SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

----------X

CLAYTON WRIGHT,

Plaintiff,

-against-

ROYAL WASTE SERVICES, INC. and CARL SCHON,

Defendants.

----------X

Index No.: 304318/12

NOTICE OF EXPERT WITNESS DISCLOSURE

S I R S:

PLEASE TAKE NOTICE that Plaintiff, by his attorneys, KAFKO SCHNITZER, LLP, as and for their exchange of expert witness information, pursuant to CPLR 3101(d) provides herein as follows:

At the time of trial, Plaintiff may call:

Edmond Provder, Certified Rehabilitation Counselor
c/o Occupational Assessment Services, Inc.
300-3 Route 17 South, Lodi, New Jersey 07644

SUBJECT MATTER OF TESTIMONY

Mr. Provder is expected to testify regarding the future employability and earning capacity of plaintiff.

SUBSTANCE OF FACTS AND OPINIONS

Plaintiff has retained the services of Edmond Provder as plaintiff's expert rehabilitation counselor. Annexed is copy of the Employability and Earning Capacity Evaluation prepared by him on November 3, 2014. Said report set forth the substance of the facts and opinions on which he is expected to testify.

QUALIFICATIONS

The curriculum vitae of Edmond Provder is annexed hereto.

SUMMARY OF GROUNDS

The basis of his testimony will be his expertise as detailed in his curriculum vitae, as well as his evaluation of the plaintiff's, plaintiff's deposition, Bill of Particulars and medical reports previously exchanged and Vocational Evaluation Methodology and sources set forth in his report.

PLEASE TAKE FURTHER NOTICE, that Plaintiff reserves the right to amend and/or supplement this response if and when further data becomes available up to and including the time of trial.

Dated: Bronx, New York
February 25, 2015

Yours etc.,

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Toms River, NJ
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EMPLOYABILITY AND EARNING CAPACITY EVALUATION
on
Clayton Wright

Prepared for the Law Offices of Kafko Schnitzer, LLP

November 3, 2014

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EMPLOYABILITY AND EARNING CAPACITY EVALUATION

on
Clayton Wright
SS# 126-64-5341

At the request of his attorneys, Mr. Wright was examined for the purpose of a comprehensive vocational evaluation, findings of employability, an assessment of any transferable skills learned from past occupations, evaluation of his earning capacity in the local labor market, and a determination as to the feasibility of Mr. Wright receiving vocational rehabilitation services. He was evaluated on 9/16/14 for a total of three hours at our office in New York City. Mr. Wright attributes his condition to a motor vehicle accident on the job that occurred on 3/26/12 which resulted in injuries to his neck, low back, right knee, and left ankle.

CONFIDENTIALITY ISSUES

Mr. Wright was evaluated by the undersigned in compliance with the ethics of a Certified Rehabilitation Counselor, the American Board of Vocational Experts, and IARP Forensic member.

He was informed that the purpose of the evaluation was to assess his ability to return to work, specifically to provide an assessment of how his medical impairments and resultant functional limitations impact on his occupational disability, employability, and earning capacity and that the information gathered in the evaluation would be included in a written report and forwarded to his attorney.

He was advised that Occupational Assessment Services abides by all federal laws dealing with medical records and that they would be confidential. He was told that once the report had been completed, it was our office policy to either send the records back to the referring attorney or shred the file.

Mr. Wright was told that any verbal information obtained in this forensic evaluation was not confidential. The evaluee indicated not recalling seeing me as a treating rehabilitation counselor at any time outside this forensic evaluation. He was advised that because this was a forensic evaluation, and that no rehabilitation counselor - client relationship exists or was implied, that this office would not be providing direct rehabilitation services to him.

He was told that no conclusions would be reached during the evaluation session as it was necessary to complete a review of all of the documents, the standardized vocational diagnostic interview, vocational testing, and observations which will be contained in a report with my final vocational opinions. Mr. Wright seemed to understand these parameters and agreed to continue.

DISCLAIMER

This evaluation occurred in the context of an ongoing forensic matter. Discovery and other processes may reveal new information not available at the time of this evaluation. Therefore, the Vocational Expert/Rehabilitation Counselor retains the right to modify vocational opinions later in a matter consistent with new documentation presented.

At the onset of this current evaluation the evaluee was reminded of the nature and purpose of the current evaluation. Mr. Wright was made aware that the ethical and professional obligation was to provide a balanced, fair examination without regard to the Party who retained him.

PURPOSE OF REFERRAL

Mr. Wright was referred to Occupational Assessment Services for a comprehensive vocational evaluation to assess the effect of his handicapping conditions on his vocational capacity, employability, loss of access to the labor market, and earning capacity.

The information used to formulate the vocational opinions in this report are based on the specific facts about Mr. Wright.

The Vocational Evaluation consisted of a standardized Vocational Diagnostic Interview and the administration of standardized tests and work samples to observe and assess the level of the individual's vocational functioning and the effect of his exertional impairments on his vocational capacity.

The specific manner in which Mr. Wright's vocational disabilities may impede his ability to perform Sedentary, Light, Medium, Heavy, and Very Heavy types of occupations,(App. A) as they exist in the labor market, are explored in this report.

The results of the evaluation served as a foundation to assess Mr. Wright's employability, transferable skills, earning capacity, and vocational rehabilitation potential.

The vocational opinions expressed in this report are based on the various assumptions made in this report. These opinions were formulated using sound vocational principles for job-person matching and job placement.(App. B12)

Vocational experts familiar with the methodology employed and the career and rehabilitation theory cited in this report can replicate the findings by applying the assumptions, methodology, and supporting analysis.

REFERRAL QUESTIONS

The vocational evaluation focused on answering the following questions:

1. What is Mr. Wright's vocational capacity?

2. Could he return to his prior work as a Tractor Trailer Driver and perform the full range of required work activities?

3. Has his prior work as a Tractor Trailer Driver provided him with any transferable skills that could be used to perform work requiring less physical capability?

4. If he has no transferable skills, what other types of jobs could he perform on a sustained, competitive basis?

5. What is his residual earning capacity?

6. What effect have Mr. Wright's physical impairments had on his work life?

7. What is the feasibility for Mr. Wright to participate in a vocational rehabilitation program?

VOCATIONAL EVALUATION METHODOLOGY

The Employability and Earning Capacity Evaluation used the RAPEL method which consists of five sections:

Rehabilitation Plan - Based on the injured person's vocational and functional limitations, vocational strengths, emotional functioning, and cognitive capabilities. Also this may include testing, counseling, rehabilitation technology, job analysis, job coaching, and vocational placement. Also considered are reasonable accommodations.

Access to the Labor Market - Computer programs, transferability analysis, disability statistics, and evaluator's work experience.

Placeability - Likelihood the evaluee will be successfully placed in competitive employment. Consideration is made of disability statistics, employment data (if any) for specific medical conditions, community economic situation (local unemployment rate), and availability of jobs.

Earnings Capacity - Based on the above information, a comparison is made regarding the evaluee's pre-incident ability to earn and post-incident earning capacity. Also considered are his earnings by education, and computer analysis based on worker traits.

Labor Force Participation - Evaluee's work life expectancy. Consideration is made regarding part-time versus full-time work, time lost due to the injury, medical treatment or follow-up, earlier retirement, etc.

This methodology is described by Roger Weed and Timothy Field in Rehabilitation Consultant's Handbook, 4th Revised Edition. The RAPEL methodology has been used by Vocational Experts for more than 25 years and has been peer reviewed numerous times.

In order to use this peer reviewed methodology generally accepted in the field of Rehabilitation counseling and commonly used in the discipline of rehabilitation counseling by rehabilitation and career professionals and vocational experts in litigation and non-litigation settings, the evaluation consisted of eight parts: (App. B13)

1. The initial section involves *collecting data and facts specific to Mr. Wright* by reviewing the medical records and medical restrictions, earnings information, and Mr. Wright's deposition, as well as other documents that describe the evaluee's condition. This data provides background information to better understand the evaluee and his medical treatment and to make a determination as to the nature, extent, permanency, and functional limitations of his medical condition.

2. The second section consists of performing a standard Vocational Diagnostic Interview to obtain information on the evaluee's background, formal or informal education, past employment and earnings history, medical condition, medical treatment, and residual functional capacity.

3. A vocational analysis is performed on Mr. Wright's past relevant work as a Tractor Trailer Driver. This consists of classifying the evaluee's occupations using standard government codes from the U.S. Department of Labor's Dictionary of Occupational Titles ("DOT")(App. B1) and O*Net (App. B2) to determine the physical demands, Worker Functions, Specific Vocational Preparation (SVP), skill level, and the General Educational Development (GED) of Mr. Wright's employment. From these government publications, information is obtained regarding the skills and competencies, the aptitudes, and the job temperaments required for job performance. This data helps the vocational expert to determine the evaluee's pre-injury vocational capacity.(App. B3)

4. Based on the information obtained in the document review, vocational interview, and vocational analysis, an individualized standardized vocational test battery is administered to measure the evaluee's post-injury vocational aptitudes, abilities, skills, and vocational capacity for competitive employment. It assists in determining the individual's functional capacities and limitations. The testing helps in determining the vocational significance of the injury on the person's employability and post-injury vocational capacity.

5. Using the Vocational Diagnosis and Assessment of Residual Employability (VDARE) process, a peer reviewed widely accepted methodology, a Transferability Skills Analysis is performed using the OASYS computer program, which uses the classic method (Work Field, SVP, MPSMS). Mr. Wright's work history is analyzed to determine his skills, aptitudes, and skill level.(App. B7) Such government publications as the Dictionary of Occupational Titles, O*Net - 2010 codes (974 occupations), the Guide For Occupational Exploration, and the Classification of Jobs 2000 (App. B1, B2, B5, B6) are used to analyze the skills inherent in Mr.

Wright's past jobs. This information, along with the vocational evaluation test results, is used to make a determination regarding Mr. Wright's ability to transfer his skills learned from his previous employment or education to other employment, within his vocational capacity, in the competitive labor market. This involves *synthesizing data and information* with an emphasis on his ability to return to work.

6. A Labor Market Access (LMA) analysis was conducted though the development of the evaluee's pre and post injury worker trait vocational profile made to determine Mr. Wright's ability to enter the labor market given his skill level and vocational capacity.(App. B7) This involves *identifying the reasonable consequences and problems* related to the evaluee's work ability and noting jobs, if any, the evaluee can perform.

7. A review is made of all of the materials and a *vocational expert opinion* is formulated as to Mr. Wright's post-injury vocational capacity, transferable skills, employability, earning capacity, and the feasibility of him to receive vocational rehabilitation services.

8. If the individual is found to be employable given the results of the vocational evaluation, research is conducted regarding the evaluee's residual earning capacity and the number of such jobs in the local labor market using state and federal government statistics such as OES (Occupational Employment Survey) - State and Local, OOH (Occupational Outlook Handbook 2013-2014) - National or private labor studies to determine whether jobs exist that Mr. Wright can perform within his vocational capacity and the current wage rates for these occupations. This is the standard type of Labor Market Information used and relied upon in the field of Rehabilitation Counseling.

VOCATIONAL EVALUATION ASSUMPTIONS

The vocational opinions regarding Mr. Wright's employability, earning capacity, and vocational rehabilitation potential expressed in this report are based on the assumptions that:

1. The records reviewed were complete and accurately reflect Mr. Wright's physical condition and medical treatment.

2. The evaluee was cooperative and complied throughout the vocational evaluation process.

3. The evaluee did not intentionally exaggerate or give false information regarding his physical or psychological symptoms.

4. The history and information given during the standardized vocational diagnostic interview was truthful and accurate to the best of the evaluee's ability. That there is no significant discrepancy between the evaluee's claimed disability and the objective findings of the vocational evaluation.

5. Mr. Wright's pre-accident vocational functioning is estimated within the average range based on his educational and occupational history.

6. Mr. Wright performed the various vocational tests to the best of his ability.

7. Mr. Wright's physical conditions and resultant reduction of vocational capacity are permanent.

8. No opinion is reached by this expert as to the causality of Mr. Wright's medical condition.

EARNING CAPACITY ASSESSMENT

Several factors were specifically considered during this vocational evaluation to determine Mr. Wright's loss of earning capacity. Consideration was made regarding such factors as the ability to apply previously learned skills, cognition, medical prognosis, future career prospects given the injured person's vocational capacity, pre-existing and acquired vocational handicaps, work motivation, and demonstrated earnings history. (App. B17)

The purpose of the evaluation is to investigate how these factors impact on Mr. Wright's ability to work on a sustained, regular, competitive, basis, and earn money given his residual functional physical capacity.

The analysis of a person's earning capacity is a four-part process:

1. Subject - Specific factors: medical issues, psychological issues, education, training and specialty skills, work history, and acquired experience and skills.

2. Data from Examination - Vocational Interview, Vocational Testing.

3. Labor Market Research - Dictionary of Occupational Titles, O*NET, State and Federal Government wage information.

4. Earning Capacity Opinion.

COMPETITIVE EMPLOYMENT EVALUATION

The purpose of this employability evaluation is to assess the evaluee's ability to perform competitive employment. Competitive employment, as defined in 34 CFR 361.5(b)(10), means work in the competitive labor market that is performed on a full-time or part-time basis in an integrated setting, and for which an individual is compensated at or above the minimum wage, but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by individuals who are not disabled. A job that is set aside for the person with disabilities is not competitive and the employer is looked at as beneficent. The person must be able to produce work at a level that is acceptable to an

employer. For example, if 80 widgets are required to be assembled in one hour, the person is expected to meet this quota.

FORMULATION OF OPINIONS

The vocational opinions expressed in this report are given within a reasonable degree of certainty or probability as a Rehabilitation Counselor and Vocational Expert.

Since Kerner v. Flemming, 283 F.2d 916 (2d Cir. 1960), Vocational Experts, who are professionals educated, trained, and skilled in job placement and knowledgeable about labor market conditions, have been asked to formulate vocational opinions about specific job opportunities of a person based on their age, education, background, work experience, and medical condition.

The vocational opinions in this report are based on my education, training, experience, and the information contained in various traditional vocational sources, (App. B) including private, federal and state government publications. The current knowledge and methods used in the field of forensic vocational rehabilitation were applied in determining Mr. Wright's employability and earning capacity.

In addition, the opinions are based on the information available to me at the time of my evaluation, including medical and other records, the evaluee's history as obtained from the standardized vocational interview, the vocational evaluation testing results, my professional clinical judgement, labor market research, and the conclusions made.

The opinions reached in this report rely on the quality, accuracy, and honesty of the evaluee's reported history, complaints, symptoms, and functional capacity, as well as cooperation with any vocational testing administered.

If any of the oral or documentary information provided is false, fictitious, fraudulent, incomplete, or misleading, it may change the conclusions and opinions reached in this employability evaluation. The opinions expressed are ***case specific*** to this evaluee. Should there be ***additional*** information that becomes available at a later time for my review that significantly changes my vocational opinions, I reserve the right to modify my opinions and issue a supplemental report.

RECORDS REVIEWED

The following hospital records were reviewed:

Montefiore Medical Center (3/27/12) states "MVA, neck strain, back strain, elbow strain, knee strain, chest contusion."

The following physician records were reviewed:

Dr. Bloch (3/30/12-7/25/14) states "Cervical and lumbar radiculopathy...The disability is a partial disability."

Dr. Ehrlich (4/30/12-9/18/13) states "The patient incurred permanent injuries to his right knee as a result of the motor vehicle accident at work on March 26, 2012. At this time, he continues to complain of right knee pain, swelling, stiffness and mechanical symptoms. His physical examination is significant for a markedly decreased range of motion actively and passively of his knee...He has been indicated for surgery but has deferred operative intervention...the patient's prognosis at this time is guarded...the patient's right knee injuries are permanent in nature."

The following diagnostic records were reviewed:

Dr. Traftlet (5/10/12) on MRI of the cervical spine states "C3-4, C4-5 and C5-6 disc herniation. C6-7 bulging annulus."

Dr. Traflet (5/10/12) on MRI of the lumbar spine states "L2-3, L3-4 and L4-5 bulging annuli. L5-S1 disc herniation."

Dr. Traflet (5/11/12) on MRI of the right knee states "Chondromalacia patellofemoral articulation. Cluster of subcortical cysts at the anterior distal femur. Mild edema, more anteriorly. Prior MCL sprain."

The following employment and income records were reviewed:

Mr. Wright's equipment lease and escrow transaction info from Big Daddy Drayage.

Mr. Wright's earnings info from Big Daddy Drayage.

Mr. Wright's income tax returns: 2009 ($53,621); 2010 ($58,195); 2011 ($109,465); 2012 ($550); 2013 ($12,000).

The following legal records were reviewed:

Bill of Particulars (11/9/12).

Deposition of Clayton Wright (5/3/13).

GENERAL DESCRIPTION

Mr. Wright arrived one hour early for the session, neatly groomed and attired. He states being 5 feet, 6 inches in height and weighs 220 pounds. He reports a weight gain of 40 pounds since the accident. He took the subway to the interview by himself which took 60 minutes. Mr. Wright reported experiencing pain in the low back and right knee during the trip to the office

He stood after 40 minutes of the interview, reporting low back pain.

BACKGROUND INFORMATION

He is 52 years of age, born 3/1/61 born in Jamaica, West Indies. He came to the United States in 1981. He is married and resides in a private house (4232 Bronxwood Ave, Bronx (Bronx County), New York 10466) with his wife and four children ranging from age 10 to 20.

EDUCATIONAL AND TRAINING BACKGROUND

Mr. Wright graduated High School in 1981 in Jamaica. He took three years of automobile mechanic courses while in high school. Military service is denied.

From 1981 to 1985 he attended Rochambeau Technical School in White Plains, New York full time, graduating with a certificate in Auto Mechanics.

He obtained his Commercial Driver's License from the State of New York in 1985. He reports having a Hazmat Endorsement.

Mr. Wright completed forklift training and is Certified through JRC.

He has not received any private or public vocational rehabilitation services for job training or placement.

WORK HISTORY

Employment from 2008 to 3/26/12 was as an Owner/Operator Tractor-Trailer Truck Driver for Big Daddy in Newark, New Jersey. This occupation involved the long and short haul of general freight throughout the Eastern United States. He would haul freight back and forth. Occasionally he would operate a forklift to load and unload the trailer. In addition, he would make repairs on his own tractor if needed. This work is best described in the U.S. Department of Labor's Dictionary of Occupational Titles ("DOT")[App. B1] on page 917 as follows:

TRACTOR/TRAILER DRIVER (any industry)

SEMI-TRUCK DRIVER; TRAILER-TRUCK DRIVER. Drives gasoline or diesel-powered tractor-trailer combination, usually long distances, to transport and deliver products, livestock, or materials in liquid, loose, or packaged form: Drives truck to destination, applying knowledge of commercial driving regulations and skill in maneuvering vehicle in difficult situations, such as narrow passageways. Inspects truck for defects before and after trips and submits report indicating truck condition. Maintains driver log according to I.C.C. regulations. May assist workers in loading and unloading truck. May transport new automobiles or trucks from manufacturers or rail terminals to dealers and be designated

Transport Driver (motor trans.). May drive tractor with two trailers hitched in tandem and be designated Double-Bottom Driver (any industry).

It is given the code number 904.383-010. On the standard five-point physical demand scale of Sedentary - Light - Medium - Heavy - Very Heavy, this occupation would be considered Medium to Very Heavy Work. He reports having to lift cargo which weighed up to 100 pounds.

Medium Work is defined by the DOT, page 1013, as exerting 20 to 50 pounds of force occasionally (up to one-third of the time), and/or 10 to 25 pounds of force frequently (one-third to two-thirds of the time), and/or greater than negligible up to 10 pounds of force constantly (two-thirds or more of the time) to move objects. Physical demand requirements are in excess of those required for Light Work.

Very Heavy Work is defined by the DOT, page 1013, as exerting in excess of 100 pounds of force occasionally (up to one-third of the time), and/or in excess of 50 pounds of force frequently (one-third to two-thirds of the time), and/or in excess of 20 pounds of force constantly (two-thirds or more of the time) to move objects. Physical demand requirements are in excess of those required for Heavy Work.

OTHER PHYSICAL DEMANDS:

CL - Climbing - Occasional
BA - Balancing - Occasional
ST - Stooping - Occasional
CR - Crouching - Occasional
RE - Reaching - Frequent
HA - Handling - Frequent
FI - Fingering - Frequent

Every job requires a worker to function, to some degree, in relation to Data, People, and Things. The DOT has identified and defined these "Worker Functions," and the fourth, fifth, and sixth digits of the occupational DOT code reflect these relationships to Data (D), People (P), and Things (T). This occupation has been assigned the following relationships:

D3 - Compiling: Gathering, collating, or classifying information about data, people, or things. Reporting and/or carrying out a prescribed action in relation to the information is frequently involved.

P8 - Taking Instructions-Helping: Attending to the work assignment instructions or orders of supervisor. (No immediate response required unless clarification of instructions or orders is needed.) Helping applies to "non-learning" helpers.

T3 - Driving-Operating: Starting, stopping, and controlling the actions of machines or equipment for which a course must be steered or which must be guided to

> control the movement of things or people for a variety of purposes. Involves such activities as observing gauges and dials, estimating distances and determining speed and direction of other objects, turning cranks and wheels, and pushing or pulling gear lifts or levers. Includes such machines as cranes, conveyor systems, tractors, furnace-charging machines, paving machines, and hoisting machines. Excludes manually powered machines, such as handtrucks and dollies, and power-assisted machines, such as electric wheelbarrows and handtrucks.

The Department of Labor classifies occupations by Specific Vocational Preparation (SVP),[App. B1] which is defined as the amount of lapsed time required by a typical worker to learn the techniques, acquire the information, and develop the facility needed for average performance in a specific work situation.

This occupation requires an SVP level of 4, which includes jobs that take over three months and up to six months to learn.

The General Educational Development (GED) [App. B1] has been analyzed regarding those aspects of education (formal and informal) which are required of the worker for satisfactory job performance. The GED is composed of three divisions: Reasoning Development, Mathematical Development, and Language Development. Mr. Wright's occupation has the following GED classifications:

> Reasoning Development Level 3, which means a person must at least be able to "apply common sense understanding to carry out instructions furnished in written, oral, or diagrammatic form" and "deal with problems involving several concrete variables in or from standardized situations."
>
> Mathematical Development Level 2, which means a person must at least be able to "add, subtract, multiply, and divide all units of measure" and "perform the four operations with like common and decimal fractions" and "compute ratio, rate, and percent" and "draw and interpret bar graphs" and "perform arithmetic operations involving all American monetary units."
>
> Language Development Level 3, which means a person, when reading, must at least be able to "read a variety of novels, magazines, atlases, and encyclopedias" and "read safety rules, instructions in the use and maintenance of shop tools and equipment, and methods and procedures in mechanical drawing and layout work." When writing, he must at least be able to "write reports and essays with proper format, punctuation, spelling, and grammar, using all parts of speech." When speaking, he must at least be able to "speak before an audience with poise, voice control, and confidence, using correct English and well-modulated voice."

He reports earning $101,000 in 2011.

From 2005 to 2008 he worked for Best Transportation in Newark as an Owner Operator/Tractor Trailer Truck Driver where he drove from New Jersey to Connecticut.

From 2001 to 2005, Mr. Wright worked as a Tractor Trailer Owner/Operator for Weschester Motor Lines in New Haven, CT. He reports driving short hauls, making one trip per day. He reports having to lift up to 50 pounds on this job. He reports earning $150,000 per annum. He reports working 14 hours per day on this job. He left this job because the company decided to only use company drivers.

From 1999 to 2001, Mr. Wright worked as an Owner/Operator Tractor Trailer Truck Driver for JRC Flatbed in Tomason, CT. He reports operating a forklift which he used to move roofing shingles and lumber onto the flatbed. Mr. Wright reports lifting up to 50 pounds on the job. Mr. Wright reports earning $100,000 per annum on this job.

After the accident, in 10/12, Mr. Wright worked for three days a week for three weeks as a Tractor Trailer Driver. This job involved hauling containers and driving from Newark to Allentown and back to New London, CT. Mr. Wright reported experiencing left shoulder, low back, and right knee pain upon operating the clutch of the Tractor. He did not have to load or unload the trailer on this job. He reports having to frequently stop due to bladder issues from the seatbelt.

He had financed his Tractor Trailer through Big Daddy and lost the truck after the accident due to his inability to make the loan payments, resulting in the truck being repossessed.

From 12/13 to 2/14, Mr. Wright worked on a part time basis as a Tractor Trailer Driver for Ashanti in Bronx, NY. This job involved performing short hauls of Domino's Sugar from Yonkers to Queens.

His boss changed the truck to an automatic transmission and Mr. Wright returned to work with Ashanti from 7/14 to the present. Mr. Wright reports experiencing pain in the low back, neck, and right knee, as well as radiating bilateral shoulder pain. He reports difficulty getting in and out of the truck. He reports the constant "stop and go" of traffic increases his pain. He is working four to five hours per day, earning $500 per week

This vocational information is consistent with the information contained in the standard occupational reference works listed in Appendix B.

ANALYSIS OF PAST WORK EXPERIENCE

An analysis of Mr. Wright's past work history indicates that his main occupation was as a Tractor Trailer Driver. Based on the job description he gave, this work required Medium to Very Heavy Physical capability.

Based on the job description given by Mr. Wright, on a scale of unskilled (Specific Vocational Preparation 1-3), semi-skilled (Specific Vocational Preparation 4-6), and skilled

or professional (Specific Vocational Preparation 7-9), his occupation would be classified as semi-skilled.

The skills and competencies inherent in this occupation are the following:

TRANSPORTING

Conveying passengers and materials by truck.

Driving. Steering.

According to Selected Characteristics of Occupations Defined in the Dictionary of Occupational Titles, U.S. Department of Labor, Employment and Training Administration, 1993, COJ 2000 The Classification of Jobs, Fifth Edition, J. E. and T. F. Field, Elliott & Fitzpatrick, Inc., 1999, and Dictionary of Worker Traits, Volume I and Volume II, A. F. Kearns and R. E. Neeley, Vocational Research Institute, 1987, this occupation is found in the Worker Trait Group TRUCK DRIVING, and is coded 05.08.01. This occupation of Tractor-Trailer Truck Drivers is given the ONETSOC code number: 53-3032.02.

In analyzing aptitudes in occupations, the U.S. Department of Labor uses a five-point scale: 1 (highest 10 percent of the population), 2 (highest one-third of the population), 3 (middle one-third of the population), 4 (lowest one-third of the population), and 5 (lowest 10 percent of the population). Mr. Wright's work as a Tractor Trailer Driver has contained the following aptitudes:

G-3 **Intelligence**: General learning ability.

V-4 **Verbal**: Ability to understand meanings of words and ideas associated with them.

N–4 **Numerical**: Ability to perform arithmetic operations quickly and accurately.

S-2 **Spatial**: Ability to comprehend forms in space and understand relationships of plane and solid objects.

P-3 **Form Perception**: Ability to perceive pertinent detail in objects or in pictorial or graphic material.

Q-3 **Clerical Perception:** Ability to perceive pertinent detail in verbal or tabular material.

K-3 **Motor Coordination**: Ability to coordinate eyes, hands, or fingers rapidly and accurately in making precise movements with speed.

F-4 **Finger Dexterity**: Ability to manipulate small objects and move the fingers rapidly and accurately.

M-3 **Manual Dexterity**: Ability of a person to work with the hands in a skillful manner, as well as work with the hands to perform placing and turning motions.

E-3 **Eye-Hand-Foot Coordination**: Ability to move the hand and foot coordinately with each other in accordance with visual stimuli.

C-4 **Color Discrimination**: Ability to perceive or recognize similarities or differences in colors, or in shades, or other values of the same color.

This occupation requires the following Temperaments or Situations to which the worker must adapt:

A - Working alone or apart in physical isolation from others.

J - Making generalizations, evaluations, or decisions based on sensory or judgmental criteria.

PRE-EXISTING MEDICAL CONDITIONS

In 2010, he reports being involved in a motor vehicle accident but not sustaining any injuries. He never missed work or was hospitalized for this accident.

PHYSICAL COMPLAINTS

Mr. Wright's current complaints include constant pain in the neck radiating into both shoulders varying in intensity, constant low back pain, radiating bilateral leg pain more prominent on the left, left knee pain increasing upon exertion, constant right knee pain, left ankle pain, fatigue, difficulty sleeping (60 minutes), numbness in the right knee, and weakness in the left leg. He feels worse in cold and damp weather. Mr. Wright reports no deficits in vision or hearing. He wears glasses for reading and distance.

He reports experiencing frequent urination, having to go four to five times while working and four to five times per night.

MEDICAL TREATMENT

Hospitalizations and Surgeries

Mr. Wright was hospitalized at Montefiore Medical Center Emergency Room (3/27/12).

Physicians

He was treated by Dr. Block, a neurologist who recommended epidural injections of the neck and low back.

Dr. Ehrlich, an orthopedist, recommended arthroscopic surgery of the right knee, physical therapy, and epidural injections.

Therapy Treatment

Physical therapy was received from 12/13 to 9/13 on a two to three time per week basis.

Medication Regimen

Mr. Wright takes the following medications: Advil for pain.

ACTIVITIES OF DAILY LIVING

Mr. Wright can independently wash, dress, and bathe himself.

He reports being able to perform the light household chores and shopping.

His daily activities include watching television, listening to music, and reading.

Mr. Wright reports that he owns a computer at home but does not use it.

He states having to rest for 30-40 minutes in the afternoon because of fatigue.

He denies involvement in any hobbies, sports, or special interests. Prior to his accident, he played soccer and football, took his children to the park, and traveled on weekends.

RESIDUAL FUNCTIONAL CAPACITY SELF-ASSESSMENT

Mr. Wright gives the following as his current physical capacity: able to sit 60 minutes experiencing low back pain, able to stand 20 minutes noting bilateral knee and low back pain, able to walk 10-15 minutes experiencing low back and bilateral knee pain and fatigue, able to slowly climb one flight of stairs, able to lift and carry five to ten pounds, and able to use both hands to grasp and manipulate objects. The dominant hand is the right. He has difficulty bending due to low back pain. He is able reach both arms to shoulder level which is accompanied by complaints of bilateral shoulder pain.

He has a New York State Commercial driver's license. Mr. Wright reports difficulty driving, being limited to two hours due to low back, right leg, and bilateral knee pain, as well as fatigue. He is able to use public transportation such as a bus or subway.

EVALUATION TESTING METHODOLOGY

The vocational evaluation test battery was designed to assess Mr. Wright's future vocational handicaps, vocational capacity, and earning capacity.

Selection of the tests administered were based on Mr. Wright's prior work experience as a Tractor Trailer Driver, educational level, and disabling condition.

The vocational evaluation work area consisted of Mr. Wright seated at a table, where he had the option of sitting or standing. The evaluator was seated at the same table observing him throughout the testing session.

Standardized tests and work samples were administered for observing the impact and effect of Mr. Wright's disabling condition on his ability to perform Sedentary, Light, Medium, Heavy, and Very Heavy types of work activities, as they exist in the labor market and are defined in the DOT. Work samples are "hands on" tasks whereby the person works with the actual tools, equipment, or work processes of a particular occupation.

Instructions for the tests were given in a standardized manner to replicate an actual work environment either orally, in writing, or through demonstration. All tests have a sample section which Mr. Wright had to successfully complete before beginning the task. Time limits were set for each task.

Emphasis was placed on observing such worker characteristics as the quality and quantity of work, work tolerance, reaction to job changes, work pressure, ability to comprehend directions, physical stamina, ability to concentrate, ability to work under supervision, and ability to work at an even, sustained pace.

An analysis of the Vocational Evaluation involves an interpretation of the score of each test (objective finding) and relating it to the observations made of the effect of Mr. Wright's disabling condition while the test was performed. Norm groups consisting of industrial or employed workers were used to assess his rate of productivity in the competitive labor market.

Scores are reported using a scale of above average (Aptitude Level 1 & 2; 68th to 99th percentile), average (Aptitude Level 3; 34th to 65th percentile) and below average (Aptitude Level 4 & 5; 1st to 33rd percentile) compared to people in the norm group. A score of above average signifies a competitive level of performance and the production level required of persons employed in this capacity. An average score indicates a level of production approaching a competitive level, which indicates potential employability. A below average score denotes a level of production below that for competitive employment.

Through the administration of several tests which measured the same vocational construct, constant observation through the evaluation, and a review of the test scatter, it was my opinion that the test battery was internally consistent, reliable, and valid.

In addition, it is my opinion that Mr. Wright worked to the highest level of his capability given his past vocational experience, educational level, and handicap, and that the test results accurately reflect his vocational capacity for sustained gainful employment.

VOCATIONAL EVALUATION RESULTS

Purdue Pegboard is designed to measure gross movements of the arms, hands, and fingers, as well as fine finger dexterity. Mr. Wright's scores on this test were below average on the right-hand section, below average on the left-hand section, below average on the both-hand section, and below average on the four-part assembly section when compared to the male industrial applicant norm group. This test is related to jobs involving the workers' trait factor Handling (.887).

Vocational Aptitude Battery - Manual Dexterity Test assesses the individual's ability to work with his hands in placing and turning motions. This manipulative test requires the person to assemble large, three-piece fittings on an assembly board. The size of the fittings requires the person to use only his whole hands or wrists to perform this task. Mr. Wright obtained a below-average score compared to the competitively employed norm group.

Vocational Aptitude Battery - Finger Dexterity Test assesses the individual's ability to use the fingers to work with small objects quickly and correctly. This manipulative test involves assembly of a small, five-piece object, which requires the person to use only his fingers in the performance of this task. Mr. Wright obtained a score of below average compared to the competitively employed norm group.

Vocational Aptitude Battery - Form Perception Test assesses the individual's ability to notice details in objects and drawings, such as shape and shading. This is a multiple-choice test in which large photographs of actual tools and work-related materials are matched to the stimulus photograph. This task requires abilities similar to those found in inspection, machine shop, and mechanical jobs. Mr. Wright obtained a below-average score compared to the competitively employed norm group.

Employee Aptitude Survey - Verbal Comprehension is a measure of an individual's vocabulary as it is used in oral and written communication. When compared to the general productive male population norm group, Mr. Wright's score was below average.

Employee Aptitude Survey - Manual Speed and Accuracy is a test of an individual's ability to make quick and accurate movements with the hand. Mr. Wright was unable to start this test after the practice section due to pain.

Dynamometer Hand Testing is a measurement of an individual's gross grasping ability. Strength-of-grip measurements taken on three successive attempts with the Jamar Dynamometer. He was unable to perform this test due to severe pain.

BEHAVIORAL OBSERVATIONS

Mr. Wright reported experiencing right wrist and arm pain, as well as low back and bilateral knee pain, while performing the various tests. On the VAB Form Perception Test, he reported experiencing neck pain from looking downward. While performing the Manual

Speed and Accuracy Test, he noted experiencing neck and right shoulder pain of such severity he could not perform the test.

TRANSFERABILITY SKILLS ANALYSIS

Transfer of skills involves an assessment of skills that a person used on one job which can be interchanged or substituted into another job to be used to determine the employability of the person. Skills are learned by doing. In the context of Social Security Disability, transferable skills are defined as the assessment of work functions acquired from performance of skilled or semi-skilled jobs which can be applied to meet the requirements of other skilled or semi-skilled jobs.

The U.S. Federal Government states (20 CFR 404.1568 (d) "Skills that can be used in other work (transferability)...(1) We consider you to have skills that can be used in other jobs, when the *skilled or semiskilled* activities you did in the past work can be used to meet the requirements of skilled or semi-skilled work activities of other jobs or kinds of work. This depends largely on the similarity of occupationally significant work activities among different jobs. (2) How we determine skills that can be transferred to other jobs. Transferability is most probable and meaningful among jobs which: (i) The same or lesser degree of skill is required; (ii) The same or similar tools and machines are used: and (iii) The same or similar raw materials, products, processes, or services are involved."

This process is based on a synthesis of information from an evaluee's background history including medical, psychological, educational, social and vocational information. Using acquired skills has been proven to be the most cost-effective means of returning an injured worker back to gainful employment. Transferable skills can make the difference between a person working or not working. The Transferability of Skills Analysis (TSA) is the foundation to identify similar or related jobs that are consistent with or equal to the worker's capabilities and functional restrictions. The seven step process of Transferability of Skills Analysis involves Identifying jobs in a person's work history, Select an occupational code with title (using the DOT or O*Net), Profile the jobs, Create an unadjusted vocational profile, Create the residual functional capacity profile, Finding related or similar jobs, and locating jobs in the local labor market.

Mr. Wright's work history and the test results were analyzed using The Vocational Diagnosis and Assessment of Residual Employability (VDARE) process which is an organized or systematic way to assess transferable work skills and vocational potential for work. This is a peer reviewed published methodology accepted in the field of Rehabilitation Counseling. The VDARE process uses the evaluee's work history as the basis to build an assessment of the evaluee's vocational functioning. The analysis takes into account the factors of physical demands, working conditions, general educational development, specific vocational preparation, aptitudes, work activities, and work situations. The search is conducted based on Occupational Group Arrangement (OGA), Data People and Things (DPT), Guide for Occupational Exploration (GOE), Work Field (MTEWA), Specific Vocational Preparation (SVP) and DOT Industry. The OASYS computer program was used to perform the Transferability Skills Analysis.

Research was conducted regarding the level and types of skills, aptitudes, and physical demands required of each job. A transferability of skills analysis was performed to determine which occupations in the labor market he could perform within his vocational capability.

Based on this process, Mr. Wright is able to use his skills to continue to work as a Tractor Trailer Driver on a part-time basis (50%) with reduced physical demands.

VOCATIONAL CONCLUSIONS

1. Below competitive vocational capacity and level of production on tasks requiring abilities similar to those required in his past relevant work as a Tractor Trailer Driver. However, he has been able to continue in this job on a part-time basis.

2. Impaired fine, medium, and gross dexterity, as well as bimanual coordination.

3. Below competitive production rates on bench assembly-type tasks of an unskilled type with Sedentary and Light exertional demands.

4. Below competitive level of production on inspection-type tasks requiring Sedentary Physical demands.

5. Below competitive production rates on clerical-type tasks requiring Sedentary Physical capability.

6. Difficulty concentrating on all tasks administered.

7. Complaints of low back pain, right wrist and arm pain, bilateral knee pain, right shoulder pain, and fatigue becoming more intense after working two hours on Sedentary and Light tasks.

8. Based on the observations made of Mr. Wright during the vocational evaluation, it is my opinion, from a vocational standpoint, that he has the following physical capacity: able to sit 60 minutes, able to stand 20 minutes, able to lift and carry five to ten pounds, and could alternately perform these movements for four to five hours out of an eight-hour workday.

RESIDUAL EARNING CAPACITY

The establishment of the residual earning capacity involves determining:

A. What jobs a person is capable of doing,
B. How likely it is that the individual can find employment in those jobs, and
C. The pay scale for the types of jobs the person is capable of doing.

The functional limitations imposed by Mr. Wright's injuries are the major determinants of the opportunities, or lack thereof, available to him for vocational alternatives.

Functional limitations may affect an individual's job and earnings potential in one or more ways.

1. The limitations may make it impossible, or at least difficult, to perform certain necessary job tasks.

2. The limitations may limit mobility and make it difficult for the individual to get to and from the job site.

3. The limitations may make it impossible, or at least difficult, to perform job tasks at a competitive rate, which is the level of production acceptable to an employer.

4. The limitations may interact with the work environment in such a way as to make performance difficult, uncomfortable, or dangerous.

5. There may be increased danger or risk to oneself because of the physical limitations and the difficulty of performing certain functions.

6. The limitations may affect the work or safety of co-workers or the public.

7. The limitations may impair one's competitive ability, thereby impeding normal progress up the "organizational ladder" or the chance of getting a job in the open labor market.

All of these elements need not exist in every case of functional limitations. In some cases, there may be other factors that would hinder job performance or labor market competitiveness. To the extent they are present, however, the elements will generally affect the individual's ability to obtain and retain employment, may affect the types of jobs potentially available, or may affect future raises, promotions, and/or job mobility.

Because of this injury, Mr. Wright has suffered significant vocational limitations.

DISABILITY

The federal government has defined disability status in several ways. The broadest definition is that of the Americans with Disabilities Act (1994), which defines a disability as a condition that interferes with a person's ability to perform a major life role.

The Department of Labor (Hale et.al., 1998) has a less broad definition of disability. They define disabled and severely disabled. Finally, the Department of Health and Human Services (Krause, et.al., 1998) uses three levels of disability:

Secondary work limitation	Able to work at the same occupation but requires an accommodation.
Occupationally disabled	Able to work but not at the same occupation.
Severely disabled	Unable to work at any occupation.

The effects of disability have been well-documented (Krause, et. al., 1998; Hale, et. al., 1998; Stoddard, et. al., 1998). For example, the research has found that the severely disabled get only half the income of non-disabled individuals. They also found that when employed, because the severely disabled work fewer hours and earn less per hour, they earn only 41 percent of the earnings of the non-disabled. Much is attributed to the role of education. The income gap between the non-disabled and severely disabled is strongest among individuals with a high school diploma or less, as opposed to moderately disabled college graduates whose earnings are the same as the non-disabled. In addition to the income differentials, it was found that the disabled are less likely to be married. Thus, the effect of disability can be expected to be life long and with profound consequences.

EMPLOYABILITY AND EARNING CAPACITY OPINION

Based on the results of the vocational evaluation performed on Mr. Wright and the conclusions made, as well as his approaching advanced age, high school education in Jamaica, West Indies, and past work experience of semi-skilled work as a Tractor Trailer Driver, the following are my opinions, as a Vocational Expert, regarding his rehabilitation plan, access to the labor market, placeability, earning capacity, and labor force participation.

Vocational Handicaps

It is my expert opinion, based on the evaluation, that Mr. Wright demonstrates significant handicaps which impede his employability. These handicaps include:

Sitting
Standing
Walking
Bending
Stooping
Kneeling
Squatting
Lifting and Carrying
Pushing/Pulling
Reaching
Diminished Grip Strength
Reduced Physical Stamina and Endurance
Impaired Concentration

Earning Capacity

This individual's neck, low back, right knee, and left ankle injuries with residual severe pain and physical limitations present a significant impact on his ability to obtain and maintain employment.

Based on the results of the Vocational Evaluation performed on him, the observations made while he performed Sedentary and Light types of work simulations, and the conclusions made, as well as his approaching advanced age, high school education in Jamaica, West Indies, and past work experience of semi-skilled work as a Tractor Trailer Driver, the following are my opinions, as a Vocational Expert, regarding Mr. Wright's employability and earning capacity:

1. Mr. Wright is unable to perform his past relevant work as a Tractor Trailer Driver on a full-time, sustained, competitive basis.

2. The average of the last three years of Mr. Wright's earnings as a Tractor Trailer Driver was $73,760 which best represents his pre-injury earning capacity.

3. Mr. Wright is unable to perform any Sedentary, Light, Medium, Heavy, or Very Heavy Work existing in the local or national economy on a sustained, full-time, regular, competitive basis.

4. It is my opinion as a Vocational Expert that, on the four-point scale of disability—*Nondisabled - Secondary Work Limitation - Occupationally Disabled - Severely Disabled*, Mr. Wright is Severely Disabled which is defined as the inability to work on a regular, full-time basis. This will result in about a 50-percent diminution of earning capacity over his work life.

5. Mr. Wright has sustained a significant diminution of earning capacity of $36,880 per annum over his work life (until age 67) due to his physical impairments.

6. Due to his injury, he has sustained a **total loss of $752,352 ($626,960 loss of earnings at $36,880 per annum for 17 years of work life expectancy using the social security retirement age of 67 and $125,392 for 20% fringe benefits.** This figure is an **estimate**. It has not been reduced to present value. It does not take into account the discount rate, the inflation rate, or have taxes been subtracted. **THIS DOES NOT REPLACE AN FORENSIC ECONOMIC EVALUATION.** (App Bi5, B16)

	Amount of Loss
Pre-Injury Earning Capacity Loss	$626,960
Loss of Fringe Benefits	$125,392
LOST EARNING CAPACITY	**$752,352**

Prepared by:

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Diplomate, American Board of Vocational Experts

5-POINT PHYSICAL DEMAND SCALE

***Sedentary Work** involves:*

- EXERTING 10 pounds of force occasionally, and/or a negligible amount of force to lift, carry,
- push, pull, or otherwise move objects, including the human body.
- SITTING most of the time, walking and standing occasionally.

***Light Work** involves:*

- EXERTING 20 pounds of force occasionally, and/or up to 10 pounds of force frequently, and/or a negligible amount of force constantly to move objects.
- Even if weight exertion is negligible, WALKING OR STANDING to a significant degree, and/or
- SITTING most of the time but with pushing and/or pulling of arm or leg controls, and/or
- Working at a production rate pace entailing constant pushing and/or pulling of materials.

***Medium Work** involves:*

- EXERTING 20 to 50 pounds of force occasionally, and/or up to 10 to 25 pounds of force frequently, and/or up to 10 pounds of force constantly to move objects.

***Heavy Work** involves:*

- EXERTING 50 to 100 pounds of force occasionally, and/or up to 25 to 50 pounds of force frequently, and/or 10 to 20 pounds of force constantly to move objects.

***Very Heavy Work** involves:*

- EXERTING in excess of 100 pounds of force occasionally, and/or in excess of 50 pounds of force frequently, and/or in excess of 20
- pounds of force constantly to move objects.

Occasionally = up to ⅓ of the time

Frequently = ⅓ to ⅔ of the time

Constantly = ⅔ or more of the time

U.S. Department of Labor's Dictionary of Occupational Titles, Fourth Edition, Revised 1991, page 1013

Appendix B

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Appendix C

Employability - Glossary of Terms

Aptitude - the specific capacities or abilities required of an individual in order to facilitate the learning of or carrying out of some task or job duty.

Disability - any physical, mental, or emotional condition that is chronic or long-lasting, which is severe enough to limit the individual's functioning and which results in a handicap to productive activity.

Earnings Loss - the individual's expected loss of earnings, if any, which results from the injury. Loss of earnings is based on history whereas loss of earnings capacity is projected into the future.

Earnings Capacity - ability of individual to obtain and hold the highest paying of jobs to which he might have access. Access is determined by worker traits, work skills and amount of training.

Employability - exists if a person possesses skills, abilities, and traits necessary to perform a job; the kinds and types of jobs which a person with a disability might be able to perform.

Essential Functions - (an Americans with Disabilities Act and 1973 Rehab. Act term) fundamental job duties of the employment position the individual with a disability holds or desires.

Exertional Level - physical abilities necessary for certain types of jobs; includes sedentary, light, medium, heavy, and very heavy.

Functional Limitations - results from physical, mental, and emotional disabilities which adversely affects the workers capacity to function at a job.

Handicap - the effect of the disability on the ability to perform gainful work.

Illiteracy - inability to read or write; generally little or no formal education.

Intelligence Quotient - (IQ) it is a measure of general intelligence obtained by testing.

Job Description - narrative description of activities and requirements of a job; does not necessarily accurately reflect what a worker will actually do in that job.

Limited Education - some ability in reasoning, arithmetic, and language skills, but not enough to perform semi-skilled or skilled job; generally the 7^{th} to 11^{th} grades according to definition by the Social Security Administration.

Labor Market Access - (LMA) a method for determining the employability and loss of access to the labor market of an individual with a disability. Utilizes the Vocational Diagnosis and Assessment of Residual Employability process (VDARE) to determine residual functional capacity.

Loss of Access - generally related to the loss of access to the labor market. Persons with injuries may suffer a reduction in the numbers of jobs which are available to them as a result of reduced work life expectancy (such as earlier retirement, or part-time rather than full time work) or due to functional limitations which prevent the client from choosing certain occupations.

Marginal Education - ability in reasoning, arithmetic, and language skills sufficient to perform simple, unskilled types of jobs; generally, 6^{th} grade & below.

Mental Limitation - retardation and learning disabilities are grouped as a functional limitation, although the casual circumstances are quite different; both refer to a hindrance or negative effect in the learning and performance of activities and to other overt manifestations of inadequate mental function.

Mobility Limitations - function of getting from one place to another is limited; may be caused either by physical disability or environmental barriers.

Non-Exertional Impairment - does not limit physical exertion and does not directly affect ability to sit, stand, walk, lift, carry, push, or pull; does have impact on ability to work.

Employability - Glossary of Terms

Pain Limitation - pain refers to an unpleasant sensation characterized by throbbing, aching, shooting or other unpleasant feelings associated with bodily injury or disorder. When pain is continuing, unremitting, uncontrollable, and severe, it may constitute a severe functional limitation to normal living.

Partial Disability - exists if the individual cannot perform some or all of the work for which he or she was fitted prior to the injury.

Physical Demands - the physical requirements made on the worker by the specific job worker situation.

Placeability - economic conditions and employer attitudes are such that a person can actually be placed in a job; the difficulty in placing a person with a disability in a job.

Psychometric Instruments - standardized instruments which measure correlative mental functioning of a cognitive, psychomotor, or effective nature purported to be important to specific job performance utilizing abstracted tasks.

Residual Functional Capacity - a disabled person's remaining physical and mental work potential and capacity.

Sheltered Workshop - It provides transitional and/or long-term employment in a controlled and protected working environment for those who are unable either to compete or to function in the open job market due to their handicap.

Skill Level - level of knowledge of work activity and degree of judgment required to perform a certain job; includes unskilled, semi-skilled, and skilled.

Temperament - personal traits consisting of the individual's characteristic mode or inclination of emotional response.

Total Disability - exists if the individual is unable to return to preinjury employment and unable (due to an injury) to obtain employment with similar livelihood.

Transferability of Skills - skills that were used in one job can be interchanged or substituted into another job; used to determine the employability of a person.

VDARE Process - (Vocational Diagnosis and Assessment of Residual Employability) uses client's work history as a basis upon which to build an assessment of client vocational functioning capabilities.

Vocational Assessment - process by which vocational expert determines loss of vocational functioning due to a disability and helps clients to correlate their characteristics as workers with the characteristics of occupations.

Vocational Rehabilitation Services - services designed to enable a handicapped person to secure and retain employment.

Wage Loss Analysis - a procedure which addresses the amount of wages lost to a worker as a result of an injury.

Work Tolerance - ability to sustain a work effort for a prolonged period of time, ability to maintain a steady flow of production at an acceptable pace and acceptable level of quality, ability to handle a certain amount of pressure.

Work Samples - a well defined work activity involving tasks, materials, and tools which are identical or similar to those in an actual job or cluster of jobs. It is used to assess an individual's vocational aptitude, worker characteristics, and vocational interest.

Worker Trait - the requirements made of the worker in terms of aptitudes, general educational development, vocational preparation, physical demands, and personal traits.

Resources: Vocational Evaluation and Work Adjustment Standards With Interpretive Guidelines and VEWAA Glossary, Copyright, 1977.
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PROFESSIONAL QUALIFICATIONS OF EDMOND A. PROVDER

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EDUCATION

1971	B.S. Rehabilitation Counseling, Pennsylvania State University
1973	M.Ed. Rehabilitation Counseling, Pennsylvania State University
1977-1987	Rehabilitation Counseling Doctoral Candidate, 60 credits, N.Y.U.
2003	University of Florida/Intelicus Life Care Planning Program for Catastrophic Case Management, 128-post graduate hours

PROFESSIONAL EXPERIENCE

Vocational Expert/Life Care Planner — *August 1981 to Present*
Occupational Assessment Services

Evaluate the vocational potential and employability of able-bodied and disabled individuals through interviewing, reviewing records, and/or administration of vocational testing to provide a vocational appraisal as to the individual's ability to work in the competitive labor market. Develop and implement Life Care Plans for catastrophic individuals. Consult with industry and government agencies regarding Americans with Disabilities Act.

Provide initial assessment, vocational evaluation, counseling, case management, and job-placement services to assist industrial-disabled and able-bodied clients return to gainful employment, given their residual functional capacity. Approved vendor—New Jersey Division of Vocational Rehabilitation Services, New Jersey Commission for the Blind and Visually Impaired, New York Commission for the Blind and Visually Handicapped.

Testimony accepted in Federal and State Courts—New York, New Jersey, Pennsylvania, Maine, Massachusetts; state courts—Florida, New Hampshire, Connecticut, Ohio, Wisconsin, Illinois, North Carolina.

Vocational Consultant — *June 1997 to September 2000*
Social Security Administration — *October 1977 to September 1985*

Provided impartial vocational testimony in Social Security Disability hearings as to claimants' ability to perform substantial gainful activity, given their residual functional capacity.

Supervisor Vocational Facilities — *December 1979 to December 1981*
Mount Sinai Hospital — *July 1974 to August 1978*

Supervised and administered the Sheltered Workshop and Vocational Evaluation Programs, which included the provision of supervision, counseling, work adjustment services, and job placement services to the physically disabled, mentally ill, visually impaired and industrially disabled.

Vocational Consultant — *February 1975 to December 1979*

Administered and developed vocational rehabilitation programs for South Beach Psychiatric Center, Staten Island Association for the Visually Handicapped and the Contemporary Guidance Service.

Rehabilitation Counselor — *March 1973 to July 1974*
Federation of the Handicapped

Provided individual and group counseling, vocational evaluation, work adjustment, and job placement services to severely physically disabled, visually impaired and developmentally disabled clients.

PROFESSIONAL AFFILIATIONS

Certified Rehabilitation Counselor (#18792); Diplomate, American Board of Vocational Experts (#00448)
Certified Life Care Planner (#0501)

Professional Member of National Rehabilitation Counseling Association; National Rehabilitation Association; Vocational Evaluation and Work Adjustment Association, Job Placement Division; Brain Injury Association, Inc.; IARPS; RESNA

Index No.: 304318/12
SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

CLAYTON WRIGHT,

PLAINTIFF,

- against -

ROYAL WASTE SERVICES, INC. and CARL SCHON,

DEFENDANTS.

EXCHANGE OF MEDICAL INFORMATION AND EXPERT WITNESS DISCLOSURE PURSUANT TO CPLR §3101(D)(1)

KAFKO SCHNITZER, LLP
Attorneys for Plaintiff
7 Hugh J. Grant Circle
Bronx, New York 10462
(718) 319-8902

TO:
Attorney(s) for

Service of a copy of the within is hereby admitted.
Dated,

Attorney(s) for

Please take notice
___ Notice of entry
that the within is a (certified) true copy of a
duly entered in the office of the clerk of the within named court on , 20
___ Notice of settlement
That an order of which the within is a true copy will be presented for settlement to the HON. one of the judges of the within named court, at
on 20 at M.

Dated:

Yours, etc.,
KAFKO SCHNITZER, LLP
Attorneys for Plaintiff
7 Hugh J. Grant Circle
Bronx, New York 10462
(718) 319-8902