

The following is a list of questions a forensic economist might want to ask when taking on an assignment to calculate damages in a personal injury or wrongful death action in a new state.

- 1) Do you take out taxes in PI or WD?
- (2) Do you subtract personal maintenance or some measure of personal consumption in WD?
- (3) Does the subtraction apply to spousal income or only to the decedent's income?
- (4) What happens if the decedent was a parent and the claimants are children who would grow up and move out from under the support of the decedent parent?
- (5) Are there any special requirements about discount rates?
- (6) Are there restrictions as to general methods?
- (7) What collateral sources can be subtracted in what kinds of cases?
- (8) What periodic payment provisions exist in the state?
- (9) What is the state's approach to "lost chance of survival and/or recovery" litigation?
- (10) What is in the states preferred jury instructions?
- (11) Are there key cases with respect to damages that a new FE should be advised to read and follow?
- (12) Is the state a *Daubert*, *Frye*, *Frye-plus* or "anything goes" state with respect to admitting economic testimony?
- (13) How does one reduce the chances of being challenged in a motion in limine in the state?
- (14) How are cases involving the death of a child handled in the state?
- (15) How has "earning capacity" been interpreted in the state?
- (16) What is the language of the damages section of the Wrongful Death Act?
- (17) How do survival actions work in the state?
- (18) What special rules exist with respect to what must be included in an expert's report?
- (19) Is an expert report required?
- (20) What special rules exist for medical malpractice cases?
- (21) What special rules, if any, exist for valuing household services?
- (22) What legal decisions have spoken about valuing household services?
- (23) Is the provision of household services considered equivalent to earning capacity in the commercial labor market or as a part of consortium?
- (24) How does remarriage affect a wrongful death damages calculation?

(25) In addition to all of the above, what advice would you give to a new FE doing a case in the state at hand?

(26) Are depositions usually held?

(27) What do experts need to divulge about their incomes from forensic consulting, academic pay, non-forensic consulting activities and other sources?

(28) Can an expert be forced to divulge tax records and, if so, under what circumstances?

(29) Are opposing experts permitted to be present at depositions and/or trials and under what circumstances?

(30) How are an expert's opinions conveyed to the other side in the litigation and what are the time lines by which such conveyance must occur?

(31) Has the state adopted its version of federal rules of evidence 701-706 and, if so, what is the statute reference?

(32) Are discovery deposition transcripts allowed as admissible evidence if the deponent is unavailable for trial (as in federal court), or must a special evidentiary deposition be taken?

(33) Are rebuttal experts permitted to discuss the opinions of experts on the other side of the litigation?