of the plaintiffs' expert?" He said to me: "You don't understand. If the plaintiffs' expert hadn't been busy running multiple regressions she might have taken a closer look at the employee manual which describes what in essence is a two-tiered job system. Men are channelled into one tier and women into the other. After that, virtually all employment decisions follow as a matter of course. When our expert responded by running his own regressions, the lawyers were quite pleased. They believed that the outcome would have been far worse if he had explained to the court what we really do because then the judge could easily have concluded that our system was discriminatory on its face."

Within Dempster's framework, I had special difficulty in understanding the distinction he attempts to draw between judgmental discrimination and prejudicial discrimination. For me, attributing judgmental discrimination to "a presumed honest attempt to assess productivity" is ignoring the realities of the legal meaning of discrimination and the judicial injunction that statisticians cannot use intrinsically tainted carriers of discrimination as predictors in their statistical models. It is all well and good for Dempster to say that his definition of fairness implies that "there is no restriction at all on the variables admitted to X^*," but it won't do him much good if he attempts to take his framework into the courtroom. This is the

problem I alluded to at the beginning of this comment. When statisticians use labels with nonstatistical, value-laden meanings to interpret coefficients and variables in an abstract statistical model, they cannot hope to advance statistical science. Nor can they expect agreement on the interpretation of their statistical efforts in adversarial settings.

ACKNOWLEDGMENT

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Rejoinder

Arthur P. Dempster

1. FRANKLIN FISHER

Much of Franklin Fisher's commentary consists of adversarial argumentation of a sort often heard in courtrooms. In my paper, I mainly kept discussion of active legal processes in the background, because the issues I was discussing were intended to be primarily scientific. But I accept that it is fair tactics on his part, given that our relationship apparently continues to be adversarial in the scientific realm, to bring out that my practical experience was primarily in advising counsel and testifying on behalf of defendants (i.e., employers), while he served on behalf of plaintiffs (i.e., in some cases one or more employees who believed themselves to be victims of discrimination, or in other cases the government acting on behalf of a protected class of employees whether or not grievances had been registered).

That we chose sides as we did is presumably not a chance result. For my part, I believe that the explanation has nothing to do with a predilection to find for one side or the other. Rather, my preference resulted from a conviction that the statistical strategies typically pursued by plaintiffs in employment discrimination cases were serious flawed, as I continue to believe. No doubt Fisher can offer a parallel explanation for his choice of side. But the symmetry ends there, for he evidently feels that the validity of direct regression methods is such that plaintiffs' cases are often proved by statistical arguments, whereas my expert view of the epistemic deficiencies of many plaintiffs' experts' statistical arguments suggests that no statistically based judgments should be reached until the defects in the arguments are repaired. The repairs will be difficult and demanding in terms of commitment of professional resources, because they