SUPREME COURT OF THE STATE OF NEW YORK

COUNTY OF KINGS : CIVIL TERM : PART 64

- -X

JUNIOR GRANT : INDEX NO. 12515/09

PLAINTIFF :

- against - :

THE CITY OF NEW YORK :

DEFENDANT : TRIAL

- -X

360 ADAMS STREET
BROOKLYN, NEW YORK 11201

SEPTEMBER 24, 2014

BEFORE: HONORABLE KATHY J. KING

JUSTICE, AND A JURY

APPEARANCES:

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VINCENT M. GERALDI, JR.
SENIOR COURT REPORTER

THE CLERK: Jurors entering.

(At this time, the jury entered the courtroom)

THE COURT: Good afternoon, ladies.

I apologize for the brief delay, however we are ready to begin at this time.

Mr. Perecman?

MR. PERECMAN: Yes.

Is it okay if I mention we're back to my case now since we went out of order?

THE COURT: Yes.

As you recall, on the last date of trial, Mr. Boulé presented a witness out of turn. Mr. Perecman will now continue with his case.

MR. PERECMAN: Your Honor, at this time, I call Kristen Kucsma to the stand.

K R I S T E N K U C S M A, having been called as a witness by and on behalf of the Plaintiff, having first been duly sworn, was examined and testified as follows:

THE CLERK: Please state your name and address for the record.

THE WITNESS: Kristen Kucsma, 293 Eisenhower Parkway, Suite 190, Livingston, New Jersey, 07039.

THE CLERK: Thank you.

You may be seated.

THE WITNESS: Thank you.

THE COURT: You may inquire, Mr. Perecman.

MR. PERECMAN: Thank you, your Honor.

DIRECT EXAMINATION

BY MR. PERECMAN:

Q. Miss Kucsma, would you be kind enough to tell the jury about your educational background and bring us up to date, tell us what you do for a living.

A. Sure. I have a Bachelor of Arts degree in economics that I received from Seton Hall University, where I was graduated with highest honors.

I have a Master of Arts degree in economics that I received from Rutgers University.

I am also technically ABD, which literally stands for "all but dissertation". What that means is that over and above the requirements for a Master of Arts degree in economics, I completed all of my course work and passed all of my qualifying examinations in pursuit of a PhD. What I have not yet done is complete my dissertation.

I am presently the senior economist with the Sobel Tinari Economic Group. What that means is that most of the work I currently do involves evaluating economic damages in litigated matters. So, when one party files suit against another party, I work with plaintiffs sometimes, defendants other times, to evaluate the economic losses in those matters.

Before I joined the Sobel Tinari Economic Group in

January of 2008, I enjoyed what I like to call my first career as a college professor. I was a member of the full-time faculty at Seton Hall and Drew Universities, and I was an adjunct professor at both St. Peter's College and Rutgers University.

I taught primarily in the Department of Economics at both the graduate and undergraduate levels. But I also on occasion taught finance and statistics.

Q. So, when I refer to you, what do I call you?

A. You can call me either Professor or Ms. Kucsma.

Q. I like professor.

A. Okay.

Q. Professor Kucsma, did there come a time that I asked you to provide my firm with a economic analysis of the losses and the costs associated with an accident that Mr. Junior Grant was involved in, which happened on April the 25th of 2008?

A. Yes.

Q. And were you furnished with documentation?

A. Yes.

Q. Among the documentation, did you get the report from Doctor Schuster, Doctor Richard Schuster ——

A. Yes, I did.

Q. —— the vocational rehab consultant and life care planner that we retained?

A. That is correct, yes.

Q. Were you furnished with any medical documents also?

A. No.

Q. Now, did you have certain basic information about Mr. Grant, like his date of birth and so on?

A. Yes, I did.

Q. And his date of birth, am I correct, is January 28, 1971?

A. That is correct.

Q. Okay. And you knew that he was an electrical mechanic?

A. That is true, yes.

Q. Did you determine a statistical retirement age for him?

A. I did, yes.

Q. What was it?

A. 64.15 years.

Q. What did you base that on?

A. That is based on research that I did. Specifically, I looked at data that is provided by the U.S. government, data that is collected about the actual experience of the population of the United States.

Very specifically, I looked at data for males who were approximately 37 years of age——that is, of course, how old Mr. Grant was at the time of injury——and who had a high school education, either here in the United States or abroad.

Based on my research, males in that category in the United States actually retire at or around 64.15 years of age on average.

Q. Okay. Now, are you familiar with something called the Pattern Jury Instructions?

A. Yes, I am.

Q. Okay. And are you familiar that those are the instructions that the judge gives the jury and that they also have retirement tables in it? Correct?

A. Yes. I believe they have work life expectancy tables.

Q. And work life expectancy tables also.

A. Yes.

Q. Okay. So, they have work life expectancy and life expectancy tables in it.

A. Yes, they do.

Q. Okay. Is yours the same as what the P.J.I. has in it?

A. No.

Q. Can you explain that?

A. Yes. My work life expectancy figures and life expectancy figures are based on the most currently available data provided by the U.S. government. It's my understanding that the tables that are available through the P.J.I. do not reflect the most currently available economic data.

Q. Now, what is the life expectancy that you determined he has?

A. For purposes of calculating the future medical costs, I determined that Mr. Grant's life expectancy is 79.17 years. In other words, based on my review of the most current data, available through what we call the National Vital Statistics Report, I was able to estimate a statistical date of death for Mr. Grant of March 30, 2050.

Q. Okay. When you did your analysis, did you have information from Doctor Schuster and information that he gleaned from the medical records regarding what Mr. Grant's future employment prospects were?

A. Yes.

Q. Okay. And what were they?

A. In Doctor Schuster's vocational report, he indicated that mr. Grant is incapable of resuming employment and that the most optimistic, best-case scenario would be one that was characterized by chronic unemployment.

Q. Okay. And in order to do your analysis, did you have to assume or did you assume that that information is correct?

A. Yes.

Q. Now, are you here offering an opinion today about whether that information is correct?

A. Absolutely not.

Q. You're assuming that as part of your opinion.

A. That is correct.

Q. Did Doctor Schuster also provide you with information

of what he thinks the long-term needs are for Mr. Grant, at least with regard to medications?

A. Yes, he did.

Q. And what were those?

A. According to Doctor Schuster's report, he indicated that Mr. Grant would require Aleve three times per day for his remaining life expectancy. And he also indicated that Mr. Grant will require——I want to get the name correct——Oxycodone once a week for the remainder of his life expectancy. Or I should say once a day.

Q. Okay. Now, did you use that information to do the projections and give us the opinions you're about to give us?

A. Yes, I did.

Q. Did you use Aleve two times a day or three times a day?

A. Originally, I calculated my future medical costs based on three times a day, since that is what was contained in Doctor Schuster's report. When I arrived here today, you informed me however that Mr. Grant reportedly uses Aleve twice a day. So, I recalculated ——

MR. BOULÉ: Objection, Judge.

Move to strike. There's no evidence of this.

THE COURT: Sustained.

Q. In either event, what amount of Aleve ——

MR. PERECMAN: Withdrawn.

Q. I'm going to ask you to give us your opinion in a moment and you'll explain all of it.

Can you tell us, first of all, with regard to earnings, can you show the jury what you did, how you did it, and tell us, do you have an opinion, with a reasonable degree of economic certainty, as to what the earnings losses are or diminution of earnings are that Mr. Grant has sustained and will sustain?

A. Yes, I do have an opinion regarding those figures. In my professional opinion ——

MR. PERECMAN: Hold on.

Your Honor, I have some charts that I'd like to use, that we had marked.

THE COURT: So moved.

MR. PERECMAN: May I ask that the witness come down?

THE COURT: You may step down.

THE WITNESS: Thank you, your Honor.

MR. BOULÉ: For the record, those are marked for ID purposes.

MR. PERECMAN: The first one is marked as Plaintiff's 39 for ID, the second one Plaintiff's 40, then Plaintiff's 41, and then Plaintiff's 42. And I put them in that order for you.

(At this time, the witness stepped off the

witness stand and approached the exhibit)

Q. So, you do have an opinion?

A. Yes, I do.

Q. Would us please be kind enough to tell us what your opinion is and explain it to the jury.

A. Certainly. In my professional opinion, to a reasonable degree of economic certainty, I calculated the lost earnings in past years, and what I mean by that is I determined how much money Mr. Grant would have earned had he continued his employment from the date of injury through the present time, and I calculated that figure to be $67,742.

In addition to that, I also calculated how much additional money Mr. Grant would have earned from the date of injury —— or I should say from the present time through his statistical retirement age, through the age of about 64 years, and I determined that the loss of earnings in future years is $319,476.

Now, in order for me to calculate how much additional money Mr. Grant would have earned had he not been injured in April of 2008 and had he worked through the approximate age of 64 years, I needed to make three general assumptions. We've already talked about the first one.

The first assumption I needed to form was how far into the future Mr. Grant would have worked had he not been injured in April of 2008. And, as I explained to you a few moments

ago, based on my research, based on the actual experience of males in the United States, I was able to determine that Mr. Grant would have worked through the age of 64.15 years.

The second general opinion I needed to form in order to calculated the lost earnings in this matter, I needed to form an opinion about how much on average Mr. Grant would have earned each year going forward——starting in the year 2008 and going all the way through his statistical date of retirement, which is March 23, 2035, I had to determine on average how much Mr. Grant would have earned each year.

In order for me to do so, I examined what I call Mr. Grant's earning history. I was provided with a wage and income transcript. Very specifically, I was provided with information about how much Mr. Grant in fact earned, how much was reported on his W2 wage and tax statements for the years 2006, 2007, and 2008.

So, according to my review of those W2 wage and tax statements, I determined that Mr. Grant earned $9,117 in 2006, he earned $5,713 in 2007, and in 2008, through April 25th, he earned $6,401.

If Mr. Grant had worked the entire year of 2008, I determined that he would have earned approximately $19,600 that year.

In the first one-third of the year, he earned $6,401. If he had been able to continue working through December 31st

of that year, I determined that he would have earned about $19,600.

So, based on the information provided to me about how much Mr. Grant in fact earned in each year, I was able to determine that if he hadn't been injured in 2008, he would have earned on average $11,470 each year going forward.

Q. Now, before you go on, that number is not the amount that he earned —— that you projected he would have earned in the last year, but rather an average of the last three years. Correct?

A. That is correct.

This figure (Indicating) is based on the average of what he actually earned in 2006, what he actually earned in 2007, and what he was on target to earn in 2008. In other words, the average of $9,117, $5,713, and roughly $19,600.

He was on target to have a very good year, he had a modest year, and he had a bad year. I took an average of those three years to determine how much Mr. Grant would earn on average each year going forward.

Now, the third opinion that I needed to form in order to calculate the lost earnings was I needed to form an opinion about how much on average Mr. Grant's earnings would have increased each year going forward. So, based on how much he in fact earned in the years 2006, 2007, and 2008, I determined that he would have earned on average $11,470 in the year 2009.

I then had to form an opinion about how much his earnings would have increased on average each year going forward through his statistical date of requirement.

In order for me to determine in past years how much Mr. Grant's earnings would have increased each year, I've reviewed data published by the U.S. Department of Labor. Very specifically, I reviewed data that is provided by the Bureau of Labor Statistics about how much wages in fact increased in each of the years 2010, 2011, 2012 and 2013.

So, these figures here (Indicating) are based on U.S. government data, and they are a measurement of how much wages on average in this country did in fact increase in each of those years.

Obviously, the year 2014 is not yet complete, so I had to estimate how much wages will have increased in the year 2014, and I based my estimate on the average of how much wages had in fact increased in each of the four recent years.

So, I was able to determine then that if Mr. Grant had not been injured, had he worked in the year 2009, he would have earned $11,470. In the year 2010, his earnings would have increased by .8 percent, and he would have earned $11,562. And so on all the way through the present time, where I determined that if Mr. Grant had not been injured in April of 2008, had he worked this year in the year 2014, he would have earned $12,162.

Now, before I combined all of these opinions to actually calculate the loss of adjusted earnings in past years, I did need to make several downward adjustments to my calculations.

These figures here (Indicating) are the figures I just described to you. Based on the fact that Mr. Grant earned about $6,400 in the first one-third of 2008, I determined that if he had worked that entire year, he would have earned $19,580. He was on track to have a very good year.

Thereafter, I assumed that he would have had some good years, some bad years, so that on average he would have earned $11,470 and his wages would increase each year.

The figures, though, that you see in column three (Indicating) are not the numbers that I add together ultimately to calculate lost earnings in this matter. The figures you see in column four (Indicating) are the numbers that I actually added together to calculate lost earnings.

You will note that the figures in column four are smaller than the figures in column three, and that is because I needed to make three downward adjustments to my calculations.

The first downward adjustment I made was a downward adjustment for what we call “work life expectancy”. In other words, I needed to take into account the fact that even if Mr. Grant hadn’t been injured in April of 2008, in future years he might have become injured or he might have become ill.

Something might have happened that would have prevented him from working quite as many hours as he had in the past. I simply couldn't assume going forward that Mr. Grant would have continued to work the same number of hours that he had worked in the past, because things happen, and I needed to take into the account the fact that he might have missed some work and therefore not gotten paid for short periods of time because of injury, illness, and so on.

You see here (Indicating) I made a downward adjustment of 9.8 percent. That again is based on research, based on data available through the U.S. government. Research that allowed me to determine again males in the United States, who are about 37 years of age, who have a reported high school diploma, be it here it or abroad, males in that category are expected to spend approximately 9.8 percent of the time out of the work force for some reason.

If Mr. Grant had been out of the work force, he presumably would not have gotten paid, and it would not be reasonable for me to compensate him today for money he wouldn't have received anyway.

Now, there's another possibility, of course, and that is even if Mr. Grant had not been injured in April of 2008, he also might have missed work because of unemployment——he may have been laid off, there may not have been a job available for him. He wouldn't have been working, therefore he would not

have been earning income.

In this case, I made a second downward adjustment of 2.3 percent to take into account periods of unemployment. That figure is based on two things:

First, I looked back at approximately a 30-year period, I looked back in time over the last 30 years, and I looked at what the average unemployment rate had been in this country for males. And that data again is published by the U.S. Department of Labor.

So, since I'm calculating lost earnings over approximately a 30-year period, I wanted to take a look back and see on average what the unemployment rate for males over a 30-year period had been.

Now, the second thing I had to consider, though, was the fact that even if Mr. Grant had become unemployed for periods of time, he would not have lost all of his income. The reason he would not have lost all of his income is because he could have filed for unemployment benefits.

So, I had to take both of those things into account, times when he would not have been getting a paycheck because he was unemployed, but I had to take into account the fact that he would have had some of that income replaced through unemployment benefits.

Based on those two things, I determined the most appropriate downward adjustment each year was 2.3 percent.

Last, but not least, I made a third and final downward adjustment of five percent to take into account something we call "job maintenance" or "job-related expenses".

I had to take into account the fact that if Mr. Grant had continued to work, he would have had to pay certain costs to get to and from work, he might have bought a cup of coffee in the morning, a hot dog for lunch. I had to take into account that if he had continued working, these are costs that he would have incurred, and I needed to deduct that from the income he would have earned through that employment.

I estimated the job-related expenses at five percent based on two sources. Number one, the IRS publishes data about what we call "Unreimbursed Business Expenses", so I reviewed that data. Secondly, the U.S. Department of Labor publishes something called the "Consumer Expenditure Survey". The Consumer Expenditure Survey is a survey about how people spend their money, how much money do they spend on various things, including job-related expenses.

So, ultimately, if we go to the table below (Indicating)——we'll start with the year 2009 just for a moment because it's the first full year after the date of injury——we'll see in the year 2009 I had calculated Mr. Grant's gross earnings at $11,470. This figure, however, assumes that Mr. Grant would have continued to work the same number of hours that he was working before he was injured, he never would have

gotten injured, ill. It also assumes he never would have become unemployed, and it ignores the fact that he would have had some costs associated with his employment. Once I make the downward adjustments to take into account those three items, I determined the appropriate economic loss for the year 2009 would be $9,600.

I basically performed those same calculations for each of the years starting at the date of injury in 2008 and continuing through the present time, the end of September 2014.

You'll notice in 2008, of course, I did not give Mr. Grant credit for one hundred percent of the year because he wasn't injured for one hundred percent of the year. He was only injured for the last two-thirds of the year, so this figure (Indicating) reflects how much he would have earned from April 25th through December 31st of that year.

This figure here (Indicating), since we are at the end of September right now, this figure of $7,635 represents how much additional money Mr. Grant would have earned this year if he could have worked from January 1st of this year through September 30th.

Based on my calculations then, I determined that the economic loss or the lost earnings, I should say, in past years in this matter is $67,742. In other words, if Mr. Grant had not been injured in April of 2008, had he continued working through the present time, he would have earned an additional

$67,742.

I then ——

THE COURT: Mr. Perecman, do you want to ask a question?

MR. PERECMAN: I already have.

MR. BOULÉ: Judge, we're almost at a record. Thirteen minutes on one question. I just want to see how long we can do.

THE COURT: Yes. I believe the professor was addressing the issue of economic loss and she had concluded that.

MR. PERECMAN: Past.

THE COURT: Past economic loss. Okay.

Pose a question, please.

Q. Do you have an opinion, with a reasonable degree of economic certainty, as to what his future losses of earnings will be?

A. I do, yes.

Q. What are they?

A. In my professional opinion, to a reasonable degree of economic certainty, I have calculated the lost earnings in future years at $319,476. In other words, if Mr. Grant had not been injured, had he been able to work starting October 1st of this year and continuing through his statistical date of requirement, when he reached the age of about 64 years of age,

he would have earned an additional $319,476.

The method I used is largely the same method I used to calendar lost earnings in past years. I first determined what his gross earnings would have been, how much he would have earned in each year if he had never been injured, ill, or unemployed, and if he had not had any job-related expenses. I then made the three downward adjustments I described to you before, and I added this up over approximately a 20-year period. Once again, I determined that the lost earnings in future years is $319,476.

Q. They increase each year. By what percentage did you increase?

A. In future years, I determined, based on research, that Mr. Grant's earnings would have increased on average 3.9 percent each year. That's based on two things. Number one, it is based on how much wages have, in fact, increased in the last four years. So, I used that as my starting point because I wanted to make sure that I captured the effect of the most recent recession.

It also, however, is based on projections that are available through the Board of Trustees of the Social Security Administration. The Board of Trustees of the Social Security administration publishes an annual report each year. In that annual report, they have, among other things, projections of future wage growth.

Wages are projected to increase in future years by more than four percent in certain years. In fact, if I looked back, in the years 2004, 2005, wages were increasing by 3.8, 3.9, and four percent.

So, again, I wanted to take into account the recent recession, but also the anticipated recovery in, among other things, wages.

Q. Okay. I would like you also to provide us with a calculation, if you will, of what the costs would be for lifetime care of two Aleve per day, based on the costs that Doctor Schuster provided you with, and one oxycodone per week.

MR. BOULÉ: Your Honor, I'm going to object to the calculation concerning two Aleve per day because my recollection is there is nothing in the evidence to support that. Mr. Grant never testified as to how many Aleves he was taking each day.

THE COURT: Mr. Perecman?

MR. PERECMAN: Can we go in the back?

THE COURT: Yes.

(Off-the-record discussion held at sidebar)

MR. PERECMAN: Can I ask you to read the question back, please.

(The requested portion was read by the court reporter)

THE COURT: There's an objection. The Court

overrules the objection.

Q. Go ahead.

A. I calculated the lifetime cost of the Aleve, again assuming that Mr. Grant takes two per day, based on the cost provided by Doctor Schuster at $5,262. In other words, Mr. Grant would need $5,262 to purchase all of the Aleve that he will need for his lifetime.

I also calculated the lifetime cost of the oxycodone, based on Doctor Schuster's report, specifically based on the purchase — I should say the consumption of one oxycodone per week, and I calculated that lifetime cost at $14,484. This represents the total amount of money that Mr. Grant would need to purchase the oxycodone that he will need to take for his remaining life expectancy.

Q. Okay. And those are your figures based on a reasonable degree of economic certainty?

A. Yes, they are.

Q. Now, before you sit down, I just want to make one thing clear. You are not here today telling us that it's your opinion he will or won't need those medications; correct?

MR. BOULÉ: Objection.

THE COURT: Overruled.

A. That is correct. I am not a medical doctor and I am not a life care planner.

Q. Also, with regard to the numbers that you gave us with

regard to his earnings loss, you're also not offering an opinion that he will have that earnings loss or won't have that earnings loss based upon whether he will or won't work, but rather based upon what the other experts have testified, that's what the numbers come out to be.

A. That is correct, yes.

MR. PERECMAN: Nothing further.

Thank you.

THE COURT: Cross-examination, Mr. Boulé?

MR. BOULÉ: I would like to take a look at what Miss Kucsma brought with her. Briefly.

THE COURT: Yes.

(Handed to Mr. Boulé)

THE WITNESS: The rest of my file is actually back there, if you'd like to look at it.

I have my report, a copy of all the demonstrative aids, Doctor Schuster's lifetime plan, and his vocational report.

The only other things in my file are the W2s, which I think you have. Correct?

MR. BOULÉ: They're here somewhere.

(Pause in the proceedings)

MR. BOULÉ: Thank you.

(Handed to the Witness)

CROSS EXAMINATION

BY MR. BOULÉ:

Q. Miss Kucsma, good afternoon.

A. Good afternoon.

Q. Now, you were retained by Mr Perecman sometime last month; correct?

A. I believe so, yes.

Q. And you've worked with Mr Perecman on several occasions prior to this, have you not?

A. Yes, I have.

Q. In fact, you've testified for Mr Perecman prior to this, haven't you?

A. Yes, I have.

Q. And, in your career as an economist evaluating litigation cases, is it fair to say you testified about a hundred times?

A. I believe to date it's approximately 120 times, but yes.

Q. Okay. And about ninety-five percent of those cases are for the plaintiff, fair to say?

A. About ninety-five percent of the time I testify, it is true, it's on behalf of plaintiff.

Q. Okay. And you charge for your time; correct?

A. I'm actually a salaried employee, but my firm does charge for my time, yes.

Q. And a typical retainer for a case like this is about what, $4,000?

A. Our standard retainer is $3,000.

Q. Okay. What was the retainer here?

A. That I don't recall.

Q. How much is your company charging for your time here in court today, about $5,000?

A. My company is receiving $4,100 for my appearance here today.

Q. Okay. Now, you were given certain information for your evaluation in this case; correct?

A. Yes.

Q. Tell us what it is that you were given.

A. I was provided with a vocational report by Doctor Richard Schuster, I was provided with a life care plan also by Doctor Richard Schuster, and I was provided with wage and tax transcripts, W2 wage and tax statements for the plaintiff.

Q. In past cases, you've testified about a questionnaire that you receive from the plaintiff's counsel. Did you get one of those here?

A. No, it wasn't necessary for me to have a questionnaire in this case.

Q. Why is that?

A. All of the information that I needed in this particular case was contained in either Doctor Schuster's

report or in the W2 wage and tax transcripts of Mr. Grant.

Q. Okay. Did you have an opportunity to speak to Mr. Grant?

A. No.

Q. Wouldn't it be important for you to have spoken to Mr. Grant in reaching the conclusions that you have testified to here today?

A. Not at all. In order for me to form an independent objective analysis, it is typically better that do not speak with plaintiff. But, certainly, if I felt that I had needed to do so, I would have reached out to him.

Q. Is there anything that Mr. Grant could have told you that would have aided you in your evaluation?

A. No.

Q. Do you know how much, in terms of weeks or months, Mr. Grant worked in 2006?

A. No.

Q. Do you know how much, in weeks or months, he worked in 2007?

A. No.

Q. How about 2008?

A. No.

Q. Isn't that information that Mr. Grant could have provided to you?

A. I suppose ——

Q. Yes or no?

A. Possibly. But it wasn't relevant for my analysis. What was relevant was how much he, in fact, earned in each of those years.

Q. So, it's not important for you, when you're projecting lost earnings twenty-four years into the future, to know how much the man worked in the past? Is that what you're saying?

A. How much he worked in the past was reflected by how much he, in fact, earned in each of the past years, and I have that information available to me.

Q. Well, actually, what you have is how much he earned; correct?

A. Yes.

Q. You don't have how much he worked to make that money; do you?

A. That's correct. But it is implicitly reflected, of course, in how much he earned in each given year.

Q. Well, it's not really. Because if he earned a dollar an hour in a particular year or twenty dollars an hour in a particular year, that's going to be a very different calculation as to how much he actually worked; fair to say?

A. True. But, again, it's not relevant for my analysis. What's relevant for my analysis is in total what he earned each year through his employment at the time of injury.

Q. But, Miss Kucsma, you are making an assumption, based

upon the testimony that you gave, that Mr. Grant is going to work a whole bunch of years into the future and for a whole bunch of time during those years; correct?

A. I calculated his earnings, yes, for a number of years into the future based on his working pattern, his actual earnings in past years. In addition to that, I did make downward adjustments to take into account the possibility of injury, illness, and unemployment that might not have been reflected in his actual earnings.

Q. Okay. You've done this 120 times. Most of my questions are going to be yes or no. I'd appreciate it if you answer them yes or no. If you can't, let me know then. Okay?

A. Yes, I will.

Q. I'd appreciate it.

Now, if we knew how much he earned per hour in a given year, and we know how much he earned in that year, then we can figure out how much he worked in that month, can't we?

A. I suppose we could. But, again, not relevant for my analysis.

Q. Okay. But maybe it's relevant for what I want to ask you.

Now, I want you to assume, based upon evidence that I will submit when I read from Mr. Grant's transcript, subject to connection, that he was paid $16.50 per hour while working for A & S Electric. Okay?

A. Okay.

Q. How much did he make working for A & S Electric in 2006?

A. In 2006, he earned $9,117.

Q. So, at $16.50 per hour, how many weeks did he work?

A. Without a calculator, I couldn't tell you quickly.

Q. Oh, you know what? Guess what I brought? A calculator.

A. Perfect.

Q. Thank you.

(Handed to the Witness)

A. Thank you.

Q. By the way, do you have the W2s here?

A. I do. They're actually in my file that's sitting on a bench in the back.

MR. BOULÉ: Any chance, your Honor, we can it?

THE COURT: The officer will get them for us.

MR. BOULÉ: Thank you.

Q. Why don't you do that calculation for us.

COURT OFFICER: Right here?

THE WITNESS: Yes. There should be a green folder.

COURT OFFICER: Yes.

THE WITNESS: Thank you.

(Handed to the Witness)

MR. PERECMAN: Your Honor, while the witness is looking for that, can we briefly speak outside with Mr. Boulé? I have an objection.

(Off-the record discussion held at sidebar)

Q. How are we coming?

A. With the calculations?

Q. Yes.

A. Would you like to know what the answer is?

Q. I sure would.

A. Okay. $9,117 divided by $16.50 is 552.55.

Q. Okay. Assuming a forty-hour week, how many weeks is that?

A. That gives me 13.8 weeks.

Q. Fourteen weeks.

A. Correct.

Q. Around there.

A. Yes.

Q. Three-and-a-half months; correct?

A. Yes.

Q. So, we now know that in 2006 he worked a total of three-and-a-half months.

2007, you have the W2 there?

MR. PERECMAN: Did you get the answer to that question? There was no answer.

THE COURT: One moment. Did you answer the

question?

MR. PERECMAN: He said "we now know" and there was no answer.

THE COURT: Okay.

Q. Do we now know that in 2006 he worked three-and-a-half months?

A. I don't know that, I haven't seen employment records, but certainly based on the math I just calculated, it appears as if that's the case.

Q. And you are or were a professor of economics; correct?

A. Yes, I was.

Q. It's fair to say math is a strong suit of yours, I'd bet?

A. It is indeed.

Q. Okay. Now, in 2007, what does the W2 say for Speedy Locks and Doors?

A. For 2007, the W2 for Speedy Lock and Door indicates that Mr. Grant earned $960.

Q. I want to assume, subject to connection, that Mr. Grant testified that he was paid $7.75 per hour while working at Speedy Locks and Doors. Based upon that information, can you calculate how much he worked for Speedy Locks and Doors in 2007?

A. Well, I can take $960 divided by $7.75 and I get 123.87.

Q. That's about how many weeks?

A. Assuming a forty-hour week?

Q. Yes.

A. Okay. That is approximately three weeks.

Q. All right. Also, in 2007, we have a W2 from and A & S Electric again; correct?

A. Yes, we do.

Q. He earned how much in that year, 2007?

A. $4,753.

Q. At $16.50 per hour, can you tell us how many hours he worked for A & S Electric in 2007?

A. $4,753 divided by $16.50 gives me a figure of approximately 288.

Q. A forty-hour week, how many weeks is that?

A. 288 divided by forty gives me a figure of approximately 7.2.

Q. With the three weeks at Speedy's and 7.2, that's 10.2 weeks; correct?

A. Three plus 7.2 is 10.2, that is correct.

Q. Is that two-and-a-half months?

A. Approximately.

Q. Okay. So, we now know, would you agree with me, that in the year 2007 Mr. Grant worked a total of two-and-a-half months; face to say?

A. Again, I wouldn't necessarily agree with that, only

because I haven't seen his employment record, but certainly based on the math I just performed that would seem to be true.

Q. In 2008, A & S Electric, how much did he earn?

A. He earned $6,401.

Q. At $16.50 per hour, how many hours is that?

A. $6,401 divided by $16.50 is just shy of 388.

Q. A forty-hour week, how much is that?

A. That gives me a figure of 9.7 approximately.

Q. So that's about two-and-a-half months, would you agree with me?

A. Yes.

Q. Okay. Now, would you agree with me that the information as to how many weeks that Mr. Grant was able to work in 2006, in 2007, in 2008 until his accident is important information for you in making your evaluation as to how much money he is allegedly going to earn for twenty-four years into the future?

A. Again, I have to say my answer is the same as it was before. The amount of time that Mr. Grant worked in any given year is, as you clearly demonstrated by having me go through the math, reflected in his earnings.

Q. Yet, you made an assumption, when you were doing your calculations, that in 2008 you assumed he was going to work fifty-two weeks in that year and earn $19,580; correct?

A. No. I assumed that the last two-thirds of the year

would reflect what he had earned in the first one-third of the year.

Q. Meaning that he was going to work another two-thirds of the year. That's your assumption; correct?

A. No. Again, I believe, based on the math you just had me do, it suggested that, in fact, he didn't work every week in the first one-third of the year. And, again, that is reflected in my calculations. I assumed that the remaining two-thirds of the year in 2008 would look like the first one-third of the year.

Q. Okay. And the first one-third of the year we know he worked two-and-a-half months; correct?

A. Well, again, I don't know that for a fact, but based on the math you had me do, yes.

Q. Okay. So, for the next two-thirds of the year, that would be five more months; correct?

A. That is correct.

Q. Okay. That doesn't equal $19,580, does it?

A. What doesn't equal $19,580?

Q. Projecting five months into the future. You projected eight months into the future when you came up with this number; correct?

A. No. I don't think you understood my analysis.

Q. No, I think I understood it perfectly.

A. No, I don't think you did.

THE COURT: Would you let counsel ask the question.

THE WITNESS: Yes.

Q. Let's go back over it. In 2008, he earned how much before he got hurt?

A. $6,401 in approximately the first one-third of the year.

Q. Okay. Where does this number come from?

A. That is approximately three times $6,401. Approximately.

Q. Based upon an assumption that he would have worked the rest of that year; correct?

A. Not exactly. Based upon an assumption that the second two-thirds of that year would have looked like the first one-third. He would have worked approximately the same amount of time and he would have earned approximately the same amount of money in each of the second two-thirds of the year.

Q. Okay. So, you did assume he was going to work considerably more for the balance of 2008 to come up with that number; correct?

A. I assumed that the second two-thirds of that year, yes, he would work in a manner that was consistent with what he had already, in fact, worked in the first one-third.

Q. What about in a manner consistent with what he had worked for the two years before, which never exceeded

three-and-a-half months? Isn't it fair to say that you want to rely upon data that is not only valid, but based upon the actual history of Mr. Grant? Wouldn't that be a fair economic assumption?

A. And that is exactly why I took an average of his earnings in each of those three years.

Q. Well, you didn't exactly do that, because you assumed he was going to work all the way through the end of 2008, didn't you?

A. Based on the number of hours and the amount of money he earned in the first one-third of the year, that's correct.

Q. And that assumption is based upon what?

A. That is based on how much he had earned in the first one-third of the year.

Q. So it's a guess.

A. No, it's not a guess. It is based on how much he, in fact, earned in the first one-third of the year, how much was reported on his W2 wage and tax statement.

Q. So, if we know that he worked a total of three-and-a-half months in the year 2006 and two-and-a-half months in the year 2007, do you believe that that assumption is sound?

A. I'm not sure I follow your question. Your question is somewhat misleading because it suggests that I didn't take into account the number of hours he worked in 2006 and 2007, and I

did.

THE COURT: I'm sorry, Professor, I'm going to instruct you that you either answer "yes" or "no" when the question calls for a yes or no response. If counsel wishes you to provide a explanation for your answer, he will ask a follow-up question.

THE WITNESS: Yes, your Honor.

THE COURT: Thank you.

Q. Let's move on. Now, your assumption for the future started with the assumption that his annual earnings would be $11,470; correct?

A. On average, yes.

Q. And that's including this $19,580 that he may have earned had the accident not happened; correct?

A. Does that include that figure, that's correct.

Q. Okay. What about if you had taken the earnings from 2006 and 2007 and the first four months of 2008, so twenty-eight months of earnings, because we know what they are, we have that data, and averaged that?

A. In my professional opinion, it would not have been appropriate to do that.

Q. Okay. What would the number be if we had done that?

A. Had done what specifically?

Q. Let me restate it. If we had taken the earnings from 2006 and 2007 and the first four months in 2008, so

twenty-eight months of earnings, and averaged it, what's that number?

MR. PERECMAN: Objection, your Honor.

THE COURT: Overruled.

A. If I take the average of the earnings for '06, '07, and '08 and I divide by twenty-eight, I get a figure of $758.25.

Q. How is that possible?

A. Perhaps I made a mistake. You asked me to take $9,117 plus $5,713 plus $6,401 and divided by twenty-eight, when I do that math, I get $758.25.

Q. What does that reflect?

A. That reflects the sum of those three numbers divided by twenty-eight.

Q. Okay. Now, isn't it true that if you average those three numbers with the twenty-eight months, it will be less than $11,470; correct?

A. I'm not sure I follow your question there.

Q. Okay. How much per year is the average of those figures, the calculation you just did?

A. I can't really come up with an annual average because one of those doesn't reflect a full year's worth of earnings.

Q. Okay. But if we take the number and multiply it by twelve?

A. If I take $758.25 times twelve, I get $9,099.

Q. Okay. So, based upon the actual data from Mr. Grant's earning history, the average is not $11,470, it's $9,100; correct?

A. No, I would not agree with that.

Q. Okay. And that figure is about twenty percent less than the figure you relied upon when you assumed he was going to work the full year in 2008; correct?

A. The $9,099 figure is approximately twenty percent less than $11,470, that is correct.

Q. And if you had used that number, based upon the actual data, your calculations would have been substantially less than what you came up with. Fair to say?

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

Q. Using a figure that's twenty percent less would not impact the ultimate conclusions?

A. It certainly would affect my ultimate conclusions, but it would not result in a number that is "substantially" or "significantly" less.

Q. Well, it would be at least twenty percent less, wouldn't it?

A. Probably not, no.

Q. Let's talk about the unemployment adjustment that you made. That was one of the adjustments you made; correct?

A. That is correct, yes.

Q. The adjustment you used was 4.5 percent; correct?

A. No. The downward adjustment I made actually was equal to 2.3 percent. The average unemployment rate for men over the past thirty years, that was 4.5 percent, but I adjusted that to take into account the fact that some of Mr. Grant's lost income during that time would have been replenished through unemployment.

THE COURT: Professor, I'm going to have to ask you again ——

THE WITNESS: Sorry, your Honor.

THE COURT: Please, I know you have a lot of information you wish to share, however, unless the question specifically elicits that information, I'm going to ask that you be mindful and conscious of that.

THE WITNESS: I'm sorry, your Honor.

Q. On the unemployment issue, what information do you have that Mr. Grant ever collected unemployment benefits in the past?

A. I don't believe I was provided with any information about that.

Q. But you assumed that would happen in the future; correct?

A. Yes.

Q. Now, the 4.5 percent unemployment rate you used was based upon all males who are what, high school educated?

A. And at various ages, yes.

Q. Okay. Isn't it true that the government publishes data that is specific for occupations on unemployment rate?

A. I believe they do, yes.

Q. Okay. You're familiar with that, are you not?

A. I am, yes.

Q. Okay. And, in fact, that data demonstrates significantly higher unemployment rates for people engaged in construction, doesn't it?

A. It has for the recent past, yes. That data, I believe, is not available for the last thirty years.

Q. Doctor —— You're not a doctor, excuse me. I'm sorry.

How about I show you the actual government data and we take a look at it. You are familiar with these charts?

A. I am, yes.

Q. Just tell us then generally what is this government study that we're looking at?

A. We are looking here at unemployment rates, specifically unemployed persons by occupation and sex, and specifically we're looking at this data for the years 2006 and 2007.

Q. Okay. And there is an occupation listed——construction and extraction occupations; correct?

A. Yes, there is.

Q. Okay. Why don't you tell the jury what the unemployment rate was for those people in 2006, those men

specifically.

A. According to this, the unemployment rate for men employed in the construction and extraction industry in 2006 was 6.8 percent.

Q. Okay. And what about in 2007?

A. It was 7.6 percent.

Q. I think you're looking at the total. I don't want to skew the results.

A. Oh, I'm sorry, you are right. I'm sorry. Actually, the unemployment rate for men in 2006 in the construction and extraction industry was 6.7 percent, and in 2007 for men in the construction industry it was 7.5 percent.

Q. Turn the page and tell the jury what it was for men in the construction industry in 2008 and 2009, please.

A. For men in the construction industry in 2008 it was, I believe, 10.9 percent.

Q. Okay. And what about 2009?

A. And, in 2009, I believe it was 19.7 percent.

Q. Okay. Let's turn the page and go to 2010.

A. In 2010, the unemployment rate for men in the construction and extraction industry was 20.1 percent. In 2011, it was 16.5.

Q. Okay. We have some more. How about 2012 and 2013?

A. In 2012, the unemployment rate for men in the construction and extraction industry was 14.3 percent. In

2013, it was 12.4 percent.

Q. Thank you. You'll agree with me, Miss Kucsma, that those numbers are significantly higher than the 4.5 percent number you relied upon; correct?

A. I would degree that those figures are higher than 4.5 percent, that is correct, of course.

Q. And you would agree with me that Mr. Grant's job was listed under the occupation "construction worker"; correct?

A. Probably, yes.

Q. In fact, you relied upon, in other places in your report, data on construction workers, did you not?

A. Yes, I did.

Q. But in this case you chose to rely upon a general unemployment rate that did not specify construction workers, did you?

A. I needed to look at unemployment rates ——

Q. Yes or no, did you?

A. Yes, technically.

Q. Oh, technically.

A. I looked at a thirty-year average ——

THE COURT: Professor, there's no question.

Q. Show me in your report anywhere where you have an unemployment rate even approaching something above 4.5 percent. You don't, do you?

A. No, I don't.

Q. Okay. But this data is available to you, is it not?

A. Not for thirty years it isn't.

Q. And you're familiar with this data, are you not?

A. That's how I know that that data period begins in 2000 and is not available for thirty years.

Q. But we're talking about a man, we started in 2006, when we know he has an earnings' history; correct?

A. Yes.

Q. Okay. You don't have any earnings' history from him going back before that, do you?

A. No, I don't.

Q. By the way, assuming that Mr. Grant worked two-and-a-half months in 2006, what's his personal unemployment rate for that year?

A. If he worked two-and-a-half months, that suggests that he was employed about twenty-one percent of the year.

Q. Unemployed seventy-nine percent of the year?

A. Right. Which is reflected in his earnings. Correct.

Q. And what's his personal unemployment rate in 2007 —— Excuse me. 2006 was three-and-a-half months.

A. If he worked 3.5 months, then he would have been "unemployed" or possibly out of the work force for about seventy-one percent of the time, again reflected in his earnings.

Q. Okay. Not 4.5 percent of the time. Correct?

A. That is correct, yes.

Q. Okay. Back on track. What's the growth rate that you used to increase his earnings from 2009 through 2014?

A. I used various growth rates. I used a growth rate of .8 percent in 2010, 1.9 percent in 2011, .7 percent in 2012, 1.3 percent in 2013, and 1.2 percent in 2014.

Q. So, the average of that is what, 1.2 percent or so?

A. Approximately, yes.

Q. Okay. Yet, when you project his earnings into the future, you use a growth rate of 3.9 percent. Fair to say?

A. Absolutely.

Q. And that's based upon a study that someone else did for the Social Security Administration, assuming that's what's going to happen in the future; correct?

A. Only in part. That's only one source that I replied upon.

Q. But you don't have any data, hard data, other than what we have here, do you?

A. I'm not sure I follow your question.

Q. Where did this come from?

A. That is based on data available through the U.S. Department of Labor.

Q. Now, what's going to happen then with the economy in 2017 that's going to immediately triple the growth rate of Mr. Grant's earnings?

A. First of all, the 3.9 percent is an average. But setting that aside, one thing that likely is going to happen is the effects of the significant increase in the money supply that the federal reserve system has undertaken is going to result in significant inflation. When we have a lot of money printed and we don't have a lot of economic activity, the result typically is significant increase in inflation.

Q. And that began in 2009 right after the crash, didn't it?

A. What did?

Q. The government pumping money into the economy.

A. The government has kept interest rates low for quite a while, yes, and expects to do so for a couple of more years.

Q. And even with the government beginning to pump money into the economy in 2009, what we have is growth rates of .8 percent, 1.9 percent, .7 percent, 1.3 percent, and 1.2 percent; correct?

A. The money ——

Q. Am I right?

A. Yes, you are right.

Q. Thank you. But you assume that suddenly, starting next year, the growth rate is going to be 3.9 percent and you added that to his earnings each and every year, did you not?

A. Yes.

Q. Okay. 3.9 percent is at least three times higher than

the 1.2 percent that we saw for the past five years; correct?

A. It is about three times as high as the wage growth has been during the depth of the recession, that is correct.

Q. So, relying upon a growth rate that's three times higher than what actually happened for the past years significantly increases your total number, doesn't it?

A. It is the appropriate growth rate to use.

Q. Does is significantly increase your number as opposed to using 1.2 percent? Yes or no?

A. If I had used a lower growth rate, all other ——

THE COURT: Yes or no?

A. Probably, yes.

Q. Okay. I want you to assume that Doctor Wright testified that plaintiff is able to return to sedentary work. And I want you to assume that there will be testimony from Peter Steropoulos that Mr. Wright is able to work at present, earning at least as much as he did in the past. Okay? Those are the assumptions.

If those are correct, what is Mr. Grant's future loss of earnings?

A. I suppose if Mr. Grant were able to return to work, and assuming he earned as much and he worked as much as he did before, I suppose his economic losses in future years would be significantly less.

Q. How about zero?

A. Probably, yes.

Q. Okay. Now, on the Aleve, what you didn't tell the jury, you actually applied a growth rate when you calculated the amount it would cost, did you not?

A. Of course.

Q. And your growth rate was 2.8 percent in the future; correct?

A. Yes.

Q. Now, does the Consumer Price Index provide data based upon the growth rate from various areas of medicine, including the cost of non-prescription drugs?

A. Yes.

Q. Okay. And isn't it true, according to that data for the past twenty years, the average growth rate for non-prescription drugs is .8 percent?

A. I don't believe that's correct, no.

Q. How about this. How about I provide the data to you.

(Handed to the Witness)

Q. Are you able to do the calculation of the growth rate from 1993 through 2009 with those figures?

A. With these figures and this calculator, I suppose I could, but it would probably take me quite a while.

Q. I want you to assume that I did it and it is .8 percent.

A. I can't —— Well, I mean I suppose I can assume it,

but I can't agree with it. I have reviewed this data before, I don't believe that's the correct figure.

Q. Well, how about this? What if I showed you the CPI, the Consumer Price Index information for the cost of non-prescription drugs from 2010 to 2013. Why don't you take a look at that.

(Handed to the Witness)

Q. What has happened to the price of non-prescription drugs from 2010 to 2013, according to the Consumer Price Index data that I just gave you?

A. According to this Consumer Price Index data, the cost of non-prescription drugs has dropped slightly from 2010 through 2013.

Q. Thank you. And you'd agree with me a slight drop is not a 2.8 percent growth, is it?

A. I wouldn't agree with that.

Q. Okay. You would agree that a slight drop is a 2.8 percent growth?

A. No. But I would not agree that equating that drop to my 2.8 percent growth rate would be appropriate.

Q. I'll tell you what, I was going to go through the same analysis with oxycodone, but I think I can see where we're going to get with that.

A. I had to ——

THE COURT: No question imposed.

Q. Now, with the oxycodone, are you assuming that —

MR. BOULÉ: Withdrawn.

Q. You are assuming that he's taking that medication now; correct?

A. No.

Q. Doesn't your chart indicate costs for oxycodone beginning now?

A. Beginning October 1, 2014, correct.

MR. PERECMAN: Your Honor, I'm going to object to this line of questioning. She's testified very clearly she's not predicting whether he uses it or doesn't use it. She makes an assumption and puts a number out there. And that's all. These were appropriate questions for Doctor Schuster, for Doctor Wright, but not for an economist.

MR. BOULÉ: I'm entitled to question her assumptions, your Honor.

THE COURT: Overruled.

Q. I want you to assume that Mr. Grant testified he has not taken any prescription medication for the past three months. Does that change your projections at all?

A. No.

MR. BOULÉ: That's all I have.

Thank you.

THE COURT: Thank you, Mr. Boulé.

Mr Perecman, redirect?

MR. PERECMAN: Yes.

Thank you.

REDIRECT EXAMINATION

BY MR. PERECMAN:

Q. Professor Kucsma, have you ever heard the phrase "double-dipping"?

A. Yes, I have.

Q. Now, what does it mean for somebody who does calculations like this to double-dip?

A. In general, it would mean that you were counting something twice.

Q. Okay. Now, by calculating lost earnings the way Mr. Boulé would like you to count them, wouldn't you be double-dipping?

A. I would be double counting things like the effect of unemployment, work life expectancy and so on because that's already reflected in the earnings.

Q. But, for example, you were asked if you only count Mr. Grant's employment in 2008, he would have been seventy-one percent unemployed. Correct?

A. Yes.

Q. Well, that's really not true, is it? He would have been sixty-six percent of the year disabled.

MR. BOULÉ: Objection to leading, your Honor.

THE COURT: Sustained. Sustained.

Q. Well, would that be seventy-one percent unemployment?

MR. BOULÉ: Objection, your Honor.

THE COURT: I'm not sure I know what the question is.

Could you repeat the question, please.

Q. Professor Kucsma, you did a calculation where you annualized his earnings for the year 2008.

A. Yes.

Q. Why?

A. As I mentioned before, based on information provided to me, in the first one-third of that year the plaintiff had earned $6,401. In order for me to determine how much he would have earned had he not been injured in April and therefore had remained in the work force through December 31st of that year, I needed to annualize that figure. I needed to know what he would have earned in that entire year had he not been prevented from working by the injury he suffered in April of 2008.

Q. By doing that, did you assume he would be employed for eight months for the rest of the year ——

A. No.

Q. —— or less than eight months? Based on the calculations when Mr. Boulé asked you to do them.

A. Yes.

Q. When you did the first calculation, he asked you to

figure out at $16.50 an hour how many months he worked in 2008; right?

A. That is correct, yes.

Q. And it was two-and-a-half months; right?

A. Yes.

Q. If you're doing that calculation and multiplying it by three, how many months are you assuming then that he would have worked in 2008?

A. Seven-and-a-half months.

Q. Because, in fact, if he made $16.50 an hour, forty hours a week, and worked fifty weeks a year, what would that figure be?

A. If he earned $16.50 an hour, forty hours a week, fifty weeks, he would have earned $33,000 that year.

Q. And you didn't use that number, did you?

A. That is correct, I did not.

Q. So, you didn't assume he was going to be fully employed all year.

A. Absolutely not.

Q. You just assumed the rest of the year was going to go like the last few months.

A. Exactly. The second two-thirds of the year would look exactly like the first one-third of the year.

Q. And you also averaged in the small numbers from the first two years; correct?

A. Yes, I did.

Q. Now, by the way, with regard to the unemployment rate for 2010, '11, '12, and '13 in the construction industry, you said the numbers were twenty, sixteen, fourteen and twelve approximately?

A. I believe so, yes.

Q. What direction is that going?

A. Down.

Q. Why is that?

A. The economy is beginning to recover. The recession that we had in 2009 was one of the deepest recessions that we've had in a while and as a result wages were very low, unemployment rates were very high. But we are beginning to see recovery in the economy.

Q. Now, when you look at these growth rates you have for these years, 2010 through 2014, where did you get them from?

A. These figures are from the U.S. Department of Labor based on the actual changes in wages in the U.S. in those years.

Q. They, in fact, occurred. Past tense.

A. Yes.

Q. Okay. And what you have to do to do your job is to predict the future; correct?

A. Yes.

Q. How far into the future?

A. About thirty years.

Q. And what is the proper economic method for figuring out wage increases for thirty years into the future?

A. The proper method for me to use as an economist is to consider, number one, how much wages have increased over the past ten, twenty, thirty years, also to take into account how much they've increased in recent years, and, lastly, to take into account projections made by the annual report of the Board of Trustees, projections that are based on economic data.

Q. And if you use just these years, 2009 through 2014, to create an average for the next thirty years, am I correct that you would be using wage increases in a history of time of the United States that we have had one of the worse recessions in our modern times?

A. I would be assuming that the recession would continue for thirty years; I also would be ignoring what wage growth was during the mid 2000s when the economy was in the midst of a boom. Based on my experience as an economist, we will have more downturns in the economy going forward and we will also have more upticks. Based on my review of the historical data and projections, on average wages are going to increase 3.9 percent each year over the next thirty-year period.

Q. In fact, we actually have some modern-day examples of those things happening when we hear union contracts ——

MR. BOULÉ: Objection.

THE COURT: Sustained.

Q. Can you tell me if you know what the last increase was for the M.T.A.?

MR. BOULÉ: Objection, your Honor.

THE COURT: Sustained.

Q. The drug calculations you made, they do not take into account whether he would take more oxycodone; correct?

MR. BOULÉ: Objection to leading.

Q. What amount of oxycodone is that based on?

A. One per week.

Q. No more, no less?

A. That is correct.

Q. If he takes less, if he takes half that much, the number would be half that much?

A. Yes.

Q. And if he takes double that much, it would cost double that much?

A. Yes.

MR. PERECMAN: I have nothing further, Judge.

MR. BOULÉ: No recross.

THE COURT: Thank you.

THE WITNESS: Thank you, your Honor.

THE COURT: Thank you, Professor.

You're excused. You can step down.

THE WITNESS: Thank you.

(WITNESS EXCUSED)

THE COURT: Ladies, at this time we're going to adjourn for the day. We will reconvene tomorrow morning at 10 a.m.

Thank you.

Please, again, you're reminded that you cannot discuss this matter.

(At this time, the jury left the courtroom)

THE COURT: See you tomorrow at 10 a.m.

Thank you.

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(At this time, court stands in recess, and the trial adjourned to Thursday, September 25, 2014, at 10 a.m.)