

1 SUPREME COURT OF THE STATE OF NEW YORK  
2 COUNTY OF BRONX: CIVIL TERM: PART IA-14  
-----X

3 JESUS BUESTAN and YOLANDA BUESTAN  
4 Plaintiffs,

5 -against- Index No: 3185/2019E  
6 550 WASHINGTON OWNER (DE) And TURNER CONSTRUCTION COMPANY,

7 TRIAL  
8 Defendants.

9 TESTIMONY BY Bronx Supreme Court  
10 DR. DEBRA DWYER 851 Grand Concourse  
11 Bronx, New York 10451  
12 January 21, 2026

13 **B E F O R E:**

14 HONORABLE JOHN A. HOWARD-ALGARIN,  
15 Justice of the Supreme Court

16 **A P P E A R A N C E S:**

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OLIVIA FINGER, ESQ.

JOANNA GARCIA  
Senior Court Reporter

1 COURT OFFICER: All rise. Jury entering.

2 (Whereupon, the sworn jurors enter the courtroom  
3 and take their respective seat.)

4 THE COURT: All right. We all did our stretches.  
5 Be seated. Here we go.

6 Next witness, Go ahead.

7 MR. VARGAS: Yes, I call Debra Dwyer to the stand,  
8 Dr. Debra Dwyer.

9 (Whereupon the witness took the stand)

10 THE COURT: Good afternoon, Dr. Dwyer. Please  
11 follow the instructions of the court officer.

12 COURT OFFICER: Raise your right hand.

13 D E B R A D W Y E R, called as a witness by  
14 and on behalf of the Plaintiff, after having been first duly  
15 sworn, was examined and testified as follows:

16 COURT OFFICER: In a loud and clear voice, state  
17 your name, your profession and your business address for the  
18 record.

19 THE WITNESS: Sure, it's Debra, D-E-B-R-A, Dwyer,  
20 D-W-Y-E-R. The address is 17 Springbriar Lane, Springbriar  
21 is one word, that's in Centereach, C-E-N-T-E-R-E-A-C-H,  
22 New York, 11720.

23 COURT OFFICER: You can be seated.

24 Your Honor, the witness has been sworn in.

25 THE COURT: You may inquire, Counsel.

1 MR. VARGAS: Thank you.

2 DIRECT EXAMINATION

3 BY MR. VARGAS:

4 Q Good afternoon, Doctor.

5 A Good afternoon.

6 Q Can you tell the jury your educational background?

7 A Sure. I got my bachelor's degree from Queens College  
8 in Flushing, New York. That was in English literature and  
9 economics. I went on to get my Master's and PHD from Cornell  
10 University in economics, with specialties in labor, health and  
11 public economics. I also did a one-year post-doctoral  
12 fellowship at Syracuse University in their Center For Policy  
13 Research.

14 Q Have you published anything in economics?

15 A Yes, I have.

16 Q What have you published?

17 A I've published a couple dozen articles in labor  
18 economics journals, health economics journals, statistics  
19 journals, those sorts of things.

20 Q And do you have any teaching positions?

21 A I do.

22 Q And what are those?

23 A So, I've been a professor in the State University of  
24 New York system for about 24 years now, Predominantly Stony  
25 Brook University, more recently I'm teaching a course at

1 Farmingdale State College where I have some grant funding with a  
2 colleague there to provide financial literacy services for  
3 vulnerable populations. So, health economics statistics,  
4 microeconomics, macroeconomics; a the variety of courses from  
5 understand graduate through the PHD level.

6 Q And have you ever been found to be an expert in  
7 economics in a courtroom before?

8 THE COURT: Pause.

9 Juror number one, go ahead and relocate yourself.

10 MR. VARGAS: The sun gets to us.

11 THE COURT: Sorry for the interruption. Please  
12 proceed.

13 Q How many times have you been found to be an expert in  
14 economics?

15 A Hundreds. I've been doing this since 2012.

16 MR. VARGAS: And, Your Honor, I offer Dr. Dwyer as  
17 and expert in economics.

18 MR. HAYS: No objection.

19 THE COURT: She is so recognized by this court.

20 Q What is the study of economics?

21 A Broadly speaking, economics is the study of how  
22 societies decide what to do with their resources, given their  
23 scarce. We answer, basically, three basic questions; what to  
24 produce, how to produce it, and who gets what. It get a lot  
25 more complicated within that. We tend to specialize. So, I

1 specialize in the markets, very large markets, the health market  
2 and the labor market, and those three fundamental questions are  
3 questions we ask related to those markets. So, I would study  
4 trends in the workforce, labor market policies, those sorts of  
5 things, same thing with healthcare policies, what's happening  
6 with inflation within those markets.

7 Q And, in this particular matter, my firm retained you  
8 for your services, correct?

9 A Yes.

10 Q And what were you hired to do?

11 A I was hired to conduct an economic analysis to  
12 determine the losses to Mr. Buestan associated with his  
13 injuries. Specifically, those losses are related to an  
14 inability to work. So, that work has value, obviously. So, any  
15 income or benefit losses associated with his inability to work;  
16 what would he have earned had he been able to complete his  
17 work-life?

18 And the other category of report that I worked on was  
19 future health care costs. So, a medical expert provides an  
20 opinion regarding the kinds of care, the frequency of that care,  
21 the cost in current dollars for Mr. Buestan. My job is to say  
22 how much money will he need for the rest of his life to cover  
23 those costs, knowing that we're going to have prices go up over  
24 time?

25 In other words, inflation will hit and my expertise

1 comes in to determine what I believe is going to happen to those  
2 prices. I use federal data, I match it to the categories of  
3 care prescribed by a medical expert, and I come up with my  
4 opinion on inflation.

5 Q And are you being compensated for your time today?

6 A Yes.

7 Q How much?

8 A \$5,000.

9 Q And when you come up with your opinion regarding the  
10 economic loss, inability to work, what factors, specifically, do  
11 you take into account?

12 A So, I'm an economist and economists makes assumptions,  
13 but those assumptions are grounded in evidence. So, I have a  
14 basis for all of my assumptions. For income loss and benefit  
15 loss, what I rely upon is what Mr. Buestan had been earning  
16 prior to his injures. So, I determine his earnings capacity or  
17 what he's worth on the labor market, based on what he had been  
18 earning before. For fringe benefits, I know what union he was  
19 in, and I can look at the benefits and determine the value of  
20 the losses and those benefits that he would have received had he  
21 continued working. For future healthcare costs, I'm going to  
22 rely upon that medical expert report and their opinion on the  
23 kinds of care.

24 The kinds of assumptions that go into this are going to  
25 be, for how long will he have worked, for how long would he have

1 lived, because we are calculating for the rest of his life the  
2 future healthcare costs. Any assumptions I made along the way,  
3 I have a basis for, and I will explain them to you as we go  
4 through this.

5 MR. VARGAS: For the record, the tax returns and  
6 union records are in evidence, tax records as Plaintiff's 2,  
7 union records as Plaintiff's 12.

8 Q Those are the records he relied on regarding the  
9 inability to work loss, correct?

10 A Exactly, yes. So, in order for me to determine his  
11 worth on the labor market, I reviewed his W2 statements. I  
12 specifically had them for 2017 through, I believe it was --  
13 yeah, 2017 through 2019. So, I looked at his earnings, and I  
14 deduced from there what he was worth on the labor market.

15 I also had a vocational report from Dr. Acer (ph), and  
16 I had Mason Tender -- he was a member of the Mason Tender's  
17 union, his union records. So, those were the sources I relied  
18 upon to determine what his income and benefit loss would be.

19 Q And you also had mentioned how long he would live or  
20 assuming how long he would live. Where do you get that  
21 information?

22 A The National Center For Health Statistics produces life  
23 tables, and they put them out every year. Those are tables that  
24 are survival probabilities, given the year you were born. So,  
25 they basically tell you how many years you have left, on

1 average, given your gender and the year that you were born.  
2 That's what I relied upon to figure out the life expectancy for  
3 Mr. Buestan.

4 In this case, and in the New York courts, we use the  
5 2020 life tables, and that's what I relied upon. I came up with  
6 a life expectancy age of 77.5 for Mr. Buestan.

7 Q And is the life table any different between when  
8 projecting the economic loss for inability to work compared to  
9 the loss for future health costs?

10 A No, not at all.

11 Q And Dr. Dwyer, after -- well, I'm sorry, for the health  
12 -- future health costs, are there any different factors that you  
13 would take into account when coming to that opinion?

14 A So, besides being provided with the types of care and  
15 current costs, I rely upon data from the Department of Labor.  
16 The U.S. Bureau of Labor Statistics is the agency that puts out  
17 the Consumer Price Index, which is the rate of inflation that  
18 you hear so much about in the papers. In order to do that, they  
19 have to collect prices of all kinds of goods and services.

20 The Consumer Price Index is a composite of typical  
21 goods that households consume. So, it will include everything  
22 from food and clothing to rent, et cetera. In doing that, the  
23 government also collects prices on medical care inflation, so  
24 how prices have been rising in medicine, in office visits, in  
25 other professional services, anything to do with healthcare.

1 They break it down by healthcare categories. I matched the  
2 categories of care prescribed for Mr. Buestan to that data and I  
3 come up with what I believe is going to happen to prices in the  
4 future.

5 Now, I could just take the most current inflation  
6 rates, but, I don't do that, because they do fluctuate. Prices  
7 go up over time, they tend to not go down, but they go up at  
8 different rates. And, so, what I do is I take an average. If I  
9 took just the current rates, they're higher than usual and I'm  
10 projecting over 20 years. So, if I'm projecting over 20 y ears,  
11 I'm going to expect some years that the prices will rise faster  
12 than the current, some years slower. By taking an average, I'm  
13 smoothing it out so it's going to break even in the end.

14 So, how far back you go to take that average is part of  
15 my expertise. So, I capture prices based on business cycles,  
16 which means periods where it's high, periods where it's low, and  
17 I use that to project into the future over the next 20 years.

18 Q And, before you came to testify, did I send you any of  
19 the previous testimony from this trial?

20 A Yes.

21 Q What did I send you?

22 A So, that was Dr. Grimm's testimony and Plaintiff's.

23 Q And, based on all that information you just mentioned  
24 that you reviewed, and the trial testimony, did you come to and  
25 opinion within a reasonable degree of economic certainty as to

1 the economic loss for his inability to work and the future  
2 healthcare costs?

3 A I did.

4 MR. VARGAS: And, Your Honor, with permission of  
5 the court, if Ms. Dwyer could step down to use the easel,  
6 hopefully that doesn't break on us again.

7 THE COURT: She has the Court's permission to do  
8 so.

9 Q If you could, tell us what we're looking at here.

10 MR. VARGAS: Oh, I'm sorry. This is Plaintiff's 46  
11 for ID. And, I'm sorry, one last thing. Try to keep that  
12 close to you too.

13 A So, I think I'm going to stand over here. So, the  
14 first column that you see, first of all, you see that the losses  
15 start in 2020. That's the first full year. It's not a full  
16 year of loss, and I'll explain that in a minute. So, you'll see  
17 that number is lower, but it goes through his work life  
18 expectancy.

19 So, I use a work life expectancy age of 65. That means  
20 I have him retiring at age 65. That's the normal age of  
21 retiring under his union contract. In 2020, I took his full  
22 salary and I cut it in half, because that was the COVID year,  
23 and, so, we can expect that there might have been a hit on his  
24 earnings in that year.

25 The basis that I use for his annual earnings is

1 \$85,937.00. Let me write that down. I'm just going to write  
2 his earnings capacity. So, it's \$85,937.00. And, so, I take  
3 half of that in 2020, and then I apply a growth rate. So, you  
4 see that this is going up over time. Not only do prices go up  
5 over time, but wages go up over time.

6 So, using the union contract rates, I use the union  
7 growth rate for as long as it's available, and that's through  
8 the year 2023. Beyond that, I use a growth rate of 2.4 percent,  
9 and the reason I use 2.4 percent is that's the average growth  
10 rate applied by the union over the last 10 years. So, looking  
11 at the contract, I came up with what I believe is a reasonable  
12 estimate of what would happen to his wages. So, that's keeping  
13 him a raise of 2.4 percent every year.

14 So, starting with the salary of roughly 86,000, I have  
15 2.4 percent growth rate, and I did deduct union dues from this  
16 loss, because he would have had to pay them, and you get a  
17 lifetime loss in income, and, rather than put this and go back  
18 and forth, I'm just going to write --

19 Q Go ahead?

20 A So, this goes to age 2046, and the total loss in income  
21 is \$2,885,997.00. So, that's the income loss over the next 20  
22 -- this is roughly 25 years. So, that's how much we would have  
23 expected he would have earned over the next 25 years.

24 The next category is health insurance. That has value.  
25 He's in a union, he would have had health insurance benefits up

1 until the time of retirement, which takes him to the Medicare  
2 age. The value of -- the cost of replacing a similar plan for  
3 the one that he had that would cover himself and his wife in  
4 current dollars is \$37,782.00. So, that's how much he would  
5 have had to pay to get an equivalent plan for him and his wife  
6 in current dollars. Anything that happens in the past, I just  
7 zeroed out. That's -- we're just taking health issues into the  
8 future.

9           There's a growth rate on that, and that's an inflation  
10 rate on health insurance. I use a four percent inflation rate.  
11 That means the premium goes up by four percent every year. Some  
12 years it's higher, some years it's lower. We expect it to be  
13 way higher than that in the next year. It's already higher than  
14 that in 2026. That's the rates up until 2025. Four percent is  
15 reasonable. Health insurance premiums prices have been very  
16 volatile. So, you get these wide swings. So, four percent is  
17 the average over the last 20 years or so.

18           So, the lifetime loss of the work life loss and health  
19 insurance comes out to \$1,042,092.00. So, this is income, this  
20 is health insurance, and the next category is prior  
21 contributions to the annuity. That's a defined contribution  
22 pension plan. So, that's like a savings plan that your employer  
23 pays into. It's based on an hourly rate. So, the assumptions  
24 I have to make there is how many hours did he -- would he have  
25 worked every year.

1           Fortunately, I had the union records that gave me his  
2 hours of work for the entire time that he was in the union. I  
3 used a five year average. So, for the last five years, what was  
4 his average annual hours of work, and that came out to 2,226  
5 hours. So, he worked some overtime.

6           Using 2,226 hours, and the four dollars an hour from  
7 the union contract that the employer was required to contribute,  
8 you get roughly an annual cost of \$8,900.00, and it stayed  
9 stagnant at that four dollars an hour up until the year 2024,  
10 when it starts going up. The average growth rate on the  
11 annuity, the contributions to the annuity, is something like  
12 five percent.

13           I used four percent as the growth rate, which is more  
14 consistent with national averages. So, I used a four percent  
15 growth rate from 2023 forward. I had the rates up until 2023.  
16 Now, you might ask, well, why am I used four percent when it  
17 stays the same between '21 and '23? The way the contracts get  
18 negotiated, it's every three years, typically.

19           So, you have these large bumps, like, every three  
20 years, but the average, if you smooth them out annually, comes  
21 out to 5.3 percent. So, there might be a 20 percent increase or  
22 a 15 percent increase in one year. That's probably exaggerated.  
23 It's maybe six percent. But, in any case, it averages out to  
24 four percent.

25           You get a lifetime loss in the employer contributions

1 to that annuity of \$357,087.00. That goes with the annuity.  
2 Mr. Buestan was also covered by a defined benefit pension plan.  
3 That's the kind of pension that's a formula based on your years  
4 of work, how much you've earned, how many hours you worked.  
5 Using that formula, you come up with an amount that he would  
6 have earned upon retirement for the rest of his life. No growth  
7 rate is applied to that. It's just a flat pension amount.

8 That \$12,280.00 pension represents the difference  
9 between what he will get, because he did work some years, and  
10 what he would have gotten. It's a little bit conservative,  
11 because I included it in today's dollars. So, that's likely to  
12 be a little higher in the year 2046, but I was being  
13 conservative.

14 Now, this goes through to his life expectancy age,  
15 which I said was 77.5, so, at this point, I think I'm going to  
16 switch to the other one.

17 Q Ok.

18 MR. VARGAS: And that is Plaintiff's 45 for ID.

19 A So, this is the bottom of the chart. Age 77.5 takes us  
20 to the year 2058, and you see the pension loss ends at the time  
21 that he's expected to pass. So, you get a lifetime loss of  
22 pension of \$153,500.00.

23 And the last category of loss related to not being able  
24 to work is social security loss. That's also a declined  
25 benefits plan, which means it's based on a formula, years of

1 work, and your highest earnings, and, because he's lost some  
2 years of work, he's going to have less at the time of  
3 retirement, and it's going to be less by about \$20,000.00 a  
4 year, but you see that number does go up over time. Unlike the  
5 union pension, the government adjusts for the cost of living,  
6 and the 20 year average adjustment, the average cost of living  
7 adjustment, has been 2.57 percent.

8 I used a flat 2.5 percent rate to adjust for inflation  
9 over time. So, using that 2.5 percent rate, by the time he  
10 retires, his pension is worth roughly \$36,000.00, \$37,000.00  
11 annually, and you get a lifetime loss of \$408,761.00, and,  
12 again, that's the difference between what he would have gotten  
13 and what he will get.

14 So, you get a total past loss up until the end of 2025  
15 of \$536,609.00, and a total future loss of \$4,303,828.00  
16 dollars, and I can give you the total. I'm going to write the  
17 total of these two numbers and that is 4,840,437.00, and that's  
18 over the next 25 years.

19 Q Doctor, if we could next move on to the future health.

20 A Sure.

21 Q If you need me to help move any of these, let me know.

22 A This one is going to be in two charts as well, because  
23 they didn't fit on one. Oh, no, it is only one.

24 MR. VARGAS: This is Plaintiff's 50.

25 A So, as a said earlier, I relied upon medical expert

1 opinion on the categories of care that came from Dr. Grimm and  
2 Dr. Gelfand, and, so, those categories are listed across the top  
3 row. I'll go a little bit slower for the methodology for the  
4 first column, and then it's the same methodology for every other  
5 one so that we can go faster.

6           So, that first category represents all of the office  
7 visits to specialists prescribed by doctors; pain management,  
8 orthopedic visits. Annually, the cost of those visits are  
9 \$3,900.00. The growth rate that you see here, I have all the  
10 growth rates written for you, typed for you here. So,  
11 \$3,900.00, where you expect that for general medical care office  
12 visits, the 25 year average inflation rate has been 2.8 percent.  
13 So, even though you're hearing very high numbers right now, the  
14 good news is that, over the last 25 years, it averages to less  
15 than the general rate of inflation that we observe on average.

16           So, \$3,900.00 grown at a rate of 2.8 percent per year  
17 for the remainder of Mr. Buestan's life, it is a second column.  
18 So, I'm going to do the same thing and, rather than switch it,  
19 I'm gonna just --

20           Q     Oh, leave it?

21           A     Yeah, because, otherwise -- you know what, we'll do  
22 this, I'll go through every category, the starting value in  
23 current dollars, which is provided by the doctors, the growth  
24 rate, and then I'll give you the totals for all the categories  
25 at the end.

1           So, the injections, those are pain management  
2 injections, steroid, trigger point injections, nerve blocks.  
3 Growth rate is 3.8 percent there. That's actually being pretty  
4 conservative. The growth rate on procedures that take place in  
5 an outpatient facility have been going up at a very high rate of  
6 inflation, even higher than pharmaceuticals. So, using a 3.8  
7 percent growth rate annually, the costs, according to the  
8 dollars, for those injections total \$7,500.

9           Now, physical therapy, Dr. Gelfand split it into two  
10 options. So, you can pick. It would be one of these two. So,  
11 there's going to be a range, in terms of the cost for physical  
12 therapy. Under option one, the annual cost is \$1,800.00, under  
13 option two, the annual cost is \$2,040.00. In both cases, I use  
14 a growth rate of 2.2 percent.

15           Physical therapy falls under the category of other  
16 professional services, and the inflation rate there has been a  
17 little lower than the general rates of inflation. So, using the  
18 2.2 percent, I come up with a lifetime cost of physical therapy  
19 under two options. So, there's going to be a range in terms of  
20 the total costs that we predict for Mr. Buestan.

21           Medications that were prescribed, I split them up,  
22 because they're different growth rates. Gabapentin is a  
23 prescription medication and the 25 year average inflation rate  
24 is 3.5 percent. That's another one on the high end. You've  
25 probably heard that drug prices raise pretty fast in this

1 country.

2           Annually, the gabapentin would cost \$958.00, and we  
3 apply that 3.5 percent inflation rate. Acetaminophen or Tylenol  
4 is nonprescription, and the growth rate there is much lower, at  
5 1.2 percent. So, \$304.00 worth of Tylenol in a year, raised at  
6 1.2 percent per year.

7           The doctors also recommend some home modifications.  
8 That's something that would only take place once to adjust the  
9 home for his disabilities, and that one time cost is \$177.00.  
10 Diagnostic tests would include X-rays and MRIs. Annually, the  
11 doctors prescribe \$1,650.00 worth of diagnostics, and the growth  
12 rate there that I used is the same one that I used for general  
13 medical care, because diagnostic tests are prescribed by a  
14 doctor and read by a doctor, or interpreted. So, it's the same  
15 growth rate.

16           Now, the home cleaning services, both the doctors  
17 recommend that he would need assistance with home care, the  
18 growth rate there is 3 percent. Again, based on a 25 year  
19 average, it actually was slightly higher than that. And, in  
20 this case, the doctors gave options again. Either six thousand  
21 seven -- so, let me just explain. The first year is slightly  
22 higher, in both cases, because there's a one time assessment for  
23 what it's going to cost, and then the annualized cost is in that  
24 second year. So, starting in 2027, roughly \$6,000 versus  
25 roughly \$4,400, and in both cases, I use the 3 percent growth

1 rate.

2 Now I'm going to put up the second chart. All of these  
3 costs go through the remainder of Mr. Buestan's life at age  
4 77.5, again, the year 2058. So, I'm going to run through the  
5 totals for each category.

6 The medical care total over the remainder of his life  
7 is \$203,263.00. For injections, \$468,080.00 worth of injections  
8 over the next 22 years or so. Physical therapy is going to  
9 range between a total of \$84,453.00 worth and \$97,713.00 worth.  
10 The gabapentin is expected to cost \$56,590.00 over the next  
11 20-plus-years, the acetaminophen is expected to cost \$12,042.00  
12 over the remainder of his life. The home modifications was a  
13 one-time cost, so it's \$177.00, in current dollars. Diagnostic  
14 testing, the total is \$85,996.00, and the home cleaning services  
15 range from a cost of \$231,819.00 and \$316,154.00.

16 I have all of the totals for you on the bottom under  
17 two scenarios for physical therapy and two scenarios for home  
18 cleaning services, and you can see they range between  
19 \$1,142,420.00 and \$1,238,015.00.

20 Q That's the total of all the categories with whichever  
21 option of physical therapy?

22 A That's correct.

23 Q And these opinions that you just gave the jury, those  
24 are within a reasonable degree of economic certainty?

25 A They are.

1 Q And do we have some more boards here, or is this just  
2 bigger blowups of what we've already shown them?

3 A So, these are -- we have one that's the total that  
4 combines the total cost for future health care and income loss.  
5 I can put that up, if you'd like.

6 Q Yes. The one we were just looking at was 49 and the  
7 one up there, if you could just read that number on the  
8 yellow --

9 A 47. So, what you see here is now the totals of  
10 healthcare and losses from income and benefits under the four  
11 options. And, so, they range between \$5,982,857.00, this is the  
12 low, And the high is \$6,07852.00.

13 Q Thank you, Doctor.

14 MR. VARGAS: No further questions.

15 THE COURT: Cross?

16 CROSS-EXAMINATION

17 BY MR. ROSENZWEIG:

18 Q Good afternoon, Doctor.

19 A Good afternoon.

20 Q It's accurate you've testified over 150 times for  
21 plaintiffs in personal injury cases, correct?

22 A Yes.

23 Q How many times do you testify on average per year?

24 A Probably about 20.

25 Q Over 90 percent of the time, it's for plaintiffs in

1 personal injury cases, correct?

2 A That's correct.

3 Q In addition to testifying, you prepare reports for  
4 plaintiff's attorneys, correct?

5 A Yes.

6 Q How much do you charge for your reports?

7 A It ranges between \$2,000.00 and \$5,600.00.

8 Q You wrote a report in this case?

9 A In this case it was about \$5,00.00.

10 Q I noticed there was a draft report in your file. Do  
11 you see that?

12 A Yes.

13 Q Is that something you discussed with the Plaintiff's  
14 firm before finalizing the report?

15 A Well, maybe I'll answer questions, but, yeah, there  
16 will be a draft and then it revises.

17 Q So, some level of collaboration between yourself and  
18 the Gorayeb firm?

19 A Yes, mostly to get the sources that I need.

20 Q How many reports did you write in 2025 for Plaintiff's  
21 personal injury attorneys?

22 A Probably about, I would say, about a hundred.

23 Q How much do you earn on a yearly basis for that work?  
24 Ballpark.

25 A Right. Probably about \$400,000.00.

1 Q Do you have a template for your reports?

2 A I do.

3 Q Did you use that template here?

4 A I did.

5 Q How many times in your career have you testified for  
6 the Gorayeb firm?

7 A This is the first time.

8 Q You never testified for them before?

9 A No.

10 Q How many reports have you written for the Gorayeb firm?

11 A Probably about five.

12 Q I noticed on the disclosure that you have several  
13 partners you work with, correct?

14 A Yes.

15 Q How much of the work in this case was done by you, as  
16 opposed to your partners?

17 A Most of it was done by me. I consult with my partners  
18 on specifics of the case and how we are going to go with some of  
19 the assumptions, but I took the lead.

20 Q And in percentages, how much did you do?

21 A 85 percent was me.

22 Q What was the other 15 percent that was done by others?

23 A Mostly Dr. Maria San Martin, and I tell her the  
24 specifics of the case, and then we discuss some of the  
25 assumptions.

1 Q Is that reflected anywhere in your file?

2 A The breakdown of who did what? No.

3 Q Any e-mails from her, any comments from her, any  
4 written product?

5 A We talk everyday, so I think it was phone call.

6 Q Now I want to break down each of the categories that  
7 you spoke about to the jury, okay?

8 A Sure.

9 Q The first one I want to talk about is return to work,  
10 okay?

11 A Okay.

12 Q Your calculations assume that Mr. Buestan will not  
13 return to work, correct?

14 A That's correct.

15 Q Your calculations did not consider the possibility of  
16 alternative employment, correct?

17 A That's correct.

18 Q If plaintiff returned to work in some capacity, your  
19 economic loss evaluation would change, correct?

20 A Correct.

21 Q In other words, if plaintiff returned to work, the  
22 numbers come down, correct?

23 A That's right. Anything that Mr. Buestan is able to  
24 earn would be an offset to the income loss.

25 Q And you read Plaintiff's trial testimony, correct?

1 A Yes.

2 Q Did you read that he applied for jobs within the last  
3 eight months?

4 A Yes.

5 Q Did you recall that he applied for jobs bagging  
6 groceries at Fresh Direct?

7 A I don't recall the specifics.

8 Q Cleaning crew at a hotel?

9 A Okay.

10 Q Dishwasher?

11 A Okay.

12 Q Doorman?

13 A Okay.

14 Q Did you run any calculations for any of those jobs to  
15 let them know what the calculations would be if he did return to  
16 work?

17 A I did not.

18 Q Are you aware that Mr. Buestan went back to the union  
19 and inquired about work?

20 A I'm not aware, off the top of my head.

21 Q Did you review the evidence of his potential  
22 involvement in real estate?

23 A No.

24 MR. VARGAS: Objection to the word evidence. It  
25 was shown to the jury as ID.

1 MR. HAYS: I said potential.

2 MR. VARGAS: That's not potential.

3 THE COURT: Sustained.

4 Q You're aware that Mr. Buestan is a legal resident of  
5 the United States, correct?

6 A Yes.

7 Q Did you run any calculations which included return to  
8 work in any of the occupations that I just mentioned?

9 A I did not. I'm not a vocational expert.

10 Q But you are and economist, right?

11 A Yes.

12 Q And if you were asked by Mr. Gorayeb's firm to run a  
13 calculation based on return to work, you could have done that,  
14 correct?

15 A Yes.

16 Q But you didn't do that here?

17 A I didn't.

18 Q In fact, you did that so the evaluation you gave to  
19 this jury would be higher, correct?

20 A I have no incentive to inflate the numbers.

21 Q You want to continue to work for Plaintiff's personal  
22 injury firms, correct?

23 A Yes.

24 Q That's a big part of your employment, correct?

25 A Yes.

1 Q They're not going to use you if your numbers aren't  
2 high, correct?

3 A I don't believe that's true.

4 Q Now I want to talk about wages, okay? You used the  
5 last five years of the wages to come to the approximately  
6 \$86,000.00 correct?

7 A Correct.

8 Q Pension records had a work history from 1999 to 2019,  
9 fair?

10 A Yes.

11 Q Average annual hours during that period of time was  
12 1,865, correct?

13 A Could be right, but I don't have it in front of me.

14 Q Your calculations were based on the 2,2026 hours from  
15 the last five years only, correct?

16 A Correct.

17 Q But you had the data from 1999, correct?

18 A Correct.

19 Q But you didn't use that data, correct?

20 A That's correct.

21 Q If you had used that data, your numbers would have been  
22 lower, correct?

23 A I think the last five years are most relevant, given  
24 seniority kinds of issues. Early on, the hours do tend to be  
25 lower. So, yes, the numbers would be different, if I used all

1 of them. I had my reasons.

2 Q That's correct, though, right, what I said, that if you  
3 use the broader character of 1999, 2019 your economic  
4 projections would have been lower, correct?

5 A That's correct.

6 Q I want to talk about retirement age for a bit, okay?

7 A Sure.

8 Q Construction workers tend to retire earlier than  
9 white-collar workers, correct?

10 A Correct.

11 Q Sometimes as early as 61, 62, correct?

12 A Correct.

13 Q Your calculations here assume Mr. Buestan is going to  
14 work until 65, correct?

15 A Correct.

16 Q Did you do any research to determine when members of  
17 Local 79 generally retire?

18 A I did not.

19 Q You assumed the retirement age is 65, correct?

20 A Correct.

21 Q The union keeps records of the average retirement age,  
22 fair?

23 A Sometimes, under form 5500 you can find it. I probably  
24 looked for that in the past. I don't always find enough  
25 information to be able to determine the averages.

1 Q That's information you could have looked for?

2 A Yes.

3 Q Information you could have found?

4 A Yes.

5 Q Do you know what the weighted average retirement age  
6 for Local 79 is?

7 A I do not.

8 Q If I told you it was 61, would that sound right?

9 A Fair, yes.

10 Q Is it fair that Mr. Buestan could have retired at 55,  
11 if he wanted to?

12 A Probably. Usually 55 you have enough years of service.  
13 He was 39, roughly, at the time of the incident. I'm not sure  
14 he would have had enough to retire by 55.

15 Q Are you telling the jury that Mr. Buestan, who had to  
16 burn pipes all day, would have worked until age 65?

17 A Yes.

18 Q You also assumed a full 40-hour workweek, correct?

19 A What I used was based on his average earnings. So,  
20 that would have been based on the number of weeks he works on  
21 average and the number of hours he works on average.

22 Q Did you factor in any reduced earnings that he would  
23 work part-time not full-time?

24 A I did not.

25 Q I'm going to talk a little bit about the pension and

1 annuity now. You're not -- you're testifying as and expert in  
2 economics, correct?

3 A Yes.

4 Q You're not and actuary?

5 A Correct.

6 Q Pensions have a lot to do with actuarial tables,  
7 correct?

8 A The formula is basic, it's not really actuarial tables.

9 Q Okay. But yet, if Plaintiff were to return to work,  
10 those numbers would change, correct, as far as the loss of  
11 pension?

12 A Only if he got a union job.

13 Q If he did get a union job, those calculations would  
14 change?

15 A Depending on the union, they could, yes.

16 Q Did you review his social security earnings statement  
17 in this case?

18 A I did. Oh, wait. No, I did not, in this case. I had  
19 the W2s. The social security statement would be a statement of  
20 all of his earnings over his work life.

21 Q Did you ask for that document?

22 A I did not.

23 Q If Plaintiff only worked -- if Mr. Buestan only worked  
24 until 55, 60 or 61, the pension would be reduced, correct?

25 A Correct.

1 Q I want to talk a little bit now about the growth rate.

2 A Okay.

3 Q The growth rate from 2019 to 2025 for the local union  
4 was 1.3 percent, is that fair?

5 A I calculated an average of 2.38 percent, something like  
6 that. I believe I have it with me. Do you want me to look  
7 or --

8 Q If you can find it quickly. No need to dwell on it.

9 A Yea, from 2004 to 2023, the average is 2.4 percent.

10 Q And that's the rate you applied going forward too?

11 A Say that again.

12 Q That's the rate you applied going forward as well?

13 A Yes.

14 Q If you used the lower growth rate, again, the numbers  
15 would go down, correct?

16 A Yes.

17 Q Is it fair to say economists can differ about the  
18 number of the growth rate that was applied in a particular case?

19 A Sure.

20 Q Blue-collar workers also experience periods of  
21 unemployment, correct?

22 A Yes.

23 Q Did you factor that into your calculations?

24 A Only in that I used his own actual experience over the  
25 last 40 years or so. And, so, if there were spells of

1 unemployment, it would have been incorporated.

2 Q What about going forward, did you predict any potential  
3 periods of unemployment because of down construction periods?

4 A I did not.

5 Q Let's talk a little bit about health insurance now,  
6 okay.

7 A Sure.

8 Q You provided a loss for health insurance benefits,  
9 correct?

10 A Yes.

11 Q Is it fair to say, in the U.S., you don't need to be  
12 employed to get health insurance, correct?

13 A Well, you don't need to be employed to get health  
14 insurance, but it's got a lot of value to get it through your  
15 employer.

16 Q But, there's federal programs like Obama Care?

17 A Yes.

18 Q New York has programs for health insurance?

19 A Yes.

20 Q Is it fair to say there's subsidies and tax benefits  
21 for purchasing health insurance?

22 A I mean, we're getting into who should pay. I'm just  
23 getting the value of the health insurance.

24 Q I'm just asking if you are aware of those.

25 A Yes.

1 Q Did you consider them in your calculations, any  
2 subsidies or benefits?

3 A No, I would not.

4 Q You didn't consider whether Mr. Buestan could get  
5 another job and get health insurance through that job, correct?

6 A That's correct.

7 Q Jobs like a doorman or working for Amazon or Fresh  
8 Direct, in your experience, would give the workers health  
9 insurance, correct?

10 A If full time, yes.

11 Q Are you aware whether Mrs. Buestan works?

12 A Not aware.

13 Q Did you consider whether Mr. Buestan would qualify for  
14 insurance under his wife's plan?

15 A That would be irrelevant to me, so I didn't consider  
16 it.

17 Q All of the information you got about future medical  
18 costs came from Dr. Grimm and Dr. Gelfand, correct?

19 A That's correct.

20 Q You called Ms. Gelfand a doctor. She's not a doctor,  
21 correct?

22 A That's correct, I misspoke.

23 Q She's a life-care planner, correct?

24 MS. AYERS: I object. She's a physician's  
25 assistant, technically, and a life-care planner.

1 THE COURT: What capacity did she testify here?

2 MS. AYERS: Well, she also uses her physician  
3 assistant --

4 THE COURT: Overruled. Go ahead.

5 A So the question was, am I aware --

6 Q That's she's not a doctor?

7 A Yes.

8 Q You read Plaintiff's trial transcript?

9 A Yes.

10 Q You read that his pain level is 2 out of 10 with  
11 medication?

12 A I don't recall, because I read it a while ago, but that  
13 sounds fair.

14 Q Did you see the surveillance video?

15 A No.

16 Q Did you see any of the social media posts?

17 A No.

18 Q Did you read the testimony about him traveling back to  
19 Ecuador and the Dominican Republic?

20 A I don't remember.

21 Q Did you read the testimony where he hasn't had to pay  
22 anybody in the past for any sort of home care?

23 A Possibly. I don't recall, but that's irrelevant to me.

24 Q Okay. Did you interview Mr. Buestan to come up with  
25 your calculations?

1 A No.

2 Q Did you speak with Dr. Grimm?

3 A No.

4 Q Did you speak with Ms. Gelfand?

5 A No.

6 Q Did you review any of the reporting by the doctors?

7 A I reviewed both of their reports. There was a  
8 narrative and a life-care plan of each of theirs. That's it.  
9 Just those two.

10 Q How about Dr. Weinstein's records?

11 A No.

12 Q How about any of the Defendant's medical records, the  
13 IME's or the medical examinations performed by my side?

14 A No, I'm not a medical doctor.

15 Q Did you review any medical records from before the date  
16 of the accident?

17 A No.

18 Q Did you ever exchange any e-mails or phone calls with  
19 Ms. Gelfand or Dr. Grimm?

20 A No.

21 Q Are you aware that Ms. Gelfand used to work at the same  
22 fast as Dr. Kaplan and Dr. Grimm?

23 A Not aware.

24 Q And you're not offering any opinions as to whether Mr.  
25 Buestan actually needs any of the medical treatment, correct?

1 A That's correct.

2 Q And you don't have any opinion on causation, whether  
3 the accident caused any of the injuries alleged here, correct?

4 A That's correct. I don't have the expertise to do that.

5 Q You're not a medical doctor?

6 A Correct.

7 Q You just take the recommendations given by Gelfand and  
8 Dr. Grimm, correct?

9 A That's correct.

10 Q Are you telling the jury that Mr. Buestan needs half a  
11 million dollars of injections in the future?

12 A Let me just confirm. Sorry.

13 Q No, take your time.

14 A \$468,080.00, yes, and that's over 22 years.

15 Q You're aware he hasn't had an epidural injection since  
16 2020, correct?

17 A Not aware. That's irrelevant to me.

18 Q You're telling the jury that he needs \$84,000.00 in  
19 physical therapy?

20 A Yes.

21 Q Even though he hasn't had physical therapy in years?

22 A Again, that's irrelevant to me.

23 Q Again, \$104,000.00 in diagnostic testing?

24 A Diagnostic? I have \$86,000.00.

25 Q Even though doctors testified to this jury that he only

1 needs X-rays or MRIs if there's a flare-up, correct?

2 A Repeat the question.

3 Q Do you know that there's been testimony that he only  
4 needs diagnostic testing if theres a flair-up?

5 A I don't recall that.

6 Q Lastly, you made calculations about household cleaning  
7 services, correct?

8 A Correct.

9 Q You assume the plaintiff cannot perform those services,  
10 right?

11 A I'm just following the medical recommendation. I'm not  
12 assessing whether he can do it or not.

13 Q Have you seen any evidence whether he needs help with  
14 household chores from 2020 to 2025?

15 A No.

16 MR. HAYS: That's all I have. Thank you very much.

17 THE WITNESS: You're welcome.

18 THE COURT: Any redirect?

19 MR. VARGAS: Yes, Your Honor.

20 REDIRECT EXAMINATION

21 BY MR. VARGAS:

22 Q Counsel was just questioning you on whether or not he  
23 has had injections, physical therapy, diagnostic testing, and  
24 you stated it's irrelevant. Can you tell the jury why it's  
25 irrelevant?

1           A       Sure.  There's models of behavior, and I'm an expert of  
2 those injures as well.  Whether someone is compliant with what  
3 they should be doing or should not doing with their medical care  
4 is complex, and part of that, a big part of that, is whether  
5 they can pay for it or not.  So, I don't take that into account  
6 because I consider that to be endogenous to the case, and what I  
7 mean by that is, it's something that, it could be the case, bit  
8 because he hasn't been resolved, he hasn't done it.

9           The other reason it's irrelevant to me is because I'm  
10 not a medical doctor, I don't know the repercussions of not  
11 being compliant with the medical recommendations.  I'm just  
12 giving the value, based on what the physician thinks this injury  
13 is worth or what it's going to cost over the remainder of his  
14 life, and if you trade off something that he wasn't doing and  
15 that gets replaced with something else because he wasn't doing  
16 it, the cost should be within reason.

17          Q       And you were also questioned about Obama Care and the  
18 possibility of Mrs. Buestan's healthcare.  Both of those --

19                 THE COURT:  Technically, it's the Affordable Care  
20 Act.

21                 MR. VARGAS:  Sure.  He used Obama Care, so that's  
22 why.

23          Q       That would be someone else, other than the defendant's  
24 paying for his medical care, correct?  Tax payers?

25                 MR. HAYS:  Objection, Your Honor.

1                   (Whereupon, at this time the testimony was read  
2                   back by the Court Reporter.)

3                   THE COURT: Overruled.

4                   A        Yes, that would. It would mean the taxpayer and the  
5                   Plaintiff would be paying the premium.

6                   Q        And you were also questioned about why didn't you use  
7                   the 1999 wage data, the reason being?

8                   A        So, I used the more recent data because our -- what you  
9                   did in the beginning of your career is not necessarily as  
10                  representative as the last few years. I will admit that I was  
11                  not as conservative on that, using 2,200 hours a year, I could  
12                  have reduced it a little bit. It wouldn't have made that much  
13                  of a difference, but, understand that, I believe in my numbers,  
14                  and where I may have been less conservative in one area, I was  
15                  more conservative in others.

16                  For example, the pension contribution rate can range  
17                  from four dollars to \$12.50 and hour for funding that. I didn't  
18                  have the number specifically for this case, so I used four  
19                  dollars. I believe that was a really conservative number. So,  
20                  if I was a little bit less conservative on hours, I still think  
21                  the overall numbers are very reasonable.

22                  Q        Lastly, you were questioned about whether or not you  
23                  factored in if he gets a job at Fresh Direct or as a dishwasher.  
24                  In either one of those jobs, would you expect the pension, the  
25                  healthcare, the wages that he was earning as he was at Breeze

1 Demolition?

2 A If he's able to return to a minimum wage job full-time,  
3 then you would want to offset \$32,00.00 a year and apply a  
4 growth rate to that for the remainder of his life, but it's not  
5 likely to have the benefits, and a vocational expert would have  
6 to speak to whether his injuries have any impact on his work  
7 life expectancy.

8 MS. AYERS: Thank you, Doctor.

9 THE COURT: You're welcome.

10 RECROSS-EXAMINATION

11 BY MR. ROSENZWEIG:

12 Q Dr. Dwyer, you could have made a calculation based on a  
13 return to work, correct?

14 A I could have.

15 Q And Mr. Buestan testified last week, correct?

16 A Say that again.

17 Q Mr. Buestan testified last week, six or seven days ago,  
18 correct?

19 A Yes.

20 Q And you didn't, in that time period, come up with any  
21 new calculations to show this jury, correct?

22 A I was relying on the basis of the medical expert opinion  
23 that he can't return to work, but, if he does, I didn't do the  
24 numbers. I could.

25 Mr. Rosenzweig: Thank you.

1 THE COURT: Thank you, Dr. Dwyer. You are  
2 finished. You may step down from the witness stand at this  
3 time.

4 THE WITNESS: Thank you.

5 (Whereupon, the witness stepped down from the  
6 stand)

7 THE COURT: Okay, ladies and gentlemen of the jury.  
8 I don't believe we have any further witnesses for you. It's  
9 4:00 p.m. The sun is still high, which is a wonderful part  
10 of this time of year, that the days are getting longer. You  
11 are dismissed to enjoy your day.

12 However, tomorrow we will start at 10:30, because I  
13 have a hearing on an emergency basis preceding this case.  
14 10:30 tomorrow, we agree? See you then.

15 COURT OFFICER: All rise. Jury exiting.

16 (Whereupon, the sworn jurors exit the courtroom.)

17 (Whereupon the trial was adjourned to Thursday,  
18 January 22, 2026 at 10:30 a.m.)

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