HARVEY GORMAN,

       Plaintiff,

vs.

STERLING & MORGAN,

       Defendant.

_____/

TRANSCRIPTION OF SWORN DEPOSITION

LISA MILLER

MAY 15

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 1                  P R O C E E D I N G S
 2        Q.   State your full name, please.
 3        A.   Lisa Leah Miller.
 4        Q.   Where do you reside?
 5        A.   At 123 Green Street, Maryville, New State.
 6        Q.   And what is your current occupation?
 7        A.   I am an assistant professor of economics at
 8   New State University.
 9        Q.   How long have you held that position?
10        A.   From YR-23 to present.
11        Q.   You have been an assistant professor for 23
12   years?
13        A.   Yes.
14        Q.   Have you been considered for full
15   professorship?
16        A.   Well, I believe I have.
17        Q.   You know that this is a matter that is
18   decided by the faculty?
19        A.   I do not have anything to do with that
20   decision.
21        Q.   Typically, how long does one serve as an
22   assistant professor in the Economics Department at
23   New State University before being considered or
24   promoted to a full professorship?
25        A.   I don't know that there is a typical time
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 1 that I could give you.

 2   Q. Are you eligible for being promoted to full

 3 professor?

 4   A. I believe that I am. Yes.

 5   Q. Are you aware that the department has

 6 specifically decided on previous occasions not to

 7 promote you to full professor?

 8   A. I am not aware of that.

 9   Q. Other than teaching as an assistant

10 professor of economics at New State University, do

11 you have any other occupation or employment?

12   A. On occasion, I am consulted as an expert in

13 economic matters involving litigation.

14   Q. On how many occasions have you been

15 retained on litigation matters?

16   A. I really don't know.

17   Q. How long have you been accepting employment

18 in litigation matters?

19   A. Probably for 15 or 20 years.

20   Q. For as long as you have taught economics at

21 New State University?

22   A. Yes.

23   Q. When you are retained in litigation

24 matters, what are you requested to do?

25   A. Typically to make an evaluation of the

1 economic loss suffered by the person who has been

2 injured.

3   Q. Has most of your work involved testifying

4 in personal injury cases?

5   A. Yes. And in some cases it involves death,

6 and I am doing an economic analysis of the loss to

7 the estate.

8   Q. Is it fair to say that the majority of your

9 work is performed for the plaintiff?

10   A. Well, I do work for plaintiffs and

11 defendants.

12   Q. What percentage of your work is done for

13 plaintiffs?

14   A. It would be difficult to say.

15   Q. For how many cases have you done an

16 evaluation of economic loss?

17   A. I would say probably in the vicinity of 20

18 to 30 a year on the average.

19   Q. 20 to 30 a year on the average over a

20 period of 15 to 20 years?

21   A. Yes.

22   Q. Of that 20 to 30 evaluations that you do

23 each year, how many of those typically or on the

24 average have been done for the plaintiff?

25   A. Probably the majority.

1   Q.   Can you name one defendant that you

2   testified for last year, that is in YR-1?

3   A.   Well, a lot of times, I do not testify

4   after I do an evaluation. The cases seem to settle

5   after they get my report.

6   Q.   Out of the 20 to 30 evaluations that you do

7   a year, how many times do you testify in court on

8   the average?

9   A.   Probably three or four times a year.

10   Q.   Last year, how many times did you testify

11 for the defendant?

12   A.   Last year?

13   Q.   Yes.

14   A.   None

15   Q.   How many times have you testified for the

16 defendant in the past five years concerning your

17 evaluation of economic loss?

18   A.   Right offhand I can't recall any, although

19 I am sure that I have.

20   Q.   Do you advertise your services?

21   A.   Not really.

22   Q.   Do you consider putting an ad in the

23 American Trial Lawyers Association magazine

24 advertising?

25   A.   Well, yes. I guess one could say that that

1   is advertising.

2   Q.   You have advertised in the magazine,

3   correct?

4   A.   Oh, I think once I put an ad in when they

5   requested me to help support the magazine.

6   Q.   When you do an evaluation of economic loss,

7   what are your charges?

8   A.   I charge $5000 for a basic evaluation.

9   Q.   What did you charge in this case?

10   A. $5000.

11   Q.   If you testify in court about that

12   evaluation, do you charge more?

13   A.   Yes.   And I also charge for the deposition

14   like we are on today.   My charge is $450 per hour.

15   I understand that you will be paying that.

16   Q.   When were you contacted in this case?

17   A.   I believe that Mr. Gorman's attorney

18   originally contacted me about May of last year.

19   Q.   And when he contacted you, what did he tell

20   you?

21   A.   That he represented Harvey Gorman.   That

22   Mr. Gorman had been wrongfully discharged from his

23   firm at Sterling & Morgan.   That Mr. Gorman had been

24   unable to obtain employment at a comparable firm in

25   New State, and that as a consequence, Mr. Gorman and

 1 his wife and children decided to return to Home

 2 State where he plans to take the bar examination and

 3 open his own office.

 4   Mr. Gorman's counsel asked me to review the

 5 pertinent information which he would provide to me

 6 and to do an evaluation of Mr. Gorman's economic

 7 loss over his remaining career.

 8   Q. And what did you review to do the economic

 9 evaluation?

10   A. Well, I reviewed the materials and

11 information that Mr. Gorman's counsel provided to

12 me. I also talked to Mr. Gorman by telephone, and I

13 gathered certain government documents and materials

14 to assist me in making the analysis and

15 calculations.

16   Q. And what government materials did you

17 obtain?

18   A. Well, I obtained general and specific

19 economic data concerning interest rates, inflation,

20 wage growth, labor force participation, employment

21 probabilities, employee benefit levels, retirement

22 and pension information and other things.

23   Q. Did you bring those materials with you?

24   A. Well, I have some of them with me. They

25 are attached to my report dated May 15, YR-1. For

1 example, I obtained information from the Home State

2 Bar Association that was put together by the

3 Committee on Law Office Economics. It shows what an

4 attorney in Home State would make in the cities of

5 various populations depending on firm size. I also

6 obtained information on Mr. Gorman's employment

7 history, which I assume was provided by his

8 employer, Sterling & Morgan. And then of course, I

9 looked at current interest rates, that is the

10 discount rate, and inflation.

11   Q. Did you have any other information

12 available to you when you made your evaluation of

13 economic loss?

14   A. I believe that was most of the material

15 that I had.

16   Q. Describe how you went about doing your

17 evaluation.

18   A. Well, first, I needed to calculate back pay

19 losses for YR-1. After I did that, I then

20 calculated future wages as an attorney in the

21 Sterling & Morgan firm through retirement in YR+35.

22 I then calculated the amount of money that Mr.

23 Gorman likely will earn as a sole practitioner in

24 Home State because that amount has to be deducted

25 from the amount that he would earn at Sterling &

1 Morgan. Next I calculated the fringe benefits that

2 Mr. Gorman would have earned at Sterling & Morgan,

3 and then I netted those amounts to find present

4 value.

5   Q. Is that information summarized in your

6 report?

7   A. Yes.

8   Q. Take a look at your report and turn to the

9 second-to-the-last page. That's the document

10 entitled "Mr. Harvey Gorman Front Pay Losses."

11   A. Yes. I've got that.

12   Q. Did you prepare this document?

13   A. Yes.

14   Q. Let's look at that document.

15   A. Okay.

16   Q. What is signified by the very first column

17 on the left side of the page, which is numbered 1

18 through 37?

19   A. That signifies the total number of years

20 that Mr. Gorman will most likely work before

21 retirement starting in the year YR-0.

22   Q. The next column is age. You are making

23 your calculations from age 32 through age 68,

24 correct?

25   A. Yes.

1   Q. In other words, you are assuming that

2   Mr. Gorman will work until age 68?

3   A. Yes.

4   Q. Where did you arrive at age 68 for

5   retirement?

6   A. Well, I look at two things. Mr. Gorman's

7   statistical work life as published by the U.S.

8   Department of Labor, Bureau of Labor Statistics,

9   Bulletin 2254, is to age 64. But because of

10   Mr. Gorman's excellent health and his desire to

11   practice law, Mr. Gorman believes that he will

12   probably work to age 70 and perhaps beyond.

13   As a consequence, I thought using age 68

14   for retirement was an appropriate number. It is a

15   matter of judgment, but in Mr. Gorman's case, it

16   appears that he would probably work at least until

17   that age; so I think that my number is conservative.

18   Q. The third column of course is the year,

19   correct?

20   A. Yes. From YR-0 through YR+36.

21   Q. The fourth column is what?

22   A. That is the salary that Mr. Gorman would

23   earn had he remained as associate and then become a

24   partner in Sterling & Morgan Law Firm.

25   Q. How did you arrive at the numbers in column

1 four?

2   A. Well, I looked at the historical number for

3 lawyers in Sterling & Morgan. For example, in

4 Mr. Gorman's case, he was receiving an increase in

5 salary of 16 percent a year during the time he was

6 an associate in the Sterling & Morgan firm. It

7 would be reasonable to assume that he would receive

8 almost the same increase through his most productive

9 years.

10   Therefore, concluded that up to age 45, he

11 would receive increases of 10 percent a year. At

12 age 45, however, based upon the trends of lawyers'

13 earnings, I reduced that annual increase in income

14 to 5 percent. Again, I think that is very

15 conservative number. Calculating the 5 percent

16 increase from age 45 through retirement at age 68,

17 it is easy to determine what Mr. Gorman's base

18 salary with Sterling & Morgan would be at retirement

19 at age 68.

20   Q. Are there any government statistics that

21 suggest that attorneys earn 16 percent increases in

22 income each year?

23   A. Well, in that regard I am using

24 Mr. Gorman's own personal experiences in the law

25 firm. In addition, that is borne out by the salary

1 increases of other associates in Mr. Gorman's

2 position. Therefore, I believe that that is an

3 appropriate and valid number.

4   Q. My question, however, is: are there any

5 government statistics which support using a 16

6 percent increase each year?

7   A. I don't have any government documents that

8 suggest that. It is more important to use actual

9 experience such as Mr. Gorman's and other associates

10 to make that determination.

11   Q. Take a look at Exhibit 1 to your report,

12 which is the fourth-to-the-last page of that same

13 document. Do you have that?

14   A. Yes.

15   Q. That is a document from New State

16 Department of Labor, correct?

17   A. Yes.

18   Q. You did not utilize the wage increase

19 trends from the New State Department of Labor, did

20 you?

21   A. No. I used the actual experience of

22 Mr. Gorman and other associates in Sterling &

23 Morgan.

24   Q. The New State Department of Labor document,

25 Exhibit 1, shows that the wage increase trends in

1 New State for YR-11 through YR-6 in the total

2 economy was 5.7 percent, correct?

3   A.   That's what it shows.

4   Q.   And the retail/services area, the wage

5 increase trends in New State from YR-11 through YR-6

6 was 4.6 percent, correct.

7   A.   That is correct.

8   Q.   But you did not use this information,

9 correct?

10   A.   I did not think it as valid as the actual

11 experience of associates in Sterling & Morgan.

12   Q.   Let's go back to the front pay losses

13 document on the second-to-the-last page. Take a

14 look at the ninth column, the one that is entitled

15 "Medical Coverage."

16   A.   Okay.

17   Q.   What do those numbers represent?

18   A.   That column represents the value in dollars

19 of the medical coverage that Sterling & Morgan would

20 provide Mr. Gorman each year.

21   Q.   And how did you arrive at those numbers?

22   A.   I took the projected costs in YR-1 and

23 calculated the cost each year after YR-1 considering

24 inflationary increases.

25   Q.   So in the year YR+36, when Mr. Gorman is 68

1   years old, you calculate the value of medical

2   coverage to be $186,253, correct?

3   A.   Yes.

4   Q.   Then in the column entitled "12.5 percent,

5   benefits," what are you showing there?

6   A.   Those are the fringe benefits that

7   Mr. Gorman would receive as a member of Sterling &

8   Morgan through his career to the year YR+36.

9   Q.   And the next column shows the net present

10 value of those benefits?

11   A.   Yes.

12   Q.   At what point in time do you assume that

13 Mr. Gorman would have become a partner in the firm?

14   A.   Based upon the information I have been

15 provided and my discussion with Mr. Gorman, I would

16 assume that he would become a partner in the year

17 YR+1 when he turned age 34.

18   Q.   As a partner in the law firm, did you

19 determine whether medical coverage and fringe

20 benefits were paid for by Mr. Gorman himself because

21 he is a partner?

22   A.   I do not know, but I am assuming that the

23 firm would continue to provide that coverage and

24 those benefits.

25   Q.   Based upon your calculation, the net

1   present value of salary, medical coverage and fringe

2   benefits through age 68 would be $10,668,824,

3   correct?

4   A.   Correct.

5   Q.   And you conclude that Mr. Gorman will earn

6   through age 68 the amount of $2,711,634 as a sole

7   practitioner in Home State, correct?

8   A.   Yes.

9   Q.   And what do you calculate to be the

10 difference in net present value between what

11 Mr. Gorman will likely earn under your scenario and

12 what he likely would have earned had he remained at

13 Sterling & Morgan?

14   A.   The cumulative net present value is

15 $7,957,190.

16   Q.   Did you make any other calculations?

17   A.   Yes. I calculated that the educational

18 licensing and relocation costs for Mr. Gorman's

19 wrongful termination amounts of $121,500. That

20 calculation is shown on the last page of the report.

21   Q.   How did you obtain that information?

22   A.   This was provided to me by Mr. Gorman.

23   Q.   Did you verify any of these numbers

24 yourself?

25   A.   No.

1   Q.   Looking again at the second-to-last-page of

2   your report, what discount rate did you use to

3   calculate present value?

4   A.   Well, of course, any award given must be

5   equal in value to the projected future loss. To

6   calculate this present day value, an economist must

7   discount the future loss by the interest which can

8   be earned from the date of the award until the time

9   the projected future loss would actually occur.

10   I made my calculations here assuming that

11 the award will be invested in U.S. Treasury

12 securities which insures the lowest degree of risk

13 and provides adequate liquidity. I do not have that

14 rate with me, but I can certainly check and let you

15 know what it was when I made these calculations.

16   Q.   Do you intend to do any additional work

17 before you testify at trial?

18   A.   That will be up to Mr. Gorman's counsel.

19 If I am asked to do some additional work, I

20 certainly will do it.

21   Q.   Do you have in mind any additional work

22 that you would like to do?

23   A.   At this point in time, I believe my

24 analysis is complete.

25   (Deposition concluded)

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