

AREA

AMERICAN
REHABILITATION
ECONOMICS
ASSOCIATION

Bringing recognition to the combined use of vocational rehabilitation and economic loss assessment as a distinct discipline, and providing a peer-exchange forum for vocational, economic and rehabilitation experts who practice within this growing field.

NEWSLETTER WINTER 2022

Matt Sims, RFE '09, FVE '09 - Editor

GET A HEAD START ON CONTINUING EDUCATION IN 2022!

Learn from the comfort of home or your office on **Thursday, January 20** at 11am Pacific (2pm Eastern) on **Transferable Skills Analysis** with Rod Stoneburner, MS, CRC/Retired (Southern California Vocational Evaluation).

Rod received his Master's Degree in Education from the University of Arizona and completed additional graduate work in Rehabilitation Counseling Psychology at the University of Southern California and Organizational Leadership at Pepperdine University. After 40 years of practice, he has retired as a Certified Rehabilitation Counselor and limits his work to forensic vocational evaluations, research, and presenting. This online continuing education presentation, geared to the Vocational Expert, may also be of interest to Economists and Life Care Planners for the sake of better understanding Pre- and Post-Incident Incident vocational assessments. One CRC, ABVE, CEA and CRE credit applies.



ABSTRACT

JOB ANALYSIS/TRANSFERABLE SKILLS ANALYSIS: ESSENTIAL TOOLS FOR VOCATIONAL CONSULTANTS

This presentation will provide the purpose, overview, and use of the job analysis process and transferable skills process as effective measurement tools for the vocational consultant. Using an evidence-based data collection and analysis will be discussed as it applies to the job analysis process and the transferable skills analysis process.



Job Analysis measurement tools and data collection for work activities, functional capacities, cognitive demands and environmental conditions will be identified and discussed for appropriate use as applied when performing an onsite job analysis.

Preparing a Job Analysis report requires the application of measurement objectives, formalization of data collected, and documentation of the analysis results. This process will be reviewed and discussed.

This presentation will THEN provide information regarding an overview of the Transferable Skills Analysis process, a theoretical background of the VDARE worker trait analysis, associated software programs, and relevant resources associated with this process culminating with report writing. Use of the Transferable Skills Analysis as a forensic tool will be explained and discussed.

PRESIDENT'S LETTER *by Robert J. Paré, MS, FVE '19*



Dear Members & Friends of AREA:

At one of our recent Board Meetings, your AREA Board re-envisioned the WELCOME message of our association's website. It now begins with:

"The American Rehabilitation Economics Association (AREA) is both a professional association and a certifying body that brings together Vocational Experts, Economic Experts, and Life Care Planning Experts."

The WELCOME page is a dynamic product from the current consensus work and wordsmithing of the entire Board, based upon a revised template originated by its Past President, Allyn Needham. It goes on to reflect the topics and educational opportunities related to the forensic practice of us professionals involved in enhancing our practices and related fields at large. Also, of significance there is the promotion of our ongoing peer-reviewed journal: "The Earnings Analyst."

I urge all readers and members to discover more about AREA and its members, purpose, and Missions. We are dynamic, contemporary, and relevant. All members involved reflect the best in enabling one another to remain updated as the best among the best in our respective professions. Educational opportunities for members and non-members alike (led by the tireless Ron Smolarski) are but one, but significant, example of AREA's influence in both standard and evolving forensic issues in rehabilitation and related economic damages.

The AREA Board of Director members are listed under the "Contact" menu on our website. (To this end, please join us in welcoming our newest member, Rachel Duchon!) This webpage is a primary communication tool, along with the AREA Newsletter (Thank YOU, Matt Sims!). Both are continually updated. Please take a moment to check us out, in case you may not have recently clicked onto www.a-r-e-a.org, or are visiting AREA for the first time.

Like you, we do not thrive in the midst of evolving times as is this one, without being additionally challenged. Nonetheless, we are committed and involved in moving forward in spite of setbacks and even alternate ways of doing and thinking regarding innovative ideas as well as traditional beliefs and practices. We intend to find a way forward with an emphasis on cohesive humanity on a fragile planet instead of a focus on our differences.

So, what do you think? We welcome hearing from you. Meanwhile, can we plan to meet for the first time, or again (and at last!) at our May Conference in Chicago? We are planning on it! We all have experienced a difficult time on various levels, and it continues with the pandemic, which has become more of an endemic. The number of those affected crests once again as I write this. At present, AREA remains on course with the intensive planning that goes into holding a conference, of course with everyone's safety and well-being being paramount. For updates on this, please frequently visit the [Association News](#) page of the AREA website for a sequence of decisions on this topic. Wishes of well-being and cheers for the new year!

Sincerely,

Bob Paré
AREA President

EXCITING NEWS! SAVE THE DATE!

AREA 2022 Conference is at the [Millennium Knickerbocker Hotel](#) in Chicago, May 26-28, 2022. This will be the first live in-person conference we've had in two years. The theme is "Offsets: Earnings and Mitigation in Post-COVID Litigation." You don't want to miss this!



DOES THE COMPETITION MEASURE UP?

Tired of reading the same boilerplate report over and over again? Instead of complaining, why not do something about it? Consider spreading the word about all that an AREA membership has to offer. Forensic work can be isolative sometimes, only knowing other experts if they are on the other side of the table, or if they use your report as foundation for their report. At an AREA conference, you get to meet the actual person behind the pen (or word processor), even if they are of a different “damages” specialty. Send them a copy of this newsletter, and recommend membership in AREA!

For more membership information, please contact our Vice-President, External, Matt Sims, at sims@simsandwhite.com.

NOT THE SAME OLD ROUTINE!

Check out AREA’s new and improved website! Want to test your knowledge? Visit the website and see if you can find the answers to the following questions:

- (a) What changes have you noticed, and, do you like them?
- (b) How many professional certifications/registrations does AREA offer?
- (c) What is AREA’s newest credential?
- (d) How many Board members do you know so far?

DO YOU ENJOY WRITING?

Along with the Collegium of Pecuniary Damages Experts (CPDE), AREA co-publishes *The Earnings Analyst* (TEA) Journal. Do you have an interesting case? Don’t keep it to yourself, tell us! TEA is a peer-reviewed professional journal that provides a great opportunity for those working in the field of forensic economics, vocational analysis, or life care planning to publish. If you have information which has been researched and proven effective in analyzing your forensic work, please consider submitting an article. Your experience, research and findings can help many in our field be better at their work.

If you have questions about how to make a submission, please contact Nora Ostrofe, Rachel Duchon or Cloie Johnson through the journal’s website, <https://theearningsanalyst.com/>. You do not need to be an AREA member to publish—but we’d be proud to have you as one of us, if you are not. The TEA is a free membership benefit to all AREA members. This includes back issues.

TIPS FROM A PRO

Many aspects of our lives have changed since the beginning of the COVID-19 pandemic. If you would like to share with us how this has impacted your professional practice, to include how you handle COVID-19 situations in your reports, your story may be included in the next issue of our newsletter.

CONTACT: Matt Sims at sims@simsandwhite.com

INTER-ASSOCIATION COLLABORATION WITH ABVE

AREA is proud to reciprocate with ABVE (the American Board of Vocational Experts) in promoting their upcoming ANNUAL CONFERENCE. After two years of virtual conferences, the **American Board of Vocational Experts is excited to announce their Annual Conference, March 24-27, 2022 in Tampa, FL.** We are excited to share information regarding the ABVE conference in exchange for ABVE's sharing of AREA's educational opportunities as well. Registration is now open... go sign up! For more details, visit www.abve.net/conferences. We certainly wish you well!

ALL "ABOARD" ... BOARD MEMBERS WANTED

It's that time of year again. The time has come to consider becoming a member of AREA's Board. The two-year term (2022-2023) commences in July 2022. If you have a desire to work toward the advancement of the goals and mission of AREA, please consider this opportunity to be instrumentally involved in the leadership of AREA. The Board meets monthly via Zoom where we formalize the meeting agenda, review the budget, discuss committee and position updates, propose new business, vote on decisions, and plan the next board meeting.

Board positions that will become available for our next member vote in June 2022 include:

- 1) **President-Elect**— This person will become the President, needs to be (or can become) a CEA, FVE, or RFE before becoming President.
- 2) **Vice-President, External** (responsible for Newsletter and Membership)
- 3) **At-Large Board Member** (This is a voting board position with no formal area of responsibility – you can choose how you'd like to help the organization!)

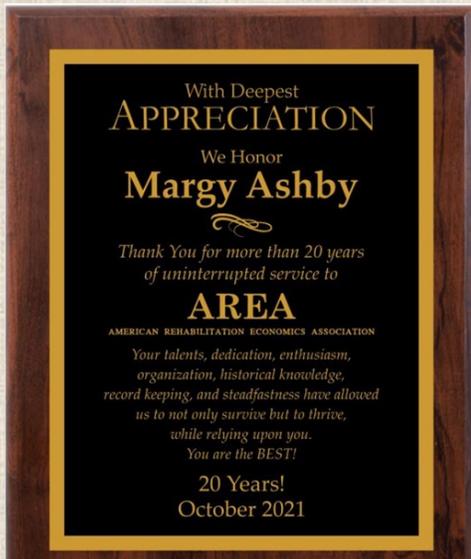
In our Fall Newsletter, we asked for a volunteer to take on one of the Board positions, because one of our Board members had unexpected scheduling conflicts going forward. **Congratulations to Rachel Duchon** who has stepped up as a replacement! In December, the AREA Board held a special meeting with the single agenda item of discussing Rachel's interest in assuming an unexpired position as a Board Member At-Large. There was unanimous commendation and consent regarding her application. It is sensed that she will be a great fit and bring along many practical and pragmatic talents for the good of all. We look forward to your service, Rachel!

HEAR YE! HEAR YE!

Is your practice growing? Have you recently been promoted? Have you been recognized with a special award, or become a member of a Board, etc.? Are you twitterpated? Or expecting a brand new family member? Don't keep it to yourself ... we want to hear it and post it under "Member News" on the AREA webpage. To begin, you can contact Matt Sims at sims@simsandwhite.com.

WITH GRATITUDE!

“We must find the time to stop and thank the people who make a difference in our lives.” —John F. Kennedy
 Margy Ashby, our Secretary and Treasurer, has been with AREA for over 20 years! Thank you, Margy, for all of your hard work, dedication, professionalism, and wonderful spirit!

**A PERSONAL NOTE FROM MARGY**

Never in my wildest dreams could I have ever imagined such an outpouring of love and support from the leaders and membership that I have loved serving for the past 20+ years. I was completely blown away!

As troublesome as 2021 was for many of us (a repeat of 2020 in some respects), I always try to focus on God’s many blessings in my life, but I could never have imagined the good measure that was to come my way, pressed down, shaken together, and running over ... a love gift from my beloved AREA!

Our fearless President Bob Paré primed me to expect a couple packages in the mail—one from him and the other from Allyn Needham’s office—with instructions that I wasn’t to open either one until they were both in my possession. “No peeking,” said he. Being the true blue, dyed in the wool *rule follower* that I am, I obeyed. So the day finally arrived when I was released to open package #1 (after package #2 arrived, of course)—a clever build-up of anticipation which made it all the more exciting! First I read the beautiful sentiment on the plaque (above), and then opened package #2 containing a box and a letter from Allyn which read: *Margy, To honor your twenty years of wonderful service to AREA, we asked current and past members to contribute for your gift. The response was overwhelming. In this package, you will find the cards many asked us to give you and your gift. We hope this, in some way, will demonstrate how much you are appreciated and loved by AREA. Allyn ...* I was a puddle!

Wanting to savor the cards, I decided to wait to read them when the time was right. For the moment, I needed to compose myself and finish my day. It was another hectic week with lots to do for the upcoming webinar. The following evening I sat down on the sofa to watch a movie with my daughter and remembered the stack of cards and gift box that were still in my office, as yet unopened. Retrieving those, I sat back down and read each card carefully. I was so unbelievably touched by my members' kind and caring words. After figuring out how to open the box 😊, which I initially thought was empty—except for the tissue paper— by clever design? or did someone forget to include the gift? (My Dad used to giftwrap trash and put it in the back of our unlocked station wagon for unsuspecting thieves! 😬) ... Holy cow! I went into complete shock at what I found within the folds of the tissue paper!!! What?!?! A cashier’s check in the amount of \$2,880?! Oh ... my ... goodness!!! WOW, WOW, WOW!! Heart pounding, face flushed! Good thing I was sitting! Turn on the waterworks! What a complete and utterly masterful, way-beyond-generous gift!

I am blessed beyond measure by each and every part of the gift I received and appreciate ALL of you who participated in making it so special for me . The words THANK YOU seem too inadequate an expression of my appreciation for the thoughtful effort that went into such a large scale and meaningful undertaking. God bless you all for blessing me in such a loving way. I will remember it always! Love, Margy ❤️❤️❤️

DO YOU HAVE WHAT IT TAKES??

The term of art is ... alphabet soup. Do you have an alphabet soup of professional CREDENTIALS next to your name yet? Did you also know that AREA's newest credential, "EA," does not require trial experience? You're welcome!

AREA is the only international certifying body that has this unique blend of professions in pecuniary damages and loss assessment. In addition to membership status, unique designations available only through AREA are the RFE (Registered Forensic Economist), FVE (Forensic Vocational Expert), EA (Earnings Analyst) and the CEA (Certified Earnings Analyst). Unlike some credentials, ours are actually named such that they truly spell out your specific area/s of expertise.

WELCOME NEW MEMBERS, WE'RE GLAD YOU'RE HERE!

Tiffany M. Fischer-Blowers – Student member
Dawn Kovner – Professional member
Cortney Richert – Professional member

HAVE YOU HEARD? THE FLU HAS BEEN GOING AROUND

Many aspects of our lives have changed since the beginning of the COVID-19 pandemic. If you would like to share with us how this has impacted your professional practice, to include how you handle COVID-19 situations in your reports, your story may be included in the next issue of our newsletter.

Contact Matt Sims at sims@simsandwhite.com.

MARKETING Exposure

Sponsors are now immediately sought for the periodic virtual webinars for requested donations of \$75 per sponsor. Newsletter sponsor options are also available.

Please contact Bob Paré at rpare@consultativerehab.com for more information.

We extend a big thank-you to all sponsors for your invaluable contribution to AREA.

THE EARNINGS ANALYST (TEA) ... Because "Best Journal on the Planet" is not a title we could use

TEA is a peer-reviewed professional journal that provides a great opportunity for those working in the field of forensic economics, vocational analysis, or life care planning to publish. If you have information which has been researched and proven effective in analyzing your forensic work, please consider submitting an article. Your experience, research and findings can help many in our field be better at their work. If you have questions about how to make a submission, please contact Nora Ostrofe, Rachel Duchon or Cloie Johnson through the journal's website, <https://theearningsanalyst.com/>.

As a member of AREA and/or CPDE you are benefitted not only with great collegial discussion and camaraderie, but with access to the peer-reviewed journal *The Earnings Analyst*. As you may know, peer-reviewed journals provide foundation for generally accepted methodologies and research within our practices which highlights our knowledge, training, experience and specialized knowledge.

Your unlimited access to *The Earnings Analyst* begins with a simple registration for access. If you have not done this yet, please follow the instructions below. Further, if you have problems, please reach out for assistance. Below are the instructions:

Please go to <https://theearningsanalyst.com/> to register. At the top right there is a registration tab. Click on this link and follow the instructions. From that point forward you will have full access to the journal using the member/subscriber link on the right hand side.

MY NAME IS MY NAME IS

In each newsletter, we are profiling a few members of the Board. Have you met ...



Ronald T. Smolarski
 MA, CEA '99, CLCP, CRC, CDEII, ABVE/D
 Vice-President, Internal
 Responsible for Ethics & Conference

I am a Certified Life Care Planner, Vocational Expert, Certified Functional Capacity Evaluator and a Forensic Economist. I enjoy South American Dancing with my wife 2 times per week, enjoy listening to talking books while I walk every day for my morning routine. I enjoy playing poker with my buddies once a month, golfing once a week, working out in the gym 2 times a week, riding my mountain bike along a river trail weekly. My wife and I like to snow ski, mountain bike and snorkel on vacations. I also enjoy cooking.



Rachel A. Duchon
 MS, MBA, CRC, FVE '12, LMHC, ABVE/D, IPEC, CLCP
 At-Large Board Member

Rachel A. Duchon received a Master of Business Administration from Canisius College in 2013. Her MBA studies included time spent in the European Union researching disability within the work place and labor economics. She earned a Master of Science degree in Community Mental Health from Canisius College in 2007. Her undergraduate degree from Hilbert College was completed in 2005 with a major course of study in Psychology. Rachel is a Certified Rehabilitation Counselor, Forensic Vocational Expert, Disability Analyst and Fellow, Licensed Mental Health Counselor, Diplomate of American Board of Vocational Experts, International Psychometric Evaluation Certified and Certified Life Care Planner. She is a member of the International Association of Rehabilitation Professionals, where she has served as New York State Chapter President from 2016-2018. She has also served as a board member from 2015-2017 on the Social Security Vocational Expert Board and Mentoring Committee. She is a current and active member of the American Board of Vocational Experts, National Association of Forensic Economists, American Board of Disability Analysts and American Rehabilitation and Economics Association. Her special interests include earnings analysis, forensic rehabilitation and economic damage calculations. She has been a guest speaker at the Buffalo and Albany Claims Association, University at Buffalo, Erie County Bar Association, Western New York Regional Affiliate of the New York State Trial Lawyers Association and The American Association for Justice.

Charlie and Olivier are DVEC’s newest editions!



RECENT CASE LAW OF INTEREST TO FORENSIC ECONOMISTS AND VOCATIONAL EXPERTS

Dr. Thomas Ireland, Professor Emeritus of Economics at the University of Missouri-St. Louis, has graciously been keeping a webpage with a collection of published court cases that are of interest to all of our professions. His website is located at <http://www.umsl.edu/~irelandt/index.html>.

Scrolling down to the link titled *Legal Decisions Developed or Revised During 2021*, the following three cases presented here in this newsletter. Some of the citations contain a further explanation by Dr. Ireland himself. There are many more cases listed at this link and on the website, and you are encouraged to search through it.

① *Hauck v. Wabash Nat'l Corp.*, 2021 U.S. Dist LEXIS 108943 (D. NM 2021). Federal District Judge Kenneth J. Gonzales excluded all testimony of Dr. Stan V. Smith regarding noneconomic damages on the basis of inappropriate behavior. Judge Gonzales said:

Ms. Hauck is prohibited from eliciting testimony from Dr. Smith regarding her entitlement to non-economic damages, including hedonic, loss of guidance, counselling, society, relationship, support, and accompaniment damages. In pertinent part, Dr. Smith's opinion assigning a dollar-amount to Ms. Chambers' hedonic-damage award is unreliable pursuant to Daubert and its progeny. Moreover, the Court concludes that Dr. Smith's failure to disclose his proposed testimony regarding the "general scope of hedonic damages" is incurable and prejudicial. Therefore, Dr. Smith's opinions quantifying a hedonic-damage award and generally explaining the concept are both properly excluded. For these reasons, the Court grants Wabash's Motion to Exclude (Doc. 157).

② *Fowlkes v. Choudhry*, 2021 Md. LEXIS 120 (MD 2021). This decision affirms the Maryland Special Court of Appeals decision in *Fowlkes v. Choudhry*, 243 Md. App. 75 (2019), which reversed a \$500,000 award in a wrongful death action for household services a mother had been awarded by the trial court for household services the daughter, who lived with her month, would have provided to her mother. The decision includes a review of cases in other states involving parental suits in wrongful death cases for the household services of a child. It does not preclude all decisions involving

parental loss of household services by an adult child but indicates the type of proof needed to successfully make such a claim.



③ *Sturgis v. R & L Carriers*, 2021 U.S. Dist. LEXIS 152766 (N.D. IN 2021). U.S. District Court Judge Damon R. Leichty excluded the testimony of economic expert David Gibson in a wrongful death action. A number of grounds for exclusion were discussed and Mr. Gibson's methods were described in some detail, including: (1) Differences in fundamental methods between Mr. Gibson and his cited authorities; and (2) Gibson's efforts to claim that use of reliable data from the ACS and ASEC surveys made Gibson's methods for deriving conclusions he reached from that data reliable; (3) Gibson's incorrect claim that his methods for calculating worklife expectancy were generally accepted; and (4) the fact that Gibson could not cite any authority other than his own publications for his methods for deriving worklife expectancies from ACS and ASEC data. Judge Leichty said:

Mr. Gibson's calculations of an age-earnings profile and worklife expectancy relied on broad, underlying survey data. He says "[t]he large sample sizes of the ACS and ASEC surveys assure low standard error rates" [ECF 108-1 at 12]. Just because the data resists error doesn't mean the method by which they are input proves reliable. Using a method unrooted in a decedent's occupation or artificially inflating income contrary to an opinion witness's own guiding authorities necessarily amplifies the risk of error beyond a reliable and recognized economic method.

To ensure receipt of future newsletters and educational announcements, please email your name, firm name, cell phone number, and preferred email address to area@gasvcs.net with ADD ME TO YOUR EMAIL LIST in the subject line. Thank you!