

EXHIBIT 16A

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 12 CITY AND COUNTY OF SAN FRANCISCO

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ENDORSED
 FILED
 San Francisco County Superior Court

NOV 23 2004

GORDON PARKER, Clerk

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA
 14 COUNTY OF SAN FRANCISCO
 15 UNLIMITED CIVIL JURISDICTION

17 Coordination Proceeding
 Special Title (Rule 1550(b))
 18 MARRIAGE CASES

19 CITY AND COUNTY OF SAN
 FRANCISCO, a charter city and county,

20 Plaintiff/Petitioner,

21 vs.

22 STATE OF CALIFORNIA, et al.

23 Defendants/Respondents.

JUDICIAL COUNCIL COORDINATION
 PROCEEDING NO. 4365

Case No. 429-539
 (Consolidated with Case No. 504-038)

DECLARATION OF STEVEN L.
 NOCK IN SUPPORT OF SAN
 FRANCISCO'S REPLY TO STATE OF
 CALIFORNIA'S OPPOSITION TO
 PETITION FOR WRIT OF MANDATE

Hearing Date: December 22, 2004
 Hearing Judge: Richard A. Kramer
 Time: 9:30 A.M.
 Place: 304

Date Action Filed: March 11, 2004
 Trial Date: Not set

1 I, STEVEN L. NOCK, declare as follows:

2 1. I have personal knowledge of the facts contained herein, except for those facts stated on
3 information and belief, and as to those facts I believe them be true. If called upon to testify, I could
4 and would testify hereto.

5 2. I am a Professor of Sociology at the University of Virginia. I have been teaching since
6 1978 on both the graduate and undergraduate level. I am also the co-founder of the Center for
7 Children, Families and the Law at the University of Virginia, which is a center for multi-
8 disciplinary research and teaching on children and families.

9 3. My special interest is research regarding families, particularly issues concerning
10 marriage and co-habitation. I have conducted extensive research into these issues and written many
11 articles related to that research. I am the author of six books and over 75 articles on issues related to
12 marriage, divorce and co-habitation. My most recent book, Marriage in Men's Lives, received the
13 1999 American Sociological Association's William J. Goode Book Award for the most outstanding
14 contribution to family scholarship. My curriculum vitae is attached hereto as Exhibit A.

15 4. I am currently the Chair of the American Sociological Association (ASA) Family
16 Section. Sociologists with particular interest in households and families join, and are represented
17 by, this section of the organization. There are presently over 700 members. I was elected by the
18 membership of this section to serve as Chair for 2004-2005. In my role as Chair, I organize all
19 sessions at the annual ASA meeting, coordinate issues of leadership, nominations, awards, and
20 communication.

21 5. I have also been a consultant with the Administration for Children and Families, which
22 is part of the federal Health and Human Services Department; the Canadian Department of Justice
23 on the marriage of same sex couples; the State of Oklahoma on the Oklahoma Marriage Initiative;
24 and been qualified as an expert witness in federal court on the design, administration and analysis of
25 sample surveys.

1 6. I was also the Director of the Marriage Matters Project, which was a five-year research
2 effort that concluded in 2004. It was supported by the National Science Foundation and the Smith
3 Richardson Foundation. This research examines Covenant Marriage in Louisiana, which is an
4 alternative legal status of marriage that has greater barriers to entering and leaving the marriage.

5 7. My research is focused on the factors that lead individuals into marriage, divorce or
6 cohabitation, and the consequences of entering into these statuses. Almost all my research has been
7 based on quantitative analyses of large, nationally representative samples of adults.

8 8. As a sociologist, I use demographic data to attempt to make conclusions regarding
9 correlative factors among types of people. In order to ensure accuracy of this science, sociologists
10 must study statistically representative samples of definable populations. This requires the use of
11 probability sampling, in which every person in that population has a known probability of being
12 included in the resulting sample. We then apply statistical analyses to the data and attempt to
13 account for variables that may affect a conclusion. For example, if we believe that age or
14 educational attainment may affect an outcome, we compare persons of similar ages and educational
15 levels. We can then use the resulting data to analyze these samples in order to make inferences to
16 the larger population.

17 9. I have used scientific studies to, among other things, examine the differences between
18 marriage and cohabitation, measure the elements of commitment and dependency in marriages, and
19 study the different outcomes for children who are raised by various types of families. I have also
20 read extensively the scientific studies produced by other demographers, including Andrew Churlin
21 at Johns Hopkins University, Sara McLanahan at Princeton University, Paul Amato at Penn State,
22 and other sociologists who similarly study marriage and families.

23 10. Both basic observation and social science have shown that marriage is a central element
24 of our culture. Marriage is our primary means of creating and defining family roles and duties.
25 However, studies have shown that our society increasingly no longer defines the central functions of
26 marriage by reference to parenthood and procreation. Rather, it appears that sentiment or affection
27 is currently replacing those bases of marriage, particularly among young people. See, for example,
28

1 Cherlin, *The Deinstitutionalization of Marriage*, *Journal of Marriage and the Family*, Vol. 66, No 4,
2 2004, pp. 848-861, for a discussion of this argument, and a review of related evidence. I believe
3 that there is some consensus among sociologists that marrying the person with whom you are "in
4 love" is one of the commonly understood bases for marriage.

5 11. I have throughout my 25 years of study examined the effects of marriage on men,
6 women, and children. I have worked on and reviewed numerous sociological studies that have
7 shown that marriage as a legal and societal construct creates significant benefits to the married
8 couple and society in general. The scientific studies that I have conducted and reviewed have
9 convinced me that marriage is the primary source of well being for adults in the United States.

10 12. In an article entitled *Why Marriage Matters: Twenty-One Conclusions from the Social*
11 *Sciences*, *American Experiment Quarterly*, Vol. 5, No. 1, Spring 2002, pp. 34-44, I and other
12 authors summarized some of these benefits. Our fundamental conclusion was that "marriage is an
13 important social good, associated with an impressively broad array of positive outcomes for
14 children and adults alike." A copy of that article is attached hereto as Exhibit B.

15 13. Studies have shown that marriage confers benefits on the married couple in two broad
16 general areas: health, both emotional and physical, and wealth accumulation. Married persons are
17 healthier, live longer, and have far lower instances of disability than do single or divorced people.
18 They generally have fewer fatal accidents, chronic illnesses and alcoholism. Both married men and
19 married women have far fewer incidents of depression and suicide. Glenn, Nock & Waite, *Why*
20 *Marriage Matters*, supra, at pp. 40-41; see also Waite & Gallagher, *The Case for Marriage*
21 (Doubleday 2000) pp. 47-51, 70-71 and studies cited therein.

22 14. The health benefits experienced by married people occur in part because married people
23 generally have a healthier life style, such as less drug use and alcohol consumption, and better
24 eating and sleeping habits. They also benefit from having someone else to assist in managing one's
25 health. Also, the commitment to their relationship contributes to their ability to endure the
26 problems associated with the health problems of their partner. Glenn, Nock & Waite, *Why*
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28

1 Marriage Matters, supra, p. 41, Waite & Gallagher, The Case for Marriage, supra, pp. 52-64, and
2 studies cited therein.

3 15. Married people generally have more financial resources than non-married persons.
4 Marriage seems to be a wealth-creating institution. Married couples build more wealth, not only
5 because partnerships are economically efficient, but also because marital social norms seem to
6 encourage productive behavior and wealth accumulation. For example, married couples are more
7 likely to receive bequests from both sets of the couple's parents. Glenn, Nock & Waite, Why
8 Marriage Matters, supra, p. 38, Waite & Gallagher, the Case for Marriage, supra, pp. 112-114.

9 16. In 1995, I wrote an article that studied the differences between cohabiting and married
10 couples, A Comparison of Marriages and Cohabiting Relationships, Journal of Family Issues, Vol.
11 16, No. 1, January 1995, pp. 53-76. I studied four areas of the relationship: Commitment,
12 intergenerational relationships, relationship quality, and ideal fertility (how many children the
13 couple would like to have). I used data from 13,017 individuals interviewed between 1987 and
14 1988, which included 6,881 married couples and 682 cohabiting couples.

15 17. In studying commitment, five questions were asked about the perceived costs and
16 benefits of separation. Cohabiting couples reported that ending their relationship would have fewer
17 negative consequences than did married couples, thus indicating that commitment is lower in
18 cohabitation than marriage. In studying intergenerational relationships, the persons interviewed
19 were asked to rate their relationships with their mother and with their father. Cohabiting couples
20 reported generally poorer relationships with their parents than did married couples. For relationship
21 quality, I examined responses to questions regarding satisfaction, frequency of disagreement, and
22 perceived fairness. The results indicated that cohabiters are significantly less happy than married
23 persons.

1 18. I used the numbers we obtained in these studies to determine whether reported happiness
2 was a function of the other differences measured. The results indicated that greater happiness is
3 correlated with increased commitment and better intergenerational relationships. In other words,
4 greater happiness in a relationship generally occurs when the couple is strongly committed to the
5 relationship and has a good relationship with the parents.

6 19. Also in 1995, I wrote an article entitled Commitment and Dependency in Marriage,
7 Journal of Marriage and the Family, Vol. 57, No. 2, May 1995, pp. 503-514. Using a sample of
8 2,331 individuals, I examined the relationship between commitment and dependency in a marriage.
9 I used the measure of the imagined consequences of termination of the marriage, and data
10 regarding relative income, educational attainment, occupational prestige, the presence of children,
11 and the imagined commitment of one's spouse, to attempt to correlate dependency with
12 commitment. I found that income, occupational and labor dependency (i.e., housework) increase a
13 commitment to marriage, but that the strongest correlation was between the perceived commitment
14 of one's spouse and the individual's commitment to the marriage. In other words, both individuals
15 are more committed to the relationship if they believe that the other partner is also highly
16 committed.

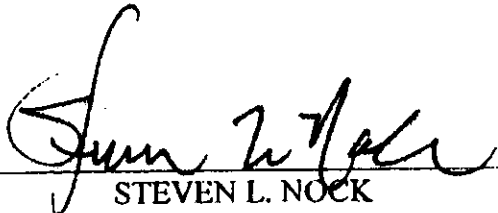
17 20. Studies have shown that the "exit costs" of a marriage contribute to the benefits
18 conferred in part because these exit costs increase levels of commitment. Nock, Commitment and
19 Dependency in Marriage, Journal of Marriage and the Family, supra, pp. 504-505. These exit costs
20 are both legal and social in nature. *Id.* Exit costs are increased by laws governing dissolution.
21 Thus, laws related to marriage do not simply reflect the status of the institution, but have an effect
22 on its functioning.

23 21. Societal expectations also increase the exit costs of a marriage. Society has standards for
24 the actions of married people. Marriage is considered a permanent union. Waite & Gallagher,
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26
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1 The Case for Marriage, supra, p. 37. For example, it is expected that they will attempt to
2 work out their problems, and separate only if their relationship problems are intractable.
3 Other people, including friends, relatives, and parents react negatively when a married
4 couple violates these societal rules, thus increasing exit costs. Nock, A Comparison of
5 Marriages and Cohabiting Relationships, Journal of Family Issues, supra, p. 74.

6 22. Sociologists have consistently found that cohabitation is not the functional equivalent of
7 marriage. See, e.g., Nock, A Comparison of Marriages and Cohabiting Relationships,
8 Journal of Family Issues, supra; Seltzer, Families Formed Outside Marriage, Journal of
9 Marriage and Family, Vol. 62, No. 4, November 2000, p. 1247. Cohabiting does not
10 create the same economic, health, or psychological benefits. Although it is not entirely clear
11 as to why cohabitation is not the functional equivalent of marriage, cohabitation is not
12 governed by strong consensual norms or formal laws. Thus, the parties must work out for
13 themselves, without assumed guidelines, how they are going to function as a couple within
14 their household, and within society. For example, although relations with parents and in-
15 laws may be difficult at times, both sets of relatives are recognized to have a legitimate
16 interest in their offspring's marriages. In contrast, the roles of parents of cohabiting couples
17 are not as clearly understood by any of the parties involved. Nock, A Comparison of
18 Marriages and Cohabiting Relationships, Journal of Family Issues, supra, p. 74.

19
20 I declare under the penalty of perjury under the laws of the State of California that the
21 foregoing is true and correct. Executed on November 22, 2004, in Charlottesville,
22 VIRGINIA.

23
24 
25 STEVEN L. NOCK

UNIVERSITY OF VIRGINIA

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CHARLOTTESVILLE, VIRGINIA 22904-4766

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SAN FRANCISCO ATTORNEY OFFICE

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FROM: STEVE NOCK

OF PAGES INCLUDING COVER: 8

Message:

Will have read materials by noon Monday

EXHIBIT A

Curriculum Vitae

Steven Nock

Home
640 Explorers Rd.
Charlottesville, VA 22901

Education

1976 Ph.D., Sociology with Distinction, University of
Massachusetts, Amherst

1975 M.A., Sociology, University of Massachusetts,
Amherst

1972 B.A., Sociology and Psychology, University of
Richmond

Present Position

2004-present

Professor, Department of Sociology &
Psychology, University of Virginia

Former Positions

1994-2004 Professor, Department of Sociology, University
of Virginia

1984-93 Associate Professor, Department of Sociology,
University of Virginia

1978-84 Assistant Professor, Department of Sociology,
University of Virginia

1976-78 Assistant Professor, Department of Sociology,
Tulane University

Academic Honors and Awards

2004 Chair, American Sociological Association Family
Section

1999 William J. Goode Book Award, American

Sociological Association Family Section, for *Marriage in Men's Lives*

1991-92 All-University Outstanding Teacher of the Year Award

Phi Beta Kappa National Honor Society

Research Appointments

2002 Principal Investigator, with P. Kingston as Co-Principal Investigator, "The Distribution of Obligations" funded by National Science Foundation

1999 Principal Investigator, with L. Sanchez and J. Wright as Co-Principal Investigators. "Implementation of Covenant Marriage in Louisiana," funded by Smith Richardson Foundation

1999 Principal Investigator, with L. Sanchez and J. Wright as CO-Principal Investigators. "Covenant Marriage a Solution to the American Divorce Problem," funded by National Science Foundation

1998 Principal Investigator, with L. Sanchez and J. Wright as CO-Principal Investigators. "Impact of the Covenant Marriage Law on Families," funded by National Science Foundation

1996 University of Virginia, Board of Visitors. To create the Center for the Study of Children, Families, and the Law. (Steven Nock, Robert Emery, and Elizabeth Scott)

1993 US Department of Health and Human Services, National Heart, Lung, and Blood Institute. Smoking Cessation Programs in Black Churches. (John Schoring, MD, P.I.)

1986-1987 Co-Principal Investigator with P.W. Kingston, Principal Investigator. "Work Schedules and Family Life Among Dual-Earner Couples" funded by National Service Foundation

Professional Activities

Editorial

<http://www.virginia.edu/sociology/peopleofsociology/snock.htm>

11/22/2004

Associate Editor/Editorial Board - *Social Forces*

Associate Editor/Editorial Board - *Journal of Marriage and the Family*

Service

Search Committee, Dean of College of Arts and Sciences, 2001

Director, Graduate Studies, 1987, 1989-1990, 1994-1999

Chairman, Faculty Recruiting Committee, 1991-1992

Chairman, University Steering Committee on Student Assessment, Office of the Provost, 1987-1988

Chairman, Committee on Educational Policy and the Curriculum, College of Arts and Sciences, 1987

Director, Undergraduate Studies, 1980-1983, 1985-1986

Chairman, Committee on Special Programs, College of Arts and Sciences, 1986

Dissertation Improvement Award Committee, Sociology Program, National Science Foundation

William J. Goode book Award Committee, American Sociological Association, Family Section

Professional Membership

Population Association of America

American Sociology Association

Southern Sociological Society

National Council on Family Relations

Consultations

Administration for Children and Families (H.H.S.) 2003

Department of Justice, Canada on gay and lesbian marriage 2001

State of Oklahoma, Oklahoma Marriage Initiative, 2001-05

National Collegiate Athletic Association, 1993-1997

Qualified as Expert Witness in U.S. Federal District Court (Washington, D.C.) on the Design, Administration, and Analysis of Sample Surveys. 1986

National Research Council, Committee on Child Development, Research, and Public Policy, 1978-1981

Southeastern Institute of Research, Inc. Richmond, VA.

Selected Publications

Books

Measuring Social Judgment: The Factorial Survey Approach, Peter H. Rossi and Steven L. Nock (eds.), Beverly Hills: Sage, 1982

Introduction to Sociology, Lewis A. Coser, Steven L. Nock, Patricia A. Steffan, and Daphne G. Spain, San Diego: Harcourt-Brace Jovanovich, (First edition, 1983; second edition, 1987; third edition, 1991)

Sociology of the Family, Englewood Cliffs, New Jersey: Prentice-Hall, (First edition, 1987; Second edition, 1992)

The Sociology of Public Issues, Steven Nock and Paul Kingston, Belmont, CA: Wadsworth, 1989

The Costs of Privacy: Reputation and Surveillance in America, New York: Aldine de Gruyter, 1993

Marriage in Men's Lives, New York: Oxford University Press, 1998, Winner of the 1999 American Sociological Association Family Section William J. Goode Book Award for the most outstanding contribution to family scholarship

Articles

"Ascription Versus Achievement in the Attribution of Family Social Status," (with Peter H. Rossi), *American*

Journal of Sociology, 84 (1978), No. 3: 565-90

"The Family Life Cycle: Empirical or Conceptual Tool?" (with Peter Rossi), *Journal of Marriage and the Family*, 41 (1979), No. 1: 15-26

"Household Types and Social Standing," *Social Forces*, 57 (1979), No. 4: 1325-1345

"The Life-Cycle (Developmental) Approach to Family Analysis" in *The Handbook of Development Psychology*, Benjamin B. Wolman (ed.), Prentice-Hall, 1981

"Family Life Cycle Transitions: Longitudinal Effects on Family Members," *Journal of Marriage and the Family*, 43 (Aug. 1981): 703-714

"Enduring Effects of Marital Disruption and Subsequent Living Arrangements," *Journal of Family Issues*, 3 (March 1982): 25-40

"The Family Work Day," (with Paul Kingston), *Journal of Marriage and the Family*, Vol. 46 (May 1984)

"Dual Career Couples," (with Daphne Spain), *American Demographics*, August 1984, Vol. 6 (no. 8)

"Consequences of the Family Work Day," (with Paul Kingston), *Journal of Marriage and the Family*, Vol. 47 (August 1985): 619-629

"Time Together among Dual-Earner Couples," (with Paul Kingston), *American Sociological Review*, 52 (June 1987): 391-400

"The Symbolic Meaning of Childbearing," *Journal of Family Issues*, Vol. 8, No. 4 (Dec. 1987): 373-394

"Time with Children: The Impact of Couples' Work-Time Commitments," (with P. Kingston), *Social Forces*, 67 (Sept. 1988): 59-85

"The Family and Hierarchy: A Theory of Family Structure and Adult Achievement," *Journal of Marriage and the Family*, 50 (Nov. 1988): 957-966

"The Division of Leisure and Work," (with P. Kingston), *Social Science Quarterly*, 70 (March 1989): 23-39

"Children Reared in Single-Parent Versus Two-Parent Families," *Medical Aspects of Human Sexuality*, 23 (Sept. 1989): 25-28

"The Separation of Sex, Gestation, and Genetics from Parenthood," *The Tocqueville Review*, 10(1990): 113-134

"Divorce," pages 505-513 in E.F. Borgatta and M.L. Borgatta (eds.), *Encyclopedia of Sociology*, New York: Macmillan, 1991

"Couples' Joint Work Status and Community and Social Attachments," (with P. Kingston), *Social Science Quarterly*, 73 (1992): 862-875

"The Effects of Childhood Family Structure and Perceptions of Parents' Marital Happiness on Familial Aspirations," (with M. Willets-Bloom), *Journal of Divorce and Remarriage*, 21 (1992): 3-23

"Changing Family Structure and Surveillance in the United States," *International Journal of Family and Marriage*, 1 (1993): 35-52

"The Influence of Maternal Employment on Gender Role Attitudes of Men and Women," (with M. Willets-Bloom), *Sex Roles*, Vol. 30 (1994): 371-390

"Abortion, Adoption, and Marriage: Alternative Resolutions to an Unwanted Pregnancy," *Family Relations*, Vol. 43 (1994): 277-79

"A Comparison of Marriages and Cohabiting Relationships," 11 *Journal of Family Issues*, Vol. 16 (Jan 1995):53-76

"Commitment and Dependency in Marriage," *Journal of Marriage and the Family*, Vol. 57 (1995): 503-514

"Spouse Preferences of Never-Married, Divorced, and Cohabiting Americans," *Journal of Divorce and Remarriage*, Vol. 22, No. 3/4 (1995): 91-108

- "Too Much Privacy?" *Journal of Family Issues*, Vol. 19 (1998): 101-118
- "The Consequences of Premarital Fatherhood," *American Sociological Review*, 63 (April 1998): 250-263
- "Turn-Taking as Rational Behavior," *Social Science Research*, 27 (1998): 235-244
- "America's Divorce Problem," (with J. Wright and L. Sanchez), *Society*, 36 (4) 1999: 43-52
- "The Problem with Marriage" *Society*, 36 (5) 1999: 20-27
- "The Divorce of Marriage and Parenthood," *Journal of Family Therapy*, 22 (2) 2000
- "Time and Gender in Marriage," *Virginia Law Review* 86, No. 8:1971-87, 2001
- "Weak Men and Disorderly women; Divorce and the Division of Labor," in *Marriage and Divorce: A Law and Economics Approach*, Dnes and Rowthorn, (eds.), Cambridge University Press (with Margaret Brinig) 2002
- "Privacy and Living Arrangements," *The Responsive Community*, Vol. 10, No. 2, 2000
- "Is Spanking Universal?" *Virginia Journal of Social Policy and the Law*, 8 (1), 2001
- "The Marriages of Equally Dependent Spouses," *Journal of Family Issues*, 22 (6) 2001
- "Setting the Clock Forward or Back? Covenant Marriages and the Divorce Revolution." (L. Sanchez, S. Nock, J. Wright, C. Gager) *Journal of Family Issues*, 23, 2001
- "Why Not Marriage?" *Virginia Journal of Law and Social Policy*, 9, 2001
- "Marriage and Fatherhood in the Lives of African-American Men," in *Black Fathers on Contemporary American Society*, O. Clayton Ronald Mincy and D. Blankenhorn (eds.) Russell Sage 2003

"Attitudes about Covenant Marriage and Divorce: Policy Implications from a Three-State Comparison" (with A. Hawkins, J. Wilson, L. Sanchez, and J. Wright), *Family Relations* 51, 2002.

"The Future of Public Laws for Private Marriages," *The Good Society* 11 (3), 2003

"Why Marriage Matters: Twenty-One Conclusions from the Social Sciences." *The American Experiment Quarterly*, 5 (1):34-44, 2002. (with L. Waite and N. Glenn).

"When Married Spouses are Equal." *Virginian Journal of Social Policy and the Law*, Vol. 9, 2002.

"Covenant Marriage Turns five Years Old" (with L. Sanchez, J. Wright, and J. Wilson), *Michigan Journal of Gender and Law* 10, 2003

"How Much Does Legal Status Matter? Adoptions by Kin Caregivers," (M. Brinig and S. Nock) *Family Law Quarterly*, 36, 2003

"I Only Want Trust: Norms, Trust, and Autonomy" (M. Brinig and S. Nock) *Journal of Socio-Economics* 32, 2003

"The Social Costs of Deinstitutionalizing Marriage" Pp 1-14 in A. Hawkins, L. Wardle, and D. Coolidge (eds.) *Revitalizing the Institution of Marriage for the Twenty-First Century*, Greenwood Press, 2002

"What Does Covenant Mean for Relationships?" (M. Brinig and S. Nock) 18, 2004

The Pros and Cons of Covenant Marriage as a Legal Intervention to Strengthen American Marriage," (L. Sanchez, S. Nock, and J. Wright) *Vision 2003: Contemporary Family Issues*, National Council on Family Relations