

# the FORECAST

A Newsletter of the National Association of Forensic Economics



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Pictures from the WEAI  
San Diego Meeting  
throughout this issue

## President's Letter

Mike Nieswiadomy, President, NAFE  
[michael.nieswiadomy@unt.edu](mailto:michael.nieswiadomy@unt.edu)

Dear NAFE members:

The 2017 year is developing nicely. The NAFE winter meeting, held May 27th in Italy, was enjoyable and informative for the participants. The NAFE sessions at the WEAI meeting in San Diego, June 26-27, were well attended and enlightening. The Fair Calculations Act symposium discussion was lively. We are looking forward to the Midwestern meetings in Kansas City, MO, Oct. 26-28, the Southern Economic Association meetings in Tampa, FL, November 17-19, and the ASSA meetings in Philadelphia, PA, January 5-7, 2018. A big ASSA highlight will be Kenneth Feinberg's, Esq. address to NAFE members in a special session. I hope that many of you will consider attending some of these meetings. The benefits of the presentations and discussions will clearly outweigh your travel costs, including your opportunity cost of time. © Please read this issue of The Forecast for more conference details.

The NAFE Board of Directors met in Chicago July 22-23, 2017. Some of the highlights of the Board's meeting were:

- 1) The Board considered the special committee's recommendation to make some minor modification to NAFE's SEP/PPP. These proposed changes will be put forward to the NAFE general membership for approval.
- 2) The Board has accepted the recommendations of the Nominating Committee for election to the board: for President elect – Kevin Cahill; for Western Vice President – Christina Tapia; for Midwest Vice President – William Rogers. A call for member nominations is included in this newsletter. Members should expect to see the ballot (which will include the proposed changes to the NAFE SEP/PPP) on or about November 1, 2017 and must return them by December 1, 2017.
- 3) NAFE will move to an all-electronic format for distributing our renowned binders at the conferences. More details will be forthcoming from the NAFE session organizers.
- 4) I will form a committee to analyze ways to improve the NAFE-L eMail List. While the NAFE-L eMail List has served our membership well over the years, migrating to a platform that allows larger attachments would be beneficial.

Finally, on a personal note, the next time you are in Chicago, I highly recommend the architectural Chicago River boat tour. The sights and histories of the buildings are fascinating. Several board members and their spouses have taken the tours and concur, giving us enough data points to be statistically significant! © (Bring an umbrella if rain is in the forecast and sit on the right, or starboard, side of the boat in case you must move below the top deck.) . •

Photos from the WEAI Meeting, San Diego:  
1) Big Chair - Marc Weinstein  
2) Michele Angerstein-Gaines  
3) Craig Allen on The Interaction Between Causation and Damages.



National Association of  
Forensic Economics, Inc.

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Please send comments, suggestions, and news items for *The Forecast* to the Production Editor, Nancy Eldredge, at the addresses at the right. Submissions from NAFE members are encouraged, and submissions guidelines are available online at <http://nafe.net/TheForecast>, or by contacting the editor, Lane Hudgins, at [lane@lh-analysis.com](mailto:lane@lh-analysis.com).



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# From the Executive Director

Marc Weinstein, Executive Director, NAFE

Included in this newsletter are the approved minutes of the Winter Board of Directors meeting held January 6, 2017 in conjunction with the ASSA meeting in Chicago. These minutes were approved July 23, 2017 at the Summer Board of Directors meeting, which was also held in Chicago. The exhibits referenced in these minutes as well as minutes of an Electronic Board of Directors meeting held February 20, 2017 are available at the NAFE website at: <http://nafe.net/Board>.

## MINUTES OF THE WINTER

### BOARD OF DIRECTORS MEETING JANUARY 6, 2017

Sheraton Grand Chicago, ASSA Annual Conference Chicago, IL

In attendance:

Voting Members:

Craig Allen, Eastern VP  
William Brandt, Western VP  
Scott Gilbert, At-Large VP  
Gil Mathis, Southern VP  
David Rosenbaum, Midwest VP  
Lawrence Spizman, President  
David Macpherson, At-Large VP

Non-Voting Members:

Kevin Cahill, ASSA Organizer  
James Ciecka, Co-Editor of the JFE  
Michael Nieswiadomy, President Elect  
Lane Hudgins, Editor of The Forecast  
Steven Shapiro, Co-Editor of the JFE  
David Tucek, At-Large VP Elect  
Marc Weinstein, Executive Director  
Christopher Young, Eastern VP Elect

1. Lawrence Spizman called the meeting to order at 11:30 AM as the Board was finishing up lunch which was served at 11:00 AM. Spizman gave opening remarks and thanked Kevin Cahill and Scott Gilbert for organizing NAFE's program at the ASSA.
2. Marc Weinstein outlined the schedule for the weekend for the Board of Directors ("BOD") which included NAFE's BOD meeting; one session followed by the Annual Membership Meeting and the NAFE Reception; and three additional Sessions on January 7, 2017. A copy of the BOD schedule is attached as [Exhibit A](#) to these minutes.
3. Marc Weinstein presented the meeting minutes from the Summer BOD meeting in Chicago, IL on July 23, 2016.
  - A. It was moved and seconded (Mathis, Rosenbaum) that the Board approve the minutes of the Summer BOD Meeting on July 23, 2016 (Vote: Yes – 6 No – 0: David Macpherson not present). The approved minutes are attached as [Exhibit B](#).
4. Marc Weinstein presented the Executive Director reports which included the Financial Statements Prepared by The Block Teitelman Group, a Membership Report, and current bank statements.
  - B. It was moved and seconded (Brandt, Rosenbaum) that the Board accepts the financial statements ending November 30, 2016, as presented (Vote: Yes – 7 No – 0). These reports are attached collectively as [Exhibit C](#) to these minutes.
5. Kevin Cahill outlined the four NAFE Sessions to be held at the ASSA in Chicago which includes one panel session entitled "Practical Perspectives on Growth Rate and Discount Rate Methodologies" on Friday, January 6, 2017 following by the Annual Membership Meeting and a NAFE Reception in the Gold Coast Room of the Sheraton Grand Chicago. On Saturday January 7, 2017, there will be three paper sessions starting at 8:00 AM entitled "Adjustments to Award Amounts in Forensic Economics"; 10:15 AM entitled "Topics in Wage Growth, Turnover, and Risk for Forensic Economists"; and at 2:30 PM entitled "Topics in Forensic Economics".
6. Craig Allen announced the NAFE sessions at the Eastern Economic Association ("EEA") annual meeting will be in New York, NY on February 24-25, 2017 at the Sheraton New York Times Square Hotel. Consistent with prior years, it was announced that one session will be held on Friday February 24, 2017 followed by a NAFE Reception at Rosie O'Grady's directly across the street from the hotel. Craig also indicated that there will be three sessions on Saturday February 25, 2017 and he sought input if there should be two, or three papers per session since each session consists of 80 minutes. As of today, Craig had seven papers with a possible eighth and it was discussed that he would use his discretion to figure out how many papers per session. If you plan to attend and/or want to present a paper, serve as a discussant, or chair a session, contact Craig Allen who will assist Chris Young in organizing the sessions.

7. Bill Brandt announced that NAFE's sessions at the Western Economic Association International ("WEAI") Annual Meeting will be held on Monday and Tuesday June 26 and 27, 2017 at the

cont. on page 4...

# Welcome New Members!

The following is a list of new NAFE members for the period April 1, 2017 through June 30, 2017.

Brad Abney, Saratoga Springs, UT, US  
Charles S. Amodio, Ballston Spa, NY, US  
Adrian Austin, Carrollton, GA, US  
Charles Mark Bokesch, Columbia, SC, US  
Denis Oris Boudreaux, Lafayette, LA, US  
Robert Bridges, Irving, TX, US  
Larry L. Day II, Ridgeland, MS, US  
Brandt Thomas Edwards, Baton Rouge, LA, US  
Robert Eyler, Rohnert Park, CA, US  
Lawrence Jessup, Miami, FL, US  
John Kilpatrick, Seattle, WA, US  
Matthew Murdock, Chicago, IL, US  
Shannon Rudicel, Columbus, IN, US  
Kristine Swift Slocum, Angels Camp, CA, US  
Allan Taub, Cleveland Hts, OH, US  
Nikanor Volkov, Johns Creek, GA, US

## FYI

To keep NAFE members current in our digital age, at all future NAFE sessions at regional and national meetings attendees will have access to digital copies of papers to be presented. Digital access will replace the familiar NAFE binders, and will mean less to carry each day. ©



Photo: Roman Garagulagian, Tom Roney, & Jake Meyer

cont. from page 3...

Marriott Marquis San Diego Marina located in San Diego, CA. As in past years, Bill is planning to hold three sessions on Monday June 26 and three additional sessions on Tuesday June 27. He is planning to have the reception on Monday night June 26, 2017. If anyone wants to present a paper please contact him.

8. David Rosenbaum noted that the Missouri Valley Economic Association (“MVEA”) Annual Conference will be held on October 26-28, 2017 at the Kansas City Marriott Country Club Plaza in Kansas City, MO. While the conference is not well attended, NAFE as traditionally sponsored the MVEA Reception with a \$300 donation. David indicated that he may do one paper and try for another paper to hold one session, but a decision was not made at this time.

9. Gil Mathis announced that the Southern Economic Association Annual Conference will be held on November 17-19, 2017 at the Tampa Marriott Waterside Hotel and Marina located in Tampa, Fl. Gil indicated that he plans to possibly hold two sessions on Saturday November 18, 2017 and will seek the assistance of Jim Rodgers as he resides in the area that time of year.

10. David Macpherson announced that the 18th Annual NAFE Winter Meeting will be held on Friday and Saturday January 27-28, 2017 at the Krystal Grand Punta Cancun Hotel located in Cancun, Mexico. Arthur Eubank and Charles Baum are organizing this years’ meeting and they plan to have two sessions on Friday morning and two on Saturday morning. If you have any questions or concerns you should contact either one of them.

11. Steve Shapiro announced that the 14th Annual NAFE International meeting will be held in Milan, Italy on Saturday May 27, 2017 at the LaGare Hotel Milano Centrale, a Sofitel Hotel. They have 19 attendees signed up and Jack Ward will organize the sessions with the assistance of Matteo Merini and Elisabetta Linares, both from Milan. If anyone is interested, they should contact Jack Ward.

12. David Rosenbaum encouraged people to attend the AAEFE Annual Meeting will be in Las Vegas, Nevada on Thursday and Friday March 30-31, 2017 at the New York-New York Hotel & Casino. He noted that sessions will be held all day on Thursday March 30 and one half of the day on Friday March 31, 2017. If you’re interested in attending, go to the AAEFE site to register.

13. Marc Weinstein presented the results from the November 2016 elections for the Eastern and At-Large Vice President positions below. Craig Allen is the outgoing Eastern Vice President and David MacPherson is the outgoing At-Large Vice President; their terms to cease at the conclusion of the Annual Membership Meeting later today. Christopher Young and David Tucek were elected and will each serve a three-year term as the Eastern and At-Large Vice President, respectively. Marc noted that the electronic election participation appears to be consistent with prior years. Marc thanked both Craig and David for doing a wonderful job for NAFE.

14. Steve Shapiro presented his report on the *Journal of Forensic Economics* (“JFE”). He provided the Table of Contents of the current issue (Volume XXVI, Number 2) for December 2016 which is available online now and the hard copy was mailed January 4, 2017. Steve noted that the submission activity was a little light, comparatively, as follows:

*Journal of Forensic Economics*  
December 2015-November 2016

Originals	21
Revisions	15
Total Submissions	36

Accepted	10
Rejected	18
Withdrawn	0
Out for Review	1
Out for Revision	3
Under Editor Review	4
Total	36

He mentioned that Jim Rodgers and Bob Male are still the Special Editors for the State Paper series but Laura Taylor is the Special Editor for updates to previously published State Papers. There are two state papers in the pipeline (Rosenbaum interrupted that Iowa will shortly be the third state paper in the works) which would mean there are 32 published state papers with three in the works. Steve expressed that Jim and Bob do a great job as Special Editors. Regarding the state paper updates, Steve indicated that four were published and one is in the pipeline. He also stressed that Laura is doing a wonderful job as Special Editor. Attached as [Exhibit D](#) to these minutes is the progress of the state series and updates.

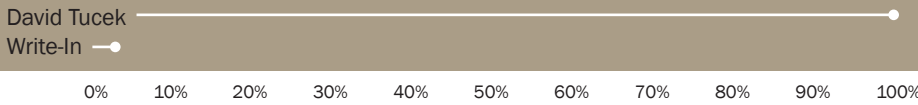
Steve mentioned that Kurt Krueger pulled some “JFE Access Statistics” for the year 2016 which outlined the number of views, top search terms, and the top 25 articles read. Attached as [Exhibit E](#) to these minutes are those statistics compiled by Kurt.

Steve continued that submission improvements resulting from the on-going indexing with Allen Press on RePEc.org (Research Papers in Economics) has been a very slow process as it is a quirky system. Lastly, the Editors are in the process of identifying a new Board of Editors for the JFE which hopefully will include higher profile individuals in an effort to obtain more submissions.

15. Lane Hudgins presented her report as Editor of *The Forecast* upon the completion of the first full year of production. Lane thanked everyone who assisted with the production by writing articles and contributing to the success *The Forecast* has had after the first four issues. She

Q1 At Large Vice President 2017-2019

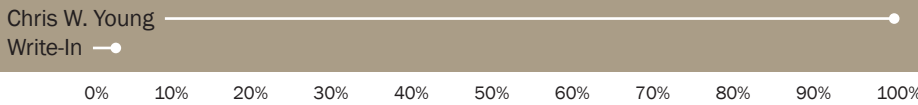
Answered: 125 Skipped: 2



Answer Choices	Responses	
David Tucek	98.40%	123
Write-In	1.60%	2
Total		125

Q2 Eastern Vice President 2017-2019

Answered: 121 Skipped: 6



Answer Choices	Responses	
Chris W. Young	98.35%	119
Write-In	1.65%	2
Total		121

further encouraged members to take “good pictures” and provided some tips in obtaining a photo that is publishable. She reported that they switched printers in August and they now use a saddle stitch in the production of the newsletter. She expressed that meeting deadlines is paramount to the production of *The Forecast*.

Lane presented a proposed endorsement disclaimer that she plans to include in every future issue of *The Forecast* and sought feedback from the Board. Her proposed language is attached as Exhibit F to this minutes. Included with the proposed disclaimer in the exhibit, Lane included summary statistics from issues on searches of *The Forecast*. She noted that these statistics may not truly reflect the complete activity as the link to issue on the NAFE website was not functioning. NAFE will be able to track various statistics of each time an issue is read and the time individuals are spending with the publication.

Mike Nieswiadomy inquired how the links placed on NAFE’s social media are accessible to others if they are not parts of those groups and it was noted that Kurt has sent a mass email blast to NAFE members with a link to the .pdf. David Rosenbaum was curious about succession plans for the Editors of the JFE as well as *The Forecast* whereupon a brief discussion ensued. The discussion centered around including more members in the production and development of NAFE’s newsletter, journal and website.

Last, the Board collectively congratulated Lane for a very successful first year of *The Forecast* in terms of production, content, and an overall value-added component of the membership benefits.

16. Marc Weinstein announced that the NAFE Ethics Committee (SEPPPP) report was tabled to the Summer BOD meeting in Chicago on July 22, 2017.

17. Larry Spizman announced in new business that in order to make the BOD aware, US Senators Cory Booker (D-NJ) and Kirsten Gillibrand (D-NY) recently introduced a Bill to the Senate (S.3489) on December 1, 2016 entitled the “Fair Calculations in Civil Damages Act of 2016”. This Bill was in response to a recent article published in the Washington Post entitled “In one corner of the law, minorities and women are often valued less” by Kim Soffen on October 25, 2016. Several NAFE members were quoted in the article. Larry mentioned that he was bringing this to the Board’s attention so the BOD would be informed but does not believe any action is needed. The Bill was co-sponsored in the House of Representatives (H.R. 6417) by Joe Kennedy (D-MA) and Mia Love (R-UT). Larry believed that the Bill will not have any traction and never get out of committee.

After a lengthy discussion, Larry announced that he would Chair a panel at the Western Economic Association Conference in June in San Diego, CA with the assistance of David MacPherson and Kevin Cahill. It was also encouraged that the BOD keep track of the Bill in case future Board action is needed. Also, it was discussed that a symposium may be a good idea for the JFE if the panel at the Western Conference turns out informative.

18. David Rosenbaum announced that the NAFE Survey will launch on January 10, 2017 and encouraged all Board members to participate in the survey. The survey will be shorter in length as the authors will be switching to a two-year cycle of the survey

as opposed to the prior three-year cycle. This way, the authors plan to obtain more information over the course of six years. Since the survey is administered with Survey Monkey, if you opted out in the past, it’s permanent. David mentioned that those who would like to participate who opted out in the past should reach out to him.

C. It was moved and seconded (Macpherson, Mathis) that the BOD grant the authors of the “Survey of Forensic Economics” permission to access the membership list to solicit responses to their survey (Vote: Yes – 7 No – 0).

19. Marc Weinstein announced the plans for the Summer BOD Meeting to be held at the Sofitel Chicago Magnificent Mile Hotel in Chicago, IL. On July 22-23, 2017.

D. Since no additional business currently existed, it was moved and seconded (Macpherson, Allen) to adjourn the Winter BOD Meeting (Vote: Yes – 7 No – 0).

Respectfully submitted by:  
Marc A. Weinstein, Executive Director  
National Association of Forensic Economics  
March 3, 2017 •

EXHIBIT LIST

- A: NAFE schedule at the ASSA Annual Conference
- B: Minutes of the Board of Directors’ meeting from July 23, 2016
- C: NAFE Financial Statements for period ending November 30, 2016
- D: The JFE State Series and Updated State Series Report
- E: JFE Access Statistics
- F: Proposed endorsement disclaimer for *The Forecast*



Steph Horner, Stephanie Rizzardi, Jack Ward, Barry Ben-Zion, & Tom Ireland



## The Forecast Plays 20 Questions with Everett Dillman

**Where were you born and raised?** *I was born in Panama City, Panama and raised in Balboa, Canal Zone. My maternal grandfather was a locomotive engineer on the construction of the Canal. My mother came to Panama as a baby, my father was there in the military when he met my mother. I stayed in Panama until I left for college in 1950.*

**What did you want to be when you grew up?** *I really didn't have any idea or plans. My father was President of Local 595 of the Operating Engineers and also President of the Central Labor Union so I was leaning toward being a union leader.*

**Where did you go to school?** *I graduated, in 1950, from Balboa High School, in 1956 from the University of New Mexico with a BBA, and in 1958 from UNM with an MBA. I received my Ph.D from the University of Texas at Austin in January 1967.*

**First job?** *My first full-time job, after I dropped out of college after my Junior year, was working half days in the office of a moving and storage company and half days on the trucks or in the warehouse. My first permanent full time job after two years in the Army, and after I received my Master's degree was Assistant Personnel Director for the City of Albuquerque, New Mexico. I was later promoted to Personnel Director where I stayed until going to Austin to work on my Ph.D.*

**How long have you lived at your current address?** *We have lived in El Paso for 50 years and 10 years at our current address. We moved from a large home, on several acres, when I became paralyzed from the waist down. A couple of operations later, and two years of therapy has returned mobility, albeit with canes, walker or scooter. I continued my forensic practice during this time but without the 20 or so staff I used to have.*

**What is one word that describes you?** *Stubborn*

**What is your most marked characteristic?** *My wife will probably disagree but I feel it is the ability to focus. My wife just said it is "caring".*

**If you could change one thing about yourself what would it be?** *Of course, I would like not to be disabled. Having to use a walker, scooter, or two canes is better than being paralyzed and having to use a wheelchair for two years, but not much better.*

**When and where are you happiest?** *When I am with family.*

**What trait do you most admire in others?** *Empathy and caring about others.*

**Describe your perfect day?** *At 85 (in August) waking up is "about as good as it gets". Seriously, having the entire family of children, grandchildren, and great grandchildren together at a family breakfast, dinner, or event is extremely satisfying.*

**What is your favorite hobby?** *I enjoy wood carving. I have a workshop which covers my back patio. I carve animals and mythical figures. I am not very good but it is relaxing.*

**Beach, city or mountains?** *I have lived almost all of my adult life surrounded by mountain ranges. It seems unnatural, to me, to be somewhere where I can't determine where I'm at by referencing a mountain. I was raised close to water, however, and still dream of having a place on the beach. There is another possibility besides beach, city or mountain and that is jungle. I love jungle, not only to be near, but to chop my way through with a machete, although at my age that would not be possible. There always is a diversity of plant, insect and animal life along every game trail one is fortunate to be able to traverse.*

**Guiltily pleasures?** *I love ice cream but I can only eat the "no sugar added" as I am diabetic.*

**Favorite food?** *I enjoy almost all types of Chinese. When I was younger I used to love to cook. Although I didn't limit the types of food I cooked, I specialized in Chinese.*

**Least favorite food?** *I do not like liver or broccoli.*

**Proudest Accomplishment?** *Living long enough to have been able to enjoy my grandchildren and great grandchildren.*

**If you were to die and come back as a person or thing, who or what would it be?** *I would like to repeat the life I have had, albeit with a few less mistakes, wrong turns, and wasted effort. However, that being said, I would like to do this in the less crowded, congested, and simpler time that I was fortunate enough to have experienced. Of course, I would still like to have access to my computer.*

**If you could say something to your younger self, what would it be?** *Be more tolerant of those who are different. Let me explain. When I was young, the employees of the Panama Canal Company were designated as Gold or Silver. White U.S. citizens were Gold and all others, mostly indigenous Panamanians or black descendants from laborers originally from Jamaica or Barbados, were Silver. Gold and Silver lived in separate towns, had separate commissaries, clubhouses, movies, post offices, swimming pools, schools, and beaches. In other words, complete, and enforced, segregation. Silver could live in the Canal Zone which was five miles on either side of the Canal and sixty miles wide from the Pacific (where I live) to the Atlantic.*

*Panamanians who did not work for the Canal lived in Panama proper. They were allowed to cross the Zone but could not linger except, of course, when an underpaid housekeeper or a vendor of ice shaved from an ice block carried in a wagon pushed by hand.*

*In short I was taught, at a young age, to discriminate. I eventually overcame these early teachings but I wish I had learned earlier.*

**Any pet peeves?** *Professors whose lectures are virtually incomprehensible. This sometimes happens when the professor is from another country and has a heavy accent. I realize that this is not the fault of the professor but it is also not fair to the student. However, I really get peeved with professors (and/or experts) who feel that the more complicated and more complex the lecture (or testimony) the smarter he/she will be perceived. I have always believed that the most effective professors or experts are those that can be understood by students or juries. Knowledge of big words does not, by itself, make a person smart.*

# Code DD on a W-2 Wage and Tax Statement: An Alternative Way to Determine the Cost of Employer Paid Health Benefits

Nicholas Briscoe<sup>1</sup>

Cats or dogs? *I have always had at least one dog, and a cat now and then. Currently I have two dogs. We also feed about five feral cats.*

What do you enjoy most about this profession? *Interacting with others at professional meetings.*

Approximately how many cases have you worked on? *At last count, I have worked on 12,759 personal injury, wrongful death, and/or employment cases over the last 53 years. I am still working but now average only five or six new cases a month. I do not have any staff now. I cut back when I was paralyzed, from the waist down, for two years. I continued to work, while paralyzed, but did depositions and court testimony by phone. My clients are now very accommodating and, for the most part, let me do my court testimony by video deposition. I can, and will travel, if absolutely necessary but, since walking is difficult for me, I would rather testify by video.*

What issue in your work do you find most vexing? *It is rather frustrating when I need additional information in order to complete my report which is not forthcoming until just before the report is due.*

Favorite NAFE meeting location? Reason why? *San Diego is my favorite. The only reason is that I enjoy San Diego.*

How did you first become involved in NAFE? *In the early days there wasn't a professional association such as NAFE although I thought there should be. There was a group out of California whose name suggested it was a professional association. I forget the name. I wrote them and received a response. It was not a professional association but a franchise operation. The local economist would send file data to "headquarters" who would perform the calculations. The local person would then testify. I didn't want to be a part of that, of course. then decided to start an association but before I was able to do that I heard about NAFE so I joined. I forget how I heard about NAFE. We didn't have internet in those days.*

What is your favorite thing about NAFE? *When I was more able to travel I enjoyed going to meetings. The topics presented in the meetings were, for the most part, interesting and useful but I mostly enjoying meeting and interacting with other attendees.*

When assessing an employee's loss of earnings and benefits or loss of earning capacity, the value of employer-provided health benefits is a consideration the forensic economist (FE) should take into account. Using the actual portion of health insurance costs paid by the employer is a common method of assessing the value of employer-provided health benefits, but this information is often not made available and can be difficult to obtain.

An employer's contribution to medical, dental and vision coverage can be found in the employer-paid benefits section of detailed pay stubs, earnings statements or other pay statements. However, many times this level of detail is not provided.

In these instances, the FE may have to resort to using studies of the average cost or average employer contribution to employee medical insurance, rather than using the actual amounts paid by the particular employer. (See *The Forecast* Volume 30, Issue 3, "Average Cost for Employee Medical Insurance: Comparison Among Three Sources," for an overview of such studies.)

## Form W-2 and the Cost of Employer-Sponsored Health Coverage

This article illustrates an alternative method for finding the portion of costs paid by the employer for employer-sponsored health coverage using the employee's W-2 Wage and Tax Statement. Beginning with Form W-2s issued for the year 2012, the Affordable Care Act required employers who issue at least 250 W-2s annually to comply with newly created reporting requirements.

Employers subject to these requirements need to report the total value of certain types of health care coverage provided to an employee in Box 12 of the Form W-2 with the code "DD" (see Illustration 1). Employers are not required to report this value if the employee separates during year (but they may elect to do so).

**Illustration 1: Example Form W-2, Box 12, Code DD**

		e Employee's social security number 123-45-6789		OMB No. 1545-0008		This information is being furnished to the Internal Revenue Service. If you are required to file a tax return, a negligence penalty or other sanction may be imposed on you if this income is taxable and you fail to report it.	
b Employer identification number (EIN) 123456789		1 Wages, tips, other compensation 47500		2 Federal income tax withheld 3680			
c Employer's name, address, and ZIP code Example Company 123 Main Street Anywhere, CA 12345		3 Social security wages 50000		4 Social security tax withheld 3100			
		5 Medicare wages and tips 50000		6 Medicare tax withheld 725			
		7 Social security tips		8 Allocated tips			
d Control number		9 Verification code		10 Dependent care benefits			
e Employee's first name and initial Last name Jane Doe 123 Orange Street Anywhere, CA 12345		11 Nonqualified plans		12a See instructions for box 12 DD   15000			
		13 Disability employee Retirement plan Third-party sick pay <input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/>		12b			
		14 Other		12c			
f Employee's address and ZIP code		12d					
15 State Employer's state ID number	16 State wages, tips, etc.	17 State income tax	18 Local wages, tips, etc.	19 Local income tax	20 Locality name		

Form **W-2** Wage and Tax Statement **2017** Department of the Treasury—Internal Revenue Service  
 Copy C—For EMPLOYEE'S RECORDS (See Notice to Employee on the back of Copy B.)  
 Safe, accurate, FAST! Use

Note that the dollar amount reported in Code DD is the total amount paid for the healthcare coverage. This includes both the employee and employer contributions for the calendar year. Since the FE needs only to the employer cost as a measure of the value of such benefits, some additional calculation must be performed.

cont. on page 8...

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cont. from page 7...

## Calculating the Employer Portion of the Cost of Health Coverage

Using the Code DD amount found on the employee's Form W-2, along with an end-of-year pay stub or earnings statement, it is possible to calculate the value of health insurance paid by the employer. This calculation will require the FE to first determine the total amount that was deducted from the employee's pay for health coverage during the year.

The year-end pay stub or earnings statement usually includes a deductions section which details all before-tax deductions. The medical deduction category – that is, the portion of health coverage paid by the employee – is listed as one of these deductions if the employee paid for any part of this coverage (see Illustration 2). The year-to-date (YTD) total reflects the total amount paid by the employee through the period-ending date indicated on that pay statement (\$5,200 in the example illustration).

### Illustration 2: Example Employee Deductions Section of Paystub

Description	Before-Tax Deductions	
	Current	YTD
Kaiser Medical Coverage	\$200.00	\$5,200.00

The FE may have to research or inquire as to what pay codes or descriptions reflect pre-tax deductions for health care coverage. The codes or descriptions are not always easily recognizable, and there might be multiple potentially relevant descriptions listed.

It also is important to examine the final pay stub or earnings statement for the calendar year in question using the pay date (sometimes called the check date or advice date) as the relevant indicator for the year in question. For example, the last pay period for a company might cover the dates 12/16/2016 through 12/31/2016, but the actual pay date may be one week later, 1/7/2017. In this instance, the year-to-date totals for earnings as well as amounts for Code DD on this pay stub would be included on Form W-2 for year 2017, not 2016.

The year-end pay stub that should be examined in this example would be for the pay period 12/1/2016 – 12/15/2016, which would have a check date of 12/22/2016. The year-to-date totals on this pay stub should match the amounts listed on the employee's Form W-2 for year 2016.

By using the total cost of health care coverage found in Box 12 on Form W-2, and then subtracting the amount contributed or paid by the employee (found in the year-to date amount on the year-end pay stub or earnings statement), the FE can calculate the net amount the employer paid toward health coverage (see Illustration 3).

### Illustration 3: Example Calculation

2016 W-2 Box 12 Code DD Amount:	\$15,000
Employee Deduction Health Insurance YTD	
Total on paystub paid 12/22/2016:	\$ 5,200
Implied Employer Amount Paid for Health Coverage 2016:	\$ 9,800

## What's Covered and Not Covered in Code DD

Before relying solely on these calculations to determine the value of employer-paid benefits, it's important to recognize that the Code DD amount reported in Box 12 on Form W-2 reflects the total value of certain types of health care coverage – but it may or may not include the value of all health-related benefits. In general, the following coverage types are included in the Code DD amount:

- Major medical coverage
- Dental and/or vision plan premiums that are integrated into the medical plan
- The value of a health Flexible Spending Arrangement that exceeds the employee's salary reduction contributions to the FSA
- Pre-tax contributions to a hospital indemnity or specified illness plan
- Domestic partner coverage included in gross income

Other types of coverage are optional to report – that is, they may or may not be included in the Box 12 Code DD amount. These include dental or vision plans that are not integrated into another medical or health plan, as well as dental or vision plans that give employees the choice of declining or electing and paying an additional premium.

In addition, if an employer provides an employee assistance plan under a group health plan, or offers on-site medical clinics or certain other types of wellness programs, determining whether the value of these benefits are reported on the W-2 depends on whether the employer charges a COBRA premium. If the employer does not charge a COBRA premium, reporting the value of these benefits is optional and again, may or may not be included in the Code DD amount.

The IRS provides a detailed chart of the types of payments that employers are required, not required or optional to include in the Code DD amount (see Illustration 4).<sup>2</sup> As a result of these "optional" reporting categories, it is possible that the FE may not be able to determine exactly which employer-provided insurance benefits are included in the Box 12, Code DD dollar amount.

### Illustration 4: Code DD Reporting Requirements (on right-hand page)

## Conclusion

When performing a loss of earnings and benefits or loss of earning capacity calculation, determining the value of employer-provided health benefits can be difficult if pay stubs or earnings statements do not provide sufficient detail, or when actual amounts are not provided by employers in employment records. In some instances, it's possible to calculate the employer's actual cost of health coverage by using the employee's Form W-2 Box 12 Code DD amount, then subtracting the employee's year-to-date deductions for health coverage found on the year-end pay stub or earnings statement.

Even if there is not enough information available to perform this calculation or the inclusion or exclusion of certain benefits cannot be ascertained, the Code DD amount can still provide valuable information. At a minimum, comparing the value of health benefits estimated using average costs studies to the Code DD amounts reported on the employee's Form W-2s, may assist the FE in assessing the reasonableness of the statistical estimates. In addition, it may alert the FE to unusual relationships or correlations that could help guide them to further investigation.

2. For detailed reporting guidelines also see Internal Revenue Service Notice 2012-9, "Interim Guidance on Informational Reporting to Employees of the Cost of Their Group Health Insurance Coverage," Jan. 23, 2012, [https://www.irs.gov/irb/2012-04\\_IRB/ar10.html](https://www.irs.gov/irb/2012-04_IRB/ar10.html)



Form W-2 Reporting of Employer-Sponsored Health Coverage

Coverage Type	Form W-2, Box 12, Code DD		
	Report	Do Not Report	Optional
Major medical	X		
Dental or vision plan not integrated into another medical or health plan			X
Dental or vision plan which gives the choice of declining or electing and paying an additional premium			X
Health Flexible Spending Arrangement (FSA) funded solely by salary-reduction amounts		X	
Health FSA value for the plan year in excess of employee's cafeteria plan salary reductions for all qualified benefits	X		
Health Reimbursement Arrangement (HRA) contributions			X
Health Savings Arrangement (HSA) contributions (employer or employee)		X	
Archer Medical Savings Account (Archer MSA) contributions (employer or employee)		X	
Hospital indemnity or specified illness (insured or self-funded), paid on after-tax basis		X	
Hospital indemnity or specified illness (insured or self-funded), paid through salary reduction (pre-tax) or by employer	X		
Employee Assistance Plan (EAP) providing applicable employer-sponsored healthcare coverage	Required if employer charges a COBRA premium		Optional if employer does not charge a COBRA premium
On-site medical clinics providing applicable employer-sponsored healthcare coverage	Required if employer charges a COBRA premium		Optional if employer does not charge a COBRA premium
Wellness programs providing applicable employer-sponsored healthcare coverage	Required if employer charges a COBRA premium		Optional if employer does not charge a COBRA premium
Multi-employer plans			X
Domestic partner coverage included in gross income	X		
Governmental plans providing coverage primarily for members of the military and their families		X	
Federally recognized Indian tribal government plans and plans of tribally chartered corporations wholly owned by a federally recognized Indian tribal government		X	
Self-funded plans not subject to Federal COBRA			X
Accident or disability income		X	
Long-term care		X	
Liability insurance		X	
Supplemental liability insurance		X	
Workers' compensation		X	
Automobile medical payment insurance		X	
Credit-only insurance		X	
Excess reimbursement to highly compensated individual, included in gross income		X	
Payment/reimbursement of health insurance premiums for 2% shareholder-employee, included in gross income		X	
<b>Other Situations</b>	<b>Report</b>	<b>Do Not Report</b>	<b>Optional</b>
Employers required to file fewer than 250 Forms W-2 for the preceding calendar year (determined without application of any entity aggregation rules for related employers)			X
Forms W-2 furnished to employees who terminate before the end of a calendar year and request, in writing, a Form W-2 before the end of that year			X
Forms W-2 provided by third-party sick-pay provider to employees of other employers			X

Source: <https://www.irs.gov/affordable-care-act/form-w-2-reporting-of-employer-sponsored-health-coverage>

**References**

- "Form W-2 Reporting of Employer-Sponsored Health Coverage," Internal Revenue Service online publication, revised Nov. 2, 2016, <https://www.irs.gov/affordable-care-act/form-w-2-reporting-of-employer-sponsored-health-coverage>
- Internal Revenue Service Notice 2012-9, "Interim Guidance on Informational Reporting to Employees of the Cost of Their Group Health Insurance Coverage," Jan. 23, 2012, [https://www.irs.gov/irb/2012-04\\_IRB/ar10.html](https://www.irs.gov/irb/2012-04_IRB/ar10.html) •

# The Work of Kenneth Feinberg

Jordan Maddox<sup>1</sup>

In the last two decades, nearly every large-scale disaster in American history has one thing in common: Kenneth Roy Feinberg, the master of disasters. Feinberg is an American attorney who specializes in mass torts, mediation, and alternative dispute resolution. He is the go-to lawyer for compensation funds for disasters as big as the September 11th terrorist attacks, as messy as the BP oil spill, and as heart breaking as the Sandy Hook shooting. Feinberg created a new form of legal practice and he often does this work pro-bono.

Feinberg got his start working on the Agent Orange settlement which initially paid \$180 million to Vietnam veterans who were injured by the chemical disease. Because the court ordered the money to be paid over a ten-year period, the final pay out was \$300 million from accrued interest. At that time, the lawsuits were the largest mass tort litigation in American history. In one of Feinberg's books, "Who Gets What," he wrote, "[t]he fact is that the American tort system is ill-equipped to deal with a massive, complex medical, social, and political problem like the Agent Orange case." He wrote that the system works well with one-on-one disputes, but when the burden of proof placed on plaintiffs is high despite the injury and suffering of millions, it is likely a massive injustice would have been done if not for the settlement.

Following Agent Orange, the September 11th Victim Compensation Fund placed Feinberg at the top of mass tort compensation and made his name a must-know in the business. In 2003, ABC News reported "[t]here is surely no single person who has been exposed to more grief in the aftermath of 9/11 than Kenneth Feinberg." The Fund was set up by the government to help the victim's families financially by providing the families with compensation for "lost wages, pain and suffering, and other monetary damages."

Working on the Fund was no easy task. Feinberg said the fund was set up so quickly after the 9/11 terrorist attack - it was set up in less than two weeks - that many families were still angry and sometimes took it out on him. Feinberg told ABC News "[i]t's a brutal, sort of cold, thing to do. Anybody who looks at this program and expects that by cutting a U.S. Treasury check, you are going to make 9/11 families happy, is vastly misunderstanding what's going on with this program."

Once Feinberg finished working on the 9/11 Fund, he wrote *What is Life Worth? The Unprecedented Effort to Compensate the Victims of 9/11*. Unprecedented because, as Feinberg explains, the 9/11 Fund was the first time the U.S. government "offered individuals millions of dollars in tax-free compensation for a tragic loss." In comparison, 80 percent of the litigants in the Agent Orange settlement received nothing and totally disabled vets received around \$20,000. Feinberg also describes the harsh reality of discussing the amount of money the government was willing to give to those who were injured or to the families of the deceased from the 9/11 attack. "Placing a value on life and distributing over \$7 billion in public money to 5,562 people - all under the watchful eye of the public, Congress, and the Bush administration - affected my physical health."

The government did not put a cap on the 9/11 Fund, so it was up to Feinberg to decide how much money people would get. The government could have awarded everyone the same lump sum, but Feinberg said that would not work. A goal of the fund was to keep as many people as possible out of the courts because juries are not predictable and businesses like the airline companies could have gone bankrupt. To meet this goal, the awards had to reflect both economic and noneconomic loss, but could not mirror typical methodologies courts use for determining awards of this type. Awarding money based on economic loss meant widows of stockbrokers would essentially get millions compared to the thousands widows of firefighters would receive, a result which seems at odds with the use of public funds. Additionally, Feinberg said noneconomic loss seemed impossible to figure out. There are no common yardsticks for valuing pain and suffering of the victim as well as the emotional distress of the victim's family. In tort law, a judge and jury may award millions of dollars more in noneconomic loss for a victim who suffered just minutes longer, but what criteria should be used with so many victims in so many different circumstances?

To meet the challenges of the unique nature of the 9/11 Fund, Feinberg relied on consistency instead of uniformity in determining his awards. All widows of stockbrokers would be treated the same on an economic level, the same for dishwashers, first responders, and so on. He used transparency to involve the victims in the decisions as much as possible and he aimed

to narrow the gap between the high-end and low-end awards. And in a significant departure from most torts awards, a third consideration was added mandating that all collateral sources of income available to a claimant - life insurance, pension payments, and so on - had to be figured in to the process.

Many people look at Feinberg's job as putting a price tag on a life, but he insists that is not the case. Feinberg wrote, "[t]he fund was not valuing the moral worth of those murdered on 9/11. I reaffirmed this whenever I met publicly with families at community meetings or privately with a particular claimant. Instead, I emphasized the requirement of need, which was linked directly to financial circumstances." Feinberg wrote "as special master, my responsibility was purely financial - to wield the power of the national purse on behalf of those who suffered the ultimate loss. Yet I tried to perform my job [...] never forgetting that a human life is of incalculable value, beyond what gold can measure."

After his involvement in the 9/11 Fund, Feinberg helped lead compensation funds for other disasters like the Hokie Spirit Memorial Fund, a fund set up for families affected by the April 16, 2007 massacre of 32 students and faculty at Virginia Tech. Feinberg was also there while the world was glued to television screens watching live footage of oil spewing into the ocean from the tragic BP oil spill on April 20, 2010. As explained in a 2014 article from *The New York Times*, "Deepwater Horizon oil rig caught fire and exploded, killing 11 men, spewing millions of barrels of oil into the Gulf of Mexico and staining, seemingly indelibly, the image of BP, the international energy giant responsible for the well." Of the nearly 1.2 million claims, Feinberg approved just 550,000.

But the loss of life is not the only type of tragedy Feinberg works with. In 2009, he was the U.S. Treasury Department's compensation chief. At that time, the U.S. economy was spiraling downward and the federal government stepped in to help get some of the country's biggest corporations back on their feet. However, many of the bailout recipients then doled out large bonuses or raises to top employees. In a 2013 article *The Washington Post* reported Feinberg "scolded companies for what he called 'ill-advised' payouts to executives, and vowed to curb lavish pay. Nonetheless,

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# Beautiful Equations

Jim Ciecka<sup>1</sup>

Treasury allowed seven firms to bypass pay restrictions from 2009 to 2011, according to a report issued by the special inspector general in January 2012.” *The Washington Post* reported Feinberg resigned in 2010 after he “limited executives’ cash salaries to \$500,000 and shifted compensation toward stock to reduce excessive risk-taking.”

Feinberg also represented Penn State’s compensation fund for victims of sexual abuse from former Penn State football coach Jerry Sandusky. The Philadelphia Inquirer reported the school paid out \$93 million to the victims and that Feinberg said all the victims who Penn State settled with had evidence to back up their accusations.

Feinberg’s second book, *Who Gets What*, details his experience with the Agent Orange settlement, the September 11th Victim Compensation Fund, the Hokie Spirit Memorial Fund, the Wall Street bailout and the BP oil spill. Feinberg wrote that after the Virginia Tech massacre, he wanted to make sure the compensation was done differently. The Hokie Spirit Memorial Fund was different because there was a specific amount to give out. People from all over the country donated money and the school put that money into the fund totaling at \$8 million. However, paying the families of the 32 victims murdered plus the endless number of victims who survived diminished the \$8 million quickly. The endless number of victims comes from what is called the ripple-effect. To explain, the action of the tort happens at the center, the impact of the tort then extends outward in a circle affecting more people but usually causing less damage the further the person is away from the center. Feinberg explained some victims lost their lives while others survived but were injured physically and or emotionally. While emotional distress is real and victims of emotional distress are often awarded compensation in tort law, there must be a cut-off in the ripple somewhere. Feinberg found that it was fair to compensate victims who had emotional distress because they had a close encounter with the tragedy, such as people who were in the very classrooms where the shootings occurred but were fortunate enough to escape without physical injury. Feinberg wrote that they had to draw a map to determine eligibility; the closer a person was to the actual shootings, the more likely they were to be compensated. The ripple-effect issue is present in Feinberg’s other compensation cases too. In the 9/11 Fund, Feinberg had to decide if people who sustained injuries from the smoke, dust, and debris from when the towers fell should be compensated if they were across the Hudson River in New Jersey; he decided they were ineligible.

Compensation in the Virginia Tech case would have been even more difficult to determine if they took more factors into account. “This problem would be especially acute if economic loss became a prerequisite in calculating damages” Feinberg wrote. Feinberg devised a plan. Each family of a deceased victim would receive the same amount, \$208,000. Surviving victims got a different form of compensation based on the amount of days they spent in the hospital following the tragedy. The compensation ranged from \$90,000 plus a waiver for tuition and fees for the remainder of their program of study, to a waiver of tuition and fees or a \$10,000 cash payout.

The list of Feinberg’s involvements in compensation funds goes on and on. He awarded compensation for victims of the 2012 Aurora shooting, the Boston Marathon bombing, General Motors recalls, the Volkswagen emissions scandal and others. In *Who Gets What*, Feinberg writes that many have asked why it is that he is the go-to lawyer for these disasters. “My work on Agent Orange led to my appointment to administer the September 11th Victim Compensation Fund; President Steger, in turn, viewed Virginia Tech as a microcosm of 9/11. My work in these matters led Treasury Secretary Timothy Geithner to get me to work on Wall Street pay. And in the wake of these tough assignments, the BP challenge followed naturally. Success breeds credibility. At the same time, I am only as successful as my last assignment.”

Feinberg has his own firm, Feinberg Law Offices. Feinberg earned his Bachelor of Arts Degree from the University of Massachusetts-Amherst and then began his law career after graduating from the New York University School of Law in 1970. In his early career, he worked as an administrative assistant and chief of staff for U.S. Senator Ted Kennedy and a prosecutor for the U.S. Attorney General. He is an adjunct professor at Harvard Law School. •

Kenneth Feinberg, Esq. will be presenting a talk on:  
“Unconventional responses to unique catastrophes:  
Tailoring the law to meet the challenges”

at a special NAFE session at the 2018 ASSA meeting in Philadelphia.

This session is to be held at 2:30 pm, Friday, January 5, 2018.

The session location will be announced when it becomes available. We hope to see you there.

The *New York Times* published a short article this April on the “most beautiful mathematical equation.” The winner was Euler’s Identity which links zero, one,  $\pi$ ,  $e$ , and the imaginary unit  $i$ . According to Wikipedia, a 1990 poll of readers of *Mathematical Intelligencer* came to the same conclusion, awarding the beauty prize to Euler for his 1748 equation:  $e^{i\pi} + 1 = 0$ .

What might be the most beautiful equation in forensic economics and related fields? Here are my candidates.

## General Economics

In 1738, Euler’s contemporary and friend Daniel Bernoulli wrote “any increase in wealth ... will always result in an increase in utility which is inversely proportional to the quantity of wealth ...” That is, letting  $x$  denote wealth and  $u$  denote utility, Bernoulli specified the differential  $du = dx/x$  and the corresponding differential equation  $du/dx = 1/x$ . The implied utility function is  $u = \ln(x)$  which is an increasing function in  $x$  but utility increases at a decreasing rate. Formal analysis of risk averse behavior was born with the equation:  $du = dx/x$ .

## Financial Economics:

In 1202 Leonardo of Pisa (Fibonacci) told us how to deal with payments or receipts that occur at different points in time by specifying the present value of  $A$  dollars for  $n$  years as

$$PV = A \sum_{t=1}^n \frac{1}{(1+r)^t}$$

In 1693 Edmond Halley introduced probability of survival of  $t$  years and gave us the present value of a life annuity of  $A$  dollars:

$$\text{Life Annuity} = A \sum_{t=1}^n \frac{p_t}{(1+r)^t}$$

## Actuarial Science:

In 1773 Richard Price showed that one dollar can be decomposed into a life annuity that pays at the rate of  $i$  per year and insurance that pays one dollar at death. Using  $a_x$  to denote a life annuity of one dollar and  $A_x$  to denote insurance paying one dollar at the end of the year of death, Price gave us the equation:

$$ia_x + (1+i)A_x = 1$$

## Forensic Economics:

In 2002, Gary Skoog presented a paper at a NAFE session at the ASSA meeting. Letting  $e$  denote worklife expectancy,  $p$  denote probability,  $x$  denote age,  $a$  denote active in the labor force, and  $i$  denote inactive, Skoog specified the backward worklife expectancy recursions:

$${}^a e_x^a = .5 + .5^a p_x^a + {}^a p_x^a e_{x+1}^a + {}^a p_x^i e_{x+1}^a$$

$${}^i e_x^a = .5^i p_x^a + {}^i p_x^a e_{x+1}^a + {}^i p_x^i e_{x+1}^a$$

What are your “most beautiful” equations in forensic economics or related areas?

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# Review of *Snowball in a Blizzard*

Frank Slesnick<sup>1</sup>

Steven Hatch, *Snowball in a Blizzard – A Physician's Notes on Uncertainty in Medicine*, Basic Books, New York, 2016, \$27.99.

This book describes how, despite all the advances of modern medicine, there still exists an enormous amount of uncertainty present in its practice. The uncertainty a physician may face is constant. How long will the cancer patient survive? Is the particular test given really going to indicate the presence of a certain disease? Should I screen my patients for ovarian cancer every year or every two years? Which patients? The author believes that a deeper understanding of the process of medicine and the uncertainty it faces will improve the life of the reader.

Chapter 2 discusses the issue of over-diagnosis, which is encouraged by both our improving medical technology and our overconfidence. The author cites a fascinating study known as the Rosenhan Experiment. Eight individuals who were perfectly sane were presented at various psychiatric hospitals with the same complaint – they were all supposedly hearing voices. Seven were admitted with the diagnosis of paranoid schizophrenia and the eighth with manic-depressive psychosis. Not only did highly trained professionals fail to detect a sane patient in an insane place, but by contrast many of the actual patients in these facilities noticed these individuals as pseudopatients.

The Rosenhan Experiment demonstrates what is known as confirmation bias. Patients presenting at a psychiatric hospital are presumed to have psychological problems. Hatch relates this to the standard statistical framework of Type I and Type II errors. If you are presented with individuals who you believe could be mentally ill, then you are more likely to err towards giving a positive diagnosis. If you are correct, then the person will get help and the streets will be safe. If you are incorrect, the worst that can happen is that the patient will spend some time in the facility until the truth is discovered. This is a Type I error. But suppose you say the person is sane when he is not. Then you may have let a madman loose among the public. This is a Type II error. If the costs of a Type II error are much larger than the costs of a Type I error, at least in your mind, this type of tradeoff will reinforce your confirmation bias.

The second part of Chapter 2 discusses the diagnosis of cancer. Although the success rate of diagnosing and treating cancer depends upon the type of cancer considered, for many types the results have been what the author terms “over-diagnosed.” Specifically, the number of people diagnosed with a particular type of cancer has increased but the overall mortality rate per 100,000 of the population has stayed roughly the same. The reason is new technology has generated a lot of false positives. Worse, in describing the PSA test for prostate cancer, not only are there a significant number of false positives, but those subject to them may never know they actually did not have the cancer. In fact, the doctors themselves may not know, which explains the continuing support of the PSA test by the medical profession.

Chapter 3 discusses mammogram screening, which is another example of over-diagnosis. In 2009, a government report came out suggesting that less mammogram screening was required depending upon age and background of the individual. There was an enormous uproar and the recommendations have been largely ignored. The Task Force that wrote the guidelines for mammograms was careful in stating that “professional judgment” could be used to determine if screening was warranted. In the end, for some involved, screening had value even if the impact on medical outcomes were marginal. “Screening is what responsible and health-conscious women do to take control of their bodies and prevent disease. Those are commendable and powerful virtues, and – it seems – more compelling than a pile of bland data.” (p. 64).

Chapters 4 and 5 continue the story concerning the uncertainty surrounding medical diagnoses. Chapter 4 looks at the issue of determining the optimal blood pressure for patients. Unfortunately, nobody knows the optimal point because it is influenced by too many different variables. In contrast, Chapter 5 examines what has happened with Lyme disease. The experts were fairly certain what was the cause and proper treatment, but uncertainty was created by an advocacy group, who proposed their own tests and treatments such as prolonged use of antibiotics. Studies showed little net improvement from this regimen and some actual harm. There were attempts to shut down the alternative approach to Lyme disease treatment, but in the end the attempt was unsuccessful.

In the next couple of chapters, the book talks about how one determines the value of medications. Assume a disease produces a mortality rate of 50% within 5 years. A new

drug is introduced and the mortality rate is reduced to 48%. Is that a “statistically significant” difference? If not, what if the percentage was 45%? And if one does claim statistical significance, will it be worth the monetary costs of the drug in terms of a) the benefits provided and b) any possible side effects caused?

Hatch discusses two drugs brought out in 1987 that exemplify the search for beneficial drugs and the uncertainty surrounding their use. One of them, Prozac, a drug tied to mental health, faced many of the usual uncertainties of bringing a new drug to market, but there was another level of uncertainty present – namely, how do you define depression? This uncertainty, plus the issue of patient dependency, has led to the overuse of the drug by many who likely get little benefit. The question must be asked that if these drugs are of primary benefit to those who are at great need (high cholesterol levels or extreme depression), does the value of prescribing the drugs towards the normal range of the population become problematic?

Chapter 7 examines retrospective studies, or studies that look backwards in time. For example, you examine a group with and without lung cancer and determine how they differ, such as in their smoking habits. Unlike randomized studies, which examine a cohort over time, these retrospective studies can only show correlation, not causation. Several examples of studies of this type gone wrong are given in this Chapter including the causes of the Aids virus, eating chocolate, hormone replacement therapy, and drinking coffee.

In the last chapter, Hatch discusses how both patient and doctor can utilize an appreciation of uncertainty to promote better health. For example, the doctor needs to gain a little humility. When discussing life expectancy with a cancer patient, they can give data on a group of similar patients but they should not estimate how long a given individual has to live. For the patient, they must learn to ask lots of questions. Hatch also gives advice to the media. He suggests that stories of medical “breakthroughs” be more carefully screened.

I strongly recommend this book. It is not a statistics book, but rather shows how both physician and patient can be misled if they do not understand the difficulties of making intelligent decisions. Although there is no discussion directly related to the forensic economist, it is clear to this reviewer that the expert faces many of the same issues. As an example, vocational experts, like physicians, heavily rely upon what is termed

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“clinical judgment”. Forensic economists rely less on such judgments, but it is not uncommon for them to utilize, say, the information from a worklife table and adjust it according to their judgment. Although adding variables to a standard worklife table such as the personal work history of the plaintiff may seem to improve accuracy, studies show that is usually not the case. As Daniel Kahneman wrote in his bestselling book *Thinking Fast and Slow*, clinical judgment is most useful when the environment is sufficiently regular to be predictable and these regularities can be learned over time. However, since the expert generally receives little or no feedback, the expert operates in ‘a low validity environment’. As is true for the doctor, the expert witness needs humility when making projections. As Kahneman stated, “Remember this rule: intuition cannot be trusted in the absence of stable regularities in the environment.” (p. 240)

## Review

*Recommended for anyone who has an interest in how the medical profession makes decisions in an environment of significant uncertainty (4.5/5.)*

0 | 5

Hatch does say that there are some things we do know, even though it is uncertain that we have adequately absorbed the information. “The essentials of American health – or lack thereof- can be boiled down to these basic points: we eat too much, and too much of that consists of crap; we don’t exercise anywhere near enough because we spend far too much time either sitting in front of televisions or getting to and fro in our cars; and a smaller subset of us smoke cigarettes, a practice that wreaks a disproportionate havoc on the body.” (p. 226). And you can take that to the bank.

# Meeting Updates

## Mid-Western Meeting Roundtable Discussion Planned

54th Annual Conference of the Missouri Valley Economics Association

Kansas City, MO - October 26-28, 2017

Conference Information: <http://www.mvea.net/annual-conference.html>

Hotel: Kansas City Marriott Country Club Plaza

Housing Link: [http://www.marriott.com/meeting-event-hotels/group-corporate-travel/groupCorp.mi?resLinkIdData=Missouri%20Valley%20Economic%20Association%202017%5Emcipl%60valvala%7Cvalvalb%60159.00%60USD%60false%604%6010/24/17%6010/30/17%6010/9/17&app=resvlink&stop\\_mobi=yes](http://www.marriott.com/meeting-event-hotels/group-corporate-travel/groupCorp.mi?resLinkIdData=Missouri%20Valley%20Economic%20Association%202017%5Emcipl%60valvala%7Cvalvalb%60159.00%60USD%60false%604%6010/24/17%6010/30/17%6010/9/17&app=resvlink&stop_mobi=yes)

NAFE will be sponsoring a cocktail party and one session at the Missouri Valley Economic Association annual conference. The session will feature a roundtable discussion of issues in valuing household services. Roundtable members currently are David Rosenbaum, William Rogers and Jack Ward.

Others are welcome to participate and/or attend. Meeting dates are October 26-28, 2017, and the NAFE session date and time will be announced after the schedule is finalized in August. I can also be contacted at the email address below for more information.

David Rosenbaum ([drosenbaum@unl.edu](mailto:drosenbaum@unl.edu))

Vice President – Midwestern Region

## Southern Meeting Schedule of Sessions

87th Annual Meeting, Southern Economic Association

Tampa, FL – Meeting Dates: November 17-19, 2017

NAFE Session: November 18, 2017

Conference Information: <https://www.southerneconomic.org/conference/>

Hotel: Tampa Marriott Waterside Hotel and Marina

Hotel Reservations: (813) 221-4900 or reserve online at: <https://aws.passkey.com/event/16324790/owner/1999/landing?gtid=86bd40a0bb58c8101ec8e0f007a1f03c>

On November 18, 2017 there will be two NAFE sessions held in conjunction with the annual meeting of the Southern Economic Association in Tampa, Florida. The first session will include four papers, and the second will include a panel discussion with five panelists. I believe we have a good program planned with excellent participants. The setting for the conference is beautiful and the weather should be nice. We hope to have a good attendance. Please contact me if you have any questions or need additional information.

### Schedule of NAFE Sessions at the Southern Meeting

Please note that in lieu of NAFE Session binders, electronic copies of papers presented at NAFE sessions will be made available to conference attendees.

## November 18

NAFE Session I: 8:00AM – 9:45 AM

Chair: Gilbert L. Mathis, Murray State University

“The ‘Best and Safest Investments’ Dilemma: When Ten-Year Treasuries Are the Discount Rates, What Are the Appropriate Growth Rates?”

Presenters: Moses Sawney, Jerome S. Paige & Associates, LLC

Discussant: A. Frank Adams, III, Kennesaw State University

“The Concept of a Bell Curve as a Means to Show Damages Using the Geometric Methodology of a Forensic Bell Curve to Document Injury Costs Within a Life Care Plan”

Presenter: Robert L. Lessne, Forensic Economist

Discussant: Gilbert L. Mathis, Murray State University

“A Suggestion for Assessing Economic Damages in Wrongful Termination Cases”

Presenters: David A. Macpherson, Trinity University, and Stanley P. Stephenson, Litigation Economics, LLC

Discussant: Marc Weinstein, Team Economics, LLC

“The TLC Computer Program”

Presenter: Robert L. Lessne, Forensic Economist

Discussant: Oscar J. Padron, Turner & Associates, LLP

## November 18

NAFE Session II: 10:00AM – 11:45 AM

Chair: Gilbert L. Mathis, Murray State University

### Panel Discussion

“Comparing My Early Career Reports with My Recent Reports: What has changed? What has remained the same? What future changes can be anticipated?”

Panelists: James D. Rodgers, Penn State University; Thomas R. Ireland, University of Missouri, St. Louis; Christopher C. Pflaum, Spectrum Economic, Inc.; A. Frank Adams, III, Kennesaw State University; and Frank Slesnick, Bellarmine University.

Gil Mathis ([gmathis@murraystate.edu](mailto:gmathis@murraystate.edu))

Vice President – Southern Region

## National Meeting

### Session to Feature Invited

#### Speaker Kenneth R. Feinberg, Esq.

2018 ASSA Annual Meeting

Philadelphia, PA - Meeting Dates:

January 5-7, 2018

NAFE Sessions: January 5 & 6, 2018

Conference Information:

<https://www.aeaweb.org/conference/>

Hotel Information: Housing for the ASSA typically opens the second week in September

The schedule of NAFE sessions at the 2018 ASSA has been finalized with one session featuring invited speaker Kenneth Feinberg, Esq. to be held at 2:30 pm, Friday, January 5, and three paper sessions to be held January 6, 2018. Please see the announcement in this newsletter featuring additional information about Kenneth Feinberg and the topic of his presentation at this notable session.

The full schedule of NAFE sessions and events at the 2018 ASSA will be available in the November newsletter. Also, please note that in lieu of NAFE Session binders, electronic versions of papers presented at this meeting will be made available to session attendees.

*Marc Weinstein*

([mweinstein@teameconomics.com](mailto:mweinstein@teameconomics.com)),

*David Tucek*

([david.tucek@valueeconomics.com](mailto:david.tucek@valueeconomics.com))

& *Scott Gilbert* ([gilberts@siu.edu](mailto:gilberts@siu.edu))

- Meeting Organizers

## Winter Meeting

### Call for Papers & Panel

#### Discussion Proposals

Deadline for Hotel Room & Registration Fees: October 15, 2017

19th Annual NAFE Winter Meeting

San Juan, Puerto Rico

NAFE Meeting Dates:

January 27 & 28, 2018

Hotel Name: InterContinental

San Juan Hotel

Hotel Reservations: Contact Art Eubank

Art Eubank and Charles Baum, with help again this year from David Schap, are organizing the 19th Annual NAFE Winter Meeting, which will be held in San Juan, Puerto Rico on Friday and Saturday, January 26 and 27, 2018. Paper Presenters, Discussants, Session Chairs, and Roundtable/Panel Discussion Proposals are being sought for four sessions, two on Friday morning, January 26, 2018 and two on Saturday morning,

January 27, 2018. Please submit abstracts of papers, roundtable session proposals, and offers to serve as a Session Chair, Discussant, or Roundtable Organizer to Art Eubank or Charles Baum by October 15, 2017. Art's and Charles's contact information is:

Arthur A. Eubank, Jr., Ph.D.  
Eubank Economics, Inc.  
8 S. Michigan Ave., Suite 1510  
Chicago, IL 60603  
312-372-0600 (Office);  
[art@eubankeconomics.com](mailto:art@eubankeconomics.com)

Charles Baum, Ph.D.  
Middle Tennessee State University  
2930 Cherry Blossom Ln.  
Murfreesboro TN 37129  
615-556-9287 (Office);  
[baumeconomics@gmail.com](mailto:baumeconomics@gmail.com)

The conference will take place at the InterContinental San Juan Hotel. (This hotel was the site of the 2015 Winter Meeting, and we were very pleased with it.) All room reservations need to be made through Art Eubank who will notify the hotel of the reservations for the group. The registration fee for NAFE members attending the conference is \$115.00 if hotel reservations are made through Art as part of the NAFE group; the registration fee is \$205 if the hotel reservation is not made through Art as part of the NAFE group. This fee will be used to cover the cost of the breakfast and the morning break in the meeting room each day, service fees, charges associated with the meeting room, and cost of a screen and flip chart. There is no registration fee for spouses or others traveling with a NAFE member.

The per night group rate for a single or double room at the conference hotel is \$270.00 before Taxes and Fees and is approximately \$347.27 including Taxes, Resort Service Charges, and other Miscellaneous Fees (Taxes and Resort Fees total approximately 29% of the room rate). The rooms are in the hotel Club Area with access to the Executive Lounge and include complimentary wireless internet access. These room rates are available for the nights of Thursday, January 25 through Saturday, January 27 on a first-come, first-served basis, and, subject to availability, for the three nights before January 25, 2018 and for the three nights after January 27, 2018. If you have any questions, please feel free to contact us. As usual, we're looking forward to a great NAFE Winter Meeting in an interesting venue at a nice hotel with an inviting Caribbean beach. We hope you will plan to attend!!

*Art Eubank* ([art@eubankeconomics.com](mailto:art@eubankeconomics.com))  
& *Charles Baum*

([baumeconomics@gmail.com](mailto:baumeconomics@gmail.com))

- Meeting Organizers

## Eastern Meeting

### Call for Papers

44th Annual Eastern Economic

Association Conference

Boston - Meeting Dates: March 1-4, 2018

NAFE Session Dates: March 2-3, 2018

Conference Information: Not yet available

Hotel: Sheraton Boston

Hotel Reservations: Information and links not yet available

If you are interested in submitting a paper for the NAFE sessions to be held in conjunction with the Eastern Economic Association Conference, please send your paper topic, and general outline to Christopher Young.

*Chris Young* ([chris.young@sobel-cpa.com](mailto:chris.young@sobel-cpa.com))

*Vice-President - Eastern Region*

## International Meeting

### Meeting Dates & Location TBD

15th Annual International Conference

of the National Association of  
Forensic Economics

Location: To Be Finalized

Meeting Date: Probably May 2018

Hotel Name: Not finalized

The 14th NAFE International Meeting was held this past May in Milan, Italy and was attended by 15 members.

Currently, Bob Bohm is chairing the selection process for next year. More information regarding NAFE sessions to be held at the 2018 International Conference will be available in upcoming issues of *The Forecast*.

*Jack Ward* ([ward@johnward.economics.com](mailto:ward@johnward.economics.com))

- Meeting Organizer

## Western Meeting

### Call for Papers & Discussants

93rd Annual Conference of the Western

Economic Association International  
Vancouver, B.C., Canada

Meeting Dates: June 26-30, 2018

NAFE Sessions Dates: June 28-29, 2018

Conference Information:

<http://www.weai.org/ConfHistory>

(Separate Conference Website TBD)

Hotel Name: Sheraton Vancouver

Wall Centre

Housing Link: TBD

NAFE will be organizing sessions on June 28 - 29, 2018 as part of the 93rd Annual Conference of the Western Economic Association International to be held in Vancouver, BC, Canada. NAFE will hold 3 sessions on each date, for a total of 6 sessions. The agenda is open, and potential presenters and discussants are encouraged

to contact Bill Brandt at 206.201.3033 or [bill@brandtforensiceconomics.com](mailto:bill@brandtforensiceconomics.com) through January 6, 2018, and the new NAFE Vice President – Western Region thereafter. Further details will follow.

Thanks to all participants and attendees of the NAFE sessions at the recently concluded 2017 Western Regional Conference. Photos from this conference can be found throughout this newsletter.

*William G. Brandt*  
([bill@brandtforensiceconomics.com](mailto:bill@brandtforensiceconomics.com))  
Vice President – Western Region

## Meetings of Other Associations

### Association for Integrity and Responsible Leadership in Economics and Associated Professions

Conference on “An Urgency for Evidence & Transparency in Economic Analysis and Policy”  
St. Charles, MO – October 13-14, 2017  
Conference information & Registration:  
[http://airleap.org/SL\\_Conference\\_Flyer.pdf](http://airleap.org/SL_Conference_Flyer.pdf)

Several NAFE members will be part of a session on ethics, transparency and disclosure in economic analysis and policy to be held October 14, 2017 at a conference sponsored by the Association for Integrity and Responsible Professions. This session will feature a presentation on the topic “Irreparable Harm, Non-Compensable Harm: The Disconnect between Law and Economics” by George DeMartino, who is also a keynote speaker at this conference.

### American Rehabilitation Economics Association

AREA 2018 Annual Conference  
Location to be determined - May/June 2018  
Now accepting session proposals - Send proposals indicating topic and length of presentation to the attention of Margy Ashby at: [area@gasvcs.net](mailto:area@gasvcs.net) by 9/1/2017.  
Topics should be subjects of interest to vocational and economic experts.

### American Academy of Economic & Financial Experts

AAEFE 30th Annual Meeting  
Las Vegas, NV – April 12 & 13, 2018  
Hotel: New York New York Hotel & Casino  
Conference Information: check [www.aafe.org/annual-meeting](http://www.aafe.org/annual-meeting) for information and updates

# Nomination of Candidates for NAFE Board Positions

At the 2017 summer board meeting, the NAFE Board of Directors approved unanimously the recommendations of the Nominating Committee (composed of Constantine Boukidis, Chair, Art Eubank, Christina Tapia and David Rosenbaum. It should be noted that Dr. Tapia did not participate in the selection of the nominees for the position of Western Vice-President.) The slate of candidates is listed as the “Board Nominations” on the form below.

Using the form below, another candidate can be placed on the ballot under the by-laws if nominating forms are submitted for that candidate by at least 20 members. If you wish to propose an alternative nominee for any of the listed slots, send your suggestion(s) using the form below to the NAFE office (P.O. Box 394, Mount Union, PA 17066) postmarked no later than October 1, 2017.

The official ballots will be emailed to NAFE members on or about November 1, 2017. The ballots will contain the names of the candidates recommended by the Nominating Committee and approved by the NAFE Board, and, in addition, any candidates qualified by the petition provisions described in Article Four, Section 2(c) of the NAFE by-laws. Accompanying the ballot will be some information about the professional qualifications and background of each candidate. The official ballot will also allow write-ins for each position being filled.

Returned official ballots postmarked no later than December 1, 2017, will be counted. The election results will be certified in December by the NAFE Executive Director and announced by the NAFE President at the 2017 membership meeting in Philadelphia.

Any questions should be directed to the NAFE office by calling 866-370-6233, or by emailing [nancy@nafe.net](mailto:nancy@nafe.net).

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Form for Submitting Alternative Nominations for NAFE Board Positions  
Please return postmarked no later than October 1, 2017 to  
NAFE, P.O. Box 394, Mount Union, PA 17066-0394

President Elect – 2-year term after becoming President

Board Nomination: Kevin E. Cahill, PhD

Alternative Nomination: \_\_\_\_\_

Midwest Vice-President – 3-year term

Board Nomination: William H. Rogers, PhD

Alternative Nomination: \_\_\_\_\_

Western Vice-President – 3-year term

Board Nomination: Christina P. Tapia, PhD

Alternative Nomination: \_\_\_\_\_

Print your name: \_\_\_\_\_

Signature: \_\_\_\_\_

# theFORECAST

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## NAFE Events

Mark your calendars  
for these upcoming  
NAFE meetings and sessions

### 2017

MISSOURI VALLEY ECONOMIC ASSOCIATION  
Kansas City - October 26-28, 2017  
(NAFE Session date to be determined)

SOUTHERN ECONOMIC ASSOCIATION  
Tampa - NAFE Sessions: November 18, 2017

### 2018

AMERICAN ECONOMIC ASSOCIATION - ASSA  
Philadelphia - NAFE Sessions: January 5-6, 2018

NAFE WINTER MEETING  
San Juan, Puerto Rico - NAFE Meeting Dates January 26-27, 2018

EASTERN ECONOMIC ASSOCIATION  
Boston - NAFE Sessions: March 2-3, 2018

NAFE INTERNATIONAL MEETING  
Location and date not yet finalized - May 2018

WESTERN ECONOMIC ASSOCIATION INTERNATIONAL  
Vancouver, Canada - NAFE Sessions: June 28-29, 2018

Look for meeting details inside



1) Chris Young & Kevin Cahill  
2) Jill & William Rogers

**NAFE**<sup>SM</sup>  
National Association of Forensic Economics