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RESPONSES

I AIN'T GONNA WORK ON ZOE'S FARM NO MORE: REPLY TO SUSAN GROVER*

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In her recent contribution to this Review, Susan Grover uses the example of Zoe Baird to "place[ ] in stark relief the problems of duality and consequent fragmentation that characterize the lives of all professionals, but particularly female professionals who are parents."[1] For "wage-earning mothers" such as Baird, Grover argues, the appropriate "antidote . . . is integration of our persons and our lives so that we can truly feel that the person who changes the diapers and nurses the infant is actually the same person who argues to the court, negotiates with opposing counsel and lectures to the bar."[2]

Although Grover's attempt to analyze female workers' and especially mother-lawyers' peculiar "fragmentation" might have been fruitful, her use of Zoe Baird as a vehicle of interpretation is singularly inapt. That Grover's approach uncritically ignores the contradictions of "integration" under capitalism flows from the contradictions of bourgeois feminism. A liberation movement so fixated on securing equal representation for women in the formerly all-male ruling class and its various ideological auxiliaries can achieve its ends only by ignoring the social content and meaning of the positions that it aspires to occupy.

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1. Susan S. Grover, *Zoe Baird, Betrayal and Fragmentation*, 2 S. CAL. REV. L. & WOMEN'S STUD. 429, 430 (1993).

2. *Id.* at 430-31.

Grover credits Baird with having performed a "public service"[3] at her Senate confirmation hearing where she stated that "she had acted as a mother, not as a lawyer" when she violated multiple federal statutes in connection with her employment of personal servants.[4] This allegation, according to Grover, focused public attention on the aforementioned phenomenon of "duality." Whence the "duality" in Baird's self-serving sworn claim, which was designed to salvage her nomination? Grover sees it in the implication that "wage-earning women" are so burdened by their paid employment that they "want . . . to fall back on motherhood to excuse otherwise unacceptable behaviors" such as violating federal law.[5] Because Grover one-sidedly views lawyers' "problem-solving" as a societally neutral or positive activity,[6] she overlooks the unitary character of Baird's unlawful conduct as an employer in her own right and what feminists should regard as Baird's "unacceptable behaviors" as a lawyer. Grover fails to note—let alone deal with—the "fragmentation" that arises from the fact that some lawyers solve their clients' profit problems by creating or perpetuating problems for millions of non-capitalist women and men.

To take Baird's case: In what sense does drawing $10,000 a week to develop strategies for blocking discussion of a single-payer national health care program so that her employer, Aetna Life & Casualty Co., can continue to "collect[ ] billions of dollars in health insurance premiums,"[7] while she herself violated the rights of her own household employees, subject Baird to "a pathological sort of schizophrenia?"[8] Only in the same Pickwickian sense in which Clarence Thomas, in denying Anita Hill's charges, could be said to have focused attention on the duality between being a lawyer defending lecherous employers and being a lecherous employer himself. Aetna, by the way, is the same company that Ralph Nader has called "the mad dog of the insurance industry" for its attacks on injured people's right to sue for damages.[9] If Grover believes that "[i]ntegration would mean we had

3. *Id.* at 429, 433-34.

4. *Id.* at 429.

5. *Id.* at 429.

6. *Id.* at 430 n.4.

7. *Physicians' Group Asks Senate to Reject Nomination of Zoe Baird*, PR NEWSWIRE, Jan. 14, 1993, *available in* Lexis, News Library.

8. Grover, *supra* note 1, at 434.

9. *Nader Criticizes Attorney General Nominee Over Tort Reform*, LIAB. WK., Jan. 11, 1993, *available in* Lexis, News Library.

nothing to hide"[10] so that the Zoe Bairds "can truly feel that the person who . . . nurses the infant is actually the same person who" promotes her employer's/client's individual capitalist interests, then she has inadvertently put her finger on bourgeois feminism's contribution to the inculcation of capitalist values in the next generation.

The way elite lawyers in fact overcome "fragmentation" is straightforward. Since men and women like Baird employ others to do their household dirty work instead of doing their own, a question might arise as to how they could ever integrate their lives. One privileged way they can avoid fragmentation is by occupying the apex of a workplace hierarchy so that other people (associates, paralegals, secretaries, janitors) can also do all of the partners' dirty work. The mass or unprivileged version of this flight from fragmentation, of course, looks very different. The secretaries of the Zoe Bairds of this society, for example, have always been able to "truly feel that the person who changes the diapers . . . is actually the same person who" does the typing and answers the phone. Because Grover makes the superficial phenomenon of "the facade of professionalism"[11] the linchpin of her analysis of the separate spheres that bifurcate elite working mothers' lives, she overlooks the privilege inherent in such fragmentation; for within Grover's framework, real wage-working mothers who, for example, scrub toilets in the hotels and office buildings occupied by professionals, would lead unfragmented lives.

On another level, the existence of the fragmentation alleged by Grover also evaporates: Just as corporate counsel facilitates Aetna's efforts to take advantage of its lopsidedly disparate litigation resources to dishonor or hold hostage the proper claims of or against its insureds, Baird exploited her household workers (and the rest of the taxpayers) by violating the Internal Revenue Code and failing to pay social security and unemployment insurance taxes for them, thus depriving them of the correlative benefits. This fact is invisible in Grover's account because she mentions only the morally insignificant issue of Baird's employment of illegal aliens. After all, it is unlikely that a scandal would have erupted if the public had (counterfactually) learned that Baird and her spouse had been using their $696,000 annual "earned income" (plus the interest and dividends from their

10. Grover, *supra* note 1, at 431.
11. *Id.* at 433.

$2.3 million in assets)[12] to pay two impoverished undocumented South Americans (say) $100,000 a year to run their home and be her chauffeur.

As long as the social division of labor is structured so as to privilege some to engage in very highly paid mentally challenging labor (regardless of its social value) while others are relegated to a one-sided life of low-paid drudgery, "fragmentation," a.k.a. alienation and exploitation, cannot be overcome. As 82-year-old Ann Ryder, a retired domestic worker, looking back on an occupation that Betty Friedan contemptuously deems appropriate for eight-year-olds,[13] observed: " 'Anybody who can get out of it, tell them don't do it. I mean, why should I go clean up your house when you can do it yourself? And why shouldn't you do it yourself?' "[14]

The extraordinary stresses created by the accelerated proletarianization of mothers during the past several decades in the United States can be relieved only by means of a transformation of work and family patterns, gendered social roles, and state welfare programs. The servant problem of the richest one-tenth of one percent of the population[15] is, however, irrelevant to the child-care needs of average working parents. In the words of Betsy Shackelford: "[T]his issue has nothing to do with feminism and everything to do with the wanton, callous, capitalistic exploitation of the reserve army of the unemployed."[16]

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12. Ronald J. Ostrow, *Baird Given $507,105 as Counsel for Aetna*, L.A. TIMES, Jan. 12, 1993, at A12.

13. BETTY FRIEDAN, THE FEMININE MYSTIQUE 256 (1963).

14. JUDITH ROLLINS, BETWEEN WOMEN: DOMESTICS AND THEIR EMPLOYERS 141 (1985).

15. INTERNAL REVENUE SERVICE, U.S. DEP'T OF THE TREASURY, PUB. NO. 1304, STATISTICS OF INCOME-1991: INDIVIDUAL INCOME TAX RETURNS 20 T.1.1 (revised Mar. 1994) (estimating that 0.1% of all 1991 federal individual income tax returns stated an adjusted gross income in excess of $500,000).

16. Letter to the Editor, N.Y. TIMES, Feb. 18, 1993, at A22.