

SAMPLE TESTIMONY

(November 2004)

This document represents a sample of questions used in previous cases. Please review and use these questions if they are appropriate to the case and fit your style.

QUESTION. Would you please state your name?

QUESTION. Would you tell the jury where you live and your occupation?

QUESTION. What is your educational background?

QUESTION. Would you explain to the jury your duties at the University of South Dakota?

QUESTION. Have you written any articles in the area of economics?

QUESTION. Have you written any articles dealing with economics and the law?

QUESTION. What are some of the state government agencies that you have consulted with over the years?

QUESTION. Have you consulted with agencies of the Federal government?

QUESTION. Would explain to the jury what a forensic economist is?

QUESTION. Have you acted as an expert witness for the state of South Dakota?

QUESTION. Have you acted as an expert witness for the U.S. Government?

QUESTION. What is the South Dakota Investment Council and what role have you played on that council?

QUESTION. What is the National Association of Forensic Economists?

QUESTION. You mentioned that you were a partner in some economic consulting group, could explain that group and what it does?

QUESTION. Now Dr. Brown have I asked you to assist me in this case in preparing damage estimates?

Introduction (After expert has been qualified) See curriculum vitae.

QUESTION. Would you explain to the jury the role of an economist in a case such as this?

QUESTION. Is this type of work frequently done by economists?

QUESTION. Have you been involved in cases of this type before?

QUESTION. (Optional) Approximately how many cases have you worked in and how many times have provided testimony?

QUESTION. In how many states have you qualified as an expert witness?

QUESTION. (Optional) And what is that fee?

QUESTION. In your work as an economist in cases of this type do you work for just the plaintiff?

QUESTION. Dr., in terms of work of this kind do you get more requests from the plaintiff or the defendant?

QUESTION. Why is that?

QUESTION. Dr., in this case you have been asked perform an analysis of the loss of earning capacity, is that correct?

QUESTION. Dr., I know you have written an article published in the South Dakota Law Review on the topic of loss of earning capacity, is it your understanding that in South Dakota the plaintiff is allowed to recover money damages for the loss of earning capacity?

QUESTION. Dr., would you explain the concept of earning capacity?

QUESTION. What do you mean by impaired (destroyed) earning capacity?

QUESTION. (Optional) Is there a distinction between earnings and earning capacity?

QUESTION. If you are provided certain background information, can you predict with reasonable economic certainty the future earning of any particular individual?

QUESTION. Would you explain the difference between possibilities and reasonable probabilities?

QUESTION. In your work as an economist and professor do you study trends of wages, productivity, prices, and interest rates?

QUESTION. What are your sources?

QUESTION. Would you explain to the jury how an economist calculates damages in a case of this type?

QUESTION. Dr., in performing your analysis of the economic loss in this case did you have to make assumptions? Explain the concept of work-life expectancy?

QUESTION. Dr., could you give some examples of assumptions that you had to make in this case?

QUESTION. Would you explain the concept of work-life expectancy?

QUESTION. Would you explain the concept of life expectancy?

QUESTION. Would you explain the concept of present value?

QUESTION. Are the damage numbers for future loss that you will present today reduced to present value?

QUESTION. Dr. Brown, let's talk some more about assumptions. If your assumptions are wrong are your numbers also wrong?

QUESTION. Dr. Brown then just what are the role of assumptions in your analysis?

QUESTION. Dr. Brown, have you been asked to prepare an economic loss appraisal in this case?

QUESTION. Dr. Brown could you explain to the jury the information that you used to prepare your analysis?

QUESTION. Dr. Brown, have you arrived at an opinion as to the economic loss in this case?

QUESTION. (Optional) Would you state that opinion?

QUESTION. Dr. Brown, have you prepared some exhibits which would help to illustrate your testimony?

QUESTION. Do they fairly and accurately represent the way you arrived at your opinion?

QUESTION. Would referring to them assist you in explaining your opinion to the jury?

(At this point I present my exhibits if the court so permits)

QUESTION. (Optional) Now Dr. Brown, looking at your figure that you computed for future loss isn't it true that if that amount were invested today at current interest rates that the interest would exceed the current annual loss?

QUESTION. (Optional) Have you prepared a chart that would illustrate this idea?

QUESTION. Therefore your calculations are made so at the end of the loss period the award is totally depleted?

QUESTION. Now Dr. Brown in your calculations of the loss in this case have you included anything for pain and suffering?

QUESTION. Have you included anything for loss of enjoyment of life?

QUESTION. Have you included anything for loss of comfort and guidance?

QUESTION. No further questions.

QUESTION. (Optional) And what is that fee?

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