

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

██████████ ██████████,

PLAINTIFF,

vs.

CIVIL ACTION FILE NO:

PATIENCE AJUZIE,

DEFENDANT.

* * *

The following deposition of ROBERT D. COSTON, Ph.D. was taken pursuant to stipulations contained herein, the reading and signing of the deposition waived; before Tanga Donnelly, Certified Court Reporter in the State of Georgia, on Friday, January 31, 2014 at 2719 Buford Highway, NE, Atlanta, Georgia; commencing at 1:30 p.m.



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TRANSCRIPT LEGEND

- (Interjection of thought for clarification)
- (Interruption of thought)
- ... (Trailing off or did not complete thought)
- (ph) (Phonetically)
- [sic] (In its original form)

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P R O C E E D I N G S

1:30 p.m.

MR. HIESTAND: This will be the deposition of Dr. Robert Coston taken pursuant to notice and agreement of counsel. The purpose of this deposition is for discovery only, meaning it is not a preservation of evidence deposition. Therefore, I would recommend that all objections except as to the question of responsiveness of the answer be reserved until first use of the deposition if that's agreeable.

MR. BUTLER: That's fine with me. We've talked about this before. I normally take them pursuant to the CPA, but if you want to take it pursuant to those reservations, that's fine with me.

MR. HIESTAND: Great. All right. If you could please swear in the witness.

(Witness sworn.)

Whereupon,

ROBERT COSTON, Ph.D.,
was called as a witness herein and, having been first duly sworn, was examined and deposed as follows:

CROSS-EXAMINATION

1 BY MR. HIESTAND:

2 Q. Dr. Coston, again, my name is Trevor
3 Hiestand. We spoke briefly before we got started
4 here today. I'm sure you have given many
5 depositions in your career. Is that fair to say?

6 A. That is fair.

7 Q. What I would ask you is this. Certainly if
8 I ask you a question that comes out poorly phrased
9 or I have garbled or sometimes trip over my own
10 words, and if you do not understand the question
11 I've asked you, will you ask me to rephrase it?

12 A. I will.

13 Q. Second - and I am not anticipating this is
14 going to be an especially important factor in this
15 deposition - but sometimes when I'm deposing
16 experts, I may use a term of art improperly. In
17 other words, instead of saying inflation rate, I may
18 improperly use the term discount rate, for example.
19 If you feel as though I may have used a term of art
20 inappropriately and therefore it makes it difficult
21 for you to answer my questions, will you let me
22 know?

23 A. I will.

24 Q. I don't think this deposition is going to
25 take very long. What we're going to do is go over

1 your file to make sure I've kind of identified those
2 items. Have you brought your entire file with you
3 here today?

4 A. I have, with the exception of the disk of
5 the Plaintiff's deposition.

6 Q. That would be Mr. [REDACTED] deposition?

7 A. Yes, Mr. [REDACTED] [REDACTED].

8 Q. Did you review any other depositions in
9 preparing your opinions?

10 A. I did not.

11 Q. So the only thing that would be missing
12 would be that deposition of Mr. [REDACTED]'s?

13 A. Correct.

14 Q. Okay. And I have that. Let's do a couple
15 of things. I'd first like to mark as Defendant's
16 Exhibit A to the deposition - and I use letters in
17 depositions and numbers at trial - but let's go
18 ahead and mark your October 18, 2013 Economic
19 Analysis.

20 (Whereupon, the court reporter
21 marked Defendant's Exhibit A
22 for identification.)

23 BY MR. HIESTAND: (Resuming)

24 Q. You may have had an opportunity to look at
25 this before, but is this your most updated and

1 current summary of your opinions in this case?

2 A. Yes. I will make sure, but this is the
3 latest and the only one, actually.

4 Q. Great.

5 A. (Witness reviews document.) Yes.

6 Q. Attached to that as "Exhibit B" to your
7 Economic Analysis is your CV; is that correct?

8 A. Yes.

9 Q. Your current position is emeritus professor
10 of economics at Georgia Southern?

11 A. Yes.

12 Q. Tell us, what does your position entail?

13 A. Well, emeritus professor means I am
14 retired, but with all the same privileges as I have
15 before retirement. I can teach and I can have an
16 office, secretarial help, an e-mail address. I
17 guess that's about all I had before I retired.

18 Q. Are you teaching any classes now?

19 A. I am not.

20 Q. When is the last time you taught any
21 classes at Georgia Southern?

22 A. June 2001.

23 Q. Since June of 2001, or I should say since
24 2001, what type of work have you been doing?

25 A. Basically my own personal work; doing this

1 type of consulting work. I've been involved in some
2 investment activities in the private sector. I've
3 done a little teaching with regard to my daughter
4 who now has an econ degree at Georgia Southern.
5 I've helped her and some of her friends through
6 that. That's primarily it. Consulting, investing,
7 leisure time.

8 Q. With specific reference to work as an
9 expert witness either consulting or testifying
10 witness, what percentage of your work time would you
11 say that occupies now?

12 A. Of work time, probably -- I would say a
13 third. It is really hard to know.

14 Q. Have you had occasion to do other
15 consulting or testifying work for the firm you are
16 working for now, Butler Wooten Fryhofer?

17 A. Yes.

18 Q. How many cases in the past?

19 A. I do not know. I have been working with
20 them for 20 years.

21 Q. Would you say it is more than 25 cases?

22 A. Probably in that range. Maybe a little
23 lower, but I'm not sure.

24 Q. If I said between 15 and 25 cases, would
25 you be comfortable with that range?

1 A. Yes. And that is a guess. I really don't
2 know.

3 Q. I know it's required for Federal Court, but
4 do you have somewhere a list of cases in which you
5 have testified?

6 A. Only the Rule 26 information, which would
7 be for the last four years.

8 Q. Do you have access to your Rule 26 list now
9 or is that something you could provide?

10 A. It is something I could provide. I
11 mentioned to Mr. Butler that I usually include that
12 in the file and I forgot it. I would be glad to
13 email it to if you'd like.

14 Q. Actually, if you could just email that
15 directly to Mr. Butler and he will forward it on to
16 me.

17 A. That will be fine. I apologize in advance
18 if I talk over you sometimes. It is hard for me not
19 to do it, but I will email it to Mr. Butler.

20 Q. Understood. And I will try and give you an
21 opportunity to finish your answer so that the court
22 reporter will not throttle us both.

23 All right. Any other -- I know that you last
24 taught for Georgia Southern back in 2001. Since
25 2001, have you held any other teaching positions

1 with any other colleges, universities or other
2 education facilities?

3 A. No.

4 Q. Are you charging for your work that you
5 have been doing in this case?

6 A. Yes.

7 Q. What is your rate?

8 A. I charge for an economic analysis \$4950.

9 And that is an analysis of lost earning capacity.

10 In this case there was not one of those types of
11 analysis. In calculating the discounted value of a
12 life care plan I charge by the hour, \$350 per hour.

13 Q. And that is how you have been charging your
14 time, \$350 an hour?

15 A. That is correct.

16 Q. Do you have an estimate or maybe you have
17 an exact figure of how many hours you've spent prior
18 to getting started here today?

19 A. I was \$2800. Probably eight hours.

20 Q. Have you been asked to do any other work in
21 this case that you have not yet completed with the
22 exception, of course, of the deposition that we are
23 here for today?

24 A. No.

25 Q. Have you been asked or have you been told

1 there is a possibility that you may need to do any
2 additional work in this case, such as calculating
3 the value of lost income or lost wages?

4 A. To this point I have not been asked to do
5 that.

6 Q. So if I'm understanding you correctly to
7 date and with the exception of completing today's
8 deposition, you have completed all the work you have
9 been asked to do in this case; is that accurate?

10 A. Yes.

11 Q. I understand you have your entire file here
12 with you today; is that correct?

13 A. That's correct, with the exception of the
14 disk of the deposition.

15 Q. I forgot about that, that's accurate. What
16 I would like to do is go through those items
17 sequentially. Some of them -- All of them I will
18 identify. Some of them will be marked, but I assure
19 you the original of these items will be kept by you
20 and what we will do is we'll attach copies of these
21 items to the deposition. Are these in any
22 particular order, first of all?

23 A. They are in order of the questions you are
24 going to ask me, I think that. That is just the
25 order I put them in. I anticipate where you're

1 going to start and that top sheet answers some of
2 the questions.

3 Q. Perfect.

4 A. If you're asking me if you get them out of
5 that order is that a problem? No; the file is
6 small.

7 Q. Why don't we first mark as Exhibit B this
8 first page, which is on yellow lined paper. At the
9 top it says, "Mr. [REDACTED] [REDACTED]" and after it has
10 been marked B...

11 (Whereupon, the court reporter
12 marked Defendant's Exhibit
13 B for identification.)

14 BY MR. HIESTAND: (Resuming)

15 Q. Which it is now marked. What is this item?

16 A. This is the first thing I do when I get
17 started in preparing either an economic analysis or
18 the discounted value of a life care plan, it gives
19 me some biographical information, some information
20 about the case itself with regard to age and date of
21 injury and things like that. Also, I set up columns
22 of 20 years so that I can tell what year certain
23 ages occur. If I am doing an economic analysis,
24 I'll know when the retirement age will be if I use
25 the normal age of 67. Also, in this particular

1 case, since it is a life care plan, I went to the
2 mortality table for African-Americans and got the
3 number of years of life expectancy at the date of
4 injury. And that is included on this sheet as well.
5 I know that, according to the table, that the
6 mortality would've ended in the year 2065, that type
7 of thing. The information at the top of the sheet
8 goes directly into the published form of the report.

9 Q. And I understand that the mortality table
10 that you utilized in this case has been included in
11 Exhibit A, correct?

12 A. Yes.

13 Q. Great. Now -- And I know you were able to
14 get a copy of Mr. [REDACTED]'s deposition. Did you
15 utilize any information from his deposition in
16 developing your opinions and conclusions?

17 A. No.

18 Q. Literally none of the information was
19 utilized by you?

20 A. No. It may have been if I had been
21 preparing an economic loss regarding lost earning
22 capacity. Since I wasn't and I was just determining
23 the discounted value of the life care plan, all the
24 information that I needed was in the life care plan
25 that was provided to me. So I looked at it and I

1 saw he was in college, I saw that he was a dancer.
2 I saw that he had been to New York City. I saw a
3 little bit about the accident, which I try not to do
4 anything but skim very, very quickly. And the end
5 result is there was nothing in there that affected
6 the discounted value of the life care plan.

7 Q. Going to the next page, and we will Mark
8 that as Defendant's Exhibit C.

9 (Whereupon, the court reporter
10 marked Defendant's Exhibit
11 C for identification.)

12 BY MR. HIESTAND: (Resuming)

13 Q. On your letterhead it's dated October 18th.
14 It's a letter to Mr. Jeb Butler. And it states,
15 "Enclosed is the appraisal of the discounted value,
16 a --" is this just enclosing a copy of what has been
17 marked Exhibit A?

18 A. This is the cover letter for the report,
19 which is Exhibit A, yes.

20 Q. All right, sir.

21 A. That was on top of the report itself.

22 Q. There's another item which appears to be a
23 copy of your CV; is that correct?

24 A. That's correct.

25 Q. I'm not going to mark that because it has

1 already been included in Exhibit A.

2 A. Right.

3 Q. What I will mark next, though, as Exhibit
4 D, and we'll put the sticker towards the top.

5 (Whereupon, the court reporter
6 marked Defendant's Exhibit
7 D for identification.)

8 BY MR. HIESTAND: (Resuming)

9 Q. Appears to be the life care plan from Ms.
10 Willard; is that accurate?

11 A. Well, that is the second part of the life
12 care plan. She has a narrative part, which I skim
13 over, which is basically medical information and a
14 little bit about the charge she had and who she was,
15 I guess -- who asked her to do the report. The
16 second part, which is what I have in my hand, is the
17 actual life care plan itself and represents all the
18 different medical services and necessities that are
19 needed.

20 Q. It looks like what I will Mark as Exhibit E
21 is the first part of the life care plan?

22 A. Correct.

23 (Whereupon, the court reporter
24 marked Defendant's Exhibit
25 E for identification.)

1 BY MR. HIESTAND: (Resuming)

2 Q. Of these two parts, would D have been the
3 one that was more relevant to you in developing your
4 opinions or conclusions, or maybe both of them?

5 A. Well, they both were and I read both of
6 them, but I am asked to determine the discounted
7 value of the life care plan itself and the second
8 part is the life care plan.

9 Q. So in other words, when you were utilizing
10 figures provided by Ms. Willard to develop your
11 opinions and conclusions, it would have come from
12 Exhibit D?

13 A. Yes.

14 Q. I'm not expecting the answer to this to be
15 yes, but did you ever review any other life care
16 plans from any other persons other than Ms. Willard
17 in developing your opinions and conclusions?

18 A. In this case?

19 Q. Yes, sir.

20 A. No. This is the only life care plan I
21 have.

22 Q. Roughly, this will be a very rough figure,
23 how many of these types of reports have you prepared
24 where you have used solely a life care plan as
25 opposed to also utilizing maybe lost income/lost

1 wage information?

2 A. I do not know the answer to that. Normally
3 there is lost wages involved. I do these
4 frequently. Every year I do a few; I have no idea
5 how many.

6 Q. Do you know why in this case you did not
7 utilize -- I'm assuming the reason you did not
8 develop any economic analysis of lost income or lost
9 wages was because that information was not provided
10 to you; is that accurate?

11 A. Well, not necessarily. When I talked to
12 Mr. Butler about it, I asked if he wanted me to
13 determine the lost income and lost capacity to earn
14 in this case and he said no.

15 Q. Do you know why? Was more information
16 provided as to why that aspect was not asked or you
17 were not asked to flesh out that aspect?

18 MR. BUTLER: Objection; relevance.

19 BY THE WITNESS: (Resuming)

20 A. I do not know why. No, I did not ask.

21 Q. Was there ever a time where you had
22 preliminarily begun to develop an opinion in that
23 regard, and when I say in that regard, regarding
24 lost income or lost wages, but then abandoned the
25 effort?

1 A. No. The only thing I thought of was when
2 he told me he was a dancer and I said, where am I
3 going to find out what dancers make. But no, I just
4 thought about it and it was a unique case in that he
5 was a dancer and, I guess, a talented, not a
6 musician but a theatrical type person. I did think
7 about it, but no, I did not even consider doing
8 something I wasn't asked to do.

9 Q. All right. The next item we will mark as
10 Defendant's Exhibit F, which is a letter apparently
11 to you dated October 10th of 2013.

12 (Whereupon, the court reporter
13 marked Defendant's Exhibit
14 F for identification.)

15 BY MR. HIESTAND: (Resuming)

16 Q. Would this be indicative of when you first
17 got materials in order to develop your conclusions?

18 A. Yes. And I am not 100 percent sure about
19 this, but I think the normal process through Mr.
20 Butler's office is to email the information and send
21 me a hard copy. I think this was a hard copy and
22 the email, and I think this may be my secretary's, I
23 think it may be her handwriting. The e-mail came in
24 on 10/15/13, so I got two different copies, the same
25 information.

1 Q. Yes, sir.

2 A. By two different mediums.

3 Q. The next item is -- it says -- well, there
4 is two pages here. Let's mark that as Exhibit G.

5 (Whereupon, the court reporter
6 marked Defendant's Exhibit
7 G for identification.)

8 BY MR. HIESTAND: (Resuming)

9 Q. And can you identify Exhibit G for us,
10 please?

11 A. Yes. I usually bring these to depositions.
12 I ran this off yesterday and it is interest rates
13 published by the Board of Governors, the Federal
14 Reserve System. And in Georgia we use a five
15 percent discount rate in discounting, as you well
16 know. And that is the high rate right now, which
17 means that if we use current rates it would require
18 a lower discount rate, which I don't do. And I
19 think the one we use is appropriate. This is just
20 to show you that interest rates are quite a bit
21 lower than the five percent rate that I used.

22 Q. In other words, Exhibit G is evidence that
23 may be used to justify a discount rate other than
24 the five percent discount rate set by Georgia
25 statute?

1 A. You could say that if you thought these
2 rates were going to last for the next 50 years,
3 which I don't.

4 Q. Explain to us if you have used a different
5 discount rate - I know we're jumping ahead of
6 ourselves a little bit - we'll talk about your
7 conclusions in just a moment, but there is a statute
8 which says that five percent can be used or any
9 other appropriate discount rate if accepted by the
10 trier of fact, but five percent is one that is
11 commonly used?

12 A. Right.

13 Q. If you used a lower discount rate, what
14 effect would that have on your conclusions?

15 A. It would make the numbers higher. There is
16 an indirect relationship between the discount rate
17 and the value, the discounted value and the total.

18 Q. When you explain to a jury what the
19 discount rate means, how do you best describe it for
20 a jury?

21 A. It is the interest rate that someone with
22 average investment ability and intelligence should
23 be accepted to earn on a safe and secure and liquid
24 investment in the area they live in. I try to make
25 it -- you know, I said that all at once. I try to

1 spread that out a little bit to make it clearer.
2 But basically if someone got a lump sum of money, it
3 would be the interest rate that they could earn to
4 regenerate the income.

5 Q. So by Georgia statute there is an
6 expectation that if you had, for example, if you had
7 \$100 today and you needed to get to some endpoint
8 that if you invested it, you should be able to get
9 five percent now?

10 A. Well, no, not now. The average over the
11 period of time in which you invest it, which in this
12 case is 50 years would be five percent.

13 Q. Explain to me again now with that
14 background, Exhibit G suggests that the interest
15 rate is something less than five percent now?

16 A. Currently, yes. And some people -- We're
17 very shortsighted individuals. I don't mean to say
18 everybody is. We tend to think the interest rate we
19 have today is what we are going to have forever, and
20 that's not the case. So I just used this to show
21 that they're low today. That would make the numbers
22 higher. If I used that in discounting these medical
23 services, the values of these medical services. But
24 in my opinion I think a five percent interest rate,
25 which is, as you said, a legal interest rate, I

1 guess that is my terminology, is reasonable to
2 expect over the next 50 years.

3 Q. All right. Did you utilize Exhibit G for
4 any other purpose?

5 A. I brought it for you.

6 Q. Okay. But it sounds like you did not use
7 any of the information from Exhibit G in developing
8 your conclusions in this case; is that correct?

9 A. That is correct. I used the five percent,
10 which some call a statute rate here.

11 Q. The next item is just a copy of a draft. I
12 don't think I'm going to mark this one, but it's
13 just a copy of a check to you for 2,800. Is that a
14 retainer?

15 A. No, that was the full amount.

16 Q. Oh, okay. This is paying you for your
17 services?

18 A. That's correct.

19 Q. At, I'm sorry, you told me before, at 350
20 an hour?

21 A. Yes.

22 Q. How long have you been charging 350 an hour
23 for your work of this type?

24 A. Since September of 2008.

25 Q. And finally, I think I will mark this one.

1 (Whereupon, the court reporter
2 marked Defendant's Exhibit
3 H for identification.)

4 BY MR. HIESTAND: (Resuming)

5 Q. This is just Exhibit H. This appears to be
6 an invoice from you for your work for the \$2800. Is
7 that accurate?

8 A. Yes.

9 Q. I am guessing that is the only invoice that
10 you have prepared to date?

11 A. That is correct.

12 Q. Have we now covered everything in your file
13 except for, of course, the disk that contained the
14 deposition of Mr. [REDACTED]?

15 A. That's correct, yes.

16 Q. All right, sir. I'm going to give that
17 back to you. And to the extent you need to use any
18 of that, obviously, please, go to that and review
19 it. Let's go ahead and now talk about Exhibit A,
20 which is your economic analysis. And we are going
21 to go through that sequentially.

22 A. I am ready.

23 Q. All right.

24 MR. BUTLER: I'm going to borrow this copy
25 if I can.

1 MR. HIESTAND: Yes, sir. Just so long as
2 you don't mark that because that's the original
3 that's going to be attached -- I'm sorry.
4 That's -- No, that's a version that I brought,
5 so that's the version that we're going to attach
6 to the deposition. A is not an extra copy that
7 I got from you; it's one that I made. Just so
8 long as it's not marked so we can attach that to
9 the deposition, that will be fine.

10 MR. BUTLER: You got it.

11 BY MR. HIESTAND: (Resuming)

12 Q. Of course you've got your cover page. The
13 next page is the table of contents and appendices.
14 Table 1, it's titled "Mr. ██████████ ██████████ General
15 Information and Assumptions Used in Appraisal
16 Computations." You've got his date of birth.
17 You've got the date of the injury. You've got age
18 at injury and then you've got years of life
19 expectancy. Let's stop there. And the source of
20 that information for years of life expectancy is
21 attached to your analysis in the appendices and it
22 is titled table 107 Expectation of Life and Expected
23 Death by Race, Sex and Age, revised version 2008.
24 Is this a table that is commonly used for this
25 purpose?

1 A. It is and it is located in the Statistical
2 Abstract of the United States. I think I have the
3 most current Statistical Abstract and 2008 would be
4 the most current table.

5 Q. And from that you are able to determine at
6 least as of age 18 it would be expected that Mr.
7 ██████ would have 54.18 years in front of him; is
8 that accurate?

9 A. That's correct.

10 Q. This table that utilized, it says it was
11 updated as of 2008. How often are these updated?

12 A. Maybe every year because every year I get a
13 new Statistical Abstract, it is a year in advance.
14 But still, that is like four, five, six years
15 behind, but I think maybe every year.

16 Q. Is interesting because at the top it says
17 2008, but then at the bottom of it, it says 2012.
18 Do you know what version this was if this was the
19 2008 or the 2012 table?

20 A. That's the one that came out of the
21 Statistical Abstract. The Statistical Abstract was
22 published in 2012/13, I think, and that was the
23 table in it.

24 Q. And it sounds like, or let me just ask you,
25 you didn't make any adjustments onto his lifespan

1 based on any information that was provided to you by
2 other sources?

3 A. That is way out of my field. I cannot do
4 that. I take the information as presented in the
5 table itself.

6 Q. Yes, sir. And then under years of working
7 life and age at retirement, you've put not
8 applicable because in this case you've not tried to
9 develop any type of lost income or lost wage?

10 A. Correct. This is a format that I use
11 typically for the first table and I just continue to
12 use it and just not applicable to the two that we
13 are not applicable, as well as the earnings down
14 below.

15 Q. Yes, sir. The next page is the summary of
16 your assumptions. And I think we've covered .1,
17 which was life expectancy that you took from the
18 table, correct?

19 A. Yes.

20 Q. And then two, the five percent discount
21 rate was selected, and that would be the statutory
22 discount rate as provided by Georgia Code?

23 A. I don't know how to define that interest
24 rate, but I've had judges tell me that it is the
25 statute rate. But as you have quoted earlier it

1 says it is not unlawful to use that. And everybody
2 I know it is common in the field to use that five
3 percent discount rate.

4 Q. I am asking you to interpret any Code on
5 this next question nor to interpret the
6 applicability of five percent in this case, but you
7 stated before that you think five percent is an
8 appropriate discount rate to utilize?

9 A. I do. That is why I use it, not because
10 they say it is the statute rate.

11 Q. If the statutory rate were, say, seven
12 percent hypothetically, would you still utilize five
13 percent for this type of analysis or would you
14 utilize the statutory rate?

15 A. Well, if it was statutory, actually, I
16 would have to use the seven percent so I would.

17 Q. Have you ever developed any calculations to
18 develop opinions or conclusions using any other
19 statutory discount rate other than the five percent?

20 A. I have.

21 Q. You have?

22 A. Yes.

23 Q. In this case?

24 A. No, on another case.

25 Q. When was the last time you did do that on

1 some other case?

2 A. It may have been 15 years ago. It may have
3 been longer. It was an individual that was not --
4 it was not a death case. The individual was a
5 stockbroker. The individual had a portfolio where
6 he showed what his return had been over a protracted
7 period of time and he was doing better than five
8 percent, so I used it. I think it was six or seven.

9 Q. Okay. But it's been 15 years since you've
10 done that?

11 A. Yes, I haven't done another stockbroker.

12 Q. Now, let's go on the table two. This is a
13 rehabilitation life care plan. And my understanding
14 would be that all of these figures came from Ms.
15 Willard's life care plan which is part of your file
16 as Exhibits D and E, but the figures that we are
17 looking at in your table two came from Exhibit D,
18 which is Ms. Willard's life care plan?

19 A. Well, I think to make it a little bit
20 clearer, I calculated the numbers that I have in
21 table two from information and figures that she
22 supplied in her life care plan.

23 Q. Let's just do one example to make sure I'm
24 understanding the methodology. We will look at, for
25 example, projected evaluations, the first item here.

1 Where is that found in Exhibit D?

2 A. There are eight different ones on page 1
3 and page 2.

4 Q. In other words, all of the projected
5 evaluations are grouped together on page 1 and page
6 2?

7 A. Yes, that's the format that she uses. And
8 what I do is I did each one of the different
9 services or necessities, add them together and get
10 the total that is in table two under projected
11 evaluations.

12 Q. And can you show me where you have the
13 total of projected evaluations? Is that the 90,000?

14 A. Right. That's the \$90,549.61 that I took
15 off of the life care plan and put in the table
16 itself.

17 Q. Okay.

18 A. I added them up together. Like I said,
19 there are eight different ones or nine different
20 ones. I added them all together and the total in
21 the life care plan -- this is the total of the
22 discounted value was \$90,549.61, that goes into the
23 final report.

24 Q. So let me see where the five percent
25 discounted value is applied to the figure. The

1 total that you got from Ms. Willard's life care plan
2 on pages one and two for the projected evaluations,
3 did that total up to the 90,549 or does 90,549.61
4 reflect after the discount?

5 A. Oh, I only calculate the discounted value.
6 So the numbers that I calculate and put in the
7 report are all discounted at five percent to October
8 18, 2013.

9 Q. Meaning the figures that Ms. Willard
10 provided when you add up all of those projected
11 evaluations, that would come up with a figure that
12 would be higher than the 90,549.61?

13 A. No.

14 Q. Okay.

15 A. No.

16 Q. Let me do this --

17 A. Because we are talking about a 50-year
18 process here. She is just providing what it would
19 cost, and not the whole 50 years, what the first
20 year would cost in today's values.

21 Q. Okay. And in one year of projected
22 evaluations, she's provided that figure of
23 \$90,549.61?

24 A. Well, I calculated that. And what that
25 means is that if that \$90,549.61 was invested at

1 five percent, the discount rate, that each one of
2 these medical services or projected evaluations
3 could be paid for at the time that they are needed
4 throughout the next 50 years.

5 Q. May I borrow that Exhibit D for a moment
6 and let me just double check something?

7 A. (Witness complies.)

8 Q. Okay. I am assuming that you have no
9 comment or recommendations for adjustments for any
10 of these figures provided by Ms. Willard; is that
11 accurate?

12 A. Yes.

13 Q. You are just assuming that all of those
14 numbers are accurate and are well reasoned based on
15 her expertise?

16 A. I am, that is correct.

17 Q. Okay. Just to make sure I'm understanding
18 how this works, for example, I'm looking under
19 wheelchairs, mobility and maintenance, that
20 category. What you have done is you have totaled up
21 all of those items to come up with a total figure
22 for that category of expenses, correct?

23 A. Yeah. The discounted value of total
24 expenses for the protracted period of time that they
25 are necessary, yes.

1 Q. Okay. I guess that's where I'm having a
2 mind block at that stage. Go ahead, sir.

3 A. Let me tell you what I did.

4 Q. Perfect.

5 A. The thing to do is look at the grid itself.
6 The first one was the driving evaluation --

7 Q. We're going back to projected evaluations
8 now?

9 A. Right. Yeah. The first category in the
10 total projected evaluation section is driver
11 evaluation and training. And under frequency and
12 replacement it says one time. And the cost of the
13 driver evaluation or training is a cost between
14 \$1280 and \$2240, I just averaged it and put it down
15 there.

16 Q. Okay, great.

17 A. There's no forecasting, no projecting
18 because it's just one time.

19 Q. I'm with you.

20 A. Then the next one home accessibility
21 specialist says two to three occurrences now, five
22 or more evaluations over lifetime. I don't know
23 when they're going to be needed over the lifetime,
24 but I know -- I take two occurrences, rather than
25 two to three, I take the two. Then other five, add

1 those together. And I know that during the lifetime
2 sometimes there's going to be seven of them
3 required. So since I don't know when, I can't
4 forecast out what they would cost or discount back
5 what the discounted value of those costs would be,
6 so I just multiply seven times the cost, which is
7 \$800, so there's no forecasting involved here. The
8 third one under an orthopedist says as needed. I
9 don't know what that is, so I cannot do any
10 calculations at all.

11 Q. I'm with you.

12 A. I have trouble with the physician's name.

13 Q. Physiatrist?

14 A. Physiatrist. This one is minimum of two
15 times per year and the average cost per year is
16 \$200. So I know that's going to be \$400 a year
17 beginning at age 21, ending life expectancy. So
18 then I run that number out for the whole life
19 expectancy, discount it back to October the 18th,
20 2013. And the discounted value of that \$400 a year
21 is \$45,993.

22 Q. That's where I had the block. You are
23 doing the discounted -- you're running it out and
24 then bringing it back. And the discount rate, for
25 example, under the first item under projected

1 evaluations, which is driving evaluation and
2 training, that is a one time so you don't have to
3 apply any discount rate to that?

4 A. No, I just assume today; they need it now.

5 Q. Great. So there's no discounted rate
6 applied that row of \$1760 because that's today's
7 dollars?

8 A. That's correct.

9 Q. However, if you go down to the next item,
10 which is home accessibility specialist, you are
11 running out those figures over the lifetime
12 depending on the appropriate frequency. And then
13 that figure, that 5,600 is the discounted rate?

14 A. No.

15 Q. No?

16 A. Because it says here, and I follow this as
17 literally as I possibly can. It says two to three
18 occurrences now. I used two to be conservative.
19 Then it says five or more evaluations over lifetime.
20 How am I going to forecast that out? I don't know
21 when over the lifetime. I don't know whether it's
22 age 30, 50, 60 or whatever. So the only thing I can
23 do is say, I know that there's seven needed over the
24 lifetime. I know that the cost now is \$800. So I
25 just multiply seven times \$800 dollars.

1 Q. I'm with you.

2 A. That's not going to be enough money because
3 they're going to cost more out in the future, I'm
4 sure, but I don't know when so I can't calculate it.
5 When I get down to the psychiatrist, it says
6 beginning at age 21, ending life expectancy. It says
7 a minimum of two times per year and the average cost
8 per year is \$200. So I know there each year \$400,
9 so I do year end. Each year at the end of the year
10 400 bucks has got to be spent. So I forecast that
11 out, discount that back, I can do that. I know when
12 that is necessary and then it comes out to the
13 45,993. Q. Great. And that is the discounted
14 figure?

15 A. Correct.

16 Q. I'm with you.

17 A. The next one says from age 21 to 47. And
18 it says every two to three years old. Well, the
19 conservative side is three years rather than two
20 years. So I forecast it out to age 47, every three
21 years, I get the discounted value and it's
22 \$3,617.74. And I do every one of them that I can
23 determine when they're going to be needed in the
24 future, I forecast what it's going to cost then and
25 bring it back to present day value and add them all

1 up and I get the 90,549?

2 Q. And you did that for each of these
3 categories of care or equipment or services?

4 A. Yes, I do them all exactly the same way.

5 Q. At the end of table two, the bottom line
6 figure we have is the total discounted value of
7 rehabilitation life care plan. And that figure is
8 \$3,692,820.48?

9 A. That's correct.

10 Q. Meaning that represents if that amount of
11 money were available as of April 18, 2013 when you
12 did this report, that amount of money would --

13 A. Not April.

14 Q. I'm sorry. October. Did I say April? I
15 meant October, sorry. October 18, 2013. If you had
16 that 3.692 million plus, that amount assuming that
17 it is invested and it accumulates at five percent a
18 year, that there would be enough money there to
19 cover each and every one of these services?

20 A. That's correct.

21 Q. Over the lifetime to the extent that, I
22 again, some --

23 A. The extent he lives the length of time the
24 mortality table says he's going to live. If he
25 lives longer than that, there's no money left.

1 Theoretically and mathematically, the math says the
2 money is going to run out the day he dies.

3 Q. The page after that is your certificate
4 where you have signed your report. Let me make sure
5 I've gone through all your appendices. Again, we
6 have already covered the mortality table that you
7 utilized. We have covered your CV. And that is the
8 full extent of your report?

9 A. That is correct.

10 Q. Were there any other conclusions or
11 opinions that you've developed in this case that are
12 not contained within Exhibit A?

13 A. No.

14 Q. You described points at which you were not
15 able to maybe fully flesh out values because, for
16 example, let's go back to that first page. You have
17 got under the category of projected evaluations,
18 these are medical - I should say service provider or
19 medical evaluations that one of them, for example,
20 it was difficult for you to develop an opinion on.
21 That's row three?

22 A. The orthopedist. It says beginning 2013
23 ending life expectancy frequency/replacement as
24 needed. That ends my ability to calculate because I
25 don't know when it is needed.

1 Q. May I borrow D?

2 A. (Witness complies.)

3 Q. I want to make sure it is obvious. There
4 is another example of that on page three, for
5 example, of the life care plan Exhibit D. For
6 example, psychologist it says two to four times per
7 month?

8 A. Projected frequency.

9 Q. Yeah, frequency.

10 A. First column.

11 Q. Two to four times per month for six months
12 beginning unknown?

13 A. The beginning is what I meant.

14 Q. In other words, in your notations where you
15 were not able to develop a value for that, you've
16 got a line there?

17 A. Correct.

18 Q. You're not using ranges; it could be
19 between this and this. You're only developing an
20 opinion if you can actually calculate an exact
21 number?

22 A. Yes, that is correct.

23 Q. Did you ever have any conferences either in
24 person or telephone conferences or emails with Ms.
25 Willard?

1 A. No, not regarding this case.

2 Q. Not regarding this case, in other words,
3 sending her an email or a call about, hey, am I
4 misreading your opinion on this?

5 A. I have done that before, but not in this
6 case.

7 Q. Is there a reason you did not do that in
8 this case?

9 A. I understood everything that she had
10 presented in there.

11 Q. I am looking at... All right, I understand.
12 Sir, I think we're almost done. I just want to
13 double check something. (Counsel reviews
14 documents.)

15 If you were asked to develop any additional
16 conclusions including, but not limited to either a
17 revision of your current opinions or a new opinion
18 based on future earnings, will you -- do you
19 anticipate you will be preparing a report?

20 A. (No response.)

21 Q. I'm asking you to do some speculation.

22 A. Ask me differently. Ask me the question
23 again.

24 Q. Let me just ask you differently. My
25 request for you is if you are asked to revise your

1 opinions as contained in Exhibit A, or if you
2 prepare a new report based on your opinions of
3 future earnings or income that that report be
4 prepared and forwarded to me in advance of trial?
5 So I'm just letting you know --

6 A. Yes.

7 Q. Just want to get on the record that if you
8 do prepare any new reports that I'll need it in
9 advance with an opportunity to potentially secure a
10 discovery deposition regarding any new conclusions
11 you may have developed.

12 A. I will. And I want to add to that, in some
13 cases depending on how long it takes to get to
14 trial, I update the report, and I could possibly be
15 asked to do that. That would change the numbers,
16 but nothing would change with regard to what is
17 included in the report nor the methodology used. It
18 would just be a time of a loss of maybe a year.

19 Q. Sure. So in other words, just to update it
20 from October of 2013 to October of 2014 or whenever
21 it is from trial?

22 A. The discount date would change a year, yes.

23 Q. I understand.

24 MR. HIESTAND: Sir, I have no further
25 questions for you.

1 MR. BUTLER: No questions.

2 MR. HIESTAND: Do you know what you want to
3 do about signature?

4 THE WITNESS: I know what I want to do; I
5 don't know what my employer here wants me to do.

6 MR. BUTLER: You've been doing this long
7 enough, you can do whatever you want.

8 THE WITNESS: I'll waive it.

9 (Whereupon, the deposition in the above-
10 entitled matter was concluded at 2:11 p.m.)

11 oOo

C E R T I F I C A T E

STATE OF GEORGIA)

COUNTY OF CHEROKEE)

I hereby certify that the foregoing deposition was taken down by me, as stated in the caption; and the questions and answers were reduced to print by me; that the foregoing pages 4 through 41 represent a true, correct, and complete transcript of the evidence given on Friday, January 31, 2014, by the witness, ROBERT D. COSTON, Ph.D., who was first duly sworn by me; that I am not a relative, employee, attorney or counsel of any of the parties; am not a relative or employee of attorney or counsel for any of said parties; nor am I financially interested in the outcome of the action.

This the 3rd day of February, 2014.

Tanga Donnelly, CCR
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