INVESTIGATION

WHAT DID YOU KNOW OF PLAINTIFF'S PERSONAL LIFE WITH FAMILY & FRIENDS? (SUMMARIZE)

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PLEASE ADD ANY COMMENTS OF YOUR OWN

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DESCRIBE WHAT YOU OBSERVED ABOUT THE PLAINTIFF THAT CHANGED AFTER THE INJURY. (GIVE SPECIFIC EXAMPLES IF POSSIBLE, i.e., STOPPED BOWLING, FACE SHOWED TENSION, PAIN, ETC.)

IN REGARD TO APPEARANCE

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---------------------------------------------------------------
---------------------------------------------------------------

IN REGARD TO WORK MISSED, WORK DIFFICULTIES

---------------------------------------------------------------
---------------------------------------------------------------
---------------------------------------------------------------
---------------------------------------------------------------

IN REGARD TO RECREATIONAL ACTIVITIES

---------------------------------------------------------------
---------------------------------------------------------------
---------------------------------------------------------------
---------------------------------------------------------------

IN REGARD TO HOME ACTIVITIES (NO MORE GARDENING, SEWING, LAWN CARE, ETC.)

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---------------------------------------------------------------
---------------------------------------------------------------
---------------------------------------------------------------

Mrs. Katherine Potter died as a result of her injuries.
EYEWITNESS STATEMENT

My name is Quanita Williams
My address is 2809 Rosewood Ave, Nita City
My phone number is 747-3842

I am not related to or acquainted with any of the parties involved in the accident.

I have previously made statements regarding the accident to

Joseph Lucey 10/1/92

To the best of my knowledge and recollection, the accident was at Mathis Ave. on 11/30/92 at approximately 3:30 p.m.

At that time I was driving my daughter home from

Prior to the accident, I observed the following:

After the accident, I observed the following:

Other observations and comments:

Signed Quanita Williams
INVESTIGATION

WHAT DID YOU KNOW OF PLAINTIFF'S PERSONAL LIFE WITH FAMILY & FRIENDS? (SUMMARIZE)


PLEASE ADD ANY COMMENTS OF YOUR OWN


DESCRIBE WHAT YOU OBSERVED ABOUT THE PLAINTIFF THAT CHANGED AFTER THE INJURY. (GIVE SPECIFIC EXAMPLES IF POSSIBLE, i.e., STOPPED BOWLING, FACE SHOWED TENSION, PAIN, ETC.)

IN REGARD TO APPEARANCE


IN REGARD TO WORK MISSED, WORK DIFFICULTIES


IN REGARD TO RECREATIONAL ACTIVITIES


IN REGARD TO HOME ACTIVITIES (NO MORE GARDENING, SEWING, LAWN CARE, ETC.)
EYEWITNESS STATEMENT

My name is Victoria Williams
My address is 3809 Rosewood Ave, Nitro City
My phone number is 747-3843
I am not related to or acquainted with any of the parties involved in the accident.
I have previously made statements regarding the accident to Joseph Lucey 12/11/92
To the best of my knowledge and recollection, the accident was at Mathis Ave. on 11/30/92 at approximately 3:30 o'clock p.m.
At that time I was going home with my mom.

Prior to the accident, I observed the following: A man in a white truck turn left onto Mathis. I also saw a dark-haired woman about 30 ft. south of the crosswalk on the median facing my friends.

During the accident, I observed the following: I saw Mrs. Petty step into the path of the white truck. I saw him push the lady into the air, and I heard the sound of metal.

After the accident, I observed the following: I saw the lady lying underneath the truck.

Other observations and comments: I was too shaken to describe the accident, but I am sure of what I saw.

Signed Victoria Williams
INVESTIGATION

WHAT DID YOU KNOW OF PLAINTIFF’S PERSONAL LIFE WITH FAMILY & FRIENDS? (SUMMARIZE)

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PLEASE ADD ANY COMMENTS OF YOUR OWN

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DESCRIBE WHAT YOU OBSERVED ABOUT THE PLAINTIFF THAT CHANGED AFTER THE INJURY. (GIVE SPECIFIC EXAMPLES IF POSSIBLE, i.e., STOPPED BOWLING, FACE SHOWED TENSION, PAIN, ETC.)

IN REGARD TO APPEARANCE

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IN REGARD TO WORK MISSED, WORK DIFFICULTIES

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IN REGARD TO RECREATIONAL ACTIVITIES

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________________________________________________________________________

IN REGARD TO HOME ACTIVITIES (NO MORE GARDENING, SEWING, LAWN CARE, ETC.)

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DISCOVERY DEPOSITIONS

No factor has had a greater impact on the trial of lawsuits in the last forty years than the increased availability of discovery devices for learning about an opponent's case. In a civil case, if these devices are used properly, virtually nothing in your opponent's case should surprise you. Increasingly, this also is becoming true in criminal trials.

Following are a few words about what is perhaps the most important discovery device, the deposition:

1. In a deposition taken for purposes of discovery, the object is not to establish your own case or to impeach the witness. Rather, the goals are to obtain information for your use and to pin the witness down to a story for possible impeachment at trial.

2. Unlike cross examination, there usually is no need to cut the witness off if he gives a rambling answer. Let the witness tell his or her story; volunteered information may be useful.

3. Make sure, however, that the witness has stated his or her version of the events with sufficient certainty that the statements can be used for impeachment at trial. Once you are sure that the witness has made a firm and usable statement, leave the matter alone and go on to the next point.

4. Pursue all leads; do not avoid areas that are sensitive to your case. You will need to know what the witness will say, even though it hurts you.

5. If you are representing a deponent, or if the witness is friendly to your side of the case, ordinarily you should cross examine only when clarification of testimony might avoid or lessen the impact of some anticipated impeachment. Usually you will not cross examine at all.

6. Remember, however, that in most jurisdictions, a deposition may be read if the deponent is unavailable. Therefore, you should object to questions that are improper in form. You need not object to questions that ask for inadmissible evidence in order to prevent the use of that evidence at the trial.

7. If the question invades some area of privilege or violates another rule of evidence, and you do not want the witness to answer the question, you may advise your client that he need not respond. Counsel examining the witness should press for another answer until the witness has indicated that he or she will not answer. A court ruling on the propriety of the question can be obtained later.

P-27
Potter v. Shrackle Problems
DISCOVERY PLAN

Here you plan the discovery. The initial entries will be revised as the importance of particular witnesses or documentary evidence is determined. The worksheet will also serve as a continuing checklist on the status of discovery.
**DISCOVERY PLAN WORKSHEET**

**Persons Who I Should Probably Interview or Get Statements From**

<table>
<thead>
<tr>
<th>Persons</th>
<th>Done?</th>
<th>Persons Who I Should Probably Depose</th>
<th>Done?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Officer Young</td>
<td>✓</td>
<td>Geoffrey Potter</td>
<td>✓</td>
</tr>
<tr>
<td>Marilyn Kelly</td>
<td>✓</td>
<td>Daniel Sloan</td>
<td>✓</td>
</tr>
<tr>
<td>Gwenn Marshall</td>
<td>✓</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Quanta Williams</td>
<td>✓</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Victoria Williams</td>
<td>✓</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Alice Mallory</td>
<td>✓</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Charles Wilson (Corner)</td>
<td>✓</td>
<td></td>
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</tr>
</tbody>
</table>

**Interrogatories and Requests**

<table>
<thead>
<tr>
<th>Interrogatories and Requests For Admissions on the Following Points Should Be Submitted</th>
<th>Documents That I Should Seek</th>
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</thead>
<tbody>
<tr>
<td>Police report</td>
<td>✓</td>
</tr>
<tr>
<td>Coroner's Inquest</td>
<td>✓</td>
</tr>
</tbody>
</table>
September 1, YR-1

Pierce, Johnson and Clark
Nita National Bank Plaza
Nita City, Nita 99994

Ladies and Gentlemen:

This is in response to your recent letter asking for my professional analysis of the "Report Re: Katherine Potter" prepared by Dr. Robert W. Glenn, Professor of Economics, University of Nita. I believe that Professor Glenn's opinion is subject to criticism on a number of bases. I begin with criticisms of several of Dr. Glenn's assumptions and of the quality of his data.

First, Dr. Glenn assumes that Mrs. Potter would have completed her Ph.D. degree and entered the labor force in two years. My own experience with graduate students is that one can never be so confident. Delays often occur. Indeed, there is nothing in Dr. Glenn's report to support his judgment that Mrs. Potter was making satisfactory progress toward her degree, enjoyed her program, would have desired to complete the degree, and so on.

Second, Dr. Glenn assumes that Mrs. Potter would have retired at age 60. That again is an assumption as to which no economist is an expert. Dr. Glenn's report is no more accurate than the validity of this utterly intangible proposition.

Third, Dr. Glenn qualifies the age 60 assumption by saying that such an assumption compensates for the fact that Mrs. Potter might have been out of the labor force for some period of time prior to the date of her actual retirement if that retirement occurred beyond age 60. Quite apart from reiterating that Mrs. Potter might have retired before or after the date Dr. Glenn assumed, the assumption ignores the fact that one cannot substitute a year away from the labor force early in one's career for a year out of the labor force later in the career. That is, the present value of Mrs. Potter's earnings in her child-bearing years can be seen on Dr. Glenn's own tables to be different than the present value of her earnings at the end of her career. Unfortunately for your case, however, Dr. Glenn's assumption tends to understate the loss to Mr. Potter, because the present value of her salary in the future is shown as lower than the present value of salary in her child-bearing years.

Potter Case File
Fourth, Dr. Glenn's projections of salary increases, whether in academic or industrial positions, are based on data from relatively recent years which cannot fairly be said to establish a trend that will apply over the next thirty years. That is to say, the projections average a period of extreme inflation in this country in the 1970s with a recent period of unusual price stability. To project wages as increasing at a rate of 7% or 8.1% annually, then, is to make a pretense of scientific rationality out of what is a wild, unjustified guess. Indeed, one need only look at Dr. Glenn's conclusion that by YR+30 academic mathematicians will be making more than mathematicians in industry to realize that Dr. Glenn's assumptions are unreasonable.

Fifth, the same criticism can be made with respect to the discount rate which Dr. Glenn has chosen since the interest rate is made up of a variety of factors such as inflationary expectations and budget deficits that almost certainly will not be present in each or even most of the next 30 years. The discount rate of 9.6%, even assuming it were composed of the right elements, then, would be too high, but since a higher than proper rate would tend to understated the present value of Mrs. Potter's lifetime earnings, I expect that this is one way in which Dr. Glenn's report can fairly be said to be "conservative."

Having made all of the above observations one must come away with the conclusion that none of them individually or taken together are likely to do substantial damage to Dr. Glenn's overall conclusion. That is, the same factors that make Dr. Glenn's estimates of wage increases too high also would tend to make the appropriate discount rate much higher. Thus, Dr. Glenn is probably right that the difference between the rate of growth in wages and the appropriate discount rate (what Dr. Glenn calls the change in "real income") is probably quite small. Indeed, while I believe that his projected decline in real income of 1.5 to 2.6% is probably wrong, it is wrong in a way that reduces the damages to which Mr. Potter would be entitled. Thus, attacking this finding is probably not in your interest.

In five other areas, however, Dr. Glenn has made assumptions that can make a dramatic difference in the conclusion as to the economic loss suffered by Mr. Potter.

First, Dr. Glenn has attributed to Mrs. Potter a $1.22 million value on her future household work. This is based on the assumption that she would have worked three hours each day on housework and that the value of that work was the value of her time as a computer specialist, namely $10.10 per hour.

Initially, this assumption that the value of her time should be measured by her alternative use of time in computer work is highly doubtful. It seems that any reasonable economist would use instead the cost to the family of hiring someone for three hours a day to do domestic work. The minimum wage is presently less than 35% of the figure used by Dr. Glenn. At minimum, then, reducing Dr. Glenn's estimate of the value of her household work by two-thirds would seem extremely conservative.
In fact, it seems that this "housework" factor should not be included in measuring Mr. Potter's loss at all. The Potters were a couple who shared housekeeping responsibilities. It seems appropriate to assume that Mr. Potter would have a need for a smaller housing unit when he is living alone than he had prior to Mrs. Potter's death. Under these circumstances, and recognizing that unmarried men frequently do their own housekeeping chores, it seems that the loss of Mrs. Potter's services in doing her half of the household work would be so speculative as to be inappropriate for inclusion in the damage calculations. And lest one think that removal of this item would be relatively insignificant, a quick glance at Dr. Glenn's Table I reveals that the future value of household work represents almost 50% of the total recovery sought by Mr. Potter. Removal of this item from the calculation would thus reduce Mr. Potter's present loss by over $270,000.

Second, Dr. Glenn assumes that gifts and contributions made by Mrs. Potter were a contribution to family well being which would constitute a "loss" to Mr. Potter. I see no basis for concluding that that is the case at all. The fact that Mrs. Potter (or any other hypothetical person in the category described in Table 6) would decide to give a particular portion of her income to the Red Cross, for example, would not mean that her husband would conclude that he had to make up for that expenditure after her death. All this is to say that while the loss of income with which Mrs. Potter might have made contributions might constitute a loss to those charities who might have received the gifts, they are not a loss fairly said to be suffered by Mr. Potter.

Third, the conclusion that Mr. Potter would be denied one-half of Mrs. Potter's expenditures on housing (i.e., 10% of her total income) is similarly excessive. One cannot assume that Mr. Potter would stay in precisely the same kind of housing accommodations when he did not have a spouse. His savings might not be one-half of the housing expenditure before Mrs. Potter's death, but I think that, at the outside, his loss of contribution toward housing is more like 5% than 10% of Mrs. Potter's income.

Fourth, Dr. Glenn has assumed that the future fringe benefits which Mrs. Potter would have received are entirely a net loss to Mr. Potter. This seems totally inaccurate. Fringe benefits are uniquely personal to the recipient and difficult to transfer to a spouse or others. One might say, for example, that dependent medical coverage is an exception to my assertion, but most fringe benefits such as vacation, social security contributions, employee health insurance and the like, are things which Mr. Potter could not have enjoyed during Mrs. Potter's lifetime and the loss of which is not something for which he should be compensated at all.

Thus, if I am correct that Mr. Potter's real loss in this case consists of the 5% of her income that Mrs. Potter would have contributed toward housing and the 8% that she might have contributed to savings, that means Mr. Potter's loss would be 13% of Mrs. Potter's projected income, not 24%. Dr. Glenn on Table I concludes that the total figure which he must reduce to present value over thirty years is $2.65 million. If I am right as to each of the preceding five major items of deduction, then that figure would be reduced to $450,000.
Applying the formulas which Dr. Glenn used to reduce that figure to present value, the conclusion as to the net present value of Mr. Potter's loss is not the $691,000 to $803,000 that Dr. Glenn concluded, but rather $90,000 to $104,000.

There is always a tendency for an analysis such as mine to sound hard-hearted and an analysis such as Dr. Glenn's to seem more "humane." The economic reality is, however, that most of us consume a substantial portion of what we produce over our lifetimes. The net economic loss from our demise is less than we, and life insurance salesmen who play upon our vanity, would like to think.

Respectfully submitted,

Elizabeth C. Buchanan, Ph.D.
Professor of Economics
Nita State University
DEPUTY CORONER:

Ladies and gentlemen, this is an inquest into the death of Katherine Potter, age 28, who was a graduate student at the University of Nita. Her home address was 718 Flower Drive in Nita City. She died at City Hospital on December 4, YR-2, at 5:00 p.m., from head injuries that she received as a result of being struck by a pickup truck, on November 30, YR-2, at about 3:28 p.m. on a city street in Nita City, Darrow County. As near as I can tell, it happened on Mattis Avenue near the intersection of Mattis and Kirby Avenues. We have one witness here tonight that we'll call on, the police officer who investigated this accident. Officer Michael Young, if you will come forward, please.

MICHAEL YOUNG was called as a witness herein by the deputy coroner, he was duly sworn and examined by the deputy coroner, and he testified as follows, to-wit:

Q: Would you state your name?
A: Michael Young.

Q: And your occupation?
A: Police officer for the Nita City Police Department.

Q: On Nov. 30, YR-2, did you investigate an accident on Mattis Avenue just south of Kirby?
A: Yes, sir, I did.

Q: What was the weather that day, was it clear, or--
A: Yes, it was clear.

Q: Pavement dry?
A: The pavement was dry. The sun was shining.

Q: And is that a four-lane road where this happened? In other words, could two cars be going south and two north at that particular spot?
A: Yes, sir, four-lane, two lanes each way.

Q: With a median in between them?
A: Yes, a concrete median.

Q: Now, how wide is that median, do you have any idea?
A: I would estimate it to be about four to five feet.

Q: What direction was Katherine Potter traveling, from east to west or west to east?

A: I have conflicting reports on that. I have two people who state that she was eastbound and one who says she was westbound.

Q: This pickup truck that was involved in this, what was the name of the man who owned and drove it?

A: Charles T. Shrackle was driving, and the truck was owned by The Shrackle Construction Co.

Q: And what—was he going straight ahead or had he just made a turn off of Kirby?

A: He was making a left turn from Kirby onto Mattis, South Mattis.

Q: And could he have been traveling at any excessive rate of speed?

A: I don't believe so.

Q: In that distance it would be pretty hard, I believe, the distance that was traveled.

A: Yes, sir.

Q: Now, did he say whether he saw this lady or not?

A: No sir, he did not see her at all.

Q: There are stop lights at that particular intersection?

A: Yes, sir.

Q: Did he have the green light or did he stop on the—did he have the stop light and then start from a stop?

A: He had the green light, had to wait for one car to pass before he made his turn.

Q: Do you know what color clothing she was wearing?

A: I believe she had on a blue skirt with a blue jacket and a white blouse.

Q: Was she still at the scene when you arrived?
A: Yes, sir.
Q: And how far away were you when you received your call to go to the scene?
A: I was in the 900 block of West Springfield Street when they directed me to the accident scene.
Q: You were not too far away, then?
A: No, sir.
Q: And she was taken by ambulance to City Hospital at that time?
A: Yes, sir.
Q: Now, the driver of the pickup truck had a valid driver's license, I presume?
A: Yes, sir.
Q: And there were no restrictions?
A: No, sir.
Q: And there was no one else hurt in this accident?
A: No, sir.
Q: Was there any evidence of any alcoholic beverages being consumed by either party?
A: No, sir.
Q: And there was just the party in the truck, the driver of the truck?
A: Yes, sir.
Q: And what is his occupation, do you happen to know that?
A: I believe he's a contractor.
Q: Did he have work, south of where this happened, going on at the time--or do you know that?
A: I don't know where he was headed for, sir.
Q: Did the pedestrian cross at the pedestrian crosswalk?
A: I have one witness who says that she didn't, and I have two other witnesses who say that she did.

Q: Is there any evidence--was there any evidence as to where she was--the point of impact, did you ever find out approximately where in the street that was?

A: I was unable to determine that. I looked for broken glass and other items, but there were none.

Q: Would she have had any occasion to have been south of that intersection? Do you know where she had been or where she was going?

A: I don't know, no. She lived west of that intersection and I have no idea what her travels were.

Q: Did she have any children in school?

A: I don't believe she had any children at all.

Q: There is a school on up there as I understand.

A: Yes, sir.

Q: Elementary school. Do you have anything further you would like to add?

A: To clear up the witnesses on the accident. At the time I made out the report that you are reading from right there, I only had two, and one of them placed Mrs. Potter out of the crosswalk and south of the intersection. However, the next day, when the newspaper account came out about the accident, I had another lady call in and state that she saw it and this was wrong. And I've taken statements from her and the other witnesses there, plus the fact that a gas station attendant saw her shortly before the accident. We took a statement from him, also.

A: And he said that she was in the crosswalk?

A: Yes, sir.

Q: And what is the name of the gas station attendant and his address, do you have that?

A: That's Jim Marshall's Texaco Station, at 1601 South Mattis.

Q: And this was Jim Marshall, himself, that gave you this statement?
A: Yes, sir.

Q: And the other statement was given by whom?

A: A Marilyn J. Kelly. She lives at 1910 Elder Lane, that's E-I-d-e-r, in Nita City.

Q: Were either one of these people acquainted with Mrs. Potter?

A: As far as I know, no, sir.

Q: Now, the person that gave you the statement that she was not in the crosswalk, what was--what was that name?

A: That was Mrs. Kelly.

Q: And where does she live and where was she--

A: I beg your pardon, my mistake, I have to find my other statement. That was a Victoria Williams.

Q: Where was she when this accident happened, do you know that?

A: She was in a car that was driven by her mother, Mrs. Juanita Williams, that was eastbound on Kirby at the time of the accident.

Q: And was she west of the stop light or east of the stoplight?

A: At the time of the accident she would have to be east of the stop light, because it was--

Q: She would have been looking back, then?

A: Yes, sir.

Q: Isn't that a little strange for a person to be looking back--what age was that person?

A: Ten years old.

Q: That was the only person that put her outside the crosswalk, right?

A: Yes, sir.

Q: The other two people are of age?

A: Yes, sir.

Q: And the person in Jim Marshall's gas station would be looking almost directly across the intersection--
That is correct.

(Continuing)--from the gas station. Where was he in the gas station area, do you know?

He was at the western--or northwest bay area of the gas station at the time that he saw Mrs. Potter.

That would put him almost in a direct line with the crosswalk?

Approximately.

(continuing)--more so than in the south bay, as I understand that gas station.

That's correct sir.

Now, the other person, where was she?

She was at the stop light facing north on Mattis at Kirby waiting for the light to change so she could go on through the intersection.

In other words, she was south of Mrs. Potter when she would go across the crosswalk, is that correct?

That is correct.

In other words, this first report that was written could conceivably be wrong?

That's correct, sir.

That she probably was in the crosswalk, to the best of your knowledge at the present time?

I believe so.

From the witnesses you have talked to since that time?

Yes, sir.

Now, have you talked to any other witnesses that saw this?

No, sir, these are the only ones.

Is there any obstruction in that particular intersection that could cause a driver not to see a person?

No, sir.
Q: What year pickup truck was this that struck Mrs. Potter?
A: I believe it was a YR-9 Chevrolet Camaro--not Camaro--what do you call them?
Q: A Chevy, anyway.
A: Right.
Q: Would that have--did you observe whether the windshield was clean or dirty and is the visibility as good on a YR-9 as it would be on a later model, we'll say?
A: I believe the visibility is as good as on a later model and the windshield was clean.
Q: Do any of the jurors have any questions they'd like to ask Officer Young at this time? Do you have anything further you would like to add?
A: No, sir.
Q: On behalf of the People of this County and the State of Nita, I'd like to thank you for doing a fine job of investigation. You're excused.

(Witness excused)

CORONER: Members of the jury, that concludes the witnesses that we have in this particular death. I might remind you that you can arrive at any one of these verdicts--(1) death by accident, (2) death by suicide, or (3) death by homicide. If you will retire out this door and to your right into the library, and then deliberate and render to me as coroner of this county a verdict, I will certainly appreciate it.

(Thereupon, the jury retired, and thereafter returned, and the following proceedings were had):

CORONER: Members of the jury, have you reached a verdict?
FOREMAN: Yes.
CORONER: And what is that verdict, Mr. Foreman, just the part you have written?
FOREMAN: Death by accident.
CORONER: And this is signed by all the jurors?
FOREMAN: All the jurors.

CORONER: Thank you. That concludes this inquest.

I hereby certify that this is a true and correct transcription of the proceedings and verdict of the Inquest into the death of Katherine Potter conducted on January 9, YR-1, at the Darrow County Courthouse, Nita City, Nita.

Certified by:

[Signature]
Matilda Smith
Court Reporter

Potter Case File
ECONOMIC ANALYSIS

REPORT RE: KATHERINE POTTER*

Prepared by

Robert Glenn
Professor of Economics
University of Nita
Nita City, Nita

July 1, YR-1

*This report was prepared by Dr. Roger Skurski, Department of Economics, the University of Notre Dame, and Fred S. McChesney, J.D., Ph.D., consultant on Expert Testimony, Emory University School of Law. NITA expresses its appreciation to Dr. Skurski and Dr. McChesney for their preparation of these materials. The economic data in this report was updated in March 1990.
TABLE I

SUMMARY OF ECONOMIC LOSSES
KATHERINE POTTER, AGE 28 TO 60

<table>
<thead>
<tr>
<th>Date of Birth:</th>
<th>4/23/YR-30</th>
<th>Date of Death:</th>
<th>11/30/YR-2, Age 28</th>
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<td>Appraisal Period:</td>
<td>YR-1 to YR+30, 32 years</td>
<td>Projected Retirement:</td>
<td>Age 60, YR+30 1/</td>
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<table>
<thead>
<tr>
<th></th>
<th>Academic</th>
<th>Industry</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Future Earnings 2/ (YR-1 to YR+30)</td>
<td>$3,475,124</td>
<td>$ 3,792,089</td>
</tr>
<tr>
<td>B. Future Fringe Benefits 3/ (YR-1 to YR+30)</td>
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<td>758,104</td>
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<tr>
<td>C. Personal Consumption 4/ (76.4% of A)</td>
<td>2,654,995</td>
<td>2,897,156</td>
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<tr>
<td>D. Future Value of Household Work 5/</td>
<td>1,219,013</td>
<td>1,219,013</td>
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<tr>
<td>E. Subtotal (A+B-C+D)</td>
<td>2,654,239</td>
<td>2,872,050</td>
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<tr>
<td>F. Net Present Value of Loss 6/</td>
<td>519,774</td>
<td>578,163</td>
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</table>

1/ Projected retirement at age 60 is a conservative estimate as most individuals work beyond age 60, particularly in Mrs. Potter's field. Such a conservative projection, however, has built in latitude for absences from the labor market for such things as child bearing and rearing and illness. It is assumed Mrs. Potter would finish out the academic or work year in which she turned 60.

2/ See Table II.

3/ See Table V.

4/ See Table VI and Application of Table VI to Potter Household.

5/ See Table VII.

6/ See note 4, Table II.


**TABLE II**

**PROSPECTIVE INCOME STREAM OF KATHERINE POTTER
IN ACADEMIC AND INDUSTRIAL EMPLOYMENT
FROM AGE 28 TO 60**

---

**Date of Birth:** 4/23/YR-30  
**Date of Death:** 12/4/YR-2, Age 28  
**Appraisal Period:** YR-1 - YR+30, 32 years  
**Projected Retirement:** Age 60, YR+30

<table>
<thead>
<tr>
<th>YEAR</th>
<th>FUTURE INCOME</th>
<th>PRESENT DISCOUNTED VALUE AT YR-0 4/</th>
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<td>$ 6,563 3/</td>
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<tr>
<td>YR+30</td>
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<td>284,570</td>
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</table>

**TOTALS**  5/  $3,475,124  $3,792,089  
**             | $690,888  $803,461**

*Notes follow on the next page.*
NOTES FOR TABLE II

1/ Projected at an 8.1% annual rate of increase based on current averages for college teachers nationwide as presented in Academe (Bulletin of the American Association of University Professors), April YR-1, p. 265. See Table III.

2/ Projected at a 7.0% annual rate of increase based on the YR-12-YR-2 average increase in earnings and compensation in the business sector of the economy as given by the U.S. Bureau of Labor Statistics, reported in the Statistical Abstract of the United States YR-1, Table 699. See Table IV.

3/ Arrived at by working one-quarter time for three quarters of the year and one-half time for one quarter of the year at an annual salary of $21,000. Information about Katherine Potter's rate of pay at the time of her death, and her projected starting salary in academic and industrial positions (YR-1) was obtained from Dr. Daniel Sloan of the University of Nita.

4/ Discounted at 9.6%, the average annual yield on long-term U.S. government bonds over the last ten years. Statistical Abstract, Table 856. This rate (9.6%) represents the rate of return a person could expect on investments with virtually no risk. If interest rates should rise above this in the future, wage and salary growth will also rise, and thus the present discounted values presented here will remain essentially unchanged. The key here is the difference between the growth in compensation and the discount rate: 8.1% - 9.6% = -1.5% had Mrs. Potter pursued an academic career and 7.0% - 9.6% = 2.6% had she taken the industrial route. Therefore, her real income would have suffered an annual decline of 1.5 percent in the first case or experienced a decline of 2.6 percent in the second, and either one of these is quite conservative.

5/ Totals may not equal the component sums due to rounding.
TABLE III
PERCENTAGE INCREASES IN SALARY FOR FACULTY ON STAFF FOR BOTH YR-4 THROUGH YR-3 AND YR-3 THROUGH YR-2, BY CATEGORY, TYPE OF AFFILIATION, AND ACADEMIC RANK 1/

<table>
<thead>
<tr>
<th>ACADEMIC RANK</th>
<th>ALL COMBINED</th>
<th>PUBLIC</th>
<th>PRIVATE</th>
<th>CHURCH-RELATED</th>
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<tr>
<td>CATEGORY I 2/</td>
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<td></td>
</tr>
<tr>
<td>Professor</td>
<td>8.1%</td>
<td>8.3%</td>
<td>7.5%</td>
<td>7.7%</td>
</tr>
<tr>
<td>Associate</td>
<td>8.4</td>
<td>8.4</td>
<td>8.5</td>
<td>7.9</td>
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<tr>
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<td>8.9</td>
<td>8.9</td>
<td>9.0</td>
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</tr>
<tr>
<td>Instructor</td>
<td>8.8</td>
<td>8.8</td>
<td>8.5</td>
<td>9.1</td>
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<td>All Ranks</td>
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<td>8.5</td>
<td>8.0</td>
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<tr>
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<tr>
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<td>9.0</td>
<td>9.7</td>
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<td>8.2</td>
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<td>7.3</td>
<td>7.5</td>
<td>7.2</td>
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<tr>
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<td>8.0</td>
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<td>8.0</td>
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<td>7.8</td>
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<td>Instructor</td>
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<td>8.0</td>
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<td>7.9</td>
<td>7.6</td>
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<td>8.2</td>
<td>8.3</td>
<td>8.0</td>
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<tr>
<td>Instructor</td>
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<td>8.9</td>
<td>9.0</td>
<td>8.5</td>
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<tr>
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<td>8.1</td>
<td>8.1</td>
<td>8.0</td>
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</table>

Notes follow on the next page.
NOTES FOR TABLE III

1/ Sample includes 2,214 institutions.

2/ Category I includes institutions that offer doctorate degrees and that conferred in the most recent three years an annual average of fifteen or more doctorates covering a minimum of three nonrelated disciplines. Category IIA includes institutions awarding degrees above the baccalaureate but not included in Category I. Category IIB includes institutions awarding only the baccalaureate or equivalent degree. Category III includes two-year institutions with academic ranks. Category IV includes institutions without academic ranks. (With the exception of a few liberal arts colleges, this category includes mostly two-year institutions.)

Source: Academe, April YR-1, pp. 265-85.
TABLE IV

ANNUAL CHANGES IN EARNINGS AND COMPENSATION PER HOUR IN THE PRIVATE BUSINESS SECTOR

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<th>YEAR</th>
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<td>YR-11</td>
<td>7.3</td>
</tr>
<tr>
<td>YR-10</td>
<td>8.0</td>
</tr>
<tr>
<td>YR-9</td>
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<td>YR-8</td>
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<td>YR-7</td>
<td>8.1</td>
</tr>
<tr>
<td>YR-6</td>
<td>8.9</td>
</tr>
<tr>
<td>YR-5</td>
<td>5.9</td>
</tr>
<tr>
<td>YR-4</td>
<td>4.4</td>
</tr>
<tr>
<td>YR-3</td>
<td>3.9</td>
</tr>
<tr>
<td>Average</td>
<td>7.0</td>
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</table>

*Source: Statistical Abstract of the United States, YR-2, Table 699.*
### TABLE V

**FRINGE BENEFIT STREAM OF KATHERINE POTTER**

<table>
<thead>
<tr>
<th>YEAR</th>
<th>FUTURE FRINGE BENEFITS</th>
<th>PRESENT DISCOUNTED VALUE FRINGE BENEFITS AT YR-0 3/</th>
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</thead>
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<tr>
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<td>Ind. 2/</td>
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<tr>
<td>YR-1</td>
<td>$ 1,162</td>
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<td>YR-3</td>
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<td>YR-9</td>
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<td>YR-13</td>
<td>11,570</td>
<td>15,737</td>
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<td>12,508</td>
<td>16,839</td>
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<td>13,521</td>
<td>18,018</td>
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<td>YR-17</td>
<td>15,800</td>
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<td>53,191</td>
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<tr>
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<td>50,821</td>
<td>56,914</td>
</tr>
</tbody>
</table>

TOTAL 4/ $ 615,097 $ 758,104 $ 122,287 $ 160,378

*Notes follow on the next page.*

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Potter Case File
NOTES FOR TABLE V

1/ Future fringe benefits are computed in the academic sphere as 17.7% of the future income for each year of Mrs. Potter's expected worklife. See Academe, April YR-1, p. 272.


3/ Discounted to present value at 9.6%. See footnote 4/ to Table II for further information.

4/ Totals may not sum due to rounding.
TABLE VI

SUMMARY OF FAMILY EXPENDITURES, INCOME, AND SAVINGS, FOR FAMILY WITH INCOME OF $30,000 OR MORE, YR-2

<table>
<thead>
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<th></th>
<th>AVERAGE, IN DOLLARS</th>
<th>PERCENTAGE OF MONEY INCOME</th>
</tr>
</thead>
<tbody>
<tr>
<td>Money Income, before taxes</td>
<td>$ 44,152</td>
<td>100%</td>
</tr>
<tr>
<td>Taxes</td>
<td>6,684</td>
<td>15%</td>
</tr>
<tr>
<td>Money Income, after taxes</td>
<td>37,441</td>
<td>85%</td>
</tr>
<tr>
<td>Current Consumption</td>
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<td></td>
</tr>
<tr>
<td>(Housing Expenditures)</td>
<td>30,338</td>
<td>69%</td>
</tr>
<tr>
<td>(Personal Insurance)</td>
<td>8,492</td>
<td>19%</td>
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<tr>
<td>(Case Contributions)</td>
<td>570</td>
<td>0.1%</td>
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<tr>
<td></td>
<td>1,209</td>
<td>3%</td>
</tr>
<tr>
<td>Savings</td>
<td>7,103</td>
<td>16%</td>
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</table>

APPLICATION OF TABLE VI TO POTTER HOUSEHOLD

The deceased Katherine Potter's net contribution to household welfare (i.e., what Jeffrey Potter will lose monetarily as a result of his wife's death) will consist of:

1. Her contributions to savings,
2. Her gifts and other contributions, and
3. One-half of the housing expenditures.

Based on the information contained in Table VI, savings will average 16% of income, gifts and contributions will average 3.1% of income, and one-half of housing expenditures will average 9.5% of income.

Therefore, the total income available to the household's discretionary use in any given year will average 28.6% of the decedent's income. This figure may be reduced to 23.6% if allowance is made for domestic help.

If the 23.6% figure is used as the deceased Katherine Potter's projected contribution to the household welfare, her projected income, discounted to present value, should be reduced by 76.4% in order to project the net losses to her husband, Jeffrey Potter, caused by her death.
## TABLE VII

**PROJECTED VALUE OF HOUSEHOLD ACTIVITIES OF KATHERINE POTTER FROM AGE 28 TO 60**

<table>
<thead>
<tr>
<th>YEAR</th>
<th>FUTURE VALUES 2/</th>
<th>PRESENT DISCOUNTED VALUE AT YR-0 3/</th>
</tr>
</thead>
<tbody>
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<td>11,553</td>
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<td>13,549</td>
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<td>YR+3</td>
<td>14,497</td>
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*Notes follow on the next page.*

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*Potter Case File*
NOTES FOR TABLE VII

1/ Based on data collected from almost 1,400 families on their expenditure of time on household operations (see Kathryn E. Walker and William H. Gauger, *The Dollar Value of Household Work, Consumer Economics and Public Policy Bulletin*, No. 5, Cornell University, p. 6) and information about the Potter family, it is assumed that a working wife such as Katherine Potter would on the average spend three hours per day on household work. The value of Mrs. Potter's time presently is $10.10 per hour as a computer specialist ($21,000/2080 hours; see Table II, Note 3). Although when she completes her Ph.D. and begins teaching or doing industrial research, her time will be worth much more; we employ $10.10 throughout her expected worklife. Thus, $10.10/hr x 3 hrs/day x 365 days/yr. = $11,060.

2/ Projected at the same 7.0% employed earlier. See Table II, Note 2.

3/ Discounted at 9.6%. See Table II, Note 4.

4/ Due to rounding, items may not sum to total.
STATEMENT OF MARILYN J. KELLY

Re: Katherine Potter, deceased
Date of Accident: November 30, YR-2

My name is Marilyn J. Kelly. I live at 1910 Elder Lane, Nita City 99992. Telephone 555-1213.

On November 30, YR-2, at approximately 3:20 p.m., I was driving my car and was stopped in the easterly northbound lane on Mattis Avenue at the intersection of Mattis Avenue and Kirby Avenue in Nita City. The light had turned yellow as I approached the intersection, and I came to a complete stop with the front of my car just south of the crosswalk.

Just as I stopped, a small boy ran across the street from the west to east and barely avoided being struck by a car making a left turn from Kirby onto Mattis heading south. When he reached the sidewalk, I heard the crossing guard who was standing on the southeast corner of the intersection speak to the boy and say something to the effect that, "You have got to watch for cars."

I then saw a young woman with dark hair dressed in a white blouse, blue jacket, blue skirt, and beige shoes on the west side of Mattis Avenue. She was just stepping off the curb and starting to cross the street when I saw her. At that time the young woman was walking at a normal gait and was not running. She was definitely in the crosswalk, and I saw her take two or three steps.

I then glanced back up at the light, and at that time I heard a thud. I looked up and saw the young woman flying through the air and then land with arms outstretched on the front of the truck. She then went backward as if doing a backward somersault and fell under the truck. At that time I thought to myself, "My God, stop, don't run over her again." The truck driver appeared to be looking around immediately after the impact as though looking to see what he had hit.

The truck stopped at a point approximately fifty feet south of the south line of Kirby. At the point where the truck stopped the young woman was almost entirely underneath the truck. I definitely heard the thud before I heard the sound of any brakes shrieking. At the time of the thud the front of the truck was about even with the front of my car and was not completely straightened out from making the left turn.

*This statement was given to Officer Michael Young at the Nita City Police Department on December 4, YR-2.

-23-
The sun at the time of the occurrence was extremely bright and was coming from a southwesterly direction, and I had to shade my eyes when I looked back to the scene after the truck came to a stop.

After the truck stopped, a man ran out of the nearby gas station and the driver of the truck got out and went around to the front of the vehicle.

I do not know the Potter family, Mr. Shrackle, the driver of the truck, or anyone at Shrackle Construction Co.

I stayed at the scene for a couple of minutes, and then I left and went to my appointment at the beauty salon in the Lincolnshire Shopping Plaza.

The following morning at approximately 8:30, I read about the accident in the Nita City newspaper. The newspaper stated that the young woman was running and was approximately thirty feet south of the crosswalk at the time she was hit by the truck. I then telephoned the police and advised them that I had witnessed the accident, and that the young woman was in the crosswalk and that she was not running.

I have read the above and foregoing statement consisting of two pages and the same is true and correct.

Signed: Marilyn J. Kelly
Date: Dec. 4, yr. 2

Witness: Officer Michael Young
Nita City Police Department

Date: Dec. 4, yr. 2
STATEMENT OF ALICE MALLORY

My name is Alice Mallory. I am 47 years old. I am married and have two children, both of whom are in high school. I work part-time as a school crossing guard at the corner of Mattis and Kirby. I have done that work for about two years. I work both in the morning and in the afternoon at that corner.

On the afternoon of Nov. 30, YR-2, I was working on the southwest corner of the street. At about 3:25, I crossed over to the southeast corner of the street to reprimand a small boy who had not heeded my warning to stop. He had run out in front of some cars but wasn't hurt. As I knelt to talk to him, I saw over his head a young woman, who I later learned was Mrs. Katherine Potter, cross the street from west to east in the crosswalk. When she reached the median, she suddenly turned south and began to walk south on the median strip. I then looked down to continue talking to the boy. I then heard a thump and looked up instantly. I saw Mrs. Potter being carried on the hood of a pickup truck about thirty feet south of the crosswalk. The truck stopped about twenty feet later. I ran over to see if I could help, but others got there before me, so I returned to looking after the children.

At the time I was watching Mrs. Potter, I was also watching children on the other corner. However, I did see clearly all that I have said here. I did not come forward as a witness originally because I was upset and didn't want my story to hurt Mrs. Potter or her family. I was finally contacted by the defendant's lawyer and told her what I saw.

I have read the above and it is my statement.

Signed

Alice Mallory

Date: June 7, YR-1

Witness

Tracy Williams

Date: June 7, YR-1

*This statement was given to Tracy Williams, an investigator for defense counsel, at Mallory's home on June 7, YR-1.

In an answer to an interrogatory propounded by the plaintiff, the defendant listed the name of Alice Mallory as a person who had knowledge of relevant facts. The plaintiff's attorney has discovered that Mallory was a school crossing guard on duty at the intersection of Kirby and Mattis on the afternoon of the accident. In a conversation with the plaintiff's attorney, Mallory said only that she knows that Katherine Potter was out of the crosswalk at the time she was struck by Charles Shrackle's truck. Mallory refused to say anything more. The plaintiff's attorney received a copy of the above statement during discovery.
Statement of James Marshall

I am the owner-operator of Jim Marshall's Tuxedo, 1601 Mattis, Nita City, Nita. I was working at the station on 11-30-26-2.

At approximately 3:30 on 11-30-26-2 I was looking out the west bay of my station when I saw a dark-haired woman wearing a dress walking east on the south sidewalk of Kirby Ave. I looked at an employee to talk when I heard a thump. I looked out and saw a pickup truck carrying a body on the front of it. I sent an employee out to see if he could be of help while I called the police. I went out to see if I could be of help and saw the same woman that I'd seen earlier walking east on Kirby, lying on the pavement.

Witness: Joseph Lucey

Sign: James Marshall

Dec. 12, 26-2

Editor's Note: Marshall's station is located on the southwest corner of Kirby and Mattis. This statement was taken by Joseph Lucey, an adjuster for the defendant's insurance carrier, at Marshall's station on December 12, YR-2, at about 11 a.m. The statement was written by Mr. Lucey. The signature and the correction are in Marshall's handwriting.
DEPOSITION OF JEFFREY POTTER*

I am thirty-two years of age. I'm an assistant professor in the physics department at the University of Nita. I received a bachelor's degree in physics from Purdue and a doctorate in physics from the University of Wisconsin/Madison. I received my Ph.D. five years ago and have been at the University of Nita since then.

Katherine and I were married eight years ago. We met while both of us were attending Purdue University in Indiana. I graduated from Purdue and went to graduate school at the University of Wisconsin/Madison. We continued to date, and then were married the summer before Katherine's junior year in college. Katherine continued her college education at the University of Wisconsin while I was in graduate school. Katherine received her bachelor's degree in mathematics from the University of Wisconsin and a master's degree in mathematics from the University of Nita. She was finishing the course work for her doctorate at the time of her death. Katherine was 28 years old when she died.

While doing her graduate work at the University of Nita, Katherine also was working as a mathematician in computer science. She was employed by the university in a computer science group called the Advanced Computation Conference. She was in charge of the linear programming work done on a new computer the group was building, the Nitae III. She hoped to continue working with the ACC group after getting her doctorate in computer science. Once she received her degree, however, she would probably have received many offers, both in academia and industry, as persons with her background are very much in demand.

Katherine and I had no children. We had decided to wait until Katherine had completed her doctorate before making a decision about a family. We had a "fifty-fifty equal partnership" marriage. All of our income was pooled and we shared household chores equally.

*The transcript of Jeffrey Potter's deposition was excerpted so that only his answers are reprinted here. Assume that this is a true and accurate rendering of those answers.
This deposition was taken in the office of defendant's counsel on September 19, YR-1. After the deposition was transcribed, it was signed by the deponent.

Certified by

Anne Dolan
Certified Shorthand Reporter
(CSR)
I am forty-two years of age. I am Professor of Computer Science at the University of Nita, where I also am the Director of the Advanced Computation Conference, which is a group working on new computer applications.

I have a B.S. and a M.S. degree from Columbia University and a Ph.D. from New York University, all in applied mathematics. Before coming to the university, I was in industry for ten years with Westinghouse and IBM, including a period as manager of Westinghouse's advanced development in its aero-space division. I am a member of the Institute of Electrical and Aeronautical Engineers. In 1975, I was selected for the Federation of Information Processing Society's annual prize for outstanding work in the field of computer science.

The Advanced Computation Conference (ACC) is an interdisciplinary research unit concentrating on applications of the computer. As director, I am responsible for the management of the center, including personnel. I am active in the recruitment of personnel, and in my capacity as a university professor, in the placement of personnel. I have been director of the ACC for three and one-half years. Before that I was director of the Nitae III computer project, a predecessor research group.

I had known Katherine Potter professionally for five years. I was her supervisor during her employment on both the Nitae III project and the ACC project. Mrs. Potter began as a research assistant and progressed to research programmer and then to senior research programmer. She worked only part-time once she resumed her graduate studies.

My opinion of Katherine Potter's work was very high. I would have hired her to work with the ACC project once she had obtained her doctorate. Upon completion of her doctorate, Katherine could have started at a salary of at least $30,000 in an academic position or a minimum of $40,000 in an industry position.

Katherine Potter's work on her Ph.D. was progressing satisfactorily at the time of her death, and in my opinion, she would have received her doctorate degree within one and one-half years (i.e., May YR-0), or at the latest two years (i.e., December YR-0), had she not been killed.

The transcript of Daniel Sloan's deposition was excerpted so that only his answers are reprinted here. Assume that this is a true and accurate rendering of those answers.
This deposition was taken in the office of defendant's counsel on August 17, YR-1. After the deposition was transcribed, it was signed by the deponent.

Certified by

Anne Dolan
Certified Shorthand Reporter (CSR)
DEPOSITION OF CHARLES T. SHRACKLE

CHARLES T. SHRACKLE, the defendant, called to testify on deposition by the plaintiff and having been duly sworn, testified as follows:

EXAMINATION BY MR. JAMES (counsel for plaintiff):

Q: Would you please state your name, age, and address?
A: Charles T. Shrackle, 1701 West Johnston, Nita City, 32 years old.

Q: What is your business or occupation?
A: I'm a self-employed excavating contractor.

Q: And, is your contracting business limited solely to excavation?
A: Yes.

Q: All right. And, how long have you been so self-employed?
A: Since YR-4...September of YR-4.

Q: All right. And, what is the name of your company?
A: Shrackle Construction Company.

Q: Is that a corporation?
A: Yes, it is.

Q: Who are the stockholders?
A: My wife and I. It's a small business corporation.

Q: What time did you arise on the morning of November 30, YR-2?
A: Six forty-five a.m.

Q: Is that your usual and customary time of arising?
A: Yes.

Q: Approximately how many hours of sleep had you had the night before?
Q: Were you taking any medication or drugs at that time?
A: No.

Q: How was the state of your health on that date?
A: Fine.

Q: Would you briefly describe for us what you did that day prior to three o'clock p.m.?
A: I went to my office.

Q: Where is that located?
A: On Route 45 in Sommers Township, and started my crews working and then went to the corner of John and Holiday Park and worked on--at that--at that job for the remainder of the day.

Q: All right. And what was that job?
A: We were installing a sewer and putting the finishing touches on a sewer we had installed there.

Q: All right. And, how long did you stay at that job?
A: Until approximately 2:30 p.m.

Q: All right. Then, where did you go?
A: To Nita Builders Supply.

Q: Where is that located?
A: At 30 East John, Nita City.

Q: What, then, did you do?
A: Ordered some material, talked to the--some of the people in the office there and one of my men came in. I talked to him for a few minutes and then proceeded to Greenbriar Manor.

Q: All right. Now, you, at the time of this occurrence, you were going to Greenbriar Manor?
A: That's right.

Q: That is located on South Mattis Avenue?
A: That's right.

Q: How did you proceed from 30 East John Street to the intersection of Kirby and Mattis?

A: As I recall, I left Builders Supply and went to First Street and turned south to Kirby, and proceeded straight across Kirby.

Q: Okay. And approximately what time did you leave Builders Supply?

A: That would be difficult for me to say. I would say around three o'clock p.m. I don't--can't say.

Q: And, about what time did you arrive at the intersection of Mattis and Kirby?

A: That I do not know for sure.

Q: Did you go directly?

A: Yes.

Q: Did you have a job in progress at Greenbriar Manor?

A: Yes.

Q: What was the nature of that work?

A: We were doing some excavating work for sewer lines that were to be laid for an addition they're putting on.

Q: Was anyone with you at that time?

A: No.

Q: As you got to the intersection of Mattis and Kirby, do you recall whether the traffic light was red or green in your favor?

A: Green, in my favor.

Q: And, what were the traffic conditions at that time?

A: I would say moderate traffic. The intersection was busy.

Q: Did you come to a complete stop at any time after you entered the intersection itself?

A: No.
Q: Did you have to wait for any traffic to clear before you made your left turn?
A: I slowed for a vehicle that went by.

Q: Now, you were proceeding west on Kirby Avenue and were turning south onto Mattis?
A: Yes.

Q: And you would have been turning left?
A: Yes.

Q: From where did you start your left turn?
A: I'm sorry, I don't understand.

Q: Were you in the southernmost, westbound lane of Kirby at the time you started your turn?
A: Yes, I was, yes.

Q: And, did you make a gradual turn or sharp turn?
A: I made what I would consider a gradual turn to the east lane of Mattis--southbound on Mattis.

Q: And, did you have to wait for any vehicles to go through the intersection before you could complete your turn?
A: No.

Q: I believe you testified that you waited for one car to pass?
A: That--to complete my turn, you mean? I waited for one car to go through the intersection as I was approaching the intersection. That car passed through the intersection as I was approaching--I slowed down for it to pass through, I didn't have to come to a complete stop, just slowed down.

Q: All right. There was just the one car?
A: Yes.

Q: Okay. Did you observe any school children at or near the intersection?
A: Yes.

Q: And, about how many children did you observe?
A: I believe three.

Q: All right. Where were they located?

A: They were on the corner of—it would have been the south—it would have been the southwest corner of the intersection—where the Texaco station is.

Q: All right. They would have been on the southwest corner, then, next to the Texaco station?

A: Yes.

Q: All right. And, were they standing or were they walking?

A: Standing.

Q: All right. Do you know what direction they were facing?

A: No.

Q: Did you observe a school crossing guard at that time?

A: Yes.

Q: Where was she located?

A: She was standing on the other corner.

Q: On the southeast corner?

A: Yes.

Q: Did you see any other pedestrians at that time?

A: No sir.

Q: Do you know what color clothes the children had on?

A: No.

Q: Do you know the names of the children that you saw?

A: No.

Q: Mr. Shrackle, would you describe for us, please, what happened from the time you approached the intersection until the actual impact occurred?

A: Well, I approached the intersection and made the turn, and there was—there were cars coming from the west and I made the turn and there—and the impact and that was it.
Q: Do you know approximately where the impact--the first impact occurred?

MR. BARBER (counsel for defendants):
With relation to what?

THE WITNESS: Yes.

MR. JAMES (counsel for plaintiff):
With relation to the south curb line of Kirby Avenue.

A: I would say that--no, I don't know.

Q: Did you see Mrs. Potter at any time prior to the impact?
A: No, sir.

Q: Did you apply your brakes at any time prior to the impact?
A: No, sir.

Q: What was the condition of your automobile at that time?
A: Fine.

Q: What type of a vehicle were you driving?
A: YR-9 El Camino.

Q: And what type of license tags did you have on the truck?
A: Standard pickup truck type.

Q: And those are subject to inspection by the state of Nita?
A: Yes, they are.

Q: What is the date of the last inspection prior to November 30, YR-2?
A: I would have to check my records to find out.

Q: What was the condition of the tires on your vehicle at that time?
A: They were new--relatively new. They were purchased--I could check the date for you, but they were purchased not very long before. They had, I think, less than five thousand miles on them.

Q: And, had you had the brakes worked on at any time within the preceding six months?
A: Adjusted by myself, but that's all.

Q: And, would you characterize them as being in good working order?

A: Yes.

Q: What was the condition of the pavement?

A: Dry.

Q: And, the weather conditions?

A: Clear.

Q: Was the sun shining?

A: Yes.

Q: What did you do after—immediately after the impact, when you were first aware that your vehicle stopped something—struck something?

A: Stopped—applied the brakes.

Q: Were you able to observe anything at that time as to whether Mrs. Potter went immediately under your truck or was thrown up in the air?

A: No, sir, I wasn't.

Q: Do you know approximately how far from the south curb line of Kirby that your vehicle came to a rest?

A: No, sir, but the officer has that measurement.

Q: Do you know your approximate speed as you were in the process of making your turn?

A: No, I don't. I would say around fifteen miles an hour.

Q: As you were making your turn, did you observe any automobiles stopped on Mattis waiting for the light to turn?

MR. BARBER (counsel for defendants):
Where?

MR. JAMES (counsel for plaintiff):
Either southbound or northbound.

THE WITNESS: Would you repeat that? I'm sorry.
MR. JAMES (counsel for plaintiff):
As you were making your turn, did you observe any vehicles stopped on Mattis waiting for the light to turn in their favor?

A: Yes, I believe there were vehicles in the southbound lane of Mattis, waiting to turn, yes.

Q: All right. Did you observe any vehicles in the northbound lane of Mattis?
A: No, I did not.

Q: Had you consumed any alcoholic beverages on the date of November 30, YR-2?
A: No, sir.

Q: On that date were you covered by a liability insurance policy?
A: Yes.

Q: And what company was that with?
A: Boston Casualty.

Q: Do you know what the policy coverage was—the limits of insurance afforded by that policy?
A: I believe Mr. Barber would know that.

MR. BARBER (counsel for defendants):
Go ahead. I'll find it for you.

Under policy FA 606560 and effective September 23, YR-2 to September 23, YR-1, automobile liability coverage of $200,000 per person, and $500,000 per accident. They have sent a letter to Mr. Shrackle advising him that the ad damnum is in excess of the policy limits.

MR. JAMES (counsel for plaintiff):
As best you know, have you complied with all the conditions of the policy—

A: Yes.

Q: (Continuing)—required?

MR. BARBER (counsel for defendants):
I have been advised of no policy defenses or—
MR. JAMES (counsel for plaintiff):  
The company has never indicated to you--

MR. BARBER (counsel for defendants):  
Boston has never indicated anything of that nature.

MR. JAMES (counsel for plaintiff):  
Did you have any other insurance, either a general contractor's liability policy or an umbrella type of coverage--

A:  
No, sir.

Q:  
(Continuing) --that would have--okay. Are you the named insured on that policy?

A:  
Yes, doing business--

Q:  
As Shrackle Construction Company?

A:  
Yes.

Q:  
Did you file personal income tax returns for the years YR-5 through YR-3?

A:  
Yes.

Q:  
And, did you file those either in Nita City at the proper time or in Memphis, Tennessee, at the proper time?

A:  
Yes.

Q:  
What was your approximate adjusted gross income?

MR. BARBER (counsel for defendants):  
You don't need to answer that. You can wrestle with me for that over at the courthouse.

MR. JAMES (counsel for plaintiff):  
I have no further questions.

EXAMINATION BY MR. BARBER (counsel for defendants):

Q:  
Mr. Shrackle, just to clarify some matters and pin it down here in the deposition, what was the first indication of the presence of Mrs. Potter that you had?

A:  
The impact.

Q:  
Was it a noise?
A: Yes.

Q: Can you tell us or do you remember where the front of your vehicle was with relation to the sidewalk on the south side of Kirby when you heard that sound?

A: I was in the eastern lane southbound on Kirby, or on Mattis, rather.

Q: And can you tell us with relation to that sidewalk where the front of your vehicle was?

A: I was south of the sidewalk, I believe.

Q: And, when you say you were in the eastern lane, can you tell us, is there a median strip?

A: Yes.

Q: On Mattis?

A: Yes.

Q: When you were south of that intersection, where was your vehicle with relation to that median strip?

A: I would say about four feet over the median strip. Perhaps a little more.

Q: Four feet to the west of it?

A: Yes.

Q: Where did the sound of the impact come from with relation to the front part of your vehicle?

A: Left front.

Q: What did you do then?

A: Applied the brakes.

Q: When you say you applied the brakes, can--what did you do?

A: I put force on the brake pedal.

Q: What kind of force?

A: As much as I could.

Q: What did the vehicle do?
A: Stopped.
Q: What did you do?
A: Jumped out.
Q: What did you see?
A: Well, after--I moved around the vehicle and saw Mrs. Potter laying under the--

Q: How was she laying under the truck?
A: Almost straight, with her head under the front bumper and her feet straight back.
Q: Was her head north or south?
A: South.
Q: Her feet were north?
A: Yes.
Q: Was her body lying in a north/south alignment with her head south?
A: Yes.
Q: Was she conscious?
A: Yes.
Q: Did you speak to her?
A: I spoke to her.
Q: What did you say?
A: I said,"Where did you come from?"
Q: Did she speak to you?
A: No. No.
Q: What did you do then?
A: Well, the police arrived almost immediately. We got a first aid kit out of my truck and applied a compress to her forehead and then we waited for the ambulance to come.

Q: Did the truck leave skid marks?
A: Yes.

Q: Do you know how long they were or did someone else measure them?

A: The police measured them.

Q: Where was your truck precisely when it stopped with relation to that median strip, again? How far west of the median strip was it when it stopped?

A: I would--

Q: If you know.

A: I really don't know that.

Q: Only if you know. Did you examine your truck for marks?

A: Yes.

Q: What did you see?

A: There were some marks on the hood.

Q: Where were they precisely?

A: On the left-hand side of the hood near the division between the hood and the bumper—or, the hood and the fender.

MR. BARBER (counsel for defendants):
I have no other questions.

EXAMINATION BY MR. JAMES (counsel for plaintiff):

Q: Mr. Shrackle, you mentioned a mark on the left front of the truck?

A: Yes.

Q: Would that be the driver's side or the passenger's side?

A: The driver's side.

Q: Were you at the scene when the deputy coroner arrived and took some photographs?

A: Yes, sir.

(Document was thereupon marked Plaintiff's Exhibit No. 1 for Identification.)
Q: Mr. Shrackle, I hand you a photograph which has been marked for purposes of identification as Plaintiff's Exhibit 1--
A: Yes.
Q: (Continuing)--and I would ask that you examine that. Does that photograph truly and accurately depict your automobile as it appeared sometime after three-thirty p.m. on the afternoon of November 30, YR-2?
A: Yes.
Q: The position of the truck in the photograph is not in the same position that it was at the time you initially stopped after the impact, is that true?
A: It should be.
Q: All right. Was your truck moved back shortly after the police or the ambulance arrived?
A: Yes. We moved it back to--
Q: Was the photograph taken before of after it was moved back?
A: I can't honestly say.

MR. BARBER (counsel for defendants):
If you don't know, say you don't know. That is the answer.
A: I don't know.

MR. JAMES (counsel for plaintiff):
I would call your attention to some dark splotches on the pavement just in front--

MR. BARBER (counsel for defendants):
I don't think there will be any contest. It's obvious to me they moved the car back. Mrs. Potter isn't under it and I see the blood marks on the pavement, too, and I know the officer will testify that they are blood stains.

MR. JAMES (counsel for plaintiff):
All right. Do you recall, Mr. Shrackle, whether the wheels on your truck were moved as your truck was pushed back?
A: I don't recall.

Q: You mentioned that as soon as you heard the thud, you applied the brakes. Was your foot on the accelerator at the time you heard the impact?
A: I would--I could not say for sure.

Q: Was it on the brake at the time you heard the impact?

MR. BARBER (counsel for defendants):
Tell him what your best recollection is.

A: My best recollection is it was on the brake.

Q: Do you recall why it would have been on the brake at the time you heard the impact?

A: Because I was going around the corner and I would have--my best recollection is it was on the brake simply as a precaution when you go around the corner.

Q: I believe you testified that the front of your vehicle was south of the sidewalk at the time you first heard the impact, is that correct?

A: To the best of my recollection.

MR. JAMES (counsel for plaintiff):
I have no further questions.

MR. BARBER (counsel for defendants):
Thank you, Mr. Shrackle.

This deposition was taken in the office of plaintiff's counsel on June 19, YR-1. After the deposition was transcribed, it was signed by the deponent, Charles T. Shrackle.

Certified by

Paula Brooks
Certified Shorthand Reporter
(CSR)
STATEMENT OF JUANITA WILLIAMS*

On November 30, YR-2, at approximately 3:30 p.m. at the corner of Kirby and Mattis, I was stopped on the west side of Kirby waiting for the light to change to green. A man in a white pickup truck was in the left-hand lane on the opposite side of Kirby with his left turn signal on as he was waiting to turn south on Mattis. The light changed to green, he waited until I had passed and with the light still green he turned south on Mattis.

I actually didn't see him hit the dark-haired woman, who I later found out was Mrs. Potter, but he could not have been going fast because I was only a few feet from the intersection when my daughter said, "Mother, I think someone has been hit." We immediately turned around and went back to the accident.

When we went back to the intersection, I saw the dark-haired woman lying underneath the white pickup truck. It was then that I learned the driver of the white pickup truck was Charles Shrackle of the Shrackle Construction Company and the dark-haired woman who was hit by the truck was Mrs. Potter.

I have read the above and it is my statement.

Signed Juanita Williams Date: 12-1, YR-2

Witness Joseph Lucey Date: Dec. 1, YR-2

*This statement was given to Joseph Lucey, an adjuster for the defendant's insurance carrier, at Mrs. Williams' home on December 1, YR-2.
STATEMENT OF VICTORIA WILLIAMS*

As I was coming home from school on November 30, YR-2, about 3:30 p.m., we were headed east on Kirby Avenue. We were stopped at the intersection and a man in a white pickup truck was on the opposite side of Kirby in the left lane ready to make a left turn and go south on Mattis. We crossed the intersection, the man in the white truck waited for us to cross, and then he proceeded to turn the corner. A dark-haired woman was about twenty feet south of the crosswalk, on the median--facing my friends and with her back to me. She then stepped off the median into the path of the white truck. She was a little ways into the street when she was struck. I saw her purse fly in the air and I heard the screech of brakes.

I told my Mom that I thought someone had been hit, and we went back to the intersection. I saw the lady who was hit lying underneath the front of the white truck.

The police came and I found out that the driver of the white truck was Charles Shrackle and the woman was Mrs. Potter.

I am ten years old. My next birthday is next year.

I have read the above and it is my statement.

Signed Victoria Williams Date: 12-1, YR-2
Victoria Williams

Witness Joseph Lucey Date: Dec. 1, YR-2
Joseph Lucey

*This statement was given to Joseph Lucey, an adjuster for the defendant's insurance carrier, at Mrs. Williams' home on December 1, YR-2.