

OVERVIEW OF ACTUARIAL CALCULATIONS IN CONNECTION WITH PERSONAL INJURY CLAIMS; WITH EMPHASIS ON INFORMATION REQUIRED FROM THE LAWYER RETAINING THE ACTUARY

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INTRODUCTION

In the past, the only "information checklists" (i.e. list of information I require from the lawyer to do an actuarial report in a personal injury case) I have had available were very brief, general outlines. This document is an attempt to provide a more detailed "information checklist". It describes the matters covered by an actuarial report in a personal injury case, and the information that the actuary needs at each step. (A similar document dealing with fatal accident cases is available upon request).

Each paragraph that starts with a number describes information that I need the lawyer to provide, or alternatively, information that I need to obtain myself if the lawyer is not providing it.

Obviously, the greater the extent to which the lawyer's office provides all necessary information in a clear, accurate way, the less time my office will spend on information - gathering and therefore the lower my fee will be.

Based on past experience, I have tried to anticipate as many possible variations among cases as possible. However, no document of this type can anticipate all the variations occurring in actual practice. Therefore, following receipt of the requested information, it is inevitable that there will be additional conversations with the lawyer's office aimed at eliciting further information.

CONFLICT CHECK

1. I need to know the name of the plaintiff, the defendant(s) and third parties, as well as the name and firm of the lawyer(s) on the other side. This will allow me to check whether I have already spoken with another of the parties.

2. Also, if ICBC is involved and I am being retained by defence counsel, I will need the name and address of the ICBC adjuster, and the ICBC claim number, for billing purposes. (Since ICBC does not pay GST, I am generally instructed by counsel to send my bills

directly to ICBC).

GENERAL IDEA OF ASSIGNMENT, TIMING REQUIREMENTS

General Idea Of Assignment

I need to have:

3i. A general idea of the scope of the assignment. e.g. full report, quick rough estimate to test adequacy of settlement offer; advice on whether claim is feasible (e.g. non - catastrophic injuries where there is no current impact on ability to perform employment or household work duties).

I can provide quick, approximate verbal estimates of damages when requested to do so, and can speak with opposing counsel about such estimates if requested to. Otherwise, my practice is to provide only “full” (i.e. not abridged) written reports.

The rest of this outline assumes that I am being retained “ab initio” to prepare my own reports/analyses. If instead, I am being retained to review a report prepared for the other side by another actuary or economist, it usually suffices to send me that report, together with the reports relied upon by the other expert (e.g. cost of care, vocational), and whatever other materials/commentary counsel thinks relevant. I would first review the other expert’s report, and discuss my findings with counsel. I would then discuss with counsel whether to proceed with a formal rebuttal report, or alternatively a report for counsel’s private use, not to be filed in court or with the other side, but rather to assist counsel in cross - examining the other expert, and providing helpful comments on the quantum aspects of the case.

3ii. A general idea of the circumstances of the plaintiff; e.g. young male student aged 17 at time of injury, father in 30's employed at an established job, professional working mother in 40's, elderly retired person.

3iii. A general idea of the extent of the injuries.

Timing Requirements

4i. If applicable, what is the deadline for completion of the assignment?

4ii. The date of any scheduled mediation. Is my report needed prior to the mediation? If so, how long in advance?

4iii. Has a trial been scheduled? If so, where? On what date(s)? What date(s) should I

reserve to testify? (I will reserve one full day for each trial on a guaranteed basis, and do my utmost to make myself available for trial when required).

LAWYER'S RESPONSIBILITY FOR PAYMENT OF MY REASONABLE FEES

5. I take on an assignment from a lawyer I have not previously worked with only if the lawyer accepts responsibility in writing to pay my reasonable fees, regardless of the outcome of the case or any other factor. Thus, even if the case is lost on liability or there is no recovery for some other reason, the lawyer must pay my reasonable fees.

Counsel may wish to stop here. We will notify you as to whether or not we can take on the assignment. If yes, you can then complete the remaining items and send them to us by mail, courier, fax, or email. Large packages of material may need to be sent by mail or courier. However, re letters from the lawyer's office to us, we prefer an email copy as this allows us to more efficiently place relevant quotations from these letters in our reports.

HOW DID THE INJURY OCCUR?

6. What were the circumstances under which the personal injury occurred? Had the plaintiff had a similar pattern of conduct (e.g. alcohol consumption) to that exhibited leading up to the personal injury? (This can be relevant re the mortality assumption to be applied).

Excerpts from the Statement of Claim and/or the Statement of Defence can provide useful information.

CALCULATION DATE

7. The "calculation date" is the date which is "now", for present value purposes. If there is a scheduled trial, it is usual practice to make the calculation date the first day of trial. Otherwise, I choose a convenient date in the near future.

BASIC DEMOGRAPHIC INFORMATION, HEALTH INFORMATION

8. I will need the following information:

8i. The plaintiff's name, sex, and date of birth. (Please refer to a birth certificate or other source document. Errors re date of birth are common on documents such as tax returns; e.g. month and day often reversed. Also, please spell out the month in letters; e.g. Feb.9, 1965; since "2/9/65" can mean, in Canada, either Feb. 9/65 or Sept. 2/65).

8ii. Information re the plaintiff's health.

As an actuary, I need to check the health status of the plaintiff, to ascertain whether

application of the standard mortality table (1995 - 97 Canadian Life Tables) is appropriate, and/or whether my report needs to point out that the possibility of life expectancy greater/less than normal is a positive / negative contingency affecting my calculations.

8iia. In this regard, I ask that counsel provide 1 or 2 recent, comprehensive medical report(s). A report of a physiatrist (specialist in physical and rehabilitation medicine), if available, usually provides a comprehensive analysis of the plaintiff's health situation and therefore generally best meets my needs.

8iib. I ask that counsel describe in detail any factor they are aware of, and not covered in the report(s) provided per 8iia. above, that could affect the plaintiff's life expectancy.

8iii. If there are substantial life expectancy concerns with the plaintiff, then counsel may be well - advised to seek the opinion of a medical doctor qualified to give life expectancy opinions. Such reports should almost always be obtained in cases involving paraplegia, quadriplegia, cancer, heart disease, or severe brain damage. If cancer or heart disease is involved, a specialist in this area (often, the specialist who was treating the plaintiff) can be consulted.

If, in such a situation, counsel, for reasons of time or expense or any other reason, decides not to obtain such a report, I will make an assumption I think is appropriate. This might involve:

- An explicit assumption regarding the extent to which remaining life expectancy is less than normal, or
- Doing calculations based on normal remaining life expectancy, together with a description of the life expectancy issues and a statement that a possibility of remaining life expectancy being less than normal is a negative contingency affecting my calculations.

In the absence of medical opinion regarding remaining life expectancy, and in contrast to the approach an economist would take, I would thus regard the mortality assumption as strictly an actuarial assumption; therefore, it would not be open to counsel to instruct me to assume, say, normal life expectancy.

8iv. If the case involves alleged medical negligence, I suggest counsel obtain a medical opinion re the plaintiff's longevity, and prospects for returning to/maintaining employment, had the alleged medical negligence not occurred. In some cases, such a medical opinion can be obtained from the expert who is providing an opinion re causation.

8v. If the plaintiff is terminally ill, please call me for additional discussion. These cases involve various difficult issues, discussion of which is beyond the scope of this document. (Internal reference: comm9953.wpd).

JUST A MULTIPLIER REPORT? COUNSEL DOES THE REST

Some lawyers prefer to just request a multiplier report. This report gives actuarial present values of \$1 per annum for alternative future periods. Multipliers, in 1-2 year increments, cover the period up to retirement age (re wage loss) and to the end of the plaintiff's future lifetime (re costs of care). Two sets of multipliers are calculated, using the prescribed net discount rates of 2.5% and 3.5%. The first set, at 2.5%, relates to wage loss. The second set, at 3.5%, relates to costs of care. Counsel then uses the multipliers to quantify future losses.

9i. Please indicate if you wish only a multiplier report.

9ii. If yes to 9i., do you wish multipliers at 2.5% to continue only until the standard retirement age of 65, or to some later age (please specify age)?

9iii. Do you have specific hypotheses re future loss of earnings, or future costs of care, you wish quantified? If yes, is this to be done in a report for court purposes, or informally by phone or memorandum?

9iv. Describe any additional assistance you need in applying the multiplier report; e.g. counsel can prepare a memorandum re future losses, and I can check that the multipliers have been correctly applied.

If your answer to 9i. above was "yes", you can stop here. However, bear in mind that a multiplier report will not allow you to deal with present value of investment management expenses, or income tax gross - up.

DETAILS OF OTHER RELEVANT EXPERTS' REPORTS COUNSEL HAS OBTAINED, OR WILL BE OBTAINING

10. Please provide the cost of care report you intend to rely on. If the other side has also commissioned such a report, please provide it as well.

11. Please provide the vocational consultant's report which you intend to rely upon, together with a summary of its main conclusions upon which you plan to rely. If the other side has also commissioned such a report, please provide it as well.

12. Please give us a copy of your past wage loss file.
(e.g. information from employers including notes of relevant telephone conversations, tax returns/T4 slips, summaries, etc.)

12i. If your office has prepared any past loss of earnings calculations, please provide details.

HEADS OF DAMAGE UNDER WHICH CALCULATIONS MAY BE REQUIRED

13. Please indicate which of the following reports you wish me to prepare.

13i. Value of \$100,000 increased in line with the movement of the Consumer Price Index (CPI) for Canada since January, 1978. (i.e. "Upper limit" on non - pecuniary damages; in late 2002, this value was about \$285,000 - \$288,000).

13ii. Present value of \$1 per annum for various future periods, at annual net discount rates of 2.5% and 3.5%. (Required, as a preliminary step, if either future loss of earnings or future costs of care is to be quantified).

13iii. Future loss of earnings. (Also, in cases where the plaintiff is a long - time member of a defined benefit pension plan, pension considerations must be factored in. This most often is a consideration re public sector workers such as teachers and police officers).

13iv. Past loss of earnings.

13iva. If the lawyer's office is able to prepare this calculation, this will reduce my fees.

13ivb. For motor vehicle accidents occurring after June 17, 1997, my understanding is that B.C. law requires that past loss of earnings be quantified based on "net income loss"; i.e. net of income tax and Employment Insurance ("E.I.") premiums. If more than one accident is involved, one after June 17, 1997 and one before, the situation is unclear legally; if applicable to this case, do you have any comment from a legal point of view on this?

13ivc. Where net income calculations are required, please provide copies of past income tax returns, starting from, say, the calendar year four years before the year of the accident. I analyze these in arriving at an appropriate basis for calculating taxable income; this is the starting point for "net income" calculations.

13v. Future expenses ("costs of care").

Such a report is almost always based on the report of a cost of care expert, which counsel obtains. However, in relatively simple cases (e.g. only expense claimed is an annual housekeeping expense), counsel can provide instructions re the assumed annual amount and duration of expenses. Please indicate which is applicable.

13vi. Investment management expenses (IME)

Generally applicable where future losses exceed \$250,000. This compensates the plaintiff for the cost of hiring an investment manager to provide advice and administrative services in connection with the investment of the award for future losses. Whether or not the plaintiff requires “full service” investment management services is a legal issue, and I require an instruction on this point.

13via. Re investment management expenses (IME) and income tax gross - up (GU ; see 13 vii below) I can provide formal reports. However, to save fees and reduce complexity of reports, and consistent with the approach in many recent cases, I more often provide verbal reports, aimed at settlement negotiations. If the matter then proceeds to trial, formal reports can be provided either in advance of trial, or after judgment on other issues.

13vib. In some cases where the plaintiff is a young child or mentally incompetent, the B.C. Office of the Public Guardian and Trustee (“PGT”) may be projected to become involved in administering awards. Alternatively, the PGT may require the appointment of a Committee (often, a parent of the plaintiff) who will become involved. In either case, there are fees which need to be quantified.

Whether or not the PGT or a Committee is projected to become involved is a legal issue. Please indicate whether you are instructing me to make such an assumption.

13vii. Income tax gross - up. This actuarial calculation compensates the plaintiff for the income tax that she/he will pay on the investment income from the award for future costs of care.

I now discuss in more detail the information needed to prepare reports re each of:

- Past and future loss of employment earnings.
- Future expenses (“costs of care”).

STEPS IN CALCULATING PAST AND FUTURE LOSS OF EMPLOYMENT EARNINGS

I use the following abbreviations in the remainder of this document:

“had the accident not occurred” is abbreviated “HTANO”.

“in view of the accident” is abbreviated “IVOTA”.

PROJECTION OF PLAINTIFF’S EMPLOYMENT INCOME, BOTH HTANO AND IVOTA (14-19)

Overview

Assuming the plaintiff was employed prior to his/her injury, the plaintiff’s earnings need to be projected from date of injury to date of calculation.

There is a wide variety of circumstances. Each case is different, and it cannot be predicted in advance how every case is to be dealt with. Instead, I set forth in 14 -18 below, a few possible examples.

First Example ; Plaintiff Held A Steady Job (#14)

A projection of what the plaintiff would have earned, HTANO, is best obtained from the plaintiff’s employer. The projection has to start from the date of injury, and go forward to at least the calculation date, so that all changes in pay rates up to the calculation date are captured. After the calculation date, “across the board” changes in pay rates are **NOT** to be factored in, since the 2.5% prescribed annual net discount rate already contains an allowance for such increases. However, an important question is whether the annual rate of pay applicable on the calculation date provides a reasonable basis on which to base future projections. If not, the future projection needs to be adjusted.

Generally, the plaintiff’s direct supervisor (re broad general trends) and the person in charge of payroll (re details such as increases to rates of pay) will need to be consulted. The initial steps required of the lawyer in obtaining the information I require from the employer are as follows:

14i. Review all correspondence and information already provided by the employer and the plaintiff; please provide me either with copies of this correspondence, or a summary thereof. **When first contacting the employer, ask for copies of any information they have already provided to other parties to the litigation (or first obtain such copies from the other side), and then proceed with further detailed inquiries.**

14ii. Identify, at the employer, the plaintiff’s direct supervisor and /or payroll person, and obtain their telephone numbers. Also (unless the lawyer’s office will be handling all the enquiries described below) advise them that I may be contacting them, and the reason for my enquiries. Employers are increasingly, and I think reasonably, asking to be paid for the time spent in responding to information requests. I suggest counsel mention this at the outset when contacting the employer, as it can lead to more timely provision of information.

14iii. Please provide me with the plaintiff's income tax returns **and (if available) T4 information slips** for the year of injury and the 3 previous years. This gives me a general idea of the plaintiff's earnings, and contains information (e.g. RRSP contributions/withdrawals, other sources of income) which can be relevant re other aspects of the calculations. (If tax returns are not readily available, summaries can be obtained from CCRA by having the plaintiff or a representative call 1 - 800 - 959 - 8281).

14iv. Contact the immediate supervisor, explaining the general nature of the projection being sought, and exploring how this can best be done.

14iva. In a straightforward case, the supervisor may be able to provide the various components of the plaintiff's pay, and details as to changes in rates of pay between injury and calculation date, as well as estimates of the annual amount of various pay components. This approach works best when there are only a few pay components, and the supervisor and the plaintiff worked closely together, so that the supervisor has a detailed knowledge of the plaintiff's job duties and remuneration. Also potentially relevant is possible promotion; again, the direct supervisor can usually best respond; e.g. promotions uncertain, promotion contingent on applying for posted jobs; the plaintiff would have had a good chance to win a position which became available shortly after the plaintiff's injury.

14ivb. If the plaintiff's duties have been assumed by one particular employee, then that employee's earnings can be used as a projection of the plaintiff's earnings. If the period over which the projection is made is (in the opinion of the employer representative) a reasonable period on which to base future projections (e.g. the period, on average, was neither exceptionally busy nor exceptionally slow; the time period of any strikes or lockouts needs to be specified and their effects considered) the actuary can then use the projection provided to extend the projection throughout the future period. However, it is important to check with the employer representative that the replacement employee's earnings really do coincide with what the plaintiff would have earned; divergence may occur due to differing seniority, experience, education, subtle differences in job duties, etc.

14ivc. A variation on 14ivb. might relate to a larger workplace, where there are a number of people doing the same job as was done by the plaintiff. In that case, a few employees whose job duties closely approximated the plaintiff can be identified, and an average of their earnings applied.

14ivd. If the employee's wage rates are clearly defined by a collective agreement, and there are few pay components other than base pay (e.g. overtime which is minor, steady,

and can be approximated as a constant number of hours per year) then provision to the actuary of a copy of the collective agreement could suffice. However, ideally this will be supplemented by an explanatory letter from the employer. If the employee is moving through a scale involving seniority increases, or is moving through an apprenticeship program, this needs to be carefully factored in.

14ive. In some cases, the plaintiff's job duties are divided among two or more employees (so that 14ivb. and 14ivc. won't work), and the employee's pay consists of a bewildering array of components ; e.g. base pay, overtime (some hours at 1.5, some hours at 2 times), shift differential (evening shift premium may differ from night shift premium), weekend pay, statutory holiday pay, dirty money pay, acting pay, charge hand pay, etc. (so that 14iva. and 14ivd. won't work).

In such cases the best approach may be to develop an estimate of the ratio of annual earnings to hourly base pay. This might be developed based on an average over 3-5 years' past earnings of the plaintiff. The estimated ratio of annual earnings to hourly base pay (e.g. 2,300) would then be carried forward into the period after the plaintiff's injury, and multiplied by the base rate of pay in the period, to obtain projected annualized earnings.

However, careful recognition must be made of any strike or lockout periods. Also, this approach works well only if the expected level of overtime (and other premium pay) is roughly the same in the period after the plaintiff's injury as before.

14ivf. The employer representative should also be asked to provide a description of employer - paid benefit programs provided to employees, both pension and non - pension. Generally, the summary given out to employees describing these benefits suffices.

Non - pension benefits are generally not quantified separately; experience has shown that this is complex and not cost - effective. Rather, it is mentioned as a "positive contingency" in the report.

Pension benefits are either "defined contribution" or "defined benefit". "Defined contribution" plans involve employer contributions being made to a fund, and invested for the employee's retirement; the arrangement is similar to an RRSP. I generally value the employer contributions to such a plan as if they were additional salary. "Defined benefit" pension plans provide a pension at retirement based on length of service (all plans) and pay (most plans). For such "defined benefit" plans, the employer contributions do not determine the pension plan's value. Rather, the focus is on the eventual pension benefit

at retirement promised by the pension plan. Employee contributions to a defined benefit pension plan are treated as a source deduction, like income tax.

14ivg. Sometimes, particularly if a defined - benefit pension plan is involved, the pension administration office must be identified and contacted. The lawyer's office should do this if possible, asking for a recent pension plan statement ("person profile", if a B.C. public sector plan is involved) for the employee.

14ivh. Does the employer representative have any insight regarding the plaintiff's likely age of retirement (if the plaintiff was older), or the age at which such workers can generally be expected to retire? (Of course, the plaintiff can provide details re his retirement plans, HTANO).

14v. The plaintiff or a representative should obtain a CPP contributor statement by calling HRDC at 1-800 - 277 - 9914, and pressing zero. I'm told it will take 3-4 weeks to arrive in the mail. Alternatively, a less formal "screen print" (containing equivalent information) can be provided, within 7-10 days, again through the mail. If time is short, ask for the screen print. This document gives a useful overview of the plaintiff's working career. (Years ago, it was common to see loss of CPP benefits calculated, but not in recent years due to the much higher employee contribution rates now than years ago, leading to very low, or sometimes even negative, losses).

Second Example ; The Plaintiff Was Self - Employed, Filed Tax Returns On Schedule, And Kept Good Records (#15)

15i. Income tax returns and financial statements should be provided; see 14iii. above for further details.

15ii. A CPP contributor statement should be obtained; see 14v. above for details.

Again, the basic goal is to develop a fair projection of the value of the plaintiff's work effort, this time through the plaintiff's business. In complex situations, counsel should consider retaining a business valuator (specialist accountant) to look into the annual earning power of the plaintiff through his business. Some or all of the following issues may arise, which must be dealt with either by counsel or a business valuator.

15iii. Does the plaintiff's draw (in the form of salary or dividends) from the business accurately measure the value of the plaintiff's efforts in the business, and/or the profitability of the business?

15iv. If the plaintiff's spouse was being paid a salary, to what extent was it for "income splitting" purposes, and to what extent was it justified by the work done?

15v. Since the plaintiff's injury, has a replacement employee been hired? (If so, the replacement employee's rate of pay may provide some indication of the value of the plaintiff's work effort).

15vi. To what extent, if any, should allowance be made for the possibility of the eventual sale price of the business being greater HTANO than IVOTA?

15vii. To what extent should the business income reported for tax purposes be modified upward to allow for expenses which, while deductible for tax purposes, contain an element of personal use and/or would have been incurred anyway even if there was no business?

15viii. What trends might have affected the business after the plaintiff's injury, and what might the income have been after the injury as compared to before? e.g. loss of key client just before injury a "minus" factor; gain of new client just prior to injury a "plus" factor.

15ix. The above points relate to a fairly complex situation. In a simpler situation, it may be possible to avoid the necessity of hiring a business valuator and give the actuary relatively simple instructions. For example, such instructions might be as follows where the plaintiff and his spouse were the sole operators of the business, with the plaintiff husband being the principal of the business and the wife providing accounting / administrative / secretarial services:

- Assume the business income (taken by the husband and wife in the form of salary, with "50/50 income splitting") will be in line with that reported for tax purposes prior to the plaintiff's injury.

- Assume that 85% of the business income can be attributed to the husband's work effort and 15% to the wife's. (My calculations are then based on the husband's gross "wage" being 85% of the business income. The "50/50 income splitting" is relevant only to the determination of the extent of income tax on the past earnings).

Third Example ; The Plaintiff Was Self - Employed, But Did Not File Tax Returns And Kept Poor Records, Or No Records(#16)

16. See also 15. above. Again, counsel should consider retaining a business valuator. The goal is of course to estimate the value of the plaintiff's efforts by indirect means.

16i. The plaintiff can of course assist in identifying such records as do exist.

16ii. Customers, suppliers, and/or competitors of the business, may be able to provide relevant information.

16iii. The family's consumption / living standard prior to the injury is relevant. If the sole source of financing such consumption was the business, this provides some idea of what was being earned.

16iv. If the business involved the plaintiff applying certain skills (e.g. automobile mechanic), then the Statistics Canada average earnings for that occupational group may provide some indication of what the plaintiff was earning.

Fourth Example ; The Plaintiff , When Injured, Was A Child Or Adolescent (#17)

Counsel should obtain a report from a psychologist and/or a vocational consultant, which deals with the following:

17i. At the time of injury, what was the plaintiff's educational attainment?

17ii. What has been the plaintiff's educational and work history since the injury?

17iii. What was the plaintiff's ultimate likely educational attainment, HTANO?

17iv. What is now the plaintiff's ultimate likely educational attainment, IVOTA?

17v. At the time of injury, what (if any) were the plaintiff's future employment / career plans, HTANO?

17vi. What job(s)/career(s) might the plaintiff have ultimately pursued, HTANO?

17vii. What job(s)/career(s) might the plaintiff now ultimately pursue, IVOTA?

17viii. What are now (if any) the plaintiff's future employment / career plans, IVOTA?

Counsel should provide the foregoing to me, along with any relevant additional comments.

Following review of this information, I would discuss with counsel the parameters for my report. Calculations would typically be based on population averages, according to the plaintiff's likely educational attainment and/or likely occupation(s).

Fifth Example; Special Cases Not Fitting 14-17 Above(#18)

18. There are numerous possibilities; some examples:

18i. The plaintiff had both a full - time job, and a part - time job.

18ii. The plaintiff had a steady job but also operated a business part - time. Information per both 14. and 15.(or 16.) will be needed.

18iii. When injured, the plaintiff had just completed education / job training and was seeking employment, or was close to doing so. A mixture of the considerations described in 14 and 17 may apply.

Additional Consideration ; Expected Retirement Age, HTANO (#19)

19. Except for calculations carried out according to population averages (see 17 above), this is a matter for an instruction from counsel, but the actuary can provide some input. Of course, 65 is the “normal” (“default”) age in many cases, but it may be 60 or even 55 in “public safety occupations” such as police officer, firefighter, corrections officer, or airline pilot. For public sector workers such as teachers and other workers with generous pension coverage, retirement well before age 65 may make sense financially.

This concludes the portion of this document dealing with past and future loss of employment income.

FUTURE EXPENSES (“COSTS OF CARE”); #20

20i. First, counsel will need to decide whether a cost of care report is necessary, or whether reliance on an actuary’s multiplier report is sufficient. I can of course discuss this point further with counsel upon request.

20ii. Of course (as already mentioned in 10. above), if an actuarial report on cost of care is needed, counsel will need a report from a qualified cost of care expert. If you need suggestions re qualified experts, please ask me. Please let the cost of care expert know that I will probably be contacting him/her to clarify points of detail regarding his/her report.

20iii. The following are points commonly arising in connection with cost of care reports.

20iiia. The treatment of GST and PST is unclear. The cost of care expert, when obtaining a particular cost, should ascertain the cost with and without all applicable taxes, and report all relevant details. For example, if the hourly cost of housekeeping services is \$17 plus 7% GST, the report should make that clear by, e.g. stating:

The hourly cost of housekeeping service is \$17 per hour plus 7% GST, equals \$18.19.

20iiib. Almost all cost of care reports have a narrative portion describing costs in detail, and then a cost summary towards the end of the report. It is important to ensure consistency between the two sections. Similarly, if the cost of care report identifies a general area of need, but then no specific costs are given, the resulting apparent consistency should be corrected or explained.

20iiic. A cost of care expert may cite the cost of items which almost everybody purchases, but for which the plaintiff will incur increased costs due to his/her injuries; e.g. motor vehicle, shoes. In such cases, the cost of care report should spell out both the plaintiff's cost, and (if the cost of care expert feels competent to venture an estimate) the corresponding "ordinary living expense" (i.e. cost if the plaintiff had not been injured). Only the difference should be quantified by the actuary.

20iv. Whenever possible, counsel should have the cost of care report reviewed by medical experts, to ensure that the medical experts agree with the cost of care recommendations.

INCOME TAX GROSS - UP

21. As already mentioned, I prefer, at least initially, to provide a verbal report rather than a written report. Little or no additional information is needed for a verbal report. If a written report is needed, one issue which may need closer examination (and possibly a formal report from a tax expert) is the proportion of projected expenses which should be assumed to qualify as "medical expenses" for tax credit purposes.

PRESENT VALUE OF INVESTMENT MANAGEMENT EXPENSES

22. Little or no additional information is needed for either a verbal or written report.

FEES CHARGED BY THE PUBLIC GUARDIAN AND TRUSTEE ("PGT")

23. As already mentioned, I need to have an instruction from counsel as to whether the PGT is to be assumed to become involved in connection with the administering of the awards of any minor children. If "yes", I then carry out the required calculations regarding the present value of such fees.

CONCLUDING REMARKS

Again, this document hopefully provides a useful starting point to lawyers and their staff in assembling information needed for an actuarial report in a personal injury case, but no such document can anticipate every possible situation arising in practice. For further

information, or to comment on this document including suggestions for improvements, please contact me.

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