

## COURT OF COMMON PLEAS

HAMILTON COUNTY, OHIO

TYLER BRUNS, )  
Plaintiff, ) CASE NO: A2300496  
vs. )  
BEACON ORTHOPAEDICS )  
SPORTS MEDICINE, LTD., et )  
al., )  
Defendants. )  
- - -

PARTIAL TRANSCRIPT OF  
SARA FORD  
JURY TRIAL TESTIMONY  
- - -

**APPEARANCES:**

Daniel N. Moore, Esq.,  
Kelly W. Thye, Esq.,  
THE MOORE LAW FIRM,  
On behalf of the Plaintiff.

Michael Lyon, Esq.,  
Jessie Greive, Esq.,  
Lindhorst & Dreidame,  
on behalf of Defendants, Seven Hills  
Anesthesia, And Sai Gundavarpu, MD.

David S. Lockemeyer, Esq..  
Bill J. Paliobeis, Esq.,  
Calderhead Lockemeyer & Peschke.  
on behalf of Beacon Orthopaedics, and  
Mohab Foad, MD.

BE IT REMEMBERED that upon the  
hearing of this cause, on Tuesday, May 27,  
2025, before the Honorable Wende C. Cross, a  
said judge of the said court, the following  
proceedings were had:

## 3                   EXAMINATIONS

4                   PLAINTIFF  
5                   WITNESSES:6                   **SARA FORD**

7                   Direct Examination by Mr. Moore.....P04  
8                   Cross-Examaination by Mr. Paliobeis.....P25  
9                   Redirect Examination by Mr. Moore.....P45

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23                  \*       \*       \*

Tuesday, May 27, 2025

\* \* \*

(other related matters in this case were reported, but not transcribed.)

THE COURT: All right.

Plaintiff, call your next witness.

11 THE COURT: Okay.

12 Ma'am, if you wouldn't mind coming  
13 up to the witness stand and raising your  
14 right hand to be sworn.

19 THE WITNESS: I do.

20 THE COURT: Thank you.

21                   This has an arm to it, so you can  
22                   move it about, up and down. And would  
23                   you mind tapping on it just to make sure  
24                   it's on.

25 THE WITNESS: (Complying.)

1                   THE COURT: All right. Thank you  
2                   very much.

3                   THE WITNESS: Thank you.

4                   THE COURT: You may examine.

5                   MR. MOORE: Thank you, Your Honor.

6                   SARA FORD,

7                   having been first duly sworn,  
8                   was examined and testified as  
9                   follows:

10                  DIRECT EXAMINATION

11                  BY MR. MOORE:

12                  Q.        okay. If you would just state  
13                  your name for the record.

14                  A.        Yes, my name is Sara Ford.

15                  Q.        okay.

16                  So I'm going to tell you right off  
17                  the start, I am pressed for time. We're going  
18                  to skip over some of your qualifications. I'm  
19                  going to show the ladies and gentlemen your CV.  
20                  Exhibit 32, please. I believe, ladies and  
21                  gentlemen, this has been stipulated to.

22                  okay. So your CV provides your  
23                  background and experience in this matter,  
24                  correct?

25                  A.        Yes.

1           Q.     okay.  what is your professional  
2 occupation?

3           A.     I am a Vocational Economic  
4 Analyst.

5           Q.     And what is that?

6           A.     It basically means that I assess  
7 how disability impacts someone when they're  
8 working and in their life.

9           Q.     okay.

10           MR. MOORE:  And based upon this  
11 stipulation to this CV, Your Honor, I'll  
12 tender this witness as an expert in  
13 vocational economics.

14           THE COURT:  Any objection?

15           MR. LOCKEMEYER:  No objection,  
16 Your Honor.

17           THE COURT:  All right.

18           Ladies and gentlemen, this witness  
19 is qualified to testify as an expert in  
20 the area of vocational economics.

21           MR. MOORE:  Okay.

22 BY MR. MOORE:

23           Q.     All right.

24           So I want to just jump right into  
25 is what your roll was in this case?  So can you

1 explain that for the ladies and gentlemen of  
2 the jury.

3 A. Absolutely. My roll is to examine  
4 how Mr. Bruns' injury impacts him in his  
5 ability to work. If there's a permanent  
6 impairment, that means injury to his body, that  
7 will impact him when he does -- when he does  
8 daily activities, that's daily living. Things  
9 like tying his shoes, that translates to work.  
10 So my job is to see how that impacts him.

11 Q. Okay. Thank you.

12 And I'm going to ask you some  
13 opinion questions today. And I always ask this  
14 at the beginning so we get it straight. Will  
15 you agree to express all of your opinions today  
16 to a reasonable degree of vocational certainty?

17 A. Yes.

18 Q. Okay. And then base those  
19 opinions on your education, your experience in  
20 your evaluation of this matter?

21 A. Yes.

22 Q. Okay. Thank you. All right.

23 So would you just walk the jury  
24 through what you did in this case to assess  
25 Tyler's vocational status and what it would be

1 in the future?

2 A. Sure. I looked at medical  
3 records, medical records from his treating  
4 doctors, from his surgeons, and then deposition  
5 testimony from him, from his family members.

6 I looked at information related to  
7 his employment records. And then I talked to  
8 him about the problems that he has on a  
9 day-to-day basis, and to find out how he's  
10 impacted.

11 Q. Okay.

12 And is the methodology that you  
13 just walked through of examining the records  
14 and talking to the patient, is that an accepted  
15 methodology in your field?

16 A. It is. You have to look at the  
17 medical records to understand what the  
18 impairment is, what the injury is to the body.

19 And then you have to talk to the  
20 person to make sure that they're having  
21 problems with that impairment. It could be  
22 that they're not having any difficulties doing  
23 things.

24 But when they do have  
25 difficulties, tying their shoes, going to

1 bathroom, zipping up their zippers, or working,  
2 then you have a loss of access to jobs in the  
3 labor market.

4 Q. okay.

5 And do you also consult known  
6 resources regarding the labor market?

7 A. Yes, all of my sources come from  
8 the Bureau of Labor Statistics, from the  
9 Dictionary of Occupational Titles from  
10 government sources identifying how people work,  
11 the physical aspects of performing work, and  
12 the mental aspect of performing work.

13 You have an injury to one of those  
14 things, you're likely to not work as long, and  
15 you're not likely to not earn as much.

16 Q. okay.

17 And there's things that you  
18 consulted produced by the Government. Are all  
19 of those things reliable and accepted sources  
20 for your occupation?

21 A. Absolutely. And they all tell us  
22 about the job market and help us decide what  
23 someone should be earning in that job. If  
24 you're creating a new company, how much  
25 information that you need to have in order to

1 hire someone. How much education that they  
2 might need to have, or what kind of work setup  
3 that you have to hire that person.

4 Q. okay.

5 And so in your review, kind of  
6 moving into Tyler's situation specifically,  
7 have you reviewed the records and talking to  
8 Tyler those things that you couldn't look at,  
9 did you gain understanding of some of Tyler's  
10 problems that way?

11 A. Yes, absolutely.

12 Q. Would you explain those.

13 A. I gained an understanding of the  
14 fact that he's basically working with one arm.  
15 He's doing things at work. He's not doing the  
16 same things that he was doing before, and he's  
17 doing them basically with the use of one of his  
18 hands. So he's being accommodated right now in  
19 his job, but he's not doing what he was hired  
20 to do.

21 Q. okay.

22 So does Tyler have difficulty  
23 climbing -- or is it safe for Tyler to climb  
24 ladders?

25 A. It's definitely not safe for Tyler

1 to climb ladders. OSHA -- from what we all  
2 know, OSHA requires three points of contact  
3 when you're climbing ladders. One would be for  
4 your feet, and one would be your hand -- or two  
5 of those would be your hands and one would be  
6 your foot.

7 So because he can't grip a ladder  
8 with one of his hands, then it's not safe to  
9 climb ladders. It's definitely not safe to  
10 climb ladders in a factory.

11 Q. Okay.

12 And as far as the use of his hand,  
13 gripping things, or using it for any  
14 significant work task, is that a possibility  
15 for Tyler? Let me rephrase that.

16 Is he able, based upon your review  
17 of the materials in this case, to use his hand  
18 to grip things, grab things, and accomplish  
19 functional work tasks?

20 A. My understanding is that he's not  
21 able to grip with his left hand, which means  
22 that functionally, he's lifting with only his  
23 right hand. He's grabbing and lifting with  
24 only that right arm.

25 So putting things into a machine

1 would be difficult even if it's light enough to  
2 use one arm to do that. Tying his shoes or  
3 using a computer, typing, moving a mouse, all  
4 has to be done with one hand.

5 Q. okay.

6 And so what about -- you mentioned  
7 typing there for a second. So if Tyler wanted  
8 to use the left hand to type he can kind of  
9 hunt and peck with that one hand, is that  
10 right?

11 A. I mean, could he hunt and peck?  
12 He could try, but he's got four fingers on that  
13 hand, and he doesn't have the independent  
14 movement to move them, so he'd be hunting and  
15 pecking with just his largest finger or trying  
16 to rotate his arm to press one single key.

17 Q. So the idea of fluently typing  
18 with his left hand is out of the question, is  
19 that right?

20 A. That's correct. He's not going to  
21 be a fluent typer with that hand.

22 Q. okay.

23 And his inability to use that left  
24 hand to type normally, is that going to affect  
25 the number of occupations or jobs he has

1 available to him?

2                   A. It does. Data from the Bureau of  
3 Labor Statistics tells us that 99 percent of  
4 the jobs in the labor market require either  
5 gross or fine manipulation skills. Gross  
6 meaning using his hand to grip things,  
7 something that might be bigger, like a teacher  
8 holding an eraser to erase a chalkboard. Fine  
9 manipulation would be like typing or using a  
10 pencil to write.

11                   And so 99 percent of almost all  
12 jobs out there require those manipulation  
13 skills. Even a truck driver, gross  
14 manipulation of a large steering wheel.  
15 Grabbing onto a stick shift.

16                   Fine manipulation would be filling  
17 out a bill of lading or you're writing things  
18 down, typing things into a computer. These  
19 things are all present in a majority of  
20 occupations that exist.

21                   Q. Okay. Thank you.

22                   And these limitations that you've  
23 been discussing with his hand from a patient  
24 perspective, how does that impact him as a job  
25 candidate? So if he were to go look for a job

1 or to get a performance evaluation or about his  
2 ability to actually perform, can you please  
3 explain how that's going to affect him in the  
4 future?

5 A. Yes, so obviously he has to  
6 compete for a job. He has to interview for the  
7 job, be the best candidate for the job.  
8 Anything that he tries to do is going to be  
9 impacted by the use of that hand.

10 So if he tries to go and get a  
11 different job, we know that most people have a  
12 lot of jobs in their 20's as they're trying to  
13 figure things out. So if he tries to go to a  
14 different job he's going to face competition  
15 for that job. He's got to prove that he's the  
16 one that should me hired, and he's got to be  
17 able to prove that he can do the job.

18 The data from every major survey  
19 and the existence of the Americans with  
20 Disabilities Act show us persons that have  
21 disabilities are often the last ones that are  
22 hired. And that they're often the first ones  
23 fired or the first ones reduced in labor  
24 forces, because of perceived ability to do a  
25 job, or because they might be a little bit

1 slower at the job, using one hand to type and  
2 using that same hand to move the mouse. He  
3 might not be as productive as he once was able  
4 to be.

5 Q. okay.

6 And, Ms. Ford, do you have an  
7 opinion to a reasonable degree of vocational  
8 certainty whether Tyler's -- or the injury to  
9 Tyler's left arm qualifies as a physical  
10 disability from a vocational standpoint?

11 A. From a vocational standpoint, it  
12 definitely qualifies as a physical disability.  
13 It limits his access to jobs in the labor  
14 market, the amount, the kind of work he's  
15 capable of doing, because of his ability to  
16 reach, lift, and carry.

17 Q. All right. And is Tyler currently  
18 employed?

19 A. He is. He's been employed since  
20 2019 with the same company. His brother  
21 started there with him. His brother has since  
22 moved on. And again, he's not doing the same  
23 job that he was doing before. He's kind of in  
24 a lighter duty position.

25 Q. okay.

1                   Has his ability to perform the job  
2 that he had at the time of his injury to his  
3 left arm been affected by this injury to the  
4 left arm?

5                   A.     Absolutely. So you mentioned  
6 climbing ladders. He's no longer climbing on  
7 top of machines. Inserting -- and you talked  
8 about using the motherboards, having to put  
9 those in, on top of machines.

10                  He uses a forklift, driving. And  
11 then he operates some of the cranes, but he  
12 can't operate the big overhead crane because it  
13 takes two hands.

14                  So there's a lot of things that he  
15 can't do, but he's doing the best that he can  
16 with what he has.

17                  Q.     Okay.

18                  Before the injury from the surgery  
19 performed by Dr. Foad, what was Tyler's  
20 capacity to work from a vocational perspective?

21                  A.     His job at the time of his injury  
22 was labeled as medium to heavy, meaning that he  
23 could lift 50 pounds or more. He could use his  
24 hands to manipulate objects, and he could  
25 basically do the things that he wanted to do

1 without any difficulties.

2                   His access to jobs now would have  
3 to be in that light range, much lighter, in  
4 terms of the weight that he's lifting. And  
5 even the sedentary category, he would have  
6 difficulties with the typing part.

7                   So he's lost access to a huge  
8 piece of the labor market that he once had  
9 access to before. Working on an assembly line  
10 in some cases that would require medium type of  
11 work.

12                Q.        okay.

13                And so on that topic, do you have  
14 an opinion to a reasonable vocational certainty  
15 whether Tyler has experienced a reduction in  
16 his labor market access as a result of his left  
17 arm and hand injury as the subject in this  
18 case?

19                A.        I agree.

20                Q.        And could you expound on that. I  
21 think you just kind of mentioned some of it,  
22 but tell us a little bit more.

23                A.        Using the data that we have,  
24 looking at all occupations in the United  
25 States, he had access to about 37 percent of

1 the jobs existing in the labor before.

2 Now he has access to about 20  
3 percent of those jobs, which means that his  
4 reduction is 45 percent. You look at the  
5 difference between 37 and 20, and then you  
6 divide that out, 45 percent of the jobs that he  
7 would have been able to perform are no longer  
8 available to him.

9 Q. Okay. And let's talk about --  
10 switch to earning capacity. So what is the  
11 content of his earning capacity from a  
12 vocational perspective? Will you explain that.

13 A. It's by how much you can earn when  
14 you're working. Basically, it's the brain and  
15 the bronze. It's your ability to do the job  
16 based on your skills, knowledge, and expertise.  
17 And it's also your ability to do the job from a  
18 physical standpoint that adds value.

19 Everyone has an earning capacity  
20 from the people that stay home to raise a  
21 family before going to back into the labor  
22 market, to the people that are young and maybe  
23 just starting out in the labor force that  
24 haven't realized their true earning capacity or  
25 potential for their lifetime.

1                   Q.        okay.

2                   And so there's also another  
3 concept that I think that's going to be worked  
4 together with the concept of earning capacity  
5 that I would like the jury to understand, and  
6 that's the worklife expectancy. Could you  
7 explain the worklife expectancy?

8                   A.        worklife expectancy is basically  
9 how long you expected you to work, based again,  
10 on those skills, time, expertise, the physical  
11 ability to perform a job.

12                   Typically the more education that  
13 you have, the longer that you work, and  
14 typically, if you're a male, you tend to work  
15 longer than a female. Your attachment to the  
16 labor force tends to be stronger from a  
17 statistical standpoint.

18                   And life expectancy, a total  
19 number of years that you'd be in the labor  
20 force, and based on your age, your gender, your  
21 education level.

22                   Q.        okay.

23                   Did you conduct an analysis of  
24 Tyler's annual earning capacity and whether  
25 that's been affected by his arm injury?

1           A.     I did.

2           Q.     Okay. Could you walk the jury  
3 through that analysis?

4           A.     Yes. So using Tyler's earnings at  
5 the time of his injury, and then projecting  
6 that out and indicating that he has a job, I'm  
7 expecting him to gain increases in his earnings  
8 as he gains experience, before this and even  
9 after an injury.

10           The difference is, it's a little  
11 bit flatter. He's not going to gain as much  
12 experience because he can't do many jobs. He's  
13 not going to gain as much income because he  
14 can't do as many jobs, and he's not going to be  
15 the top earner in those positions gaining  
16 experience and becoming a supervisor in that  
17 position.

18           Q.     Okay.

19           And did you conduct an analysis of  
20 Tyler's worklife expectancy?

21           A.     I did.

22           Q.     And could you explain what you  
23 came up with there?

24           A.     We talked a little bit about how  
25 disability impacts you when you're looking for

1 work, maintaining work. So we expect him, over  
2 his lifetime, to have a harder time finding and  
3 maintaining that job.

4 So I would expect his worklife to  
5 be reduced. If he maintains this is position,  
6 I would expect it to still be reduced.

7 And more likely if he loses his  
8 position, or if he decides to leave this job,  
9 and reducing him further than it otherwise  
10 would have been.

11 Q. Okay.

12 And you mentioned that you kind of  
13 looked at a couple different scenarios in this  
14 case, is that right?

15 A. Yes.

16 Q. Two different actually. One would  
17 be maintaining the position of his current job  
18 for the rest of his worklife, right?

19 A. Correct.

20 Q. And then one would be him either  
21 leaving or losing that job, and at some point  
22 having to find another job?

23 A. Correct.

24 Q. And from a reasonable vocational  
25 certainty, what is more likely to happen for

1 Tyler, have the job that he has now for the  
2 rest of his worklife, or for him to have to go  
3 find another job?

4 A. More likely he is expected to not  
5 be able to maintain this position. He'll have  
6 to find a new job, or he'll want to find a new  
7 job. And more likely than not, he will be  
8 unable to maintain his current position.

9 Q. And is that expected for somebody  
10 who's in their 20's?

11 A. It's expected for someone in their  
12 20's, and it's also expected for someone in  
13 their 20's with a disability.

14 Q. Okay. Thank you.

15 In other words, from a vocational  
16 perspective, do vocational analysts like  
17 yourself, expect people to maintain their  
18 job -- or one job for an entire career?

19 A. Definitely not. I mean,  
20 vocational experts don't expect that, and I  
21 don't know that any of us expect that. And the  
22 Bureau of Labor Statistics talks about having  
23 12 jobs over the course of your lifetime, five  
24 to six jobs maybe in your 20's because you're  
25 trying to figure out really what you want to

1 do. You're exploring your options. You're  
2 exploring different careers and then settling  
3 and grow in that career.

4 Q. okay.

5 Do you have an opinion to a  
6 reasonable vocational certainty whether Tyler  
7 experienced a reduction in his lifetime earning  
8 capacity as a result of his left arm and hand  
9 injury we're here about today?

10 A. I do.

11 Q. Okay. And what is your opinion  
12 there?

13 A. As a result of his physical  
14 disability, Tyler is likely to earn less and  
15 work less than he otherwise would have.

16 Q. Okay.

17 And to a reasonable degree of  
18 vocational certainty what percentage do you  
19 think is most likely that his income over the  
20 course of his life is going to be reduced?

21 A. I would say given that percentage,  
22 I would say at least 20 percent reduction in  
23 his earning capacity, in his lifetime loss of  
24 earnings.

25 Q. Okay.

1                   And have you seen the report  
2 that's been stipulated into evidence with  
3 respect to Dr. Boyd?

4                   A.     I have.

5                   Q.     okay. Can we bring up Exhibit 35,  
6 please. Keep going. Scroll down. Keep going  
7 to -- all right. Right there.

8                   okay. So here at the bottom of  
9 the page it says, this is 10.3 percent -- or  
10 actually, let's just start with this paragraph  
11 here. He's talking about 10.3 percent  
12 reduction and 20 percent reduction. Is the  
13 twenty percent what you just mentioned?

14                  A.     Yes.

15                  Q.     And is the 10.3 percent the  
16 reduction if he's able to keep his current job  
17 forever?

18                  A.     Yes.

19                  Q.     okay. All right.

20                  And the number here that's listed  
21 on the screen, \$75,235.84, is that the number  
22 for him keeping his job for the rest of his  
23 life?

24                  A.     That's the number for him keeping  
25 his job for the rest of his life, and it would

1 be conservative, based on Dr. Boyd used his  
2 earnings of \$21,000 a year. we know that he  
3 had a raise. we expect him to get more raises,  
4 so it would be conservative from that  
5 perspective.

6 Q. okay.

7 To be clear for the jury, what  
8 we're talking about here is \$75,235.84  
9 reduction in lifetime earnings, is that right?

10 A. Correct. So over the course of  
11 his lifetime he would earn \$75,000 less than he  
12 otherwise would have because he's only using  
13 one of his hands.

14 Q. well, I think what you told us --  
15 if you could scroll down to the next number.

16 Up. Up. Right there. Twenty percent is right  
17 here, this calculation.

18 And 20 percent times the number of  
19 his lifetime earnings before this event equals  
20 \$151,202.13, is that right?

21 A. That is correct.

22 Q. And is that what you believe more  
23 likelier than not will be his reduction in  
24 lifetime earnings based upon Tyler's situation?

25 A. Yes, at least that amount.

1 Q. okay. All right.

2 I think that's all the  
3 questionings I have for you right now.

4 A. Thank you.

5 THE COURT: All right.

6 Cross-Examination?

7 CROSS-EXAMINATION

8 BY MR. PALIOBEIS:

9 Q. It's my first time at the podium  
10 and I get up here and keep the people late.

11 (Laughter.)

12 Q. Ms. Ford, my name is Bill  
13 Paliobeis, and along with my partner, Dave  
14 Lockemeyer, and we represent Dr. Foad and the  
15 Beacon surgical group. You and I crossed paths  
16 I think once or twice or so, not in this case,  
17 though.

18 You identified yourself as an  
19 expert in vocational analysis. You're a  
20 vocational analyst, correct?

21 A. Correct. I also have expertise in  
22 analysis.

23 Q. okay.

24 You are not a vocational  
25 rehabilitation counselor, correct?

1           A. I'm not using my vocational  
2 rehabilitation counseling education to perform  
3 that work for others.

4           Q. Correct. And in other words, you  
5 don't see people like Mr. Bruns in your  
6 professional practice and test them and  
7 determine what types of jobs they can do, and  
8 what types of career paths would be suitable,  
9 for them, fair?

10          A. That is correct. I'm here to help  
11 the jury understand that.

12          Q. And your entire career as a  
13 vocational analyst has been devoted to just  
14 this process. In other words, Mr. Bruns  
15 doesn't call you to get a job. Mr. Moore calls  
16 you to testify in a lawsuit?

17          A. Correct. Mr. Moore, their office  
18 calls me to help a jury make a decision, if one  
19 needs to be made about damages.

20          Q. okay.

21           And you don't consult with  
22 employers to determine what accommodations an  
23 employee might need to make that position  
24 suitable for them, correct?

25          A. That's correct.

1           Q.     And you didn't do that in this  
2 case. You haven't reached out to Mr. Bruns'  
3 employer to determine what types of  
4 accommodations they've provided for him, fair?

5           A.     I did not reach out to his  
6 employer. I did talk to him about what  
7 accommodations he's receiving.

8           Q.     I'm going to try to get through  
9 this quick. I know there was a lot in your  
10 report. Actually, I think your report was  
11 somewhere along the lines of 40 pages, and a  
12 lot of it is a lot of boilerplate I think that  
13 you put in those standards, don't you?

14          A.     Yes.

15          Q.     Okay.

16           You provided that report. You  
17 came here to testify. You've testified in  
18 court upwards of 125 times?

19          A.     Yes.

20          Q.     You've given hundreds and hundreds  
21 of depositions?

22          A.     Correct.

23          Q.     And 90 percent of the time that  
24 you have done that, what you're doing in this  
25 case, you've done it for the Plaintiffs,

1 correct?

2 A. Yes, they're the ones that are  
3 typically asking for the damages.

4 Q. Right. But you've never -- or at  
5 least very rarely are you asked by a defense  
6 firm to rebut those types of opinions, do you?

7 A. Occasionally, yes.

8 Q. Less than ten percent?

9 A. Yes.

10 Q. Okay.

11 We saw briefly your CV, which I  
12 guess the jury will have that. I want to make  
13 sure I understand a couple things. You're not  
14 a certified vocational counselor, correct?

15 A. That's correct. I'm not a  
16 certified vocational counselor.

17 Q. You're not a certified  
18 rehabilitation counselor?

19 A. I am no longer a certified  
20 rehabilitation counselor, and that's something  
21 done to earn my master's degree. I had to take  
22 a test or I can sit for it, so I chose the  
23 test.

24 Q. Okay.

25 Are you familiar with the Journal

1 of Forensic Vocational Analysis?

2 A. No.

3 Q. You're not?

4 The Journal of Forensic Vocational  
5 Analysis is authored by people within the  
6 American Board of Vocational Experts. You're  
7 not familiar with that journal?

8 A. No.

9 Q. The topics are specifically  
10 devoted to your practice Vocational Analysis,  
11 correct?

12 A. Yes.

13 Q. It's not something that you  
14 reviewed in your practice?

15 A. No. The American Board of  
16 Vocational Experts, if you would have a board  
17 certification for a social science it would be  
18 hard --

19 Q. Okay.

20 In order to understand the  
21 difficulties that Tyler is going to have in  
22 maintaining work and obtaining work, we need to  
23 know what types of limitations that he has, do  
24 we not?

25 A. Yes.

1           Q.     And as part of your review and  
2 work in this case, you never tested Tyler, did  
3 you?

4           A.     Correct. I'm not a medical  
5 expert, so I rely on the medical professionals  
6 to give me that information.

7           Q.     Well, there are a great deal of  
8 accepted testing processes within the  
9 vocational world itself, isn't there?

10          A.     I wouldn't say a great deal.  
11          There's pegboard test where you can test  
12 someone's ability to put pegs on a board.  
13          There's vocational testing where you can test  
14 their ability, to test their knowledge.

15                There's testing that's typically  
16 done by physical therapists to test how much  
17 they can lift and carry.

18          Q.     Okay.

19                Are you familiar with the Bennett  
20 Mechanical Comprehension Test?

21          A.     Yes.

22          Q.     Did you perform that test with  
23 Mr. Bruns?

24          A.     I did not.

25          Q.     Are you familiar with the -- well,

1 let me ask you, what is that test for?  
2 A. That is the gross manipulation,  
3 the fine manipulation test that you're able to  
4 do, how quickly you're likely to do them, and  
5 if you can do them all.

6 Q. So earlier you were talking about  
7 whether or not you can type and things of that  
8 sort, that test will tell us a little about his  
9 ability, but you didn't perform it?

10 A. Correct. I rely on medical  
11 professionals to tell me that.

12 Q. Okay.

13 Did the medical professionals  
14 document in their records how well he could  
15 type?

16 A. No, but they documented how well  
17 he used his fingers and could grasp and turn  
18 his wrist, and things of that nature.

19 Q. Okay.

20 Are you familiar with the Career  
21 Assessment Inventory Test?

22 A. Yes.

23 Q. Did you perform that test for  
24 Mr. Bruns?

25 A. No, that's a vocational test.

1 It's just kind of a, this is what I like to do  
2 in the world. And it's based on 200 categories  
3 that you look through and say, I like to be  
4 outdoors or I like to be in an office building.  
5 I like to use my hands, those type of things.

6 Q. So you don't know how Mr. Bruns  
7 would have performed on either of those two  
8 tests that you just described?

9 A. No. And I think that based on his  
10 work history that Tyler would have been in a  
11 mechanical sense. He likes to use his hands.  
12 He likes to be in a mechanical field, that's  
13 obvious from his career choice. And it's  
14 obvious from the jobs that he said he wanted in  
15 the future.

16 Q. okay.

17 Now, you mentioned you reviewed  
18 the medical records to assist with your  
19 evaluation, right?

20 A. Yes.

21 Q. Did you talk to Dr. Higgins or any  
22 of his other treating physicians?

23 A. No.

24 Q. Did you talk to any of the  
25 physical therapists who had seen him on

1 multiple occasions to ask them how he's  
2 performing in various therapies?

3 A. No.

4 Q. You hadn't read any of the medical  
5 depositions in this case, have you?

6 A. I have not.

7 Q. Are you trained in the medical  
8 professional itself?

9 A. I am not.

10 Q. So you know the difference between  
11 supination and pronation?

12 A. I mean, just from a layperson.

13 Q. Is your lay understanding?

14 A. Pointing your fingers down or  
15 pointing your fingers up.

16 Q. Okay.

17 You wrote in your report -- I'm  
18 going to pull up Page 3 of your report, if I  
19 can. You report, last paragraph, about in the  
20 middle there it says, "Additionally, Mr.  
21 Bruns..." what does that mean?

22 A. That's from Dr. Higgins' report.

23 Q. Okay. What does it mean?

24 A. I have no idea.

25 Q. You don't have any idea what

1 Dr. Higgins' referencing in that statement with  
2 respect to Mr. Bruns?

3 A. I don't know what he means from a  
4 medical standpoint, no.

5 Q. okay.

6 Down below that it's talking about  
7 supination. What does that mean?

8 A. The procedure that was done, and  
9 they were trying to achieve more function of  
10 his wrist and arm.

11 Q. That's the extent of your  
12 knowledge of that procedure?

13 A. Yes.

14 Q. okay.

15 Would you agree with me that in  
16 order to fully assess Mr. Bruns, his functional  
17 ability, would have been better to talk to  
18 Dr. Higgins, would you agree with that?

19 A. No.

20 Q. It wouldn't have? You wouldn't  
21 have a better understanding of what he meant by  
22 those statements?

23 A. No.

24 Q. Okay.

25 Now, you relied upon some data --

1 you can take that down -- in formulating your  
2 opinions, and one of those data sets was the  
3 American Community Survey?

4 A. Yes.

5 Q. Are you familiar with that survey?

6 A. Yes.

7 Q. You didn't mention in your direct,  
8 what that would be.

9 A. It's from the Bureau of Labor  
10 Statistics, the Census Bureau. It is a survey  
11 community, one percent of the population on an  
12 annual basis, so over 3 million persons per  
13 year, and it collects information about  
14 communities.

15 How many cars you own. If you  
16 have access to the internet. If you own a  
17 home. If you have a disability, any physical  
18 disability, how much money you make a year.

19 Q. Ms. Ford, you agree with me that  
20 the United States Government conducts that  
21 survey?

22 A. Yes.

23 Q. And they do that to supplement the  
24 ten year census that I think most people have  
25 probably heard about, is that correct?

1           A.     It's not a supplement to the ten  
2 year census, but it's a different survey.

3           Q.     It's not designed to calculate  
4 lost earning capacity in people like Mr. Bruns?

5           A.     It's not. It's designed to tell  
6 us about the community. It's designed to tell  
7 us about persons that have physical  
8 disabilities, how much education that they  
9 typically have. Helps us to decide what kind  
10 of program we need, and what type of access to  
11 jobs, access to things they might need.

12          Q.     Are you aware of the criticisms of  
13 your peers, who do vocational analysis like  
14 this with respect to the use of the ACS, the  
15 American Community Survey, in relying on that  
16 data for the very purpose you're using it in  
17 this case?

18          A.     Yes.

19          Q.     You're aware of that criticism?

20          A.     I'm aware of that criticism.

21          Q.     And that criticism has told us and  
22 told you that the data that is generated from  
23 that survey is unreliable for this purpose, do  
24 you agree with that?

25          A.     No, I would not agree with that.

1 That's what their criticism is. That's not  
2 factual.

3 Q. okay. Well, let me back up a  
4 second. You agree that the criticism in  
5 statements from your peers, in this field, is  
6 that that data is unreliable for this purpose,  
7 correct?

8 A. I agree with that this is  
9 criticism, yes.

10 Q. Okay.

11 You hold a different opinion. You  
12 think that it is somewhat reliable at least?

13 A. Absolutely reliable.

14 They're talking about a person  
15 with a permanent injury, permanent impairment,  
16 their ability to perform work and earn money.  
17 This is for persons lifetime. These are people  
18 in the United States that are reporting the  
19 same problems, and they're reporting what their  
20 employment rates are.

21 Q. That's a good point. I'm glad you  
22 brought it up, because that's what that  
23 report -- that survey talks about people. It's  
24 not talking about Mr. Bruns, right?

25 A. That's correct. I couldn't

1 possibly give something very specific to  
2 Mr. Bruns. I couldn't possibly do that.

3 I'm using statistics which every  
4 one uses on a daily basis for either car  
5 insurance rates to life insurance policies to  
6 make a decision about the most likely scenario  
7 for Mr. Bruns.

8 Q. Mr. Bruns is in this courtroom.  
9 We have history related to Mr. Bruns, do we  
10 not?

11 A. We do. Consistent with my  
12 opinions, he's having difficulties with the  
13 amount of work that he's able to perform.

14 Q. Okay.

15 There's no evidence before you,  
16 and in this courtroom, and I don't think we're  
17 going to hear any that Mr. Bruns has suffered  
18 any lost wages currently, correct?

19 A. Correct.

20 Q. And in your report, it doesn't  
21 even include a category for lost wages, fair?

22 A. Well, that's correct. I'm --  
23 number one, I'm not the economist in this case.

24 Number two, we know that he hasn't  
25 lost work. His employer's accommodating him.

1       But we know that he's doing things differently  
2       now, and not doing the same job that he was  
3       doing before.

4           Q.     I mean, my question is pretty  
5       simple, I think, and I know you want to  
6       explain, and you'll you have that opportunity.

7           But the question is, you wrote a  
8       report in this case, and you did not find any  
9       evidence of lost wages as we sit here today,  
10      three years from the time that Tyler had this  
11      surgery, correct?

12       A.     Correct. That was not my roll in  
13      this case.

14       Q.     Not what?

15       A.     Not my roll in this case.

16       Q.     You could have determined how much  
17      he lost in wages based upon the data that you  
18      cited us, couldn't you?

19       A.     That would be the economist's roll  
20      in this case.

21       Q.     okay.

22           well, there hasn't been any lost  
23      wages in this case, do you agree with that?

24       A.     I agree.

25       Q.     And as we stand here today, moving

1 forward, you have no evidence with respect to  
2 Mr. Bruns himself, that he is going to lose  
3 wages next month, next year, the year after, do  
4 you?

5 A. I do not have any specifics for  
6 Mr. Bruns, but I have a reasonable degree of  
7 vocational certainty that over the course of  
8 his life, because he's having difficulty with  
9 work now, he will earn less and work less over  
10 his lifetime.

11 Q. Based upon a survey that your  
12 peers believe is unreliable and a whole bunch  
13 of people who complete a survey that we don't  
14 know anything about, fair?

15 A. Correct. Based upon statistics  
16 that are most applicable to Tyler and his  
17 current situation.

18 Q. Let me ask you about that data  
19 real quick. Are you aware of whether or not  
20 when people complete that survey, when they  
21 think they've got a disability, whether or not  
22 that's verified by any physician or anybody  
23 else?

24 A. It was tested back in 2018, after  
25 the mandate came out that they wanted a more

1 reliable measure of disability in the United  
2 States. It was a core group. They said, let  
3 me see your tax returns. You said that you  
4 made this much money a year, and I need to see  
5 that.

6 Let me see your medical records.  
7 You said that you have this disability. I want  
8 to verify that, and they tested it, the  
9 Government. And found that the questions were  
10 reliable in measuring what they were intended  
11 to measure.

12 Q. But you can't say somebody  
13 completes that survey and checks, I've got an  
14 arm disability. You have no way to verify that  
15 data, do you?

16 A. I do not.

17 Q. Ms. Ford, do you agree that there  
18 are plenty of jobs that Tyler can do?

19 A. Yes.

20 Q. And I know you haven't read the  
21 deposition of Dr. Higgins, but isn't it true,  
22 you don't even know what his full functional  
23 outcome is going to be as we sit here today?

24 A. That's my understanding, although  
25 my understanding from reading the most recent

1 report is that he is unlikely to be able to  
2 grip.

3 Q. okay. But we don't know that, do  
4 we? When are we going to know that, as far as  
5 you know?

6 A. I have no idea. You'd have to ask  
7 the doctors.

8 Q. okay.

9 And you don't understand because  
10 you haven't figured it out from the medical  
11 records when we can expect Tyler to know how  
12 he's going to be able to perform?

13 A. No. I mean, my understanding is  
14 that this is basically what he has.

15 Q. okay.

16 Well, we'll let Dr. Higgins talk  
17 about that. You're not telling this jury that  
18 Tyler can't work?

19 A. Correct.

20 Q. You're not saying Tyler won't  
21 work?

22 A. Correct.

23 Q. You've said nothing about this  
24 young man's motivation, his ambition, his  
25 drive, you've said nothing about that. You've

1 categorized him as a statistic that is going to  
2 earn less without telling this jury what this  
3 young man may be able to accomplish, is that a  
4 fair statement of what you've done today?

5 A. No. I mean, I think his  
6 motivation speaks for itself. He's still  
7 working. He's still doing the things that he's  
8 able to do. He's just doing them with  
9 difficulty. And that's what I'm here to  
10 identify that he will continue to have that  
11 difficulty during the course of his lifetime.

12 Q. You didn't reach out to his  
13 employer to say hey, I'm trying to work on this  
14 case. I need to know how this job is going to  
15 be affected by Tyler, and his limitations, you  
16 didn't that?

17 A. I would prefer not to highlight a  
18 person's limitations for their employer, that's  
19 correct.

20 Q. They're accommodating him, as far  
21 was you know, right?

22 A. Yes.

23 Q. And he's earning the same amount  
24 of money with raises as he was before?

25 A. That's correct, performing a

1 different job.

2 Q. So I won't keep this jury later,  
3 I'll stop.

4 THE COURT: I don't want to cut  
5 you off. okay. All right. Any  
6 redirect?

7 MR. LYON: No, Your Honor. I have  
8 no questions.

9 THE COURT: oh, I'm sorry.

10 (Laughter.)

11 THE COURT: Yeah. You know what?  
12 I'm going to put a note here that  
13 Mr. Lyon is hiding.

14 Mr. Lyon?

15 MR. LYON: Yes, Your Honor. I  
16 have no questions, Your Honor.

17 THE COURT: All right. Thank you  
18 very much. Any redirect?

19 MR. MOORE: Just real quick.

20 REDIRECT EXAMINATION

21 BY MR. MOORE:

22 Q. Are you aware that Tyler had a  
23 number of followup surgeries after the initial  
24 surgery that caused the injury?

25 A. Yes.

1 Q. okay.

2 And are you aware that he took off  
3 work and lost wages as a result of having the  
4 surgeries?

5 A. My understanding is that he had to  
6 take time off to have the surgeries, correct.

7 Q. okay. Thank you.

8 THE COURT: All right.

9 You may step down, Ms. Ford.

10 (witness excused.)

11 (whereupon, other related matters  
12 were reported, but not transcribed.)

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2  
3 CERTIFICATE  
45 I, Hope Irene Goldsmith, an  
6 official Court Reporter for the Hamilton County  
7 Common Pleas Court, do hereby certify that at  
8 the same time and place stated herein I  
9 recorded in stenotype and thereafter  
10 transcribed the within partial transcript  
11 consisting of (45) pages, and that the  
12 foregoing partial transcript of proceedings is  
13 a true, complete, and accurate partial  
14 transcript of my said stenotype notes.15 IN WITNESS WHEREOF, I hereunto set my  
16 hand this 5th day of June, 2025.17  
18 *Hope Irene Goldsmith*  
1920 -----  
21 Hope Irene Goldsmith  
22 Official Court Reporter  
23 Common Pleas Court  
24 Hamilton County, Ohio  
25