

Marilyn J. Murphy				01/12/02	INFLATION	2001
Year	CPI	REPORTED	ANNUALIZED		ADJUSTED	AGE
1999	166.6					51.5
2000	172.2	82,392.49	82,392.49		84,736.99	52.5
2001	177.1	94,848.00	94,848.00		94,848.00	53.5
2002	179.9					54.5
2003	184.0	675.20	675.20			55.5
2004	190.0	30,669.03				56.5
2005	196.5					57.5
AVG		52,146.18	59,305.23		89,792.50	

Received:

Due:

Circle Type: Jones Act/ Maritime, OCSLA, RR, Common Law, Wrongful Death, Mal Practice

Name of injured:

Atty:

Job Title:

Date of Birth:

Phone:

Date of Injury:

Date of Death:

Date of Trial:

Last Day Worked:

DOB Spouse:

Date Economic Loss Began:

DOB Child1:

Child4:

Child2:

Child5:

Child3:

Child6:

Gender:

Race:

Education:

State of Residence:

Wage:

Return to Work:

Work Sched:

Date of Hire:

Cause #:

Court:

County:

State:

Wages:

1992

1993

1994

1995

1996

1997

1998

1999

2000

2001

2002

2003

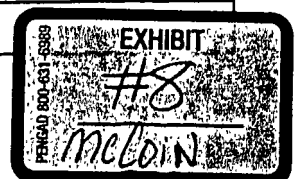
2004

82392.49

94847.30

67520

20709



Worklife Estimates: Effects of Race and Education



U.S. Department of Labor
Bureau of Labor Statistics
February 1986

Bulletin 2254

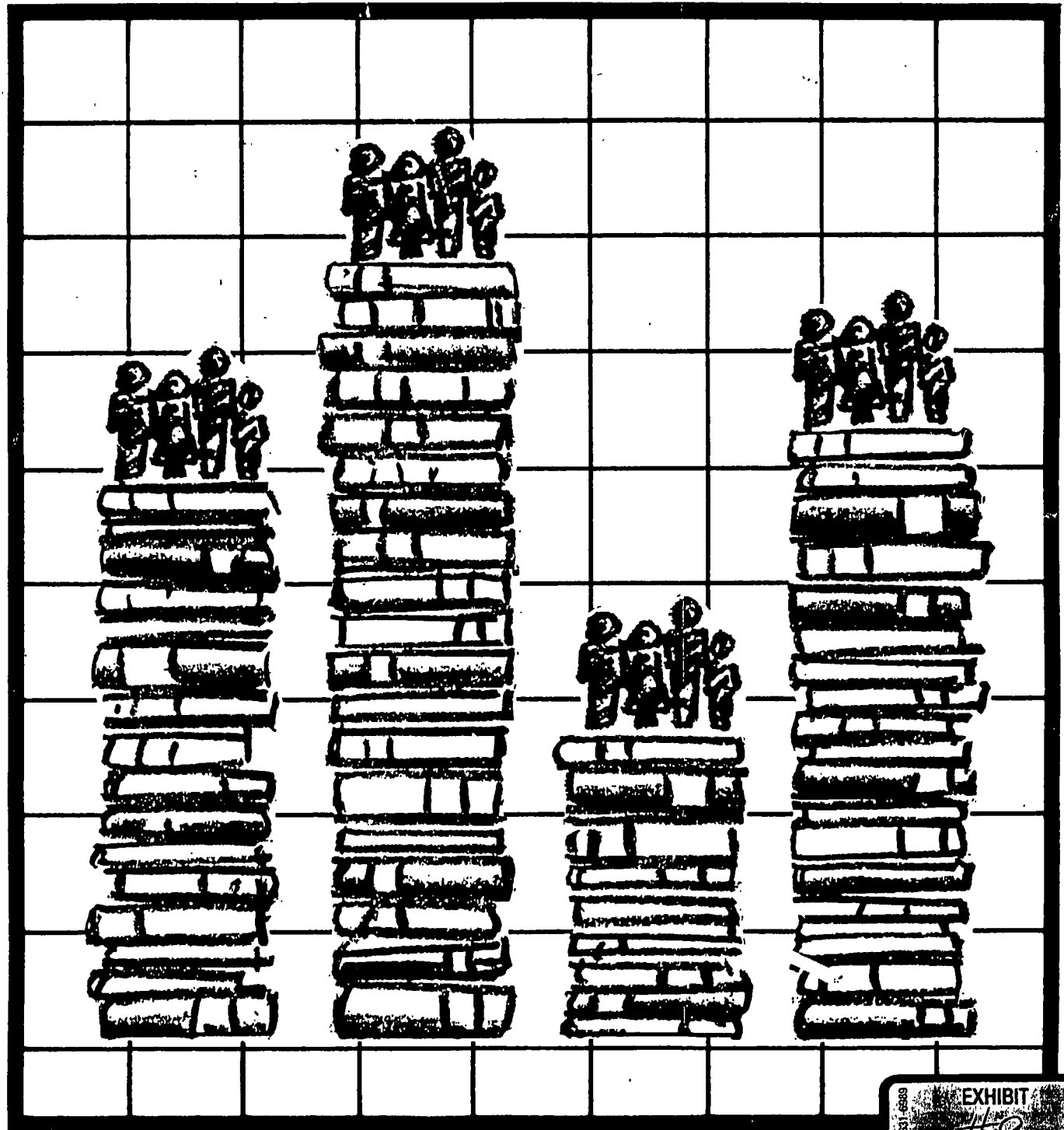


Table A-3. Worklife expectancies for men by schooling completed, 1979-80

(Average years remaining)

Age x	Life expectancy e^a_x	Expectation of active life by schooling completed and current labor force status								
		Less than high school			High school to 14 years			15 years or more of schooling		
		Total e^a_x	Currently active a^a_x	Currently inactive i^a_x	Total e^a_x	Currently active a^a_x	Currently inactive i^a_x	Total e^a_x	Currently active a^a_x	Currently inactive i^a_x
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
16	55.5	34.8	35.6	34.0	-	-	-	-	-	-
17	54.6	34.3	35.0	33.4	-	-	-	-	-	-
18	53.7	33.8	34.5	32.8	38.9	39.5	37.9	-	-	-
19	52.8	33.2	33.9	32.1	38.3	38.8	37.2	-	-	-
20	51.8	32.6	33.3	31.5	37.6	38.1	36.5	39.5	40.2	38.5
21	50.9	32.0	32.6	30.8	36.9	37.3	35.7	38.9	39.6	37.8
22	50.0	31.4	32.0	30.0	36.1	36.6	34.9	38.3	38.9	37.1
23	49.1	30.7	31.2	29.3	35.4	35.8	34.1	37.6	38.2	36.4
24	48.2	30.0	30.5	28.4	34.6	34.9	33.3	36.9	37.4	35.6
25	47.3	29.2	29.8	27.6	33.8	34.1	32.4	36.1	36.6	34.8
26	46.4	28.5	29.0	26.8	32.9	33.2	31.5	35.3	35.8	34.0
27	45.5	27.7	28.2	26.0	32.1	32.4	30.6	34.5	34.9	33.1
28	44.6	26.9	27.5	25.1	31.2	31.5	29.6	33.6	34.0	32.2
29	43.7	26.2	26.7	24.1	30.3	30.6	28.7	32.8	33.2	31.3
30	42.8	25.4	25.9	23.0	29.4	29.7	27.7	31.9	32.3	30.4
31	41.9	24.6	25.2	22.1	28.5	28.9	26.7	31.0	31.4	29.5
32	40.9	23.8	24.4	21.1	27.7	28.0	25.7	30.1	30.5	28.6
33	40.0	23.0	23.6	20.3	26.8	27.1	24.7	29.2	29.6	27.7
34	39.1	22.2	22.8	19.4	25.9	26.2	23.6	28.3	28.7	26.8
35	38.2	21.3	22.0	18.5	25.0	25.4	22.6	27.4	27.7	25.9
36	37.3	20.5	21.2	17.5	24.1	24.5	21.6	26.5	26.8	24.9
37	36.3	19.7	20.4	16.6	23.2	23.6	20.5	25.6	25.9	23.9
38	35.4	18.9	19.6	15.8	22.3	22.8	19.4	24.6	25.0	22.9
39	34.5	18.1	18.9	14.9	21.5	21.9	18.4	23.7	24.1	21.9
40	33.6	17.3	18.1	14.0	20.6	21.0	17.3	22.8	23.2	20.9
41	32.7	16.5	17.3	13.1	19.7	20.2	16.3	21.9	22.3	19.8
42	31.8	15.7	16.6	12.2	18.8	19.3	15.4	21.0	21.4	18.8
43	30.9	15.0	15.8	11.3	18.0	18.5	14.5	20.1	20.5	17.8
44	30.1	14.2	15.1	10.3	17.1	17.6	13.5	19.2	19.7	16.5
45	29.2	13.4	14.3	9.5	16.3	16.8	12.6	18.4	18.8	15.5
46	28.3	12.6	13.6	8.7	15.4	16.0	11.7	17.5	17.9	14.5
47	27.5	11.9	12.9	7.9	14.6	15.1	10.9	16.6	17.1	13.5
48	26.6	11.1	12.1	7.1	13.7	14.3	10.1	15.8	16.3	12.5
49	25.8	10.4	11.4	6.4	12.9	13.5	9.3	14.9	15.4	11.5
50	25.0	9.6	10.7	5.7	12.1	12.8	8.5	14.1	14.6	10.5
51	24.2	8.9	10.1	5.1	11.3	12.0	7.7	13.3	13.8	9.6
52	23.4	8.2	9.4	4.5	10.5	11.2	6.9	12.4	13.0	8.7
53	22.6	7.5	8.7	4.0	9.7	10.5	6.1	11.6	12.2	7.9
54	21.8	6.8	8.1	3.6	9.0	9.7	5.3	10.8	11.5	7.0
55	21.1	6.2	7.5	3.2	8.2	9.0	4.7	10.0	10.7	6.2
56	20.3	5.5	6.8	2.8	7.5	8.3	4.0	9.2	10.0	5.4
57	19.6	4.9	6.3	2.5	6.7	7.6	3.5	8.5	9.3	4.7
58	18.9	4.4	5.8	2.2	6.0	7.0	3.0	7.7	8.6	4.0
59	18.2	3.8	5.3	2.0	5.3	6.4	2.6	7.0	8.0	3.5
60	17.5	3.3	4.9	1.8	4.7	5.9	2.3	6.3	7.4	3.1
61	16.8	2.9	4.5	1.6	4.1	5.5	2.0	5.6	7.0	2.7
62	16.1	2.6	4.2	1.4	3.6	5.1	1.8	5.0	6.5	2.4
63	15.5	2.2	3.9	1.3	3.2	4.8	1.6	4.5	6.1	2.2
64	14.9	2.0	3.7	1.1	2.8	4.5	1.4	4.0	5.7	1.9
65	14.2	1.8	3.6	1.0	2.4	4.3	1.2	3.6	5.4	1.7
66	13.6	1.6	3.4	.8	2.2	4.1	1.0	3.2	5.1	1.4
67	13.0	1.4	3.3	.7	1.9	3.9	.9	2.8	4.9	1.2
68	12.5	1.2	3.2	.6	1.7	3.7	.7	2.5	4.6	.9
69	11.9	1.1	3.1	.5	1.5	3.6	.6	2.2	4.4	.7
70	11.4	1.0	2.9	.4	1.3	3.4	.4	1.9	4.1	.5
71	10.9	.9	2.8	.3	1.1	3.2	.3	1.7	3.9	.3
72	10.4	.8	2.6	.2	1.0	3.0	.2	1.4	3.6	.2
73	9.9	.7	2.3	.1	.8	2.7	.1	1.2	3.2	.1
74	9.4	.6	2.0	.1	.7	2.3	.1	1.0	2.7	.0
75	9.0	.5	1.8	.0	.6	1.8	.0	.9	2.2	.0

Mortality rates used are those of the general male population

Table A-8. Worklife expectancy: for women by schooling completed, 1979-80

(Average years remaining)

Age x	Life expectancy ¹ ${}^{\circ}e^a_x$	Expectation of active life by schooling completed and current labor force status								
		Less than high school			High school to 14 years			15 years or more of schooling		
		Total ${}^{\circ}e^a_x$	Currently active ${}^a e^a_x$	Currently inactive ${}^i e^a_x$	Total ${}^{\circ}e^a_x$	Currently active ${}^a e^a_x$	Currently inactive ${}^i e^a_x$	Total ${}^{\circ}e^a_x$	Currently active ${}^a e^a_x$	Currently inactive ${}^i e^a_x$
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
16	62.9	22.1	22.8	21.5	-	-	-	-	-	-
17	61.9	21.6	22.3	20.9	-	-	-	-	-	-
18	61.0	21.1	21.9	20.4	28.9	29.6	27.9	-	-	-
19	60.0	20.7	21.5	19.9	28.3	29.0	27.3	-	-	-
20	59.1	20.2	21.1	19.4	27.7	28.4	26.5	31.8	32.2	30.3
21	58.1	19.7	20.6	18.9	27.0	27.8	25.8	30.9	31.4	29.6
22	57.1	19.3	20.2	18.4	26.4	27.2	25.1	30.1	30.7	28.9
23	56.2	18.8	19.8	17.9	25.7	26.5	24.4	29.4	30.0	28.1
24	55.2	18.4	19.4	17.4	25.1	25.9	23.7	28.7	29.3	27.3
25	54.2	17.9	18.9	17.0	24.4	25.3	23.0	27.9	28.6	26.4
26	53.3	17.4	18.5	16.5	23.8	24.7	22.3	27.2	27.9	25.6
27	52.3	17.0	18.1	16.0	23.2	24.1	21.8	26.5	27.2	24.8
28	51.3	16.5	17.7	15.5	22.5	23.5	21.0	25.7	26.5	24.0
29	50.4	16.1	17.2	15.0	21.9	22.9	20.3	25.0	25.9	23.2
30	49.4	15.6	16.8	14.5	21.3	22.3	19.8	24.3	25.2	22.4
31	48.4	15.1	16.4	14.0	20.8	21.7	19.0	23.6	24.5	21.7
32	47.5	14.7	16.0	13.4	20.0	21.1	18.3	22.9	23.8	20.9
33	46.5	14.2	15.6	12.9	19.4	20.4	17.6	22.2	23.1	20.2
34	45.6	13.7	15.2	12.4	18.8	19.8	17.0	21.5	22.4	19.5
35	44.8	13.3	14.8	11.9	18.1	19.2	16.3	20.8	21.7	18.8
36	43.8	12.8	14.4	11.3	17.5	18.6	15.6	20.1	21.0	18.0
37	42.7	12.3	14.0	10.7	16.8	17.9	14.9	19.3	20.2	17.2
38	41.7	11.8	13.5	10.2	16.2	17.3	14.1	18.6	19.5	16.4
39	40.8	11.4	13.1	9.7	15.5	16.7	13.4	17.9	18.7	15.5
40	39.9	10.9	12.7	9.1	14.9	16.0	12.6	17.1	18.0	14.7
41	38.9	10.4	12.3	8.6	14.2	15.4	11.8	16.4	17.3	13.8
42	38.0	9.9	11.8	8.1	13.5	14.8	11.1	15.6	16.5	12.9
43	37.1	9.5	11.4	7.8	12.9	14.2	10.3	14.8	15.8	12.0
44	36.2	9.0	11.0	7.1	12.2	13.6	9.6	14.1	15.1	11.1
45	35.2	8.5	10.5	6.6	11.6	13.0	8.9	13.3	14.4	10.1
46	34.3	8.1	10.0	6.1	10.9	12.4	8.2	12.6	13.7	9.3
47	33.4	7.6	9.6	5.6	10.3	11.9	7.5	11.8	13.0	8.5
48	32.5	7.1	9.1	5.2	9.7	11.4	6.9	11.1	12.3	7.8
49	31.6	6.7	8.7	4.7	9.1	10.8	6.3	10.4	11.6	7.1
50	30.8	6.2	8.3	4.2	8.5	10.3	5.7	9.7	10.9	6.4
51	29.9	5.7	7.9	3.8	7.9	9.8	5.1	8.9	10.2	5.7
52	29.0	5.3	7.5	3.4	7.3	9.3	4.6	8.2	9.6	5.0
53	28.2	4.9	7.1	3.0	6.8	8.8	4.1	7.6	9.0	4.4
54	27.3	4.4	6.7	2.7	6.2	8.3	3.6	6.9	8.3	3.9
55	26.5	4.0	6.3	2.4	5.7	7.7	3.2	6.2	7.8	3.4
56	25.6	3.6	5.9	2.1	5.2	7.2	2.8	5.6	7.2	2.9
57	24.8	3.3	5.5	1.8	4.7	6.7	2.5	5.0	6.7	2.4
58	24.0	2.9	5.2	1.6	4.2	6.3	2.2	4.5	6.3	2.1
59	23.2	2.6	4.9	1.4	3.8	5.8	1.9	3.9	5.8	1.8
60	22.4	2.3	4.6	1.3	3.3	5.4	1.7	3.5	5.4	1.6
61	21.6	2.1	4.3	1.1	2.9	5.0	1.5	3.0	5.1	1.4
62	20.8	1.8	4.1	1.0	2.6	4.7	1.3	2.6	4.8	1.2
63	20.1	1.6	3.9	.9	2.3	4.4	1.1	2.3	4.6	1.0
64	19.3	1.4	3.7	.8	2.0	4.2	1.0	2.0	4.3	.9
65	18.5	1.2	3.5	.8	1.8	4.0	.9	1.8	4.1	.8
66	17.8	1.1	3.3	.6	1.6	3.8	.7	1.6	4.0	.7
67	17.1	1.0	3.1	.5	1.4	3.7	.6	1.4	3.8	.6
68	16.4	.8	3.0	.4	1.2	3.5	.5	1.2	3.7	.5
69	15.6	.7	2.9	.3	1.1	3.4	.4	1.1	3.6	.4
70	14.9	.6	2.7	.2	1.0	3.2	.3	1.0	3.5	.3
71	14.3	.5	2.5	.2	.9	3.0	.3	.9	3.3	.3
72	13.6	.5	2.3	.1	.7	2.8	.2	.8	3.0	.2
73	13.0	.4	2.0	.1	.7	2.5	.1	.7	2.7	.1
74	12.3	.3	1.7	.0	.6	2.1	.1	.6	2.3	.1
75	11.7	.2	1.2	.0	.5	1.5	.0	.5	1.6	.0

¹ Mortality rates used are those of the general female population.

108th Congress, 2nd Session.....H. Doc. 108-145

Economic Report of the President



Transmitted to the Congress
February 2004

together with
THE ANNUAL REPORT
of the
COUNCIL OF ECONOMIC ADVISERS

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TABLE B-49.—Productivity and related data, business sector, 1959–2003
(Index numbers, 1992=100; quarterly data seasonally adjusted)

Year or quarter	Output per hour of all persons		Output ¹		Hours of all persons ²		Compensation per hour ³		Real compensation per hour ⁴		Unit labor costs		Implicit price deflator ⁵	
	Business sector	Nonfarm business sector	Business sector	Nonfarm business sector	Business sector	Nonfarm business sector	Business sector	Nonfarm business sector	Business sector	Nonfarm business sector	Business sector	Nonfarm business sector	Business sector	Nonfarm business sector
1959	48.6	51.8	31.9	31.6	65.5	61.0	13.3	13.8	59.2	61.6	27.4	26.7	26.7	26.2
1960	49.5	52.4	32.5	32.1	65.6	61.3	13.9	14.5	60.7	63.2	28.0	27.6	27.0	26.5
1961	51.3	54.2	33.1	32.8	64.5	60.5	14.4	15.0	62.5	64.8	28.1	27.6	27.2	26.7
1962	53.6	56.6	35.2	35.0	65.7	61.9	15.1	15.6	64.6	66.7	28.1	27.5	27.4	26.9
1963	55.7	58.6	36.8	36.6	66.1	62.6	15.6	16.1	66.1	68.1	28.0	27.5	27.6	27.1
1964	57.6	60.4	39.2	39.1	68.0	64.8	16.2	16.6	67.7	69.4	28.1	27.5	27.9	27.5
1965	59.7	62.2	41.9	41.9	70.3	67.3	16.8	17.2	69.1	70.6	28.2	27.6	28.4	27.8
1966	62.1	64.5	44.8	44.9	72.1	69.6	17.9	18.2	71.7	72.6	28.9	28.2	29.1	28.5
1967	63.5	65.6	45.6	45.7	71.9	69.6	19.0	19.3	73.6	74.7	29.9	29.3	29.9	29.4
1968	65.5	67.7	47.9	48.1	73.2	71.1	20.4	20.7	76.0	76.9	31.2	30.5	31.0	30.5
1969	65.8	67.8	49.4	49.5	75.1	73.1	21.9	22.1	77.2	77.9	33.2	32.6	32.4	31.9
1970	67.1	68.8	49.4	49.5	73.6	71.9	23.6	23.7	78.6	79.0	35.1	34.4	33.9	33.3
1971	70.0	71.6	51.3	51.4	73.3	71.7	25.0	25.2	80.1	80.6	35.8	35.2	35.3	34.7
1972	72.2	74.0	54.7	54.9	75.7	74.2	26.6	26.8	82.3	82.9	36.8	36.2	36.5	35.8
1973	74.5	76.3	58.5	58.9	78.6	77.2	28.8	29.0	84.1	84.5	38.7	37.9	38.4	37.0
1974	73.2	75.1	57.6	58.0	78.7	77.2	31.6	31.8	83.1	83.5	43.2	42.3	42.1	40.8
1975	75.8	77.1	57.0	57.0	75.3	73.9	34.8	35.0	83.9	84.3	46.0	45.4	46.1	45.1
1976	78.4	79.9	60.9	61.1	77.7	76.5	37.9	38.0	86.2	86.5	48.3	47.5	48.5	47.6
1977	79.7	81.2	64.3	64.6	80.7	79.5	40.9	41.1	87.4	87.8	51.3	50.6	51.4	50.8
1978	80.6	82.2	68.3	68.8	84.8	83.6	44.5	44.7	88.9	89.4	55.2	54.4	55.1	54.1
1979	80.5	81.9	70.6	70.9	87.7	86.6	48.8	49.0	89.1	89.5	60.6	59.8	59.8	58.7
1980	80.3	81.7	69.8	70.2	86.9	85.9	54.1	54.3	88.9	89.3	67.3	66.4	65.2	64.3
1981	81.9	82.7	71.7	71.6	87.6	86.6	59.2	59.5	89.0	89.6	72.3	72.0	71.2	70.5
1982	81.6	82.3	69.6	69.4	85.2	84.3	63.7	64.0	90.5	91.0	78.1	77.8	75.3	74.8
1983	84.5	85.9	73.3	73.8	86.7	85.9	66.3	66.7	90.4	91.0	78.5	77.7	77.8	77.2
1984	86.8	87.7	79.7	80.0	91.8	91.1	69.2	69.5	90.7	91.2	79.7	79.3	80.0	79.4
1985	88.5	88.9	83.1	83.0	93.8	93.4	72.6	72.8	92.1	92.4	82.0	81.9	82.2	81.9
1986	91.2	91.6	86.1	86.2	94.4	94.1	76.4	76.6	95.2	95.5	83.8	83.6	83.5	83.2
1987	91.6	91.9	89.2	89.3	97.3	97.1	79.3	79.5	95.6	95.8	86.6	86.5	85.6	85.4
1988	93.0	93.4	92.9	93.3	99.9	99.9	83.4	83.4	97.0	97.0	89.7	89.3	88.3	87.9
1989	93.9	94.1	96.2	96.5	102.5	102.5	85.7	85.6	95.5	95.4	91.2	91.0	91.5	91.2
1990	95.3	95.3	97.6	97.8	102.5	102.6	90.7	90.5	96.3	96.1	95.2	94.9	94.8	94.5
1991	96.4	96.5	98.5	98.6	100.1	100.1	95.0	95.0	97.4	97.4	98.6	98.4	98.1	98.0
1992	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
1993	100.5	100.5	103.1	103.3	102.6	102.9	102.4	102.2	99.9	99.7	101.9	101.7	102.2	102.2
1994	101.7	101.8	108.1	108.2	106.3	106.3	104.4	104.3	99.7	99.6	102.6	102.5	104.0	104.1
1995	102.3	102.7	111.5	111.8	108.9	108.9	106.5	106.5	99.4	99.4	104.1	103.7	106.0	106.1
1996	105.1	105.3	116.4	116.7	110.7	110.8	109.9	109.8	99.8	99.7	104.6	104.3	107.7	107.6
1997	107.4	107.4	122.5	122.7	114.0	114.2	113.2	113.0	100.7	100.5	105.4	105.2	109.7	109.8
1998	110.2	110.2	128.5	128.8	116.6	116.9	119.4	119.1	104.8	104.5	108.4	108.1	110.6	110.8
1999	113.0	112.8	134.5	134.8	119.0	119.6	124.8	124.3	107.2	106.8	110.4	110.3	111.6	112.1
2000	116.5	116.1	140.0	140.2	120.1	120.7	133.5	133.0	111.0	110.6	114.6	114.6	113.5	114.1
2001	118.8	118.3	139.8	140.1	117.6	118.4	138.6	137.8	112.1	111.4	116.7	116.5	115.8	116.3
2002	125.1	124.7	143.5	143.9	114.7	115.4	142.5	141.7	113.5	112.8	113.9	113.6	116.3	116.9
2001: I	117.4	116.9	140.4	140.7	119.6	120.3	137.4	136.7	111.9	111.3	117.1	117.0	115.2	115.7
II	117.8	117.4	139.4	139.7	118.3	119.0	138.2	137.4	111.6	111.0	117.3	117.1	115.8	116.3
III	118.8	118.3	139.1	139.4	117.1	117.8	139.1	138.2	112.1	111.4	117.1	116.8	116.4	116.8
IV	121.3	120.7	140.3	140.4	115.6	116.3	139.8	138.9	112.8	112.1	115.2	115.1	115.9	116.5
2002: I	123.9	123.4	142.3	142.5	114.9	115.5	141.0	140.2	113.4	112.8	113.8	113.6	118.0	116.4
II	124.1	123.7	142.5	142.9	114.8	115.5	142.4	141.5	113.5	112.9	114.7	114.4	116.2	116.8
III	125.9	125.5	144.4	144.7	114.6	115.3	143.1	142.2	113.5	112.8	113.6	113.3	116.3	116.9
IV	128.4	128.0	145.0	145.3	114.7	115.3	143.7	142.8	113.4	112.7	113.7	113.3	116.8	117.3
2003: I	127.2	126.7	145.5	145.8	114.3	115.1	144.8	143.7	113.3	112.4	113.8	113.4	117.2	117.7
II	129.5	128.9	147.1	147.5	113.6	114.4	146.3	145.0	114.2	113.2	112.9	112.5	117.5	117.9
III	132.2	131.8	150.7	151.1	114.0	114.7	147.1	146.1	114.2	113.4	111.3	110.8	118.0	118.3

¹ Output refers to real gross domestic product in the sector.

² Hours at work of all persons engaged in the sector, including hours of proprietors and unpaid family workers. Estimates based primarily on establishment data.

³ Wages and salaries of employees plus employers' contributions for social insurance and private benefit plans. Also includes an estimate of wages, salaries, and supplemental

⁴ Hourly compensation divided by the consumer price index for all urban consumers for recent quarters. The trend from 1978–2002 is based on the consumer price index research

⁵ Current dollar output divided by the output index.

Note.—Data shown in Tables B-49 and B-50 are based on pre-benchmark GDP data released in late November 2003 and do not reflect either the benchmark revision of the National Income and Product Accounts released in early December or revised GDP data for 2003:III released in late December 2003.

Source: Department of Labor, Bureau of Labor Statistics.

TABLE B-80.—Consumer price indexes for major expenditure classes, 1959–2003
(For all urban consumers; 1982=100, except as noted)

Year or month	All items (CPI-U)	Food and beverages		Apparel	Housing	Transportation	Medical care	Entertainment	Recreation ¹	Education and communication ²	Other goods and services	Energy ³
		Total ¹	Food									
1959	29.1	.....	29.7	45.0	.....	29.8	21.5	.....	.....	.....	.....	21.9
1960	29.6	.....	30.0	45.7	.....	29.8	22.3	.....	.....	.....	.....	22.4
1961	29.9	.....	30.4	46.1	.....	30.1	22.9	.....	.....	.....	.....	22.5
1962	30.2	.....	30.6	46.3	.....	30.8	23.5	.....	.....	.....	.....	22.6
1963	30.6	.....	31.1	46.9	.....	30.9	24.1	.....	.....	.....	.....	22.8
1964	31.0	.....	31.5	47.3	.....	31.4	24.6	.....	.....	.....	.....	22.5
1965	31.5	.....	32.2	47.8	.....	31.9	25.2	.....	.....	.....	.....	22.9
1966	32.4	.....	33.8	49.0	.....	32.3	26.3	.....	.....	.....	.....	23.3
1967	33.4	35.0	34.1	51.0	30.8	33.3	28.2	40.7	.....	.....	.....	23.8
1968	34.8	36.2	35.3	53.7	32.0	34.3	29.9	43.0	.....	.....	.....	24.2
1969	36.7	38.1	37.1	56.8	34.0	35.7	31.9	45.2	.....	.....	.....	24.8
1970	38.8	40.1	39.2	59.2	36.4	37.5	34.0	47.5	.....	.....	.....	25.5
1971	40.5	41.4	40.4	61.1	38.0	39.5	36.1	50.0	.....	.....	.....	26.5
1972	41.8	43.1	42.1	62.3	39.4	39.9	37.3	51.5	.....	.....	.....	27.2
1973	44.4	48.8	48.2	64.6	41.2	41.2	38.8	52.9	.....	.....	.....	29.4
1974	49.3	55.5	55.1	69.4	45.8	45.8	42.4	58.9	.....	.....	.....	38.1
1975	53.8	60.2	59.8	72.5	50.7	50.1	47.5	62.0	.....	.....	.....	42.1
1976	58.9	62.1	61.6	75.2	53.8	55.1	52.0	65.1	.....	.....	.....	45.1
1977	60.6	65.8	65.5	78.6	57.4	59.0	57.0	68.3	.....	.....	.....	49.4
1978	65.2	72.2	72.0	81.4	62.4	61.7	61.8	71.9	.....	.....	.....	52.5
1979	72.6	79.9	79.9	84.9	70.1	70.5	67.5	76.7	.....	.....	.....	65.7
1980	82.4	86.7	86.8	90.9	81.1	83.1	74.9	83.6	.....	.....	.....	86.0
1981	90.9	93.5	93.6	95.3	90.4	93.2	82.9	90.1	.....	.....	.....	97.7
1982	96.5	97.3	97.4	97.8	98.9	97.0	92.5	98.0	.....	.....	.....	99.2
1983	99.6	99.5	99.4	100.2	99.5	99.3	100.6	100.1	.....	.....	.....	99.9
1984	103.9	103.2	103.2	102.1	103.6	103.7	106.8	103.8	.....	.....	.....	100.9
1985	107.6	105.6	105.6	105.0	107.7	106.4	113.5	107.9	.....	.....	.....	101.8
1986	109.6	109.1	109.0	105.9	110.9	102.3	122.0	111.6	.....	.....	.....	88.2
1987	113.6	113.5	113.5	110.6	114.2	105.4	130.1	115.3	.....	.....	.....	88.6
1988	118.3	118.2	118.2	115.4	118.5	108.7	138.6	120.3	.....	.....	.....	89.3
1989	124.0	124.9	125.1	118.6	123.0	114.1	149.3	126.5	.....	.....	.....	94.3
1990	130.7	132.1	132.4	124.1	128.5	120.5	162.8	132.4	.....	.....	.....	102.1
1991	136.2	136.8	136.3	128.7	133.6	123.8	177.0	138.4	.....	.....	.....	102.5
1992	140.3	138.7	137.9	131.9	137.5	128.5	190.1	142.3	.....	.....	.....	103.0
1993	144.5	141.6	140.9	133.7	141.2	130.4	201.4	145.8	90.7	85.5	192.6	104.2
1994	148.2	144.9	144.3	133.4	144.8	134.3	211.0	150.1	92.7	88.8	198.5	104.6
1995	152.4	148.9	148.4	132.0	148.5	139.1	220.5	153.9	94.5	92.2	206.6	105.2
1996	156.9	153.7	153.3	131.7	152.8	143.0	228.2	159.1	97.4	95.3	215.4	110.1
1997	160.5	157.7	157.3	132.9	158.8	144.3	234.6	162.5	99.6	98.4	224.6	111.5
1998	163.0	161.1	160.7	133.0	160.4	141.6	242.1	.....	101.1	100.3	237.7	102.9
1999	166.6	164.6	164.1	131.3	163.9	144.4	250.6	.....	102.0	101.2	258.3	106.6
2000	172.2	168.4	167.8	129.6	169.6	153.3	260.8	.....	103.3	102.5	271.1	124.6
2001	177.1	173.6	173.1	127.3	178.4	154.3	272.8	.....	104.9	105.2	282.6	129.3
2002	179.9	176.8	176.2	124.0	180.3	152.9	285.6	.....	106.2	107.9	293.2	121.7
2003	184.0	180.5	180.0	120.9	184.8	157.6	297.1	.....	107.5	109.8	298.7	136.5
2002: Jan	177.1	176.2	175.8	120.4	177.6	148.6	279.6	.....	105.7	107.2	287.2	111.7
Feb	177.8	176.4	175.9	123.5	178.5	148.4	281.0	.....	105.9	107.3	290.2	111.0
Mar	178.8	176.6	176.1	128.2	179.1	150.5	282.0	.....	106.1	108.6	288.5	115.6
Apr	179.8	176.7	176.2	128.8	179.5	153.7	283.2	.....	106.5	106.2	292.6	122.2
May	179.8	176.4	175.8	127.1	179.7	153.8	284.1	.....	106.4	106.6	291.5	122.9
June	179.9	176.4	175.8	122.7	180.7	153.4	284.7	.....	106.2	106.9	294.4	124.9
July	180.1	176.6	176.0	118.7	181.2	153.7	286.6	.....	106.2	107.6	294.5	125.5
Aug	180.7	176.6	176.0	120.5	181.7	153.9	287.3	.....	106.3	108.9	295.6	125.8
Sept	181.0	176.9	176.4	124.6	181.5	154.0	287.7	.....	106.2	109.5	297.0	126.1
Oct	181.3	177.1	176.5	128.8	181.4	154.9	289.2	.....	106.4	109.4	295.4	125.8
Nov	181.3	177.4	176.8	125.5	181.2	155.2	290.5	.....	106.4	109.3	295.6	125.3
Dec	180.9	177.8	177.3	121.5	181.1	154.2	291.3	.....	106.5	109.2	295.8	123.3
2003: Jan	181.7	178.1	177.5	118.1	182.3	155.5	292.6	.....	106.9	109.7	296.5	127.5
Feb	183.1	178.9	178.3	120.6	183.2	158.9	293.7	.....	107.2	109.7	297.5	135.4
Mar	184.2	179.2	178.6	123.6	184.3	161.0	294.2	.....	107.4	109.4	297.3	142.6
Apr	183.8	179.0	178.4	123.9	184.1	169.3	294.6	.....	107.4	109.0	298.1	138.1
May	183.5	179.4	178.8	122.5	184.5	157.2	295.5	.....	107.6	108.6	298.1	134.0
June	183.7	180.2	179.6	119.5	185.3	158.8	296.3	.....	107.6	108.5	298.1	136.5
July	183.9	180.3	179.7	116.2	185.9	158.8	297.6	.....	107.7	108.9	299.2	136.8
Aug	184.6	180.9	180.4	117.2	186.1	158.3	298.4	.....	107.7	110.1	299.6	140.6
Sept	185.2	181.3	180.7	122.0	185.8	159.4	299.2	.....	107.7	110.9	299.9	144.6
Oct	185.0	182.2	181.7	124.8	185.7	157.1	299.9	.....	107.6	110.9	300.2	136.9
Nov	184.5	182.6	182.4	123.1	185.1	155.7	300.8	.....	107.8	110.8	300.0	133.1
Dec	184.3	184.1	183.6	119.0	185.1	154.7	302.1	.....	107.7	110.9	300.2	131.8

¹ Includes alcoholic beverages, not shown separately.

² December 1997=100.

³ Household fuels—gas (piped), electricity, fuel oil, etc.—and motor fuel. Motor oil, coolant, etc. also included through 1982.

Note.—Data beginning 1983 incorporate a rental equivalence measure for homeowners' costs.

Series reflect changes in composition and renaming beginning in 1988, and formula and methodology changes beginning in 1999.

Source: Department of Labor, Bureau of Labor Statistics.

TABLE B-62.—Consumer price indexes for commodities, services, and special groups, 1960–2003

(For all urban consumers; 1982-84=100, except as noted)

Year or month	All items (CPI-U)	Commodities		Services		Special Indexes				All items		
		All commodities	Commodities less food	All services	Services less medical care services	All items less food	All items less energy	All items less food and energy	All items less medical care	CPI-U-X1 (Dec. 1982= 97.8) ¹	CPI-U-RS (Dec. 1977=100) ²	C-CPI-U (Dec. 1989=100) ³
1960	29.6	33.6	36.0	24.1	25.0	29.7	30.4	30.6	30.2	32.2	.....	.....
1961	29.9	33.8	36.1	24.5	25.4	30.0	30.7	31.0	30.5	32.5	.....	.....
1962	30.2	34.1	36.3	25.0	25.9	30.3	31.1	31.4	30.8	32.8	.....	.....
1963	30.6	34.4	36.6	25.5	26.3	30.7	31.5	31.8	31.1	33.3	.....	.....
1964	31.0	34.8	36.9	26.0	26.8	31.1	32.0	32.3	31.5	33.7	.....	.....
1965	31.5	35.2	37.2	26.6	27.4	31.6	32.5	32.7	32.0	34.2	.....	.....
1966	32.4	36.1	37.7	27.6	28.3	32.3	33.5	33.5	33.0	35.2	.....	.....
1967	33.4	36.8	38.6	28.8	29.3	33.4	34.4	34.7	33.7	36.3	.....	.....
1968	34.8	38.1	40.0	30.3	30.8	34.9	35.9	36.3	35.1	37.7	.....	.....
1969	36.7	39.9	41.7	32.4	32.9	36.8	38.0	38.4	37.0	39.4	.....	.....
1970	38.8	41.7	43.4	35.0	35.6	39.0	40.3	40.8	39.2	41.3	.....	.....
1971	40.5	43.2	45.1	37.0	37.5	40.8	42.0	42.7	40.8	43.1	.....	.....
1972	41.8	44.5	46.1	38.4	38.9	42.0	43.4	44.0	42.1	44.4	.....	.....
1973	44.4	47.8	47.7	40.1	40.6	43.7	46.1	45.6	44.8	47.2	.....	.....
1974	49.3	53.5	52.8	43.8	44.3	48.0	50.6	49.4	49.8	51.9	.....	.....
1975	53.8	58.2	57.6	48.0	48.3	52.5	55.1	53.9	54.3	56.2	.....	.....
1976	56.9	60.7	60.5	52.0	52.2	56.0	58.2	57.4	57.2	59.4	.....	.....
1977	60.6	64.2	63.8	56.0	55.9	59.6	61.9	61.0	60.8	63.2	.....	.....
1978	65.2	68.8	67.5	60.8	60.7	63.8	66.7	65.5	65.4	67.5	104.3	.....
1979	72.6	76.6	75.3	67.5	67.5	71.2	73.4	71.9	72.9	74.0	114.1	.....
1980	82.4	86.0	85.7	77.9	78.2	81.5	81.9	80.8	82.8	82.3	126.7	.....
1981	90.9	93.2	93.1	88.1	88.7	90.4	90.1	89.2	91.4	90.1	138.6	.....
1982	96.5	97.0	96.9	96.0	96.4	96.3	96.1	95.8	96.8	95.6	146.8	.....
1983	99.6	99.8	100.0	99.4	99.2	99.7	99.6	99.6	99.6	99.6	152.9	.....
1984	103.9	103.2	103.1	104.6	104.4	104.0	104.3	104.6	103.7	103.9	159.0	.....
1985	107.6	105.4	105.2	109.9	109.6	108.0	108.4	109.1	107.2	107.6	164.3	.....
1986	109.6	104.4	101.7	115.4	114.6	109.8	112.6	113.5	108.8	109.6	167.3	.....
1987	113.6	107.7	104.3	120.2	119.1	113.6	117.2	118.2	112.6	113.6	173.0	.....
1988	118.3	111.5	107.7	125.7	124.3	118.3	122.3	123.4	117.0	118.3	179.3	.....
1989	124.0	116.7	112.0	131.9	130.1	123.7	128.1	129.0	122.4	124.0	187.0	.....
1990	130.7	122.8	117.4	139.2	136.8	130.3	134.7	135.5	128.8	130.7	196.3	.....
1991	136.2	126.6	121.3	146.3	143.3	136.1	140.9	142.1	133.8	136.2	203.4	.....
1992	140.3	129.1	124.2	152.0	148.4	140.8	145.4	147.3	137.5	140.3	208.5	.....
1993	144.5	131.5	126.3	157.9	153.8	145.1	150.0	152.2	141.2	144.5	213.7	.....
1994	148.2	133.8	127.9	163.1	158.4	149.0	154.1	156.5	144.7	148.2	218.2	.....
1995	152.4	136.4	129.8	168.7	163.5	153.1	158.7	161.2	148.6	152.4	223.5	.....
1996	156.9	139.9	132.6	174.1	168.7	157.5	163.1	165.6	152.8	156.9	229.5	.....
1997	160.5	141.8	133.4	179.4	173.9	161.1	167.1	169.5	156.3	160.5	234.4	.....
1998	163.0	141.9	132.0	184.2	178.4	163.4	170.9	173.4	158.6	163.0	237.7	.....
1999	166.6	144.4	134.0	188.8	182.7	167.0	174.4	177.0	162.0	166.6	242.7	.....
2000	172.2	149.2	139.2	195.3	188.9	173.0	178.6	181.3	167.3	172.2	250.8	102.0
2001	177.1	150.7	138.9	203.4	196.6	177.8	183.5	186.1	171.9	177.1	257.8	104.3
2002	179.9	149.7	136.0	209.8	202.5	180.5	187.7	190.5	174.3	179.9	261.9	105.6
2003	184.0	151.2	136.5	216.5	208.7	184.7	190.6	193.2	178.1	184.0	267.9	107.6
2002: Jan	177.1	147.8	133.5	206.3	199.2	177.4	185.7	188.2	171.7	177.1	257.9	104.1
Feb	177.8	148.1	133.9	207.3	200.2	178.2	186.5	189.2	172.4	177.8	258.9	104.5
Mar	178.8	149.4	135.6	208.0	200.8	179.2	187.1	189.8	173.3	178.8	260.3	105.1
Apr	179.8	151.0	137.8	208.4	201.2	180.4	187.5	190.3	174.3	179.8	261.8	105.7
May	179.8	150.5	137.3	208.8	201.6	180.4	187.4	190.2	174.2	179.8	261.7	105.7
June	179.9	149.8	136.3	209.8	202.6	180.6	187.3	190.1	174.4	179.9	262.0	105.7
July	180.1	149.3	135.5	210.7	203.3	180.8	187.5	190.3	174.5	180.1	262.3	105.7
Aug	180.7	149.6	135.9	211.5	204.2	181.5	188.1	191.0	175.0	180.7	263.1	106.0
Sept	181.0	150.2	136.7	211.5	204.1	181.8	188.4	191.3	175.3	181.0	263.5	106.2
Oct	181.3	150.7	137.3	211.7	204.2	182.2	188.8	191.8	175.6	181.3	264.0	106.4
Nov	181.3	150.6	137.0	211.8	204.3	182.1	188.9	191.8	175.6	181.3	264.0	106.3
Dec	180.9	149.7	135.6	211.9	204.3	181.6	188.6	191.4	175.1	180.9	263.4	106.0
2003: Jan	181.7	150.0	135.8	213.1	205.5	182.4	189.0	191.8	175.9	181.7	264.6	106.4
Feb	183.1	152.0	138.3	214.0	206.4	183.9	189.7	192.5	177.3	183.1	266.6	107.2
Mar	184.2	153.1	139.8	215.1	207.4	185.2	190.2	193.0	178.4	184.2	268.2	107.8
Apr	183.8	152.2	138.6	215.1	207.5	184.7	190.2	193.1	178.0	183.8	267.6	107.6
May	183.5	150.9	136.5	215.9	208.2	184.3	190.3	193.2	177.7	183.5	267.2	107.4
June	183.7	150.4	135.5	216.8	209.1	184.5	190.3	193.0	177.9	183.7	267.5	107.5
July	183.9	150.0	134.9	217.6	209.8	184.6	190.5	193.2	178.0	183.9	267.8	107.5
Aug	184.6	150.9	135.9	218.0	210.3	185.3	190.8	193.5	178.7	184.6	268.8	107.8
Sept	185.2	152.0	137.3	218.1	210.3	186.0	191.0	193.6	179.2	185.2	269.7	108.1
Oct	185.0	151.4	136.1	218.4	210.5	185.8	191.7	194.3	179.1	185.0	269.4	108.1
Nov	184.5	150.9	135.0	217.9	209.9	184.9	191.8	193.9	178.5	184.5	268.6	107.7
Dec	184.3	150.4	133.8	217.9	209.9	184.4	191.5	193.6	178.2	184.3	268.4	107.5

¹ CPI-U-X1 is a rental equivalence approach to homeowners' costs for the CPI-U for years prior to 1983, the first year for which the official index incorporates such a measure.

CPI-U-X1 is rebased to the December 1982 value of the CPI-U (1982-84=100) and is identical with CPI-U data from December 1982 forward. Data prior to 1987 estimated by

² CPI research series using current methods (CPI-U-RS) introduced in June 1999. Data for 2003 are preliminary. All data are subject to revision annually.³ Chained consumer price index introduced in August 2002. Data for 2002 and 2003 are subject to revision

Note.—See Note, Table B-60.

Source: Department of Labor, Bureau of Labor Statistics.

TABLE B-73.—Bond yields and interest rates, 1929–2003

(Percent per annum)

Year and month	U.S. Treasury securities					Corporate bonds (Moody's)		High-grade municipal bonds (Standard & Poor's)	New home mortgage yields ⁴	Prime rate charged by banks ⁵	Discount window (Federal Reserve Bank of New York) ⁶		Federal funds rate ⁷
	Bills (new issues) ¹		Constant maturities ²			Aaa ³	Baa				Primary credit	Discount rate	
	3-month	6-month	3-year	10-year	30-year								
1929	.....	.....	.....	.....	.....	4.73	5.90	4.27	.....	5.50-6.00	.....	5.16	.....
1933	0.515	.....	.....	.....	.....	4.49	7.76	4.71	.....	1.50-4.00	.....	2.56	.....
1939	0.023	.....	.....	.....	.....	3.01	4.96	2.76	.....	1.50	.....	1.00	.....
1940	0.014	.....	.....	.....	.....	2.84	4.75	2.50	.....	1.50	.....	1.00	.....
1941	0.103	.....	.....	.....	.....	2.77	4.33	2.10	.....	1.50	.....	1.00	.....
1942	0.326	.....	.....	.....	.....	2.83	4.28	2.36	.....	1.50	.....	^a 1.00	.....
1943	0.373	.....	.....	.....	.....	2.73	3.91	2.06	.....	1.50	.....	^a 1.00	.....
1944	0.375	.....	.....	.....	.....	2.72	3.61	1.86	.....	1.50	.....	^a 1.00	.....
1945	0.375	.....	.....	.....	.....	2.62	3.29	1.67	.....	1.50	.....	^a 1.00	.....
1946	0.375	.....	.....	.....	.....	2.53	3.05	1.64	.....	1.50	.....	^a 1.00	.....
1947	0.594	.....	.....	.....	.....	2.61	3.24	2.01	.....	1.50-1.75	.....	1.00	.....
1948	1.040	.....	.....	.....	.....	2.82	3.47	2.40	.....	1.75-2.00	.....	1.34	.....
1949	1.102	.....	.....	.....	.....	2.66	3.42	2.21	.....	2.00	.....	1.50	.....
1950	1.218	.....	.....	.....	.....	2.62	3.24	1.98	.....	2.07	.....	1.59	.....
1951	1.552	.....	.....	.....	.....	2.88	3.41	2.00	.....	2.56	.....	1.75	.....
1952	1.768	.....	.....	.....	.....	2.96	3.52	2.19	.....	3.00	.....	1.75	.....
1953	1.931	.....	2.47	2.85	.....	3.20	3.74	2.72	.....	3.17	.....	1.99	.....
1954	0.953	.....	1.63	2.40	.....	2.90	3.51	2.37	.....	3.05	.....	1.60	.....
1955	1.753	.....	2.47	2.82	.....	3.08	3.53	2.53	.....	3.16	.....	1.89	1.78
1956	2.658	.....	3.19	3.18	.....	3.36	3.88	2.93	.....	3.77	.....	2.77	2.73
1957	3.267	.....	3.98	3.65	.....	3.89	4.71	3.60	.....	4.20	.....	3.12	3.11
1958	1.839	.....	2.84	3.32	.....	3.79	4.73	3.56	.....	3.83	.....	2.15	1.57
1959	3.405	3.832	4.46	4.33	.....	4.38	5.05	3.95	.....	4.48	.....	3.36	3.30
1960	2.928	3.247	3.98	4.12	.....	4.41	5.19	3.73	.....	4.82	.....	3.53	3.22
1961	2.378	2.605	3.54	3.88	.....	4.35	5.08	3.46	.....	4.50	.....	3.00	1.96
1962	2.778	2.908	3.47	3.95	.....	4.33	5.02	3.18	.....	4.50	.....	3.00	2.68
1963	3.157	3.253	3.67	4.00	.....	4.26	4.86	3.23	5.89	4.50	.....	3.23	3.18
1964	3.549	3.686	4.03	4.19	.....	4.40	4.83	3.22	5.83	4.50	.....	3.55	3.50
1965	3.954	4.055	4.22	4.28	.....	4.49	4.87	3.27	5.81	4.54	.....	4.04	4.07
1966	4.881	5.082	5.23	4.92	.....	5.13	5.67	3.82	6.25	5.63	.....	4.50	5.11
1967	4.321	4.630	5.03	5.07	.....	5.51	6.23	3.98	6.46	5.61	.....	4.19	4.22
1968	5.339	5.470	5.68	5.85	.....	6.18	6.94	4.51	6.97	6.30	.....	5.16	5.66
1969	6.677	6.853	7.02	6.67	.....	7.03	7.81	5.81	7.81	7.96	.....	5.87	8.20
1970	6.458	6.562	7.29	7.35	.....	8.04	9.11	6.51	8.45	7.91	.....	5.95	7.18
1971	4.348	4.511	5.65	6.16	.....	7.39	8.56	5.70	7.74	5.72	.....	4.88	4.66
1972	4.071	4.466	5.72	6.21	.....	7.21	8.16	5.27	7.60	5.25	.....	4.50	4.43
1973	7.041	7.178	6.95	6.84	.....	7.44	8.24	5.18	7.96	8.03	.....	6.44	8.73
1974	7.886	7.926	7.82	7.56	.....	8.57	9.50	6.09	8.92	10.81	.....	7.83	10.50
1975	5.838	6.122	7.49	7.99	.....	8.83	10.61	6.89	9.00	7.86	.....	6.25	5.82
1976	4.989	5.266	6.77	7.61	.....	8.43	9.75	6.49	9.00	6.84	.....	5.50	5.04
1977	5.265	5.510	6.89	7.42	7.75	8.02	8.97	5.56	9.02	6.83	.....	5.48	5.54
1978	7.221	7.572	8.29	8.41	8.49	8.73	9.49	5.90	9.56	9.06	.....	7.46	7.93
1979	10.041	10.017	9.71	9.44	9.28	9.63	10.69	6.39	10.78	12.67	.....	10.28	11.19
1980	11.506	11.374	11.55	11.46	11.27	11.94	13.67	8.51	12.66	15.27	.....	11.77	13.36
1981	14.029	13.776	14.44	13.91	13.45	14.17	16.04	11.23	14.70	18.87	.....	13.42	16.38
1982	10.686	11.084	12.92	13.00	12.76	13.79	16.11	11.57	15.14	14.86	.....	11.02	12.26
1983	8.63	8.75	10.45	11.10	11.18	12.04	13.55	9.47	12.57	10.79	.....	8.50	9.09
1984	9.58	9.80	11.89	12.44	12.41	12.71	14.19	10.15	12.38	12.04	.....	8.80	10.23
1985	7.46	7.66	9.64	10.62	10.79	11.37	12.72	9.18	11.55	9.93	.....	7.69	8.10
1986	5.98	6.03	7.06	7.68	7.78	9.02	10.39	7.38	10.17	8.33	.....	6.33	6.81
1987	5.82	6.05	7.68	8.39	8.59	9.38	10.58	7.73	9.31	8.21	.....	5.66	6.66
1988	6.69	6.92	8.26	8.85	8.96	9.71	10.83	7.76	9.19	9.32	.....	6.20	7.57
1989	8.12	8.04	8.55	8.49	8.45	9.26	10.18	7.24	10.13	10.87	.....	6.93	9.21
1990	7.51	7.47	8.26	8.55	8.61	9.32	10.36	7.25	10.05	10.01	.....	6.98	8.10
1991	5.42	5.49	6.82	7.86	8.14	8.77	9.80	6.89	9.32	8.46	.....	5.45	5.69
1992	3.45	3.57	5.30	7.01	7.87	8.14	8.98	6.41	8.24	6.25	.....	3.25	3.52
1993	3.02	3.14	4.44	5.87	6.59	7.22	7.93	5.63	7.20	6.00	.....	3.00	3.02
1994	4.29	4.66	6.27	7.09	7.37	7.96	8.62	6.19	7.49	7.15	.....	3.60	4.21
1995	5.51	5.59	6.25	6.57	6.88	7.59	8.20	5.95	7.87	8.83	.....	5.21	5.83
1996	5.02	5.09	5.99	6.44	6.71	7.37	8.05	5.75	7.80	8.27	.....	5.02	5.30
1997	5.07	5.18	6.10	6.35	6.81	7.26	7.86	5.55	7.71	8.44	.....	5.00	5.46
1998	4.81	4.85	5.14	5.26	5.58	6.53	7.22	5.12	7.07	8.35	.....	4.92	5.35
1999	4.66	4.76	5.49	5.65	5.87	7.04	7.87	5.43	7.04	8.00	.....	4.62	4.97
2000	5.85	5.92	6.22	6.03	5.94	7.62	8.36	5.77	7.52	9.23	.....	5.73	6.24
2001	3.45	3.39	4.09	5.02	5.49	7.08	7.95	5.19	7.00	6.91	.....	3.40	3.88
2002	1.62	1.69	3.10	4.61	.....	6.49	7.80	5.05	6.43	4.67	.....	1.17	1.67
2003	1.02	1.06	2.10	4.01	.....	5.67	6.77	4.73	5.80	4.12	2.12	.....	1.13

¹ Rate on new issues within period; bank-discount basis.² Yields on the more actively traded issues adjusted to constant maturities by the Department of the Treasury. In February 2002, the Department of the Treasury discontinued publication of the 30-year series.³ Beginning December 7, 2001, data for corporate Aaa series are industrial bonds only.⁴ Effective rate (in the primary market) on conventional mortgages, reflecting fees and charges as well as contract rate and assuming, on the average, repayment at end of 10 years. Rates beginning January 1973 not strictly comparable with prior rates.

See next page for continuation of table.

#	Year	As Reported			Percent Change Year to Year			Index			Real Index	
		CPI	Compensation	Yields	CPI	Compensation	Yields	CPI	Compensation	Yields	Compensation	Yields
0	1970	38.8	23.7	6.458				1.000	1.000	1.000	1.000	1.000
1	1971	40.5	25.3	4.348	4.38%	6.75%	4.35%	1.044	1.068	1.043	1.020	1.000
2	1972	41.8	26.9	4.071	3.21%	6.32%	4.07%	1.077	1.135	1.086	1.052	1.008
3	1973	44.4	29.1	7.041	6.22%	8.18%	7.04%	1.144	1.228	1.162	1.071	1.016
4	1974	49.3	31.9	7.886	11.04%	9.62%	7.89%	1.271	1.346	1.254	1.059	0.987
5	1975	53.8	35.2	5.838	9.13%	10.34%	5.84%	1.387	1.485	1.327	1.069	0.957
6	1976	56.9	38.2	4.989	5.76%	8.52%	4.99%	1.466	1.612	1.394	1.098	0.950
7	1977	60.6	41.3	5.265	6.50%	8.12%	5.27%	1.562	1.743	1.467	1.114	0.939
8	1978	65.2	45.0	7.221	7.59%	8.96%	7.22%	1.680	1.899	1.573	1.135	0.936
9	1979	72.6	49.3	10.041	11.35%	9.56%	10.04%	1.871	2.080	1.731	1.136	0.925
10	1980	82.4	54.6	11.506	13.50%	10.75%	11.51%	2.124	2.304	1.930	1.134	0.909
11	1981	90.9	59.9	14.029	10.32%	9.71%	14.03%	2.343	2.527	2.201	1.136	0.939
12	1982	96.5	64.3	10.686	6.16%	7.35%	10.69%	2.487	2.713	2.436	1.153	0.979
13	1983	99.6	67.1	8.63	3.21%	4.35%	8.63%	2.567	2.831	2.646	1.155	1.031
14	1984	103.9	69.9	9.58	4.32%	4.17%	9.58%	2.678	2.949	2.899	1.158	1.083
15	1985	107.6	73.2	7.48	3.56%	4.72%	7.48%	2.773	3.089	3.116	1.173	1.124
16	1986	109.6	77.0	5.98	1.86%	5.19%	5.98%	2.825	3.249	3.303	1.212	1.169
17	1987	113.6	80.0	5.82	3.65%	3.90%	5.82%	2.928	3.376	3.495	1.217	1.194
18	1988	118.3	83.6	6.69	4.14%	4.50%	6.69%	3.049	3.527	3.729	1.227	1.223
19	1989	124.0	85.8	8.12	4.82%	2.63%	8.12%	3.196	3.620	4.032	1.208	1.261
20	1990	130.7	90.5	7.51	5.40%	5.48%	7.51%	3.369	3.819	4.334	1.215	1.287
21	1991	136.2	95.0	5.42	4.21%	4.97%	5.42%	3.510	4.008	4.569	1.229	1.302
22	1992	140.3	100.0	3.45	3.01%	5.26%	3.45%	3.616	4.219	4.727	1.263	1.307
23	1993	144.5	102.2	3.02	2.99%	2.20%	3.02%	3.724	4.312	4.870	1.259	1.308
24	1994	148.2	104.3	4.29	2.56%	2.05%	4.29%	3.820	4.401	5.079	1.259	1.330
25	1995	152.4	106.6	5.51	2.83%	2.21%	5.51%	3.928	4.498	5.358	1.255	1.364
26	1996	156.9	109.8	5.02	2.95%	3.00%	5.02%	4.044	4.633	5.627	1.260	1.392
27	1997	160.5	113.1	5.07	2.29%	3.01%	5.07%	4.137	4.772	5.913	1.270	1.429
28	1998	163.0	119.1	4.81	1.56%	5.31%	4.81%	4.201	5.025	6.197	1.319	1.475
29	1999	166.6	124.9	4.66	2.21%	4.87%	4.66%	4.294	5.270	6.486	1.348	1.510
30	2000	172.2	133.7	5.85	3.36%	7.05%	5.85%	4.438	5.641	6.865	1.396	1.547
31	2001	177.1	138.9	3.45	2.85%	3.89%	3.45%	4.564	5.861	7.102	1.395	1.556
32	2002	179.9	142.1	1.62	1.58%	2.30%	1.62%	4.637	5.996	7.217	1.412	1.557
33	2003	184.0	146.7	1.02	2.28%	3.24%	1.02%	4.742	6.190	7.291	1.425	1.537
							1973	4.85%	5.54%	6.312%	0.96%	1.39%

News

United States
Department
of Labor



Bureau of Labor Statistics

Washington, D.C. 20212

Technical Contact:

(202) 691-6199 ocltinfo@bls.gov

Media Contact:

(202) 691-5902

Internet address:

<http://www.bls.gov/ncs/ect/home.htm>

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EMPLOYER COSTS FOR EMPLOYEE COMPENSATION—MARCH 2004

Employer costs for employee compensation averaged \$24.95 per hour worked in March 2004, the U.S. Department of Labor's Bureau of Labor Statistics reported today. Wages and salaries, which averaged \$17.71, accounted for 71.0 percent of these costs, while benefits, which averaged \$7.23, accounted for the remaining 29.0 percent. (See table 1.) Benefits, as a percentage of total compensation, have risen in the past three years from 27.4 percent of total compensation in March 2001. Employer Costs for Employee Compensation, based on the Bureau's National Compensation Survey, measures employer costs for wages, salaries, and employee benefits for nonfarm private and State and local government workers.

Beginning with this release, Employer Costs for Employee Compensation data are based on new classifications of industry and occupation: the 2002 North American Industry Classification System (NAICS), and the 2000 Standard Occupational Classification (SOC). These systems replace the 1987 Standard Industrial Classification System (SIC) and the Occupational Classification System (OCS). Effective with this release, estimates for employer costs will no longer be available by SIC and OCS. See page 24 for more details.

Compensation costs in private industry

In March 2004, private industry employer compensation costs averaged \$23.29 per hour worked. Wages and salaries averaged \$16.64 per hour (71.5 percent), while benefits averaged \$6.65 (28.5 percent.) (See table 5.) Wages and salaries, as a percentage of total compensation in the private sector, have dropped in the past five years from 73.0 percent of total compensation in March 1999.

Employer costs for paid leave averaged \$1.50 per hour worked (6.4 percent), supplemental pay averaged 66 cents (2.8 percent), insurance benefits averaged \$1.65 (7.1 percent), retirement and savings averaged 80 cents (3.4 percent), and legally required benefits averaged \$2.01 (8.6 percent) per hour worked. Among legally required benefits, Social Security and Medicare (formerly titled Social Security) averaged \$1.39 (6.0 percent), Social Security (formerly titled OASDI) averaged \$1.12 (4.8 percent), and Medicare averaged 27 cents (1.2 percent). (See table 5.)

Table 11. Employer costs per hour worked for employee compensation and costs as a percent of total compensation: Private industry workers, by occupational group and full-time and part-time status, March 2004

Series	Total compensation	Wages and salaries	Benefit costs						
			Total	Paid leave	Supplemental pay	Insurance	Retirement and savings	Legally required benefits	Other benefits ¹
Cost per hour worked									
All full-time workers in private industry	\$26.50	\$18.62	\$7.88	\$1.84	\$0.81	\$2.01	\$0.98	\$2.20	\$0.05
Management, professional, and related	41.59	29.69	11.90	3.41	1.32	2.61	1.59	2.89	.08
Management, business, and financial	48.08	32.77	13.31	3.74	1.99	2.69	1.71	3.06	.11
Professional and related	38.43	27.53	10.91	3.18	.85	2.55	1.51	2.77	.06
Sales and office	21.24	15.21	6.03	1.41	.50	1.80	.65	1.64	.03
→ Sales and related	22.63	17.00	5.83	1.24	.60	1.45	.53	1.79	(²)
Office and administrative support	20.81	14.40	6.21	1.49	.45	1.96	.70	1.57	.03
Service	14.02	10.11	3.91	.77	.25	1.20	.29	1.39	(²)
Natural resources, construction, and maintenance	27.03	18.59	8.44	1.37	.86	2.02	1.24	2.91	.03
Construction and extraction	27.05	18.58	8.47	.97	.80	1.93	1.48	3.27	.02
Installation, maintenance, and repair	27.17	18.71	8.45	1.84	.94	2.15	.98	2.50	.04
Production, transportation, and material moving	21.62	14.29	7.33	1.32	.87	2.02	.93	2.13	.06
Production	21.74	14.08	7.66	1.42	1.01	2.10	.99	2.06	.08
Transportation and material moving	21.46	14.59	6.87	1.19	.67	1.91	.85	2.22	.03
All part-time workers in private industry	12.63	10.07	2.56	.37	.17	.47	.18	1.38	(²)
Management, professional, and related	29.49	23.50	5.99	1.28	.50	.99	.48	2.72	(²)
Professional and related	29.53	23.53	6.00	1.28	.52	1.00	.44	2.75	(²)
Sales and office	11.40	9.04	2.36	.34	.15	.50	.18	1.18	(²)
Sales and related	9.61	7.84	1.77	.20	.09	.26	.13	1.08	(²)
Office and administrative support	13.69	10.59	3.10	.52	.21	.80	.25	1.31	.02
Service	8.94	7.36	1.58	.15	.08	.20	.05	1.10	(²)
Production, transportation, and material moving	12.08	9.03	3.05	.33	.18	.76	.28	1.49	(²)
Transportation and material moving	12.23	8.99	3.25	.35	.18	.87	.33	1.51	(²)
Percent of total compensation									
All full-time workers in private industry	100.0	70.3	29.7	6.9	3.0	7.6	3.7	8.3	0.2
Management, professional, and related	100.0	71.4	28.6	8.2	3.2	6.3	3.8	6.9	.2
Management, business, and financial	100.0	71.1	28.9	8.1	4.3	5.8	3.7	6.6	.2
Professional and related	100.0	71.6	28.4	8.3	2.2	6.6	3.9	7.2	.2
Sales and office	100.0	71.6	28.4	6.7	2.3	8.5	3.1	7.7	.1
Sales and related	100.0	75.1	24.9	5.5	2.6	6.4	2.3	7.9	(³)
Office and administrative support	100.0	69.9	30.1	7.2	2.2	9.5	3.4	7.6	.2
Service	100.0	72.1	27.9	5.5	1.8	8.5	2.1	9.9	(³)
Natural resources, construction, and maintenance	100.0	68.8	31.2	5.1	3.2	7.5	4.6	10.8	.1
Construction and extraction	100.0	68.7	31.3	3.6	3.0	7.1	5.5	12.1	.1
Installation, maintenance, and repair	100.0	68.9	31.1	6.8	3.4	7.9	3.8	9.2	.2
Production, transportation, and material moving	100.0	66.1	33.9	6.1	4.0	9.3	4.3	9.8	.3
Production	100.0	64.8	35.2	6.5	4.7	9.6	4.5	9.5	.4
Transportation and material moving	100.0	68.0	32.0	5.5	3.1	8.9	4.0	10.3	.1
All part-time workers in private industry	100.0	79.7	20.3	2.9	1.3	3.7	1.4	10.9	(³)
Management, professional, and related	100.0	79.7	20.3	4.3	1.7	3.4	1.6	9.2	(³)
Professional and related	100.0	79.7	20.3	4.3	1.8	3.4	1.5	9.3	(³)
Sales and office	100.0	79.3	20.7	3.0	1.3	4.4	1.6	10.4	(³)
Sales and related	100.0	81.5	18.5	2.1	1.0	2.7	1.4	11.3	(³)
Office and administrative support	100.0	77.3	22.7	3.8	1.5	5.8	1.8	9.5	.1
Service	100.0	82.3	17.7	1.7	.9	2.3	.5	12.3	(³)
Production, transportation, and material moving	100.0	74.7	25.3	2.8	1.5	6.3	2.3	12.3	(³)
Transportation and material moving	100.0	73.5	26.5	2.8	1.5	7.1	2.7	12.4	(³)

¹ Includes severance pay and supplemental unemployment benefits.

² Cost per hour worked is \$0.01 or less.

³ Less than .05 percent.

Note: The sum of individual items may not equal totals due to rounding.

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

MARILYN MURPHY AND) NO. H-04-0621
MARTIN G. MCDANIEL,)
INDIVIDUALLY, AND ON)
BEHALF OF OTHERS)
SIMILARLY SITUATED)

Plaintiffs)

VS.)

JURY DEMANDED

GALLERY MODEL HOMES,)
INC. D/B/A GALLERY)
FURNITURE)

DEFENDANT)

ORAL DEPOSITION OF:

KENNETH MCCOIN

JANUARY 17, 2005

ORAL DEPOSITION of KENNETH MCCOIN,
produced as a witness at the instance of the
Defendants and duly sworn, was taken in the
above-styled and numbered cause on the 17th of
January, 2005, from 10:09 a.m. to 1:13 p.m., before
Jill M. Phillips, CSR in and for the State of Texas,
reported by machine shorthand, at the offices of
Mr. Scott Newar, Attorney at Law, 700 Louisiana,
Suite 2550, Houston, Texas 77002, pursuant to the
Federal Rules of Civil Procedure and the provisions
stated on the record or attached hereto.

DEFENDANT'S
EXHIBIT

"E"

<p style="text-align: right;">Page 2</p> <p>1 INDEX</p> <p>2 Appearances 3</p> <p>3 Exhibit Index 2</p> <p>4 KENNETHMCCOIN:</p> <p>5 Examination by Mr. Meyer 4</p> <p>6 Signature and</p> <p>7 Changes N/A</p> <p>8 Reporter's Certificate 81</p> <p>9 EXHIBITS</p> <table><tr><td>8 NUMBER</td><td>PAGE</td></tr><tr><td>9 McCain 1</td><td>4</td></tr><tr><td>10 McCain 2</td><td>4</td></tr><tr><td>11 McCain 3</td><td>4</td></tr><tr><td>12 McCain 4</td><td>4</td></tr><tr><td>13 McCain 5</td><td>4</td></tr><tr><td>14 McCain 6</td><td>4</td></tr><tr><td>15 McCain 7</td><td>4</td></tr><tr><td>16 McCain 8</td><td>4</td></tr><tr><td>17 McCain 9</td><td>4</td></tr><tr><td>18 McCain 10</td><td>4</td></tr><tr><td>19 McCain 11</td><td>4</td></tr><tr><td>20 McCain 12</td><td>4</td></tr><tr><td>21 McCain 13</td><td>4</td></tr><tr><td>22 McCain 14</td><td>47</td></tr></table> <p>23</p> <p>24</p> <p>25</p>	8 NUMBER	PAGE	9 McCain 1	4	10 McCain 2	4	11 McCain 3	4	12 McCain 4	4	13 McCain 5	4	14 McCain 6	4	15 McCain 7	4	16 McCain 8	4	17 McCain 9	4	18 McCain 10	4	19 McCain 11	4	20 McCain 12	4	21 McCain 13	4	22 McCain 14	47	<p style="text-align: right;">Page 4</p> <p>1 (McCain Exhibit Nos. 1 - 13 marked.)</p> <p>2 KENNETH MCCOIN,</p> <p>3 after being first duly sworn, testified as follows:</p> <p>4 EXAMINATION</p> <p>5 BY MR. MEYER:</p> <p>6 Q. Sir, please state your full name.</p> <p>7 A. Kenneth Glen McCain.</p> <p>8 Q. How would you like me to refer to you?</p> <p>9 A. Ken.</p> <p>10 Q. Ken. All right. Ken, at this stage of</p> <p>11 the deposition, I'd like to go through and identify</p> <p>12 a number of the exhibits that are here before us</p> <p>13 today. I believe Exhibits 1 through 11 you have</p> <p>14 brought with you, and then I've got 12 and 13, which</p> <p>15 I believe Mr. Newar has previously produced to us.</p> <p>16 So if you wouldn't mind, would you</p> <p>17 start with Exhibit No. 1 and identify Exhibit 1 for</p> <p>18 us, please, sir.</p> <p>19 A. Sure. I'm looking at a file that says</p> <p>20 McDaniel, Martin McDaniel. And at the top of that</p> <p>21 is a report that I prepared on October 13th in this</p> <p>22 matter. It's labeled as Exhibit 1.</p> <p>23 That is followed by Exhibit 2, which</p> <p>24 is a spreadsheet consisting of two pages, one of</p> <p>25 which is a -- a layout of a pre-termination and</p>
8 NUMBER	PAGE																														
9 McCain 1	4																														
10 McCain 2	4																														
11 McCain 3	4																														
12 McCain 4	4																														
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19 McCain 11	4																														
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21 McCain 13	4																														
22 McCain 14	47																														
<p style="text-align: right;">Page 3</p> <p>1 APPEARANCES</p> <p>2</p> <p>3 FOR THE PLAINTIFFS:</p> <p>4 Mr. Scott Newar</p> <p>5 ATTORNEY AT LAW</p> <p>6 700 Louisiana, Suite 2550</p> <p>7 Houston, Texas 77002</p> <p>8</p> <p>9 FOR THE DEFENDANT:</p> <p>10 Mr. Joe Meyer</p> <p>11 Ms. Monica Schulz Peckham</p> <p>12 MEYER, KNIGHT & WILLIAMS</p> <p>13 8100 Washington, Suite 1000</p> <p>14 Houston, Texas 77007</p> <p>15</p> <p>16 * * * *</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 5</p> <p>1 post-termination calculation. And the second page</p> <p>2 of Exhibit 2 is a history of wages for Mr. McDaniel</p> <p>3 extending from 1999 to 2003.</p> <p>4 Next is Exhibit 3, which is</p> <p>5 handwritten page by me on matters pertaining to</p> <p>6 Mr. McDaniel, and it has such things as date of</p> <p>7 birth and date of the event and so on.</p> <p>8 Next is a group of documents labeled</p> <p>9 as Exhibit 4 and it consists of W-2s for 2003, 2002,</p> <p>10 followed by notice to -- a document that appears to</p> <p>11 be a notice of participants. It's got a GF/Murphy</p> <p>12 0161 stamp, Bates stamp on it. And I think there's</p> <p>13 a wage verification notice attached to that.</p> <p>14 Q. On Exhibit 4, that's documentation that</p> <p>15 was provided to you by plaintiffs' counsel; is that</p> <p>16 correct?</p> <p>17 A. That's correct.</p> <p>18 Q. Is that all the documentation concerning</p> <p>19 Mr. McDaniel that was provided to you by plaintiffs'</p> <p>20 counsel?</p> <p>21 A: I believe so. If it's not in there, then</p> <p>22 yes, that would be if case. If it's not in this</p> <p>23 folder --</p> <p>24 Q. It could be in Ms. Murphy's folder?</p> <p>25 A. Could be.</p>																														

Page 6

1 **Q. I don't think it's there, but we're going**
2 **to go through that.**

3 A. Okay. I have brought with me -- for the
4 record, I have brought with me today everything that
5 I've received in this matter.

6 **Q. Okay.**

7 A. Exhibit 5 is a report by Helen Reynolds on
8 Marilyn Murphy.

9 **Q. Do you know Ms. Reynolds?**

10 A. I know of her, yes. I've never met her.
11 She's a fine economist.

12 The next folder is on Mrs. Murphy.
13 Exhibit 6 is a report by me dated October 13th of
14 last year; followed by Exhibit 7, which is a
15 spreadsheet setting forth the calculation for
16 Mrs. Murphy, followed by an analysis of her wages,
17 at least as I have them.

18 Exhibit 8 is some handwritten notes
19 containing dates of birth, date of injury and so on
20 for Mrs. Murphy, her wage rate, et cetera.

21 Exhibit 9 are the documents that I
22 used in this matter -- in both these cases to gauge
23 the economic perimeters of the matter. The first
24 document is worklife tables of the United States for
25 men and women. That is followed by the appendix of

Page 7

1 the Economic Report of the President, which contains
2 data relevant to wage growth, discount rates,
3 inflation and so on.

4 And lastly in this document is a U.S.
5 Department of Labor news release 04-1105, which
6 contains fringe benefit data for various classes of
7 workers.

8 Exhibit 10 is W-2 statements for
9 2000, a pay stub dated for the pay period ending
10 12-25-01 for Mrs. Murphy.

11 There is what appears to be a pay
12 stub dated 9-20-04 for Mrs. Murphy. There is a 2003
13 W-2 from DVS, Inc. to Mrs. Murphy reflecting a W-2
14 statement. That is followed by a series of
15 documents that pertain to Mrs. Murphy. It begins at
16 GF/Murphy 0245 and extends for the next several
17 pages and appears to conclude at 20 -- 0264. And
18 these apparently have to do with some Texas
19 Workforce Commission documents.

20 That is, in turn, followed by a
21 letter from Scott Newar dated October the 2nd, 2004
22 setting forth some of the particulars of the
23 matter. This is a transmittal letter to me.
24 There's an August 24, '04 letter from Mr. Newar to
25 me setting out some of the elements of this matter,

Page 8

1 such as the event date and wage rates and dates of
2 birth.

3 Lastly, among these documents appears
4 to be a complaint filed in this matter. It has a
5 November 12th, '03 date on it. There's another
6 document that Sullens, Johnson, Rohrbach and
7 Magers -- is that correct? Anyway, it sets out some
8 wage rates apparently in this matter as well.

9 **Q. All right.**

10 A. And that's it. Oh, I'm sorry.

11 **Q. With regard to Exhibit 10, is that all the**
12 **documentation that was provided to you concerning**
13 **Ms. Murphy?**

14 A. It is. It also contains, I think in some
15 of the letters from Mr. Newar, data that are
16 relevant to Mr. McDaniel.

17 **Q. And those letters are within Exhibit 10,**
18 **aren't they?**

19 A. Yes. No. 11 is a report from Helen
20 Reynolds reflecting Mrs. Murphy.

21 And I think 12 and 13, 12 is my
22 resume. And 13 is a Rule 26, testifying history
23 over the last four years.

24 **Q. Is your resume accurate as of today?**

25 A. Yes.

Page 9

1 **Q. Is the federal disclosure, Exhibit 13,**
2 **accurate as of today?**

3 A. No. It's about July of last year.

4 **Q. Do you have an updated disclosure, case**
5 **retention disclosure?**

6 A. Do not.

7 **Q. How often do you update your disclosures?**

8 A. As often as the whip is cracked over my
9 head, I suppose. As often as needed. I intend to
10 update, I just haven't done it...

11 **Q. Let me see the first set of exhibits.**

12 A. Sure.

13 **Q. In regard to the documents marked as**
14 **Exhibit 4, did you ask for these particular**
15 **documents or were they just sent to you?**

16 A. Part of them were sent to me. I asked for
17 all that were available. There was a subsequent
18 batch that was sent to me. I think that was with
19 respect to Mrs. Murphy. But there's a standing
20 request for data on wages, historic wages. But some
21 of them were sent and some of them, after a request
22 for more documents, additional ones were sent. I
23 think they have to do with Mrs. Murphy more so than
24 Mr. McDaniel.

25 **Q. Is there any information you have**

Page 10

1 requested for Mr. McDaniel that you have not been
2 provided?

3 A. I don't think so.

4 Q. Is there any information you have
5 requested for Ms. Murphy that you have not been
6 provided?

7 A. Well, let me back up. Yes. There are
8 standing requests for wage data. Because of the
9 nature of this, the fact that both of them are
10 continuing to work, obviously there is a need for
11 the latest and greatest in way of what they have
12 earned. So as soon as that becomes available, yes,
13 we'd like to have that.

14 Q. In regard to Mr. McDaniel, did you have
15 all the information that you believe necessary in
16 order to render opinions in this case?

17 A. I think so.

18 Q. How about Ms. Murphy?

19 A. Yes.

20 Q. In regard to Exhibits 2 and 3, when were
21 those prepared?

22 A. At the time of the report.

23 Q. At the time of the report?

24 A. Yes.

25 Q. Did you make them available to Mr. Newar?

Page 12

1 Q. Did Mr. Newar ever ask you for any of your
2 work product or documentation that you relied upon
3 or used in rendering opinions in this case?

4 A. I don't think so, no.

5 Q. Looking in particular at Exhibit 9, I see
6 that we have a "Worklife Estimates: Effects of Race
7 and Education" dated February, 1986. Are you aware
8 of whether or not there is a more recent report of a
9 similar nature put out by the U.S. Department of
10 Labor?

11 A. No.

12 Q. Do you believe there is or is not?

13 A. I believe there is not. These are dated
14 documents, there's no question about it. But they
15 have not, to my knowledge, updated these things.
16 The data goes back to about '79, '80. Now, there
17 are similar documents put out by private sources,
18 but none by the Labor Department.

19 Q. Are you familiar with any information that
20 is put out by the government or private people or
21 private companies that contains information on race
22 and education's effect on worklife expectancies?

23 A. Yes.

24 Q. Do those tables differ with the table you
25 used that's marked as part of the Exhibit 9?

Page 11

1 A. I don't think it was discussed. It would
2 be available. The reason why I did not include it
3 is my appreciation of it is it's cryptic. Should he
4 ask for it, I certainly will provide it.

5 Q. Exhibits 2 and 3 constitute your work
6 product in regard to Mr. McDaniel, correct?

7 A. Correct.

8 Q. All right. In regard to Exhibit 7 and 8,
9 is this your work product in regard to Ms. Murphy?

10 A. Yes.

11 Q. And were these documents prepared about
12 the time of your report?

13 A. They were.

14 Q. Did you make them available to Mr. Newar?

15 A. I did not transfer them, no. They were
16 available, of course, but I didn't transfer them.

17 Q. Exhibit 9, is that part of your
18 documentation and information that you took into
19 consideration in rendering opinions in this case?

20 A. Yes.

21 Q. When did you obtain these documents? Was
22 it before you got hired in this case?

23 A. Oh, yeah. Many, many years ago.

24 Q. Did you make these available to Mr. Newar?

25 A. I did not.

Page 13

1 A. They differ according to their findings.
2 I attribute that not due to a difference in
3 methodology, but due to a difference in time and due
4 to -- part of it may be due to a difference in data
5 samples. I don't know. But it'd be the source -- I
6 may be telling you more than you want to know, but
7 Allen wants to.

8 The source is the P-60 series that
9 the Labor Department relies upon, but it may not be
10 specialized to the degree that the Labor Department
11 had at the time they did 2254. But yes, I'm aware
12 that they are; but they do not have the imprimatur
13 of the United States Government stamped on their
14 private studies.

15 Q. Do you know the methodology that was used
16 by the U.S. Department of Labor to generate this
17 particular document we're talking about?

18 A. Yes.

19 Q. What is the methodology that was used?

20 A. They refer to it as either the
21 increment/decrement methodology; or a more
22 appropriate definition might be a decisionry
23 method, or a mark-off chain as it's commonly
24 referred to.

25 Q. All right. There's a rate of error that

Page 14

1 was built into this methodology, correct?
2 A. I'm sure there is.
3 Q. Do you know what the rate of error is for
4 this table?
5 A. Do not.
6 Q. Have you ever sought to determine the rate
7 of error for this table?
8 A. No.
9 Q. Do you know the rate of error on any more
10 recent tables that have been generated?
11 A. Do not.
12 Q. Have you ever used a table more recent
13 than this particular table --
14 A. Yes.
15 Q. -- in generating expert reports?
16 A. Yes.
17 Q. And what tables have you used?
18 A. There's one by Gamboa, and I use that
19 because a vocational person uses it. There are
20 others out there that I have not used, but it
21 allegedly has the same methodology as the labor
22 department table.
23 Q. Does it have different results?
24 A. It does. Women have a longer worklife and
25 men have a little bit shorter worklife as a result.

Page 15

1 That's to be expected. All the evidence points in
2 that direction. I suppose we could quibble over the
3 significance of it, but there seems to be without a
4 doubt women are working more than they did in '79,
5 '80.
6 Q. Are you basing that opinion on some
7 particular study that you've reviewed or personal
8 experience? I mean, are you giving that opinion as
9 an expert opinion in this case or is it just a
10 side-bar comment?
11 A. No, it is -- it is my personal opinion.
12 It is my professional opinion. And again, as I say,
13 I don't think there's any doubt that men are working
14 a little bit less, women are working quite a bit
15 more. However, we don't have the imprimatur by the
16 U.S. Government, any study that would split a U.S.
17 Department of Labor study. But we see that in labor
18 force participation rates and -- among women.
19 So there's cursory evidence to
20 suggest that that is the case. And the formal
21 studies also concluded that there is a case, but
22 there is no government study that says that's the
23 case.
24 Q. And you haven't been provided any
25 documentation that would support that opinion,

Page 16

1 correct?
2 A. I'd be happy to get you some. Since I
3 wasn't relying on it, I didn't use it.
4 Q. All right. What was this particular table
5 used for in the process of arriving at your opinions
6 in this case?
7 A. It sets the number of -- the quantity of
8 time that each of them would work in the future
9 following the trial date, how long they might work.
10 Q. Are there any studies you're aware of that
11 are adjusted for regional anomalies?
12 A. No.
13 Q. You chose to use this table to support
14 your opinion for the length of time that Ms. Daniel
15 and Mr. -- I'm sorry, Ms. Murphy and Mr. McDaniel
16 would remain employed?
17 A. No. The quantity of time that they would
18 work. I know I'm putting a fine point on this, but
19 it's the interval time that they would work, not
20 necessarily contiguous blocks of time...
21 Q. Total time --
22 A. Yeah.
23 Q. -- rather than total contiguous time?
24 A. That's correct.
25 Q. Have you met Mr. Murphy or Ms. McDaniel?

Page 17

1 I'm sorry, I got that wrong.
2 Have you met Ms. Murphy or
3 Mr. McDaniel?
4 A. I've met neither of them, talked to
5 neither of them.
6 Q. So you didn't take into consideration in
7 rendering any opinions any particular information
8 concerning, for example, their educational level,
9 correct?
10 A. No, I did take that into consideration.
11 Q. What is your understanding of their
12 educational level?
13 A. I think high school, and high school plus
14 a little college in the case of Mr. McDaniel.
15 That's my appreciation.
16 Q. Did you have any further appreciation for
17 their health?
18 A. As far as I know, it would be average
19 health. They may have varied from that, but my
20 appreciation it was just average health.
21 Q. Health can play a role in the amount of
22 time one would work in their lifetime, correct?
23 A. Sure.
24 Q. And you made no adjustments in your
25 calculations taking into consideration the health of

<p style="text-align: right;">Page 18</p> <p>1 either of those individuals, correct?</p> <p>2 A. Correct. There's not been any sort of</p> <p>3 ad hoc adjustment to take into account good health</p> <p>4 or ill health. They're just assumed to be average.</p> <p>5 Q. And you didn't rely upon any information</p> <p>6 that is specific to the City of Houston in</p> <p>7 determining their estimated length employment,</p> <p>8 correct?</p> <p>9 A. Correct.</p> <p>10 Q. And their length of employment could be</p> <p>11 much less depending on a number of factors than what</p> <p>12 the document is that you used for worklife</p> <p>13 estimates, correct?</p> <p>14 A. Correct.</p> <p>15 Q. And what would those factors be?</p> <p>16 A. It could be any number. It could be</p> <p>17 health. It's probably unlimited in the facts that</p> <p>18 change their working. They could win the lottery,</p> <p>19 that sort of thing. I mean, I'm serious.</p> <p>20 Q. They could decide that they just don't</p> <p>21 want to work as much.</p> <p>22 A. That's true.</p> <p>23 Q. In fact, that would probably be more</p> <p>24 likely than winning the lottery, don't you think?</p> <p>25 A. Not if you listen to the lottery boys.</p>	<p style="text-align: right;">Page 20</p> <p>1 we had requested them, you would have produced</p> <p>2 them. That's the premise that you make and we'll</p> <p>3 see about that. Because you knew you had an</p> <p>4 obligation to produce them.</p> <p>5 Q. (By Mr. Meyer) Let me ask you about this</p> <p>6 document that's also part of Exhibit 9. Can you</p> <p>7 identify that for us, sir?</p> <p>8 A. Yes. The top document is from the</p> <p>9 Economic Report of the President 2004 and it</p> <p>10 contains data from the appendices that is sort of</p> <p>11 the warehouse of economic data economists generally</p> <p>12 rely upon, and it is wage growth and interest rates</p> <p>13 and inflation.</p> <p>14 Q. Does this document have any adjustments</p> <p>15 for regional peculiarities?</p> <p>16 A. No.</p> <p>17 Q. Does this document have a section that</p> <p>18 deals with sales in the furniture industry?</p> <p>19 A. Does not.</p> <p>20 Q. How about sales in general?</p> <p>21 A. Does not.</p> <p>22 Q. And what part of this document did you</p> <p>23 take into consideration in rendering opinions in</p> <p>24 this case, sir?</p> <p>25 A. The wage growth. There is a Table B-49 on</p>
<p style="text-align: right;">Page 19</p> <p>1 Yes. I'm being facetious.</p> <p>2 Q. Did you read Ms. Reynolds' report?</p> <p>3 A. I did. I looked at it this morning. I</p> <p>4 didn't get a chance to give it its full due. It</p> <p>5 struck me that there may be a couple of documents</p> <p>6 missing from in there. She refers to tables I</p> <p>7 didn't quite have. I don't know if that's my error</p> <p>8 or what.</p> <p>9 MR. NEWAR: For the record, those</p> <p>10 have not been produced to plaintiffs' counsel.</p> <p>11 MR. MEYER: For the record, they've</p> <p>12 been available as stated in our pleadings, and yet</p> <p>13 you have not requested it.</p> <p>14 MR. NEWAR: You can review these any</p> <p>15 time you want to, Mr. Meyer.</p> <p>16 MR. MEYER: No, I couldn't have. You</p> <p>17 had a duty to produce them or let us know that they</p> <p>18 were available, and you chose not to do that.</p> <p>19 MR. NEWAR: That is incorrect, sir.</p> <p>20 MR. MEYER: We'll see.</p> <p>21 MR. NEWAR: We will see. For the</p> <p>22 record, Mr. Meyer never requested any documents he's</p> <p>23 reviewing today.</p> <p>24 MR. MEYER: That will be the</p> <p>25 centerpiece of my brief. Because I assume that if</p>	<p style="text-align: right;">Page 21</p> <p>1 the front page that shows compensation, real</p> <p>2 compensation per hour and nominal compensation. If</p> <p>3 you want me to mark that.</p> <p>4 Q. Yeah, if you wouldn't mind, just however</p> <p>5 you would like to.</p> <p>6 A. (Witness complies.)</p> <p>7 Also of interest is Table B-60 which</p> <p>8 contains consumer price index. And on the last page</p> <p>9 there is a history of interest rates from various</p> <p>10 securities, bonds, for U.S. Treasury and so on, and</p> <p>11 I used three-month bills as a basis. And on the</p> <p>12 very last page is a document that I prepared that</p> <p>13 amalgamates the relevant portions of the previous</p> <p>14 pages that I've discussed.</p> <p>15 And I'll explain it to you this way:</p> <p>16 We have a number of observations, the year of the</p> <p>17 observations. We have a group of three data series</p> <p>18 labeled as reported and as reported in the Economic</p> <p>19 Report of the President, then the percent change</p> <p>20 from year to year. And they converted to an index</p> <p>21 that has as its base Year 2000 -- 1970, excuse me.</p> <p>22 And the very last section, which is</p> <p>23 where all this leads us, is called the real index</p> <p>24 compensation growth and yields. And over the</p> <p>25 last -- since 1973, over the last 30 years,</p>

Page 22

1 compensation has grown at about 9.6 percent, yields
2 about 1.39 percent. These are real compensation,
3 and real yields are in the vernacular of the federal
4 courts, the below market discount rate. And next to
5 that we have the nominal rates over that same
6 interval of time. But that's what this document
7 represents.

8 **Q. I'm going to ask you some questions about**
9 **this last page. But first, let me go through this**
10 **economic report.**

11 **Did you use any document in rendering**
12 **your opinions in this case?**

13 A. Yes.

14 **Q. Did you make it available to Mr. Newar?**

15 A. I didn't provide it to him, no.

16 **Q. Is this document referred to in your**
17 **report?**

18 A. I don't know. I don't think the document
19 is, no. No.

20 **Q. Is the data from this Economic Report of**
21 **the President, February of 2004, is that referenced**
22 **in your report?**

23 A. Yes, it is referenced. Talking about real
24 interest rates are the below market discount rate.

25 **Q. And just for the record, this last page of**

Page 24

1 the 1.1/2 percent discount rate.

2 **Q. Why did you choose to use a time period**
3 **from 1973 to 2004?**

4 A. To take into account all the fluctuations
5 that can occur on a short-term basis, all the booms
6 and busts. In other words, not to -- to avoid a
7 time period that would be unrepresentative of what
8 we might see on average in the future.

9 **Q. Was there data available before 1972?**

10 A. Sure.

11 **Q. And so, why did you choose to begin in**
12 **1973?**

13 A. You're on the horns of a dilemma when
14 selecting data. You want to avoid something called
15 small sample buys which occurs when you have less
16 than 30 observations statistically. If you go back
17 too far in time, then you arrive at an economy that
18 perhaps no longer exists. That may not be case in
19 terms of interest rates as they exist today. But
20 there is something called structural changes that
21 occur in the economy.

22 And so as do not -- if you went back
23 to the 1800s, we don't have horse and buggies. That
24 changes the economy. So you want to use something
25 that's recent, but not so recent that whatever we

Page 23

1 **this document it's got -- in the first column, it**
2 **says number zero through 33. That's not meant to be**
3 **part of this Economic Report of the President,**
4 **correct?**

5 A. It is not part of the Economic Report of
6 the President, but it is relevant to those prior
7 pages. That's why it's attached there.

8 **Q. I'll go into it separately. I just wanted**
9 **to ask you about that.**

10 **Could you show me in the Exhibit 1**
11 **where the information is that you reported in**
12 **Exhibit 1 that came from this particular report?**

13 A. Yes. The real rate of interest is 1.1
14 percent -- I rounded it up to 1.1 percent.

15 **Q. Why did you do that?**

16 A. Real interest rates have been on the
17 increase in recent years and just to make it a round
18 number and give credence to this trend, it was
19 rounded up.

20 **Q. How did that affect your numbers?**

21 A. It has the effect of reducing the damage
22 claim.

23 **Q. So this economic report is reflected in**
24 **your appraisals in regard to interest rates?**

25 A. Yes. That document is used to arrive at

Page 25

1 pick turns out to be the tangential selection of
2 data, you might say. That's the reasons.

3 **Q. So, is it your testimony there have been**
4 **no structural changes in the economy from '73**
5 **forward?**

6 A. No. They're always -- they're ongoing
7 structural changes. However, we cannot identify
8 them. We know that they exist from day-to-day, but
9 we have, again, this dilemma. If you pick too short
10 a date, then you run the risk that you use too low
11 of interest rate in today's setting, for example.
12 Interest rates are very low today. They're not
13 likely to stay that low. So if you were to pick
14 today's interest rate, you would overstate the
15 economic loss or potential economic loss. And it's
16 for that reason, you don't want to do it.

17 **Q. And so you've used an estimated interest**
18 **rate for F bills of 1-1/2 percent?**

19 A. Right.

20 **Q. And what is the T bill rate today?**

21 A. About 1-1/2 percent nominally. It's about
22 2-1/4. It's 2-1/4 percent at the present. So if we
23 had something on the order of magnitude of
24 three-quarters of 1 percent inflation, which I
25 assure you we do, then you're in negative T bill

Page 26

1 territory, negative yield territory. But that is
2 not something that is probably going to sustain
3 itself over the future. So for that reason, I think
4 it would be inappropriate to use that -- projecting
5 that into the future.

6 **Q. You think it would be inappropriate to use**
7 **1-1/2 percent?**

8 A. No, because that's -- we have a lot of
9 empirical data to suggest that that's something we
10 can expect over a long period of time.

11 **Q. Isn't the empirical data that's available**
12 **presently indicate that we can expect a higher real**
13 **interest rate, higher than 1-1/2 percent?**

14 A. And what would that be? I don't know what
15 that would be.

16 **Q. You're not familiar with any data that**
17 **would indicate that the interest rates are likely to**
18 **increase?**

19 A. They are likely to increase.

20 **Q. And are you aware of any documentation or**
21 **data that would indicate that T bills are likely to**
22 **increase?**

23 A. Absolutely.

24 **Q. And have you factored in a likelihood of**
25 **increase in any of these numbers?**

Page 27

1 A. I have. That's why we're using this
2 longer data. Remember, we're looking -- apparently
3 we're under federal rules here and we're looking at
4 a below market methodology where you have to use
5 real rates of interest.

6 **Q. All right. Now, if you use a higher**
7 **interest rate, it will reduce the ultimate**
8 **conclusion you come up with, correct?**

9 A. Yes. If you use a higher real interest
10 rate, the economic loss would be less. Any --

11 **Q. And if one were to assume that the**
12 **interest rate would be 2 percent rather than 1-1/2,**
13 **how would that affect the numbers?**

14 A. It would reduce them.

15 **Q. By what factor or what percentage given --**

16 A. A very small factor. We have, in the case
17 of Mr. McDaniel, five years. Rather diminutive.
18 Interest rates here are not a big player in the --
19 in the overall economics of these damages.

20 **Q. Because we have a short front pay issue,**
21 **correct?**

22 A. The front pay issue.

23 **Q. And that's the same for Mr. McDaniel's and**
24 **Ms. Murphy, due to the relative shortness of front**
25 **pay, interest rates affect on the net numbers that**

Page 28

1 **you've come up with are not a major factor. Is that**
2 **what your testimony is?**

3 A. Both interest rates and growth rates.
4 They're not going to be big players in the
5 mathematics of this calculation.

6 **Q. And what would be the biggest factor?**

7 A. Wages.

8 **Q. What they earn or likely to earn, correct?**

9 A. Yeah.

10 **Q. Let me turn your attention to the third**
11 **document within Exhibit 9. Can you tell us what**
12 **this document's here for.**

13 A. Yes. That's the fringe benefit
14 calculation. It's U.S. Department of Labor 04-1105.

15 **Q. All right. You, as part of your**
16 **calculations, used this particular document?**

17 A. Yes.

18 **Q. And that was arriving at a fringe benefit**
19 **for Ms. McDaniel (sic) of 20 percent of her cash**
20 **wages?**

21 A. Correct.

22 **Q. And then you used the same information to**
23 **come to the conclusion for Mr. McDaniel it would**
24 **be -- did I say mister? Let me back up. They're**
25 **names are too similar for me.**

Page 29

1 A. I know it.

2 **Q. Let me back up. In regard to**
3 **Mr. McDaniel, you used this document to arrive at an**
4 **opinion that benefits were approximately 20 percent**
5 **of his wages.**

6 A. Correct.

7 **Q. And you used the same information to come**
8 **to the conclusion that for Ms. Murphy, it was about**
9 **12 percent?**

10 A. Correct.

11 **Q. Why is there a difference between the two**
12 **numbers?**

13 A. Ms. Murphy is making a lot more money than
14 Mr. McDaniel and on that additional money, she would
15 not get paid any benefits or very small benefits.
16 In other words, the health insurance package is
17 going to be about the say. That's not a function.
18 It is to a degree, but it's not a -- health
19 insurance benefits do not move -- pass through with
20 the wage rate; however, retirement benefits probably
21 do. There will be a cap on legally required for the
22 most part 6.4 percent for Social Security and then
23 there's a -- other benefits that are probably going
24 to be capped out as well.

25 So because her wages are much higher

Page 30

1 than his, we want to give notice to the fact that we
2 recognize that her benefits won't be as great as a
3 percentage of -- as Mr. McDaniel's benefits are.
4 I tortured that response. Do you
5 understand what I'm saying?
6 **Q. I do. This document, I believe, is**
7 **"Employer Costs for Employee Compensation," March**
8 **of 2004 and it's in a report that appears to be**
9 **dated June 24, 2004. Is that correct?**
10 A. Right.
11 **Q. Are there any more recent reports than**
12 **this?**
13 A. There are.
14 **Q. Why did you choose to use this report?**
15 A. That's what I had when I did it. Since
16 then, there are others that have come out.
17 **Q. Your expert report is dated --**
18 A. October.
19 **Q. -- October. Did you write that report in**
20 **June?**
21 A. No.
22 **Q. I wrote it in October?**
23 A. Right.
24 **Q. And since the writing of your report, have**
25 **you had updated information such as this?**

Page 31

1 A. Yes.
2 **Q. And how has -- do you have an idea and**
3 **appreciation of how the updated information would**
4 **affect your report?**
5 A. Wouldn't affect it.
6 **Q. How so?**
7 A. They don't change that much. The
8 perimeters there would change in -- probably over
9 that interval of time, in the 10ths of a percent. I
10 don't see how that would really materially affect
11 it. I'd be happy to update it, but I don't think it
12 would materially affect the outcome one way or the
13 other.
14 **Q. But you don't know?**
15 A. Well, I do know. I looked at it. The
16 most recent one came out in December. I think it
17 was December. I've got it on my desk. I haven't
18 done any calculations with it, but there's no
19 dramatic change to it.
20 **Q. Show me where -- what columns of**
21 **information you relied upon in this report.**
22 A. Okay. There is sales and related
23 category. That's the classification. Then we have
24 the component benefits at the top.
25 **Q. Okay. What benefits was Ms. McDaniel**

Page 32

1 **receiving -- I'm sorry. Mr. McDaniel receiving when**
2 **his employment with Gallery Furniture ended?**
3 A. As I appreciate it, all the benefits that
4 workers typically receive as they're enumerated in
5 that documents. That would consist of health
6 insurance, life insurance, retirement benefits
7 legally required.
8 **Q. All right. When you say legally required**
9 **benefits, what are you referencing?**
10 A. What the labor department referenced.
11 That consists of unemployment insurance, Social
12 Security insurance and so on.
13 **Q. All right. It's unemployment, Social**
14 **Security. Anything else?**
15 A. No, whatever is legally required.
16 Worker's compensation.
17 **Q. Anything else?**
18 A. That's it.
19 **Q. And this is documentation that refers to**
20 **employer costs, correct?**
21 A. Correct.
22 **Q. And how is an employer's incurrence of**
23 **these costs affect the wage numbers that you came**
24 **for front and back pay for Mr. McDaniel?**
25 A. It's a benefit that they receive. In

Page 33

1 other words, it's -- they receive the benefit but
2 not the cost. So it is unreported W-2 income, in a
3 sense. In other words, the employer's cost for
4 health insurance -- the portion that the employer
5 pays redounds to the benefit of the employee, but
6 does not show up in their W-2 wages.
7 **Q. So you're of the opinion that both**
8 **Mr. McDaniel and Ms. Murphy had health issues?**
9 A. Yes.
10 **Q. Life insurance?**
11 A. Yes.
12 **Q. Dental insurance?**
13 A. I don't know if they had dental or not.
14 **Q. Disability?**
15 A. Yes.
16 **Q. Worker's compensation coverage?**
17 A. Correct.
18 **Q. Unemployment coverage?**
19 A. Yes.
20 **Q. And the basis for that information is**
21 **what?**
22 A. That's just my appreciation. I have not
23 been shown a list of the benefits they received. I
24 did receive a list and there's something about
25 pension benefits. And it's my experience that

Page 34

1 generally if you have pension benefits, you also
2 have health insurance and the like. You would
3 certainly have legally required benefits.
4 **Q. But you don't know what the actual**
5 **benefits are that Mr. McDaniel or Ms. Murphy**
6 **received; is that correct?**
7 A. That's correct.
8 **Q. So you've made an assumption, then, in**
9 **regard to this particular issue; is that right?**
10 A. Yes.
11 **Q. And isn't it true that you certainly had**
12 **the option open to you to not make an assumption**
13 **because you could have requested and obtained this**
14 **information in the course of this case?**
15 A. I don't know that that's true.
16 **Q. Well, you've been involved with litigation**
17 **many, many years, haven't you?**
18 A. Yes.
19 **Q. And you have had experiences in the past**
20 **where you have not had information that you wanted**
21 **and you knew that the counsel that retained you**
22 **could request that information in the form of**
23 **discovery and obtain it, correct?**
24 A. It is on that history of experience that
25 I've come to the conclusion that you generally can't

Page 35

1 get it. If you ask for it, if you -- they don't
2 have it, then you're not likely to get it.
3 **Q. So your experiences are you don't get the**
4 **information.**
5 A. Typically not.
6 **Q. All right. And you didn't ask for it in**
7 **this case, did you?**
8 A. I don't know that I didn't.
9 **Q. Well, did you?**
10 A. I would think that I did, yes.
11 **Q. Did you get it?**
12 A. No. What you see is what we got.
13 **Q. And so, it's my appreciation for your**
14 **testimony that you don't have any experiences where**
15 **you had to rely upon counsel retaining you to obtain**
16 **additional information from an opposing party and**
17 **have actually received that information?**
18 A. I'm sorry, that's a complicated question.
19 Run that by me again.
20 **Q. As I understand it, it's your testimony**
21 **that you have not had an experience in your acting**
22 **as an expert in litigation where you have wanted**
23 **information from a opposing party and asked your**
24 **counsel who retained you to get it and you never got**
25 **it.**

Page 36

1 A. No, that's not -- that's not universally
2 the case. There are occasions when you ask for
3 information and you do get it. In the majority of
4 the time, neither party has it.
5 **Q. Well, wouldn't you think it would be**
6 **likely that an employer would have cost information**
7 **for benefits?**
8 A. Sure.
9 **Q. And is there any more particular**
10 **information than this -- than this newsletter from**
11 **the Bureau of Labor Statistics concerning employer**
12 **costs, such as broken down by industries and things**
13 **like that?**
14 A. Well, that is broken down by industry.
15 **Q. Are you familiar with anything that's**
16 **broken down into the furniture industry?**
17 A. No.
18 **Q. Are you familiar with any type of**
19 **information such as this that's broken down into**
20 **regions?**
21 A. They do have it on a regional basis. But
22 when they break it into regional basis, you lose
23 some of the finer detail with respect to the
24 industry.
25 **Q. How so?**

Page 37

1 A. Well, they don't present the category.
2 They say here is all workers in the northeast and
3 southwest and so on, and they -- they don't cross
4 tab it.
5 **Q. So you're telling me you're aware of no**
6 **information regarding sales and office work --**
7 **workers that would indicate what employers costs**
8 **would be in this particular region?**
9 A. I'm not presently aware. They may have
10 it. I'm not saying they don't have it, but I'm not
11 aware of it.
12 **Q. In rendering opinions as an expert**
13 **economist, shouldn't a person endeavor to have the**
14 **most recent and empirically valid documentation that**
15 **you can?**
16 A. Well, you want to have it empirically
17 valid. Whether or not it's the most recent and that
18 adds any clarity to the question is certainly
19 subject to debate. In most instances, recent data
20 are preliminary and subject to revision. But yes,
21 you want valid empirical data to form these
22 conclusions, without a doubt.
23 **Q. Have you ever been disqualified as an**
24 **expert?**
25 A. No.

Page 38

1 Q. Have you ever had to appear for a Daubert
2 hearing?

3 A. Yes.

4 Q. On how many occasions?

5 A. Once.

6 Q. When was that?

7 A. Well, I take it back. Twice. Once was in
8 the Valley. That was last year. And I guess that
9 was it.

10 Q. What was the type of accident or lawsuit
11 that that -- that the Valley case was about?

12 A. It was a traffic accident.

13 Q. Did you have a severely injured plaintiff?

14 A. As I recall, yes.

15 Q. Did you represent the plaintiff's side of
16 the case?

17 A. I was hired by the plaintiff, yes.

18 Q. Is that case listed in Exhibit 13?

19 A. I don't know if it is or not. I can't
20 remember the name of it. But it was in Star County.

21 Q. So it's not listed in 13?

22 A. Yeah. I was allowed to testify.

23 Q. Yeah, but is that case listed in Exhibit
24 13?

25 A. I don't remember the name of it. I think

Page 40

1 compensation \$22.63, then to the right of that,
2 wages and salary \$17, and to the right of that
3 \$5.63.

4 A. Right.

5 Q. Which are those numbers did you use in
6 your calculations?

7 A. Used the cash wage of those three that you
8 mentioned and that's it. To that cash wage, you're
9 going to add paid leave. Why? Well, because it's
10 already in the W-2. In other words, how do you pay
11 someone for a holiday? It shows up in their W-2.
12 You don't hand them another check. That's taxable
13 income and, therefore, it's in their W-2.

14 Q. Well, aren't you assuming that that's in
15 the situation of a salary?

16 A. No. Wages and salary.

17 Q. So hourly wages -- both of these folks are
18 hourly -- paid employees, correct?

19 A. Right.

20 Q. And you're saying that the -- that they
21 were paid, they had paid time off?

22 A. Yeah, they're paid holidays. So for that
23 reason, you understand that you have to add paid
24 leave back to what the labor department says are
25 their cash wages to get to what their W-2 reflects.

Page 39

1 it was Lopez in Star County.

2 Q. I see a Jose Lopez in Cameron County. Is
3 that --

4 A. No, that's a different one.

5 Q. Did Gallery Furniture employees, such as
6 Mr. McDaniel and Ms. Murphy, have paid leave?

7 A. I don't know. I think that they did, but
8 I haven't seen any documents to that effect.

9 Q. Did you assume that they did?

10 A. I did. But paid leave is not one of their
11 benefits.

12 Q. Why not?

13 A. Because it's already in their W-2 wages.

14 Q. They didn't have a benefit cost?

15 A. You back that out because what the labor
16 department says is a benefit is not -- is not a
17 benefit. They've got down there supplemental pay
18 and paid leave. Those are not benefits. Those
19 are -- that's already reflected in their W-2 wages,
20 and so you have to take that out. What you do is
21 you add that to the base and you're only looking at
22 non cash benefits; in other words, payments for
23 health insurance and so on and so forth.

24 Q. Well, did you use this benefit -- I notice
25 here where you have this calculation it says total

Page 41

1 Q. And that endeavor is part of your benefits
2 analysis, correct?

3 A. Yes.

4 Q. As opposed to being part of your wage loss
5 analysis, that's part of the benefit loss analysis,
6 correct?

7 A. That's correct.

8 Q. And so in doing a benefit loss analysis in
9 this case, you would assume that both of those
10 folks, both plaintiffs had paid time off.

11 A. If they didn't, it didn't matter. But,
12 yes.

13 Q. Well, okay.

14 A. Make sure you understand this.

15 Q. Oh, I do. I do.

16 A. There's going to be a test on it.

17 Q. There is going to be a test on it.

18 So, if we have a category here under
19 sales and related, it says paid leave \$1.24 and
20 supplemental pay 60 cents. Did those two numbers go
21 into your calculations?

22 A. Yes.

23 Q. Because you assumed that in this
24 particular fact pattern, the employees were
25 receiving some paid time off?

Page 42

1 A. It turns out that it doesn't matter.
2 **Q. We'll debate that in a moment.**
3 A. No.
4 **Q. I'm asking whether or not you made an**
5 **assumption.**
6 A. Yes, an assumption that does not matter.
7 You don't have to assume either way.
8 **Q. I'm not arguing with you, but I'll give**
9 **you a chance to explain that answer. But for the**
10 **moment, you made an assumption that paid leave and**
11 **supplemental pay were received by these employees in**
12 **calculating their lost benefits, correct?**
13 A. Relevant to the labor department
14 calculations, yes.
15 **Q. Okay. Now, as promised, you're going to**
16 **explain to me why it doesn't matter if you're wrong**
17 **in your assumption. So would you please do that.**
18 A. Sure. The way the labor department is
19 attacking these numbers, they're looking at -- when
20 they define wages and salaries and wages there in
21 that column, that's the salary pay for time worked,
22 actually worked. Then because of what the question
23 they're trying to answer, they're going to separate
24 out such things as paid vacation. That's in the
25 W-2, but not in their calculation.

Page 43

1 Same is true with holiday pay, shift
2 differential pay. That's those supplemental items,
3 then you get the shift differential pay. So in
4 order to get the labor department numbers to conform
5 to what our data is, which is W-2 data, we've got to
6 put those cash benefits, supplemental pay, paid
7 leave, back into cash wages. That forms the
8 denominator of this equation. That increases the
9 denominator, which decreases the quotient.
10 If you look at the bottom of the
11 page, you'll see percentages. The percentages that
12 I'm using are are much lower than what the labor
13 department uses. In the numerator -- hang with me
14 now. In the numerator, we've got a non cash
15 benefit, which is the employee's payments to health
16 insurance, life insurance and all the various
17 insurances and retirement which are legally
18 required, and that's a lower figure.
19 **Q. Well, isn't it true that when you say it**
20 **doesn't matter, what you're saying is, it doesn't**
21 **matter in what you determine your net number for**
22 **front or back pay to be; but it does matter -- well,**
23 **first of all, is that true, that it doesn't matter**
24 **when you're reaching the final calculation of what**
25 **the front or back pay's going to be, that's what**

Page 44

1 **your opinion is, it doesn't matter.**
2 A. I'm not sure I understand the question.
3 **Q. Okay. Isn't it true that if paid leave**
4 **and supplemental pay are not paid, that it will**
5 **affect the percentage of benefits?**
6 A. No.
7 **Q. Well, you're saying that if it's not**
8 **there, it shows up on the wage and salary column,**
9 **correct, as I have appreciation for your testimony?**
10 A. No, it doesn't. That's the point.
11 These -- the way this is -- I am doing this helps
12 your cause. It doesn't hurt your cause.
13 **Q. I understand that. If you're allowed to**
14 **testify.**
15 A. Okay.
16 **Q. This may be a Daubert exercise here.**
17 A. I'm sure it is.
18 **Q. Though we've known each other a long time,**
19 **in this case, we're on opposite sides.**
20 A. Well, I understand that.
21 **Q. Then I need you to explain to me how it is**
22 **that if you're doing a benefit cost analysis -- I'm**
23 **sorry. A benefit analysis for the benefit of the**
24 **employee and you're using this table to identify**
25 **that benefit cost arriving at a percentage, if it**

Page 45

1 **turns out that some of your assumptions are wrong on**
2 **what the benefits are being received by the**
3 **employee, how it is that that doesn't affect your**
4 **benefit analysis?**
5 A. Okay. Give me a sheet of paper.
6 MR. NEWAR: Let's take a break here.
7 MR. MEYER: Well, hold on just a
8 moment. Let me get him to just write this down and
9 then we can take that break.
10 A. Where's the data? Wages, \$17 an hour.
11 Now, that's the labor department's definition of
12 wages. That is not W-2 wages. Okay?
13 **Q. (By Mr. Meyer) I understand.**
14 A. Paid leave, a buck 24, and supplemental
15 pay, 60 cents. These two items would show up in
16 their W-2 wages, if they got them.
17 **Q. True.**
18 A. This becomes 18.84 as a cash wage. That's
19 the affected W-2 cash wage. In the mathematics of
20 this calculation, we're linking it to their W-2 cash
21 wages. Now, as a proxy for what -- a proxy for what
22 their benefits are, we look to the labor department
23 in this realm and they tell us that for persons that
24 fall into this category, insurance is a buck 45 an
25 hour, then they get some retirement benefits equal

Page 46

1 to 53 cents an hour, legally required, if I'm
2 reading this properly. A buck 79, 1.79. All
3 right. Then these three little puppies are divided
4 by 18.84 as opposed to \$17. That has the effect --
5 you know, they're taken out of the numerator and put
6 into the denominator, which has the effect of
7 reducing this 20 percent figure, 20.01 percent
8 figure.

9 **Q. Right. And equals benefit percentage of**
10 **wages, correct?**

11 A. Right, of W-2 wages.

12 **Q. Of W-2 wages. So you're using -- where**
13 **you have wages of \$17, are you instead using, of**
14 **that 17-dollar number, the actual W-2 wages that the**
15 **plaintiffs had?**

16 A. Yes. We have to make this relevant. In
17 other words, if you relied upon the labor
18 department, you'd use 17. This would be a 17-dollar
19 number, these two little puppies would be up here
20 and it would be a much higher number. It would be
21 25 percent. 24.9 percent.

22 **Q. And that's making what assumption --**

23 MR. MEYER: We'll take our break
24 here. Let me just get this last question out.

25 **Q. (By Mr. Meyer) In doing your benefits**

Page 47

1 **analysis, what benefits did you assume that the**
2 **plaintiffs were receiving that you took into**
3 **consideration at arriving at the 20 percent and the**
4 **12 percent numbers?**

5 A. Insurance.

6 **Q. Health insurance?**

7 A. Something called insurance. It could be
8 health insurance, it could be life insurance, it
9 could be both. Insurance, retirement and savings,
10 legally required.

11 **Q. Is that it?**

12 A. That's it.

13 MR. MEYER: Take a break.

14 (Recess taken.)

15 **Q. (By Mr. Meyer) Ken, in your report, you**
16 **reference under benefits a USDL report.**

17 A. Yes.

18 **Q. Is that -- is that the document we just**
19 **went over?**

20 A. Yeah. It's part of 9. Exhibit 3.

21 **Q. That's one dated June 24th, '04?**

22 A. Yes.

23 (McCain Exhibit No. 14 marked.)

24 **Q. (By Mr. Meyer) Let me have -- the**
25 **document that we, right before the break, went over**

Page 48

1 **and used as an example for your methodology, that**
2 **was Exhibit 14, correct?**

3 A. Correct.

4 **Q. Let me have the other report. Do you have**
5 **them in front of you?**

6 A. My reports?

7 **Q. No, these right here.**

8 **Looking again at Exhibit 9, is the**
9 **first report referenced in your report of October --**
10 **I'm sorry. Let me start over.**

11 **Is the first article in Exhibit 9**
12 **referenced within your report?**

13 A. Yes.

14 **Q. Where is that referenced?**

15 A. Page 2, first paragraph.

16 **Q. How about the second?**

17 A. The second --

18 **Q. Economic report.**

19 A. No, there's not a number on it as there is
20 for a particular bulletin. There is the bulletin
21 for the labor department.

22 **Q. So we have the document within Exhibit 9**
23 **entitled "Economic Report of the President"?**

24 A. Right.

25 **Q. Is that referenced in your report?**

Page 49

1 A. No, not by title.

2 **Q. The data that you report from this**
3 **document is where in your report?**

4 A. I'm not sure I follow you.

5 **Q. In other words, this Economic Report of**
6 **the President, you took that into consideration**
7 **rendering opinions, correct?**

8 A. Right.

9 **Q. And you relied upon some data within this**
10 **economic report?**

11 A. Correct.

12 **Q. Where is that data referenced in your**
13 **report?**

14 A. No, it's not. I mean, it says Treasury
15 bills. But if you're looking for a page number, a
16 footnote or something like that, there's not a
17 footnote.

18 **Q. And then the third item, that was**
19 **referenced in your paragraph entitled "Benefits;" is**
20 **that right?**

21 A. Correct.

22 **Q. As far as your report is concerned, you**
23 **don't have -- let me rephrase the question. In**
24 **regard to your opinions, you don't have any opinions**
25 **on the reason for termination of employment by**

Page 50

1 either of the plaintiffs, correct?

2 A. Correct.

3 Q. So whether it's wrongful termination or

4 some other allegation, that's immaterial to your

5 opinions, correct?

6 A. Yes. I'm not here to stand in judgment or

7 have any opinions on the matters that bring us

8 together today. It's just simply a calculation

9 under a certain set of assumptions and that's the

10 extent of it.

11 Q. Have you read Ms. Reynolds' report?

12 A. In part. I've not, as I said earlier,

13 given it its due. I did scan it this morning.

14 Q. Do you have any opinions or conclusions

15 regarding her report?

16 A. Well, of interest in the report, I want to

17 see the negative things that she says about me. So

18 I turned to that and -- and I don't -- she talks

19 about -- I'm looking at Marilyn Murphy it appears,

20 says the 12 percent is too high. I don't know why

21 she says that. Anyway, that's her opinion.

22 Then she talks about estimates of the

23 differences in earnings due to the employer's (sic)

24 tenure with that employer, and that is a more

25 important of her criticisms in my view. She cites

Page 51

1 somewhere in here a U.S. Department of Labor study.

2 It's unpublished data, Table 5, so on and so forth.

3 I tried to find that this morning. It's back in

4 January of '02 when it was published. I couldn't

5 find it. But I'd want to take a look at that. She

6 may have something for us to talk about if she

7 produced that.

8 Q. Okay. So in summary, Ms. Reynolds has a

9 different opinion than you do about the plaintiffs'

10 allegations of front pay and back pay, correct?

11 A. I don't know what allegation the

12 plaintiffs are making. I think she's referring to

13 me.

14 Q. Well, then, stated in other words,

15 Ms. Reynolds and you have reached different

16 conclusions regarding the plaintiffs net amount of

17 alleged front or back pay?

18 A. It would appear, yes.

19 Q. And as far as the -- her report being

20 critical of your analysis on benefits, you neither

21 agree nor disagree with her until you're able to see

22 what the basis is of her criticism?

23 A. I think that's a fair statement.

24 Q. And as far as her comments about worklife

25 expectancy and taking into consideration employee

Page 52

1 tenure, same can be said, you may disagree or agree

2 with her, but reserve the right to do that until

3 you've seen the basis for that opinion?

4 A. Yeah. Those two criticisms that she

5 offers, I think the one that has the more merit

6 would be the tenure issue. But it's unpublished

7 data and I can't find it. These documents are

8 not -- to an experienced economist such as she is,

9 these documents are not as elusive. But I guess the

10 problem -- and it's not elusive to me. But I guess

11 the problem is that it's unpublished data. She may

12 have come by that in some way that most of us don't

13 share in. But if she could share that with us, it

14 would be something you'd want to take a look it.

15 Q. Would it be fair, then, to say that as

16 of -- sitting here in this deposition today, that

17 you're not prepared to provide any specific

18 criticisms of her report?

19 A. Well, we do differ on matters. I've seen

20 enough of her work. She's a good economist, better

21 than most. She does do some things when there's

22 some voodoo involved and I can't get it untangled.

23 I don't think in this matter it amounts to much. So

24 the biggest issue here, as I would think it to be,

25 would be the tenure issue.

Page 53

1 We can spend a lot of time doing all

2 this other business because -- but discount rates

3 and growth rates don't really matter. You can put

4 as much lipstick on that as you want, but you're not

5 going to change anything. What is going to matter

6 is how much they make and how long they worked. And

7 if we clarify that, that's where the whole economics

8 pivot.

9 Q. Well, I appreciate your view. Since my

10 client's being asked to write a check at the end of

11 this trial, all the numbers do matter.

12 A. Yeah.

13 Q. And we agree that some matter more than

14 most.

15 A. And that's all I'm saying. They do

16 matter, but in comparison to the whole overall

17 items.

18 Q. Let's talk about that for a moment. We've

19 talked a little bit about interest rates, we haven't

20 discussed discount rates, we've talked about

21 benefits. And the other major categories are

22 employment tenure and how much -- and basically

23 salary issues, how much money these two people are

24 making or not making.

25 A. Right.

1 Q. Those numbers -- again, I'm just guessing,
2 but I would say wouldn't you agree they probably are
3 about 85 percent of the damage calculation or so?

4 A. Yeah.

5 Q. Let's talk about Ms. Murphy. I'd like you
6 to tell me to the best of your ability what facts
7 you assumed in regard to her wage history and
8 wage -- start over.

9 In regard to Ms. Murphy, I'd like you
10 to tell me what facts you assumed to be true in
11 rendering your opinions and issues of back pay.

12 A. As I recall your question, I had two data
13 points on her wages, what she made. I'm looking at
14 W-2s. She made \$82,400 in 2000 and about \$94,800 in
15 2001. They average about 89,800, something like
16 that. That's the basis for her wage. I wish I had
17 more data, but that's all I've got. She is
18 apparently working -- she went back to work sometime
19 in 2003. She made about \$675 in that year,
20 according to the W-2. We have a pay stub that
21 suggests when you annualize it, she'd be making
22 about \$31,000 a year in 2004. And that's my
23 appreciation for her wages plus pre and post.

24 Q. Do you know what her income was in 1999?

25 A. Do not.

1 Q. Would that information be relevant to a
2 calculation by you?

3 A. Sure.

4 Q. Would her wage information be relevant for
5 '98?

6 A. Sure.

7 Q. How far back would you believe to be
8 appropriate as an economist in giving an opinion
9 such as these in this case to go back in time?

10 A. I don't know that there's a fixed date.
11 When I say it's relevant, you want to examine the
12 data. Suppose she made \$9.32 in '99. Well, the
13 question is: Why? What happened? You want to get
14 satisfaction to that question. Is that important?
15 Is it material to the ongoing expectation of future
16 wages? And that's what you want to address.

17 But I can't tell you that there is
18 some time period that is relevant to the future. I
19 don't know what that would be.

20 Q. Have you ever testified there's some
21 minimum time period that you should have data
22 available?

23 A. No.

24 Q. And if her wage rates -- let me rephrase
25 the question. If Ms. Murphy's income in, let's say,

1 '97, '98 and '99 were less, would that influence
2 your --

3 A. Probably would, yeah. I'd want to know
4 why. What you have to worry about here is are we
5 just cherry picking this date. We've got two years,
6 is that representative of the future. Can she
7 sustain that? Now, if we come back and we say well,
8 you made \$30,000 those years; why? Why would you
9 make \$30,000? Well, I was working in another job or
10 I was ill that year, or I got promoted into this
11 higher paying job. These would be issues that you'd
12 have to recon with.

13 What's on the table is what we're
14 trying to address as the prospect for future wages,
15 and we often look in the rearview mirror to get some
16 picture of where we're going in the future. So
17 that's why it would be relevant. But I would like
18 here very much to have some additional data if at
19 all possible.

20 Q. You rendered a report based on the
21 information you had, correct?

22 A. Right.

23 Q. Rather than rendering a report based on
24 the information you desired?

25 A. That's always the case.

1 Q. Particularly so in this case, correct?

2 A. I don't know that it's particularly so.
3 This seems to be an ongoing problem of trying to get
4 data from all cases.

5 Q. Have you assumed that she was paid
6 overtime or not?

7 A. Yes, she was paid overtime.

8 Q. How many hours a week on average did she
9 work overtime?

10 A. It says here 23.

11 Q. Do you have an appreciation on the
12 likelihood based on -- let me rephrase the
13 question. Do you have an appreciation on the length
14 of employment for women who work on average 63 hour
15 weeks, week in, week out, how long they work for a
16 particular employer?

17 A. Do not.

18 Q. Do you have an opinion on whether or not a
19 woman who works 63 hours a week week in, week out is
20 likely to remain employed for a longer period of
21 time than someone who works 40 hours a week?

22 A. It depends on the nature of the job. If
23 you're wrestling steers for those 40 hours, that's
24 one thing. If you're doing something else less
25 physically demanding, that's another question. It

Page 58

1 also depends on whether or not you've got to row
2 your own boat and whether or not she's
3 self-supporting, she had a husband or some other
4 means of income, that would also influence how long
5 a person might work.

6 **Q. And stress from a job, that can be --**

7 **A.** All jobs, as I appreciate it, have a
8 degree of stress in them, some are more than
9 others. I couldn't give a difference to what her's
10 might be.

11 **Q. So this is a report that's generated based**
12 **not on the exact particulars of Ms. McDonald --**
13 **excuse me, Ms. Murphy? You haven't interviewed her**
14 **and found out what her wants and desires as far as**
15 **employment, and things like that, have you?**

16 **A.** I have not. But I don't know how to
17 reflect that in the outcome of the matter.

18 **Q. You are generating a report on an**
19 **undefined person having certain basic**
20 **characteristics that Ms. Murphy had, correct?**

21 **A.** Why would she be undefined? I don't
22 follow.

23 **Q. Well, okay. This particular report, a**
24 **person that had the same age and work history that**
25 **Ms. McDaniel has -- I'm sorry, Ms. Murphy has living**

Page 59

1 **in Dallas, Texas, you'd render the same report,**
2 **correct?**

3 **A.** Yes.

4 **Q. If that person lived in New York, you'd**
5 **render the same report, wouldn't you?**

6 **A.** Pretty much.

7 **Q. California, same report?**

8 **A.** Yes.

9 **Q. My point being: Would you agree that this**
10 **report is not particular to Ms. Murphy as a person,**
11 **but rather to a person that has similar age and work**
12 **history as her?**

13 **A.** No.

14 **Q. Why wouldn't you agree with that?**

15 **A.** I don't see the geographical location is
16 germane.

17 **Q. But isn't it germane as to how long and**
18 **how much work someone wants to do? For example,**
19 **Ms. Murphy said I don't want to work 60 hours a week**
20 **the rest of my life, that would influence your**
21 **opinion, wouldn't it?**

22 **A.** I don't know if anybody wants to work 60
23 hours a week, but I don't know if that's part of the
24 her job or what. It could, yeah.

25 **Q. Well, let's say that in order for her to**

Page 60

1 **have this income level, she'd have to work 60 hours**
2 **a week for the rest of her life or worklife**
3 **expectancy. What if she decided she didn't want to**
4 **do that, wouldn't that affect your opinions?**

5 **A.** It could; yeah.

6 **Q. And when you took into -- are you making**
7 **an assumption that her wages -- let me rephrase the**
8 **question.**

9 **Are you assuming that f she had**
10 **remained at Gallery Furniture that her income would**
11 **have remained the same as what the historical**
12 **average is for 2000 and 2001?**

13 **A.** Yes. That's the basis -- that forms the
14 base wage, yes.

15 **Q. And what type of events could happen that**
16 **would influence whether or not that average is**
17 **appropriate in a calculation like this?**

18 **A.** She got an awful lot of overtime in '01
19 that would not be replicated in subsequent years.
20 That's why you'd want to have a broader base of data
21 to get it. In other words, what you want to make
22 sure of is that she has a sustainable wage,
23 sustainable in the future and one way to get at that
24 would be what her prior history would be.

25 **Q. Well, is there a rate of error that can be**

Page 61

1 **calculated?**

2 **A.** If you have enough data.

3 **Q. Considering that she hasn't been employed**
4 **for about four years now, can't we at least do a**
5 **rate of error on your calculations --**

6 **A.** No.

7 **Q. -- for the previous four years?**

8 **A.** No, you can't. You don't have enough
9 data. She has been employed.

10 **Q. Is she employed now?**

11 **A.** Yeah. She made 20,709 in '04. I don't
12 know if she's working right now, but she made --
13 according to one of these documents here, she made
14 20,709. And you annualize that, you get about
15 30,000 a year -- 31,000 a year.

16 **Q. Do you know -- do your numbers take into**
17 **consideration -- let me rephrase that question.**

18 **Why did you decide to attribute no**
19 **income to her for the trade in services that she**
20 **performed?**

21 **A.** For what?

22 **Q. Trade in services.**

23 **A.** When was that?

24 **Q. Are you familiar with her trading**
25 **secretarial and executive type services in return**

Page 62

1 for work on her home?
2 A. No.
3 Q. If that were true, that you did not take
4 that into consideration in your numbers, correct?
5 A. Let me understand what you're talking
6 about. Run this by me again.
7 Q. Assume with me that Ms. Murphy has
8 testified and there's evidence available in this
9 case that for a period of time, she worked for
10 someone doing some type of office work and instead
11 of receiving a salary or a wage, that person or that
12 company did work on her home for her.
13 A. Okay.
14 Q. So --
15 A. Yeah.
16 Q. -- it's normally known as an exchange in
17 services, correct?
18 A. Yeah. Are we talking about a big amount
19 of money or what?
20 Q. Well, let's talk about that. First of
21 all, if those facts are within this case, you're not
22 aware of it?
23 A. No.
24 Q. And whatever the value is of that time
25 that she expended, if she received a benefit for it,

Page 63

1 then it should be taken into consideration in your
2 calculations, correct?
3 A. Yeah.
4 Q. And in fact, based on your experience and
5 knowledge, if she were doing that, she should have
6 received some type of W-2 or 1099 from her employer?
7 A. I have no idea. Let me make sure I
8 understand the facts here. She did something, in
9 exchange somebody painted her house or something
10 like that?
11 Q. I don't have all the details --
12 A. Okay.
13 Q. -- but I would assume that would be a
14 minimum.
15 A. And is this over a thousand dollars would
16 you say?
17 Q. Oh, I'm sure it is.
18 A. Yeah, if it's material, you include it.
19 Yeah.
20 Q. And so, whatever the value of that work
21 that she performed is, we'd have to take that value
22 off the back pay number, wouldn't we?
23 A. Sure.
24 Q. Have you had occasions where you have --
25 let me rephrase the question.

Page 64

1 Do you know what the predominant wage
2 or income average is for furniture salesmen in
3 Houston?
4 A. Do not.
5 Q. If Ms. Murphy is working at, let's say,
6 one of the lowest paid furniture salesman jobs in
7 Houston, you wouldn't know?
8 A. I wouldn't know.
9 Q. And do you know from your experiences
10 involved in litigation whether or not plaintiffs who
11 are seeking compensation for wages have a
12 responsibility to try to mitigate their damages?
13 A. I think they have a responsibility and I
14 think they have an economic interest to mitigate
15 their damages.
16 Q. That's what you'd expect to find, correct?
17 A. Sure.
18 Q. But you've heard of situations where
19 people have not had that -- not had the interest in
20 increasing their wages when they're involved in
21 litigation?
22 A. Oh, I'm sure I've heard that said, yes;
23 but I don't know of anybody like that.
24 Q. Well, wouldn't you expect that if someone
25 were really interested in pursuing a wage claim,

Page 65

1 that they would endeavor to provide their experts
2 with as much background information as they could?
3 A. Sure.
4 Q. And in fact, depending on -- if someone
5 had an interest in making the numbers as high as
6 they possibly could and they had some bad wage data,
7 they might -- I'm not saying one of the plaintiffs
8 in this case, but a person might have an economic
9 interest in withholding that information?
10 A. They could.
11 Q. And in this case, wouldn't it be at least
12 to max -- if Mr. McDaniel or Ms. Murphy wanted to
13 maximize their damages in this case and that was
14 something that was of peculiar interest to them,
15 wouldn't you agree that they had ability to try to
16 influence those numbers by the type of job they seek
17 to hold down?
18 MR. NEWAR: Objection, calls for
19 speculation.
20 A. Are you saying they could get a low paying
21 job in furtherance of some damage claim?
22 Q. (By Mr. Meyer) Right.
23 A. I suppose they could.
24 Q. Wouldn't you want to know in calculating
25 your numbers what historical average is for

Page 66

1 furniture salesmen is in Houston?
2 A. You could, yeah.
3 Q. Do you think that would be important for
4 you trying to come up with the most accurate
5 calculation of economic loss for these plaintiffs?
6 A. You mean for a post-event scenario?
7 Q. Yes, I do.
8 A. Well, you could, but I think you'd be
9 closing the door to even higher wages. In other
10 words, the person in the pre-event case is a
11 furniture salesman, they might be better off
12 changing gears in terms of getting a post-event wage
13 that paid higher than the average salesperson. I
14 don't know. I'm saying you may be limited. I have
15 assumed here that the persons have sought to
16 maximize their economic interest in the labor force.
17 Q. And you don't have any idea of whether or
18 not they've actually done so, correct?
19 A. No, I do not know.
20 MR. NEWAR: Objection to the extent
21 it calls for a legal conclusion.
22 Q. (By Mr. Meyer) And your numbers do not
23 take into consideration how much effort is needed to
24 be expended to generate those numbers, correct?
25 A. What numbers?

Page 67

1 Q. For example, you've assumed the 2000, 2001
2 wage rate at Gallery Furniture to be -- you've
3 reached an average for that and then you take into
4 consideration expectations of an increase in salary
5 over time, correct?
6 A. Yes.
7 Q. And you're relying upon certain studies on
8 what that percentage increase is, correct?
9 A. Right.
10 Q. As opposed to relying upon any historical
11 data at Gallery Furniture, correct?
12 A. Correct.
13 Q. And as opposed to any historical data with
14 specific to the furniture industry or the Houston
15 region, correct?
16 A. Correct.
17 Q. This historical data that you relied upon,
18 was it specific to the sales industry?
19 A. No.
20 Q. Do you know whether or not the furniture
21 industry is on a historical increase or decrease or
22 stagnant?
23 A. I don't know.
24 Q. You've also assumed that her wages -- that
25 both these folks' wages with the furniture stores

Page 68

1 they're currently working at would increase in time
2 according to certain government tables?
3 A. You mean post event?
4 Q. Post event, yes.
5 A. Yes.
6 Q. And you don't know if that actually will
7 occur or not, correct?
8 A. I made the same assumption pre event and
9 post event. So, yes.
10 Q. Did you make an assumption that either of
11 the plaintiffs would want to work overtime, work 60
12 hours, 63 hours a week as opposed to 40 hours a
13 week?
14 A. I would assume they'd have to work under
15 the same regimen of time, yes.
16 Q. So are you assuming that, for example,
17 averaging her wages at 31,000 a year going forward,
18 that she's working a 60-hour week?
19 A. No.
20 Q. You're assuming she's working a standard
21 week, correct?
22 A. I don't know what she's working.
23 Q. You mean you don't know what her present
24 income is?
25 A. Present income is about 31,000, but I

Page 69

1 don't know her work schedule. It may take her a
2 hundred hours to work there and it may take her 15
3 minutes. I don't know.
4 Q. And if she had the opportunity to work
5 more hours and increase her pay, that would
6 influence your numbers, correct?
7 A. It could. It depends upon the pay level.
8 In other words, there might not be enough inducement
9 to work the extra overtime because the pay level is
10 too low. So it depends upon the wage scale.
11 Q. Well, let me ask you this: You don't know
12 impediment -- let's say both of these folks are
13 working an average of a 40-hour week?
14 A. Average of a 40-hour week?
15 Q. Yes, sir. And historically, when they
16 worked at Gallery, they were working more than 60
17 hours a week.
18 A. Right.
19 Q. If one were to try to do a calculation of
20 what the difference in income in the two situations
21 are, shouldn't we take into consideration the amount
22 of effort required to generate that income?
23 A. Well, a nominal efforts, yes. But it may
24 be such that their wage rate is so low, that they
25 don't see any great benefit or feel the desire to

<p>Page 70</p> <p>1 work overtime at that wage rate.</p> <p>2 Q. But let's say that they desired to make,</p> <p>3 as your historical numbers, somewhere in the high</p> <p>4 80, low \$90,000 a year for Ms. Murphy and she was</p> <p>5 willing to work 60 hours a week for that wage.</p> <p>6 A. Right.</p> <p>7 Q. In calculating what her current -- her</p> <p>8 offset would be from her current job, wouldn't you</p> <p>9 take into consideration the same effort, a 60-hour a</p> <p>10 week effort in trying to realize what her actual</p> <p>11 loss is?</p> <p>12 A. No. If the wage rate is such that there</p> <p>13 is -- the marginal benefit for working the marginal</p> <p>14 hour is not there, then I can appreciate the fact</p> <p>15 that she doesn't want to work it. Now, if your</p> <p>16 question is: Well, shouldn't she do it? That's a</p> <p>17 legal question. I'll let y'all worry about that.</p> <p>18 But as an economist, it's a function of the marginal</p> <p>19 benefit for the marginal effort. That's the</p> <p>20 decision you have to address.</p> <p>21 Q. And if she took a second job making</p> <p>22 additional income --</p> <p>23 A. Second post-injury job?</p> <p>24 Q. Second post injury job or worked her</p> <p>25 present job longer for more income, that could</p>	<p>Page 72</p> <p>1 A. Okay.</p> <p>2 Q. If she chose to accept that 40 hours a</p> <p>3 week, that income, as opposed to finding additional</p> <p>4 work to make a higher income, do you have an opinion</p> <p>5 on whether or not Gallery Furniture should be held</p> <p>6 responsible for money damages in the event that she</p> <p>7 chooses not to work those extra hours?</p> <p>8 MR. NEWAR: Objection. Calls for a</p> <p>9 legal conclusion. The expert's not a lawyer.</p> <p>10 A. Run that by me again.</p> <p>11 Q. (By Mr. Meyer) Sure. If Ms. Murphy</p> <p>12 chooses in her current employment to not work more</p> <p>13 than 40 hours a week and work a job that has the</p> <p>14 historical hours she had for Gallery, do you have an</p> <p>15 opinion as to whether or not Gallery Furniture</p> <p>16 should be held financially responsible for the value</p> <p>17 of that time if she makes the decision she doesn't</p> <p>18 want to work those extra hours?</p> <p>19 MR. NEWAR: Same objection.</p> <p>20 A. I don't know.</p> <p>21 Q. (By Mr. Meyer) Well, your economic report</p> <p>22 doesn't take into consideration the effort required</p> <p>23 to generate income. It's simply looking at income,</p> <p>24 correct?</p> <p>25 A. No, it does take into consideration the</p>
<p>Page 71</p> <p>1 substantially influence your numbers, couldn't it?</p> <p>2 A. Sure.</p> <p>3 Q. And do you know whether or not</p> <p>4 Ms. McDaniel or Ms. Murphy -- let me start over.</p> <p>5 Do you know whether or not</p> <p>6 Mr. McDaniel or Mrs. Murphy have historically worked</p> <p>7 60 hours a week over their worklife -- there prior</p> <p>8 work life?</p> <p>9 A. Well, apparently from your -- you've</p> <p>10 intimated that they did while they were at Gallery.</p> <p>11 I guess they did.</p> <p>12 Q. You don't know, though, do you?</p> <p>13 A. I don't know. I know from what I've been</p> <p>14 transmitted that in the case of Mrs. Murphy, that</p> <p>15 she worked about 23 hours per week in a period over</p> <p>16 time and I think the same -- lesser degree for</p> <p>17 Mr. McDaniel, more like 15 hours per week.</p> <p>18 I would think at those wage scales,</p> <p>19 they were working considerable overtime, at least in</p> <p>20 the case of Mrs. Murphy.</p> <p>21 Q. You're talking about Gallery wages?</p> <p>22 A. Yes, right.</p> <p>23 Q. Well, let's say hypothetically Ms. Murphy</p> <p>24 has -- makes \$31,000 a year working about a 40-hour</p> <p>25 week.</p>	<p>Page 73</p> <p>1 effort required. I think we can all agree that if</p> <p>2 you're going to make \$94,000, almost \$95,000 and</p> <p>3 you're being paid something close to \$20 an hour, a</p> <p>4 little over, you're going to work some extra</p> <p>5 overtime and that requires effort. I don't think</p> <p>6 I -- it absolutely requires effort to do that.</p> <p>7 Q. And by the same token, if that employee's</p> <p>8 going to try to replicate that income and try to</p> <p>9 replicate it as close as possible, they ought to be</p> <p>10 willing to work about the same amount hours, true?</p> <p>11 A. Well, that's the legal issue. And</p> <p>12 economically, it depends upon -- let me make this</p> <p>13 palpable by an example. Suppose the wage rate were</p> <p>14 10 cents an hour. At some point, the wage drops to</p> <p>15 so low that there is not the incentive for the</p> <p>16 individual to work those additional hours because it</p> <p>17 doesn't benefit you. The value of leisure becomes</p> <p>18 more important. Once you've satisfied the basic</p> <p>19 requirements of life, there's not the inducement to</p> <p>20 work more.</p> <p>21 Now, these are issues that are known</p> <p>22 among economists, but the question that you asked I</p> <p>23 think is more of a legal issue. Does she have a</p> <p>24 duty to work the same number of hours? I don't know</p> <p>25 that that's the case.</p>

Page 74

1 Q. I'm not asking her about duties, I'm
2 asking you about the effect on your analysis. For
3 example, if you --

4 A. Okay. Let me go back. If she was working
5 40 hours a week and you wanted to ask the question
6 what would she make at 60 hours a week or same
7 number, under the hypothetical that you asked, her
8 post event wage would increase, the way you phrased
9 it.

10 Q. Now we're on the same page.

11 A. You've got to make these questions
12 simpler.

13 Q. I'm working on it.

14 Let's go through a few items in your
15 report. And just I'm going to kind of a jump around
16 and if you don't follow me, let me know.

17 A. Which report are we looking at?

18 Q. Let's look at Mr. McDaniel.

19 A. Got you.

20 Q. The first question is: Your report is
21 entitled "An Appraisal," correct?

22 A. Yes.

23 Q. What is meant by the term "appraisal"?

24 A. Standard definition. It's an appraisal of
25 the pecuniary loss.

Page 76

1 was at the time and what his wage is presently,
2 those assumptions and how long he might work. Those
3 are the critical elements.

4 Q. And who he might work for and whether or
5 not there's another job out there that pays more.
6 You've assumed that's not to be the case, haven't
7 you?

8 A. There may be another job out there both
9 pre event and post event. Nothing has been
10 presented to me that would enlighten me as to those
11 possibilities.

12 Q. You've assumed that there's no other job
13 available for Mr. McDonald (sic) that pays him more
14 money than what he's getting paid presently, true?

15 A. Yes.

16 Q. You've assumed that Mr. McDonald -- well,
17 Mr. McDaniel?

18 MS. PEEKHAM: McDaniel.

19 Q. (By Mr. Meyer) Excuse me, McDaniel will
20 stay in the same job with the same employer he
21 presently has, correct?

22 A. Yes.

23 Q. And you've assumed that but for Gallery
24 Furniture terminating Mr. McDaniels' employment in
25 January of '02, he would have remained employed with

Page 75

1 Q. Let's assume that a juror doesn't know
2 what an appraisal is and you're asked to explain how
3 you used that term in your report. What would you
4 tell them?

5 A. Give a value to.

6 Q. It's an appraisal intended to be -- it's
7 intended to be an opinion, correct?

8 A. It reflects my opinion, yes.

9 Q. As opposed to a statement of actual real
10 world events?

11 A. Real world events would only be a
12 reflection as it's contained in history, if I
13 appreciate your question.

14 Q. Well, an appraisal -- you're not telling
15 the jury by -- assuming that testified consistent
16 with this report, you're not telling the jury that
17 this is the amount of money that Mr. McDaniel will
18 not earn as a result of losing his employment with
19 Gallery Furniture. It's simply your opinion,
20 correct?

21 A. Well, the first part is true. The second
22 part is; but I think for your own benefit, you need
23 to add to it under certain assumptions. The
24 assumptions are as they're outlined in this report,
25 this appraisal, respecting how long -- what his wage

Page 77

1 them till the end of his worklife expectancy,
2 correct?

3 A. Correct. Or a similar situation, yes.

4 Q. Do you know whether or not there are any
5 other furniture companies in Houston that pay a wage
6 rate similar to Gallery?

7 A. I don't know.

8 Q. Do you know what Gallery's historical
9 managerial turnover is?

10 A. Do not.

11 Q. Have you taken into consideration savings
12 by Mr. McDaniel or Ms. Murphy, personal savings they
13 have as a result of not working at Gallery
14 Furniture?

15 A. You're going to have to run that one by me
16 again.

17 Q. Sure. Do you know whether or not
18 Mr. McDaniel or Mrs. Murphy have saved some money
19 because they didn't have to expend it in the course
20 of their employment of working for Gallery?

21 A. What do you mean, work clothes?

22 Q. Let's say that's an example. Work
23 clothes, fuel cost, taking care of children, taking
24 care of other household items, have you taken any of
25 that into consideration?

Page 78

1 A. I don't know.
2 **Q. So you did not take that into**
3 **consideration?**
4 A. I took work costs into consideration. The
5 assumption was they were offset. They're basically
6 going to be the same.
7 **Q. So you assumed that whatever their work**
8 **cost expenses were working for Gallery were the**
9 **exact same for a different employer?**
10 A. Yes.
11 **Q. And why did you make that assumption?**
12 A. Because the cost is going to be the same.
13 They're going to work in that capacity -- unless
14 there was something unique at Gallery where they had
15 to pay for a parking spot or something like that,
16 whatever it might be, I didn't consider it.
17 **Q. All right. Tell me the -- what is the**
18 **scientific basis for your assumption that the work**
19 **costs are going to be the same in both jobs?**
20 A. Well, you have to drive to and from work,
21 you have to dress appropriately for the job, and
22 those constitute the lion's share of work costs.
23 **Q. In your opinion?**
24 A. In my opinion.
25 **Q. Are you aware of any documentation in your**

Page 79

1 **field of study or your field of expertise that**
2 **support that opinion?**
3 A. There may be. I couldn't point you to one
4 as I sit here.
5 **Q. Well, let me ask you this: In your**
6 **report, second paragraph, second line it says "less**
7 **work-related expenses." What work-related expenses**
8 **did you take into consideration when you used the**
9 **term "less work-related expenses"?**
10 A. Just what we talked about. It's generally
11 transportation cost and if there's some dress code
12 that is above what you would ordinarily wear, that
13 would be reflected.
14 **Q. So, did you take into consideration**
15 **work-related expenses in regard to Mr. McDaniel or**
16 **Mrs. Murphy?**
17 A. Yes. And I made the assumption they were
18 offset. They were both back selling furniture and
19 whatever expenses they had before, they had
20 afterwards and they're largely offset.
21 **Q. And you have no actual information to**
22 **support that assumption, correct?**
23 A. In the nature of what?
24 **Q. Are you aware of some facts that show that**
25 **your assumption is more likely to be true than not?**

Page 80

1 A. I'm trying to -- do you have some
2 particular -- do you have some particular expense in
3 mind?
4 **Q. Yeah, but I'm asking the questions today.**
5 A. I don't how to answer your question.
6 **Q. In this methodology in the third line it**
7 **says, probability that a person will work (by**
8 **applying a worklife statistic). Is that part of --**
9 **that worklife statistic included in Exhibit 9?**
10 A. Yes.
11 **Q. This is really a minor issue, but it's**
12 **helpful in having me understand your report. On the**
13 **third paragraph, the first line, it says "Because**
14 **all expected future net compensation is paid today,"**
15 **when you use the term "today," are you referencing**
16 **today as the trial date or date of the report?**
17 A. Trial date.
18 **Q. Your calculation -- let me ask you this:**
19 **When you say "yearly wage," are you, in doing your**
20 **calculations, assuming that the yearly wage amount**
21 **that is lost as a result of Gallery's alleged**
22 **conduct is paid on January 1 or is paid on December**
23 **31st?**
24 A. Middle of the year.
25 **Q. Middle of the year. June 30th.**

Page 81

1 **Do you know whether or not**
2 **Mr. McDaniel, Mrs. Murphy had any prior problems**
3 **with their employment at Gallery Furniture?**
4 A. I don't know.
5 **Q. You agreed that compensations workers**
6 **receive can be influenced by personal merit.**
7 A. Sure.
8 **Q. Can be influenced by the economy.**
9 A. Sure.
10 **Q. Can you influenced by the industry they**
11 **work in.**
12 A. Yes.
13 **Q. Influenced by the success of their**
14 **employer?**
15 A. Yes.
16 **Q. Or the downturn of sales by their**
17 **employer, that can influence it as well, correct?**
18 A. Sure.
19 **Q. Also the employee's willingness to -- how**
20 **hard they want to work can influence compensation?**
21 A. You bet.
22 **Q. What did Mr. McDaniel earn in 2004?**
23 A. 21,924.37.
24 **Q. Where did you get that information?**
25 A. I'm sorry, 2003. 2003. That's on his

Page 82

1 W-2.
2 **Q. Do you know what he earned in 2004?**
3 A. Do not.
4 **Q. If he earned more in 2004 than he earned**
5 **in 2003, would that affect your numbers?**
6 A. It would. I assume that he did. I would
7 assume he earned 23,350 in 2000 -- I'm sorry.
8 **Q. Actually, that's what you're assuming**
9 **he'll earn this year.**
10 A. Right. I'm sorry. It's assuming that he
11 would receive a pay increase at the same rate as he
12 would have at Gallery.
13 **Q. And the person on whose behalf you're**
14 **working hasn't provided you that information,**
15 **correct?**
16 A. Correct.
17 **Q. And if Mr. McDaniel's income for 2004 had**
18 **increased more than the percentage that you assumed,**
19 **would you then use that number and -- that same**
20 **increase in percentages for calculating percentages**
21 **for all the remaining expected worklife of**
22 **Mr. McDaniel?**
23 A. No. But you'd certainly take -- for
24 example, suppose that we're up 20 percent. You get
25 back to that sustainability problem we talked

Page 83

1 about. I've got it pegged at 22,626 in 2004.
2 Suppose that were 30,000. You'd use the 30,000
3 because that's what he actually earned. And from
4 that point forward, I'd assume that that rate would
5 be sustained and he would grow at the national
6 average just as he would at Gallery.
7 **Q. Isn't it -- can you calculate what your**
8 **rate of error is on these opinions as far as back**
9 **pay is concerned?**
10 A. You'd have to know what the back pay were.
11 **Q. But it's calculable, isn't it?**
12 A. If you have the data.
13 **Q. And the only reason you don't have the**
14 **data is because Mr. --**
15 A. I don't have the data.
16 **Q. Right. Somebody, either the plaintiff or**
17 **the plaintiffs' counsel hasn't provided them to**
18 **you.**
19 MR. NEWAR: Or Gallery.
20 MR. MEYER: I'm sorry. I'm not going
21 to have you making these side-bar comments. We're
22 talk about data since they left. So if you paid
23 attention, you'd understand that.
24 MR. NEWAR: Yeah, I understand that.
25 MR. MEYER: Okay. Well, then, quit

Page 84

1 jumping i this deposition and adding your two
2 cents. You can do your cross-examination later and
3 I'll return the same courtesy.
4 MR. NEWAR: I will.
5 MR. MEYER: All right. Good.
6 **Q. (By Mr. Meyer) All right. Ken, I'd like**
7 **you to define for me the methodology that is**
8 **employed by an economist in making determination of**
9 **back pay. And I want to limit it to the gathering**
10 **of foundational, factual information. What is**
11 **normally done or should be done?**
12 A. Well, in order to begin the process, there
13 is a request for data. It's all the data that's
14 available. Some of it may be relevant or may be
15 irrelevant. Once you get the data, you have to ask
16 questions why. And on that basis, try to arrive at
17 a wage that is sustainable in the future, both pre
18 event and post event.
19 They made nothing the year before.
20 The fact that they made nothing may be irrelevant.
21 It may be relevant, but it also may be irrelevant.
22 If they made a million dollars the year before, that
23 may be irrelevant because it's not sustainable.
24 So you need data that we could say
25 with some degree of confidence that this person

Page 85

1 employed in this capacity, we could, within a
2 reasonable expectation, continue to earn about that
3 rate. We need that pre event and we need it post
4 event.
5 **Q. Is two years of data sufficient data to do**
6 **a scientific analysis of sustainable income?**
7 MR. NEWAR: Objection, asked and
8 answered.
9 A. You don't know -- you don't know. If you
10 look at federal causes of action, they don't do any
11 of this. They look at earnings at the time of
12 injury. The worker's -- Texas worker's compensation
13 and the Harbor Workers Act all look at recent data,
14 what they earned in the last 13 weeks, what they
15 earned in the last quarter. If they don't have data
16 on that person, they look at the earnings data of a
17 similar situated person.
18 But I think as an economist these are
19 agencies that understand the difficulties of the
20 absence of data. But as an economist, the broad
21 question sitting on the table is what can be
22 sustained by that person in the normal capacity.
23 You don't want to take too high a number because
24 they got a big bonus that year. It's not going to
25 recur. You don't want to take too low a number

Page 86

1 because they didn't work. You want to have
2 something that is going to be sustained. So the
3 overall quest is to get to that circumstance. How
4 you get there depends on what you've got to deal
5 with.

6 MR. MEYER: Objection,
7 nonresponsive.

8 **Q. (By Mr. Meyer) In order to have a**
9 **scientifically valid opinion, you've got to have**
10 **sufficient foundational evidence or facts, don't**
11 **you?**

12 A. Yes.

13 **Q. And that's subject to debate among**
14 **economist on how much is enough, right?**

15 A. Correct.

16 **Q. And is it your opinion that the**
17 **economic -- that the field of economists generally**
18 **are of the opinion that two years of economic data**
19 **for an employee are sufficient to determine what**
20 **economic sustainability is for that employee?**

21 A. There's no -- there's no standard on these
22 things. You can't say.

23 **Q. Explain. What do you mean you can't say?**

24 A. Suppose we're talking about a federal
25 judge. Federal judge made X dollars last year. We

Page 87

1 know what they're going to make by what Congress
2 passes. We know on that basis what they'll
3 typically make. It depends on the circumstances.
4 There's just no -- you can't say you need five years
5 worth of data. It may be five years of meaningless
6 data.

7 **Q. So one year's enough?**

8 A. In federal case law, yes, federal causes
9 of action.

10 **Q. You think one year's enough in all the**
11 **causes of action that have been pled in this case?**

12 A. No, I'm not saying that. I'm saying that
13 there is no formula by which you can fall back on
14 and say this is --.

15 MR. NEWAR: Let me object to the
16 extent it calls for a legal conclusion by a non
17 lawyer.

18 **Q. (By Mr. Meyer) Aren't there minimum**
19 **standards?**

20 A. As to what?

21 **Q. As to background wage information or**
22 **historical wage information of an employee that you**
23 **have to take into consideration in trying to**
24 **determine what the wage sustainability is for that**
25 **employee?**

Page 88

1 A. Well, I would think so. Yeah, there are
2 minimum standards.

3 **Q. And is the minimum standard one year?**

4 A. No.

5 **Q. Is the minimum standard for this fact**
6 **pattern two years?**

7 A. No.

8 **Q. Is the minimum standard three years?**

9 A. No.

10 **Q. Is there a minimum standard?**

11 A. There's a minimum standard.

12 **Q. And what is it?**

13 A. How about dollars per hour times the
14 number of hours worked? Suppose this guy just
15 arrived in town, he's been Rip Van Winkle, shows up
16 at Gallery and Mattress Mac says: I like you. You
17 can sell mattresses. Here's the wage, here's your
18 hours. We have no other data. And on that basis,
19 you'd make a calculation this is what Mattress Mac
20 expected to pay, this is what the guy expected to
21 earn.

22 **Q. You would make a scientifically valid**
23 **calculation for the remaining history or remaining**
24 **worklife of that employee based on that fact**
25 **pattern? That's what you would do?**

Page 89

1 A. Yes. If Mattress Mac said I'm going to
2 let you go a week from now, no. They came into the
3 relationship with the understanding there was an
4 ongoing relationship.

5 **Q. Actually, you're making that assumption,**
6 **aren't you?**

7 A. No.

8 **Q. There was no employment contract here, was**
9 **there?**

10 A. No, not that I know of.

11 **Q. And Texas is a what, a hire at will and**
12 **fire at will state?**

13 MR. NEWAR: Objection to the extent
14 it calls for a legal conclusion.

15 **Q. (By Mr. Meyer) You know that from your**
16 **own personal experience, don't you?**

17 A. Yes. But you're misconstruing the -- what
18 I'm telling you. I'm not getting into that
19 business. You're asking me about data and I'm
20 telling you that there is no standard of data
21 because the fact pattern just changes. But the
22 minimum, it strikes me, is you'd have to know what
23 the guy was going to get paid. So many dollars per
24 hour, here's how many hours you've got to work.

25 **Q. So you can't define any minimum standard**

Page 90

1 for -- that an economist should have data available
2 to him for conducting a scientifically valid
3 economist report on back pay?

4 A. I just told you what it was. It was
5 earnings at the time. That's what the federal
6 courts call for. That's in all the subsequent
7 cases.

8 Q. So it's your -- you're under the
9 impression that all you need to use is the income
10 level of the employee at the time of the loss of
11 their employment at Gallery Furniture?

12 A. That's the minimum.

13 Q. That's the minimum.

14 A. That's what you asked for, was the
15 minimum. Now, if you're asking beyond that, you
16 want to have all the data you can get.

17 Q. That's not what I'm talking about. You
18 used the term "sustainability."

19 A. Right.

20 Q. And what I'm asking you: As an economist,
21 if you wanted to generate a report subject to peer
22 review that's scientifically valid, how much
23 background information would you believe you would
24 have to have on an employee's wage earnings in order
25 to have a scientifically valid report?

Page 92

1 Q. And wouldn't you want to do the same thing
2 in calculating the sustainability of income for an
3 employee?

4 A. Sure.

5 Q. And with only having two years of income
6 information available, you can't calculate a high or
7 a low over -- because you don't know -- you've got
8 one of each, right?

9 A. Yes.

10 Q. So you don't know which number is a more
11 sustainable number, the high number or the low
12 number, correct?

13 A. So that's why we take the average, the
14 third number.

15 Q. And you don't know if either numbers are
16 an anomaly of some sort because you haven't
17 evaluated a longer time period, correct?

18 A. That may or may not be the case. You
19 don't know.

20 Q. And that's why an expert has to go find
21 out. That's why he needs the information, right?

22 A. Well, you want -- again, you want all the
23 data you can get. Whether or not it's going to be
24 helpful and revealing in the future, you don't know.

25 Q. Well, you want all the data you can get to

Page 91

1 MR. NEWAR: Objection, asked and
2 answered.

3 A. Valid as to what?

4 Q. (By Mr. Meyer) As to sustainability at a
5 certain income level.

6 MR. NEWAR: Same objection.

7 A. You want to know how much data do you have
8 to have before you get some sort of sustainability
9 question?

10 Q. (By Mr. Meyer) Before you have sufficient
11 data to give an opinion on sustainability of an
12 income level.

13 MR. NEWAR: Same objection.

14 A. I don't know.

15 Q. (By Mr. Meyer) Didn't you testify earlier
16 that in order for you to have scientifically valid
17 estimates or opinions on interest rates that you
18 would use a 31-year history?

19 MR. NEWAR: Objection --

20 A. 30 year.

21 Q. (By Mr. Meyer) 30-year history? Okay.

22 So in that analysis, you want to have
23 sufficient time included in the analysis to take
24 into consideration any abnormal highs or lows?

25 A. Sure.

Page 93

1 render an opinion, right?

2 A. Yes.

3 Q. But opinions, as experts in this
4 environment, they have minimum standards, don't
5 they? You're familiar with that?

6 A. What are --

7 Q. You've heard of Daubert, right?

8 A. Yes.

9 Q. So you understand there are minimum
10 standards for all experts in advancing expert
11 opinions in a court of law, right?

12 A. I would assume so.

13 Q. Have you ever studied the methodology for
14 rendering an opinion under the Daubert standards?

15 A. No.

16 Q. Are you familiar with the concept that
17 expert opinions should -- a rate of error should be
18 able to be determined?

19 A. No.

20 Q. Are you familiar with the concept -- is
21 your theory on damages of the plaintiffs in this
22 case susceptible to being tested?

23 A. I don't know that it is or not. Depends
24 on what aspect of it you're referring to.

25 Q. Well, you've assumed that the last two

Page 94

1 years' income of the plaintiffs at Gallery
2 Furniture, what that average is would be sustained
3 by them for the rest of their employment --
4 A. Correct.
5 Q. -- life?
6 A. Right.
7 Q. Is that theory testable?
8 A. I don't know what you mean by testable.
9 Q. Can you test to it see --
10 A. I'm not omniscient. I don't know if it's
11 going to rain tomorrow or not. There's no way to
12 test any of this in that sense.
13 Q. Well, my point is, is that if you're going
14 to try to determine -- first of all, you'd agree
15 that the core issue for an economist is to determine
16 what income is sustainable over a period of time if
17 you're going to calculate what the value of that
18 lost income is, correct?
19 A. I don't know that that's the core issue.
20 Q. Isn't that one of the basic foundational
21 determinations to be made by an economist in
22 calculating front pay?
23 A. No.
24 Q. No? You'd have to have a certain amount
25 of income that you are going to assume that employee

Page 95

1 would have sustained at the employer who terminated
2 their services, right?
3 A. I'm not following you.
4 Q. In this situation, you've assumed that
5 Mr. McDaniel was going to make a sustained wage at
6 Gallery Furniture equal to his average for 2000 and
7 2001 and then employing standard government
8 increases, that that would remain constant over the
9 rest of his work life expectancy.
10 A. Well, that's the methodology used, but
11 there's no assumption which remains constant. We
12 know that it will vary. We take that into account
13 via the worklife statistics.
14 Q. But before you can even do that, the
15 beginning number is the sustainable number, the wage
16 rate sustainability number. You have to know that?
17 A. There's no -- no. There's no attachment
18 to the history as being sustainable.
19 Q. Well, why did you need to calculate an
20 average, then?
21 A. To separate the high and low. So a medium
22 between those two figures. That doesn't render it
23 sustainable. Suppose -- let's take your set.
24 Suppose these were two incredibly large numbers. We
25 just average two high numbers. That doesn't make it

Page 96

1 sustainable for that point in the future.
2 Q. Well, isn't that what you're attempting to
3 do here, is to say that if they had remained
4 employed at Gallery, that their income would have
5 been sustained at least at the average that you
6 calculated?
7 A. It could just as easily be higher.
8 Q. Or lower?
9 A. Or lower.
10 Q. Just as easily.
11 A. Right.
12 Q. But throwing out higher and lower, what
13 you're after is the most appropriate scientifically
14 valid number that constitutes a sustainable income
15 level?
16 A. No. I'm after omniscience. If you want
17 to raise the bar, I'm after omniscience. I want to
18 know with perfect foresight what it would take.
19 That's not available.
20 Q. So what do you do to get as close to
21 perfect as possible?
22 A. You use the empirical data that you have.
23 Q. And you think two years is sufficient
24 data?
25 A. It may be, it may not be.

Page 97

1 Q. And you don't know one way or the other as
2 an expert unless you have the additional
3 information, correct?
4 A. You will probably never know.
5 Q. You can know if you have the additional
6 information available and it's provided to you,
7 correct?
8 A. Suppose you had the last 30 years, you
9 still have the questions. The question is still
10 there: Is this dispositive with respect to the
11 future? It may or may not be.
12 Q. If the people you're working for have
13 information on 2004 wages, would you like to have
14 that information?
15 A. Absolutely.
16 Q. Would it be helpful to giving a more
17 scientifically valid report?
18 A. Absolutely.
19 (Recess taken.)
20 Q. (By Mr. Meyer) Ken, I've noticed that
21 both of your reports conclude by saying that your
22 findings may change upon receipt of additional
23 information. Is that right?
24 A. Yes.
25 Q. Do you know what Ms. Murphy's income was

1 for 2004?

2 A. I do not.

3 Q. And then 2003, the only number you have is
4 the \$675?

5 A. I have a W-2 for that. In 2004, we're
6 taking what she earned up to some point in time,
7 September or something like that, and annualizing it
8 to get that 31,000-dollar figure. I don't know what
9 she's making.

10 Q. So when did she start -- in regard to
11 Mrs. Murphy, what factual information did you
12 determine in regard to her post-Gallery employment?

13 A. I understand that she went back to work,
14 at least at this one job, in December of '03 and she
15 had made about \$675 in '03, that portion of
16 December. And that we have a pay stub for her that
17 gives us her wages up to the point in time of that
18 pay stub, and it was 20,709.

19 Q. What was it?

20 A. 20,709. Then you have to annualize that
21 and it gets it up to 31,000 and something.

22 Q. That's for 2003?

23 A. 2004. 2004.

24 Q. So you have some pay stubs for 2004 and
25 you just annualized her income for 2004 using that

1 omniscience, I readily admit to everyone I'm not the
2 person. I can't represent to anybody that that
3 would be her sustainable wage. That's what she has
4 earned, that's the annual rate of pay at the time
5 for which we have data.

6 Q. And if you had more data, then your report
7 would be more accurate, wouldn't it?

8 A. Not necessarily. Not for that particular
9 item. Suppose -- suppose there's a W-2 that's going
10 to come forward here in a few days and you have this
11 daily, that still -- and let's say she makes 35,000,
12 that still is not -- we still can't say that that's
13 sustainable. She might get more wage or she might
14 get less. If you can do -- if it serve the needs of
15 the court, you could do some hypotheticals, what if
16 she made this, what if she made that. That's about
17 all you can do.

18 Q. Well, were you trying to do something
19 hypothetical here?

20 A. No.

21 Q. You didn't intend these reports to be
22 hypothetical exercises, did you?

23 A. No.

24 Q. You intended these reports to be
25 scientifically valid appraisals of the lost income

1 pay stub today?

2 A. Correct.

3 Q. Why didn't you get the rest of her
4 information?

5 A. I don't know. I have a pay stub here that
6 says 9-20-04. The sales salary component was
7 20,709. There was a contribution for health
8 insurance and some other things, hourly
9 compensation. You adjusted for -- you extrapolate
10 that out and by my calculation, it's about \$31,000.

11 Q. So you used, in the case of Ms. Murphy,
12 one year of post-Gallery Furniture employment to
13 make a calculation of what her sustainable income is
14 likely to be post-Gallery Furniture?

15 A. I don't know what her sustainable
16 income -- this is all the data that we have and it's
17 on that basis. I can't represent to somebody that
18 that's the sustainable wage. It could be higher or
19 lower. I just don't know.

20 Q. Well, isn't the -- your work product, the
21 goal is to find out what the sustainable income
22 level is?

23 A. If it were feasible. But it's not
24 feasible and I have no duty to be omniscient. I
25 don't have that ability. And if the courts demand

1 as a result of no longer being employed by Gallery
2 Furniture, correct?

3 A. Yes. But should not be construed that
4 that is -- put it on some sense of omniscience.
5 That's not the case.

6 Q. No, it's certainly not the case. So short
7 of that, if you can't be omniscient, then you want
8 to be as accurate as possible, correct? As
9 reasonably possible?

10 A. Sure.

11 Q. That's what the purpose of this exercise
12 you performed is, to be as accurate as reasonably
13 possible?

14 A. Sure.

15 Q. And the more information you have, the
16 more likely it is you're going to be reasonably
17 accurate, correct?

18 A. More information probably would not hurt
19 you, yes.

20 Q. It will help you, wouldn't it?

21 A. More likely than not help you. But at
22 some point, diminishing returns say -- I don't think
23 that's the case.

24 Q. If you knew what the value of
25 Mrs. Murphy's exchange of services were, that would

Page 102

1 help your report be more accurate, wouldn't it?
2 A. It would and on the assumption it rise to
3 a material difference, yes.
4 Q. And if you knew the amount of wages she
5 had earned through the date of your report, that
6 would help your report be more accurate, wouldn't
7 it?
8 A. Sure.
9 Q. And if you knew what her employment
10 situation was today, that would help increase the
11 reasonable accuracy of your report, correct?
12 A. Maybe, maybe not. Suppose she's not
13 working. Are we always going to suppose that she's
14 not being to work.
15 Q. Sure, we are. What if she chose not to
16 work?
17 A. Sorry?
18 Q. If she chooses not to work, there would be
19 nothing wrong with making that supposition, would
20 there?
21 A. If she chooses not work?
22 Q. Uh-huh.
23 A. I'm not following you.
24 Q. If Mrs. Murphy has said to folks that she
25 doesn't -- she's just going to wait for the results

Page 103

1 of this lawsuit and then decide whether or not she
2 wants to go back to work; but for now, she doesn't
3 want to work because she's going to see how this
4 lawsuit works out?
5 A. Well, if she takes that position, that
6 doesn't -- that doesn't mean you stop in these
7 calculations given her just because she decides to
8 stop. You see working post event, these calculation
9 continue on with her working because it's something
10 she could do.
11 Q. So it's acceptable to you as an expert in
12 this case that if she chooses to stop working or she
13 reduce her effort to the degree of where she's
14 working now or was working, that she gets fired,
15 that you're just going to add that the loss of
16 income to these numbers and seek damages, a higher
17 damage amount from Gallery Furniture?
18 A. I don't think you heard what I said. No.
19 Q. Then tell me where I went wrong.
20 A. Suppose under your what I assume to be a
21 hypothetical question she decides that she's not
22 going to work pending the outcome of this matter.
23 She's sitting on the beach doing nothing. That in
24 no way impacts the calculation of the damages. You
25 do not -- that is not considered. She's going to be

Page 104

1 working for these purposes, for purposes of this
2 calculation whether she is or not.
3 Q. If she decides -- well, let me ask you:
4 Didn't you tell us earlier in your testimony that
5 you have assumed that both Mrs. Murphy and
6 Mr. McDaniel are doing everything they reasonably
7 can to make the highest wage they can?
8 A. I'm assuming they're maximizing their
9 economic interests in the sense that they're
10 applying themselves.
11 Q. When were you retained?
12 A. It would have been October or September,
13 whatever these letters say. Looks like October --
14 August 24th. I'm sorry.
15 Q. Do your two reports contain all the
16 opinions you have in this case?
17 A. Yes. Relevant to this matter.
18 Q. What were you hired to do?
19 A. Make a calculation as to front pay and
20 back pay.
21 Q. Other than what we've gone over in the
22 course of this deposition, including the exhibits,
23 is there any additional factual information that
24 you've taken into consideration that has not been
25 disclosed here today?

Page 105

1 A. No.
2 Q. Is there any additional work you
3 anticipate doing?
4 A. Yes.
5 Q. What?
6 A. Redo it for the proper trial.
7 Q. Anything else?
8 A. If there's additional information that
9 comes forward because we're at that time of the year
10 as to what they have earned in the way of W-2s that
11 would be forthcoming, I'd think that that would be
12 reflected if there's -- so basically, it will be
13 influenced by the addition of new data and a new
14 trial date.
15 Q. Do you need any new data to improve the
16 reliability of your report?
17 A. I want all the data I can get.
18 Q. Is your report reliable now?
19 A. Sure.
20 Q. In what context is your report reliable?
21 A. It's reliable in the context given the
22 data and these assumptions, this is a measure of
23 what the front pay and back pay is. You can rely on
24 that.
25 Q. Are you of the opinion that this report