

CPDE COMPENDIUM

Officers and Board Members

2009

Past President
Bill Landsea

President
Laura Taylor

Vice President
Kent Jayne

Secretary
Graham Mitenko

Treasurer
Kevin Kirkendall

2010

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CPDE Compendium

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Announcement!

CPDE 2011 Conference and Business Meeting



March 11-12, 2011

**The Orleans Hotel and Casino
Las Vegas, Nevada**

In this issue

2010 Annual Conference Review

Business Meeting Minutes, March 13, 2010

CPDE Bylaws

Conference Information for 2011 - including
a preliminary draft of the program sessions

Review of CPDE's 2010 ANNUAL CONFERENCE

**The Orleans Hotel and Casino
Las Vegas, NV
March 12-13, 2010**

Thursday, March 11

Pre-Conference Social Gathering:

Many members and guests gathered at the pre-determined time and place to initiate the social elements of our Annual Conference. Getting acquainted (or re-acquainted) with other members provided a good time for everyone.

Friday, March 12

Present Value Discounting for Pecuniary Damages
Organizers/Moderators: Bill Landsea, Gil Mathis & Rob Schlegel

Participants examined and discussed the task of projecting streams of money into the future and discounting those streams back to present value for litigation. Issues examined included:

1. Legally acceptable economic and financial methodology.
2. Issues related to the "status of the economy" (e.g. recession, etc.)
3. Issues related to duration and risk from alternative perspectives.

Personal Consumption and Pecuniary Damages Analyses
Organizers/Moderators: Bob Male, Rick Gaskins & Parker Cashdollar

Participants presented, discussed, and examined perspectives and experiences regarding many of the core methodological issues when determining personal consumption (and personal maintenance) rates for our analyses. Members shared insights and expertise on this topic. Issues examined included:

1. Sources of data and their valid and reliable use (taxes, savings rates, etc.).

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2. Benefits value as earnings/income.
3. Earnings AND retirement income.
4. Venue issues (single vs. future family, PC vs. Maintenance, etc.)
5. Paper: "Subrogation In Nebraska", by Michael J. O'Hara & Graham Mitlenko.

Disability: Issues and Methods for Pecuniary Damages Analyses

Organizers/Moderators: Tom Roney, Kent Jayne, & George Barrett

Issues related to appropriately including the effects of pre and post-incident disability into pecuniary damages analyses were examined and discussed. Issues examined included:

1. Disability data sources and their use.
2. The integration of disability into earning capacity and worklife expectancy.
3. Disability "Worklife" tables.

Social Debriefing

Past President's Suite

Met for snacks and drinks to discuss the events of the day, plans for the evening and the next day.

Saturday, March 13

Economic Damages in an Appraisal Context

Organizer/Moderator: Rob Schlegel

This session focused on utilizing appraisal methodology to facilitate the accurate determination of pecuniary damages. Issues examined included:

1. Useful methodology and how it can be applied in different types of cases.
2. An update on current standards and practices.

Issues and Applications Regarding Life Expectancy and Pecuniary Damages

Organizers/Moderators: Rick Gaskins & Bob Male

Issues relating to the use and application of Life Expectancy and Healthy Life Expectancy data in the calculation of pecuniary damages were presented and discussed. All participants had the

opportunity to increase their understanding of the construction and foundation for the different types of tables available from various sources, and the appropriate use and application of the data presented in those tables when performing pecuniary damages analyses. Participants expanded their knowledge regarding the selection of life expectancy data as well as the choice of model for application of the data, and increased their ability to effectively present and defend the life expectancy elements in a pecuniary damages assessment. Issues examined included:

1. Life Expectancy and Healthy Life Expectancy, the basics.
2. Types of life expectancy tables, their foundation and reasonable certainty.
3. Issues related to the use of life expectancy data in litigation: source, race, gender.
4. Creating a life table analysis worksheet.
5. Applying life expectancy data in pecuniary damages assessment.

Practice Issues: The Good, The Bad, & The Ugly

Organizers/Moderators: Bill Landsea & Lisa Clapp

This session included discussion of the many good, bad, and ugly experiences that damages experts have had -- and what was learned from the events. It also provided the opportunity to share new insights, methods and sources "attained" over the past year. The topic was open to anything and everything that would enhance a member's ability to do the work well. Issues included:

1. Dealing with difficult situations and turning them into a positive result.

Disclaimer



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2. Dealing with difficult attorneys, life care planners, other experts on the same of other side. Interesting/instructional case examples were welcome.
3. “Ten Ways Lawyers Kill an Expert”.

Note: As is the CPDE way, all those in attendance actively contributed and participated, thereby making the sessions very enlightening and rewarding to all.

Social Debriefing

Past President's Suite

Met for snacks and drinks to discuss the events of the day, plans for the evening and the next Annual Conference.

Annual Business Meeting

President Laura Taylor presiding

The Business Meeting was conducted in accordance with the CPDE Bylaws. Members were urged to refer to the Bylaws for information on prescribed issues and content.

MINUTES

2010 Annual Business Meeting

Collegium of Pecuniary Damages Experts (CPDE)

Saturday, March 13, 2010

Conference Room, Orleans Hotel

Draft (Subject to approval at 2011 Business Meeting)

The Treasurer's Report: The Treasurer reported that CPDE is in “the black”, although exact figures will not be available until after the meeting is over, and the final bills are paid. Apparently, the meeting room's minimum cost is \$300/day and the Orleans is not particularly concerned if we meet our contracted room numbers. The meeting room's cost will not vary regardless of the room numbers guaranteed. There is approximately \$1500 in receivables to be collected.

Next Year's Meeting: The membership decided that next year's meeting will be held at the Orleans. The dates will be **Friday and Saturday, March 11-12, 2011**. There was discussion that other venues will be considered for the CPDE Annual Meeting. It was agreed that a task force will be assembled to consider whether other cities or hotels would be a better choice for 2012, and report its findings to the membership.

Bylaw Changes: After much discussion it was agreed that the following changes be made to the Bylaws:

1. Eliminate the Deadline. New Members can be voted

upon at any time during the year. There is no longer a restriction of membership voting at a certain number of days prior to the annual meeting.

2. Voting for a new member must occur within 10 days of that member's name being presented to the Secretary for consideration.
3. Two-thirds (2/3) of voting respondents must be in affirmative, and
4. Voting will take place via the website. (Eric O'Connor explained how that will work.)

Contact Information for the Membership: The membership roster was reviewed to assure that a member's contact information should have their “stated location” only in the state in which they reside, or should their location also extend to all those states in which they practice.

Issue of Non-Attendees: After a lengthy discussion it was ultimately decided that the executive committee would talk to the non-attendees to determine whether they desire to continue their membership. There was unanimous agreement that attendance at the annual meeting makes for a stronger and better organization; however, there are some legitimate reasons (health, family emergencies, etc.) that may prohibit individual members from attending. There was unanimous agreement that the current attendees would try to encourage a more active participation in CPDE by the non-attendees.

Elections and Appointments: Tom Roney was elected as the Vice-President for 2010.

Thanks and Acknowledgements: Eric O'Connor was thanked for his work on the CPDE website.

The Annual Meeting of CPDE was adjourned. A thanks to all participants.

Graham Mitenko
Secretary, CPDE

CPDE President's Column

The annual meeting in March was a very successful and educational one. Thanks to Bob Male, Past President Laura Taylor, Rick Gaskins, Vice President Tom Roney, Michael J. O'Hara, Kevin Kirkendall, Graham Mitenko, Eric O'Connor, and everyone else for their time and effort in a successful 2nd conference. Thanks especially to the presenters. Their willingness to share their knowledge and understanding with

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this group is the key to our future success as a member driven organization.

As you are likely aware, Tom Roney was elected Vice President by unanimous consent.

Two persons have joined our ranks since the 2010 Conference and CPDE now has 33 members. With the removal of membership processing deadlines from our Bylaws, and the installation of a refined membership process (more on that below), membership applications can now be processed effectively throughout the year.

CPDE is a participatory organization. We strongly encourage all members to attend and participate at the annual conference in Las Vegas as well as on CPDE-e throughout the year. We are a multidisciplinary group with forensic expertise in economics, accounting, rehabilitation, and life care planning. Our members have talent that can be shared by all for our benefit across a true collegium of damages expertise.

The CPDE Membership Committee and Board has met and voted in favor of a change in the Bylaws that will affect the process for membership acceptance. The new process for membership application and approval is summarized as follows:

1. A candidate requests membership with the sponsorship of a current member (current policy).
2. The Membership Committee (Vice President, President, and Past President, and additional members appointed by the prescribed committee members, if any), reviews the application and if acceptable to 2/3 of the committee, reports the application to the membership via the listserve. The members then have one week to PRIVATELY contact members of the committee with any comments, concerns and recommendations they might have about the candidate's suitability for membership.
3. After all comments are received and discussed by the Committee members, the Committee either formally accepts the new member (by 2/3 margin) or rejects the application.
4. The final decision is then announced to the members.

To incorporate the refined membership process into the Bylaws certain changes will be necessary: First there will be a change to the wording in Section 2b of the Bylaws. (2b) currently reads: Membership in CPDE is limited to persons that secure the support of a current

member to act as sponsor, request membership in writing to the CPDE Membership Committee through the sponsor, (and receive an affirmative 2/3 vote from both the CPDE Membership Committee and CPDE Members). **" The change would be made to the very end of this section (in brackets) to read: "... and receive an affirmative 2/3 vote from the CPDE Membership Committee following a one week period when all current CPDE Members may privately provide the Membership Committee with comments, concerns and recommendations regarding approval of the prospective members."**

That change in combination with the following rewording of (4b) would complete the necessary change: "(4b) The Membership committee shall be Chaired by the Past President and include the President and Vice President. If desired, up to two additional (non-Board) Members may be added to the committee by unanimous vote of all prescribed committee members. **(Current timing sentence removed here).** **(The following sentence is new but already approved.)** Voting on the approval or denial of membership for applicants must occur within 10 days of the applicant's name being presented to the Secretary for consideration. **(The following sentence is a change from its current wording).** The Membership Committee shall notify CPDE Members of all membership applications following preliminary Committee acceptance to begin the one week comment period. Voting by existing CPDE Members on revocations of membership may be done by secret ballot, and in every event the Chair of the Membership Committee and the CPDE Secretary shall tally the votes. The process of voting on membership will be determined and executed by the Chair of the Membership Committee and the CPDE Secretary following approval by the Board." **(Note that the timing portion at the end of this section has been removed - as approved.) These changes have been in effect and are being used by the Membership Committee to process applications, but will be subject to final approval by the membership at the Annual Meeting in March 2011.**

I look forward to seeing all of you at our Conference in March.

Kent Jayne



DRAFT Program CPDE 2011 Conference

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Following is a topical outline for CPDE's 2011 Conference Program. The primary topics and sub-topics have been proposed and discussed on the CPDE member listserv and approved by participating members. Additional details and a final program will be developed and shared with members well in advance of the 2011 Conference.

Sessions #1 and #2: **Friday, March 11, 2011**

One primary topic will be scheduled for the Friday Sessions. **Earning Capacity (EC) vs. Expected Earnings (EE) vs. Expected Income (EI) and the Calculation of Pecuniary Damages.**

Presenter/Panel members include: Bob Male, Gil Mathis, Thor Bruce, Kent Jayne, and Kevin Kirkendall

1. Operational Definitions for EC, EE, and EI.
2. Determining EC pre and post incident.
 - a. For persons with known education and work history.
 - b. For younger persons (lacking a known education or work history).
 - c. For a person re-entering the workforce after a long absence, or not currently planning to re-enter the labor market.
 - d. Determining appropriate wage growth rates.
 - e. Determining EC for the self-employed/business owner.
 - f. Offsets to EC losses – if any.
3. Determining EE pre and post incident.
 - a. For persons with known education and work history.
 - b. For persons in a “Family Business”.
 - c. For those adversely displaced from long-term employment or an expected career path (with no physical injury).
 - d. Determining appropriate wage growth rates.
 - e. Determining EE for the self-employed/business owner – (lost profits have a roll?).
 - f. Offsets to EE losses – if any.
 - g. Paper on the lifecycle of physician's earnings, by Thor Bruce.
4. Determining EI pre and post incident.
 - a. Determining relevant income sources and “duration”.
 - b. Determining growth rates of income sources.
 - c. Offsets to EI losses (personal consumption/maintenance, etc.).
 - d. Paper: “A Modest Proposal for Inclusion of Financial Management Fees” by Graham Mitenko & Michael J. O'Hara.

Session #3: **Saturday morning, March 12, 2011**

Calculating the Pecuniary Damages Related to Diminished or Lost Production of Household Services.

Presenter/Panel members include: Martin Duffy, Lisa Clapp, and Barry Duman.

1. Defining Household Services (HHS) and any “limitations” on calculating pecuniary losses.
 - a. Defining the nature or “basis” of the loss – what is lost?
2. General methodology for calculating the pecuniary value of the loss.
3. Individualizing HHS losses.
4. Determining the “best” rate for the “costs” and their growth rate.
5. Determining the duration of the losses.
6. Limitations or offsets for losses – if any.

Session #4: **Saturday afternoon, March 12, 2011**

Calculating the Pecuniary Value of Lost Profits/Commercial Damages.

Presenter/Panel members include: Tom Roney, Bill Landsea, Rick Gaskins, Nacho Garza, Gregson Parker, and Rob Schlegel.

Panel members will present, evaluate and critique two or three commercial damages case workups. Sub-topics will include:

1. Lost profits.
2. Period of loss.
3. Discounting.
4. “Terminal Value”.
5. Critique of opposing expert's report.

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BYLAWS

Collegium of Pecuniary Damages Experts (As Amended)

Section 1: MISSION.

[1a] The Collegium of Pecuniary Damages Experts (CPDE) is a limited membership organization dedicated to collegial discourse that strives to advance knowledge and understanding relevant to providing expert assessment and testimony on pecuniary damages in litigation, and helpful sharing and networking among colleagues.

Section 2: MEMBERSHIP.

[2a] Membership in CPDE is limited to natural persons with knowledge and experience as an expert providing assessment and testimony on pecuniary damages in litigation, and/or with applicable preparatory background and a desire to learn how to work successfully in this professional field.

[2b] Membership in CPDE is limited to persons that secure the support of a current CPDE Member to act as sponsor, request membership in writing to the CPDE Membership Committee through the sponsor, and receive an affirmative 2/3 vote from both the CPDE Membership Committee and CPDE's Members.

[2c] Membership in CPDE is limited to those persons that have demonstrated collegiality, active participation, and positive sharing of knowledge and experience throughout their interactions with fellow professionals. Members are encouraged to attend and actively participate in each Annual Conference, as well as be responsive to communications from fellow Members.

[2d] Membership in CPDE may be revoked if a Member does not adhere to the standard of conduct expressed in CPDE's Mission and membership requirements. Revocation of CPDE membership requires an affirmative 2/3 vote of both the CPDE Membership Committee and CPDE's Members.

[2e] Membership in CPDE is contingent upon the timely payment of annual dues of \$100. CPDE will use the calendar year as its fiscal year. The term of membership runs from January 1 of each year through December 31 of that year. Annual dues are due before January 1, and annual dues are considered not timely paid if unpaid by the earlier of the start of the Annual Business Meeting or February 15. The amount of and/or the due date for future annual dues payments may be changed by a majority vote of Members at an Annual Business Meeting. Membership is lost automatically if dues are not paid in a timely manner. If membership is lost through the non-payment of dues, then the former Member must reapply for membership and cannot merely regain membership by paying past and current dues.

[2f] CPDE Members may attend all CPDE Conferences, vote on CPDE business, and may be elected or appointed as a CPDE officer, director, or committee member. Conferences, especially conferences of other professional associations that have CPDE joint sponsorship, might require a payment of a registration fee.

[2g] Founding Members of CPDE are current Members as of July 1, 2008.

[2h] Charter Members of CPDE are those that became Members prior to the 2009 Annual Business Meeting.

[2i] The number of CPDE Members shall not exceed 40.

Section 3: BOARD OF DIRECTORS AND OFFICERS.

[3a] The CPDE Board of Directors shall consist of a Vice President (to become the next President), President, Past President, Secretary, and Treasurer. The Members shall elect the Vice President, Secretary and Treasurer as officers of CPDE and as members of the Board of Directors. The Board may appoint other Officers who shall serve as ex officio non-voting members of the Board of Directors. The term of the Vice President, President, and Past President is one year in each position, and serving consecutive terms in these offices is not allowed. The term of the Secretary and the term of the Treasurer is three years and each may serve consecutive terms. Upon good cause shown, any officeholder's term of office may be terminated by a 2/3 vote of CPDE Members. The nomination and election of Officers to positions open due to an end of term of office shall take place during the Annual Business Meeting.

[3b] The Board shall conduct CPDE business as needed between Annual Business Meetings.

[3c] The President shall serve as the presiding officer of all Meetings of the Board and of the Members. The Vice President shall serve in lieu of the President when the President is absent. The Secretary shall record minutes of all Meetings of the Board and of the Members and manage all necessary communications for the organization. The Treasurer shall set up and manage a bank account for CPDE and oversee and manage all organization financial requirements.

[3d] All officers and all directors of CPDE must be Members of CPDE. Loss of CPDE membership automatically creates a vacancy in the office held by that officer or director. To fill a vacancy in either an elected or an appointed office or director seat the President, with a second, shall place before the CPDE Board the nomination of a CPDE Member to fill the vacancy. The Board shall fill such vacancies either by accepting the President's nominee or by amending the President's nomination. No person is qualified to fill a vacancy in a Past President seat unless that person is a Past President of CPDE.

[3e] The Members may authorize CPDE to publish one or more publications. If the Members authorize one or more publications, then the Board shall appoint one or more Editors. Each appointed Editor shall serve as an Officer at the pleasure of, and under the direction of, the Board.

[3f] All officers and directors shall be indemnified for actions taken that were reasonably believed to be within their scope of authority.

Section 4: COMMITTEES.

[4a] CPDE shall have the following standing committees: [i] Membership Committee; and [ii] Conference Committee. As the need arises, the Board may create and may appoint willing members to ad hoc committees.

[4b] The Membership Committee shall be chaired by the Past President and include the President and Vice President. If desired, up to two additional (non-Board) Members may be added to this committee by unanimous vote of all prescribed committee members. The Membership Committee shall notify the members for all membership applications that obtained preliminary Committee approval. Voting on the approval or denial of membership for applicants must occur within 10 days of the applicant's name being presented to the Secretary for consideration. Voting by the existing CPDE Members on applications for or revocations of membership may be done by secret ballot, and in every event the Chair of the Membership Committee and the CPDE Secretary shall tally the votes. The process for voting on membership will be determined and

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executed by the Chair of the Membership Committee and the CPDE Secretary following approval by the Board.

[4c] The Chair of the Conference Committee shall be appointed by the Board. The Chair may add additional Members to the Conference Committee with the prior approval of the Board. The Conference Committee shall facilitate the organization and implementation of all plans, contracts, and arrangements for all CPDE Conferences and Meetings.

Section 5: MEETINGS.

[5a] CPDE shall have an Annual Conference and Annual Business Meeting at a time and place determined by vote of the Members. In the absence of a vote of the members, the Annual Business Meeting shall be at 10:00 AM on the last Thursday in March at the offices of the Nevada Secretary of State.

[5b] The Annual Business Meeting is open only to current CPDE Members. The Annual Conference is open only to current Members of CPDE and speakers or guests invited by the Conference Committee. The Annual Conference and Annual Business Meeting will be organized and moderated in a manner consistent with collegial discourse. Conference participation is intended to enhance knowledge and understanding rather than to emphasize lines of difference. When disagreements occur, participants are expected to disagree collegially by focusing their discussion on differences in perspective and approach, rather than demeaning any person, type of training, or methodology. CPDE Members attending should attend prepared to actively participate. The Annual Conference and Annual Business Meeting will take place over a period of two days at a site and time to be determined by Members during the preceding Annual Business Meeting. A record of topics and presenters will be kept, memorialized, and possibly distributed in a form to be agreed upon by the Members.

[5c] Conference sessions will be organized and moderated by chairpersons appointed by the Conference Committee. In addition to the Annual Conference, the Conference Committee is encouraged to seek out professional educational opportunities for CPDE Members that are offered by other professional associations, and the committee may authorize CPDE joint sponsorship of those educational opportunities when the goals and practices are consistent with CPDE's goals and practices. The Conference Committee shall report to the Board and to the entire CPDE membership all such jointly sponsored educational opportunities well prior to the occurrence of the event; but the Board may revoke the committee's authorization of CPDE's joint sponsorship prior to the occurrence of the event.

[5d] The agenda of the Annual Business Meeting shall include, but not be limited to: [i] reports from each officer of CPDE; [ii] elections; [iii] annual review and possible amendment of these Bylaws; [iv] selection of date and place of next Annual Conference and Annual Business Meeting; [v] ratification of membership nominations and/or revocations if needed; and [vi] new business.

[5e] All Meetings shall be conducted in accordance with the most recent edition of Robert's Rules of Order. Proxy voting is not allowed. Every decision of every CPDE body requires a majority affirmative vote of the body's members who are attending, unless these Bylaws or Robert's Rules of Order require a greater vote. Decisions by the Board of Directors require a majority vote of all voting Board Members. An amendment to these Bylaws requires a 2/3 affirmative vote of Members present at the Annual Business Meeting. The quorum of every CPDE body is a majority of that body, except for the Annual Business Meeting of the CPDE Members, which shall use a quorum of 25% of the Members. Any CPDE body may conduct a meeting by voice telephony or by video telephony or in-person. A

CPDE body may meet other than in-person and may conduct a vote other than in-person or by surface mail ballot, but when [A] meeting other than in-person or when [B] voting other than in-person or by surface mail ballot, then that meeting and that voting must at all times maintain unanimous consent for the conducting of that meeting or that vote.

Section 6: DISSOLUTION.

[6a] The CPDE shall continue as an organization of members until such time as the then current Members vote during an Annual Business Meeting that CPDE ought to dissolve.

[6b] Any Member may make a motion of dissolution by delivering 30 days written notice to the Board of Directors.

[6c] A unanimous Board of Directors may make a motion of dissolution upon less than 30 days notice to the Members; otherwise, the Board must provide the Members with at least 30 days written notice of the Board's intent to make a dissolution motion at the Annual Business Meeting.

Approved 7/01/08

Amended 4/02/09

Amended 3/13/10

NOTE: At the 2010 Annual Business Meeting of CPDE, the Members by more than a 2/3rds affirmative vote, amended the CPDE Bylaws section [4b] by eliminating membership application time constraints.

CPDE 2011 Conference and Business Meeting

Friday and Saturday
March 11-12, 2011

The Orleans Hotel and Casino
Las Vegas, Nevada

The 2011 program is shaping up to be a
"DO NOT MISS" event.

- ✓ Mark your calendars
- ✓ Make your plans now

Hotel reservation information is available
at the Members Only link at
www.cpde.info