UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

H. CRISTINA CHEN-OSTER; LISA PARISI; and SHANNA ORLICH, on behalf of themselves and all others similarly situated,

Plaintiffs,

-against-

GOLDMAN, SACHS & CO. and THE GOLDMAN SACHS GROUP, INC.,

Defendants.

10 Civ. 6950 (AT) (JCF)

MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFFS' MOTION TO EXCLUDE EXPERT TESTIMONY OF DR. MICHAEL A. CAMPION

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I. INTRODUCTION

Plaintiffs seek to exclude certain opinions proffered by Defendants Goldman, Sachs & Co. and The Goldman Sachs Group ("Goldman")'s proposed expert Dr. Michael A. Campion. In rendering opinions used by Goldman to oppose class certification, Dr. Campion goes well outside – in fact, wholly jettisons – the standard methods of his field of Industrial/Organizational Psychology, as well as any other appropriate method, in two distinct areas.

First, Dr. Campion invents a "best practices" methodology in which he purports to identify dozens of human resources "best practices" from the popular press and other articles, using a misleading and arbitrary process where even articles that were patently critical of a process were counted as supportive of it. Then, Dr. Campion purports to apply this made-up "best practices" standard to Goldman's common systems in a manner that is itself subjective and unclear. Each aspect of the "best practice" identification and application is methodologically unreliable.

Second, Dr. Campion speculates that it is "plausible" that the Class Members (female Associates and Vice Presidents in certain revenue-producing divisions at Goldman) earned less than comparable males because of gender differences in "extreme jobs" – which he characterizes as high-pressure, time-intensive jobs with responsibility for profit and loss. By Dr. Campion's own admission, this untested hypothesis is based on nothing beyond Dr. Campion's purported knowledge of "the world" itself. This is not an expert opinion. Even so, within this made-up analysis, Dr. Campion fails to determine which if any Goldman jobs in the Class are "extreme jobs" under any definition of that undefined term, fails to independently study "extreme jobs," and fails to investigate how the Class Members did or did not compare to male comparators at Goldman or to any population of women outside Goldman previously studied by other researchers. There is no nexus between Dr. Campion's speculative opinions and this case.

Given these stark methodological flaws, Dr. Campion's opinions do not pass muster under even the liberal gatekeeping standards of Federal Rule of Evidence 702 and *Daubert v. Merrell Dow Pharmaceuticals, Inc*., 509 U.S. 579, 597 (1993). His opinions on "best practices" and "extreme jobs" are not scientific, reliable, or helpful to the Court on class certification. They should be excluded.

II. METHODOLOGICAL FLAWS WITH DR. CAMPION'S OPINIONS ON "BEST PRACTICES" AND "EXTREME JOBS"[1]

A. Dr. Campion's Field of I/O Psychology

Michael A. Campion, like one of Plaintiffs' experts Dr. Wayne F. Cascio, is an Industrial/Organizational ("I/O") Psychologist. I/O Psychology is the sub-division of psychology "characterized by the scientific study of human behavior in organizations and the work place." (http://www.apa.org/ed/graduate/specialize/industrial.aspx). As the American Psychological Association further describes, "I/O Psychologists are scientist-practitioners who have expertise in the design, execution and interpretation of research in psychology and who apply their findings to help address human and organizational problems in the context of organized work." *Id.*

In particular, I/O Psychology addresses policies and practices that cause adverse impact on women and other protected groups, and I/O Psychologists are able to study – within the rigorous framework required by their field – the reliability (consistency) and validity (accuracy) of assessment devices used to make employment decisions.

[1] Below, Plaintiffs address only the methodological flaws with, and absence of relevance of, Dr. Campion's analysis, without commenting on the substance of his conclusions. Plaintiffs address the substance of his conclusions in their Reply brief and in the rebuttal expert report of Dr. Wayne F. Cascio submitted with Plaintiffs' Reply. Dr. Cascio's rebuttal to Dr. Campion is referenced herein only to the limited extent Plaintiffs reference certain methodological critiques.

To the extent Dr. Campion has rendered opinions in his capacity as an I/O Psychologist using the methods of his field (for example, relating to the validity or invalidity of Goldman's policies), Plaintiffs are not moving to exclude them, despite disagreement with his conclusions that Plaintiffs believe they are without merit. However, Plaintiffs are seeking to exclude opinions in the two areas where Dr. Campion's opinions are untethered to the methods of his field – or any other – and are markedly unreliable.

B. Dr. Campion's "Best Practices" Methodology

Many of Dr. Campion's principal opinions are based on a freewheeling, unscientific, results-oriented discussion of "best practices" in (1) 360 reviews (which are one component of the performance evaluation process at Goldman), (2) performance evaluations, and (3) incentive bonus compensation. These opinions and the lengthy "best practices" tables that are appended to Dr. Campion's report include both so-called literature discussions (where Dr. Campion purportedly identified a list of "best practices" from articles) as well as his comparisons of Goldman's practices to the alleged "best practices." *See* Report of Michael A. Campion, Ph.D. ("Campion Report") at Tables 1-2 and 9-12 and ¶¶ 15, 19, 22, 32-25, 51-54, 59-63, 65-69, 80-82, and 87 (filed with Defendants' Opposition to Plaintiffs' Motion for Class Certification [Dkt. 294]); *see also* Sur-Rebuttal Report of Michael A. Campion, Ph.D. ("Campion Sur-Rebuttal Report") at ¶ 8 (filed with Defendants' Opposition to Plaintiffs' Motion for Class Certification [Dkt. 295]).

Apparently recognizing that there are no agreed-on standards for what makes a practice a "best" practice (and later acknowledging in his deposition that "best practices" are not even defined terms in the principal materials used by practitioners in his field, *see* Campion Dep. at

33:19-22[2]), Dr. Campion tries to justify this made-up methodology. He explains that his "best practices" came from research or practical literature, were "clearly implied" by one of those sources, or were taught in Dr. Campion's business school classes. Campion Report at Table 1, at 1. With respect to the literature search, Dr. Campion asserts he narrowed initial results "by relevance and also by quality indicators" and winnowed down the potential universe of articles using these screens. *Id.*[3]

Upon deeper review, it appears Dr. Campion did not even follow his own mushy "best practices" test, misleadingly and inappropriately cataloguing "best practices" based on citations to critical articles (*i.e.*, finding the opposite conclusion) or based on unreliable and non-scientific articles and popular press. Specifically, Dr. Campion did not require that a practice appear even once in any professional literature to warrant inclusion as a "best practice." Campion Dep. at 36:14-37:2. Plaintiffs' expert Dr. Cascio criticizes this practice as inappropriate: "[B]y mixing un-refereed practitioner articles with peer-reviewed journal articles…. Dr. Campion suggests to the reader that both carried equal weight and, in my view, that is not credible." Cascio Rebuttal Report at ¶ 26.[4]

Dr. Campion's best practices are also circular, duplicative, and at such a high level of generality as to preclude rigorous analysis so long as a company has any system whatsoever. *See* Cascio Rebuttal Report at Tables 2, 10, and 12 (noting methodological problems with specific

[2] All relevant transcript pages are attached as Exhibit 1 to the Declaration of Cara E. Greene In Support of Plaintiffs' Motions to Exclude Expert Testimony of Dr. Michael A. Campion, Michael P. Curran, and Dr. Michael P. Ward ("Greene Decl.").
[3] Dr. Campion used the same methodology for all of his literature searches.
[4] Dr. Cascio's Rebuttal Expert Report in the Matter of Chen-Oster et al. v. Goldman Sachs & Co. ("Cascio Rebuttal Report") has been filed contemporaneously with Plaintiffs' Reply in Support of Class Certification.

"best practices," as well as noting ways in which Dr. Campion is incorrect on the merits in asserting that Goldman Sachs had satisfied these purported best practices).[5]

For example, when analyzing 360 reviews (which *by definition* are a feedback process based on multiple sources), Dr. Campion identifies as a "best practice" that "[m]ultiple rating sources . . . should be included, as appropriate." *Id.* at Table 2, item 19. This is completely tautological and not an expert opinion in any context. *See also id.* at Table 10, item 16 (Dr. Campion opines that force ranking is a "best practice" in forced ranking). Dr. Campion also makes vague and generic statements throughout his report such as "performance evaluation (PE) should be linked to other HR systems . . . ." *Id.* at Table 10, item 2. It is hard to know what is intended as the specific best practice within such vague statements. He presents yet other "best practices" that are no more than generalized self-help tips for the business as a whole, such as "incentive compensation systems should be designed to control costs." *Id.* at Table 12, item 20. Overall, the lack of rigor reflected in his concept of "best practices" is also reflected in his analysis of how Goldman fits this made-up methodology, as illustrated by his "best practices" charts.

Most alarmingly, Dr. Campion's methodology misleadingly identifies "best practices" based on articles Dr. Campion cites that merely reference a practice or, worse, discuss it *critically*. Cascio Rebuttal Report at ¶¶ 28-30. By way of illustration, Dr. Campion lauds forced ranking (as at Goldman Sachs) as a "best practice," and cites to twelve articles in his "best practice 16" to support this opinion. *Id.* ¶¶ 28-29. However, contrary to this opinion, only *two* of those articles support forced distribution/forced ranking at even a general level; *five* of the

[5] As Dr. Cascio summarizes, "even if the identification of 'best practices' were an acceptable substitute for examining reliability and validity, my opinion is that Goldman Sachs does not meet best practices." Cascio Rebuttal Report at ¶ 25; *see generally* ¶¶ 25-31.

articles either did not discuss it or only state that such a concept exists; and the *remaining five are critical* of forced ranking (one noting forced ranking did "not appear to have significant support"; another noting that "the FDRD [Forced Distribution Ranking System] was found to be more difficult and less fair than a more traditional rating scale format"; another proposing modifications for its limitations; and another discussing concerns). *Id.* ¶ 29.

For all of these reasons, the "best practices" charts listing literature references and comparing the "best practices" to Goldman's practices (based on the categories sloppily created from various publications) are unsound from a methodological perspective. Moreover, Dr. Campion's attempt to rehabilitate his opinions on "best practices" in his Sur-Rebuttal fares no better. Trying to undo some of the damage of his prior testimony, he asserts for the first time that his analysis was somehow "updating" the main literature of his field, *i.e.*, the Federal Uniform Guidelines of Employee Selection Procedures and the Society for Industrial Organizational Psychology Principles.[6] Campion Sur-Rebuttal Report at ¶ 8. This subjective "updating" of source material used by an entire profession in order to *sidestep* the scientific standards contained within is utterly unscientific and unsound. This is not the work of an I/O Psychologist. *See also* Cascio Rebuttal Report at ¶¶ 5g, 31.

C. Dr. Campion's "Extreme Jobs" Hypothesis

The other portion of Dr. Campion's Report that Plaintiffs challenge as methodologically unsound relates to Dr. Campion's conclusion that it is "plausible" that women at Goldman Sachs

[6] Dr. Campion also asserts, incorrectly, that Plaintiffs' expert Dr. Cascio relied on "best practices" when forming his own conclusions. Not so. Dr. Cascio simply mentioned in passing that the I/O Psychology field had "identified best practices regarding performance measurement systems," and then clarified his meaning and embedded the reference in the methods of his field. Specifically, he described how the problems with forced ranking impacted the validity of the scores. Dkt. 260 (Cascio Expert Report) at ¶ 26 (scores from flawed processes "would not be valid"). Dr. Cascio's analysis was not based on so-called "best practice" identification in the literature; it was based on the standard methods of his field.

earn less than similarly-situated men because of gender differences in competitiveness. Campion Dep. at 321:13-16. Specifically, relying on a few recent studies from outside Goldman and not generally directed toward higher-income professionals, Dr. Campion identifies purported gender differences in the desirability of so-called "extreme jobs" – jobs he describes as characterized by "long work hours, responsibility for profit and loss, a fast-paced work environment, events outside of regular work hours, and related features common to Goldman Sachs." Campion Report at ¶ 101; *see also* ¶¶ 102-103.

Given the self-selection of the women who choose to work at Goldman, Dr. Campion's theory is nonsensical on its face. Moreover, it would be methodologically unsound to assume, based on nothing, that *female revenue-producing professional employees at Goldman* conform to the profile of women who would avoid so-called "extreme jobs" (discussed more below). Indeed, Dr. Campion's testimony suggests his ambivalence with the very inference his opinion suggests: "By citing this [extreme jobs] research, it is not my purpose to offer an opinion on causation" (Campion Report at ¶ 104); s*ee also* Campion Dep. at 305:2-306:15 (acknowledging *no actual research* that women perform worse in so-called extreme jobs). Yet Dr. Campion justifies his inclusion of his untested "extreme jobs" hypothesis for gender pay differences in this case as follows:

> I think it offers potentially partial explanation but I cannot prove that to be the case. Goldman Sachs does not live on an island . . . We know a lot about the world in general and cannot deny the fact that there are differences between men and women and those differences possibly can show up in extreme jobs like this and it's a very plausible issue. But I'm not concluding that it's the case here, why it's the case or whether it's happening here. But I want whoever reads this report to understand there's a broader literature that can offer a potential alternative explanation.

Campion Dep. at 320:4-19. Whether offered as a purposeful red herring or as an actual opinion, this theory has zero scientific credibility, is based on nothing, and amounts to guessing.

Knowing "a lot about the world in general" (as everyone believes he or she does) is not a basis for an expert opinion. *See* Campion Dep. 320:8-10. Dr. Campion testified that he does not know or have an opinion about what percentage of the jobs at issue in the case are extreme jobs, or whether women in the class positions work less than men, or any work hours requirements, or anything about comparative participation in outside work events, or whether Goldman women are better or worse than men at handling profit and loss, or whether the class members have more or less access to professional or personal child support resources and other help in the home as the women studied in any literature he cites about extreme jobs, or any other issue that would come even remotely close to making a "fit" between his hypothesis and this case. Campion Dep. at 301:3-9, 313:4-314:25, 318:5-12, 329:1-3.

Conversely, Dr. Campion does not dispute that one cannot apply conclusions about an overall population (women) to a subset of the population (female Vice Presidents and Associates in the primary revenue-producing divisions at Goldman Sachs) without knowing more. Campion Dep. at 310:8-13. And, Dr. Campion agrees he does not know anything about Goldman's hiring practices and does not believe women (such as those who applied for and secured jobs at Goldman) are worse than men for self-selecting out of jobs for which they were not suitable. Campion Dep. at 310:14-311:5.

Therefore, there is no fit between Dr. Campion's opinions on extreme jobs and the issues in the case. There is no identified methodology to Dr. Campion's opinions other than knowledge of the world. His untested hypothesis has no demonstrated relationship to the female Associates and Vice Presidents in the Class divisions at Goldman Sachs. This opinion should be stricken.

III. ARGUMENT

Based on the above, Plaintiffs move to exclude the following of Dr. Campion's opinions because they are not sufficiently reliable and/or relevant:

(a) the portions of Dr. Campion's Report and Tables that address (i) "best practices" (¶¶ 15, 19, 22, 32-25 (and header of that sub-section), 51-54 (and header of that sub-section), 59-63 (and header of that sub-section), 65-69 (and header of that sub-section), 80-82, 87 of his Report and Tables 1-2, 9-12); and (ii) Dr. Campion's opinions regarding gender differences in so-called "extreme jobs" (¶¶ 101-104 (and header of that section of his Report)); and

(b) the portions of Dr. Campion's Sur-Rebuttal relating to "best practices" (¶ 8 and section VIII (and header of that section)).

A. ***Daubert*** **and Fed. R. Evid. 702 Impose Minimum Requirements of Relevance and Mandate the Exclusion of Unreliable Opinions.**

Under Rule 702 of the Federal Rules of Evidence, "a witness who is qualified as an expert . . . may testify regarding an area of specialized knowledge provided that it will help the trier of fact [and] that (1) the testimony is based on sufficient facts or data, (2) the testimony is the product of reliable principles and methods, and (3) the witness has reliably applied the principles and methods to the facts of the case." *Oleg Cassini, Inc. v. Electrolux Home Prods., Inc.*, No. 11 Civ. 1237, 2014 U.S. Dist. LEXIS 52085, at *14-15 (S.D.N.Y. Apr. 15, 2014) (Francis, M.J.) (internal citations omitted); *see also Amorgianos v. Amtrak*, 303 F.3d 256, 265 (2d Cir. 2002).

The trial judge acts as the gatekeeper to ensure that an "expert's testimony both rests on a reliable foundation and is relevant to the task at hand." *Daubert*, 509 U.S. at 597. Specifically, *Daubert* and its progeny require "that an expert, whether basing testimony upon professional studies or personal experience, employs in the courtroom the same level of intellectual rigor that characterizes the practice of an expert in the relevant field." *Kumho Tire Co. v. Carmichael*, 526 U.S. 137, 152 (1999). The onus of satisfying these requirements is on the proponent of the expert testimony. *See United States v. Williams*, 506 F.3d 151, 160 (2d Cir. 2007). Further,

"when an expert opinion is based on data, a methodology, or studies that are simply inadequate to support the conclusions reached, *Daubert* and Rule 702 mandate the exclusion of that unreliable opinion testimony." *Oleg Cassini*, 2014 U.S. Dist. LEXIS 52085, at *16 (internal quotations omitted).

While the Second Circuit has not determined precisely how *Daubert* applies to experts at the class certification stage, the courts within this District applying *Daubert* examine whether or not the expert reports are admissible to establish the requirements of Rule 23. *See Dandong v. Pinnacle Performance Ltd.*, No. 10 Civ. 8086, 2013 WL 5658790, at *9 (S.D.N.Y. Oct. 17, 2013); *In re NYSE Specialists Sec. Litig.*, 260 F.R.D. 55, 66 (S.D.N.Y.2009). Here, the challenged testimony is unreliable and partially irrelevant, and thus cannot help in the assessment of the Rule 23 elements or anything else.

B. Dr. Campion's "Best Practices" Opinions Are Unreliable and Unhelpful to Assist in the Class Certification Decision.

Consistent with *Daubert* and Fed. R. Evid. 702, an expert (however qualified or credentialed) may not render opinions that are not attributed to any "recognized scientific basis." *Arnold v. Cargill*, No. 01 Civ. 2086, 2006 U.S. Dist. LEXIS 41555, at *16 (D. Minn. June 20, 2006) (excluding testimony of expert in an employment case).

In the Second Circuit, courts typically look at the following factors to assess the reliability component of the *Daubert* test: "(1) whether a theory or technique can be (and has been) tested; (2) whether the theory or technique has been subjected to peer review and publication; (3) a technique's known or potential rate of error . . . ; and (4) whether a particular technique or theory has gained general acceptance in the relevant scientific community." *Oleg Cassini*, 2014 U.S. Dist. LEXIS 52085, at *19 (excluding proposed expert testimony on value of

damaged artwork on the basis that the comparative market value approach, as applied, was not reliable).

Here, while recognizing that "the reliability inquiry is fluid and will necessarily vary from case to case" (*id.* at *20 (internal citations and quotations omitted)), it is noteworthy that Dr. Campion's "best practices" methodology does not satisfy *any* of the above four prongs. In fact, the Uniform Guidelines, which do not define "best practices," are overtly critical of supplanting the rigor of examination of reliability and validity with the adoption of popular techniques. Cascio Rebuttal Report at ¶ 24. The "best practices" approach as used by Dr. Campion (in which he falsely counts even critical articles as supportive of something as a "best practice") is, in fact, so devoid of methodology as to be standardless and arbitrary. Courts have excluded experts in the employment law context even when their methodologies suffer far fewer infirmities than Dr. Campion's. For example, like the "best practices" approach here, the expert in *Cargill* reviewed case documents and other company-specific materials, the statistics expert report, and "publications and articles regarding HR management employment policies and practices." *Cargill*, 2006 U.S. Dist. LEXIS 41555, at *15. Following this review, the expert applied "HR auditing and employment-related risk assessment techniques that he developed as an HR consultant" to conclude that the challenged systems were vulnerable to bias. *Id.* The court rejected these opinions, noting, among other things, that the proposed expert relied on "popular publications," on a method that "has never been tested to establish reliability," and that overall the Court could not "determine what scientific method, if any, [proposed expert] used to reach his opinions." *Id.* at *16-17.

The same infirmities apply to Dr. Campion's "best practices" approach. Dr. Campion identifies "best practices" without appropriate standards or quality control, and applies the "best

practices" not only loosely but arbitrarily, in that if an article even mentioned the practice at issue, it was counted as supportive of it. *See also, e.g., Miller v. United Parcel Serv., Inc.*, No. 03 Civ. 2405, 2004 U.S. Dist. LEXIS 15809, at *47 (N.D. Cal. Aug. 6, 2004) (sustaining objections to declaration of a Human Resources expert; "UPS argues that [proposed expert's] declaration is not reliable under [*Daubert*] as there is no foundation for [her] assertion that UPS's investigation was 'inconsistent with recognized management practices.' UPS notes that [she] does not point to any source for these 'practices,' but rather simply asserts in a conclusory fashion that they exist.").

Finally, where a proposed expert misapplies or poorly implements what in the abstract may be an appropriate methodological approach, this is also a basis to conclude that the expert's methodology is unreliable as well. Recently, for example, a court excluded a defense expert at class certification on the basis that the testimony was "just too unreliable to be of help in deciding class certification." *In re Front Loading Washing Machine Class Action Litig.*, No. 08 Civ. 51, 2013 U.S. Dist. LEXIS 96070, at *21 (D.N.J. July 10, 2013).

In *Washing Machines*, the experienced and credentialed proposed expert – a marketing professor – employed inadequate methodology in designing and implementing an internet survey. Among other problems:

> [Proposed expert] only asked highly general questions . . . In his survey results, he included identical answers to questions even when they were open-ended because he had no way of knowing if they were from different individuals. [Proposed expert] can't say for sure whether any survey-takers actually owned LF FLWs [Front Loading Washers]. . . Defendant is taking an inferential leap by arguing that that this survey leads to an inference that the survey-takers never smelled any mold in their machines just because they indicated during the survey that they were happy with their machines, without any specific query about smell, when that could easily have been asked.

Id. at *21-22. Similarly, here, Dr. Campion's "best practices" are subjective, vague, overly generalized, and duplicative, and avoid the relevant inquiry of whether Goldman's challenged practices are reliable and valid based on scientific standards. Dr. Campion's "best practices" methodology is unreliable.

C. Dr. Campion's "Extreme Jobs" Opinions Are Also Irrelevant and Unhelpful.

Dr. Campion's opinion that women's disinterest or inaptitude (he is not fully clear which) in performing "extreme jobs" could explain pay differences is based on pure speculation, untethered to any facts about the skills, work habits, work hours, or inclinations of the Class Members in this case. *See, e.g.*, *Obrycka v. City of Chicago*, 792 F. Supp. 2d 1013, 1028 (N.D. Ill. 2011) (impermissible for an expert to infer conclusions about a specific police workforce from general purported knowledge about police departments). Further, even the concept of "extreme jobs" as used by Dr. Campion is fuzzy – Dr. Campion seems to have no governing principles for what constitutes an "extreme job," even apart from whether any or all Goldman positions satisfy the parameters (*i.e.*, he has no specific knowledge of the Goldman workforce).

Dr. Campion's opinions rest on hypothetical assumptions about the Class Members and their jobs and sound more like long-ago discredited gender stereotypes than anything that could be described as scientific. Given these and other infirmities described in Section IIB, these opinions should be excluded as speculative and unreliable.

Courts within the Second Circuit regularly exclude opinions that are "wholly speculative" and "unsupported by the evidence." *McLean v. Air Methods Corp.*, No. 12 Civ. 241, 2014 U.S. Dist. LEXIS 9145, at *9 (D. Vt. Jan. 24, 2014) (helicopter mechanic permitted to testify about mechanical failure given his area of expertise, but could not follow these opinions with separate rank speculation in the guise of an opinion that there must have been a conspiracy among the mechanics); *see Atl. Specialty Ins. v. AE Outfitters Retail Co.*, 970 F. Supp. 2d 278, 291

(S.D.N.Y. 2013) (striking expert opinion based on pure speculation and hypothetical possibilities).

Where, as here, an expert's opinion "speculates about what is not known (and might or might not be the case)," the opinion "is not sufficiently linked to facts or record and should be stricken as unduly speculative." *Leonard v. Stemtech Health Sciences, Inc.*, 981 F. Supp. 2d 273, 279-280 (D. Del. 2013) (copyright expert not permitted to testify as to speculative opinion that the infringements were likely "the tip of the iceberg").[7]

Overall, Dr. Campion's untested speculation has no fit to the facts of this case about female professional employees who have chosen to work at Goldman Sachs, and no conceivable relevance to Rule 23.

IV. CONCLUSION

For the reasons set forth above, Plaintiffs respectfully request that the Court exclude Dr. Campion's opinions about "best practices" and "extreme jobs."

[7] Notably, other than the "extreme jobs" hypothesis, Dr. Campion did not appear to consider alternative explanations for pay differences, such as discrimination facing women in "extreme jobs." *See In re Rezulin Prods. Liability Litig.*, 369 F. Supp. 2d 398, 420 & n.137 (S.D.N.Y. 2005) (courts consider "whether the expert has accounted adequately for obvious alternative explanations" when determining reliability).

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