

EXHIBIT E

EXPERT REPORT OF ANTHONY G. GREENWALD

Derrick Satchell et al. v. FedEx Express

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II. Baker's assumption that own-race managers provide guaranteed non-discriminatory evaluations is empirically and theoretically unsubstantiated

5. Gold standard assumption. Dr. Baker's conclusion that lower ratings of Black employees reflect poorer performance, rather than discrimination, rests on an unstated assumption for which she provided no supporting evidence — that Blacks cannot be biased against Blacks. If one assumes that Blacks are unbiased in evaluating other Blacks, it does indeed follow that, if Black managers rate Black employees lower than White employees, then those Black employees must on average be objectively inferior and, accordingly, they deserve more disciplinary actions and lower performance ratings. This reasoning implies that, although it is possible for White managers to be biased against Black employees, it is not possible for Black managers to be biased against their own race. This assumption in effect takes the judgments of Black employees by Black managers as an objective criterion, a gold standard, against which judgments of Black employees by any others can appraised for bias.

6. Evidence for own-race bias. The lack of evidence in Dr. Baker's report for the gold-standard assumption is not in itself evidence against that assumption. There is not much evidence bearing either way on the validity of this assumption in personnel decision-making in organizational settings. An obvious reason for the limited evidence is that a conclusion of presence or absence of bias in decisions requires some objective criterion of performance with which a putatively biased procedure can be compared. Unfortunately, this objective criterion of unbiased judgment is not available in actual organizations such as FedEx, largely because evaluations almost invariably involve the mediation of potentially biased human judges. Accordingly, the best way to get relevant evidence is from experiments.

7. Empirical findings on own-race bias. There are relatively few available studies. Perhaps the best known study of own-race rejection is the famous "doll study" by Clark and Clark (1949), in which a majority of Black children was more interested in playing with a White doll than a Black doll. In a well known field experiment in the social

psychology literature, Gaertner and Bickman (1971) had callers — who were clearly identifiable by voice as Black or White — telephone known Black or White residents of segregated neighborhoods in Brooklyn, New York. The caller asked for "Ralph's Garage" and expressed disappointment at having dialed an apparent wrong number. The caller proceeded to say that he had used his last coin for the call, gave the phone number he wanted to reach, and then asked the callee to do the favor of calling it and letting Ralph's Garage know about the problem and the location of his disabled car. This study is known primarily for its demonstration that White callees discriminated by helping Black callers less than they helped White callers. Less well known is that a weaker level of bias was shown by Black callees, who also helped Black callers less than they helped White callers.

8. In a study of tipping behavior by Black and White cab passengers who took rides in New Haven, CT cabs driven by Black and White drivers, Ayres, Vars, and Zakariya (2005) found that Black passengers discriminated against Black drivers. They gave tips that were 33% lower to Black than White cab drivers — virtually identical to the percentage measure of discrimination shown by higher-tipping White cab riders.

9. Historical phenomena from various locations illustrate groups being prejudiced against their own members. Some of this history was described by Jackman (2005).

... much violence against subordinates in unequal social relations is carried out by subordinates themselves (Jackman, 2001), either as the delegated henchmen for punitive actions initiated by dominants or as the self-appointed agents of injuries inflicted against themselves or their children. Chains of command in the workplace or in genocidal actions commonly turn over the dirty work of carrying out punitive or malevolent acts of violence to selected members of the targeted group itself. For example, it was generally slave drivers (who were themselves slaves) who were responsible for whippings and other punishments in antebellum Southern plantations (Van Deburg, 1979), factory foremen are recruited from among the line workers they oversee, and the rounding up of Jews in Polish ghettos to meet Nazi deportation quotas for Holocaust concentration camps was often deputized to the Jewish ghetto police.

10. Another such phenomenon, widely reported in popular sources but never the object of scientific study, is *colorism* among Blacks. This practice took the form of selecting as appropriate members of African American fraternities and sororities only

those candidates who could pass a "brown paper bag" test, which required them to demonstrate that their skin tone was lighter than a brown paper bag. (See <http://en.wikipedia.org/wiki/Colorism>). Wilkins and Williams (2005) reported evidence that, relative to White police officers, Black police officers participated as actively or more actively in racial profiling. Racial profiling by Black police officers, targeted against Black citizens, has also been the subject of several news reports — see www.boston.com/globe/metro/packages/tickets/072003b.shtml and www.fredoneverything.net/yyProfiles.shtml.

11. Two important theoretical perspectives, Jost and Banaji's (1994) *system justification theory* and Sidanius and Pratto's (1999) *social dominance theory*, have provided interpretations of the ease with which members of low status groups accept and adopt the ideologies and customs that keep their groups relatively downtrodden. However, it is not only members of low-status or stigmatized groups that can be induced to direct hostility toward members of their own groups. In a famous study, Stanley Milgram (1963) found that adult White residents of New Haven readily were willing to inflict electric shocks of presumed near-lethal severity to a middle-aged White male whom they believed to be a co-participant in an experiment. In a very different setting, Zimbardo (1973) found that White Stanford undergraduates could be induced to play the role of cruel prison guards, exercising their authority over other Stanford students who had been assigned to play the role of prisoner.

12. Finally, and also presaging results on implicit bias described later in this report, studies using measures of implicit bias have found substantial levels of implicit negativity toward low status ingroups, relative to higher status outgroups (Dasgupta, 2004; Jost, Pelham, & Carvalho, 2002; Spicer, 2000). In results from very large numbers of Black American respondents to a race Implicit Association Test on the Internet — a procedure that provides a measure of implicit bias favoring either racial White or Black — approximately half of Black respondents indicate preference for White. (These data are summarized in the Greenwald & Krieger, 2006 article that is included as Attachment 3 of this report.)

IV. Alternatives to Dr. Baker's interpretation of her evidence

16. Dr. Baker interpreted the data in her report as being consistent with the proposition that FedEx's Black employees are, on average, inferior, and therefore deserving of the lower performance ratings and greater disciplinary action that they have received. For her, the critical observations were that Black managers administered more frequent discipline to Black than White employees and also gave lower performance ratings to Black than White employees. Re-analyses of Baker's data for this report revealed that her equal-differentiation description of the data pattern for performance ratings was invalid. Rather than finding that managers of all races differentiated equally between White and Black employees, it was clear in her data that Black managers differentiated more than did others, being relatively harsher on Black employees (see Figure 1). The resulting disadvantage to Blacks at FedEx is exacerbated by the fact that Black managers are responsible for evaluating a disproportionately large fraction of FedEx's Black employees (see Figure 2). Consideration of substantial available scholarly research literature also reveals that Dr. Baker's gold-standard assumption (i.e., that Blacks can be assumed to be objective and accurate in evaluating other Blacks) lacks substantiation and is directly contradicted by not only by research findings, but also by historical data and by multiple established theoretical views.

17. My analyses paid relatively little attention to the portion of the class represented by Hispanic employees. Figure 1 reveals that Hispanic employees received relatively low evaluations from all racial groups of managers. These data, unlike the data for Black employees, did approximately conform to an equal-differentiation pattern. Nevertheless, in the absence of evidence for the gold-standard assumption, this equal differentiation pattern provides no assurance that adverse impacts on Hispanics can be interpreted as indicating that their job performance is inferior. The theory that these lower ratings represent across-the-board discrimination against Hispanics by managers of all race groups at FedEx remains viable and plausible.

18. It remains to explain the observation that, compared to White, Hispanic, and Asian managers, Black managers at FedEx were relatively harsher to Black employees. (There were not sufficient data to include Native American managers in the analysis that arrived at that conclusion.) The three following interpretations are not the only conceivable interpretations, but they are psychologically the most plausible interpretations.

- (a) Black managers who are known to be harsh toward Black employees are given more Black employees to supervise
- (b) Black managers who supervise a high proportion of Black employees are harsh toward employees of all races
- (c) Black managers are subtly (or perhaps not so subtly) encouraged to be harsh toward their Black supervisees

The first of these hypotheses (harsh Black managers assigned extra supervisees) could not be evaluated using data available for analysis. The second (Black managers harsh toward all employees) is refuted by Figure 1's evidence that Black managers' ratings of Hispanic and Asian employees were comparable to ratings of Hispanic and Asian employees by managers of other races. The last of the three interpretations (Black managers co-opted into harsh behavior towards members of their own race) is psychologically the most plausible of the three interpretations. It is consistent both with existing psychological theorization on system justification and social dominance, as well as with historical episodes of members of disadvantaged groups being co-opted to participate in the perpetuation of their group's lower status (see ¶¶ 6–12, above).

V. Using the correlation between subjective and objective components of performance rating measures as an indicator of discrimination

19. The performance rating data set to which I had access had been coded by Dr. Baker so as to permit a distinction between "objective" and "subjective" measures. There remains a significant question as to how meaningful this objective–subjective distinction is, because various of the depositions available to me indicated that