

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

LEINANI DESLANDES, on behalf of herself
and all others similarly situated,

Plaintiff

v.

McDONALD'S USA, LLC, *et al.*

Defendants.

Civil Case No. 17-cv-04857

Judge Jorge L. Alonso
Magistrate Judge M. David Weisman

STEPHANIE TURNER, on behalf of herself
and all others similarly situated,

Plaintiff,

v.

McDONALD'S USA, LLC, *et al.*

Defendants.

Civil No. 19-cv-05524

**PLAINTIFFS' OPPOSITION TO DEFENDANTS' MOTION TO EXCLUDE THE
REPORT AND TESTIMONY OF PETER CAPPELLI, D. PHIL.**

McDonald's renewed motion to exclude the opinions and testimony of Dr. Cappelli (Dkt. 411) should be denied for the reasons explained in Plaintiffs' opposition to the first iteration of that motion, which Plaintiffs incorporate herein by reference. *See* Pltfs' Mem. in Opp. to Mtn. to Exclude Dr. Cappelli (Dkts. 327 (sealed), 328 (public)). As set forth therein, Dr. Cappelli's expert report (Dkts. 270-6 (sealed), 271-6 (public) ("Cappelli Rept.)) and rebuttal report (Dkts. 330-2 (sealed), 329-2 (public) ("Cappelli Rebuttal")), easily meet the standard for admissibility.

McDonald's asserts, Dkt. 411 at 1-2, that Plaintiffs "now rely" on Dr. Cappelli's opinions and testimony in the competing summary judgment motions, calling attention to Paragraphs 55-67 of Plaintiffs' Statement of Material Facts (Dkts. 403 (sealed), 402 (public)). Fewer than half

of those SMF paragraphs make any reference at all to Dr. Cappelli's opinions. *Compare* ¶¶ 56-58, 60, 61, and 64 (referring to Dr. Cappelli) *with* ¶¶ 55, 59, 62, 63, 65-67 (no mention of Dr. Cappelli). And where they do reference Dr. Cappelli's report, all but one of those SMF paragraphs also cite McDonald's own expert Dr. McCrary for a consistent or related proposition. *See id.* at ¶¶ 57, 58, 60, 61, 64. The lone SMF paragraph relying on Dr. Cappelli's work that is not also supported by Dr. McCrary's opinion is SMF Paragraph 56, which cites to Dr. Cappelli's summaries of empirical research. *Id.* ¶ 56. All of which is to say, Dr. Cappelli did not simply "imagine" a relevant service market of workers with McDonald's-specific training, any more than he simply "assumed that *all* McDonald's training is specific to McDonald's." Dkt. 411 (emphasis in original). In fact, as Plaintiffs have noted, Dr. Cappelli readily acknowledged that some training has general applicability although he opined McDonald's restaurant employees receive training and skills "of value primarily to McDonald's employers." Dkt. 327 at 3 (citing Cappelli Rept. 48, 60).

Dr. Cappelli's opinions are based on his study of empirical research relied on in labor economics, his expertise, and analysis of record evidence in the case. Cappelli Rept. ¶¶ 1-4; *see also generally id.* His opinions—and particularly those concerning the distinction between general and specific training, the importance of standardized training in the McDonald's system, and to whom that training is most valuable—are largely consistent with the opinions of McDonald's own expert, Dr. McCrary, on those points. Dkt. 403 ¶¶ 57, 58, 60, 61, 64. For these reasons, and for all the reasons in Plaintiffs' Mem. in Opp. to Mtn. to Exclude Dr. Cappelli (Dkts. 327, 328), McDonald's motion should be denied.

Dated: December 21, 2021

Respectfully submitted,

s/Derek Y. Brandt

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CERTIFICATE OF SERVICE

I, Derek Y. Brandt, an attorney, hereby certify that the foregoing Plaintiffs' Opposition to Defendants' Motion to Exclude the Report and Testimony of Peter Cappelli, D. Phil. was electronically filed on December 21, 2021 and will be served electronically via the Court's ECF Notice system upon the registered parties of record.

s/Derek Y. Brandt

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