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**VOCATIONAL  
ECONOMICS,  
INC.**

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**In the Allen Superior Court  
Allen County, Indiana**

John P. Greene,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Cause No. 02D01-0201-CT-13
	)	
Seth C. Johnson,	)	
	)	
Defendant.	)	

**Affidavit of Anthony M. Gamboa, Jr., PhD, MBA**

COMES NOW, Anthony M. Gamboa, Jr., PhD, MBA, being first duly sworn upon his oath states the following:

Defense has filed a motion to exclude my testimony. This motion centers on the following key areas:

1. Mr. Greene’s Earning Capacity
2. Mr. Greene’s Work Disability
3. Mr. Greene’s Pre-existing Condition

Each of these points is refuted in the discussion that follows.

**1. Introduction**

My company, Vocational Economics, Inc., initially submitted a report in this case in November, 2001. This report was a preliminary report providing an initial estimate of the earnings lost by Mr. Greene as a result of injury in November, 2000. The report was provided for settlement purposes only and was not meant to be used for trial. The report was clearly labeled “preliminary” for that reason.

The November 2001 report was done without benefit of an interview with Mr. Greene and was based primarily on information provided by Mr. Wegner. I have now interviewed Mr. Greene and have performed a full analysis of his lost earnings.

**2. Mr. Greene’s Earning Capacity**

In the November 2001 report, Mr. Greene’s pre-injury and post-injury earning capacities were based on the actual earnings as provided by Mr. Wegner. In my full analysis, based on Mr. Greene’s age, education, work history, and my recent interview with him, it is my opinion that

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the most reasonable representation of his earning capacity is based on the average earnings that accrue to males in Indiana with 12 years of education. This results in an average pre-injury earnings figure of \$34,703, based on males with no work disability, and an average post-injury earnings figure of \$28,926, based on males with a work disability.

### 3. Mr. Greene's Work Disability

Defense states that because Mr. Greene is able to perform his job at this point in time, that he is not work disabled. This is not accurate and does not consider research on the effects of disability on a person's lifetime ability to work and earn money.

After injury, Mr. Greene returned to the job he was performing prior to injury. It is not unusual for people to return to work that they know if at all possible. This is particularly true in this case given Mr. Greene's professed enjoyment of his work. Based on my interview with Mr. Greene, however, he has been having more trouble performing his work and is not sure how long he will be able to continue.

Based on the October 2001 report of Dr. Rudy Kachmann, Mr. Greene has reached maximum medical improvement. The report goes on to state,

"His ability to engage in physical activity such as heavy lifting, pushing, pulling or carrying will be limited. His ability to sit and stand for prolong [sic] periods of time will be limited. Based on reasonable medical probability these limitations will be permanent."

Based on Mr. Greene's description of his current position, he is performing work in excess of the medically-defined restrictions. From a vocational perspective and in order to maximize his lifetime ability to continue work, it would be beneficial for Mr. Greene to find alternate employment more consistent with his medically-defined restrictions. His finding such work, though, will not eliminate the effect of his injury on his ability to work over a lifetime.

Various researchers have studied the effects of disability on earnings and employment. Some of this research (Gibson, 2001; Yelin, 1996; see Attachments) notes specifically that persons with a work disability are more likely to lose their employment if working and are less likely to find work if unemployed than are people without a work disability. This effect worsens with age. In addition, research by the University of Illinois, under contract with the US Department of Education, shows that even when persons with a disability successfully complete rehabilitation training and are placed in a job, they face increased probabilities of losing that job.

I have been asked to assess the *lifetime* effects of Mr. Greene's injuries on his earnings. He is still young (now 31) and has many years of worklife ahead of him that could be affected by his injury. Based on Mr. Greene's medically-defined limitations, his problems performing his current job, and research on the effects of disability on work, it is reasonable to assume that, over the course of his lifetime, Mr. Greene's worklife expectancy will be reduced.

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**4. Mr. Greene's Pre-existing Condition**

The analysis conducted in November 2001 was based in part on the medical report of Dr. Rudy Kachmann (October 29, 2001). In this report, Dr. Kachmann refers to Mr. Greene's pre-existing back condition and 1999 surgery and states that Mr. Greene "made an uneventful recovery and was having no problems until the accident." Based on this, it is assumed that Mr. Greene's pre-existing condition would not have affected his ability to work. Therefore, his pre-injury worklife expectancy was determined to be most like that of an individual with no work disability.

FURTHER, THE AFFIANT SAYETH NAUGHT.

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Anthony M. Gamboa, Jr., PhD, MBA  
Senior Vocational Economic Analyst

Subscribed and sworn to before me, a notary public, in this \_\_\_\_ of August, 2003.

\_\_\_\_\_

Notary Public

My Commission Expires \_\_\_\_\_