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the FORECAST

A Newsletter of the National Association of Forensic Economics

Featured photos from the NAFE International Meeting held in Evian-les-Bains, France

President's Letter

Kevin Cahill, President, NAFE
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Dear NAFE members:
Welcome to the spring issue of *The Forecast*! I hope the first part of 2019 is treating you well. A lot is happening with NAFE, as usual, and we have lots more ahead of us!

First, I would like to thank Chris Young for organizing the NAFE sessions at the Eastern Economic Association meetings in New York City on March 1st and 2nd, as well as all those who participated and attended the sessions. Among others, Chris presented a paper about calculating damages in cases involving non-compete agreements and Ethan Weisman presented a paper on Florida's use of the Frye standard. David Schap and Steven Shapiro, editors of the *Journal of Legal Economics* and the *Journal of Forensic Economics*, respectively, provided some valuable, first-hand information about publishing in the field of forensic economics. Overall, it was a very productive and informative meeting. I would also like to thank Art Eubank and Charles Baum for organizing the NAFE Winter Meeting in San Juan, Puerto Rico on January 25-26, 2019. Additionally, the International Meeting organized by John Ward and Steve Shapiro was recently held in Evian-les=Bains, France on May 25, 2019.

Looking ahead, we have a full slate of NAFE sessions scheduled for 2019. The Western Economics Association International meeting, organized by Western-VP Christina P. Tapia, will be held in San Francisco, CA, with NAFE sessions on June 29-30, 2019. The Midwestern (Missouri Valley Economic Association) meeting, organized by Midwestern-VP William Rogers, will be held in Kansas City, MO on October 10-12, 2019. The Southern Economic Association meetings, organized by Southern-VP Michele Gaines, will be held in Fort Lauderdale, FL on November 23-25, 2019. Please contact the meeting organizers if you would like to participate in any of these meetings, as some openings might still be available.

I would like to highlight three additional items beyond our NAFE sessions at conferences. Last year the NAFE membership committee documented a pronounced gender difference among our membership and recommended taking some steps to address the topic of gender in forensic economics. I am delighted to say that Nora Ostrofe has agreed to write a piece for the summer issue of *The Forecast*. Stay tuned!

Second, David Tucek has organized a panel for the NAFE sessions of the 2020 ASSAs that will include three top-notch forensic economists: John Ward, Jim Rogers, and Mike Brookshire. Jack, Jim, and Mike will present papers that summarize the breadth of topics covered in our field over the past three decades, and identify areas for

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Above Photos:
1) Attendees at the International Meeting in Evian-les-Bains, France
2) Barry Ben-Zion, Rachel Brandt and Bill Brandt at the International Meeting

In This Issue

Please send comments, suggestions, and news items for *The Forecast* to the Production Editor, Nancy Eldredge, at the addresses below. 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*.

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further research (think of it as a forensic economics research roadmap!). This panel fits with our motto, *Promoting the Advancement of Forensic Economics*, and with one of my three objectives as NAFE President—to enhance NAFE's profile among the broader economic community. My two other objectives are to bolster membership and improve our understanding of NAFE's members.

Finally, I would like to raise a new topic. Civility seems to have taken a hit over the past few years, with emotions running high in the lead-up to the national mid-term elections and now, already, with the upcoming 2020 national elections. We seem to have lost sight of the fact that each of us, with our own life experiences, talents, and educational attainment, is just one observation among millions and, as such, there is no "correct" view when it comes to politics. In that spirit, please be respectful when communicating on NAFE-L, and please honor our "NOT FE" subject line rule when sharing content that is inherently political. Our collective knowledge in the field of forensic economics can make NAFE-L a powerful resource if we stay focused, respect each other's opinions, and channel our energy constructively.

As always, please feel free to write to me with your thoughts and comments about any (or all!) of these topics. •

From the Executive Director

Marc Weinstein, Executive Director, NAFE

Included in this newsletter are draft minutes from the most recent NAFE Membership Meeting held January 4, 2019. Exhibits referenced are available online at http://nafe.net/Board.

If you have any questions or corrections to these minutes, please contact me at: mweinstein@teameconomics.com*. These minutes with any noted changes or corrections will be presented for approval at the next annual NAFE Membership Meeting to be held January 2020 in conjunction with the NAFE sessions at the ASSA meeting in San Diego, CA.*

Additionally, minutes from the January 4, 2019 NAFE Board of Directors Meeting will be published in the next issue of The Forecast *following approval at the summer board meeting.*

Draft Minutes of the Annual Membership Meeting January 4, 2019

Atlanta Marriott Marquis • ASSA Annual Conference Atlanta, GA

1. Michael Nieswiadomy called the meeting to order at 5:00 PM and noted that he counted 41 attendees at NAFE's first session. He proceeded to thank the outgoing Vice Presidents, Gil Mathis and Scott Gilbert; he thanked Marc Weinstein for the heavy lifting, he thanked Nancy for all that she does; he thanked Lane in her absence; and he thanked all others who contributed to the continued success of NAFE. Mike noted that enjoyed serving the organization and Kevin is ready to take over. He mentioned that Kevin is a great artist and has been responsible for 6 ASSA covers. He concluded by indicating that NAFE's reception will be in A702 following this meeting.

2. Marc Weinstein presented the minutes from the January 5, 2018 Membership Meeting in Philadelphia, PA and requested that if anyone has any corrections to email him the change(s).

A. Subsequent to any correction(s), if needed, it was moved and seconded (Steven Shapiro, Constantine Boukidis) that the Membership approve the Annual Membership Meeting minutes from January 5, 2018 (unanimously). The approved minutes are attached as Exhibit A to these minutes.

3. Marc Weinstein presented the Executive Director reports which included the Financial Statements prepared by The Block Teitelman Group and a Membership Report, both of which were attached to the agenda. A brief discussion occurred regarding Allen Press' membership renewal glitch. Ed foster and Jack Ward noted that Allen Press committed similar mistakes in the past, too. These reports are attached collectively as Exhibit B to these minutes.

4. Arthur Eubank announced that the 19th Annual NAFE Winter Meeting which was scheduled to be held in Puerto Rico last year on January 26-27, 2018 and had to be cancelled due to Hurricane Maria, will be held this year on January 25-26, 2019 at the InterContential San Juan. He and Charles Baum would welcome you if you had any interest in attending. Feel free to contact either one of them with questions.

5. In Chris Young's absence, Marc Weinstein announced the NAFE sessions at the 45th Eastern Economic Association ("EEA") Annual Meeting will be in New York, NY on March 1-2, 2019 at the Sheraton New York Times Square Hotel. Consistent with prior years, it was announced that one session will be held on Friday March 1, 2019 followed by a NAFE Reception at Rosie O'Grady's directly across the street from the hotel. Marc also indicated that there will be three sessions on Saturday March 2, 2019. If you plan to attend and/or want to present a paper, serve as a discussant, or chair a session, please contact Chris Young.

6. Jack Ward and Steve Shapiro announced that the 16th Annual NAFE International meeting will be held in Evian-les-Bains, France, a small resort town on the shores of Lake Geneva, on Saturday May 25, 2019 at the Hilton Evian-les-Bains. They anticipated 17 to 19 people and indicated that anyone interested should contact Jack.

7. Christina Tapia announced that NAFE's sessions at the 94rth Western Economic Association International ("WEAI") Annual Meeting will be held on Saturday and Sunday June 29-30, 2019 at the Hilton San Francisco Union Square Hotel located in San Francisco, California. Christina noted that similar to prior years, she is planning to hold three sessions on Saturday June 29 and three additional sessions on Sunday June 30. Preliminary plans are to have the reception on Saturday June 29, 2019. If anyone wants to present a paper, please contact Christina.

8. William Rogers noted that the Missouri Valley Economic Association ("MVEA") 56th Annual Conference will be held on October 10-12, 2019 at the Kansas City Marriott Country Club Plaza in Kansas City, Missouri. William indicated that he would gauge interest in organizing NAFE Sessions at the

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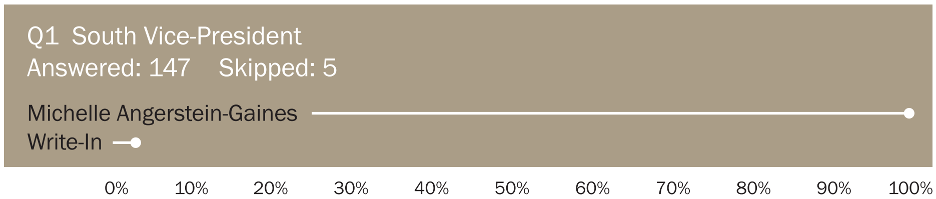
MVEA, or at the Illinois Economic Association meeting which will be held in early October, later this year. Anyone interested in presenting at either conference should contact William.

9. Gil Mathis announced that the Southern Economic Association 89th Annual Conference will be held on Sunday November 23-25, 2019 at the Marriott Harbor Beach Resort & Spa in Fort Lauderdale, Florida. NAFE will most likely plan our sessions on either Saturday November 23 or Sunday November 14, 2019. Michele Gaines will be replacing Gil at the conclusion of this meeting so if you want to present a paper or participate in the conference, please reach out to Michele.

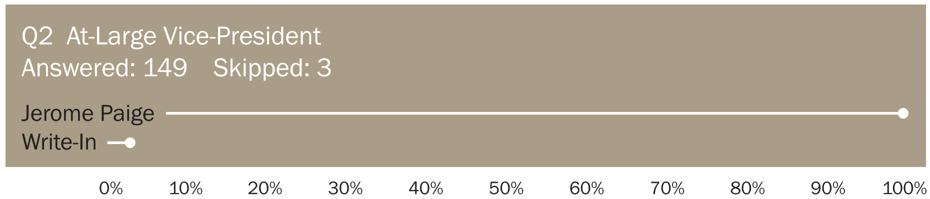
10. David Tucek announced that the NAFE sessions for the ASSA next year will be in San Diego, California on Friday and Saturday January 3-4, 2020. Jerome Paige will be assisting David in planning and organizing the NAFE Sessions. As has been tradition, we will be planning one session on Friday afternoon January 3, 2020 followed by our Annual Membership Meeting and the cocktail reception. Three additional sessions will be held on Saturday January 4, 2020.

11. Bill Brandt encouraged people to attend the 31st AAEFE Annual Meeting in Las Vegas, Nevada on Thursday and Friday April 25-26, 2019 at the New York-New York Hotel & Casino. He noted that Kip Viscusi will give a talk on his recent book "Pricing Lives" and Joni Hersch will also have a session with a topic not yet determined. If you're interested in attending, please go to the AAEFE site to register.

12. Mike Nieswiadomy presented the results from the November 2018 elections for the Southern and At-Large Vice President positions illustrated below. Gil Mathis is the outgoing Southern Vice President and Scott Gilbert is the outgoing At-Large Vice President; their terms to cease at the conclusion of this meeting. Michele Angerstein-Gaines and Jerome Paige were elected, and will each serve a three-year term as the Southern and At-Large Vice President, respectively. Mike thanked both Gil and Scott for doing a great job for NAFE.

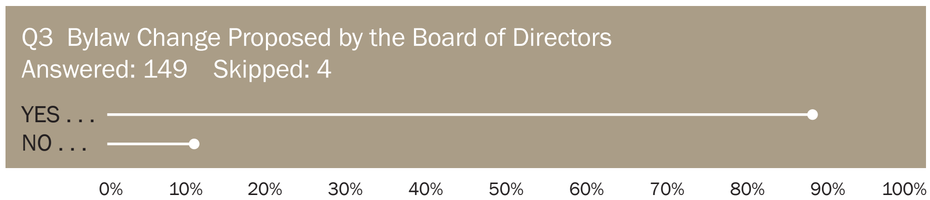


Answer Choices	Responses	
Michelle Angerstein-Gaines	97.96%	144
Write-In	2.04%	3
Total		147



Answer Choices	Responses	
Jerome Paige	97.99%	146
Write-In	2.01%	3
Total		149

In addition to the elections for two new vice presidents, Mike noted that NAFE members were asked to vote on a change to the bylaws allowing the Executive Director to serve additional three-year terms at the discretion of the majority of the Board of Directors. Currently, the Executive Director can only serve two terms consisting of three years for each term. The results of this election are illustrated below.



Answer Choices	Responses	
YES make recommended changes to Bylaws	88.51%	131
NO make recommended changes to Bylaws	11.49%	17
Total		148

13. Steve Shapiro presented his report on the *Journal of Forensic Economics* ("*JFE*"). He indicated that Volume 27, Issue #2 is currently at the printer and should be mailed at the end of this month (January 2019). In the issue is the 34th State Paper (South Carolina – Nik Volkov) and all the papers are on the *JFE* website. Steve anticipates that Volume 28, Issue #1 should come out between February and April of 2019 and will contain the "much anticipated" updated SCK *Worklife Tables* as well as the updated SCK *Median Years to Final Separation*. Steve further noted that an additional *JFE* issue is in the pipeline for 2019 which is a symposium on the *Fair Calculations Act* in which Larry Spizman is a Special Editor. Steve concluded by claiming that three issues of the *JFE* in 2019 would make it a good year to be a member of NAFE.

14. In Lane Hudgins absence, Marc Weinstein presented her report for *The Forecast* (NAFE Newsletter) and noted that starting in 2019, the February, May, August, and November

quarterly publications of *The Forecast* will be replaced with seasonal publications; Winter, Spring, Summer, and Fall. Lane noted that the ISSUU digital platform which provides statistics as to what readers are viewing, for how long, what they're sharing, which links are being used, etc. are showing similar patters as in prior issues. Specifically, most time spent is on the President's Letter and the meeting information. Lane is constantly seeking input on developing content for *The Forecast*.

15. In new business, Marc Weinstein discussed NAFE's continued attempt at branding NAFE with signage being placed around meeting rooms and the slogan *Promoting the Advancement of Forensic Economics* ("*PAFE*"). Patrick Anderson renewed his plea to NAFE to provide organizational discounts for multiple members of one company. Several members noted that all lawyers in a law firm belong to the bar individually and that was one of the reasons why the organizational membership ended in 2012. It was noted that Kevin Cahill is chairing a Membership Committee to look at these issues and his committee has initiated their efforts which will be ongoing for the near future.

16. In Larry Spizman's absence, Steve Shapiro presented the "Past Presidents' Award" to Arthur Eubanks for his outstanding service to the association as the organizer of the NAFE Winter Meetings for many years as well as his overall excellent contributions to NAFE, in general.

17. Marc Weinstein presented Mike Nieswiadomy with the ceremonial NAFE Gavel plaque for his service to the organization as President from 2017 through 2019. Marc thanked Mike for his leadership and noted at the conclusion of this meeting, Kevin will assume the role of President; and the Vice Presidents, too.

B. At 5:51 PM, since no additional business currently existed, it was moved and seconded (Rick Gaskins, Steph Horner) to adjourn the Annual Membership Meeting (unanimously).

Respectfully submitted by:
Marc A. Weinstein, Executive Director
National Association of Forensic Economics, April 30, 2019

EXHIBIT LIST (Available at *http://NAFE.net/Board*)

A: Minutes of the Annual Membership Meeting from January 5, 2018

B: Financial Statements prepared by The Block Teitelman Group and a Membership Report •

Photo: Conference participants and guests at the International Meeting, Evian-les-Bains, France

Welcome New Members

The following is a list of new NAFE members for the period January 1, 2019 – March 31, 2019

Matt Amoroso, Cleveland, OH

Bret Anderson, Ashland, OR

Luis Barahona, Boca Raton, FL

Aubrey Corwin, Phoenix, AZ

Ed Donnelly, Melville, NY

Ryan Herzog, Spokane WA

Georgina Moreno, Hermosa Beach, CA

Thomas Munson, Los Angeles, CA

April Parfitt, Lawrence, KS

John Theriot, Metairie, LA

Mark Thompson, Evans, GA

Ronald Walters, Charleston, WV

FYI: Recommendations for NAFE Board Positions

At the upcoming July 2019 summer board meeting, the NAFE Board of Directors will consider the recommendations of the current Nominating Committee for candidates for the positions of President Elect, At-Large Vice-President, and Eastern Region Vice-President, which are to be voted on by NAFE members beginning November 1 this year. NAFE members can also make recommendations for candidates for these positions to the Board of Directors prior to this meeting by contacting NAFE Executive Director Marc Weinstein with information about the professional qualifications and background of a recommended candidate and his or her stated interest in the board position for review by the NAFE Board of Directors.

Following the summer board meeting the board approved nominees, along with a call for alternative nominations for NAFE board positions will appear in *The Forecast*. Board nominated candidates and candidates qualified by the petition provisions described in Article Four, Section 2(c) of the NAFE by-laws will be included on official ballots to be sent to NAFE members on or about November 1, 2019.

Expert Opinion

David Schap[1]

Expert Opinion is an occasional column appearing in The Forecast. *As its name implies, the essays appearing under its title are opinion pieces, but the opinions expressed are to reflect such fact, research, and analysis as is appropriate to forensic economic expertise. Topics and essayists will vary by issue. Suggestions for future topics and/or writers may be sent to David Schap at* dschap@holycross.edu. *Ordinarily, some controversial issue in forensic economics will be featured, with opposing viewpoints. On occasion the column may feature a single forensic economist explaining why thinking in the profession has coalesced around a common vision on some topic. The essays should be lively, yet substantive; referencing should be informative, but not pedantic.*

In this issue, two contrasting viewpoints are presented on what has been a contentious issue in forensic economics for quite some time concerning the appropriate income basis (individual versus family income) for computing the personal consumption reduction in those venues that make use of such a reduction in wrongful death actions. Not all state venues apply a personal consumption reduction. For example, Georgia, Kentucky, and West Virginia award damages based on the loss to the decedent, not decedent's survivors, so no reduction is made. Alabama state courts in wrongful death proceedings award punitive (and not compensatory) damages (except when federal and state courts in Alabama have concurrent jurisdiction), so no reduction is made when Alabama state courts have exclusive jurisdiction. Connecticut, Delaware, and New Mexico rely exclusively on a reduction for personal *maintenance*. Pennsylvania and Tennessee apply a reduction for personal maintenance in survival actions (as does Hawaii), but a reduction for personal consumption in wrongful death actions (for which Hawaii cannot be classified by statute alone). For additional details and other examples, see Rosenbaum and Schap (2016), Schap (2016a), and Schap (2016b).

In the large majority of states that permit or mandate a reduction for what would have been decedent's own personal consumption of income resources absent the death event, the income basis for consumption is thought to be either (1) what would have been decedent's own income (termed sole dependency) or (2) what would have been the family income (especially including spousal income) of the decedent (termed cross dependency). In both circumstances, in venues calling for a personal consumption reduction in wrongful death cases, the typical standard for income projection is as an expectation (i.e., expected income), rather than as a capacity (i.e., earning capacity). In their respective essays, Thomas R. Ireland favors the sole-dependency approach whereas William Brandt favors the cross-dependency approach.

Thomas R. Ireland is Professor Emeritus, University of Missouri - St. Louis. An influential contributor to the forensic economics literature, Dr. Ireland has published dozens of articles on a wide range of issues in forensic economics. In service to the profession, for many years he has maintained a website listing and summarizing legal decisions that affect the practice of forensic economics (*http://www.umsl.edu/~irelandt/index.html*). Many forensic economists, including myself, have benefitted from Tom's scholarship and guidance. Tom may be contacted at: *ireland@umsl.edu*.

William Brandt is Principal, Brandt Forensic Economics, a thriving forensic economic practice in the Pacific Northwest. A frequent presenter at NAFE meetings, he comes to forensic economics with accounting and corporate finance experience that influences his approach to casework; the accounting influence manifests itself to a degree in his featured essay here. Well-regarded by his peers, Bill has served on the NAFE Board of Directors and currently serves as President of the American Academy of Economic and Financial Experts. He can be contacted at: *bill@brandtforensiceconomics.com*.

References

Rosenbaum, David, and David Schap, 2016, "Differences Among State Court Jurisdictions in Damages Calculations," in Frank D. Tinari (ed.), *Forensic Economics: Assessing Personal Damages in Civil Litigation* (New York, NY: Palgrave Macmillan).

Schap, David, 2016a, "The Reduction for Decedent Self-Consumption: Jurisdictional Mandates for Personal Consumption or Personal Maintenance," *Journal of Legal Economics* 22(2): 107-142. The article appeared as part of a "Special Issue: Symposium on Wrongful Death," which occupied the entire *Journal of Legal Economics* 22(2).

Schap, David, 2016b, "Editor's Note: Personal Maintenance in Survival Actions in Hawaii," *Journal of Legal Economics* 23(1): 1-2.

1. "Expert Opinion" column edited by David Schap, Professor, Department of Economics and Accounting, College of the Holy Cross, Worcester, MA. Contact at *dschap@holycross.edu*.

Photo: Session at the International Meeting in Evian-les-Bains, France

The Case for "Sole Dependency" in Wrongful Death Analysis

Thomas R. Ireland[1]

Question #13 in the 2017 NAFE survey paper (JFE, 2018, 27(1):35-2) asked survey participants whether, when calculating the personal consumption of a spousal decedent in a two wage-earner family, they would take into account the personal consumption of the decedent from income earned by the surviving spouse (cross dependency) or only the personal consumption of the decedent from income earned by the decedent (sole dependency). Of the 189 NAFE members taking the survey, 37.9% indicated that they would subtract only the decedent's consumption from income earned by the decedent, while 62.1% indicated that they would subtract the decedent's consumption from all of the income of the two spouses. I am among the 37.9% minority who would calculate the decedent's consumption from only the decedent's own income. Here are my reasons why.

(1) Underlying all of forensic economic analysis is the "make whole" standard that a plaintiff should be made whole for the plaintiff's losses caused by the negligence or other malfeasance of the defendant. Offsets that come from a source other than the defendant are considered "collateral sources" and are generally not taken into account. To the extent that offsets from earnings of surviving spouses that were used to pay for consumption of a decedent spouse are taken into account, the reduction in damages is being funded by the surviving spouse's income as a collateral source.

(2) Unless a surviving spouse wanted a marriage to end, the logic of the cross-dependency position suggests that the surviving spouse has been made better off by retaining parts of his/her own income that would have been spent on the decedent spouse. If a defendant wrongfully killed my wife, I would not be made better off by not having to spend a portion of my income on my wife. Assume that a plaintiff spent a lot of his/her income on golfing before losing an arm. After losing the arm, the plaintiff is no longer able to engage in that sport and thus no longer spends any portion of income on golf. By analogy, the defense should receive an offset for income the plaintiff previously spent on golfing activity. I do not think any cross-dependency advocate would make this argument.

(3) The death of a spouse will cause major changes in the life of the surviving spouse. The injury suffered by a surviving spouse is very much like losing an arm or leg. Separate from the grief and bereavement that would be involved, counseling may be needed for the spouse or children. Child care that was not needed previously will now be needed, with corresponding expenditures. The surviving spouse may eat more meals away from home. The surviving spouse may eventually spend more income on efforts to find a new partner. New hobbies may be more expensive than old hobbies. Replacement consumption activities need to be considered.

(4) It is usually taken for granted in discussions of sole dependency versus cross dependency that the death of a spouse will have no impact on the earnings of the surviving spouse. At least in the immediate aftermath of the death through the funeral (or equivalent), it is likely that the surviving spouse will have a loss of income. In the longer run, the death may either cause an increase in income as the surviving spouse works longer hours or a reduction in income because of increased need for care for children or pets. A surviving spouse may become more focused on work activity or find focusing on work activity more difficult. Using the logic of cross dependency, any gain in income by the surviving spouse would represent an additional offset for the defendant. Any reduction would need to be made up by the defendant.

I do significantly more than fifty percent of my work for defendants. In wrongful death cases involving dual spouse wage earners, I explain to an attorney at the start of the case both the cross dependency and sole dependency positions. I indicate that it is a matter of law which of those positions is correct, and that every economist can make both calculations. I also indicate that most legal venues do not have specific case law on this point. No defense attorney has ever asked me to use the cross-dependency approach after hearing my explanation.

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1. Professor Emeritus of Economics, University of Missouri at St. Louis. Contact at *ireland@umsl.edu*.

Photo: Session from the International Meeting in Evian-les-Bains, France.

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Consideration of Spousal Income in Wrongful Death Consumption Calculations

William G. Brandt[1]

Wrongful death claims in most jurisdictions require an assessment of the Decedent's ("D's") lost income less an offset for D's personal consumption, sometimes referred to as the "Net Accumulations" of D's Estate. The calculation is relatively straightforward in claims filed on behalf of Estates where D was the only member of a one-person household. All items of consumption should be included in the consumption offset for those claims. There is more controversy, however, as to the specific elements of consumption that should be included in the consumption offset where there are Statutory Survivors (with a focus in this paper primarily on households with a Surviving Spouse, hereafter referred to as "S," and with no dependent children). The objective of a Forensic Economist's ("FE's") calculation is to provide S with the damage compensation needed to replace economic resources lost because of the death of D (i.e., to make S "whole" with respect to the economic losses sustained because of D's death). There is disagreement, however, as to which elements of consumption should be included in the offset, and how that consumption should be calculated.

The Consumption offset could conceivably be projected from actual records of D's pre-loss spending. Assembly of a complete set of records, however, can be extremely problematic, analysis of the data can be tedious, and calculated pre-loss spending rates for D may still not be predictive of post-loss spending that needs to be projected. FEs typically use consumption tables derived from the Consumer Expenditure Survey ("CEX") to perform the offset calculation based on consumption patterns in the general population, such as Krueger (2015) and Ruble, Patton and Nelson (2014). Those tables compile and summarize average individual consumption at given levels of combined household income, based on data collected from many households. The consumption percentages generally indicate the annual personal consumption for a given individual based on the household's annual combined income and total household size. The personal consumption amount indicated on that table generally includes total amounts spent by the subject individual for his/her own benefit, and excludes consumption amounts for which the benefits of consumption are either shared or provided for the exclusive use of other household members, as discussed immediately below.

Most FEs agree that S should recover D's lifetime income, less personal consumption financed by D's income, and that S should also recover the economic value of goods and services D would have provided for S's use, either on a shared basis (such as housing costs that everyone in the household would have benefitted from) or for S alone (such as clothing D would have purchased for S).There is substantial dispute, however, as to (1) whether S should also recover the portion of D's consumption that was presumably financed by S's income, and (2) whether that additional element of recovery can best be captured by omitting any consideration of S's income when calculating D's consumption offset, while still giving full consideration to the presence of S as a consuming member of the household.

There are thus two distinct approaches for calculating the consumption offset within the FE community. The first method, the Cross-Dependency Approach ("CD Approach"), derives the consumption offset based on a CEX table lookup that references the combined pre-loss income of both spouses against the full pre-loss household size. Advocates of this approach generally assert that the consumption offset should consider all items personally consumed by D, regardless of the source of funds for that consumption, since recovery of any amounts D would otherwise have consumed goes beyond the "make whole" standard. The second method, the Sole-Dependency Approach ("SD Approach"), derives the consumption offset based on a CEX table lookup for *D's income only* against the full pre-loss household size. Advocates for this approach assert that S should not lose any portion of S's own income spent on D's personal consumption, under the premise that S's income, regardless of where it is ultimately spent, falls outside of the scope of the damages caused by D's Wrongful Death. This paper focuses on the merits of each of these approaches.

Much of this dispute hinges on whether there is a linkage between sources of income for a household and the ultimate consumption of that income, perhaps involving legal issues that go beyond the expertise of FEs. In Community Property jurisdictions (such as California, Texas and my state Washington), property acquired during marriage is considered "Community Property," with ownership interest shared equally between the partners. Thus, any asset growth (income) or diminution (consumption) is "owned" equally by both partners. In such jurisdictions, one might argue that household income is essentially a pooled resource, with each spouse acting as an agent for the household in each of their separate income-generating and consumption activities. Linkage between the original source of income and ultimate consumption of that income may be tenuous, since any consumption by D is an exercise of the right of joint ownership in household assets, regardless of that spouse's relative contribution to the household's income (although some judges in California have ruled that spousal income is precluded from consideration in certain litigated matters, effectively eliminating any consideration of the CD Approach in those cases). In Equitable Distribution jurisdictions, the relative contribution of the earnings and services of each spouse can be considered in determining the relative ownership of the household's assets. Even in those jurisdictions, however, household assets might be treated as a pooled resource, even if the ownership interest in that pool is not ultimately equal between the partners.

Regardless of legal considerations, it is helpful to examine how each of these methods would play out in different households where the total combined income is the same, but the portion of income contributed by D versus S varies. The following table shows the annual variance in consumption when applying the SD Method versus the CD Method for households with combined annual income of $100,000, where D (presumed in this table to be the female spouse in a 2-person pre-loss household) contributes varying portions of combined household income ranging from 20% to 100%:

1. Consulting Economist, Brandt Forensic Economics, Bainbridge Island, WA, Contact at: *bill@brandtfoprensiceconomics.com*.

Annual Consumption Projection for Households with Combined Iincome of $100,000, SD Method versus CD Method:
Presume Decedent was the Married Female Spouse in a 2-Person Household
Source, Patton-Nelson Consumption Tables, Table 3b.
(Based on 2011 - 12 Dollars)

	Scenario 1		Scenario 2		Scenario 3		Scenario 4	
Combined Income	$100,000		$100,000		$100,000		$100,000	
D's Porion of Income	$20,000		$50,000		$80,000		$100,000	
Method→	CD	SD	CD	SD	CD	SD	CD	SD
D's Income	$20,000	$20,000	$50,000	$50,000	$80,000	$80,000	$100,000	$100,000
Lookup Income:	$100,000	$20,000	$100,000	$50,000	$100,000	$80,000	$100,000	$100,000
Consumption %:	18.70%	44.20%	18.70%	27.10%	18.70%	21.10%	18.70%	18.70%
Consumption Offset:	$18,700	$8,840	$18,700	$13,550	$18,700	$16,880	$18,700	$18,700
Loss Claim:	1,300	11,160	31,300	36,450	61,300	63,120	81,300	81,300
Consumption Applied:	18,700	8,840	18,700	13,550	18,700	16,880	18,700	18,700
SD v. CD Premium	$9,860		$5,150		$1,820		$0	

The consumption offset under the CD Method does not vary, but the offset under the SD Method varies from $8,840 in Scenario 1, when D contributes only 20% of household income, to $18,780 in Scenario 4, when D contributes the entire household income. S will retain or recover all household income under either method and across all scenarios, since S's residual income plus D's income replacement in the damage award (before the consumption offset) will always equal $100,000 per year. The consumption offset will be materially different under Scenario 4 as compared to Scenario 1 under the SD Method, whereas it would be equal for both scenarios under the CD Method. It is important to understand what this variance represents. The $9,860 annul difference between Scenario 1 consumption under the SD Method, as opposed to the CD Method, reflects D's incremental consumption of household income (on S's income) that would not have been available to either household member after consumption.

The unequal outcomes for Scenario 4 versus Scenario 1 under the SD Method, as opposed to the CD Method, appear to be at odds with "Community Property" standards, where the ownership share of household assets is deemed to be equal. It would also seem to violate "Equitable Distribution" standards, where the ownership share of household assets depends on a number of factors beyond monetary income brought into the household, such as the contribution of household services by each respective spouse, the contribution of assets brought into the marriage, the past wage contribution of living costs by one spouse so the other could receive education or training, etc. None of these other factors are considered in the presumed share of ownership of household assets from which the consumption of each spouse was calculated under the SD Method. It would even seem to be at odds with the Equitable Distribution standards if those factors were somehow considered, since each spouse still retains some ownership share in whatever income is brought into the household. Moreover, it is unclear whether there is any meaningful way to identify the fungible dollars earned in a manner that would enable us to match them against the fungible dollars ultimately spent. Households generally function on a common pool of assets. Use of this method also requires the FE to fully recognize S's consumption of D's income (which might be viewed as negative income generated by S), while totally omitting any consideration of the income S would have contributed for D to consume.

The consistency of outcomes provided by the CD Method appear to make it the more equitable of the two methods. It also places S in the same economic position he/she would have been in if the wrongful death had not occurred and each partner had continued to live as part of a married couple for the rest of their lives, but for the wrongful death. It thus appears to meet the standard of making the Plaintiff economically whole with respect to the wrongful death.

References:

Krueger, Kurt V., 2015, "Personal Consumption by Family Type and Household Income," *Journal of Forensic Economics*, 25(2): 203 – 220.

Ruble, Michael R., Patton, Robert T., Nelson, David M., 2014, "Patton-Nelson Personal Consumption Tables 2011 – 12," *Journal of Legal Economics*, 21(1): 41 – 55. •

Photo: Attendees at the International Meeting in Evian-les-Bains, France

Book Review of Daniel Hamermesh's *Spending Time – The Most Valuable Resource*[1]

Frank Slesnick[2]

Spending Time is a fascinating book authored by an outstanding labor economist, Daniel Hamermesh. The author states the obvious – namely, there are only 24 hours in a day and we are only going to live a finite, but unknown, number of years. Whenever we make a decision to work on another court case and earn money, go out on the town (or out of town) spending that money, sleep, watch TV, or play with kids and grandkids, there is an opportunity cost involved. The choices we make, either consciously or unconsciously, attempt to use this limited time span as best we can. Further, these decisions change over time as our remaining years shrink. When we get to the point where we are near or at retirement age, people switch from devoting many hours in the workplace to other activities.

Hamermesh first describes where we are in terms of the allocation of time. As expected, the data are based upon time diaries such as ATUS (American Time Use Survey), but several other countries are examined as well. So how does the average American spend his or her time? Not surprisingly, the number one activity is sleep, averaging 8 1/3 hours per day. Next is work for pay. Altogether, sleep, work, and watching TV constitutes 2/3 of the average day for adults in America. Of course, these are just averages and one of the significant values of this book is that the author breaks down the data into smaller categories such as age, gender, and race.

Economists divide the use of time into four broad categories – work for pay, home production (household services), personal care (sleeping and eating), and leisure. Home production involves activities that we could potentially purchase. Personal care is activities that are biological necessities and we cannot hire out. Leisure covers many different activities characterized by something "we do not have to do, we enjoy, and we cannot outsource." (Page 16)

At the beginning of Chapter 2 which focuses on activities other than working for pay, Hamermesh makes the point that when discussing time use, it is important to distingush incidence and intensity. The former is how many spend any time on an activity and the latter is the amount of time spent for those who do the activity at all. As an example, consider religious devotions. Suppose every adult spent 10 minutes a day in this activity. Incidence is 100% and duration is 10 minutes per day, or about .70% of their time. On the other hand, what if 10% of the population spent 100 minutes per day in religious devotion and the other 90% spent no time. Incidence would be just 10% and intensity would be 100 minutes per day. However, the average per person would be the same in both scenarios – namely, 10 minutes per day. Thus, when looking at time use, averages can be misleading. The first scenario is a situation where everyone is somewhat religious and a more homogeneous group while the second scenario shows a split where a minority is highly religious but the rest of the country is not.

For the forensic economist, time spent in household production is an important consideration in many cases. Taking all household activities together, over 85% of adult Americans spend some time in at least one activity per day (incidence) and those who do any household production spend about 3.65 hours per day (intensity). Data is further broken down by type of household production, level of education, and gender.

Even though the book does not go into depth concerning issues specifically of interest to forensic economists such as various methods that could be used to value time in household production, there are many useful insights provided. For example, consider the well-known result that those with higher incomes will tend to hire out more household production given their higher opportunity cost. Nevertheless, even for those who are very wealthy, not all these activities will be hired out. First, hiring out a service takes time and involves a fixed cost of searching for an acceptable choice. This implies that for any household, including the wealthy, it is more likely that a service will be hired if it involves an ongoing commitment such as a nanny service rather than an activity that will only occur one time only. Further, some services give intrinsic pleasure such as cooking or gardening. In fact, when an activity is largely done for pleasure, it may be difficult to determine whether it is household production or a leisure activity. Finally, we could pay someone to read to our child but feel we can do a better job ourselves, as well as having a bonding experience. Thus, even wealthy families invest a lot of their time as well as money into raising their children.

Two other points are noted in the chapter. In the U.S., one might surmise that the decline in the number of domestic servants would have raised the average hours of home production. That is not the case, however, primarily due to increases in the productivity of household services resulting from the introduction of vacuum cleaners, dishwashers, microwaves, etc. Hamermesh also looks at the experiences in other countries. Given there is greater inequality in the U.S., there are more low-wage substitutes and hence it is less expensive to hire out household production. Thus, compared to other rich countries, the U.S. spends less time in household production, although the differences are not great.

Chapter 3 looks at another topic of direct interest to forensic economists – how much do we work? Incidence is measured by the labor force participation rate (LFPR) and intensity is the number of hours worked per week of those who are actually working. Again, averages can be misleading. If every adult worked, say, 25 hours a week as opposed to only half working 50 hours a week and the other half not at all, the two scenarios would have very different incidences and intensities but the average for all adults would be the same. However, most observers would conclude that a country would be better off with the first scenario where everyone was working some hours as opposed to only part of the population working lots of hours.

Currently, about 2/3 of the adult population is in the labor force and the unemployment rate is about 4%. The LFPR rose significantly between 1950 and 2000, primarily due to a rise in the participation rate for women, but since 2000 it has dropped

1. Oxford University Press, 2018, 220 pages. $24.95.
2. Professor Emeritus of Economics, W. Fielding Rubel School of Business, Bellarmine University.

somewhat to 63%. Interestingly, the same pattern applies to hours worked per week. Hours increased from 1950 to 2000, but since then there has been a small decline. However, the author points out that even though other developed countries followed the same general pattern as the U.S., generally these countries average fewer hours worked per week. The main reason is that in the U.S., workers have fewer holidays and vacation time. This is largely due to government mandating the time off. Several explanations why Americans work longer hours are provided such as the American work ethic, the weakening of unions in this country, lower taxes so that there is a greater incentive to work, and even Madison Avenue persuading us that we need a lot of "stuff."

As a final point concerning this topic, the author asks whether we should really care if Americans work longer hours. After all, don't people have a choice, at least in the long run, how much they work? But Hamermesh believes that so-called workaholics not only make decisions concerning their own time, but others as well. "If I am a workaholic, and a high-paid, highly placed, powerful one, my workaholism will spill over onto the work time of my suborinates." (Page 43) Later in the book, Hamermesh makes a recommendation for the government to mandate time off work much as other developed countries are doing. This, of course, is a recommendation that some policy analysts would view as government being overly intrusive.

Chapter 5 looks at men and women. Both the incidence and intensity for men is greater than for women in terms of LFPR and hours worked. The gap has narrowed over time, as it has in other developed countries, but the difference is still relatively large in the U.S. Men work about ten hours more per week than women while women perform about 11 hours more per week in home production activities.

In this chapter, Hamermesh addresses the interesting question of what, exactly, is work? The answer the author provides is the same that a forensic economist would likely say – both work for pay as well as household production are considered work. Interestingly, if you combine both average work hours and average hours engaged in household production, men and women in the U.S. are virtually the same, about 54 hours per week. Of course, as mentioned earlier, men tend to specialize more in work and women in household production. For the most part, other developed countries show similar results, although there are exeptions. (For Norway, the Netherlands, and Israel, men have more "total" work hours than women while in Italy and France the opposite is true.)

Some claim that work for pay is less enjoyable and therefore men are actually disadvntaged. But Hamermesh points out that when a spouse is the major breadwinner, he or she has more power to make decisions in the household. The author believes that we should add the value of home production to our GDP accounts. Of course there is the measurement issue, which forensic economists are acutely aware of. Is it the opportunity cost of time in the labor market, the cost of hiring a market-based equivalent for the service, and which particular tasks would actually be valued? Despite these problems, Hamermesh believes that we should at least create supplementary national accounts. "That recognition might to some extent change our views of what women and men do and give women more say-so in decisions about how a couple allocates its time and its income." (page 66)

Chapter 7 looks at how time is allocated as a function of age and goes through an analysis covering from the teen years to retirement. Of interest to forensic economists is a discussion of allocating time for the senior citizens class, which ties in with the question of expected worklife. Both hours and labor force participation decline as we age, though less so the higher the level of education. But even for that group, by age 70 less than half are working. For those that are still working, the decline in hours may not be that large since, as the author puts it, getting to work involves the costs of getting up in the morning, commuting to work, and buying clothes for work. Such costs are relatively fixed whether the person works few or many hours. Further, people will either cut back or retire completely if the spouse has already retired. One might add here that if the person is lucky enough to work from home so that fixed costs are minimal and the work schedule is flexible, they are more likely to continue working. This is, in fact, true for many forensic economists.

Chapter 10 discusses how the rich behave, or what happens when people become richer. If a person's income rises due to an increase in wage rates, there is the classic substitution effect which leads to more work as leisure becomes more expensive and an income effect which leads to less work given one needs more time to spend that additional money. Examining these two effects and which predominates has kept economists busy for decades.

The dilemma here is that if income increases and more money is available, there is still a fixed amount of time to spend it. Surveys indicate that in these situations, individuals cut back on such non-working activities as sleep and watching TV and increase leisure activities such as going to entertainment venues and taking vacations. Low income households, on the other hand, focus non-working time on activities that are low in cost like sleeping and watching TV.

This time pressure, even for the relatively well off, leads to the discussion in Chapter 11 titled "Kvetching about Time", a Yiddish word meaning persistent complaining. (Bonus information: a kvetch is someone who persistently complains.) We apparently face a dilemma in life. Either we are income poor but time rich or income rich but time poor. If you want to feel less stress, take a job that pays a lower wage rate and/or work part time. But then how would you be able to afford that ticket to *Hamilton*? And for women, there are unique time pressures even in wealthier households since it is the woman who generally does the shopping, the cooking, and looks after the kids.

In the last chapter, Hamermesh asks "What Is to Be Done?" Despite the fact that we have obtained more time through such changes as a longer life expectancy and technology that has increased the productivity of household production, we face a lot of stress in our lives turning at least some of us into kvetches. The future does not look any better. Even though time available may go up somewhat, our income, and hence time needed to spend our money, will go up at a faster rate.

The author does have suggestions and divides them up between those that could be accomplished by the individual, companies, and the government. Perhaps the suggestion related to individuals that would accomplish the most, as noted earlier, is to get a less stressful job or retire early. But it is doubtful whether people are willing to sacrifice the income that would be lost. Companies could attempt to institute certain policies such as more flexible scheduling and company-imposed limitations on overtime. But Hamermesh does not believe that companies will likely institute such policies because such changes may involve higher costs and hence put the company at a competitive disadvantage. (I should add here that this may not be entirely

cont. on page 12...

cont. from page 11...

true if these policies are worth more to the employee than any reduction in wages that the company would need to incorporate.)

Finally, we come to government policies, which do have the advantage of forcing all companies to follow the same rulebook. As expressed by Hamermesh, ever the economist, “The fundamental justificaiton for a government policy must be the externalities that have led some individuals’ or groups’ behavior to create negative outcomes for others or even for an entire society...Either we all do something because we are compelled or face incentives to do so, or nobody changes their behavior.” (Page 182) Suggestions are instituting “blue laws”, which require businesses to be closed certain days, increasing required pay for overtime or late-night shifts, lowering the “standard” workweek from 40 hours to a lower figure, and many others.

In the closing pages, Hamermesh indicates that all the changes suggested, including those that would be instituted by government, likely would make little difference. The change that would make the biggest difference would be to mandate time off from work through an annual paid vacation and holiday time. This is not a “free” policy because the increase in leisure time and, hopefully, reduced stress, comes at the cost of reduced goods and services. But the author believes that such a tradeoff is worth it.

And if we don’t make any policy changes? “If our grandchildren haven’t reduced the amount that they work each year and haven’t altered the timing of work over their lifetimes, they will feel even more rushed than we do now. They will have more things to buy and more different things to do, but they will have little or no more time in which to do them.” (Pages 194-195) So we need to stop and smell the roses, visit the grandkids more often, and maybe say “No” the next time an attorney asks you to write a report. •

Highlights of the Upcoming NAFE Sessions at the WEAI in San Francisco

Christina P. Tapia[1]

- Robert W. Wood, J.D. – *“Tax Issues in Litigation After Tax Reform”*
- Barry Ben-Zion, Ph.D. – *“Tax Neutralization in Employment Cases: Economy v. Sutter East Bay Hospitals”*

Economists can add valuable expertise in their analyses by understanding the impact of relevant tax issues. In assessing these tax issues, one must consider legal guidelines applicable for that case, stay informed on important governing case decisions, and recognize whether tax reform may impact the analysis. To understand these issues as they relate to your economic analyses, having access to the expertise of a tax attorney can be a tremendous asset to strengthen your knowledge and, therefore, the value of your work and expertise. At the upcoming NAFE sessions to be held in conjunction with the WEAI meeting in San Francisco, California (June 29-30),[2] we have the privilege of hearing from Robert W. Wood often listed among the best tax attorneys in the United States.

Robert W. Wood, J.D.

Mr. Wood is the author of over 30 tax books, including the seminal book *Taxation of Damage Awards and Settlement Payments, and Legal Guide to Independent Contractor Status*, in addition to a prolific record of published articles since the 1980s, and frequent tax columns for *Forbes.com*.

1. Meeting Organizer, Vice President-Western Region, and Consulting Economist, Northwest Economics, LLC. Contact: *christina@nweconomics.com*
2. NAFE sessions will be held as part of the 94th Annual Conference of the Western Economic Association International (WEAI): *https://weai.org/conferences/view/2/94th-Annual-Conference*.

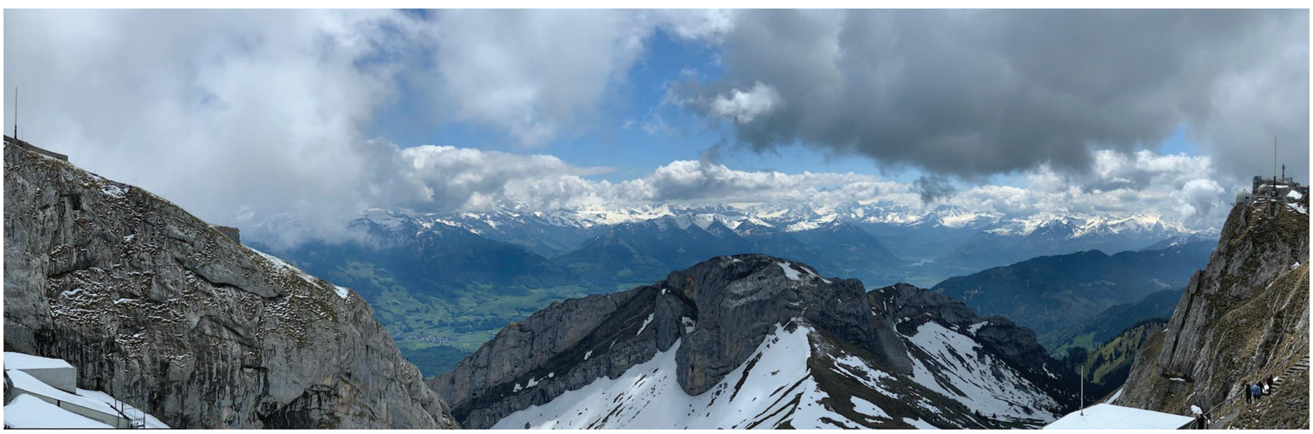

Photo:A fabulous view near the site of the International Meeting in Evian-les-Bains, France

Mr. Wood graduated from the University of Chicago Law School in 1979 and is admitted to practice law in California, New York, the District of Columbia, Texas, Montana, Washington, Arizona and Wyoming. He is also a Qualified Solicitor for the Supreme Court of England and Wales, a member of the Canadian Bar Association and the Law Council of Australia. He has been listed in *The Best Lawyers in America* every year since 2006.

Mr. Wood is a frequent expert witness on tax issues including independent contractor versus employee classification, class actions, and tax and accounting malpractice cases. His prolific contributions regarding tax and litigation have also addressed the implications of recent tax reform as it relates to damages, as well as the issue of tax neutralization (or "tax gross-up") calculations. Mr. Wood has noted that, increasingly, courts seem to be allowing these tax-based damages, particularly when the lump-sum nature of the award causes the tax problem. Tax neutralization calculations quantify this tax-based component of economic loss.

Tax Neutralization: Kenneth Economy v. Sutter East Bay Hospitals

Tax neutralization calculations have been in the spotlight recently, especially after the California Court of Appeal affirmed a tax-neutralization award as a component of economic loss in *Kenneth Economy v. Sutter East Bay Hospitals*.[3] In his paper "Neutralizing the Adverse Tax Consequences of a Lump-Sum Award in Employment Cases,"[4] Barry Ben-Zion, Ph.D., describes the "adverse tax consequence of a lump-sum award" as the difference between "the higher tax paid on the lump sum and the lower tax that would have been paid on the lost annual income that would have been earned sequentially."[5] Dr. Ben-Zion goes on to define "tax neutralization" as "that amount of money that would compensate the plaintiff for the adverse tax consequence."[6] However, awarding an amount exactly equal to the adverse tax consequence would be *insufficient* to make the plaintiff whole. This is because an additional award for the adverse tax consequence (on top of the lump-sum award for lost earnings) would be subject to taxation at the higher marginal tax rate, and this additional taxation itself would require neutralization. Therefore, in order to make the plaintiff whole, the total tax neutralization amount is necessarily greater than the adverse tax consequence.

In *Kenneth Economy v. Sutter East Bay Hospitals* (Alameda County Super. Ct. No. RG13663984), Dr. Ben-Zion calculated losses sustained by Kenneth Economy, an anesthesiologist, as a result of the wrongful termination of his employment. Following trial, judgment was entered in favor of the plaintiff and ordered Sutter East Bay Hospitals (Sutter) to pay the following damages to Dr. Economy: $1,136,906 in lost income, $1,159,354 in future lost income, $650,910 for tax neutralization, $19,000 for the cost of the PACE program, $650,000 for emotional distress and $250,952 in prejudgment interest.[7] While several issues were addressed in the appeal, the only element of damages specifically challenged was the tax neutralization of $650,910. Sutter argued that the tax neutralization amount was "based on speculative assumptions about future tax rates remaining constant and the nature of plaintiff's future tax returns and income."[8]

The Court of Appeal noted, as did the trial court, that while California did not have a reported decision on tax neutralization, "the concept was endorsed" by federal appellate courts referencing several cases including *Clemens v. CenturyLink Inc.*, a Title VII employment case in the Ninth Circuit (9th Cir. 2017; 874 F.3d). While *Clemens v. CenturyLink Inc.* affirmed tax neutralization for *back-pay* awards, *Economy v. Sutter East Bay Hospitals* includes a significant portion of *front pay*.

Regarding *Economy v. Sutter East Bay Hospitals*, the Court of Appeal ultimately stated that, "We agree with the trial court that the foundational information relied on by the expert [Dr. Ben-Zion], including the applicable tax rates, provided a reasonable basis for his opinions" and that "the expert here laid a sufficient foundation to establish the probability and reasonableness of the tax neutrality projections to justify reliance on those projections."[9]

Both Dr. Ben-Zion and Mr. Wood will present at the NAFE Western Meeting (June 29-30) in San Francisco, California, at 94th Annual Conference of the WEAI. Dr. Ben-Zion will speak on "Tax Neutralization in Employment Cases: *Economy v. Sutter East Bay Hospitals*" while Mr. Wood will present on "Tax Issues in Litigation After Tax Reform."

- Cody Cook, Stanford University – "The Gender Earnings Gap in the Gig Economy: Evidence from over a Million Rideshare Drivers"

Co-authored with Rebecca Diamond (Stanford University), Jonathan Hall (Uber Technologies, Inc.), John A. List (University of Chicago) and Paul Oyer (Stanford University), this research utilizes a sample of over a million rideshare drivers on the Uber platform. Mr. Cook will present their research regarding these Uber drivers, examining how characteristics of working in the "gig" economy affects the gender wage gap.

- Federal Reserve Bank of San Francisco Presentations –
  "Does Ultra-Low Unemployment Spur Rapid Wage Growth?"
  "Inflation: Stress-Testing the Phillips Curve"
  "Recent U.S. Economic Developments and Outlook"

With the current low rate of unemployment in the U.S., economists continue to research the impact that low rates of unemployment may have on wage growth and inflation, as well as the nature of the relationship between unemployment and inflation in the Phillips Curve. We will also hear about economic developments, recent Fed policy, and outlook for the U.S. Elizabeth Laderman, Ph.D., Senior Outreach Economist, and Chitra Marti, Research Associate, both at the Federal Reserve Bank of San Francisco will share their research and expertise.

Join us for these and other great presentations in San Francisco on June 29th and June 30th. See the Western update (listed within this newsletter) for a complete listing of presentations and details on how to register, or visit the WEAI website: *https://weai.org/conferences/view/2/94th-Annual-Conference* •

3. *Economy v. Sutter East Bay Hospitals* (Cal. Ct. App. 1st Dist. Feb. 4, 2019). *https://www.courts.ca.gov/opinions/documents/A150211.PDF*
4. Ben-Zion, Barry, "Neutralizing the Adverse Tax Consequences of a Lump-Sum Award in Employment Cases," *Journal of Forensic Economics*, Vol. 13, No. 3 (Fall 2000), pp. 233-244.
5. *Id.,* p. 233.
6. *Id.*
7. *Economy v. Sutter East Bay Hospitals* (Cal. Ct. App. 1st Dist. Feb. 4, 2019), p. 12. *https://www.courts.ca.gov/opinions/documents/A150211.PDF*
8. *Id.*, p. 16.
9. *Id.*, p. 17.

Meeting Updates

Western Meeting

94th Annual Conference of the Western Economic Association International
Location: San Francisco, CA
NAFE Session Dates: June 29-30, 2019
Conference Registration: *https://www.weai.org/conferences/view/2/94th-Annual-Conference*
Hotel: Hilton San Francisco Union Square
Reservations: *https://book.passkey.com/go/WEAI2019* (or by phone, 1-800-HILTONS and reference group code WEA).

NAFE will hold six sessions at the 94th annual conference of the Western Economic Association International. NAFE's sessions are scheduled June 29th and 30th, with a reception and social event to be held the evening of June 29th at Bourbon & Branch, a speakeasy within walking distance of the hotel. You can register for this conference at the website listed above and can contact the hotel directly by phone for reservations If you have any questions about the program, please contact Christina Tapia (*christina@nweconomics.com*).

Schedule of NAFE Sessions at the WEAI

NAFE Session I
Saturday, June 29, 8:15 AM

"Assessing and Controlling for Bias in Sample Data Sets in Wage and Hour Class Actions"
Dwight Steward, Employstats
dsteward@employstats.com

"Big Data and Solving Big Data Problems in Wage and Hour Class Actions"
Aaron Woolfson, TelSwitch
woolfson@telswitch.com

"Duran Duran: The Important Issues in the Two Duran Decisions for Surveys and Statistical Analysis"
Jeffrey Petersen, Allman & Petersen Economics
jeff@allmaneconomics.com

NAFE Session II
Saturday, June 29, 10:15 AM

"Does Ultra-Low Unemployment Spur Rapid Wage Growth?"
Sylvain Leduc, *Chitra Marti, and Daniel J. Wilson; Federal Reserve Bank of San Francisco. *Chitra.Marti@sf.frb.org*

"Inflation: Stress-Testing the Phillips Curve"
Òscar Jordà, *Chitra Marti, Fernanda Nechio, and Eric Tallman; Federal Reserve Bank of San Francisco. *Chitra.Marti@sf.frb.org*

"Recent U.S. Economic Developments and Outlook"
Elizabeth Laderman; Federal Reserve Bank of San Francisco. *elizabeth.laderman@sf.frb.org*

NAFE Session III
Saturday, June 29, 2:30 PM

"Legal Malpractice Recoveries Made by Bankruptcy Trustees"
Craig Allen, Craig A. Allen, F.C.A.S.
c.allen.fcas@gmail.com

"Tax Neutralization in Employment Cases: Economy v. Sutter East Bay Hospitals"
Barry Ben-Zion; Barry Ben-Zion, Ph.D.
barry@bbenzion.com

"Tax Issues in Litigation After Tax Reform"
Robert W. Wood; Wood, L.L.P.
wood@woodllp.com

NAFE Reception
Saturday, June 29, Time: TBA

After the final session on Saturday, join us for a reception and social event at Bourbon & Branch, a speakeasy within walking distance of the hotel.
Event Website: *http://www.bourbonandbranch.com/?caseid=main*
Google Map: *https://goo.gl/maps/6pJYNfpAk1rWZ7Kj9*
Additional details to be announced.

NAFE Session IV
Sunday, June 30, 8:15 AM

"The Effects of Subrogation on Personal Injury Litigation and Deterrence of Tortfeasors"
Stephen Spurr, Wayne State University
sspurr@wayne.edu
Ram Orzach, Oakland University
orzach@oakland.edu

"Ethical Issues in Forensic Economics"
Christopher W. Young, Rutgers University
chris.young@business.rutgers.edu

"Extreme Economic Hardship Considerations for I-601A applicants' Qualifying Relatives"
Roman Garagulagian, Cal Poly Pomona, Cal State San Bernardino and Forensic Economics Forensic Economic Services
Roman@Rule703.com
Matthew McMahon Cal Poly Pomona, Cal State San Bernardino and Forensic Economic Services *Matt@Rule703.com*

NAFE Session V
Sunday, June 30, 10:15 AM

"Retirement Patterns of Public-Sector Workers"
Kevin Cahill, Boston College
cahillkc@bc.edu

"A Markov Model of the Impact of Recidivism on Worklife Expectancy using Criminal Backgrounds"
Mike Nieswiadowmy, University of North Texas
Michael.nieswiadomy@unt.edu

"The Gender Earnings Gap in the Gig Economy: Evidence from over a Million Rideshare Drivers"
*Cody Cook, Stanford University *codycook@stanford.edu*; Rebecca Diamond, Stanford University; Jonathan Hall, Uber Technologies, Inc.; John A. List, University of Chicago; and Paul Oyer, Stanford University.

NAFE Session VI
Sunday, June 30, 2:30 PM

Special Session
Forensic Economics Panel:
How We Do It

Panelists:
David Tucek; Value Economics, L.L.C.
david.tucek@ValueEconomics.com
Bill Brandt; Brandt Forensic Economics, L.L.C.
bill@brandtforensiceconomics.com
Michele Angerstein-Gaines, Economic Consulting *mda@economicconsulting.com*

Christina P. Tapia
christina@nweconomics.com
Vice President – Western Region

Midwestern Meeting

Call for Papers

56th Annual Conference of the Missouri Valley Economic Association
Location: Kansas City, MO
Meeting Dates: October 10-12, 2019
Conference Information: *http://www.mvea.net/annual-conference.html*
Hotel: Kansas City Marriott Country Club Plaza
Reservations: Link available at the "Conference Information" webpage listed above

NAFE announces its call for papers for the 2019 meeting of the Missouri Valley Economic Association in Kansas City.

If you would like to submit a paper, please send a proposal to William Rogers, Midwestern VP NAFE, *william@whrogersecon.com*. Deadline for submissions is August 9, 2019.

More information will be provided as it becomes available.

William Rogers
william@whrogersecon.com
Vice President – Midwestern Region

Southern Meeting

Discussants & Session Chairs Needed

89th Annual Meeting, Southern Economic Association
Location: Fort Lauderdale, FL
Meeting Dates: November 23-25, 2019
NAFE Sessions Date: November 23, 2019 (requested, not confirmed)
Hotel: Marriott Harbor Beach Restort & Spa *https://www.marriott.com/hotels/travel/fllsb-fort-lauderdale-marriott-harbor-beach-resort-and-spa/*
Housing Link: *https://www.southerneconomic.org/accommodations-4/*
Conference Information: *https://www.southerneconomic.org/conference/*

Michele is excited to announce that NAFE will host three great sessions this year in sunny Fort Lauderdale, Florida in conjunction with the Southern Economic Association's 89th Annual Meeting. Although the date of the sessions has not officially been set, a request for Saturday 11/23 with an alternative of 11/24 have been submitted. There is still some availability should you wish to participate as a discussant or session chair. Please contact Michele Angerstein-Gaines. *mda@economicconsulting.com*
Hope to see you there!

Michele Gaines
mda@economicconsulting.com
Vice President – Southern Region

National Meeting

Make Plans to Attend

2020 ASSA Annual Meeting
Location: San Diego, CA
Meeting Dates: January 3-5, 2020
Hotel Information: San Diego Marriott Marquis & Marina
Conference Information: *https://www.aeaweb.org/conference/*

Make plans to join us at the 2020 ASSA annual meeting this coming January in San Diego, CA. We anticipate that our sessions will be held Friday and Saturday, January 3-4 in the San Diego Marriott Marquis & Marina. The membership meeting is scheduled for late Friday afternoon and will be followed by a reception.

Dave Tucek and Jerome Paige have organized what should prove to be a very interesting program.

Please contact Dave at or Jerome at if you would like more information.

Dave Tucek
david.tucek@valueeconomics.com
Jerome Paige
jpaige@paigeandassociates.com
- Meeting Organizers
Vice Presidents - At Large

Winter Meeting

Accepting Paper & Panel Discussion Proposals

20th Annual NAFE Winter Meeting
Location: San Juan, Puerto Rico -
Meeting Dates: January 24-25, 2020
Hotel: To be determined

The 2020 NAFE Winter Meeting will be on Friday, January 24, and Saturday, January 25, 2020. Please "save the dates" on your calendar. The meeting hotel has not been finalized as of this date, but we are moving forward with plans to have the 2020 Winter Meeting in San Juan, Puerto Rico.

Paper proposals and roundtable/panel discussion proposals are invited for four sessions, two each on Friday and Saturday mornings, January 24 and 25, 2020. Session Chairs and Discussants are also being sought for these sessions. In addition to paper presentation sessions, other sessions are planned on the topics of (a) recent case experiences and (b) issues associated with running a forensic economics practice.

Art Eubank
art@eubankeconomics.com
David Schap
dschap@holycross.edu
- Meeting Organizers

Eastern Meeting

Information not yet available

Please check future issues of *The Forecast* or contact current Eastern VP Christopher Young for information about NAFE sessions and the 2020 Eastern Economic Association Annual Conference as it becomes available.

Chris Young
chris@redmapleeconomics.com
Vice-President – Eastern Region

International Meeting- TBA

International Meeting Recently Held in Evian-les-Bains, France.

Information regarding the 2020 International Meeting TBA

The International Meeting that recently concluded in Evian-les-Bains, France offered a wonderful conference experience in a beautiful setting for attendees. The NAFE International Meeting is a small, one-day meeting that allows participants an excellent opportunity to interact with colleagues. Many attendees at this recent meeting were accompanied by significant others and family members, and during the day of the conference Phyliss Shapiro organized an excursion by ferry to Lausanne for a cooking class with a Swiss chef for this group.

The process is currently underway to choose a location for next year's conference, with input being solicited from recent attendees.

Please check future issues of *The Forecast* or contact meeting organizers Jack Ward (*ward@johnward.economics.com*) or Steve Shapiro (*sshapiro@analyticresources.com*) for information regarding the 17th Annual International Conference of the National Association of Forensic Economics to be held in 2020.

John Ward
wardjo@umkc.edu
Steve Shapiro
sshapiro@analyticresources.com
- Meeting Organizers

Meetings of Other Associations

American Academy of Economic & Financial Experts- TBA

AAEFE 32nd Annual Meeting
Location: Las Vegas, NV

Conference dates and information to be announced.

Bill Brandt
bill@brandtforensiceconomics.com
- Meeting Organizer

American Rehabilitation Economics Association- TBA

AREA 2020 Annual Conference
Conference information to be announced. •

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NAFE Events

Mark your calendars for these upcoming NAFE meetings and sessions

2019

WESTERN ECONOMIC ASSOCIATION INTERNATIONAL
San Francisco, CA – NAFE Sessions: June 29-30, 2019

MISSOURI VALLEY ECONOMIC ASSOCIATION
Kansas City, MO – NAFE Session: October 1, 2019

SOUTHERN ECONOMIC ASSOCIATION
Fort Lauderdale - Meeting Dates: November 23-25, 2019

2020

AMERICAN ECONOMIC ASSOCIATION - ASSA
San Diego – Meeting Dates: January 3-5, 2020

NAFE WINTER MEETING
San Juan, Puerto Rico – NAFE Meeting Dates:
January 24-25, 2020

EASTERN ECONOMIC ASSOCIATION - TBA

Look for meeting details inside

NAFE℠
National Association of Forensic Economics

Above Photo:
A group enjoying the International Meeting in Evian-les-Bains, France
Below Photo:
Session at the International Meeting in Evian-les-Bains, France