

a.) Transferable Skills Analysis:

-----advised of a transferable skills analysis which he performed using the vocational diagnosis of residual employability (**VDARE**).

He noted that this vocational methodology “considers an individual’s transferable skills considering the **individual’s most recent 15 years of employment**. **Therefore, the following positions were considered within my transferable skills analysis on behalf of -----:**

- DOT Title: **Dispatch Service**
- DOT #: 959.167-010
- SVP Level: SVP 4 - Semi-skilled Employment
- Exertional Level: **Sedentary exertional level** as defined by the D.O.T.
- Employment Level: Semi-skilled Work: requiring over 3 months up to and including 6 months of workforce participation for average job performance.

- DOT Title: **Driver Sales Route**
- DOT #: 292.353-010
- SVP Level: SVP 3 - Semi-skilled Employment
- Exertional Level: **Medium exertional level** as defined by the D.O.T.
Situational escalation to heavy work
- Employment Level: Semi-skilled Work: requiring over 1 month up to and including 3 months of workforce participation for average job performance.

- DOT Title: **Credit Clerk**
- DOT #: 205.367-022
- SVP Level: SVP 4 — Semi-skilled Employment
- Exertional Level: **Sedentary exertional level** as defined by the D.O.T.
Situational escalation to light work
- Employment Level: Semi-skilled Work: requiring over 3 months up to and including 6 months of workforce participation for average job performance.

- DOT Title: **Security Guard**
- DOT #: 372.667-034
- SVP Level: SVP 3 — Semi-skilled Employment
- Exertional Level: **Light exertional level** as defined by the D.O.T.
Situational escalation to medium to heavy work
- Employment Level: Semi-skilled Work: requiring over 1 month up to and including 3 months of workforce participation for average job performance.

- DOT Title: **Production Supervisor**
- DOT #: 699.130-010
- SVP Level: SVP 7 - Skilled Employment

- Exertional Level: **Light exertional level** as defined by the D.O.T.
Situational escalation to medium work
- Employment Level: Skilled Work: requiring over 2 years up to and including 4 years of workforce participation for average job performance.

- DOT Title: **Retail Store Manager**
- DOT #: 185.167-046
- SVP Level: SVP 7 - Skilled Employment
- Exertional Level: **Light exertional level** as defined by the D.O.T.
Situational escalation to medium work
- Employment Level: Skilled Work: requiring over 2 years up to and including 4 years of workforce participation for average job performance.

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“The first area evaluated was regarding -----'s Specific Vocational Preparation (SVP) level. An individual's SVP level is defined as the amount of time required by a typical worker to learn the techniques, acquire information, and develop the work experience needed for average performance in a specific work setting. “

-----summarized the SVP, GED, Work Aptitudes, Work Temperaments, Physical Demands, per the DOT-SCO, RHAJ and supporting documents.

-----noted that -----preinjury work experience required:

- Occasional - stooping and crouching
- Occasional to frequent - reaching, handling, fingering, and use of depth perception, accommodation and color vision
- Occasional to constant - talking, hearing and use of near acuity
- Frequent - use of far acuity and field of vision

-----did not offer a specific conclusion regarding what specific transferable skills ----- obtained as a result of his past employment, despite the reality that all of -----past work is classified as Semi-Skilled to Skilled per the DOT, including his current work with -----, a Sedentary Work from Home job, which is not listed in -----'s listing of -----work history.

Including his current position with -----, ----- has had three dispatching jobs per the information furnished by -----.

b.) Vocational Conclusions per -----:

In developing his vocational conclusions -----indicated that he had reviewed all available case records and documentation as well as his initial vocational assessment meeting with ----- on -----, and follow-up vocational discussions with ----- on 1/9/24 and 3/20/24.

On page 22 of his report -----opines that:

“It is my opinion within a reasonable degree of vocational certainty that the objective historical documentation in this matter supports the unfortunate vocational reality that -----'s vocational and earning capacities have been diminished as a result of the ----- incident under review. “

Mr ----- also opines that “vocationally it is significant to note that ----- documents -----'s medical care to involve being evaluated due to progressive neck pain and progressive back pain.”

The IME was requested by the claimant’s attorney and not the insurance carrier in this case.

-----noted that “Physiatric Independent Medical Evaluation (IME) tendered by ----- confirms that ----- has -- sustained serious bodily injury as a direct result of the events of -----.

It is vocationally significant to respectfully highlight ----- 12/27/23 opinions specific to -----'s vocational capabilities. ----- specifically opines on 12/27/23 that:

- “-----'s injuries have resulted in partial permanent impairment and partially permanent disability
- Prognosis for further functional recovery at this point is poor
- The injury has resulted in a decreased work capacity
- The injury has resulted in decreased work life capabilities
- Ongoing medical management is warranted “

c.) -----'s Opinion of -----Earning Capacity:

Beginning on page 24 of his report, -----provides an opinion of -----
-----estimated earning capacity going forward from his work injury of -----
. This information includes -----'s opinion of future wage loss beginning on
page 27 of his report.

To my awareness -----did NOT consider alternate employment with a different
employer which may offer higher wages than -----current position with -----.

Beginning on page 28 of his report, -----estimates -----**projected wages
based upon his current position as a dispatcher with ----- INC. This is noted as follows:**

**"As consideration is given to -----'s base pay rate of \$22.26 per hour plus (+)
his annual overtime earnings, it is my opinion that -----'s earning capacity
effective 4/17/24 is accurately presented to the factfinders as \$63,664."**

**\$46,301 -----'s base rate of \$22.26 per hour x 2080 annual full-time work
hours (+) \$17,363 -----'s overtime earnings of \$33.39 per hour x 10 O.T,
hours per week.**

**\$63,664 -----'s annual earning capacity with consideration of his base
hourly rate of \$22.26 per hour, and his overtime rate of \$33.39 per hour."**

-----also opines that:

**"----- celebrated his 37th birthday on -----, -----
therefore has an additional 30 years of Work Life Expectancy (WLE) at age 67. (Age 37 +
30 work years = Age 67)**

----- celebrated his 37th birthday on -----, ----- therefore
has an additional 33 years of Work Life Expectancy (WLE) at the age of 70. (Age 37 + 33
work years = Age 70

-----opines that "-----'s lost earnings when conservative
consideration is given to a range of lost earnings between 10% (3 work years) and 20% (6
work years) of his future Work Life Expectancy, which is 30 to 33 work years."

-----argues that:

**Future Range of Diminished Lost Earnings Based on Consideration of -----'s
Base Annual Wage of \$46,301:**

-----indicates that “-----’s base hourly rate \$22.26 per hour generates a base earning capacity of \$46,301. (\$22.26 per hour x 2080 annual work hours = \$46,301 annual earnings)”.

It is Mr -----’s opinion is that” -----’s diminished future Work Life Expectancy (WLE) earnings in a range of 10% (3 Years) to 20% (6 Years) are as follows:

\$138,903 -----Diminished annual earnings of \$46,301 x 3 work yrs (10% Loss)

\$185,204 -----Diminished annual earnings of \$46,301 x 4 work yrs

\$231,505 -----Diminished annual earnings of \$46,301 x 5 work yrs

\$277,806 -----Diminished annual earnings of \$46,301 x 6 work yrs (20% Loss)”.

On page 29 of his report -----notes a “Loss of current earnings of \$158,278, calculated by multiplying his base annual earnings of \$46,301 by the amount of time that he has been out of work.

On page 29 of his report, -----indicates a “Future diminished earnings of \$138,903”

On pages 30 and 31 of his report, -----summarizes his assessment of ----- --estimated wage loss moving forward. -----’s calculates -----loss from \$349,210 (Current Loss of wages + 3 years future loss of wages) to \$\$540,262(Current Loss of wages + 6 years future loss of wages).

I defer the reader to -----’s report for more detailed information summarizing his opinion of the matter.

1. 2020 income Tax Return of -----:

This document was included for review, possibly due to the possibility that ----- also reviewed the document. The document that ----- was “unemployed” for 2020 on page 2 of this tax return and that the tax return was “self-prepared”.

On page 17 of this tax return there are employers noted as follows:

a.) -----, for wages of \$43,323.25, which represent his post worker’s comp. employer.

Also, there is a resume of ----- on page 20, as follows:

***See page 20 for resume**

This resume noted that -----’s employment history includes his current position described as follows:

“Dispatch & Router Combo-----, ----- to Present:

Coordinated and communicated with customers to ensure on-time delivery. Created detailed logs of all dispatched driver routes and services. Developed new strategies and procedures to optimize routes. Assigned drivers to routes based on customer needs and deadlines.

***Specific Skills/ Abilities: Microsoft Suite; Strategic: Microsoft Suite; Strategic Thinking; Experience in the Beverage Industry & Distribution, etc.
Using the DOT, the closest classification of the current position would be Dispatcher, Motor Vehicles, 249.167-014, Classified & Performed, Sedentary; Skilled, SVP 5.***

2. IME Report, -----, 12/27/23:

This IME was initiated by Claimant's Counsel, Attorney -----.

The report will not be repeated here, but will be summarized, as follows:

This is a **36-year-old** gentleman who sustained serious bodily injury because of the events of -----
------. Diagnoses referable to the injuries sustained would include:

1. Left shoulder myoligamentous sprain/strain with internal derangement requiring surgical intervention.
2. Lumbar discogenic injury with an L4-5-disc herniation and secondary facet syndrome.
3. Cervical myoligamentous sprain/strain with facet pain.
4. Hip contusion and sprain/strain injury.
5. Chronic pain symptomatology

Overall, this gentleman has not fully reached medical stability despite the chronicity of his now chronic pain pattern and additional surgical and pain management interventions would be anticipated. To control symptomatology and limit acceleration of his condition, he should restrict himself to light tasks only. As always, I will make appropriate addendums to this report should additional medical data arise.

In addition to the IME Report, ----- included a "Medical Cost Summary" addressed to Attorney -----
-- of the ----- Law Firm, which opined as ----- having a 42-year life expectancy projected "Total Medical Costs Over Life Expectancy of \$99,465".

3. Report of Dr. ----- to Attorney -----, 8/25/2021:

This report was a medical Record Review which reviewed several medical records and related documents of -----W/C case, as well as his deposition dated 6/14/21.

The deposition of ----- was noted to indicate that:

"Deposition of -----, dated June 14, 2021, noted he was asked if he took any medications right now. He started Bayer Back and Body daily. He must take Ativan as needed for anxiety."

It was noted he appears to accept a settlement related to this case.

It appeared to be \$90,000.00. It was noted he was looking for other jobs.

Based on the medical records reviewed, it appears ----- sustained an injury on October 17,

2019. The accepted injury appears consistent with:

1, Lumbar strain.

2. Left shoulder strain.

“Regarding the shoulder, ----- ultimately did undergo an MRI scan on October 29, 2019.

The findings included a tiny intrasubstance tear of the mid subscapularis tendon. The overall evaluation of the labrum was limited. The medical records appeared to suggest he ultimately underwent left shoulder surgery. I was not provided with the operative report. A report on May 28, 2020, suggested he had arthroscopic left shoulder surgery with Dr. ----- . It was noted he performed a home exercise program, but he was not improving significantly. The deposition testimony regarding the shoulder admitted he said it helped with his mobility, but he still dealt with weightlifting issues and anything overhead.

It would be my opinion the injuries pertaining to his cervical and lumbar spine would have been expected to recover over the course of six months. These conclusions have been reached within a reasonable degree of medical certainty.”

4. Report of Dr. ----- to -----, 4/26/24:

A Follow-Up Report was issued by Dr. ----- to -----, following an additional medical record review, which included several additional records, as documented in his report. In particularly reviewing two MRI Scans, Dr. ----- concluded that:

“In review of the two MRI scans, it is my opinion, the findings would represent the natural progression of his degenerative changes, rather than any acute structural injury stemming from the event of -----.

These conclusions have been reached within a reasonable degree of medical certainty based on review of compressed medical records.”

5. Labor Market Survey/ Earning Power Assessment:

-----did not offer a specific conclusion regarding what specific transferable skills - ----- obtained as a result of his past employment, despite the reality that all of ---- -----past work is classified as Semi-Skilled to Skilled per the DOT, including his current work with -----, a Sedentary Work from Home job, which is not listed in -----'s listing of -----work history.

Including his current position with -----, ----- has had three dispatching jobs per the information furnished by -----.

Since -----'s report didn't consider other employment opportunities for -----, given his work history, transferable and existing skills, even though there may have been better paying alternatives, I did research the current labor market in his region to consider this matter and found the following such employment opportunities:

- a. Automotive Service Dispatcher:**
Mc Guire Cadillac

Woodbridge, NJ

Virtual Position

Wage: **\$55,000 to \$65,000/ Year**

Hours: Full Time

Job description

Plans, organizes, leads and controls the flow of service work through the service department in a professional, timely manner while ensuring quality repairs at a fair cost to the customer.

We work M-F / We offer medical coverage / We offer a 401k with a company match /

We do not work Holidays or Weekend

Automotive Service Dispatcher - Essential Duties:

Implements and maintains an effective dispatch system.

Schedules shop work to facilitate maximum productivity in accordance with dealership policy and the technician skill level required.

Prioritizes and controls all comebacks to ensure proper and prompt attention.

Ensures proper repair order documentation, i.e., complaint, cause and correction noted on every repair order with punch time for each operation.

Reviews job status frequently, logging status and reporting any change in time or cost estimates to the appropriate service advisor and/or customer.

Maintains timely and professional contact with service customers.

Maintains an organized and up-to-date repair log.

Prepares estimates when required.

Reviews hard copies of repair orders turned in by technicians to ensure that assigned work has been performed and the repair order has been processed.

b. Dispatcher & Logistics Coordinator- Crane & Heavy-Duty Truck

Central Rent A Crane, Inc.

Fairland, IN.

Virtual Position

Wages: \$55,000 to \$65,000/ Year

Hours: FT

Responsibilities:

They keep records, logs, and schedules of the calls they make and/or receive, the vehicles they monitor and control, and the actions they take

They maintain information on each call and then prepare a detailed report on all activities occurring during their shifts

Maintaining correct files for Safety compliance, DOT/FMCSA regulations and Insurance requirements

Secure permits and escorts (when necessary)

Track, collect, correct weekly expense reports for crane operators, oilers, and truck drivers

Assist with new hire/onboarding process

Collect onboarding documentation for union employees

Coordinate drug testing, road tests, operator evaluations

Conduct training for ATOM, Samsara, and company documents (job tickets, timecards, etc.) where necessary.

c. Lead Dispatcher

Virtual Position

Plugz Electric

Forest Lake, MN

Wage; **\$60,000 to \$85,000/ Year**

Hours; FT

Requirements:

High school diploma/GED

Previous experience as a Dispatcher or in a similar position

Excellent typing and data entry skills

Understanding of best practices and procedures for emergency response situations

Strong verbal and written communication skills

Highly organized with the ability to multitask and prioritize projects

Ability to work well under pressure

Responsibilities:

Receive inbound emergency and non-emergency calls

Collect and document information from callers

Prioritize calls according to the level of urgency

Transmit information to the appropriate person or department

Direct response units to appropriate location

Monitor status of the response team

Qualifications

High school diploma/GED

Previous experience as a Dispatcher or in a similar position

Excellent typing and data entry skills

Understanding of best practices and procedures for emergency response situations

Strong verbal and written communication skills

Highly organized with the ability to multitask and prioritize projects

Ability to work well under pressure.

d. Inbound Transportation Dispatcher:

Verona, WI

Hayes Transport

Virtual Position

Wage: **\$60,000 to \$75,000/ Year**

Verona, WI based Trucking and Logistics Company is seeking a self-motivated individual for our Inbound Dispatcher position. Hayes Transportation Inc has been in the truckload / long haul business for 42 years. We currently have 40 OTR trucks. Our average driver has been working with Hayes Transport for over 10 years, approximately 25% of our drivers have been with Hayes Transport for over 15 years.

The successful candidate will be highly energetic with communication skills to maintain existing customer and driver relationships, while having the ability to develop new ones.

Responsibilities Include:

Provide excellent customer service to current and potential new accounts
 Communicate with drivers and customers regarding pickup, deliveries and any status updates required
 Ensure drivers have all pickup / delivery information necessary to complete their load.

Summary of Labor Market Survey:

Company	Job Title	Column1	Wages Min /year	Wages Max/year
McGuire Cadillac	Automotive Service Dispatcher		\$ 55,000	\$ 65,000
Central Rent a Crane, Inc	Dispatcher & Logistics Coordinator		\$ 55,000	\$ 65,000
Plugz Electric	Lead Dispatcher		\$ 60,000	\$ 85,000
Hayes Transport	Inbound Transportation Dispatcher		\$ 60,000	\$ 75,000
		Average	\$ 57,500	\$ 72,500

Conclusion:

If one were to adopt the economic conclusions of Claimant’s IME Examiner, ----- of Total Medical Costs Over Life Expectancy \$99,465.00 and claimant’s VE -----’s estimate of \$349,210 (Current Loss of wages + 3 years future loss of wages, the total of these two estimates would be \$ 448,675. **This is only ONE interpretation of the hypothetical wage loss.**

-----’s report stated, as previously indicated, that -----pre-injury hourly wage was \$20.63/ hour, as a beverage delivery driver, with his hourly wage with ----- being \$22.26/ hour with an hourly difference of \$1.63/ hour or a weekly difference of \$65.20. This does NOT include the overtime which was estimated to be 10 hours/ week by ----- in his position with -----.

Below is the estimated difference in income between NE Distribution and ----- positions:

		Hourly	Yearly	
[REDACTED]	Normal	\$ 20.63	2080	\$42,910.40
	Commission	unknown		
	Total			\$42,910.40
[REDACTED]	Normal	\$ 22.26	2080	\$46,300.80
	Overtime	\$ 33.39	520	\$17,362.80
	Total			\$63,663.60
	Difference			<u>\$20,753.20</u>

The Difference between wages from ----- distribution and ----- and the Labor Market Survey:

Wage Difference between	Yearly Wages
██████████	\$ 42,910.40
██████████	\$ 63,663.60
Average Results of Labor Market survey	\$ 65,000.00

The above analysis of claimant's IME Examiner and Vocational Consultant does NOT include the Medical Record Examiner, Dr. ----- . Additionally, it is independent of the W/C Settlement previously made to the Claimant of \$90,000.00.

In the alternate, using Dr. -----'s assessment noted above, there would appear to be no physical restrictions for employment to my awareness. Thus, -----current Sedentary Work from Home position, as well as many other positions in the competitive labor market, including those jobs cited in the Labor Market Survey.

I respectfully reserve the right to review, analyze, and comment further as additional information becomes available.

All opinions expressed are within a reasonable degree of vocational certainty.

Sincerely,

Victor G. Alberigi,

CRC, CDMS, ABVE-A

Qualifications as a Vocational Expert, include:

Certified Rehabilitation Counselor.

Certified Disability Management Specialist

Associate Member, American Board of Vocational Experts

Senior Disability Analyst & Diplomate

Member, International Association of Rehabilitation Professionals & former Board Member in Pennsylvania.

Have served as VE since 1993, having performed: Job Placement; Job Analysis; Labor Market Surveys & Earning Power Assessments; Vocational Assessments; Testimony; Depositions; Report Writing.

Have served as VE in several venues, to include:

- a) Social Security Disability
- b) Commercial Long-Term Disability

- c) Veteran's Disability
- d) Worker's Compensation
- e) Personal Injury
- f) Divorce & Child Support Cases, to furnish Earning Power Assessments