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RE: Forensic Economists and Their Practice Issues

Mike begins his 41st year of practice as a forensic economist and George his 17th year as a forensic economist and vocational rehabilitation expert. Our last newsletter reviewed the 2015 survey of members of the National Association of Forensic Economics (NAFE) and the results regarding accepted methodology, data sources, and values of forecast variables used in estimating economic damages. These results were formally presented at the annual January 2016 meeting of the American Economic Association in San Francisco, and survey results on forensic economists and their practices were presented at the November 2015 meetings of the Southern Economic Association in New Orleans.

While survey responses on forensic economists and their practices would seem to be of primary interest to forensic economists, themselves, plaintiff and defense attorneys may use these data as benchmarks in assessing economists whom they hire, or might hire, and the reasonableness of their policies and practices. For example, we know from previous survey studies that two-thirds of experts on economic damages hold doctorates, and another 25 percent hold master's degrees. Economics is the primary academic field of 65 percent of NAFE survey respondents, finance for another 10 percent, and smaller percentages for accounting and other business fields.

Some of the questions in the 2015 survey are continuing questions begun as early as 1990, when the every-three-year surveys were begun by Mike and Dr. Frank Slesnick. One of these, on sources of earned income, is a powerful indicator of the changing nature of forensic economists and their practices. In 2015, the average respondent earned 14 percent of annual earned income from faculty or other academic salaries, 73 percent from work in forensic economics, and 11 percent from other consulting work. In 1990, relative income from these sources was 52 percent, 34 percent, and 10 percent, respectively. The field is now dominated by forensic economists working fulltime in this specialty or at least devoting most of their earnings focus to forensic work.

The 2015 survey respondents, who produced a 33 percent response rate, had a 60/40 percent split of income from plaintiff/defense work. This 60/40 split has held steady since the 2009 survey, after a decline from a 67/33 percent split in the early surveys. The 2015 results confirmed that most forensic economists maintain a good balance between plaintiff-side and defense-side work.

The average years of forensic practice climbed to 26.2 years in 2015. This average has increased in every survey since 1990, but the increase is leveling off and the first decline may appear with the next survey. Indeed, a significant problem for the NAFE organization (and trial attorneys in the future) is the relative dearth of younger forensic economists.

Concerning how forensic economists charge for their services, about half of the 2015 respondents require retainers before work begins for all of their cases; others usually require retainers but make exceptions for frequent clients, government clients, or other situations. If a value of 1.00 represents an economist's normal hourly rate, the average rate is approximately 1.20 for testimony time at deposition or trial; yet, many do not differentiate their billable rate by activity. The average charge for a retainer in a new case is the equivalent of 4.8 hours at respondents' normal billable rate. Slightly more than half require pre-payment of a minimum fee before appearance at a discovery deposition, and the average minimum fee is an equivalent of 3.3 hours at the normal billable rate. Just under half charge a minimum fee for trial testimony with the average charge being the equivalent of 4.2 hours of billed time.

New questions were also asked in 2015 about the size of forensic practices. Forty-five percent said they worked alone. (A guess is that in 1990, 80-90 percent of forensic economists were solo practitioners.) For the 55 percent of respondents with at least one "other" in their 2015 practice, 3.0 "others" was the median number of "others." This trend of increasing practice size will be important to follow in future surveys.

All of the 2015 survey results were published the December 2015 issue of the *Journal of Forensic Economics*, and Mike and Dr. Slesnick have completed a chapter on the 25 years of survey history in an upcoming book on forensic economics. As always, we are happy to be a part of continuing legal education sessions, and please feel free to contact us when we might be of help.

Sincerely,

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