Figure 12.6 Damages Computed by Defendant's Expert

Jeff Evans' damages	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026
Salary	$55,979	$56,595	$57,217	$57,847	$58,483	$59,126	$59,777	$60,434	$61,099	$61,771
Minimum Wages Earnings	16,744	16,911	17,081	17,251	17,424	17,598	17,774	17,952	18,131	18,313
Net Wage Loss	39,235	39,683	40,137	40,595	41,059	41,528	42,003	42,483	42,968	43,459
FICA	3,001	3,036	3,070	3,106	3,141	3,177	3,213	3,250	3,287	3,325
Health Insurance	5,724	6,067	6,431	6,817	7,226	7,660	8,120	8,607	9,123	9,671
Fuel Sale Profits	0	0	0	0	0	0	0	0	0	0
Total Damages	$47,961	$48,787	$49,639	$50,518	$51,427	$52,365	$53,336	$54,339	$55,378	$56,454
Present Value Factor	1.000	1.000	0.980	0.961	0.942	0.924	0.906	0.888	0.871	0.853
Present Value of Damages	$47,961	$48,787	$48,646	$48,548	$48,444	$48,385	$48,322	$48,253	$48,234	$48,155
Probability of Life Factor	1.000	1.000	0.991	0.990	0.989	0.989	0.988	0.987	0.986	0.985
P.V. of Damages with Prob. of Life	$47,961	$48,787	$48,193	$48,065	$47,930	$47,838	$47,737	$47,625	$47,556	$47,417
Total Damages	$479,108									

In summary, if Lakeside County's expert does not adjust for life expectancy, the present value of total damages is $483,735 (Figure 12.5); if she adjusts for life expectancy, the present value of total damages is $479,108 (Figure 12.6). Thus, the amount of decrease in the estimated economic damages after adjusting for life expectancy is $4,627. While this amount is relatively small, in disputes where the plaintiffs are much older and/or the damage amounts are much higher, the probability of life calculation can have a much larger impact on the present value of the estimated damages.

¶ 12,101

PERMANENT DISABILITY CASE

The illustration that follows shows many of the issues that may arise in a situation in which the plaintiff has suffered a permanent disability due to a work-related accident. Of course, there are countless variations to the possible disputes that may arise from an accident causing economic losses. The severity and length of the injury, as well as the cause and nature of the accident, may have a significant impact on the determination of liability and the measurement of damages. Similarly, the personal, physical, educational, and other characteristics of the person injured play a major role in measuring economic damages in a personal injury case.

Case Description

Haley Mills was employed by the C&C Manufacturing Company for 25 years, and was a machine operator who handled a variety of production machines during her tenure with the company. On January 2, 2020, while operating company equipment that suddenly malfunctioned, she was thrown to the floor, and severely injured her back. Ms. Mills did have some back trouble before the accident, but now claims, as a plaintiff in a lawsuit, that her back has been permanently impaired and that she has trouble standing. An occupational therapist will testify on behalf of the plaintiff that she is permanently disabled and unable to work for the rest of her life. Ms. Mills further alleges that her back causes her almost constant pain and that she is unable to perform many of her household duties that she was able to perform before the injury.

A forensic accountant is hired by the plaintiff to prepare a report on estimated damages relating to the job-related injury of Haley Mills. There is considerable debate over the extent of the injuries in this dispute,

and the company's insurance carrier is contesting the nature and extent of the injuries to Ms. Mills. Although the financial expert plays no role in the determination of the extent of the injuries in a dispute, the financial expert must use the medical expert's assumptions about the extent of the injuries, and the impact of the injuries on the level of the plaintiff's disability, in measuring the amount of economic damages. The role of the accounting expert, then, is to assess the damages based on the medical information provided.

At the time of the injury, Haley Mills was 50 years old, and she has recently stated that her goal was to work to the age of 62. Her alleged total disability precludes her from working again. She also claims that her disability has reduced her ability to perform household duties by about one-third.

Based on this information the plaintiff's expert has prepared two schedules in support of the economic damages in this case. Figure 12.7 identifies the present value of the lost earnings and fringe benefits from the plaintiff's job, and Figure 12.8 depicts the damages she and her husband suffered for the loss of her domestic (household) services. The sum of these two amounts represents the economic damages she alleges to have suffered from the work-related accident.

Figure 12.7 Damages from Lost Earnings and Fringe Benefits

Haley Mills										
Lost Earnings	**2020**	**2021**	**2022**	**2023**	**2024**	**2025**	**2026**	**2027**	**2028**	**2029****
Wages	$45,189	$46,306	$47,449	$48,622	$49,823	$51,053	$52,314	$53,607	$54,931	$45,030
Fringe Benefits*	13,105	13,429	13,760	14,100	14,449	14,805	15,171	15,546	15,930	13,059
Job-Related Expenses	(7,682)	(7,872)	(8,066)	(8,266)	(8,470)	(8,679)	(8,902)	(9,113)	(9,338)	(7,655)
Total Damages	$50, 612	$51,863	$53,143	$54,456	$55,802	$57,179	$58,593	$60,040	$61,523	$50,434
Present Value Factor	1.000	0.981	0.962	0.944	0.926	0.908	0.891	0.874	0.857	0.840
Present Value of Damages	$50,612	$50,878	$51,124	$51,406	$51,673	$51,919	$52,206	$52,475	$52,725	$42,365
Unemployment Rate	5.95%	5.95%	5.95%	5.95%	5.95%	5.95%	5.95%	5.95%	5.95%	5.95%
Present Value of Damages Adjusted for Unemployment Rate	$47,601	$47,850	$48,082	$48,348	$48,598	$48,829	$49,100	$49,353	$49,588	$39,844
Total Damages 2020 - 2029	$477,193									

* — The employer's FICA tax contribution is included in the fringe benefits estimate.
** — In 2029, only 80 percent of the annual amounts are entered to reflect for the expected worklife (see related section to follow).

Damage Calculations for Haley Mills

Lost Earnings

The damage calculation for Haley Mills includes a variety of components: lost earnings and fringe benefits, job-related expenses, and lost household services. The most obvious component is the loss of earnings Mills suffered by virtue of the accident and the resulting inability to earn any income. The starting point for measuring Mills' lost earnings damages is to evaluate her wages while she was employed at C&C Manufacturing Company. Her gross wages for the last five years she worked for the C&C Manufacturing Company were as follows:

Year	Wages
2015	$40,000
2016	$40,900
2017	$41,850
2018	$42,770
2019	$44,100

As mentioned previously in this chapter, the starting point for determining lost wages typically is the plaintiff's immediate past wage history. Ms. Mills earned $44,100 in her last full year of employment (2019). Also, using the last five years of her employment data, she had wage growth that averaged 2.47 percent a year. This wage growth is slightly below the national average annual increase in wages within the manufacturing business sector as provided by the Bureau of Labor Statistics from 2014 to 2018, which was almost 2.56 percent.[6] [Note: This 2014 – 2018 yearly range was used since that is the most recent data published by the Bureau of Labor Statistics.] Since the two calculated wage growth numbers are so close, the financial expert witness for Ms. Mills decides to use her actual wage growth percentage since the slightly lower growth rate most likely reflects her actual employment location.

The first year's (2020) lost wages estimate is $45,189 which is the plaintiff's 2019 wages of $44,100 increased by the average wage growth rate of 2.47 percent. [$45,189 = $44,100 × 1.0247] Each subsequent year's estimated wage loss is calculated as the wages of the previous year multiplied by 1.0247.

Fringe Benefits

Next, the expert must estimate the amount of employee fringe benefits that were lost as the result of the plaintiff's inability to work because of the accident. In their book, *Economic/Hedonic Damages: The Practice Book for Plaintiff and Defense Attorneys*, Brookshire and Smith define fringe benefits as:

> that residual part of the total compensation provided by an employer to an employee, other than such direct elements of compensation as wages, salary, commission, bonus, overtime, and shift differential payments. Thus, employer contributions to social security; workers' compensation; unemployment compensation; health, life, and dental insurance; private pension plans; and cafeteria-style benefits plans are among the possible elements of a fringe benefit package. The proper treatment of employer contributions to employee fringe benefits, as a major element of lost earning capacity and economic damages, becomes more important each year.

Brookshire and Smith cite several theoretical bases for including fringe benefits into the calculations of economic damages. Included in their list are (1) the "market theory" which states that an employee has the ability to earn some total package of compensation that includes fringe benefits as a part of the earnings package; (2) the "replacement theory" which states that an employee who is no longer able to work must "replace" all of the components of his or her wage and benefits package; and (3) the "interchangeable nature" of the wages and benefit components (meaning that compensation components are fundamentally interchangeable with various components moving from wages to benefits and back as the work compensation package changes).[7]

A careful review of the fringe benefits provided to Ms. Mills and her fellow employees by C&C Manufacturing Company under the union contract suggests that the benefits average about 29 percent of wages. The exact amount of fringe benefits as a percentage of wages is, of course, difficult to compute. Some benefits are fixed dollar amounts per person and because some employees earn more than others, the percentage of wages for those benefit items varies with each employee's earnings. Additionally, as wages rise and as various employee benefits and benefit amounts change, employee benefits as a percentage of wages changes as well. Nonetheless, the expert believes that the actual fringe benefit package for employees in Ms. Mills' work class average in the range of 28–32 percent of wages. Therefore, the plaintiff's expert believes the 29 percent fringe benefit amount is fairly conservative.

If the expert believes that the employee benefits data for the plaintiff's company accurately reflect the correct amount of fringe benefits received by the plaintiff while she was working, then those amounts should be used in the calculation of the economic damages in the case. If, however, there is some question about the benefit amounts, it may be logical to use national average statistics for the type of business at which the plaintiff was employed. For example, the *U.S. Census Bureau, Statistical Abstract of the United States: 2012*, contains Table 643, which is the "Annual Total Compensation and Wages and Salary Accruals Per Full-Time Equivalent Employees by Industry" for "private industry, manufacturing." That table shows total annual compensation for 2009 to be $74,477.[8] The *Abstract* also shows 2009 annual wages and salary of $57,374. Dividing total compensation by wages and salary yields a value of 1.30 ($74,477/$57,374). This figure means that on average for this business group, total compensation includes benefits above the wages and salary that average approximately 30 percent of the wage/salary base.

This average fringe benefit percentage for manufacturing firms of 30 percent could be used as a logical surrogate for the amount of fringe benefits that Ms. Mills would lose as a result of the accident. In this

example, the expert is reasonably confident about the quality of company-specific fringe benefit data that was developed. Therefore, the estimated company benefit amount of 29 percent is used in Figure 12.7. [Note: The employer's FICA tax contribution is included as part of the fringe benefit percentage in this case for Mills, and thus is not shown as a separate item in Figure 12.7. The employer's FICA tax contribution was shown in the figures for the Evans case in the earlier part of the chapter because a general fringe benefit percentage was not used.]

Job Related Expenses

When employees lose their job, they not only lose wages and other benefits, but they also avoid job-related expenses resulting in cost savings. Union dues, special work clothing or shoes, and job commuting expenses are only a few expenses that employees may avoid when they are no longer employed. To accurately assess actual economic damages in a job loss case, it may be necessary to estimate the job-related expenses that the employee will be able to avoid.

Haley Mills commuted 25 miles each way to work, 235 days a year. The round-trip mileage of 50 miles is multiplied by the 235 days to arrive at 11,750 annual commuting miles. The total number of commuting miles is multiplied by the IRS mileage rate of $0.58 [this amount changes each year] per mile yielding a commuting cost of $6,815. Ms. Mills also expects to save annual union dues of $282 and annual clothing and shoe costs of $400. The work-related expenses thus total $7,497. This amount represents approximately 17 percent of Haley Mills' 2019 wages. It is assumed that these expenses would grow at approximately the same rate as Ms. Mills' lost wages. Therefore, the damages for wage losses are adjusted to reflect the expected work-related expenses that will be avoided with the lost employment.

Adjustment for Unemployment

In order to prepare a realistic measure of lost wages, one must adjust for common variables that can impair an employee's ability to work. One of those variables is unemployment. The Economic Report of the President provides a significant history of unemployment data. To estimate the probability that Ms. Mills might be unemployed, her expert took a twenty-year average of unemployment statistics for "white women over the age of 20." The average for the 20-year period was 5.95 percent. This 20-year period is used because of Ms. Mills' 20-year work history with the company. In Figure 12.7, the expert reduced the present value of each year's lost wages and benefits by 5.95 percent.

Discounting Values to their Present Value

As with virtually all damage reports, an accountant must discount the estimated future annual damages to their present value. In this illustration, a 1.95 percent discount factor is used and is based on the average yields of five-year Treasuries from 2015–2019. This five-year period (2015–2019) is once again used because of the wage data supplied above. Experts will use professional judgment in selecting which source to use, and for what length of time to cover, for computing the present value rate. The plaintiff's expert decided on the commonly used five-year Treasuries, and also used the same time period as the wage growth period shown earlier. Frequently, experts will disagree on the appropriate discount rate and that will be a point of contention during the litigation. There are many issues that impact on the selection of an appropriate discount rate. An extensive discussion of evaluating appropriate discount rates is beyond the scope of this chapter. It is worth noting, however, that all other things being equal, the higher the discount rate, the lower the present value of the damage estimate will be, and vice versa.

Adjustment for Expected Worklife

Haley Mills stated that, absent the work-related accident, she intended to work until she was 62 years of age. That would be an additional 12 years of employment after the accident before her intended retirement date. Is this 12-year period a reasonable estimate of the time period she would have worked had it not been for the accident that she suffered?

Possibly not, because there are factors that may cause an employee to work some period of time less than his or her intended retirement date. Health problems, accidents, probability of death, and probability of being disabled are examples of factors that are incorporated into the U.S. Department of Labor Bureau of Labor Statistics tables on "Worklife Estimates: Effects of Race and Education."[9]

In computing the lost earnings of Haley Mills, the expert used Table A-5 of the Labor Bureau's report and found an average "worklife expectancy" of 9.8 years for a 50-year-old white woman who is currently active in the workforce. Therefore, instead of using Ms. Mills' stated remaining time in the workforce (until age 62, or 12 years of lost wages) a period of 9.8 years was used. This figure provides for a fairly conserva-

tive and defendable estimate of lost earnings because the lower number adjusts for a variety of factors that may adversely impact the ability of the plaintiff to work throughout her intended remaining work life. A second factor that makes this 9.8 figure a conservative and therefore a defendable economic damages estimate is that the government's tables for expected work life are not very current, being last published in 1986. The participation of women in the work force has increased significantly since the tables were last issued. Therefore, more current statistics may provide a longer expected work life than the tables show.

The 9.8 years of expected work life is reflected in the lost earnings damages schedule (Figure 12.7) by including only 9.8 years of damage data rather than the 12 years that would have been indicated by Ms. Mills' statement about her intended retirement age of 62. Therefore, the first nine years in the damages schedule (2020–2028) are full years of employment. Year 10's lost earnings in the schedule represents 80 percent of a full-year earnings amount.

When all of the factors discussed above are incorporated into the economic damages model for Ms. Mills' lost earnings, the present value of those lost earnings is $477,193. This figure is the major component of the alleged damages for Haley Mills. There is, however, another significant component for damages in disability cases: the value of the lost household services that may have occurred because the injured party is no longer able to perform some or all of the duties that the victim was previously able to perform. Below, the calculation of damages from the loss of household services is discussed.

Lost Household Services

An accident that causes disabilities that prevent an employee from performing any job-related activities often also causes a decline or elimination of a person's ability to perform household duties. Brookshire and Smith define the loss of household services as "the value of services provided, not to an employer, but rather to a family unit which needs and benefits from those services.... The value of these services ... is now lost, just as were wages and fringe benefits." They continue, "we logically go to the relevant market to value a service performed within the household (but now lost).... Not only does it seem logical and proper to evaluate this element of damages,...it may be a major element of economic loss."[10]

There are a number of factors that influence the measurement of the economic damages related to the loss of household services. Several key issues are how many hours of household services were typically provided by the accident victim, how much of the household services has been lost because of the accident, and what is the dollar value of those lost services?

Each of these issues, as well as other related issues, may be crucial in estimating accurately the economic damages from lost services. When determining the number of hours of lost household service time, most studies indicate that the sex of the accident victim is important. Although there is some variability of the data on this issue, many studies have shown that females (whether they are employed outside the home or not) provided more hours of household services than men. While this phenomenon is typical in most families, "the distinction as to who does which services has become blurred," as more females have entered the workforce in recent years, as stated in the book *Determining Economic Damages* within Chapter 6, "The Value of Household Services."[11]

When preparing an estimate of economic damages for lost household services, the expert should use one of a number of widely cited and peer-reviewed documents that relate to the issue of the value of household services. The plaintiff's expert prepared and reported the damages from loss of household services for Ms. Mills in Figure 12.8. The expert selected one of the commonly cited and utilized studies on measuring the value of household services. The study used by Ms. Mills' expert was performed by D. Peskin and is often referred to as the Peskin study.[12] In the Peskin study, the average hourly time spent by a female on household services is measured for females who work full-time outside the home and for those females who do not work outside the home. As would be expected, females working full-time outside the home have less time to spend on household services than those who are not employed outside the home.

Figure 12.8 Projected Present Value of Lost Household Services

	Year	Age	Peskin's 1987 Values	Peskin's Adjusted to Current Values	2.6% Adjustment for Wage Growth	3.4% Present Value Factor	Projected Present Value of Lost ⅓ Household Services
1	2020	50	$7,725	$20,382	$20,382	1.000	$6,794
2	2021	51	$7,725	$20,382	$20,912	0.981	$6,837
3	2022	52	$7,725	$20,382	$21,456	0.962	$6,881
4	2023	53	$7,725	$20,382	$22,014	0.944	$6,925
5	2024	54	$7,725	$20,382	$22,586	0.926	$6,969
6	2025	55	$7,717	$20,361	$23,149	0.908	$7,006
7	2026	56	$7,717	$20,361	$23,751	0.891	$7,051
8	2027	57	$7,717	$20,361	$24,369	0.874	$7,096
9	2028	58	$7,717	$20,361	$25,002	0.857	$7,141
10	2029	59	$8,759	$23,110	$29,116	0.840	$8,157
11	2030	60	$12,928	$34,110	$44,092	0.824	$12,116
12	2031	61	$12,928	$34,110	$45,238	0.809	$12,193
13	2032	62	$12,928	$34,110	$46,414	0.793	$12,271
14	2033	63	$12,928	$34,110	$47,621	0.778	$12,349
15	2034	64	$12,928	$34,110	$48,859	0.763	$12,428
16	2035	65	$12,605	$33,258	$48,877	0.748	$12,195
17	2036	66	$12,605	$33,258	$50,148	0.734	$12,273
18	2037	67	$12,605	$33,258	$51,452	0.720	$12,351
19	2038	68	$12,605	$33,258	$52,789	0.706	$12,430
20	2039	69	$12,605	$33,258	$54,162	0.693	$12,509
21	2040	70	$8,975	$23,680	$39,567	0.680	$8,963
22	2041	71	$8,975	$23,680	$40,596	0.667	$9,020
23	2042	72	$8,975	$23,680	$41,651	0.654	$9,078
24	2043	73	$8,975	$23,680	$42,734	0.641	$9,136
25	2044	74	$8,975	$23,680	$43,845	0.629	$9,194
26	2045	75	$6,103	$16,103	$30,590	0.617	$6,292
27	2046	76	$6,103	$16,103	$31,385	0.605	$6,332
28	2047	77	$6,103	$16,103	$32,201	0.594	$6,372
29	2048	78	$6,103	$16,103	$33,038	0.582	$6,413
30	2049	79	$6,103	$16,103	$33,897	0.571	$6,454
31	2050	80*	$3,546	$9,356	$20,207	0.560	$3,774
							$274,999

Total Present Value of Lost Household Services

*— — Note that the estimate of lost household services stops at age 80 in this table. This is done for brevity and demonstration purposes only. Currently, a woman born in 1970 who is still alive today has a life expectancy of around 85 years.

The amounts shown in Figure 12.8 in the "Peskin's 1987 Values" column are the amounts that the study showed for the value of household services while employed full time outside the home (the first 9.8 years of the damage calculation). In 2030, the model assumes Ms. Mills no longer would be employed outside the home and the amount of time she would have available to perform household services would

therefore increase (absent her injuries of course). In 2040, because of advancing age the study shows that her household service potential would decline.

The values in the "Peskin's 1987 Values" need to be adjusted to current year wage values. Therefore, the expert used the U.S. Bureau of Labor Statistics Employment Cost Index for Wages and Salaries for service occupations to adjust the 1987 dollars in the Peskin Study to 2020 labor dollar values.[13] The data in this report, which included the index for wage values for "Service Occupations," was used to adjust the 1987 wage values to the current period. Thus, the amounts in the column "Peskin's Adjusted to Current Values" are determined by adjusting the previous column values to current wage rate values.

The next column to the right is the "Adjustment for Wage Growth" column in which the current value amounts are adjusted for estimated increases in earnings. This computation adjusts (grows) the future values of the household services just as the 1987 wages values were adjusted to the current period. This adjustment is done by increasing the value of the household service wages using the same 2.47 percent wage growth provided by the Bureau of Labor Statistics used earlier in the chapter for the Evans lost earnings estimates. [The wage growth rate for manufacturing and services were almost identical over the same time period.] The same present value (discount) factor of 1.95 percent based on the average yields of five-year Treasuries from 2015 to 2019 used for Figure 2.7 is also used here.

The above discussion addresses the issue of "What is the value of Ms. Mills' household services?" The final issue that must now be addressed is "What is the amount of household service time Ms. Mills lost because of the accident?" This tough issue typically is not the expertise of the financial expert witness. Instead, the financial expert usually must rely on the expertise of others. In this example, the financial expert met with an occupational therapist who is an expert in assessing the skills and abilities of a person who has lost some or all of the household or other skills. After meeting with Haley Mills and performing a number of tests and evaluations, the occupational therapist concluded that Ms. Mills permanently has lost about one third of her ability to perform household services. Based on this information, Ms. Mills' expert multiplied the present value of each year's lost value of household services by one third, and the resulting amounts for each year are shown in the far right-hand column of Figure 12.8. The total of the present value of all lost household services is $274,999.

The Economic Damages Report of Haley Mills

When the two loss schedules are completed, the expert is ready to prepare the damages report. The report will include a summary of the two schedules that are presented in Figures 12.7 and 12.8. The report summary could, in part, appear as follows:

> Based upon the information provided and other supporting information listed below, it is my opinion that Ms. Haley Mills suffered damages of $752,192 as the result of this work accident. The calculations of these damages are presented in Figures 12.7 and 12.8.
>
> Figure 12.7 shows the present value of the expected lost earnings and fringe benefits to Ms. Mills on the amount of $477,193. In addition to the amount of damages suffered by Ms. Mills for lost earnings and benefits, she and her husband also suffered damages for lost household services in the amount of $274,999, as shown in Figure 12.8. Below are the assumptions and facts upon which I based my calculation of economic damages for Haley Mills.

Assumptions and facts used in my opinion:

- Haley Mills' birth date is January 4, 1970.
- The accident occurred on January 3, 2020.
- Ms. Mills has a high school diploma.
- Ms. Mills was a full-time employee at C&C Manufacturing Company.
- Ms. Mills intended to work until the age of 62.
- As a result of the accident, Ms. Mills lost one third of her ability to perform her normal domestic household services.
- The interest rates used to discount cash flows to the present are presented in the U.S. Treasury Yields.
- Post-injury earning capacity: None.

Facts Ascertained from Research:

- Age as of January 2, 2020, the date of the accident: 50.0 years.
- Work life expectancy of a 50-year old white female: 9.8 years remaining.
- Average annual increase in wages for the plaintiff from 2015 to 2019: 2.47%.
- Fringe benefits as a percentage of wages: 29%.
- Business expenses as a percentage of 2019 earnings: 17%.
- Average yield on 5-year United States Treasury securities from 2015 to 2019: 1.95%.

Of course, the actual expert's report will contain a complete description of the expert's assumptions, calculations, data sources, and other salient factors that related to the research, development, and preparation of the expert report. The expert also will provide whatever supporting materials and persuasive arguments that he or she feels appropriate to produce a complete professional expert report.

¶12,201

CONCLUSION

Determining economic damages for wrongful contract termination, wrongful discharge, personal injury, wrongful death, and other types of issues requires special knowledge and understanding of those factors that typically impact the measurement of economic damages. This chapter presents an overview of many of the factors that influence an expert's evaluation and calculation of damages in such disputes.

The issues considered in this chapter often are complex and comprehensive. The facts in each situation dictate what the expert must evaluate and how the expert should approach the measurement of economic damages. When faced with an actual dispute, one must delve into the various issues presented in this chapter to achieve a better working knowledge of the relevant issues related to the case at hand. In some cases, the issues can become extremely complex.

ENDNOTES

1. Gerald D. Martin and Marc A. Weinstein, *Determining Economic Damages* (James Publishing, Inc., 2012).
2. *Ibid*, §250 (in the digital edition).
3. U.S. Bureau of Labor Statistics, Employment Cost Index, Historical Listing – Volume V, April 2015, Table 11, Employment Cost Index for Wages and Salaries; State and local governments, service occupations, pp. 57-58.
4. Brookshire and Smith, *Economic/Hedonic Damages: The Practice Book for Plaintiff and Defense Attorneys* (Cincinnati: Anderson Publishing Company, 1990).
5. NATIONAL VITAL STATISTICS REPORTS, Vol. 63, No. 7, Table 5, November 6, 2014, pp. 17-18; U.S. Department of Health and Human Services.
6. U.S. Bureau of Labor Statistics, Employment Cost Index Historical Listing – Volume III, April 2019, Table 9, Employment Cost Index for Wages and Salaries, for Private Industry Workers, by Occupational Group and Indusrty, manufacturing, *https://www.bls.gov/web/eci/echistrynaics.txt*, pp. 47-48. (on June 5, 2019).
7. Brookshire and Smith, *Economic/Hedonic Damages: The Practice Book for Plaintiff and Defense Attorneys* (Cincinnati: Anderson Publishing Company, 1990), pp. 69-71.
8. The U.S. Census Bureau, Statistical Abstract of the United States: 2012 presents in Table 643 (page 418) the "Annual Total Compensation and Wages and Salary Accruals Per Full-Time Equivalent Employee by Industry."
9. Labor Bureau of Labor Statistics tables on "Worklife Estimates: Effects of Race and Education," 1986, Table A-5, p. 19.
10. Brookshire and Smith, *Economic/Hedonic Damages: The Practice Book for Plaintiff and Defense Attorneys* (Cincinnati: Anderson Publishing Company, 1990), pp. 87-89.
11. Gerald D. Martin and Marc A. Weinstein, *Determining Economic Damages* (James Publishing, Inc., 2012), §610 (in the digital edition).
12. Douglass, Kenney, and Miller, "Which Estimates of Household Production are Best?" JOURNAL OF FORENSIC ECONOMICS 4 (1) (1990), pp. 25-45.
13. U.S. Bureau of Labor Statistics, Employment Cost Index, Historical Listing – Volume V, April 2015, Table 8, Employment Cost Index for Wages and Salaries; service occupations, pp. 33-34.

EXERCISES

1. What makes measuring damages in personal cases different from the cases described in Chapter 10?
2. What are some of the characteristics of a victim in a personal injury case that might impact on the calculation of economic damages?
3. Since typically both the plaintiff's and the defendant's experts start their estimation of damages with the plaintiff's actual wages data, how can they come to different conclusions about the amounts of wage loss damages?
4. What are commonly used components when measuring economic damages in a wrongful discharge case? Describe each component and explain why it should be used in the damage calculation.
5. What are fringe benefits? What are common components of fringe benefits?
6. Should fringe benefits be used in the computation of economic damages in a wrongful discharge case? Why or why not?