



Depositions and Trial Testimony

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Testimony in Past Four Years

B-K Cypress Log Homes, Inc. a Florida Corporation v. Auto-Owners Insurance Company, a foreign corporation (Case No. 1:09-CV-00211-MP-AK UNITED STATES DISTRICT NORTHERN DISTRICT OF FLORIDA GAINESVILLE DIVISION) Provided deposition testimony March 2012. A complex case in which an insured (plaintiff) sued insurance carrier for statutory bad faith and adverse general business practices under Florida Law. Damages were assessed using a business interruption model to capture three components of lost profits; namely, lost profits due sales decrease, lost profits due decline in incremental profit margin and lost profits due increase in extra legal and travel costs.

Linda Caldwell, et al. v. Oliver Sevilla et al. (Case No: 2008-CA-1457 IN THE CIRCUIT OF THE FIFTH JUDICIAL CIRCUIT IN AND FOR CITRUS COUNTY, FLORIDA) Provided deposition testimony in February 2012. This wrongful death case involved claims of lost business value, lost support, accumulation loss and lost household production value. I provided rebuttal comments to plaintiff's expert's report and developed separate damages assessments. In particular I adjusted loss for income tax and life expectancy due poor health of decedent, issues overlooked by plaintiff's expert.

Linda Austin v. Michael C. Mangan and John J. Mangan (Case no.09 L 006523, IN THE CIRCUIT COURT OF COOK COUNTY, ILLINIOS COUNTY DEPARTMENT, LAW DIVISION). Provided deposition testimony in February 2012. Case involved personal injury to plaintiff as a result of an auto accident. At the time of the accident the plaintiff was working as a direct sales agent with a pre-existing medical condition, sometimes called TMJD or TMD. Damages assessed by comparing actual vs. but-for income. Lack of certainty regarding when pre-accident income would catch up with mitigation income was offset by offering three damages scenarios; 3, 5, and 7 years post accident to catch up.

Tod Fusia & Mark Swierzewski, M.D.'s, P.A. d/b/a Tampa Bay Urology, et. al. v. Bond Development, Inc., Bond Medical Group, Inc., et al. (Case No. 09-09277 Dividion L, In the Circuit Court of the Thirteenth Judicial Circuit of the State of Florida, In and for Hillsborough County, Florida) Provided deposition testimony October 2011. This complex case included claims of contract breach, breach of fiduciary duty, conversion, unjust enrichment, and fraudulent inducement. Unjust enrichment damages computed as the difference between actual and hypothetical payments by the physicians to defendants.

F. Alioto Company, Inc. v. City and County of San Francisco, a municipal corporation operating by and through its Port Commission; ExxonMobil Oil Corporation. (Case No. CGC-09-489792 Superior Court for the State of California in and for the County of San Francisco) Provided deposition testimony August 2011. Damages computed included lost past profits, measured as but-for revenue less avoided variable costs, plus the present value of future lost profits in three different scenarios.

Empire State Ethanol and Energy LLC v. BBI International ("BBI"), Michael Bryan, Individually and as Chief Executive Officer of BBI International. Provided arbitration testimony, American Arbitration Association, New York, NY, June 2010. This was a complex commercial dispute involving an alleged breach of contract. Damages mainly involved an assessmnt of the business value of an dry-mill ethanol plant that would have been built in Albany, NY if not for the the contract breach.

Jose Luis Moreno v. Matt Aanerud; City of Atascadero et al. (Case No. CV 080295 Superior Court of the State of California for the County of San Luis Obispo) Suit against police officer who injured plaintiff during wrongful incarceration such that Mr. Moreno suffered permanent and work-linging disability. Damages assessed as loss of past and future earnings. Provided deposition testimony in April 2010 and jury trial testimony in May 2010.

Shellie Hernandez v. Walter S. Marks, et al. (Case No. A554535 Dept No. XXIV. District Court Clark County, Nevada). Provided Deposition Testimony January 2010. This was a complex personal injury case in which plaintiff experts opine damages due to loss of earnings capacity, household production value, and loss of value in quality of life. Provided rebuttal testimony to each expert.

Gregg Norton et al. v. Estate of Bertha E. Dunn et al. (Case No. CV 070346, Superior Court of the State of California County of San Luis Obispo). Provided deposition testimony in October 2009. This was a personal injury case involving the owner operator of a swimming pool contractor business. Damages considered loss of but-for net income adjusted for revenue trend and seasonality and avoided variable expenses. Other damages included loss of household production services.

Marla J. Cramin, as Personal Representative of the Estate of Jeffrey D. Cramin v. Bahama Divers Company Limited, et al. (Case No 0407480, Circuit Court in and for the Seventeenth Judicial Circuit in and for Broward County Florida.) Provided trial testimony June 2009 in this wrongful death case. Economic damages included lost earnings and household production value, loss of care and helping to minor children, and associated damages involving earnings loss of surviving spouse. This was a jury trial involving only damages.

Nancy Callahan v. Rod Goya, et al. (Case no. M85690, Superior Court of the State of California in and for the County of Monterey.) Case involves personal injury arising from history of water intrusion and toxic mold exposure to tenant of office in commercial property. Deposition in May 2009 dealt with my economic analysis of lost earnings, foregone household production value, costs of accommodations to plaintiff's home suggested by MD, and present value of future medical costs. Jury trial testimony in May 2010.

I-Flow Corporation v. Apex Medical Technologies, Inc., et al. (Case No. 07-cv-1200 DMS (NLS), United States District Court for the Southern District of California.) This is a complex litigation involving intellectual property infringement in medical technology industry. Provided deposition testimony in April 2009 in which I offered opinions based on my analysis of economic damages arising from unfair competition under Lanham Act Section "false advertising" and rebutted claims of economic damages due patent infringement.

Williams, et al. v. Teris, et al. (Case No. 106CV-072071, Santa Clara County Superior Court, State of California). Provided deposition testimony in June 2008 in which I offered opinions related to the ability of the defendant to pay punitive damages if trial outcome included such damages. Testimony based on my analysis of the equity market value of the defendant.

Responsible Me, Inc., v. Evenflo Company, Inc., et al. (Case No. 06-61736-CIV-Hurley/Hopkins, United States District Court Southern District of Florida) Provided deposition testimony in May 2008. This is a patent infringement case and I assessed reasonable royalties due the plaintiff using quantitative and qualitative methods of analysis. In conducting my analysis I considered factors and evaluation criteria set forth in *Georgia-Pacific v. United States Plywood Corporation* and other case precedents.

Charles Chartier v. Thunderbird, The Garvin School of International Management (Case No. CV2006-010073, Superior Court for the State of Arizona In and For the County of Maricopa). Provided deposition testimony in March 2008. This is an employment dispute which focused on underlying questions regarding length of contract between parties. Damages considered included net loss of earnings and benefits associated with different assumptions about contract length and plaintiff duty to mitigate loss.

Cynthia Diane Smith v. Edward J. Conner, Amore Property Management, et al. (Case No. 411127, Superior Court of the State of California In and For the County of San Francisco). Provided deposition and trial testimony in this personal injury case in February 2008. Plaintiff claimed loss of earnings potential after alleged exposure to carbon monoxide in her apartment. Analysis consisted of computing various net earnings loss scenarios associated with claimed loss to Silicon Valley manager beginning in November 1999.

Other Testimony

Margaret Petersen v. Norman P. Moscow, M.D. et al. (Case No. RG05 195249, Superior Court of the State of California, County of Alameda). Provided deposition testimony in March 2007. Case involved a medical malpractice claim after the plaintiff, who was already disabled with quadriplegia, was further disabled by a barium extravasation during a barium enema. Damages analysis consisted of projecting future costs of care, including hospitalization, physical and psychological therapy, medicines, physician care, and skilled nursing home care and computing the present value of these future costs as of trial date.

Rosemary Valladares, Ramon Delgadillo, Hugo Perez vs. Madera Quality Nut, Inc. et al. (Case No. 024133, Superior Court of The State of California County of Madera Unlimited Jurisdiction). Provided deposition testimony in July and August 2006 and jury trial testimony in September 2006. Three employment dispute cases involved retaliation by employer/defendant, including demotion, wrongful discharge and related claims. When a fire destroyed nut products stored in warehouse, plaintiffs refused to go along with actions by management to inflate fire damage loss claim. Analysis involved assessment of lost past and future earnings and benefits adjusted for varying mitigation assumptions about time to find a job paying at least as much as before fire.

Provence v. City of San Jose (Case No. J04CV.816058; Superior Court of California, Santa Clara County). Case involved a personal injury to plaintiff. Provided deposition testimony in June 2006 regarding loss of earnings and fringe benefits from date of accident to expected retirement, adjusted for mitigation pay.

ICICI Infotech Inc., vs. Four Seasons Software, LLC (Case No. 12 117 00039 05; American Arbitration Association). Provided testimony at arbitration hearing in Hartford, CT in February 2006. Case involved a dispute between a new business, Four Seasons Software, and ICICI Infotech, a firm contracted to provide an enterprise software package to be sold to small retailers by Four Seasons. Four Seasons claimed it was forced to cease operations when the software was not delivered. Litigation Economics testimony concerned loss of business value and key issues associated with that assessment, including risk-adjusted cost of capital, projected free cash flow, competitor and industry review, and assessment of financial reports of Four Seasons.

Edward Alvarado, et al. vs. FedEx Corporation, a Delaware corporation dba FEDERAL EXPRESS (Civil Action No. C04-0098 SI; United States District Court Division of Northern California). Provided deposition testimony in December 2005 and jury trial testimony in April 2007. This action was the consolidation of 13 individual complaints against the defendant for claimed differences between plaintiffs (minority members) and other employees in rates of promotion, discipline, performance and terminations. Testimony, which dealt with earnings loss analysis for each individual plaintiff, stopped after 7 hours and to date has not been rescheduled.

Michael Nadelman and Aminta Nadelman vs. Hi Tech Designs, Inc. a corporation; Quickdraw Permit Consulting, et al. (Unlimited Civil Jurisdiction No. 402263; Superior Court-State of California County of San Francisco). Provided deposition testimony in September 2005. This phase of the case involved the ability of defendant to pay damages, especially punitive damages, after liability had been decided. Testimony dealt primarily with computation of net worth based on financial records of defendant's company; valuations of defendant's cars, boat, house and other assets; and measurement of defendant's discretionary household income.

John Doe and Jane Doe vs. Steven Lawrence Katz, M.D; Imam El Danasouri, Ph.D; Fertility Medical Associates of Bay Area, A Medical Corp. (Civil Action No. CGC02414145; Superior Court of California, County of San Francisco). Provided deposition testimony in July 2005. This complex case involved mishandling of an embryo belonging to Doe family. Subsequent events, including birth of child in San Jose required Mr. Doe to relocate commercial fishing operations from Crescent City, Ca to San Francisco. Lost profits damages, lost household production, and related expenses comprised opinion rendered.

Debra Duncan vs. Sacramento Ear, Nose & Throat, Surgical & Medical Group, Inc. (Civil Action No. 03AS06359; Sacramento County, Superior Court). Provided deposition testimony in June 2005. Case involved damages arising from claimed wrongful dismissal from defendant firm.

Gill vs. Burlington Northern Santa Fe, et al. (Civil Action No. C03-01779; Superior Court of California, County of Santa Clara). Provided deposition testimony in March 2005. Case involved damages arising from a 2002 accident in which a train hit a truck at a railroad crossing. The truck driver was killed and two railroad employees injured. Analysis involved assessing loss to Gill family due to death of Mr. Gill and lost wages and future pension benefits of the railroad workers.

Fredrick Benson vs. Rhino Industries, et al. (Civil Action No. 26-15425; Superior Court of California, County of Napa). Provided deposition testimony in March 2005 and court testimony in March 2006. Case involved contract dispute between developer/inventor and manufacturer/distributor of aftermarket accessory for pickup trucks. Testimony involved two issues: (1) economic damages measured as the difference in royalty payments between projected vs. actual accessory sales and (2) whether or not the defendant to used “best efforts” to market and sell the accessory as stipulated in the royalty agreement.

Hailey Lovejoy vs. Fresno Community Hospital and Medical Center, et al. (Civil Action No. 01-CE-C6-02221; Superior Court of California, County of Fresno, Central Division). Provided deposition testimony in March 2005. Case involved economic damages arising from lost earnings capacity and costs of raising minor child in wrongful death of the child’s mother.

James Miller, Jr., et al. vs. SBC Communications, Inc. (Civil Action No. CGC- 04-428726; Superior Court of California, County of San Francisco). Provided deposition testimony in February 2005. This was a wrongful death case in which lost past and future pay was assessed with adjustments for household production and self-consumption of decedent.

Arthur Vences vs. City of Sunnyvale, Larry Iaquinto, Robert Walker, Tony Perez (Civil Action No. 1-03-CV-006295; Superior Court of California, County of San Francisco). Provided deposition testimony in February 2005 and trial testimony in San Jose Superior Court in June 2005. Case involved an employment dispute and lost pay and reduced pension damages due to failure to promote plaintiff and subsequent demotion to lower pay grade

Kathy Hoskins vs. United Parcel Service, Inc. and Ken Jauregui (Civil Action No. CGC-03-421918; Superior Court of California, County of San Francisco). Provided deposition testimony in January 2005 and trial testimony in February 2005. Case involved hostile work environment and associated earnings loss.

Patrick Petit vs. Diamond Cab Co. (Civil Action No. 414770; Superior Court of California, County of San Francisco). Provided deposition testimony in January 2005 and arbitration testimony in May 2005. A complex case that involved personal injury and lost earnings by plaintiff as an employee and reduced business value of a corporation owned by plaintiff.

Jose Servin vs. United Parcel Service (Civil Action No. 02AS03003; Superior Court of California, County of Sacramento). Provided deposition testimony in December 2004 and trial testimony in February 2005. Case involved economic damages arising from lost earnings capacity due to personal injury

Denise F. Fitzgerald vs. Bill Graham Presents, Inc., et al. (Civil Action No. CV 784560; Superior Court of the State of California, County of Santa Clara). Provided deposition testimony in October 2004. Case involved economic damages arising from lost earnings and medical care due to a personal injury.

Harvey Grodensky, et al. vs. Artichoke Joe’s Casino, Inc. (Civil Action No. 424170; Superior Court of the State of California, County of San Mateo, Class Action). Provided deposition testimony in September 2004. Case involved economic and business effects of defendant taking tips from card dealers on a daily basis and paying out money to other employees from those tips.

Richard Farias, et al., vs. Noble Tractor, Inc. (Civil Action No. FCS 18596; Superior Court of the State of California, in and for County of Solano). Provided deposition and trial testimony in August 2004. Case involved personal injury and assessment of economic damages consisting of past and future earnings and lost profits from self-employed business.

Richard Bresee and Marla Bresee vs. Midwestern Pipeline Services (Civil Action No. 26-20698; Superior Court of the State of California, in and for the County of Napa). Provided deposition testimony in June 2004. Case involved past and future lost earnings and fringe benefits and present value of costs of medical care in personal injury case.

Beckman vs. United Parcel Service, Inc., Shorenstein Realty Services, et al. (Civil Action No. 324017; Superior Court of the State of California, County of San Francisco). Provided deposition testimony and jury trial testimony. Case involved lost lifetime earnings and future costs of medical care. Damages claimed due to injury to plaintiff that took place in an office building lobby.

Giannobile vs. MJM Land Development Company (Civil Action No. 1-02-CV809300; Superior Court of the State of California, County of Santa Clara). Provided deposition testimony in a case regarded earnings and unemployment insurance benefits which would have been due plaintiff if he was considered “employed” by defendant, for whom he worked for four years.

Wickstrom vs. Best Western Tree House (Civil Action No. 411967; Superior Court for the State of California, in and for County of San Mateo). Provided deposition testimony and jury trial testimony in same matter, Siskiyou County Superior Court, No: SCCVPO 01-1078 in Yreka, CA. Analysis included critique of plaintiff’s expert analysis of lost earnings capacity of man who fell on ice near a hotel.

Milagros Marquez vs. Hilton Hotels Corp, et al. (Civil Action No. 401804; Superior Court for the State of California, City and County of San Francisco). Provided deposition and critique of plaintiff expert’s analysis of loss based on past and future medical and personal care of elderly woman who fell in a hotel lobby.

Claudine Woolf vs. Mary Kay, Inc., et al. (Civil Action No. 00-05612-J; District Court of Dallas County, Texas 191st Judicial District). Provided deposition testimony and jury trial testimony. Case involved economic damages that arose from constructive discharge based on medical condition of plaintiff.

Joseph R. Segura vs. KPMG, LLP, et al. (Civil Action No. 318-181; Superior Court for the State of California, City and County of San Francisco). Provided deposition testimony and trial testimony. Case involved lost earnings arising from wrongful discharge and discrimination due to “whistle blowing.”

Araceli Martinez vs. UNIVISION TELEVISION GROUP, et al. (Civil Action No. 314204; Superior Court for the State of California, City and County of San Francisco). Provided deposition testimony in a case involving lost earnings due to claim of employment discrimination and wrongful termination.

F. Alioto Company, Inc., et al. vs. City and County of San Francisco, et al. (Civil Action No. 318-360; Superior Court for the State of California, City and County of San Francisco). Provided deposition testimony and jury trial testimony. Case involved lost profits and restoration costs arising from contract dispute and business disruption to a Fisherman’s Wharf wholesale/retail fish market.

Todd Lee and Bessie Lee vs. U-Haul International, Inc. et al. (Civil Action No. V017137-7; Superior Court of California, County of Alameda). Provided trial testimony on economic damages. Analysis of lost earnings capacity due products liability involving carbon monoxide poisoning of dentist and his wife while driving a U-Haul truck from San Francisco to Los Angeles.

New Education Development Systems et al. vs. Last Resorts, Inc. AKA Aetna Springs Resort, Inc. (JAMS Arbitration #1110005313; State of California). Provided testimony at arbitration hearings. Analysis compared business valuation alternatives to use of a large land parcel: primarily as a vineyard with 9-hole golf course or 18-hole golf course/resort/spa/hotel. Key issue was estimating economic value of each land use alternative and estimating present value of damages via weighted cost of capital for option.

Wireless Access, Inc. vs. Research in Motion Limited (Civil Action No. C99-03442; United States District Court, Northern District of California). Provided deposition testimony in a case involving patent infringement involving ‘Blackberry’ pagers. Estimated economic damages as lost royalty revenue using Georgia-Pacific factors to assess reasonable royalty rate.

Daniel Dean vs. Oppenheim Davidson Enterprises, Inc. (Civil Action No. 809231-1; Superior Court of State of California, Judicial District, County of Alameda). Provided deposition and trial testimony in a case involving lost earnings arising from wrongful death of Oakland physician.

Alfred Burkhardt vs. City of Berkeley, et al. (Civil Action, No. 799248-1; Superior Court for State of California, Judicial District, County of Alameda). Provided deposition testimony in and trial testimony. Case involved lost wages arising from lost overtime and being paid out of grade for work performed by Berkeley, CA sanitation worker.

Harry J. Graffam vs. Doris Bettencourt (Civil Action No. M 43070; Superior Court for the State of California, Judicial District, County of Monterey). Provided deposition testimony in a case involving earnings loss due to personal injury.

K.L.Paterson & Associates, Inc. vs. Cathy Kingery and Kingery Communications, Inc. (Civil Action No. 40839; Superior Court for State of California, Judicial District, County of San Mateo). Provided deposition testimony in a case involving lost income damages arising from breach of contract between placement firm and marketing firm.

Golden Apple Corporation vs. Ultimate Products Corp., et al. (Civil Action No. 407399; Superior Court for State of California, Judicial District, County of San Mateo). Provided deposition testimony in a case involving damages due to trademark infringement arising from use of lists of customers and suppliers by former employees of mail order auto parts firm.

James Kinnicutt, et al. vs. Biker's Dream, Inc. (Civil Action No. 98AS04185; Superior Court for State of California, Judicial District, County of Sacramento). Provided deposition and trial testimony. Case involved damages arising from franchise and contract dispute involving motorcycle "after-market" retail chain and one store.

Hileman vs. Kaiser, et al. Provided deposition testimony in a medical malpractice; Superior Court of the State of California, County of Santa Clara. Case involved failure to diagnose a patient's malignant melanoma on timely basis. Damages included lost stock options, future wages, fringe benefits, and medical costs.

John Collins vs. Genevieve G. Maksim (Civil Action No. CV-92-0513667 S; Superior Court for Connecticut, Judicial District of Hartford/New Britain at Hartford). Provided deposition testimony. Estimated lost profits due to business disruption following a personal injury.

Joan Hitchcock, et al. vs. O & G Industries, Inc. (Civil Action No. CV 93 0114878 S; Superior Court for Connecticut, Judicial District of Waterbury). Provided deposition and trial testimony. Estimated lost lifetime earnings and home production in this wrongful death case involving a construction site accident.

Arnold J. Cogan vs. Alex Brown & Sons Incorporated, Richard D. Billera and Robert Oram (N.A.S.D. Arbitration No. 94-00600). Provided testimony before Arbitration Panel in New York. Estimated damages resulting from churning, excess commissions and unsuitable portfolio in this security fraud case.

Craig Winter vs. Chrysler Motors Corporation (Civil Action No. 292-CV-000777 (AVC); United States District Court, District of Connecticut). Provided deposition testimony. Estimated lost lifetime income and projected future medical costs for individual in a products liability case involving a severe spinal cord injury.

Donna M. Gregor vs. Edward W. King (Civil Action No. 91-03991495; Superior Court for Connecticut, Judicial District of Hartford). Provided deposition testimony. Estimated lost earnings capacity in products liability case involving traumatic brain injury to senior accountant.

Pacheco, Administrator, Estate of Cruz vs. City of Hartford, et al. (Civil Action No. CV-89036815 S; Superior Court for Connecticut, Judicial District of Hartford). Provided deposition testimony. Estimated lost lifetime income in this case of wrongful death of a 14-year-old girl.