

CPDE COMPENDIUM

Officers and Board Members

2010

Past President
Laura Taylor

President
Kent Jayne

Vice President
Thomas Roney

Secretary
Graham Mitenko

Treasurer
Kevin Kirkendall

2011

Past President
Kent Jayne

President
Thomas Roney

Vice President
Rick Gaskins

Secretary
Michael O'Hara

Treasurer
Kevin Kirkendall

CPDE Compendium

Editor
Bob Male

Editor
Michael J. O'Hara

Production Editor
Nancy Male

Announcement!

CPDE 2012 Conference and Business Meeting



March 16-17, 2012

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

Review of CPDE's 2011 ANNUAL CONFERENCE

**The Orleans Hotel and Casino
Las Vegas, NV
March 11-12, 2011**

Thursday, March 10

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 11

Sessions 1 & 2: Earning Capacity (EC) vs. Expected Earnings (EE) vs. Expected Income (EI) and the Calculation of Pecuniary Damages

Presenters/Panel Members: Bob Male, Gil Mathis, Kent Jayne, Kevin Kirkendall, Parker Cashdollar, Bill Hardy, Graham Mitenko, Michael J. O'Hara, & Thor Bruce.

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. Preparing and utilizing alternate scenarios.
 - g. 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

In this issue

2011 Annual Conference Review

Business Meeting Minutes, March 12, 2011

President's Column

Conference Information for 2012 - possible topics

CPDE COMPENDIUM

- 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. Preparing and utilizing alternate scenarios.
- g. Offsets to EE losses – if any.

- 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.).

Papers: “A Modest Proposal for Inclusion of Financial Management Fees in Determination of Damages” by Graham Mitenko & Michael J. O’Hara.
“The Age Earnings Lifecycle of Physicians,” by Thor Bruce.

Social Debriefing Past President’s Suite

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

Saturday, March 12, 2011

Session #3: Calculating the Pecuniary Damages Related to Diminished or Lost Production of Household Services.

Presenter/Panel members: Rick Gaskins, 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? (Task services; companionship, advice, council (CAC); keeper care (KC)).
 - b. What limitations may exist to assessing lost HHS? (Lack of support in controlling law (CAC, KC); absence of a direct enough market price reference; other?).
- 2. General methodologies for determining the amount of HHS lost. (Interview; survey data (DVD, other?); hybrid interview/survey data; vocational expert, other). Sample analyses with associated report text will be provided.
- 3. Individualizing HHS losses. (Non-reported family composition (roommates, extended family); housing type (past, current and future; other?)).
- 4. Determining the “best” rate for the “costs” and their growth rate. (Replacement wage -- without/with legally

mandated payroll taxes, without/with employee benefits load, published references (DVD, OES, other?), other replacement wage reference/basis? (Agency rates, local survey, opportunity cost)).

- 5. Determining the duration of the losses. (Loss to who? (injured person; others); Life Expectancy (single, joint); non-standard life expectancy; healthy life expectancy (single, joint)).
- 6. Limitations or offsets for losses – if any. (Offset for personal consumption; adjustment for labor market time freed to HHS; case strategy).

Session #4:

Lost Profit/Terminal Value/Opposing Expert Critique.

Presenter/Panel members: Tom Roney, Gregson Parker, Nacho Garza, Rob Schlegel, Bill Landsea, George McLaughlin, and Jeremiah Grant.

- 1. Gregson Parker -- The rule of two; Follow the money; What’s wrong with this picture? (aka, \$how me the Money!); No ticky - no washy; You only get one lie; An electronic cocktail napkin is still a cocktail napkin; Now where was that forest again?; DBLANETFEFYAC, EITOTINOTOM.
- 2. Nacho Garza -- Calculating Lost Profits into Perpetuity vs. Terminal Value.
- 3. Rob Schlegel -- Alternatives to Terminal Value.
- 4. Bill Lansea -- Basics of business lost profit damages expert report.
- 5. George McLaughlin -- Business owner injured, what portion of his income was wages and what portion was profit?
- 6. Jeremiah Grant -- Critique of a lost profits expert report (example).

Social Debriefing Past President’s Suite

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



CPDE COMPENDIUM

Follow-up and Comments:

A CPDE Excel Study Group (XLSG) has been formed (contact person: Rick Gaskins). It is an ongoing (throughout the year) group of CPDE members who will be learning from each other about improving their Excel spreadsheet skills; including the creation and use of custom functions and custom subroutines (macros).

Those wishing to pursue CEU credits related to their participation were provided documentation of the program, presenters, and their attendance.

All of the feedback and comments related to the 2011 Conference were very positive and characterized the event as very rewarding and worthwhile. Everyone looks forward to the 2012 Conference being another "must attend" opportunity.

Annual Business Meeting

President Kent Jayne presiding

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

MINUTES

**2011 Annual Business Meeting
Collegium of Pecuniary Damages Experts
(CPDE)**

Saturday, March 12, 2011

Conference Room, Orleans Hotel

Draft (Subject to approval at 2012 Business Meeting)

The Meeting was called to order at 9:00 AM by President Kent Jayne. He provided our thanks to Bob Male and Kevin Kirkendall for setting up the program and making the arrangements for the 2011 Annual Meeting of the Collegium of Pecuniary Damages Experts. It was agreed by all that the membership owe them a debt of gratitude.

Last year's Minutes were read by Secretary Graham Mitenko. Michael O'Hara moved and Kent Jayne seconded the approval of the Minutes by the CPDE Members.

Bylaw Amendment: Past-President Laura Taylor proposed and explained a change to the CPDE Bylaws. The change involved new membership application and was stated:

Once the membership has been notified of the desire of a new member's desire to join CPDE, the membership is notified (by email) and has 10 days in which to make any comment. Comments are to be made in private to members of the Membership Committee and not to be placed on the list serve. Comments will be investigated by the Membership Committee and will weigh in the acceptance decision. The decision to accept or reject the new member will be made with-in 10 working days.

After some discussion the motion was moved (Rick Gaskins) and seconded (Graham Mitenko). Approved by the membership.

Elections: 1. Kevin Kirkendall was re-elected for a second three-year term as CPDE Treasurer based upon the motion of Michael O'Hara and the second of Kent Jayne and the unanimous approval of the CPDE membership. 2. Michael J. O'Hara was nominated to serve a first three-year term

Disclaimer



CPDE Compendium is published annually, as a service to members, by the Collegium of Pecuniary Damages Experts (CPDE). Members and Non members may view and/or download a copy from the website at <http://www.cpde.info>. CPDE does not endorse particular products or assessment methods. Any opinions stated in each section are those of the authors, and not the organization. For information about, or to submit items for the newsletter, please contact Bob Male at bobmale@hawaii.rr.com or Michael J. O'Hara at mohara@unomaha.edu.

CPDE COMPENDIUM

as Secretary for CPDE. Moved by Graham Mitenko and seconded by Tom Roney, election of Secretary O'Hara was unanimously approved by those voting.

Executive Succession: Rick Gaskins was elected as the Vice President for the year and Tom Roney became President (i.e., starting with the end of March 2011 Business Meeting). Per section 3 of the CPDE Bylaws the Vice President graduates to the President's position and the President graduates to the Past President position. Moved by Bob Male and seconded by Kent Jayne. Election of Vice President Gaskins and executive succession was unanimously approved by those voting.

Membership Committee Report: 1. A sheet was passed around by Laura Taylor to make sure that CPDE had current information (addresses, email, etc.) for each attending member.s Corrections and additions were requested and provided. 2. Eric O'Conner was reappointed as CPDE's Web Master. A motion of thanks for all of his hard work was in order and a round of applause ensued.

Next Year's Meeting: After some debate to move next year's meeting one week later (to avoid the quarterly tax day), it was decided that the 2012 meeting will be held at the Orleans Casino & Resort, Las Vegas, NV on **Friday and Saturday, March 16-17, 2012** if Treasurer Kevin Kerkindall could arrange it with the hotel. (NOTE: After this meeting, Kevin reported to assembled members that he was successful.

The Treasurer's Report: The Treasurer reported that, prior to the Annual Meeting, CPDE had approx. \$7,000 in the bank and that the total cost of the Annual Meeting should be about \$900. There were some questions over delinquent dues. They are critical because per the concluding sentences of Bylaws section 2e "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." After some debate, it was decided that this was best left to the Membership Committee.

New Business: 1. There was discussion that CPDE should pay for the President's room. So moved by Gregson Parker, seconded by Bob Wolf, and approved by the membership. 2. Gregson Parker made a motion that there be coffee available in the meeting suite for the first meeting of the mornings. Seconded by Bill Landsea and approved by membership.

The Annual Meeting of CPDE was adjourned at 10:00 AM. So moved by Michael O'Hara, seconded by Kent Jayne, and approved by the membership.

First draft of these Minutes submitted by CPDE Secretary Graham Mitenkoto the CPDE Board of Directors on 4-6-11 and a second draft submitted 6-2-11. CPDE Secretary O'Hara submitted this DRAFT MINUTES to the Board in January 2012 for publication in the CPDE Compendium.

FINAL MINUTES to be adopted XXXXXXXXXXXXXXXX by the CPDE Members at the 2012 Annual Meeting.

CPDE President's Column

First I would like to wish you all a very healthy, happy and prosperous year ahead. It has been an eventful year for CPDE. Our membership continues to growth in number and quality. Our conference last March was very well attended. Besides being interesting and informative, we had a lot of fun. This year's conference should be even bigger and better and I hope you all have planned to attend.

Much progress has been made in our efforts to co-publish The Earnings Analyst (TEA) with the American Rehabilitation Economics Association. The plan is to bring the TEA journal into the electronic age and available at a website we are constructing as an electronic journal. The journal will be available at no cost to AREA and CPDE members (included in membership fees), and entire issues and single articles will be purchasable by non-members. The AREA and CPDE Boards have initially agreed to share funding of a website that would host TEA and also serve as an information and data resources site useful to all pecuniary damages experts and attorneys. As envisioned, the site would have two main parts: the TEA side and the "Pecuniary Damages Resources" side.

As this is written in early January, the AREA and CPDE Boards are working on the "formal" agreement that we hope will be finalized in the very near future. This project looks like it will be a substantial benefit for both organizations. The planned development of the website will provide an expanded audience for both organizations (and their members) through an open and accessible venue providing valuable resources to our members and others seeking information about pecuniary damages evaluation in litigation.

I have greatly enjoyed my membership in CPDE and the opportunity to serve as President this last year. I recently returned from the annual meeting and forensic sessions of NAFE at the ASSA conference. I thought the meetings were very good and informative, but less than 40 members of a membership of more than 500 attended. By contrast, we have had more than 90% attendance at our annual meeting. We have limited our membership to "those

CPDE COMPENDIUM

persons that have demonstrated collegiality, active participation, and positive sharing of knowledge and experience throughout their interactions with fellow professionals.” Our members are encouraged attend and actively participate in each Annual Conference, as well as be responsive to communications from fellow Members. It is our collegiality, open discourse and active participation that makes membership in CPDE so rewarding. I encourage all of you to consider fellow forensic experts with these qualities for potential membership.

Thomas Roney

DRAFT Program CPDE 2012 Conference

Following is a listing of possible topics for CPDE's 2012 Conference Program. A “*” indicates that the topic is confirmed for presentation.

- Publishing in Professional Journals *
- Subject and content development for PDE “Pecuniary Damages Resources” website *
- Consideration of Inflation Risk and Market Risk in Deriving a Discount Rate for Income Loss and Life Care Claims *
- Finding Simple Proxies for the Real Growth in Household Services Costs *
- Methods Used to Gross-Up or Tax-Adjust Awards in Employment Cases *
- Difficult cases and how handled
- PV/discounting in Strange Times: The Long Term Problem
- Improving EXCEL skills and report
- Bond yield curves in discounting
- Reporting: contents and presentation
- Valuing IP/patents
- PV/discounting in Strange Times: The Long Term Problem
- Practice Development Challenges and Opportunities
- What ATUS never told you *
- Projecting Retirement Benefits using Social Security and related Sources
- Top Ten Cases for 2011
- Disability and Worklife Expectancy
- U.S. Bankruptcy Law and the Compilation of Pecuniary Damages

CPDE 2012 Conference and Business Meeting

Friday and Saturday
March 16-17, 2012

The Orleans Hotel and Casino
Las Vegas, Nevada

The 2012 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

