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SUPERIOR COURT OF NEW JERSEY

LAW DIVISION : PASSAIC COUNTY

DOCKET NO. PAS-L-908-08

CHAYA APPLEGRAD, A Minor by Her Mother and Guardian ad Litem, ESTHER APPLEGRAD, Individually,

Plaintiffs,

vs.

ERIN BENTOLIA, M.D., Individually, VALLEY HOSPITAL, an entity, KOURTNEY KACZMARSKI, R.N., an Individual, MARY BROWN, an Individual, YIE-HSIEN CHU, M.D., et al,

Defendants.

Deposition of:

KRISTEN KUCSMA, M.A.

Thursday, January 22, 2015

Deposition of KRISTEN KUCSMA, M.A., before

Nancy A. Miani, a Certified Court Reporter, License No. XI00814, of the State of New Jersey at the offices of SOBEL TINARI ECONOMICS GROUP, 293 Eisenhower Parkway, Livingston, New Jersey, on Thursday, January 22, 2015 at 2:30 p.m.

MIANI COURT REPORTING

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EXHIBITS

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Kucsma-1 Report dated December 1, 2014 7

Kucsma-1A Signed Certification Page for 62

Report of December 1, 2014

Kucsma-2 Curriculum Vitae of Kirstin 60

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Kucsma-2A Updated Curriculum Vitae of 62

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LITIGATION SUPPORT

DIRECTION NOT TO ANSWER

(None)

MOTION TO STRIKE

(None)

DOCUMENT REQUEST

77-7

EXHIBIT ANALYSIS

Original Exhibits attached to Original Transcript.

Copies of All Exhibits attached to All Transcripts.

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KRISTIN KUCSMA, M.A.,
293 Eisenhower Parkway, Livingston, New Jersey, sworn.
DIRECT EXAMINATION BY MS. DURAN:
Q. Good afternoon, Ms. Kucsma. Correct?
A. Yes, thank you.
Q. My name is Rowena Duran. I represent Valley Hospital and Kourtney Kaczmarski in this lawsuit, and we're here today to take your deposition. You have been named as an expert in the area of economics, and that you will be testifying at the time

of trial. Do you understand that?

A. Yes.

Q. Okay. And will you be the one testifying at the time of trial?

A. As far as I know, yes. But you would probably have to confirm with counsel.

Q. Okay. Because I see there are two names on the report, which I didn't give to Nancy to mark, but Mr. Betz is the other person on the report?

A. Yes.

Q. Okay. Did you prepare the report together?

A. I was the lead economist in this case, which means I was the one primarily responsible for overseeing the preparation of the report. Mr. Betz,

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though, was involved in a limited capacity. He was involved in some preliminary conversations about the case, and of course, he reviewed the report before he signed it.

Q. Okay.

MS. WALTERS: I intend to use her at trial, unless something terrible happens and we have

to substitute somebody, that would be the only reason that Mr. Betz would, and I'm told by Ms. Kucsma that she's not going away any time soon so we should be fine.

MS. DURAN: I may not come back so we should be fine. Okay. Because obviously, I want to take the deposition of whoever is going to be testifying.

MS. WALTERS: Right.

Q. I do not have a signed copy of your report. Do we have a signed copy?

A. I have a signed copy, yes.

Q. You have a signed copy. Maybe we can get a copy of that before we leave, at least a signed copy.

A. Sure.

MS. WALTERS: What page is your signature on?

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THE WITNESS: Third page in. It's not Page 3. You have to go about -- it should be right before that page.

MS. WALTERS: Mine is not signed, either.

MS. DURAN: Why don't we mark this as Kucsma-1.

(Exhibit Kucsma-1 is received and marked by the Reporter for Identification.)

Q. I assume you have a copy of this, but I was provided with a report dated December 1, 2014. Is that your report in this case?

A. Yes, it is.

Q. Is that the only report you have written in this case?

A. Yes.

Q. Have you been provided any additional materials since you wrote this report?

A. Other than the defense experts' reports, no.

Q. You've --

MS. WALTERS: Wait. I'm sorry. I think she also received the updated life care plan, right?

THE WITNESS: Oh, the supplemental life care plan.

MS. WALTERS: Unless maybe you had that first.

THE WITNESS: I think I had that. The August one, yes, that I had.

MS. WALTERS: Okay.

Q. So since you wrote this report, you've received the report from Dr. John Scarborough?

A. Yes.

Q. And Tom Dawson on the ACA issues?

A. No. I have received the Scarborough report, and then I also received a report by Linda Houston.

Q. Okay.

MS. WALTERS: The Dawson report, I think, you already told me you're not calling that person as a witness.

MS. DURAN: But I didn't know what she had.

MS. WALTERS: She wasn't given it.

MS. DURAN: Okay. Got to find out.

Q. All right. Let me get started here. I wanted to go right to your report and ask you just a few questions.

What did you have before you provided this report?

A. I had the life care plan, the

supplemental life care plan. I had at least one deposition transcript. I had the plaintiff's certified answers to Form A and A-1 interrogatories. I had two reports by Dr. Adler. As I mentioned before, I had a deposition transcript of Esther Applegrad.

Q. Was that the first one that was taken? Tell me the date because you wouldn't know.

A. That is the one that took place on October 27th, 2008.

Q. Thank you.

A. I actually have several reports by Dr. Adler.

Q. Okay.

A. Plaintiff's Second Amended Complaint, the deposition transcript of Gedalia Applegrad, also dated October 27th, 2008, and some photographs. And I was also provided with a copy of the deposition transcript of Esther and Gedalia Applegrad dated September 2nd, 2010, and I believe those were all the documents that I had.

Q. Have you ever personally spoken with

either Esther or Gedalia Applegrad?

A. No.

Q. Have you ever met them?

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A. No.

Q. Have you -- you have not seen the child, correct?

A. Other than the photographs, not in person, no.

Q. Can you show me what photograph you have. I just want to make sure I have them, as well.

A. Sure. Off the record.

(There is a discussion off the record.)

MS. DURAN: For the record, they've been marked DEA-1, 2, 3, and 4 for identification from the deposition of the plaintiffs on October 27th, 2008.

Q. Okay. Am I correct that your purpose — strike that.

Let me ask you, what were you asked to do in this case?

A. I was asked to calculate the economic damages suffered by Chaya Applegrad in this case.

Q. One of the things you did was try to

determine what her lost wages would be, correct?

A. That is correct, yes.

Q. Assuming she had not had an injury, correct?

A. Yes.

Q. And that would be based on statistics

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that you review in terms of what do girls who only have a high school education earn over their lifetime, and/or an associate's degree over their lifetime. Is that fair?

A. Yes.

Q. Okay. So you're not predicting as an economist specifically what Chaya Applegrad would have done, just what the statistics show girls who attain that degree or degrees would have done statistically, correct?

A. I think that's correct, yes. What I did do is just calculate what Chaya's lifetime earnings would have been had she obtained, as you said, either a high school diploma or an associate's degree.

Q. Okay. You also indicated that you reviewed, or that you gathered additional information

from various published documents. Are those the documents that you referred to in your report?

A. Most of them are specifically referenced in our report, and what I mean by that is any documents from which I extracted information is cited in my report. A regular job of mine, though, as an economist, of course, is to review various financial and economic reports and statistics.

Q. Okay. Are there any specific reports or

documents that you reviewed that are not referenced? For this case.

A. Probably, and what I mean by that is, for example, you will see reference in the section about the discount rate to current financial market conditions. I regularly review statistics that are published by the federal reserve banks, in this case, the Federal Reserve Bank of New York. I also regularly review bond yields that are published by Bloomberg. So there are some other economic and financial statistics that I regularly review that are not specifically cited in this report.

Q. Okay. On Page 3 of your report, you

indicate that Dr. Adler has concluded that as of 2011, that he concluded that this child had an additional 10 to 15 years of remaining life, correct?

A. Yes.

Q. Okay. So based on your calculations, that would take her to between 14 and 19 years of age?

A. That is correct. Yes.

Q. And you based your projections on that in terms of life expectancy, correct?

A. I did. I calculated the lifetime costs through the year of 2026.

Q. Okay. All right. I want to get into a

little bit about your calculations to make sure I understand specifically how you got to where you got. On Page 4, you talk about two different scenarios, one with a high school degree and one with an associate's degree, and that lists first the year of graduation, correct?

A. That is correct, yes.

Q. Okay. And you talk about the age in labor force when somebody who graduates from high school would be expected to join the labor force,

correct?
A. Yes.
Q. And then you talk about years to retirement. Specifically, where did you – you got that from the age of statistical retirement of high school – excuse me. Let me start again.
The years to retirement is a statistic of when the average woman with only a high school education would retire. Is that fair?
A. Very specifically, the years to retirement comes from the first source that is listed in Paragraph 5, and very specifically, it is based on the actual experience of the American population, specifically women who are either 18 or 20 years of age and have either a high school diploma or an

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associate's degree.
Q. Okay. And is this the population as a whole in the United States?
A. It is, but again, I focused on a subgroup according to gender, age, and level of education.
Q. Okay. Did you find any statistics that specifically dealt with women with only a high school

degree in the State of New Jersey?

A. I did not look specifically at data for New Jersey, no. Not for this purpose.

Q. Okay. You then talk about years of work life, which I gather you obtained by multiplying the work life ratio times the years to retirement?

A. No, I actually calculated the work life ratio by dividing the years of work life by the years of retirement. The years of work life figures were derived from the second source provided in Paragraph 5, again, based on the actual experience of the U.S. population, very specifically, women who were either 18 or 20 years of age and had either a high school diploma or an associate's degree.

Q. Okay. So that based on the statistics you cited, an otherwise – strike that. Based on the statistics you've cited, a woman with a high school degree only, while they had

43.8 years to retirement, they generally would work approximately ten years less than that in actuality based on the statistics?

A. That is correct. Yes.

Q. And that's based on disability, pregnancy, unemployment, things of that nature?

A. It's based on everything you just mentioned except for unemployment. The work life figures do not take into account periods of unemployment, but we do, as you'll see later in our report, make a further downward adjustment to take into account periods of unemployment.

Q. So the work life expectancy -- what is the work life ratio then? What is the significance of that number?

A. The work life ratio represents the proportion of time from either age 18 to age -- or age 20 through retirement that Chaya would be expected to be in the work force. So in other words, if she's expected to be in the work force for 33.4 out of 43.8 years, that's the same as saying she would have been in the work years for 76.3 percent of that time. The significance of the work life ratio is that we use that in each year to reduce Chaya's earnings to represent the likelihood in any given year that she

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would have spent some time out of the work force.

Q. Okay. I need to come back because I don't quite understand this.

The work life ratio -- you multiplied the work life ratio times the years of employment to get to the years of work life?

A. You could do that, but that's not what I did.

Q. Tell me again -- because it comes out to the same thing.

A. That's correct.

Q. So tell me how you did it again.

A. What I did was I looked up the years to retirement, I also looked up the years of work life, and then I took the years of work life and I divided them by the years to retirement.

Q. Okay.

A. So for example, I took 33.4 for the high school diploma scenario and divided that by 43.8 and arrived at a work life ratio of 76.3.

Q. I don't mean to be thick, but economics is not my area. But work life ratio is specifically the ratio to what?

A. Once again, the question that you would have to ask, or that you might ask would be this. If

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an 18 year old girl with a high school diploma started working in 2025, and was expected to permanently remove herself from the labor force in 2069, in other words, was expected to permanently remove herself from the labor force 43.8 years from 2025, what proportion of that time would she actually have been in the work force. So from 2025 to 2069, would she have been in the work force every year? Probably not. She would have been in the work force 76.3 percent of that time.

Q. Of what her work life would be?

A. Of her years to retirement, correct.

Yes.

Q. Okay. Now, on Page 6, you have another little schematic there about the average weekly wage and you talk about the years 2011, 2012, and 2013, the average weekly wage. Is this an average weekly wage in New Jersey for those years which includes all sources, in other words, all people, or would that just be women with high school degrees?

A. No, the average weekly wage on Page 6 is across all individuals.

Q. Okay. Have you made that calculation for

the average weekly wage of just women with a high school degree?

A. I don't recall whether that data even

exists. It's not a calculation I have performed, though.

Q. Would you agree with me it would probably be much lower than what is projected in this little schematic?

A. I would definitely not agree with that. I don't see any reason why it would necessarily be lower.

Q. Okay. Well, you have, for instance, in the year 2001, an average weekly wage in New Jersey to be 1,107. As I calculate that, that gives an annual salary of $59,488. Are you telling me that that means that the average woman with a high school degree would be making that type of money in 2011?

A. No, that's not what I'm saying.

Q. Okay. Then why wouldn't it be different if you were just using women with a high school degree or an associate's degree?

A. In this case, I'm looking at the ratio of

wages in New Jersey to wages nationwide, the weekly wage. If, for whatever reason, I felt that in general, women's wages were lower than men's, presumably women's wages in New Jersey and women's wages nationwide would be lower. If I lowered the number in Column 2 and Column 3, the ratio is not

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necessarily going to drop. In fact, the figure in Column 2 and Column 3 could drop and the ratio could either remain the same at 120 percent or it could even increase.

Q. So this, the numbers that you're talking about in terms of an average weekly wage in both New Jersey and in the United States includes both men and women, and all educational levels?

A. That is correct, yes.

Q. And you're not sure as you sit here today whether or not those levels could be broken down to just women with either a high school or an associate degree?

A. I don't recall whether this particular data series is broken down that way, that is correct.

Q. Okay. On Page 7, you have a little

chart. What do you call them? Diagram?

A. A table, a chart – a table probably is most appropriate.

Q. Okay. A table, where you're talking about the age of the woman, and what the national average was, and then you have New Jersey, where you take that figure and then multiply it by 119 percent, true?

A. Yes.

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Q. So are you saying that a woman the age of 18, with, again, we'll just stay with the high school diploma through the age of 24 are all going to be making 22.264 a year?

A. What this data shows is that on average, women in that age category with a high school diploma would be expected to earn $22,264. It certainly does not mean that every woman who is 18 with a high school diploma would be earning $22,264, but based on the American Community Survey that does reflect the median earnings of women with that level of education who are in that age group.

Q. Okay. So are you taking 18, 19, 20, 21,

22, 23, 24, taking what the mean or the average would be and then averaging them?

A. No. This is the average. The $22,264 figure is the average of the median earnings in that category. If you look at the American Community Survey, the data that you see presented in Columns 2 and 4 is the data that is presented in the American Community Survey as opposed to specific levels of income for 18, 19, 20, 21, 22, 23, and 24. It's already broken into categories for me.

Q. And you have converted these into 2015 values?

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A. Yes.

Q. You then indicate that beginning in 2016, you're applying a yearly increase of 3.8 percent. What is that based on?

A. That is based on two sources of information. Number 1, I looked at information published by the U. S. Department of Labor, very specifically, the Bureau of Labor Statistics, and I looked back over the previous four years at how much wages had, in fact, increased in each of those years.

I also considered information published by the Board of Trustees of the Social Security Administration about how much wages are expected to increase each year going forward. And based on my review of those two sources, I formed an opinion about how much, on average, wages are likely to increase going forward.

Q. What were the years on which the 3.8 percent were based?

A. Well, again, as I just described, I looked at how much wages had, in fact, increased in each of the last four years; in this particular case, 2009 through 2013.

Q. Okay.

A. And then I also looked at how much wages are projected to increase by the Board of Trustees of

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the Social Security Administration starting in 2017, and you'll see that explained in Footnote 2.

Q. I see that. However, if you look at the annual growth rates that you've cited, 2012, it's .8, 2013 it's 1.0, 2014 it's 1.4. So again, specifically what year in the past – I assume you're using past performance.

A. I'm using both. As I said, I'm considering how much wages, in fact, increased in the past, but I'm also considering the wage projections contained in the Board of Trustees report. Both of those are important in terms of determining how much wages will increase on average going forward. And if you look at the annual report of the Board of Trustees, you will see that their wage projections in the near future are in excess of four percent per year.

Q. Okay. What years in the past can you tell me did wages increase by 3.8 percent? I was unable to find that.

A. As I sit here today, I don't recall specifically what years, but I can tell you somewhere in the mid 2000's there was wage growth, it was approximately 3.8, and I believe close to 4 percent, but I don't remember specifically which years those

were.

Q. Would that be prior to the 2008 fiscal year?

A. Yes.

Q. And is that based on male and female in all education levels?

A. Yes.

Q. Okay. Did you find anything or did you look for anything that specifically talked about the rate of increase or decrease for wages of a woman with a high school education?

A. That I don't recall.

Q. Is that information out there?

A. That I also don't recall.

Q. You don't know if it's out there or not?

A. I don't recall whether that information is out there in terms of a formal study and a reliable source. I also don't recall whether wage data that would be comparable to what I used is out there according to gender and level of education.

Q. If it was out there, would you agree that it would be more appropriate to use that type of statistics as opposed to the nation at large, men, women, all education levels?

A. Not necessarily, no.

Q. Why not?

A. Without knowing what that data is specifically, I couldn't comment on whether it would be useful, appropriate, or relevant. There's a lot of economic data that is, quote, out there, that is not statistically sound, may not be consistent with what I used in this report, may not be consistent with the wage projections contained in the Board of Trustees report. All of those conditions would need to be met before I would even consider that data as potentially being relevant.

Q. What data would you consider to be either relevant or reliable if you were to look for such data?

A. Again, without knowing whether that data exists, and what it is, I couldn't say.

Q. Well, would you think that something from the Department of Census would be reliable?

A. It would depend on what it is, and what I was going to use it for.

Q. Well, if you were looking to find out what the projected growth rate in salaries would be, if it was broken down specifically as to women with a high school or an associate degree.

A. Again, without examining the data, it's

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not clear to me whether I would consider it to be reliable or relevant.

Q. Do you agree that the annual income of those with only a high school degree or less has fallen since the 1970's?

A. I don't understand that statement, and what I mean by that is it's not clear to me what you mean by "income." It also isn't clear to me what you mean in terms of relative terms.

Q. Well, I didn't use relative terms, but would you agree that high school, people who only have a high school education generally are the ones in — strike that.

First, people who do not even get a high school degree fair worse in this economy, or in the United States' economy, true?

A. Again, I don't know what that means. As an economist, I don't know whether we're talking about nominal income, real income. I don't know whether we're talking about unemployment rates, labor force participation. "Fair worse" is a very nebulous terms so I don't know how to comment on that.

Q. Would you agree, as a general economic principle, that the higher education attainment of an individual will generally reflect in higher economic

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income?

A. On average, generally, higher levels of education do result in higher earnings, yes.

Q. Okay. And would you agree that someone who does not even have a high school diploma would generally be at the bottom level of income levels?

A. If you do look at earnings that are based solely on educational attainment, you generally do see that higher levels of education are accompanied by higher levels of earnings, and vice versa, lower levels of education, generally, all other things held constant, are accompanied by lower levels of earnings.

Q. Have you reviewed the economic report of the President that was published in 2011?

A. At some point, yes.

Q. Okay. Do you consider that that would be a reliable source of economic information?

A. What type of economic information?

Q. All right. Well, in the report, they

specifically state "while earnings of workers who have attended college have risen, the annual income of those with only a high school degree or less has fallen since the 1970's, even before the declines during the recent recession." Do you agree with that statement?

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A. Again, I don't know what that statement necessarily is referring to. If I take that statement at its face, that would indicate that individuals today with less than a high school education are earning less than those individuals 40 years ago in the 1970's in nominal terms. That I certainly would not agree with.

Q. Would you agree with this: High school dropouts have faired the worst among all workers with earnings falling 12 percent in real time – in real terms since 1963?

A. As I sit here today, I could not agree or disagree with that statement.

Q. Would you agree that workers with a bachelor's degree earn generally more than twice as much as those with only a high school diploma?

A. As I sit here today, again, I wouldn't disagree or agree with that. I have not looked at the lifetime earnings numbers for individuals with a bachelor's degree in a week or two so I don't recall off the top of my head specifically what they are.

Q. On Page 8 of your report, you are discussing the unemployment adjustment factor for people with high school and associate degrees, and you indicate that between 1970 and 2013, females in the

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plaintiff's age cohort experienced an average unemployment rate of 5.9 percent per annum. Is that simply women who have high school degrees, or is that women of all educational levels?

A. That is women with all educational levels.

Q. Okay. Do you know what the unemployment rate is for women in that time frame, 1970 to 2013, who just had a high school degree?

A. Off the top of my head, no.

Q. Is that data available?

A. Again, I don't recall as I sit here today.

Q. But you would have the ability to look that up?

A. I could certainly look to see if that data is available, yes.

Q. Okay. And the same thing for associate's degree, if you're just looking at women with associate's degrees?

A. My answers would be the same, I don't recall.

Q. Okay. Would you believe that the 5.9 percent per annum unemployment rate would likely be higher for women with just a high school degree?

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A. That I don't know.

Q. Would you believe that as an economic principle, that they would have higher unemployment than someone with, say, a college or graduate degree?

A. Without examining the data, to the extent that it exists, I couldn't say as I sit here today.

Q. Are there general economic principles that would recognize that belief that people with lower educational achievement have higher unemployment rates?

A. Are there theoretical economic principles that would support that? Not to my knowledge. Again, without reviewing the data, though, I couldn't say whether this figure would need to be adjusted slightly upwards or downwards.

Q. Okay. On Page 9, you're talking about Scenario A and B. Scenario A is high school degree, and Scenario B is the associate's degree, correct?

A. Yes.

Q. So I understand how you get to the adjusted earnings base of 74 – I'm just going to look at some areas for these questions.

A. Sure.

Q. – to get to the adjusted earnings base of 74.47 percent, but then you go to where you're

Page 30

trying to calculate the fringe and tax adjusted earnings, and you go back up to 150 percent. My question is wouldn't you be adding the fringe benefits to the adjusted earning base instead of the 115 percent?

A. The effect of adding 15 percent fringe benefits is the same as simply multiplying something

by 1.15, which is 115 percent. We're simply grossing up the compensation by 15 percent.

Q. But you're grossing it up on 100 percent as opposed to the adjusted earnings base of 74.47, correct?

A. No. That's actually why we lay out our calculations the way we do. We want you to see that the first thing we've done is determine the adjusted earnings base. The subsequent adjustments for fringe benefits, taxes, and job maintenance expenses are all applied to the adjusted earnings base, not to the gross.

Q. But why wouldn't you take the 15 percent and multiply that by 74.47 to get that number as opposed to multiplying 15 percent by 100?

A. What you would need to do is, in order to calculate how – what the total compensation would be with fringe benefits, you would need to start with the

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monetary compensation, and you need to add to it the fringe benefits. You could perform the calculation in one of two ways. You could start with the monetary compensation of 74.47 percent. You could add to that

.15 times 74.47 percent, which is what you're describing, but that is mathematically equivalent to simply taking 74.47 percent and multiplying it by 1.15. They are mathematically equivalent.

Q. And you're doing the same thing with the tax liability, correct?

A. Yes.

Q. Okay. I want to go to your Table 1 in the back. I didn't understand some of that. Exhibit 1. I apologize. This is where your median lifetime earnings for a high school diploma, the first year, which would be the first year that you estimate that Chaya, had she not had an injury, would have entered the work force, true?

A. Correct.

Q. Okay. You indicate the portion of the year that you're giving –

MS. WALTERS: I'm sorry. I just want to find where you were.

MS. DURAN: Okay. It's in the first table in the back.

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MS. WALTERS: Thanks.

Q. That would be 50 percent of the year because generally high school gets out in June, correct?

A. Yes.

Q. Okay. You have the gross earnings at 33.840. Where do you get that number?

A. That figure is – it's actually $33,840. That is based on how much a female who is 18 with a high school diploma was earning in 2011, taking into account all of the wage increases that would have occurred from 2011 through 2025. So we started with the data from the American Community Survey based on how much, on average, 18 year old high school graduate females earned, and we multiplied that each year from 2011 through 2025 with the appropriate annual increase.

Q. And that was that 3.8 percent that we discussed earlier?

A. Starting in 2016 it was, and in the previous years, it was the .8 percent in 2012, 1 percent in 2013. I went back to Page 7 of my report. 1.4 percent in 2014, and 1.4 percent in 2015.

Q. Okay. So first of all, you're saying that in the year ten years from now, 2025, that a

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woman graduating from high school would enter the work force making $33,840 a year on a statistical average?

A. Yes.

Q. Okay. And that is based on this 3.8 number that we previously discussed, correct?

A. In part, yes.

Q. And if -- obviously, you talked about how you multiply it going forward until we get to 2025, correct?

A. Yes.

Q. Okay. If, in fact, there is data out there that shows that a female entering the work force with just a high school degree has a much lower increase of salary projection, okay? With me so far?

A. I am.

Q. Okay. Would you agree that these numbers would be incorrect?

A. I would agree that if, for whatever reason, I felt it was appropriate to use a lower growth rate over this period, then all other things held constant, my numbers would be lower, yes.

Q. Right. Okay. And I understand you're not aware of anything, and you haven't looked at anything in that regard. I'm just saying, obviously,

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if the growth rate would be less than 3.8, then all of your numbers would be lower?
A. Well again, for whatever reason I felt it was appropriate to use something less than 3.8 percent beginning in 2016, then yes, all other things held constant, my numbers would be lower.
Q. Okay. I want to come down to when the potential age of retirement is at 2069?
A. Yes.
Q. Okay. Do I understand this to say that a 62 year old woman with a high school degree only, in 2069, you're projecting will make $294,624 a year?
A. Yes.
Q. And that's, again, based on this 3.8?
A. In part, yes.
Q. Do you really believe that it's economically feasible that a woman with a high school degree only is going to be making almost $300,000 a year?

A. We are looking at a period of time about 45 years into the future. If we look back at what woman and people were earning 45 or 50 year ago, they were earning significantly and considerably less than they're earning today.

Q. True, but the economy goes through a great deal of change in terms of what the growth rate is, what wages change, some wages go down depending on the economic climate, correct?

A. That is correct.

Q. Okay. So are you saying that 40 years ago, what was the average woman with only a high school degree making?

A. Off the top of my head, I don't recall.

Q. Can you give me an estimate or a range?

A. No.

Q. You're saying it's significantly less than 33,840, but you can't tell me how much less?

A. That's correct. If I went back 45 years ago and looked at an 18 year old girl with a high school diploma, I do not believe she would be earning or would have earned at that time even close to

$33,840.

Q. Okay.

A. Per year.

Q. Would you agree that the past performance, if you looked historically back 30 years, if that data were available, where it tracked what statistically the average woman with a high school degree made for those 33, 35 years, would you agree that that would be a more appropriate way to evaluate

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future income?

A. Actually, I would completely disagree with that for a variety of reasons.

Q. Why?

A. One is that it is important to consider two general factors for purposes of forming opinions about the future with respect to economic factors, and that is to look back at the past, but also, to consider the projections of anticipated future changes. In addition to that, though, in this particular case, or what I should say is in response to your particular question about women's wages, there have been many significant changes in women's labor

force participation rates, levels of education, job opportunities and so on for women. To suggest that the labor market landscape for women in the year 2011 was comparable to the labor market landscape for women in the 1960's and '70's, I think, would not be an appropriate comparison.

Q. However, we still don't have a national law that recognizes equal pay, correct, for men and women?

A. I don't believe we have such a law, that is correct.

Q. The President just mentioned that in his

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State of the Union; he's still trying to get Congress to pass that, correct?

A. I believe he is. I don't see how it's relevant in a discussion regarding labor markets and the dynamics that drive wage differentials, but I believe you're correct he mentioned that.

Q. Well, I guess it's here we are in 2015 and we still don't have a law that recognizes that women are entitled to equal pay, but that may be more of a political statement on my part.

Okay. So if we look at your lost wage calculation, which you have come out to 1.044 million, to round it off, to 1.629, what calculations did you make on this in terms of deducting personal use? In other words, what it will cost the average woman to pay rent, pay a mortgage, pay all of the bills that we all pay every day.

A. The only downward adjustment that I made in these calculations was for job related expenses.

Q. Okay. And what do you consider those job related expenses?

A. Transportation to and from work, cup of coffee in the morning, perhaps lunch. Sometimes union dues, dry cleaning, anything -- any expense related to maintaining employment.

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Q. Okay. And what was that percentage?

A. In this case, I made a downward adjustment of 5 percent.

Q. 5 percent total?

A. Yes. 5 percent.

Q. Not over each year?

A. Each year. In each year I made a

downward adjustment of 5 percent.

Q. Okay. And that's the only downward adjustment you made in this case?

A. Well, I made many downward adjustments, or I should say several, one for – I'm looking at Page 9 of my report. I made four downward adjustments, one for work life expectancy, one for unemployment, one for taxes, and then one for those job related expenses.

Q. Okay. This calculation, however, does not take into account any expense that Chaya Applegrad would have, but for her injury, would have had to incur, such as rent, food, clothing, things of that nature, true?

A. That is true, yes.

Q. Okay. And as I understand the second part of your report, given the fact that she is disabled and will never enter the work force, I think

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we can agree on that, your projection is based on the cost for caring for this child for the balance of her life, true?

A. Yes.

Q. And that would include, obviously, housing her, taking care of her, clothing her, and everything else that goes along with that, true?

A. I don't believe that is true, actually. For one thing, there is no inclusion in the life care plan for clothing her, for example. In the category that includes home care, there is no inclusion for things like food, utilities and so on.

Q. Okay. For this question I'm just going to concentrate on the facility care since she has lived in a facility for almost eight years, or her entire life, true?

A. Yes.

Q. Okay. So in her facility care, the bills that are incurred here at Children's Specialized Hospital would include all of that. It includes her medical care, it includes feeding her, taking care of her, everything that is involved in maintaining this child's life, true?

A. I believe so, yes.

Q. Okay. So –

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MS. WALTERS: I don't think so. I don't

think they give clothing.

MS. DURAN: All right. Let's put clothing to the side.

Q. I assume her parents are providing clothing. I'll exclude clothing.

If a jury were to accept that the defendants had to pay for the maintenance of this child for the rest of her life, okay?

A. Yes.

Q. Okay. And they accepted your prediction of what it would cost to maintain this child in the long-term care facility for the balance of her life, whatever they determined it to be, okay, are you with me?

A. I am.

Q. Okay. Would you agree that also awarding the lost wages, which are not reduced by any personal expenses, would, in effect, be double dipping?

A. Not necessarily.

Q. Why?

A. For one thing, there are economies of scale that facilities typically enjoy with respect to the costs of utilities and food and so on that an individual would not be able to take advantage of.

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Secondly, it isn't clear whether Chaya, herself, had she not been impaired, had she grown up and lived a, quote, normal life, would have covered all of these costs, either by herself, in total or in part.

Q. Okay. Let me break down something you said. What is an economy of scale?

A. When we took about economies of scale, in general, we're talking about the fact that when items are purchased or produced in large volumes, they can frequently be purchased or produced at a much lower per unit cost.

Q. So you're talking about what the cost would be assuming she were to remain at Children's Specialized Hospital for the balance of her life?

A. Yes.

Q. That's what you're talking about?

A. Well, I'm talking about the fact that the facility is likely paying much less per unit for things like utilities than each individual unit or person would pay if they were providing those things for themselves.

Q. Okay. But if she were to remain in

Children's Specialized Hospital, which I believe we all believe is the likely scenario, but whatever, if she remains at Children's Specialized Hospital for the

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balance of her life, whatever the jury would determine that to be, she would, with the exception of clothing, everything would be provided for her by the facility, correct?

A. I assume that things like food and utilities would be covered or included in the cost of the facility, that is correct.

Q. Okay. And they are obviously housing her, giving her nursing care, any medical care she needs, things of that nature, correct?

A. I believe so, yes.

Q. Okay. And all of that is reflected in your projection regarding the costs for future care, true?

A. Again, I believe many of those things are reflected in the cost of facility care, yes.

Q. So your projection of an economic loss for the cost of facility care you have as roughly 25 million dollars, true?

A. Yes.
Q. Okay. I understand there's a little more to it, but it's easier to say 25 million dollars. So if you assume that a jury were to accept that and say, okay, they believe you, the cost of future care for this child will be 25 million

Page 43

dollars, and they also believe that she is entitled to the lost wages of, whatever it was, 1.something, 1.6 million dollars, doesn't the fact that personal use is not extracted out of the lost wages represent a windfall?
A. Again, I wouldn't necessarily agree with that.
Q. It has the potential for creating a windfall, does it not?
A. I actually would completely disagree with that statement, but to the extent that windfall is just a degree, that's really why I disagree with that statement.
Q. Okay. Windfall meaning she would be, the jury would be awarding money to her that, in fact, they had already awarded based on the long-term care.

A. It is possible, although not necessarily the fact that a slight downward reduction might need to be made to the earnings, that is correct.

Q. Okay. And what would the downward earning be --

A. That I --

Q. -- statistically?

A. That I couldn't say as I sit here today.

Q. Can you tell me as we sit here today what

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the average personal expense is for a woman who is working full time with a high school degree?

A. That, Number 1, that I couldn't tell you as I sit here today, but Number 2, of greater significance, to the extent that any downward adjustment would need to be made, it would not be a general personal consumption or expenditure adjustment. It might be an adjustment for those items that are contained in the cost of facility care that Chaya would more likely than not have paid for herself out of her own earnings.

Q. Well, there's no way for you to know specifically if Chaya had -- strike that.

MS. DURAN: Can I have that last answer read back, Nancy.

(The preceding answer is read back by the Reporter.)

Q. Well, can't we agree that what Children's Specialized Hospital is providing to this child, 24 hours skilled nursing care, therapies, respiratory support, tube feeding, everything that she receives, are not anything that a person without this type of injury would incur?

A. That is correct.

Q. Okay. So if Children's Specialized

Hospital would be providing, and has been, in fact, providing everything for this child that is needed to maintain her and take care of her, to that extent, the family certainly hasn't been spending money in terms of food, or healthcare, or things of that nature, true?

A. That I don't know, but I think that the question here is what Chaya's life would have been like but for her impairment, so any discussion about her earnings and her spending and so on has to be

predicated on that starting point.

Q. Okay. But you would agree with me, you can't know as an economist what Chaya would have done had she not had this injury, true?

A. With one hundred percent certainty, of course, no one can know, no economist, no attorneys, Chaya's parents, nobody knows.

Q. Well, not even with a hundred percent certainty, with any type of certainty, no one person can tell what another person will do with the course of her life. Is that true?

A. That's correct, yes.

Q. Okay. People can go on to do all different kinds of things from all different kinds of backgrounds and educational levels and it's really not

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predictable from an economic point of view.

A. Actually, it is predictable from an economic point of view, that's the whole point of using sound economic methodology and statistics. So to a reasonable degree of economic certainty, we can form opinions about these things. To absolute certainty, of course, we can't.

Q. Well, I'm talking about as to a specific individual. For instance, take a kindergarten class of 30 children. You, as an economist, can look at the children and stay a certain percentage of them statistically may go on to graduate high school, a certain percentage may graduate college, and on, true?
A. That is true, yes.
Q. Okay. But you couldn't say this little girl in the corner, that this is what she's going to do; that's not an economic projection.
A. Well, again, certainly economists cannot say with 100 per certainty what an individual can or will do, but the point of using economic methods and statistics is to be able to form opinions about what a group or an individual from that group is more likely than not to do or achieve.
Q. Okay. You keep saying with a hundred percent certainty you can't say. However, again, what

one individual does or does not do with their life is not something that is subject to economic projection, true?
A. I think we'll have to agree to disagree.

The point of using probability theories and statistics is to do just that, is to form opinions about what an individual company, consumer, person is more likely than not to do based on the experience of a particular overall population. That's the whole point of statistical theory and the theory of probability.

Q. I understand that, but what I'm saying, for instance, taking my kindergarten class example, if you have 30 kindergarteners, you can statistically say of 30 kindergarteners of this class, three of them will go on to achieve post graduate degrees. Say that's what statistics would show.

A. Well, what you could say, for example, if three-quarters of a kindergarten class ultimately got bachelor's degrees, you could then say for any given kindergarten class similarly situated, that there is a 75 percent likelihood that any one child in that class will go on to obtain a bachelor's degree. That's how you use the statistics.

Q. But you can't predict which one will and which one won't?

A. No, as I've said, I think multiple times

today, I certainly cannot predict with any -- with 100 percent certainty what a particular child can do, but in that example what I certainly could say is that for any given child, there would be a 75 percent chance that child would obtain a bachelor's degree.

Q. Okay. I understand that. But when you say, again, with 100 percent, you can't pick out the specific child that will wind up in prison as opposed to becoming a judge, true?

A. That's correct, nobody can, and again, that's precisely why we have developed economic theories, statistical theories, theories of probability, and so on.

Q. Okay. Has your projected tax rate of 12 to 14 percent changed -- what year does that refer to, 12 to 14 percent?

A. This was based on a review of --

Q. Sorry. 2013?

A. Yes, thank you. Tax rate schedule, yes, published both by the IRS and State of New Jersey for 2013.

Q. And has that changed over time?

A. Has what changed?

Q. The base rate of 12 to 14 percent.

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A. For what?
Q. For women -- first of all, is this the tax rate for people with this educational level or earning a certain amount of money?
A. Tax rates, by definition, are a function of income.
Q. Okay.
A. Not a person's level of education.
Q. Okay. So has the tax rate for those levels of income that you project changed over the years? In other words, what was it in 2008, 2009, 2010?
A. That I don't recall as I sit here today, what these tax brackets were in previous years.
Q. That could possibly have an effect, depending on if it goes up or down, on your calculations, true?
A. Possibly.
Q. Are there any statistics out there by any economic source that you would recognize as reliable as to what percentage of a person's salary, just talk about any individual, goes to personal consumption?

A. There certainly is data out there about what proportion of people's income they spend on various items, yes.

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Q. Okay. What is your understanding of what the range is, for instance, people spend of their income on housing?
A. As I sit here today, I don't recall specifically what that proportion may be. It does tend to vary according to levels of income. It varies according to the number of consumers in the household, the number of producers in the household. What that range is I don't recall as I sit here today.
Q. If you wanted to look for that information, where would you look?
A. One source I would probably consider would be the Consumer Expenditure Survey published by the Bureau of Labor Statistics.
Q. Okay. I want to go to your Exhibit 3. I want to talk about some of these on the medical care. First of all, are all of your projections regarding the cost for maintaining and taking care of this child for the rest of her life based on the life care plan

of Ms. Patterson?
A. What I have done in my analysis is calculated the lump sum of money that would be necessary to fund all of the items of care outlined in the life care plan.
Q. Okay. I just want to make sure I

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understand your answer.
So if she said that she would need an especially equipped car or van in order to be transported, you would then be doing the pricing for that?
A. Well, I actually --
Q. Is that how you worked it?
A. I haven't done the pricing. What the life care planner provides to me is basically three pieces of information: An itemized list of all the different categories of care or items that Chaya will need over her remaining life expectancy as a result of her impairment; Number 2, the life care planner provides me with information about the frequency of these needs; and Number 3, it is the life care planner that provides me with the base cost of these items.

What I then do as an economist is two things. Number 1, I calculate how much those costs are going to increase each year over Chaya's life expectancy, and then secondly, I reduce those future values to present value.

Q. So you are not looking up, for instance, the cost of a pediatrician visit?

A. That is correct, I'm not doing that.

Q. You're relying specifically on the life

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care planner's figures that she provides?

A. Yes.

Q. Okay. Do you know if the information provided by the life care planner is the cost billed versus the cost paid by a carrier?

A. That is a question that you would need to ask the life care planner.

Q. Okay. And again, so you did not confirm whether, for instance, let's look at Exhibit 3, the cost of the pediatrician home visit, physiatrist, pulmonologist, what have you, in terms of medical specialty, you did not verify or take any steps to verify that these costs were accurate. You relied

solely on the life care planner.

A. I certainly relied solely on the life care planner because it would not be appropriate for me, as an economist, to offer an opinion about what the cost of the appropriate care might be in that base year.

Q. Okay. And so this seems to be obvious, but let me make sure it is, that if the life care planner's projected costs are inaccurate, then that would affect your ultimate projection of what the cost to maintain this child would be?

A. Certainly if, for whatever reason, I used

base costs that were different from those contained in my report, then more likely than not my calculations would change, yes.

Q. Okay. And would you agree with me that it is a jury question to determine how long this child will live when they're making a calculation in terms of providing for their future?

A. That is my understanding, yes.

Q. You don't make that determination; that's a fact finder for the jury?

A. I certainly do not make that determination, that is correct.

Q. Okay. Can you break down for me, and maybe I just didn't get this, but what the cost of one year in a residential facility would be?

A. I believe that information is presented in Exhibit 29, which is the final exhibit in our report.

Q. Okay. So the cost for the year 2015 for the placement, which I assume is referring to the Children's Specialized Hospital care?

A. Yes.

Q. Okay. Is $1,117,093?

A. That is correct. Yes.

Q. Okay. Does it make any difference to you

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in terms of your economical calculation what the cost has been from the time Chaya was admitted to Children's Specialized Hospital through today?

A. No.

Q. Okay. So if, in fact, the total cost for this approximate eight years has been 2.2 million dollars, would that affect your projections?

A. No.
Q. Why not?
A. I'm an economist, I'm not a medical expert, and I'm not a life care planner. It is the role of the life care planner to determine what will be needed in this case by Chaya each year going forward, and to determine the cost of all of those categories of care. My calculations are based on the information provided by the life care planner.
Q. So if the life care planner's numbers are off, your projections will be changed accordingly, correct?
A. Well certainly, as I mentioned before, if for whatever reason I used different costs or I should say costs that are different from those contained in the life care plan, than more likely than not my calculations would change.
Q. Okay. And if it turns out that the life

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care planner – you based your projections on her figures that she provided, true?
A. Yes.
Q. Okay. So if her figures are wrong, that

would – and you learned that and had to recalculate, that would change your projection, true?

A. I don't quite know what you mean when you say her figures are wrong.

Q. If it turns out the jury disagrees with her projections.

A. Well, certainly, again, if for whatever reason the jury felt that her costs were either too low or too high, then all other things held constant, my calculations would likely change, and the jury could certainly adjust my figures upwards or downwards.

Q. Okay. Do you make any accommodation, and again, this may just be back to the life care planner, but do you make any accommodation for the fact that going forward, there will be medical insurance under the ACA?

A. That is not something I account for, no.

MS. WALTERS: I object to the form, and the foundation.

Q. Your calculations, again, are based on

the life care planner, and you take – you do not take

into account any additional sources of payment, for instance, private insurance, anything of that nature?

A. I do not take those things into consideration, assuming that they would be relevant, nor, in my professional opinion, is it appropriate for me to do so. My job as an economist is to determine the present value lump sum of money that is necessary to make sure that Chaya receives the care that the life care planner has said she is going to need.

Q. If, for instance, under New Jersey law Chaya receives and is entitled to receive until the age of 21, assuming she survives that long, certain benefits through the Town of Passaic from the educational department, would you agree that those costs, for instance, physical therapy that she receives at school, that those costs should be removed from your calculation?

A. That is not something that I would necessarily agree with. It's my understanding that any issues like this, in other words, any issues that involve collateral sources of income are considered by the court at the conclusion of the trial, and the court would determine whether or not it was appropriate to mold the verdict to account for other

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possible sources of income.
Q. But do you have the ability to subtract from your calculations items that may be covered or ruled by the court not appropriate for jury consideration?
A. I certainly have the ability to subtract things from my life care plan, but it would not be appropriate for me to determine what, if any, elements should be deducted from my life care plan.
Q. Okay. Somewhere in here, and I don't recall if it's specifically regarding the – let me just check – the wage loss or the life care plan, you talk about not adding post judgment or pre judgment interest. Do you recall that?
A. I do. It's on Page 15.
Q. Okay.
A. Under our summary table.
Q. Okay. And this is in relation to both items of economic loss?
A. Yes.
Q. Okay. So why – you're indicating that if you were to take it into consideration, you would

have to increase the amount of the loss?

A. Yes, all other things held constant, yes.

Q. Why?

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A. Because –

Q. Because that would not be a plaintiff expense, that would be a defense expense.

A. I'm not sure I follow that part of your question.

Q. Okay. If there would be a verdict for the plaintiff, okay, and a jury were to award so much for life care, so much for wage loss. Okay? Which is what you have theorized in this report –

A. Yes.

Q. – once a verdict would be entered, pre judgment and post judgment interest would be calculated, and that would then be paid by the defendants. Are you aware of that?

A. I'm aware of that, but I don't understand what that has to do with the fact that we note that we could calculate those losses, if need be.

Q. Why would that be in addition to the economic loss in this case?

MS. WALTERS: I'm going to object because that's a legal issue.

MS. DURAN: She put it in her report, and I don't understand it at all.

MS. WALTERS: That, obviously, is not going to be presented to a jury, as should not any of

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this Medicaid or health insurance information, either. So I don't --

MS. DURAN: Well, that's a legal issue.

MS. WALTERS: I don't think you should be worried about it.

MS. DURAN: You should be worried about it, but --

MS. WALTERS: We're not going to present to the jury any testimony about pre judgment interest.

MS. DURAN: Okay. I understand that.

Q. In your report you say interest losses are typically determined at the time of trial and would be in addition to the losses calculated in this appraisal report. My question, since you put it in here, why would the judgment, the pre judgment and post judgment interest be added to the loss?

A. It likely, in this particular case, is much less relevant than it is in many other cases we work on. In many other cases that we work on, some of the lost earnings have occurred in past years, and the pre judgment interest in that particular case would be designed to compensate the plaintiff for the fact that he or she did not have use of that money in the past, and in that particular context, that portion of the pre judgment interest would absolutely be an extra

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element of economic loss. So it depends on the unique calculations of loss in each case, whether all of the pre judgment interest can also be considered a loss, part of it, or perhaps just a small fraction.

Q. Whereas in this case, by the time this case goes to trial, Chaya Applegrad will not be 18 years of age so any future economic loss for lost wages would not be something that's happened in the past. That's what you're saying?

A. That is correct, yes.

Q. Okay. Same thing with the life care planner, that's all future projection because the past part has to do with the lien, and that's not something

you entered into your calculations.

A. That's correct. In this particular case, while pre judgement interest certainly may apply and need to be calculated, it probably would not reflect an additional element of economic loss.

Q. Okay. I wanted to go through your CV, which I just received today. And let me – I assume – let me have Nancy mark it first.

(Exhibit Kucsma-2 is received and marked by the Reporter for Identification.)

Q. Let me just ask you two questions. Does your report of December --

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A. First.

Q. – December 1st, 2014, contain all your opinions in this case?

A. Possibly, but possibly not. And what I mean by that is that it is standard practice for us to update our calculations at the time of trial. It is possible that by the time this goes to trial, there may either be some new economic data that's become available, or that the date of implementation for the life care plan would be in the past and would,

therefore, have to be adjusted going forward.

Q. When is the date of the implementation of your life care plan, or the life care plan projected in your --

A. April 1st, 2015.

Q. Okay. Hopefully we will be at trial before then.

MS. WALTERS: But I think if it's even within a week or two after that, it's not going to affect anything.

MS. DURAN: Okay.

A. Absent any new information, though, my methods would not change, my underlying assumptions would not change unless, again, I was provided with new information. I might revise my calculations

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slightly if new economic data becomes available. I do not expect any significant economic data, though, to be published between now and the beginning of April.

Q. Did anything in the report of Dr. Scarborough in any way influence your opinions in this case?

A. No.

Q. Your CV, which has been marked Kucsma-2, is that up-to-date?

A. No, that is not up-to-date. That's interesting. It's a different date than the one –

Q. We pulled it off the website.

A. Well, then it's even more of a problem. It's not up-to-date. I have a more current one that actually is going to be put on the website, I hope this week or early next week.

Q. Can you get me a copy so we can work from that?

A. Right now?

Q. Yes. Possibly. If we could take a two minute break.

A. Sure.

(Recess.)

(Exhibits Kucsma-1A and Kucsma-2A are received and marked by the Reporter for

Identification.)

Q. So do you have a copy of your updated CV?

A. I do. I'll look over Cynthia's shoulder in a moment.

MS. WALTERS: You want to mark this?

MS. DURAN: No, it's marked, but she needs a copy to look at.

MS. WALTERS: You'll give all these to the reporter?

MS. DURAN: Yes, I will.

(There is a discussion off the record.)

MS. DURAN: She will take everything because I can't be trusted to hold on to marked exhibits.

Q. So 2A, Kucsma-2A is your updated CV?

A. Yes. It is.

Q. Okay. ABD in economics is all but dissertation?

A. Yes, it is.

Q. And are you still seeking your Ph.D. in economics?

A. Unofficially, yes, but not officially at this time. And what I mean by that is I am not presently enrolled in a graduate program, but I am intending to complete my Ph.D. at some time in the

future.

Q. How long do you have to complete or to do a dissertation in order to get your Ph.D.?

A. That I don't know. I haven't inquired about that.

Q. Is there a time limit?

A. That I don't know. It really differs university to university, applicant to applicant, so I don't know.

Q. Okay. When, since you're no – you're not a matriculated student currently, correct?

A. That is correct.

Q. What were the dates that you actually were matriculated going for your Ph.D. at Rutgers?

A. I was enrolled at Rutgers from 1991 through, I believe, 1995, could be 1996, but I believe the last year in which I was enrolled was 1995.

Q. And was this full time or part time?

A. Full time.

Q. And that was with a goal towards reaching your Ph.D., correct?

A. Yes, I entered into the Ph.D. program.

Q. Did you have a specialization in economics?

A. I did. I had several fields of

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specialization, which are listed on the first page of my qualifications profile, Applied Microeconomic Theory, American Economic History, Monetary History of the United States, and I also had begun and written about two-thirds of what I hope will be my dissertation or my thesis, and there's a description of that.

Q. Under notes and comments, or comments and notes?

A. Just above that actually, under papers presented. If you look at the fifth entry down, "Portrait of a Panic, The Crisis of 1877," that is the paper that I have developed and that I ultimately hope will become my dissertation.

Q. And can you tell me what specialization or subspecialization of economics that specifically deals with, among your areas of interest?

A. That deals primarily with American Economic History, Monetary History of the United States. It also does deal with macroeconomic theory and business cycles, banking structure and regulation, as well. Basically, that paper examines a crisis that

occurred in the 1870's in the mutual savings bank industry, examines the causes and the repercussions of that crisis.

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MS. DURAN: Off the record.

(There is a discussion off the record.)

Q. And your MA in economics, was that a two year program?

A. It wasn't really a program. What I mean by that is I was immediately enrolled in the Ph.D. program. Along the way I completed some course work, passed my qualifying examinations, and after passing my qualifying examinations for the Ph.D., I was awarded the master of arts degree.

Q. So you completed your BA in economics in 1991 at Seton Hall, and then you immediately enrolled at Rutgers?

A. Yes.

Q. Okay. And you were there full time – four years as a full time student?

A. Yes.

Q. And when you were seeking your bachelor's, were you there a full four years, as well?

A. I was at Seton Hall University, I believe, for a full four years. I don't recall when I first enrolled at Seton Hall University, whether it was 1987 or 1988, but I was a full time student.

Q. Okay.

MS. WALTERS: So you might have completed

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it in fewer than four years, is that what you're thinking?

THE WITNESS: Possibly. I did take summer classes.

Q. And did you have any type of work experience prior to going to college, or did you go right out of high school?

A. For all intents and purposes I went out of high school. I did work, of course, while – I shouldn't say of course, but I did work while I was in high school.

Q. Give me a definition, what is forensic economics?

A. Forensic economics refers to the application of basic economic methods, theories, and principles for a very specific purpose, and that is

valuing losses in litigated matters.

Q. Okay. I gather from that definition it doesn't necessarily restrict itself to personal injury matters; it could be an economic loss, as well. I mean -- I'm sorry. It could be a business transaction, where there is litigation and a business is claiming a loss?

A. That's correct. It could include that, as well, yes.

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Q. Your publications all appear to, and I may be wrong about this – strike that. Your publications, at least the first three publications, all deal with litigation issues, correct, economics and litigation issues?

A. Yes.

Q. Okay. Your work here at Tinari Economics is full time?

A. Yes.

Q. And is it fair that your full time job is reviewing litigated matters in order to come up with a projected economic loss?

A. That's partially correct.

Q. What else?
A. I say that for two reasons. For one thing, a small fraction of the work we do involves economic research for non-litigated matters, and you'll see an example of that under my publications, the publications that have to do with the Council on Affordable Housing. And secondly, we also do a fairly decent amount of work with defendants here, and more often than not, when we work with defense attorneys, we are not, in fact, calculating economic losses, but we are, instead, providing critiques of plaintiffs' economic experts.

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Q. Okay. Would you tell me what percentage of your professional time is involved with working with defendants as basically in a consultant matter?
A. I would estimate that about 30 percent of the work I do is with defense counsel.
Q. And what percent of it would be doing research for economic matters?
A. I would estimate that at present, about 5 percent of my time focuses on research that does not involve litigation. In past years it was slightly

higher, maybe about 10 percent.

Q. So that would mean roughly 65 percent of your professional time is involved in evaluating economic losses in litigated matters?

A. On behalf of plaintiffs, yes. And then 30 percent, roughly, on behalf of defendants.

Q. Okay. You've been with Tinari since 2008, true?

A. Yes.

Q. And would those percentages hold true, approximately, that entire period?

A. They remain fairly steady. As I said, several years ago I did spend slightly more time on some research projects that did not involve litigation. I also believe that several years ago, I

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was doing slightly more work with defense attorneys, maybe about 35 percent of my work instead of 30.

Q. Okay. Do you have any other professional obligations or jobs other than working for Tinari Economics?

A. Not at present.

Q. Okay. Have you ever? Let me rephrase

that question. Poorly phrased.

While you've been employed with Tinari, have you had any other professional responsibility or employment?

A. No.

Q. Okay. Just bear with me. I need to go through some questions.

Do you still have any academic positions?

A. Not at this time, no. I'm not presently teaching.

Q. Okay. In your CV, you did indicate that you worked for a period of time as a lecturer at Drew University.

A. That is correct. Yes.

Q. Okay. Did you teach statistics?

A. I believe I may have filled in for someone for one section of a statistics course while I was employed with Drew University. I did teach

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statistics regularly, though, when I was teaching for St. Peter's College.

Q. Okay. I don't see Saint – oh, I do see St. Peter's, 1995 to 1998?

A. Yes.
Q. And was that a course to college students?
A. When I taught statistics, and I believe I taught Statistics I and II, I was teaching those classes to undergraduates, but most of those undergraduates were employed at the time, and I was teaching those courses at their corporate offices.
Q. Okay. So but they were undergrads?
A. They were undergrads, yes.
Q. Did you use any particular book when you were teaching those courses?
A. That I do not recall as I sit here today. I did use a book, but what it was I don't recall.
Q. When you worked at Drew, do you recall what book, in any, you used when you filled in on that statistics course?
A. No, I don't recall.
Q. Have you taught a straight economics class?
A. Oh, heavens, yes, I've taught many

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economics classes.

Q. Where?

A. I was a member of the full-time faculty at both Seton Hall and Drew Universities, and I was an adjunct at both Rutgers University and St. Peter's College, and most of the courses I taught were economics courses at the undergraduate and graduate level.

Q. Okay. In any of your teaching positions, were you considered to be a professor?

A. I actually was considered to be a professor in at least three of those positions, and what I mean by that is in my capacity as an adjunct professor at St. Peter's College and in my full-time capacity at both Seton Hall University and Drew University, I was referred to on campus, by administrators and my colleagues, as professor, and the responsibilities I fulfilled were the same as professors. My titles, of course, as you see on my qualifications profile, though, technically were not titled professor.

Q. And when you were working with Drew, you were listed as being a lecturer, correct?

A. Yes.

Q. How would you define the difference

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between professor and lecturer?
A. Again, in terms of responsibilities, there was no difference. I taught classes, I advised students, I counseled students on internships. In terms of the titles, I believe that I was given the title lecturer at Drew University because I was there to fill in for a finite period of time, two years, for a professor that was on sabbatical, so I was not technically part of – I was not technically there as a permanent member of the faculty.
Q. Have you ever taught courses in finance?
A. Yes.
Q. Where?
A. I taught corporate finance, again, at St. Peter's College. I don't recall whether or not I taught corporate finance on occasion at Seton Hall University. I did, however, teach a course called HUB 1, which is an MBA course at Seton Hall, that is a blend of both economics and finance.
Q. Would you agree that forensic economics is the application of generally accepted economic methods, economic principles and practices to

estimating damages for the purpose of litigation, or for the purposes of litigation?

A. That's a fairly good description, yes.

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Q. Okay. When you say generally accepted economic methods and economic principles, who would it be generally accepted by, economists in the field?

A. By the, yes, by the community of economists. However, to a certain extent, we are also governed, of course, by the rules and the laws of various states in which we calculate those losses.

Q. Is forensic economics a separate sub field of economics?

A. That probably depends on whom you ask. Some universities now do offer courses in forensic economics. I don't know off the top of my head whether there are any universities that offer it as a major or minor, but it certainly has been recognized as at least a course in some universities.

Q. Are there board certifications in economics?

A. No.

Q. Okay. On Page 7, Footnote 2, when you're

talking about the increase of the annual growth rate, you're talking about the wage growth through 2017. Did you mean 2017 in that?

A. I did, yes.

Q. Okay. And what was the basis of the economic growth rate through 2017?

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A. The basis is stated in that footnote, you see we note that the first is wage growth through 2017 is likely to reflect wage growth from 2009 to 2013. So we calculated how much wages had, in fact, increased from 2009 through 2013, and then assumed that wage growth would be approximately equal to that through 2017.

Q. And again, this is wage growth for women with high school or associate degrees?

A. No, this is wage growth for all occupations, all educational levels.

Q. And all sexes?

A. Yes.

Q. Or both sexes.

A. Yes.

Q. Sorry.

(There is a discussion off the record.)

Q. Okay. So your calculations then, you would be using the same wage growth of 1.4 through 2017?

A. That is part of what is involved in the calculation of the average rate of 3.8 percent beginning in 2016.

Q. Okay. Now you have to explain that to me, because if you're using the 1.4 annual rate from

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2014 through 2017, how do you get to 3.8 in 2016?

A. Well, as I mentioned earlier today, if you look at the wage projections that are published in the annual report of the Board of Trustees of the Social Security Administration, you will see that wage growth in the near future is projected at well over 4 percent, and I believe close to 5 percent in some years. What we have done to determine the average wage growth in future years is basically constructed an index, where we have started in the year 2016 and used 1.4, we've used 1.4 percent in 2017. We then have picked up the wage rates from the annual report of the Board of Trustees, excess of 4 percent and used

what those were in the subsequent years. Once we constructed that table, we then calculated an index to figure out how much on average the wage growth would be over that period. So in the early years, our average figure of 3.8 percent is above the 1.4 percent, but in many of the subsequent years, that 3.8 percent is significantly below the wage projections. We just wanted to calculate a singular average growth rate for the future.

Q. Do you have -- I know we're way beyond pen and paper, but do you have those wage projections and indexes that you calculated? Is that something

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you can print out?

A. I don't know, and the reason I say that is because of lot of these calculations I will perform on Excel and not save them in each case, so I don't recall whether I or not I saved that calculation in this case.

Q. Okay. What I'm going to ask, and I'll send Ms. Walters a letter, that you check and see if you have any of those calculations on any of your projections, if you could print them out for me.

A. Sure.
Q. Okay.
(There is a discussion off the record.)
Q. Do you agree that earnings grow at a declining rate with age?
A. I do not necessarily agree with that statement, no. There are two different economic phenomenon that typically drive wage growth. One is changes in productivity, and the other is inflation that is typically reflected in a cost of living adjustment.
Q. Right. As people become older in their job, is it not true that the wage increases generally level off as people become more mature in their jobs?
A. It depends. It is true if you look at

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the lifetime earnings data, and I think you even see this in the data that we presented on Page 7 of our report, that generally, as individuals get older, from a productivity standpoint, that portion of the wage growth does tend to level off later on in life.
Q. Okay. Is that leveling off of the wage growth reflected in your -- I forgot what I'm supposed

to call it.
A. Table.
Q. -- table on Page 7?
A. It is, and you see it, actually. If you look at the wages in Columns 2, 3, 4 and 5, starting at age 45, you will see out of the high school diploma, you'll see the relative leveling off of the wages, and you'll see in the scenario involving the associate's degree that relative leveling off in wages because of productivity changes begins about age 50.
Q. Okay. Have you ever used the data from the American Community Survey?
A. That is what this data is in the table on Page 7.
Q. Okay. I'm not talking about the summary -- these are the summary statistics, correct?
A. I don't know that I would call these statistics, but these certainly represent some of the

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data that was generated through the American Community Survey.
Q. Okay. Do you know what the term "micro data" means?

A. That's generally a term that is used to refer to the underlying database, the raw data that is used to generate statistics, like the ones you see in the table on Page 7.

Q. Okay. Did you download the micro data from the census website?

A. I haven't downloaded it, but I don't recall whether or not we have it on either a CD-ROM or a DVD. We do have various micro data on either DVD's and/or CD's. I don't remember if we have this particular data there, though.

Q. Do you know if you looked at that actual data for the statistics on Page 7?

A. I definitely did not look at it when I prepared this report. Again, I don't recall whether I have reviewed that specific micro data or not. I have reviewed some government micro data; I just don't recall as I sit here today which it was.

Q. I think I may have asked you this. Have you ever looked as a whole on the differences of earnings for both men, women, any educational level

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between New Jersey and the United States as a whole?

A. Have I looked at -- I'm not sure I follow your question.

Q. Okay. Have you ever looked at data that compares the overall difference in wages between New Jersey and the United States, irregardless of education or sex?

A. Yes, well, that certainly is the data presented on Page 6 of our report.

Q. Okay. And that, again, is from all sources, not just women or high school grads?

A. That is correct.

Q. Would you agree with the statement that the earnings of high school grads have not kept pace with inflation?

A. I would not, as I sit here today, agree or disagree with that statement.

Q. You'd have to research it?

A. Exactly, yes.

Q. Does the Consumer Price Index provide future medical inflation rates?

A. The Consumer Price Index is a statistic that is used to calculate how much prices or costs have increased in the past.

Q. Okay. So it doesn't indicate any

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inflation rate --

A. It certainly is --

Q. -- or predict it?

A. It certainly is useful information, but it, in and of itself, is not a statistic that provides projections of future growth.

Q. Okay. You used the Consumer Price Index when you were calculating physician services would be increasing by 3.5 percent, correct?

A. Yes.

Q. Okay. And over what period of time did that occur?

A. I examined the changes in the consumer price index over the past 5, 10, and 20 years.

Q. And the average was 3.25 percent?

A. No. I reviewed two things. I looked at the compound average growth rate, as I mentioned, over the past 5, 10, and 20 years. I also considered the trends that occurred year to year during that time period, and based on my review of both trends and the compound average growth rates for 5, 10, and 20 years, in my professional opinion I would expect physicians

services, the costs of physicians services to increase on average three and a quarter percent through 2026.

Q. Okay. And what was the increase over the

last five years?

A. That I don't recall as I sit here today.

Q. Do you recall what the 10 or 20 years was?

A. No. I apologize.

Q. Give me just a minute.

MS. CASAGRAND: I just had one.

MS. DURAN: I want to double check things.

CROSS EXAMINATION BY MS. CASAGRAND:

Q. So if we can go back to Exhibit 1.

A. Yes.

Q. I was wondering if you could explain why, towards the bottom of the chart, at least, the present value is decreasing at the same time that the gross earnings and adjusted earnings are increasing.

A. The present value begins to decrease in the later years because of the relationship between the year to year growth rate and the discount rate.

Q. Could you break that down for me.

A. Sure. Early on, the average annual wage growth exceeds the discount rate.

Q. Okay.

A. So that the net effect is that your present value is growing in those earlier years. The

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present value is still less, of course, than the future value, but it's growing. And this is a function of a question I was asked earlier, and that is that as Chaya becomes older and those productivity increases begin to level off, the wage growth begins to slow down, so that ultimately, the discount rate of 4 percent exceeds the wage growth in those latter years so that the net effect is to pull down the present value.

Q. Okay. Just to break this down further, so for instance, in 2067, you have the growth earnings being $273,017, and the present value being $26,081, and in the following year, you have the gross earnings at $283,614, and the present value being $26,052, so does that mean that $283,614 in the year 2068 is actually going to have a present value that is less

than the preceding year for $273,017?

A. Yes.

Q. Okay.

A. If you look at, if you look at the year 2054, which is when Chaya would be 47, I believe that's the point at which the present value numbers begin to decline. And that's relevant because if you go back to the table on Page 7, and you look at either Columns 2 or 3, you'll see, if you look at the 45 to

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49 year old category, that is where those wages begin to level off and the increases in productivity begin to level off.

Q. So you're not saying that in the year 2068 that $20 in 2068 is going to have a lower present value than $20 in 2067? If that made –

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

Q. Okay. So if we had, just say we had $20 in the year 2068, and we also had $20 in 2067 as the gross earnings, if those were the same amount, the present value for that $20 in 2068 is, in fact, less than the present value of the $20 in 2067, correct?

A. It would be, that is correct.

MS. CASAGRAND: Okay. All right. That's all I have. Thanks.

MS. DURAN: Okay. Now I thought of something else.

REDIRECT EXAMINATION BY MS. DURAN:

Q. Looking at Table 1, or Table – excuse me – Exhibit 1 or Exhibit 2, with the projections of the total economic loss for wages based on high school versus associate's degree, I can do this much, you start when she is 18 and end when she is 62, which would be 44 years of work life, correct?

A. Yes.

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Q. Or 45 years of work life?

A. Correct, approximately.

Q. However, earlier you've indicated that based on unemployment, maternity leave -- well, not unemployment. Maternity leave, lay offs, things of that nature, that the actual years of work life would be 33.4, right?

A. Well, I should be a little more precise. The 44 years that you referenced before in Exhibit 1 is the number of years to retirement, and we see that

indicated on Page 4.
Q. Right.
A. In each of those years, if you look at Column 6 in Exhibit 1, in every one of those years, I have reduced those figures to account for periods of missed work.
Q. Where?
A. If you look at Column 6, you'll see I took the gross earnings in Column 5 and I adjusted them downward.
Q. By the 73.43?
A. Correct. And part of that downward adjustment is a reflection of that work life adjustment. If you look at Page 9 of our report, you'll see all the things that went into that downward

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adjustment, but one of the things that is being reflected in that downward adjustment is the work life adjustment because I have to take into account the distinct possibility that in any given year Chaya may have missed some work because of injury, illness, having children, and so on.
Q. Okay. So the 1.044 million is the total

of the present value of each of those 44 years?

A. Correct.

Q. Okay. And you're indicating that you took into account the potential of 10 years of not working because of injury, disability, maternity leave, whatever, by multiplying these numbers by the 73.43 number?

A. That is correct.

MS. DURAN: Okay. I'm done.

MS. WALTERS: I just have one clarifying question.

RECROSS EXAMINATION BY MS. WALTERS:

Q. You were asked some questions about the use of the word, of the categories associate's degree and high school diploma, and whether that was just statistics or whether it was based on something else. Was that based at all on the background of the family in this case?

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A. Yes, we did present those two scenarios based on the reported level of education of Mr. and Mrs. Applegrad, and according to the information we received, both had a high school education, and both

had attended at least one year of college.

MS. WALTERS: That's it.

I want to put on the record, you're going to give the court reporter the original exhibits, and so we will all have them when we're scuttling around getting ready for trial.

MS. DURAN: Yes.

(At 4:49 p.m., the proceeding is adjourned.)