticlimactic. We were
 25 excited about being able to register as domestic partners.

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ZIA - DIRECT EXAMINATION / CHOU 1226

1 We came to City Hall. We went to a window that I
 2 would describe as a -- it's kind of all purpose postal window
 3 kind of thing, where I think they issued dog licenses as well
 4 as domestic partner licenses.
 5 (Laughter)
 6 Q. And how did that process make you feel?
 7 A. I left feeling a little like, So this is -- this is
 8 domestic partnership?
 9 We walked away with a little certificate, the kind
 10 that a kid gets for perfect attendance that week. And so it
 11 was just a little certificate that, you know, we still valued
 12 and we put in a frame. But it didn't feel like -- it didn't
 13 feel like much at all. It wasn't the kind of thing we sent
 14 notice out to friends about, or sent invitations to a party or
 15 anything.
 16 Q. You didn't have any celebration?
 17 A. No. Not at all.
 18 Q. Did you ever -- did you later register as a domestic
 19 partner with the State of California?
 20 A. Yes, we did. When state domestic partnerships became
 21 available in, I guess, 2003, we filed for domestic partnership
 22 again, with the state.
 23 Q. Can you describe that process, please.
 24 A. Well, there was no dog license window this time. Instead,
 25 we downloaded the form from the Internet, filled it out, got it

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ZIA - DIRECT EXAMINATION / CHOU 1227

1 notarized and mailed it in. And that was it.
 2 Q. And did you get something back in the mail?
 3 A. We got another form back in the mail. And it said, "You
 4 are now domestic partners in the State of California."
 5 Q. And did you hold a celebration?
 6 A. No, not at all. It was -- getting that form in the mail
 7 was not -- not an occasion to write home about.
 8 Q. So you mentioned that you were married. When did you
 9 first get married to Lia?
 10 A. We got married in 2004, during the Presidents
 11 Day/Valentine's Day weekend, the first moment that we could,
 12 when marriages became available to same-sex couples.
 13 Q. Can you describe how you decided to get married?
 14 A. Well, at first, we weren't sure that what we were seeing
 15 in the news was real. And we talked to each other. We said,
 16 What? Look at this. Is this real?
 17 And we thought about it, about, okay, should we get
 18 married? But we would want our family around with us, if we
 19 were going to get married. Your dad is in Honolulu. He's
 20 pretty elderly. My mother is also quite elderly. And thought,
 21 well, all those people have to stand for eight hours in the
 22 rain. I don't think we can subject our parents to this.
 23 And then I got a phone call from my mother, who said,
 24 "Helen, I saw on the news couples can get married. You and Lia
 25 can get married now. Why don't you get married?" And that was

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ZIA - DIRECT EXAMINATION / CHOU 1228

1 mom. And so that was like, oh, okay.
 2 (Laughter)
 3 And then there was just the logistical question about
 4 everything was happening so quickly, how would we -- how would
 5 we manage this?
 6 We had friends who were working in the city -- the
 7 San Francisco City Assessor-Recorder's Office, who were
 8 actually in charge of getting the marriage licenses done,
 9 getting the process done. And they were looking for
 10 volunteers. They were looking for people to help process these
 11 thousands of couples who were applying to get married. And
 12 they asked us if we could volunteer.
 13 Lia and I both know how to type and file and do those
 14 kind of things. So we said, Sure, we'll come in. We'll come
 15 in and help.
 16 So we came in on -- on, I believe it was the Monday,
 17 Presidents Day. And it was a -- you know, a government
 18 holiday, but the office was kept open through the volunteers.
 19 And we went there and typed and filed for about, I think, about
 20 eight hours. The line was all the way around the block.
 21 And at the end of the day, after we had typed all
 22 these people -- and I was in the process before Lia, so I was
 23 typing people's applications as they were coming in, and she
 24 was later on doing something else. And I was done.
 25 They had closed the line. It was almost, you know,

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ZIA - DIRECT EXAMINATION / CHOU 1229

1 5 o'clock, or whatever the time they were going to close. And
 2 so I looked at Lia and I said, "Should I type out an
 3 application for us? Would you marry me?"
 4 (Laughter)
 5 And Lia said, "I can't talk now. I'm busy."
 6 (Laughter)
 7 "I'm still filling these people's things."
 8 Q. Very responsible of her.
 9 A. Yes. She took her responsibilities very seriously.
 10 And so while she was still processing other couples
 11 to get married, I was there with the -- you know, the
 12 wordprocessor, and I filled out the form for us.
 13 I put in her name and put in all the information, and
 14 put in my name and all of the information. And then I had the
 15 form, and I took it over to her, and I said, "Here's the
 16 marriage license. Would you marry me?" And she said, "Okay."
 17 And so there we were, probably one of the last
 18 couples of the whole day, after everybody else had been
 19 processed. The people who had waited in line for eight hours
 20 were done. And then -- then we went ahead and had witnesses,
 21 and had a -- had a justice of the peace marriage ceremony.
 22 Q. Did you celebrate, at some point?
 23 A. We did. It was -- then after we had our marriage licenses
 24 and it was, We're married. Well, okay. Then we started
 25 talking about, like any other couple, what kind of -- how are

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ZIA - DIRECT EXAMINATION / CHOU 1230

1 we going to celebrate this?
 2 And we decided we wanted to have a big wedding
 3 reception. A wedding reception like every other couple would
 4 have, with a wedding banquet.
 5 We issued wedding invitations. Had them printed up,
 6 you know, with all the little envelopes and things like that.
 7 Drew up a list.
 8 Had all of the kind of discussions, and even a few
 9 arguments, about: What music are we going to play? You know,
 10 where will we go? How much are we going to spend? What date?
 11 We picked a date in August, for our wedding party, August 20th,
 12 and sent the invitations out to 150, 200 people. And did all
 13 the kind of things to prepare for a big wedding party.
 14 Q. How many people attended your wedding?
 15 A. About 150.
 16 Q. And did your families attend?
 17 A. Our -- our families, our wonderful, loving and supportive
 18 families, came from all over the United States.
 19 Lia grew up in -- in Hawaii and Honolulu. I grew up
 20 in the East Coast. So we actually had friends and family
 21 coming from the entire span of America, from all the way from
 22 the East Coast to Hawaii, flew in to come to our -- our -- our
 23 marriage, our wedding party, our wedding celebration.
 24 And we planned, also, to have an affirmation ceremony
 25 there. Lia's dad, who at that time was -- at that time, was 86

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ZIA - DIRECT EXAMINATION / CHOU 1231

1 years old, Lia's dad was a retired judge in the state of
 2 Hawaii. So he came. He brought his judge's robes. And he was
 3 going to officiate with an affirmation ceremony at our wedding
 4 banquet.
 5 Q. Can you turn to your exhibit binder, PX600. Do you
 6 recognize that picture?
 7 A. Yes, I do.
 8 Q. What is the picture of?
 9 A. It's a picture of one of our family groupings at our --
 10 our wedding reception, wedding banquet. And this is a picture
 11 of my mother, my siblings, and some of their children.
 12 MR. CHOU: Your Honor, I would like to move this into
 13 evidence.
 14 THE COURT: Very well. 600 is admitted.
 15 (Plaintiffs' Exhibit 600 received in evidence.)
 16 BY MR. CHOU:
 17 Q. Did your marriage later get invalidated?
 18 A. My marriage --
 19 Q. The first one?
 20 A. My marriage was not later -- my marriage was invalidated
 21 about a week before our wedding reception.
 22 Q. And how did that make you feel?
 23 A. Lia and I felt devastated. We felt sad. We felt -- we
 24 grieved. We felt pretty horrible that our -- our marriage that
 25 made us so happy and brought us so much joy and made such

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ZIA - DIRECT EXAMINATION / CHOU 1232

1 happiness within our families was suddenly rendered invalid.
 2 And we felt that it wasn't just a statement that our
 3 marriages were invalidated. We felt that our relationship was
 4 invalidated. We felt that we, as human beings, had suddenly
 5 become invalidated. And we felt pretty awful.
 6 Q. Did you and Lia later get married, again?
 7 A. We did.
 8 Q. And when was that?
 9 A. In June of 2008, as soon as that opportunity became
 10 available.
 11 Q. Now, Ms. Zia, how has getting married changed things for
 12 you?
 13 A. Getting married has made changes in so many multitude of
 14 ways, tangible and intangible, in our lives, that we are even
 15 discovering new ways every day. But, in the most immediate
 16 sense, it was in how our families related to us.
 17 And so when we first got married in 2004, and had our
 18 wedding party, we have -- we have a niece who was two years old
 19 when Lia and I got together. She's my brother's daughter. And
 20 she has only known Lia and me as Auntie Helen and Auntie Lia.
 21 She has only known us as together.
 22 And she was about 15 or 16 when we had the wedding
 23 party. And in this exhibit she's standing here. She came to
 24 celebrate with us.
 25 And when she got off the plane and came and saw Lia

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ZIA - DIRECT EXAMINATION / CHOU 1233

1 and me, it was the first time she really saw us after our
 2 wedding vows at City Hall. She came over, gave us a big hug,
 3 gave Lia a hug and said, "Auntie Lia, now you're really my
 4 auntie."
 5 And here, we were -- I was a little surprised at that
 6 because I thought, well, you've only known her as your auntie;
 7 she's always been your auntie. But then I could see from her
 8 little child and teenager point of view that somehow us being
 9 officially married made a difference to her, and that Lia was
 10 now really her auntie.
 11 It made a difference to our parents, to how our
 12 parents related to us. It made a difference to how we related
 13 to people. Because when you say you're a domestic partner,
 14 people -- you know, Lia and I spend a lot of time with each
 15 other. We go to social engagements with each other. We go to
 16 work engagements in the world. And people say, "Well, who's
 17 this person who seems to be hanging on to you awfully close?"
 18 And if I say, "Oh, she's my partner," I can't count the number
 19 of times people say, "Oh, partner. Partner in what business?"
 20 And Lia and I got used to having to have an answer to
 21 that, to say, "Well, we're partners in life." And then we'd
 22 just get used to watching the look on their faces, to see
 23 whether they got it. And often it would just be this look of
 24 bewilderment: Oh, what business is life? Do you mean life
 25 insurance?

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ZIA - DIRECT EXAMINATION / CHOU 1234

1 (Laughter)
 2 And for our parents and for our families, you know,
 3 marriage is not just about us and our relationship. It's a
 4 matter of how our families also relate to people.
 5 You know, for me to show up at every family event in
 6 Lia's family, every kind of social engagement in her family,
 7 people ask, "Well, who's she?" You know, "Who's this?"
 8 And for her parents or for her 94-year-old auntie to
 9 say, "Well, this is Helen's friend," well, she must be a really
 10 good friend because she's been coming to these events for the
 11 last 17 years. She's a really good friend. But "friend"
 12 didn't quite capture it. "Partner" they never got. They never
 13 said, "Oh, Helen is Lia's partner." And suddenly they were
 14 able to say, "Helen is my daughter-in-law."
 15 My mother. I would watch -- my mother is an immigrant
 16 from China. English is her second language. She really
 17 doesn't get what partner is.
 18 I would be around her and her friends who -- who
 19 would look at Lia. And I could hear them say, sometimes in
 20 English and sometimes in Chinese, "Who's she?" You know, and
 21 my mother, before we would marry, would struggle and just say,
 22 "She's Helen's friend."
 23 And then it changed. And she would say, "This is
 24 Helen's" -- "This is my daughter-in-law." And they would get
 25 it. And whether they approved or disapproved, it didn't

245	<p>ZIA - DIRECT EXAMINATION / CHOU 1235</p> <p>1 matter. They got it. It's like you don't insult somebody's 2 wife. You don't insult somebody's mother. 3 She is clearly saying this is my wife. That's it. 4 End of story. There's no questions: Wife in what? Spouses in 5 what? We are not partners in life or in some business. And so 6 it changed things on a very huge level like that. 7 And beyond that, I would say marriage in how it 8 affected our families was not just about us and how people 9 related to us. Our families related to each other differently 10 because marriage is -- and I'm beginning to understand what 11 I've always read -- marriage is the joining of two families. 12 So my family and Lia's family now relate to each other 13 differently. 14 My mother is the in-law to Lia's side of the family. 15 Lia's father became an in-law to my brother, who lived about 16 five minutes away from Lia's father while he was still alive. 17 And in those 15 years before we were married, that my 18 brother lived near my -- my father-in-law, they didn't really 19 make an effort to see each other. After we were married, my 20 father-in-law, Lia's father, actually would stop by my 21 brother's house, stop by and drop things off. You know, fruit 22 that was growing in his yard, things like that. 23 My brother is quite active in Hawaii. Lia's -- and 24 so please bear with me as I describe the relationship. Lia's 25 brother's wife, my sister-in-law, has a sister who runs in the</p>	247	<p>ZIA - DIRECT EXAMINATION / CHOU 1237</p> <p>1 (Laughter) 2 But it was a way that even in being so ill he could 3 describe who we were. And so that was a difference it made. 4 And -- and in the important events in life, which I 5 guess if we summarize our lives and we say birth, our lifetime 6 partner, creating our own family, and death, when it was time 7 for Lia's dad's funeral that's when the family comes together. 8 That's when you put out an obituary and you say who was in the 9 family. 10 When you lay out the memorial service hall and you 11 say who sits here and who sits there, and who has what role, 12 and the members of the immediate family are there in the 13 closest circle, and there was no question that I was Lia's wife 14 and I was a member of the family, and there was no ambiguity 15 about it. I wasn't some partner in business or partner in 16 life. I was her spouse. 17 And I was right there, with the first row in the 18 family. And I had my responsibilities, as well as being a 19 member of the family. 20 And so in those most important moments in our lives, 21 marriage made it very clear that I was family, that we are 22 family, and where we stand. 23 MR. CHOU: Thank you, Ms. Zia. I have nothing 24 further. 25 THE COURT: Very well. Mr. Raum, you may</p>
246	<p>ZIA - DIRECT EXAMINATION / CHOU 1236</p> <p>1 same circles as my brother. Okay. Extended family. They see 2 each other as in-laws now. 3 When they are at a public event, they will go and my 4 brother will say, "This is my in-law." You know. "This is 5 Candy. She's related to me." And people will say, "How?" And 6 then he will explain, she's -- you know, "My sister and her 7 sister-in-law are married to each other." 8 And then they wait to look and see, you know, whether 9 people understand that. But the message is they're family. 10 And so our families related differently to each 11 other. 12 Lia's dad had a terminal illness. He was in hospice 13 not long ago. He just passed away not even two months ago. 14 When he was in the hospital, in hospice care, Lia and I went to 15 the hospital and were at his side quite a lot. 16 And, of course, the other hospital workers, it's like 17 who -- who comes to hospice care? It's the closest, immediate 18 family members. They're the ones who are there around the 19 clock. 20 And they would say to Lia's dad, who was not doing 21 well, "Who are these? Are these your daughters?" And Lia's 22 dad said, from his -- his -- his hospital bed, "This is my 23 daughter, and this is my favorite daughter-in-law." 24 And so it was like, Lia said, "He said 25 'daughter-in-law.'" I said, "He said 'favorite.'"</p>	248	<p>ZIA - DIRECT EXAMINATION / CHOU 1238</p> <p>1 cross-examine. 2 MR. RAUM: Thank you, Your Honor. 3 CROSS EXAMINATION 4 BY MR. RAUM: 5 Q. Good afternoon, Ms. Zia. 6 I'd like to draw your attention back to the binder 7 that you have there, and number PX2198. 8 Do you have it in front of you? 9 A. Yes, I do. 10 Q. Ms. Zia, do you remember when the first time you saw that 11 document was? 12 A. It would have been sometime in 2008. I don't remember 13 exactly -- exactly when I saw it. 14 Q. Is that before the election -- 15 A. Yes -- 16 Q. -- on Prop 8? 17 A. -- before the election. 18 Q. Do you recall where you were when you saw it? 19 A. I was at home. 20 Q. I'd like to draw your attention to the document, where it 21 begins, "Californians have said twice ..." Do you see this? 22 A. Yes. 23 Q. Can you read that entire part. 24 A. "Californians have said twice to keep marriage between one 25 man and one woman."</p>

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ZIA - CROSS EXAMINATION / RAUM 1239

1 Q. Based on that indication on the document, how did you see
 2 it before the election of Prop 8 in November of 2008?
 3 **A. I'm sorry, I don't understand your question.**
 4 Q. Well, the document says, "Californians have said twice to
 5 keep marriage between one man and one woman."
 6 One time they voted in connection with Proposition
 7 22. Do you recall that?
 8 **A. Actually, I don't.**
 9 Q. Do you recall being involved in a case challenging the
 10 marriage laws in California?
 11 **A. I was, yes.**
 12 Q. Okay. I'll represent to you that was challenging
 13 Proposition 22, which was an initiative where the people of
 14 California voted to keep the definition of marriage as one man
 15 and one woman.
 16 The second time they did that was in connection with
 17 Proposition 8. Would you agree with me on that?
 18 **A. Well, I am fully aware of Proposition 8.**
 19 Q. Would you agree that the people of California voted to
 20 define marriage as one man and one woman, in November of 2008,
 21 when they passed Proposition 28? I'm sorry, when they passed
 22 Proposition 8?
 23 **A. I would say people voted for Proposition 8.**
 24 Q. And this document indicates that the people of California
 25 said twice to keep marriage between one man and one woman?

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ZIA - CROSS EXAMINATION / RAUM 1240

1 **A. Well, I'm not sure everybody knew what they were voting**
 2 **for, so I'm not sure that everybody who voted for Proposition 8**
 3 **were voting for this.**
 4 Q. But my question is that this document, the one that you're
 5 testifying to, indicates on its face that Californians have
 6 said twice to keep marriage between one man and one woman.
 7 That's what the document says, correct?
 8 **A. That is what the document says.**
 9 Q. And you're testifying that you saw this document prior to
 10 the people voting twice. Can you explain that?
 11 MR. CHOU: Objection, Your Honor. This is a document
 12 we haven't moved into evidence and we haven't questioned her
 13 about. It's beyond the scope of direct examination.
 14 MR. RAUM: I'm referring to PX2198. I believe that
 15 you questioned her on this.
 16 MR. CHOU: I introduced PX2199.
 17 THE COURT: Counsel asked about 2199.
 18 MR. CHOU: I didn't ask about 2198.
 19 MR. RAUM: Nonetheless --
 20 (Laughter)
 21 THE COURT: All right. You can pursue the subject.
 22 MR. RAUM: Nonetheless, I've asked her today on the
 23 stand whether she has seen this document before.
 24 BY MR. RAUM:
 25 Q. And you testified just a moment ago that you saw this

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ZIA - CROSS EXAMINATION / RAUM 1241

1 document prior to the election. Isn't that a fact?
 2 **A. I said that, but I realize that I saw this website before.**
 3 **It's possible that the website changed.**
 4 Q. I see.
 5 THE COURT: Are you moving in 2198?
 6 MR. RAUM: No, I'm not, Your Honor.
 7 BY MR. RAUM:
 8 Q. I would like to move on to PX2199.
 9 Do you see that, Ms. Zia?
 10 **A. Yes.**
 11 Q. Do you recall when you first saw that document?
 12 **A. I saw this website at the same time I saw the other one.**
 13 Q. But this particular document, that's been marked as 2199,
 14 do you recall when you first saw that document?
 15 **A. When you say "document" you mean this actual piece of**
 16 **paper?**
 17 Q. Well, this particular exhibit that's been marked as 2199,
 18 that you've testified to here today, that I'm referring to as a
 19 document, a piece of paper that's been marked today, when was
 20 the first time you saw that?
 21 **A. I have seen this on a website prior to -- prior to the**
 22 **election in 2008. I've seen this document as something printed**
 23 **out on a piece of paper this week.**
 24 Q. And there's nothing in this document that indicates that
 25 it's in support of Proposition 8, is there?

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ZIA - CROSS EXAMINATION / RAUM 1242

1 **A. This document is all about the -- the point of**
 2 **Proposition 8.**
 3 Q. My question is, Ms. Zia, there's nothing in the document
 4 that refers to Proposition 8; isn't that correct?
 5 **A. There's nothing on this document that says "Proposition 8"**
 6 **on it.**
 7 Q. And there's nothing in this document that indicates that
 8 it was put out by ProtectMarriage.com; isn't that true?
 9 **A. As far as I can tell, there's nothing that says that.**
 10 Q. And there's nothing in this document that indicates how
 11 widely it was distributed. Isn't that a fact?
 12 **A. Well, this document was on the Internet. This is a copy**
 13 **of something that was on the Internet. So it was available to**
 14 **everybody in cyberspace.**
 15 Q. There's nothing that indicates how many people actually
 16 viewed it, though?
 17 **A. Uhm, not on this piece of paper. Though, if you went to**
 18 **the website you could find, you know, page views, I'm sure.**
 19 Q. Thank you, Ms. Zia.
 20 And you don't know who actually wrote this document,
 21 do you?
 22 **A. Uhm, no, I don't actually know.**
 23 MR. RAUM: Your Honor, based on all of that, I would
 24 renew our objection to admitting this particular document into
 25 evidence.

253	<p style="text-align: right;">ZIA - CROSS EXAMINATION / RAUM 1243</p> <p>1 THE COURT: Well, the witness said that she saw a 2 posting from this website prior to the election. And I gather 3 her testimony is that the content of this particular posting 4 was one that you believe you saw prior to the November 2008 5 election; is that correct? 6 THE WITNESS: Yes, that's correct. 7 THE COURT: Very well. 2199 will be admitted. 8 (Plaintiffs' Exhibit 2199 received in evidence.) 9 BY MR. RAUM: 10 Q. Ms. Zia, you've written materials that have been 11 published, that focus on issues addressing matters that are 12 important to the homosexual community; is that right? 13 A. I've written on matters related to the gay and lesbian 14 community, that's right. 15 Q. One of the things that you've written about is, and 16 advocated for, are harsher penalties for crimes motivated by 17 sexual orientation? 18 A. Harsher penalties for crimes motivated by hatred of -- 19 around sexual orientation, yes. 20 Q. And you've also advocated for harsher punishment for 21 crimes motivated by perceived gender and perceived sexual 22 orientation, as well; isn't that right? 23 A. Yes. 24 Q. You are currently a member of the Asian Pacific Islander 25 Equality organization; is that correct?</p>	255
254	<p style="text-align: right;">ZIA - CROSS EXAMINATION / RAUM 1244</p> <p>1 A. Yes, I am. 2 Q. And the purpose of that organization is to promote the 3 visibility of Asian American, Asian Pacific Islander lesbian, 4 gay, bi, and transgendered people; is that right? 5 A. Yes, that's right. 6 Q. And prior to November of 2008, prior to the election of 7 November of 2008, that organization held a press conference 8 opposing Proposition 8; isn't that right? 9 A. Yes, that's right. 10 Q. And that organization printed and distributed fliers, also 11 opposing Proposition 8, correct? 12 A. That's correct. 13 Q. And the members of that organization, including you, 14 attended rallies opposing Proposition 8? 15 A. Yes, that's correct. 16 Q. Now, you're also an advisor for the Horizons Foundation; 17 is that correct? 18 A. Yes. 19 Q. And that organization grants money to gay, lesbian, bi, 20 and transgender nonprofit organizations? 21 A. That's correct. 22 Q. And you've attended events put on by Equality California; 23 is that right? 24 A. At least one event. 25 Q. You've also attended events put on by the Lambda Legal</p>	256
253	<p style="text-align: right;">ZIA - CROSS EXAMINATION / RAUM 1245</p> <p>1 Defense and Education Fund? 2 A. Yes. 3 Q. You also donate money to Lambda Legal Defense and Education 4 Fund? 5 A. Yes. 6 Q. You've attended events put on by the National Center for 7 Lesbian Rights? 8 A. Yes. 9 Q. And donated money to the National Center for Lesbian 10 Rights? 11 A. Yes. 12 Q. You've attended events put on by the Human Rights 13 Campaign; is that correct? 14 A. I believe I've attended an event that was -- featured the 15 Human Rights Campaign, once. I don't know if it was put on by 16 the Human Rights Campaign. 17 Q. You attended events put on by the ACLU, as well; is that 18 correct? 19 A. That's correct. 20 Q. You've also donated money to the ACLU? 21 A. Yes. 22 Q. Which would make you a member of the ACLU. 23 A. Yes, but I am not currently a member. I am lax in my 24 donations. 25 Q. Are you affiliated with the Courage Campaign, in any</p>	256
254	<p style="text-align: right;">ZIA - CROSS EXAMINATION / RAUM 1246</p> <p>1 respect? 2 A. I don't -- no, I don't believe so. 3 Q. Back in 2004, you and your mother submitted sworn 4 declarations on behalf of the City of San Francisco, in support 5 of their legal challenge to the California marriage laws that 6 existed at that time; is that right? 7 A. Yes. 8 Q. And the particular purpose of that litigation was to 9 strike down California's law which, at that time, limited 10 marriage to a man and a woman; is that right? 11 A. I believe so. 12 Q. Now, did you write that: 13 "Asian American Queer activists do not all 14 agree on what political stand to take towards 15 same-sex marriage"? 16 A. I believe I wrote something like that. 17 Q. And in the same article, which is Where the Queer Zone 18 Meets the Asian Zone, you said: 19 "To some gay rights activists, fighting for 20 same-sex marriage is too petty bushwa, too 21 much about the nuclear family, cocooning, 22 property rights, and all the bad patriarchal 23 things that marriage stands for." 24 You wrote that as well, did you not? 25 A. I believe so.</p>	256

257	<p style="text-align: center;">ZIA - CROSS EXAMINATION / RAUM 1247</p> <p>1 Q. Now, you've testified today regarding some of the benefits 2 that you've experienced as a result of being permitted to marry 3 in California, correct? 4 A. That's right. 5 Q. But you've also written that your civil marriage did not 6 affect your critical view of marriage as a patriarchal 7 institution. Do you recall that? 8 A. Uhm, yes, something to that effect. 9 Q. And you also wrote that one of the reasons of why you 10 married Ms. Shigemura was to express your "defiance against the 11 warmongering fundamentalist regime in Washington." Did you 12 write that? 13 A. That sounds like something I wrote. 14 (Laughter) 15 Q. You've testified today that you first received a marriage 16 license and certificate in February of 2004, when Mayor Newsom 17 began to issue marriage licenses to same-sex couples? 18 A. Yes. 19 Q. And you began to prepare for a marriage celebration and 20 reception after that particular event; is that true? 21 A. That's right. 22 Q. And you indicated that this particular reception took 23 place on August 20th, I believe? 24 A. Yes. 25 Q. But on August -- earlier in August, that particular</p>	259	<p style="text-align: center;">ZIA - CROSS EXAMINATION / RAUM 1249</p> <p>1 state -- your wedding was not at that time -- brought about the 2 melding of your and Ms. Shigemura's extended family and 3 friends, correct? 4 A. Yes. 5 Q. In fact, in Where the Queer Zone Meets the Asian Zone, you 6 stated, quote: 7 "It was a wedding party that far exceeded our 8 wildest imaginations. It seems to serve 9 another purpose, too, the melding of our 10 extended family and friends. Our respective 11 families, already so supportive of us, 12 suddenly transformed their relationships to 13 each other to reflect the more intimate 14 relative status." 15 So the fact is, even though your particular marriage 16 certificate that you received from Mayor Newsom was 17 invalidated, that celebration still served the very purpose 18 that you stated in this quote I just read; is that correct? 19 A. Well, our families saw us as married. But there was a 20 cloud over it. One week earlier we had learned in the news -- 21 it was national news -- that our marriage was no longer really 22 a marriage anymore. 23 And so we went ahead with our party. But everybody 24 there knew that, you know, it had been invalidated, as well. 25 And, in fact, Lia's father, Judge Shigemura, said in his -- in</p>
258	<p style="text-align: center;">ZIA - CROSS EXAMINATION / RAUM 1248</p> <p>1 marriage license and certificate was invalidated by the 2 California Supreme Court. Do you recall that? 3 A. Yes, I do. 4 Q. But you went forward with the celebration, nonetheless, 5 correct? 6 A. Correct. 7 Q. And the celebration was officiated by Ms. Shigemura's 8 father, right? 9 A. That's right. 10 Q. And her nieces and nephews also attended the ceremony? 11 A. Her nephew did. She only has one nephew. 12 Q. I see. And your brother and your mother attended? 13 A. My four brothers and my mother attended, as well as my 14 sister. 15 Q. And five of your siblings gave a toast welcoming Lia into 16 the family at that time; did they not? 17 A. Yes. 18 Q. And you had a traditional Japanese, is it, bonsai toast? 19 A. Yes, we did. 20 Q. And you also had a Chinese wedding banquet, where you had 21 traditional foods that would traditionally be served at a 22 wedding, correct? 23 A. Yes. 24 Q. And you stated that this particular wedding party that you 25 had, even though it wasn't officially recognized by the</p>	260	<p style="text-align: center;">ZIA - CROSS EXAMINATION / RAUM 1250</p> <p>1 his affirmation vows, for us to repeat, that he recognized 2 that, but that he said, "Courts sometimes make mistakes." And 3 he said that as a retired judge. 4 And so within the whole ceremony there was definitely 5 a recognition -- the ceremony and the celebration, there was a 6 recognition that there was a bittersweet element to it, as 7 well. 8 Q. But none of that kept you from saying that it was a 9 wedding party that far exceeded your wildest imagination? 10 A. Yes, right. That's right. And may I also say -- 11 Q. Well, if you would like -- 12 A. Okay. 13 Q. -- your attorney can simply ask you questions, to help you 14 elaborate, if you like. 15 A. Okay. 16 Q. I should say, if he likes. 17 A. Okay. 18 Q. And you stated, quote, that the wedding ceremony and 19 banquet represented the union of your and Ms. Shigemura's 20 family; is that correct? 21 A. Yes, symbolically, it did. 22 MR. RAUM: I don't have any further questions, Your 23 Honor. 24 THE COURT: Very well. Any redirect, Mr. Chou? 25 MR. CHOU: Very briefly.</p>

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ZIA - DIRECT EXAMINATION / CHOU 1251
 DIRECT EXAMINATION
 1 BY MR. CHOU:
 2 Q. Just two questions. When Mr. Raum interrupted you, you
 3 were going to continue saying something. Do you want to
 4 finish?
 5 A. Yes. I'd like to say, in talking about the fact that our
 6 families came together even though our marriage had been
 7 invalidated, it was really the difference, night and day,
 8 between being domestic partners and being married. Even
 9 symbolically married, even though it had been overturned.
 10 It was as though we had tasted -- that we had been
 11 prisoners in a closet; that we had been deprived of something;
 12 that we had been told to sit in the back of the bus and accept
 13 this kind of lesser status of domestic partners.
 14 And, suddenly, within those four months, four months,
 15 February to -- six months between the time we were married to
 16 the time that we had -- our marriage was invalidated, that we
 17 had a taste that we were married.
 18 And that during that six months, our families really
 19 had a transformational moment that I think did transcend the
 20 sadness that we felt. But it didn't take away from the loss.
 21 We still recognized we lost something very important. But in
 22 terms of their relating to each other, it was quite a different
 23 way from when we had domestic partnership.
 24 You know, the idea that we would be families, that
 25

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ZIA - DIRECT EXAMINATION / CHOU 1252
 1 we -- for a brief moment in time we experienced a feeling of --
 2 of -- of what equality is, what -- instead of having to go to
 3 the fountain that is just for gay and lesbian people, here we
 4 could go to the fountain that formerly said heterosexuals only.
 5 And we tasted the water that was sweeter there. And our
 6 families experienced that.
 7 And so, yes, the -- our -- at the time of our wedding
 8 celebration, our marriages were legally invalidated. But we
 9 had already begun a process of our families coming together in
 10 a way that did not happen in the prior 11 years that we had
 11 been domestic partners.
 12 MR. CHOU: Thank you. Nothing further, Your Honor.
 13 THE COURT: Very well, Ms. Zia. Thank you for your
 14 testimony. You may step down.
 15 I believe that should conclude our testimony today,
 16 Counsel. And we're on the eve of the 3-day weekend, which I
 17 trust you all will enjoy.
 18 Are there any matters that we want to or need to take
 19 up before we adjourn?
 20 Mr. Boutrous.
 21 MR. BOUTROUS: No, Your Honor.
 22 THE COURT: Mr. Thompson.
 23 MR. THOMPSON: Yes, Your Honor. One thing.
 24 I may be ill-advised in the premises, but I think the
 25 courts' ECF system may be going down for the weekend. And your

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ZIA - DIRECT EXAMINATION / CHOU 1253
 1 deputy is indicating yes.
 2 We just didn't know if the Court would like us to
 3 send -- obviously, we'll serve any filings that may come up
 4 over the weekend, on plaintiffs.
 5 But is there an e-mail address for the Court that we
 6 should copy, to keep --
 7 THE COURT: Can you hand deliver -- let me ask the
 8 clerk how we're going to deal with this.
 9 THE CLERK: E-mail will also be down, so we need to
 10 get personal e-mails from them.
 11 THE COURT: Well, I would suggest you spend a restful
 12 weekend, Mr. Thompson.
 13 (Laughter)
 14 MR. THOMPSON: Submitted. Thank you, Your Honor.
 15 THE COURT: Anything further? Very well. 8:30 a.m.
 16 on Tuesday morning, Counsel.
 17 MR. BOUTROUS: Thank you.
 18 MR. THOMPSON: Thank you.
 19 (Counsel thank the Court.)
 20 (At 4:18 p.m. the proceedings were adjourned until
 21 Tuesday, January 19, 2010, at 8:30 a.m.)
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I N D E X 1254

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CERTIFICATE OF REPORTERS

We, KATHERINE POWELL SULLIVAN and DEBRA L. PAS,

Official Reporters for the United States Court, Northern

District of California, hereby certify that the foregoing

proceedings in C 09-2292 VRW, Kristin M. Perry, et al. vs.

Arnold Schwarzenegger, in his official capacity as Governor of

California, et al., were reported by us, certified shorthand

reporters, and were thereafter transcribed under our direction

into typewriting; that the foregoing is a full, complete and

true record of said proceedings at the time of filing.

/s/ Katherine Powell Sullivan

Katherine Powell Sullivan, CSR #5812, RPR, CRR

U.S. Court Reporter

/s/ Debra L. Pas

Debra L. Pas, CSR #11916, RMR CRR

U.S. Court Reporter

Saturday, January 16, 2010