

AREA

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REHABILITATION
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ASSOCIATION

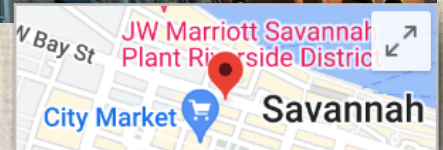
Bringing recognition to the combined use of vocational evaluation, economic loss assessment, life care planning, and functional capacity evaluation as a field of study, and providing a peer-exchange forum for rehabilitation and economic experts who practice within this growing branch of knowledge.

NEWSLETTER SUMMER 2023



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



It's official! The 2024 AREA Conference will be held May 16-18, 2024, at the **Hotel Indigo Savannah Historic District** located at 201 W Bay St in beautiful Savannah, Georgia! Click [HERE](#) to make your "AREA 2024 Conference" hotel registration.



YOUR HELP IS NEEDED — PLEASE READ



Thomas Berg
Mercer Island, WA

NORTHWEST CATASTROPHIC INJURY FUND

\$83,378 of \$184,000 Goal

Total funds raised as of 08-18-2023

GIVE

As you may have already heard, one of AREA's long-time members, John Berg, recently experienced a devastating family tragedy when John's 34-year-old son, Thomas, suffered a catastrophic spinal cord injury resulting in total paralysis. Thomas was recently released from Harborview Medical Center in Seattle, where he has been since Father's Day after being flown from UCSD Hospital in April, and is now receiving full-time in-home care. Thomas is expected to require months of rehabilitation care, and John has been by his side through all phases of care since the accident. John has not been accepting any new work, and does not plan to until at least toward the end of this year.

John reached out to a non-profit fundraising organization (tax-deductible gifts) named **Help Hope Live** to help pay the huge costs directly to the providers. Gifts are accepted, and your gift is non-taxable.

The following URL leads you to a video where you can read the brief summary seen there, as well and the Updates on Thomas's progress posted by his Dad. This has also been shared on the IARP Listserv.

<https://helpholive.org/campaign/22050>

PRESIDENT'S LETTER *by Rachel A. Duchon, MS, MBA, CRC, FVE, LMHC, ABVE/D, IPEC, CLCP*



Dear AREA Members:

Thank-you for trusting me as your newly elected President. I am both honored and humbled to be in this position. I have a deep well of gratitude for my predecessor, Bob Paré, for his leadership, dedication and creative contributions to AREA during his term as President. I could not be in this position without the committed AREA Board members who stand behind me and propel this organization forward. And to a past AREA Board member who is always on stand by, waiting in the wings, with a steady hand and words of wisdom, Allyn Needham. Thank you for all that you do for this organization. We would be lost without you. Last but not least, the wizard behind the curtain, Margy Ashby, are there actually words that capture

your job description? Had Margy not agreed to stay with AREA during my term, I may have reconsidered this whole thing!

I remember the very first AREA conference that I attended. Lisa Clapp was President at the time and I sat through Allyn Needham's Boot Camp and learned about Andy the truck driver and his tale of woe. Who could forget Andy? In fact, I still have the spreadsheet on his wages. Wherever Andy is now, I hope he knows how much of an impression he left behind in our little classroom.

When I booked my flight from New York to Seattle, little did I know how truly representative the distance from one end of the country to the other was going to reflect the growth that was about to take place in my career by attending my first AREA conference. I experienced a range of emotions at that first conference; excitement, confusion, awe, fear, but most importantly, curiosity. I was lucky enough to sit next to Carl Gann; how lucky can one girl get? To this day, Carl is just a phone call away, always happy to answer questions, push me to think in ways I haven't before, pick me up when I feel defeated, and confirm a job well done. AREA is unlike any other organization I belong to, a place where a small niche of diverse professionals gather to share, teach, exchange, inform and grow together.

It is my sincere hope that I am able to give back during my term as President a fraction of what AREA has given to me. ***I hope to see you next year in Savannah!***

A handwritten signature in black ink that reads "Rachel A. Duchon".

Rachel A. Duchon - AREA President
MS, MBA, CRC, FVE, LMHC, ABVE/D, IPEC, CLCP
Duchon Vocational & Economic Consulting, LLC



CONSIDERING SITTING FOR THE CEA EXAM AT THE 2024 AREA CONFERENCE IN BEAUTIFUL SAVANNAH?

You should. *Here's why ...*

- The CEA credential can be invaluable to vocational experts, CPAs, MBAs, or economists wishing to *expand their practices* by taking on forensic economic work.
- CEA-holders have demonstrated their proficiency for calculating lost earning capacity, worklife expectancy, loss of economic support (wrongful death), lost household services, and the present value of life care plan costs. *No other credential attests to such proficiency in forensic economic calculations.*
- The CEA is the only credential that addresses the *composite calculations of multiple personal damages in a litigation setting.*
- Attorneys want experts with *experience or special knowledge*. CEA training provided by AREA can help those wanting to get into this field to be *better prepared*. And with experience and a passing test score, the CEA itself will provide *additional support* for those as they move forward in this field.

For more information, see the Membership & Certification section of the AREA website: <http://www.a-r-e-a.org>. In addition, feel free to contact CEA certificants among AREA's members as listed in the Membership section of our webpage.

– Courtesy of Nora Ostrofe, MBA, CEA '05

WANT TO LEARN HOW TO HOST A CONFERENCE?

Nora Ostrofe, MBA, CEA '05 is in charge this year of putting together our 2024 Annual Conference in Savannah, this being her second rodeo since 2015. As former Conference Chair, Ron Smolarski is looking for opportunities to help mentor someone into this position, and to start developing a "manual" of sorts on how to put on a fantastic conference! Ron has learned so much from his past experiences that he is willing to share his invaluable knowledge with fresh recruits, and to memorialize the process to benefit our organization in the future.

Are you organized? Want to become acquainted with future speakers? Want to be noticed and get exposure? This is a great mentorship opportunity for one or two fortunate individuals. For more information, please contact Ron Smolarski, MA, CEA '99 at ron@beaconrehab.com.



TIPS FROM A PRO

This is a tip for writing effective rebuttal or response to rebuttal reports. I call this tip, "Never Slap Chris Rock." Remember the infamous incident at the 2022 Academy Awards when actor Will Smith slapped comedian Chris Rock? Initially, Rock didn't react to the attack; he acted professionally up there on stage. As damages experts, we may feel tempted to make claims about our expertise and values; however, our values will either shine or fade when we are tested, as they are reflected in our actions.

In my early years with only 6 or 7 years of experience, for a short while I used to respond aggressively to other experts' rebuttals, when they were aggressive towards me. However, I quickly realized that this behavior was viewed by attorneys as being unprofessional and combative. Unfortunately, aggressiveness seems to be more prevalent in our field compared to other areas of expertise, such as engineering and medical fields, where such behavior is rare.

It's essential to differentiate between arguing a point and arguing *with* someone. Will Smith's action and Chris Rock's response serves as a warning that being aggressive towards another expert will only reflect poorly on you and your ability to handle criticism professionally. Please, stay the course people, and don't wallow in the mud with the pigs.

– Courtesy of J. Matthew Sims, MS, MC, FVE '09, RFE '09 at sims@simsandwhite.com.

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? Become an Earnings Analyst. You're welcome!

Attention "**Associate**" members! Have you gained 3 years of experience to qualify as a Professional member? If so, level-up!!!

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 **CEA** (Certified Earnings Analyst). Unlike some credentials, AREA's are actually named such that they truly spell out your specific area/s of expertise.

These credentials may help you market yourself to new clients!

BEGINNING IMMEDIATELY!!

All new members of AREA—registering between now and the Savannah conference in May 2024— have the option of being listed as a **Friend of the Association** (a \$250 value!) at no charge during their first year.

As a further incentive, existing members who recommended the new person's membership also are given the option to be listed as a Friend of the Association at no charge, for 1 year. — Bob Paré, MS, FVE '19

HEAR YE! HEAR YE!

Congratulations to AREA member, J. Matthew Sims, MC, MS, FVE '09, RFE '09, for being the very first economist to create an alimony calculator. Mr. Sims has been working with the Arizona Supreme Court's Family Court Improvement Committee (FCIC) since October 2022 to create a 'spousal maintenance' calculator that will be used in most divorce proceedings throughout the State of Arizona, as well as writing the technical aspects of the Arizona Spousal Maintenance Guidelines, both of which went live in July 2023. Arizona Supreme Court Chief Justice Robert Brutinel presented Mr. Sims with an outstanding service award for all of his work. Once again, congratulations!

When asked about the award, Mr. Sims said, "Well they did have a budget to pay me for this work, but I said I'd do it Pro Bono, so ... I guess they had to give me an award of some sort, LOL!" (Mr. Sims was never asked this question ... this is an editorial joke made by the Newsletter Editor, Mr. Sims.) The Arizona Spousal Maintenance Calculator can be found online at <https://www.superiorcourt.maricopa.gov/app/selfsuffcalc/>.

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, contact Ron Smolarski, MA, CEA '99, External VP and AREA Newsletter Chair, at ron@beaconrehab.com.

I'M NEW, WHAT DO I DO?

AREA's annual conferences have what we call pre-conference Boot Camp sessions. These sessions are designed for those who want to learn how to use Excel and economic statistics, wage growth rates, medical care growth rates, discount rates, worklife expectancy, life expectancy, earning capacity, present value calculations, and a variety of advanced forensic economic topics, too. They are also intended to help prepare individuals to take AREA's Certified Earnings Analyst (CEA) exam, and/or, to simply become a better and more educated forensic expert.

As an added benefit, the *Forensic Expert Resources* page of AREA's website contains a number of links to websites that contain additional and useful information. Check it out at <https://www.a-r-e-a.org/>.

IN REMEMBRANCE

It is with true sadness that we announce the passing of one of AREA's contributors, Kurt V. Krueger, Ph.D. Dr. Krueger was a co-author of the following two articles in *The Earnings Analyst*, "A Review of Economic Foundations of Earnings and Discounting Theories Used in Forensic Economics," and "Tort Remedy in the Law versus Economic Restitution for Personal Injury and Wrongful Death." Dr. Krueger had been an active practicing forensic economist at John Ward Economics, and the central figure in publications that many of us rely on, such as *The Dollar Value of a Day* and *Healthy Life Expectancy*, by Expectancy Data. Dr. Krueger will be sorely missed.

IN MEMORY OF BILLY JOE McCROSKEY

Born April 13, 1945 - Died May 13, 2023 (age 78)



Dr. McCroskey came from a humble rural Georgia family. He distinguished himself in the military during a time when everyone had a Top Security Clearance, he had Crypto. It was there he discovered the ability to see patterns others did not see. This became a crucial skill in his Rehabilitation Counseling Ph.D. program when he saw unique patterns in the Dictionary of Occupational Titles (DOT). The physical demands and cognitive requirements for each job combined to produce a normal distribution where no two jobs had the same value. Using this marvelous model of the world of work became the basis for his degree and profession.

The Vocational Quotient (VQ) distribution scaled the DOT to predict occupational skills long before anyone thought about the Federal Rules of evidence. He published specific information so that all DOT programs could utilize the predictive power of the VQ with no limitations. The VQ was extremely effective in predicting low to medium incomes. Then he developed the Economic Quotient (EQ) that was a more direct predictor of higher incomes. Again, he published all the results so everyone could do the same.

His unique skill to see patterns extended to understanding the work of Vocational Experts. There was a research study of Rehabilitation Professionals using various DOT computer programs. Dr. McCroskey's program weighed some variables higher because he knew they were crucial in determining loss of earning capacity. As a result, the McCroskey Vocational Quotient System (MVQS) computer program was the best predictor of Vocational Experts' responses.

Vocational Experts have benefited from his wisdom. Unfortunately, the genetics that created his marvelous ability also carried the family traits of diabetes that ended his life prematurity. We are all grateful for what he created and saddened by the loss of glorious things he would have done if he had lived longer. We salute Billy Joe McCroskey, Ph.D.

Kenneth L. Dennis, Ph.D.
Rehabilitation Psychologist

Ronald T. Smolarski, M.A.
Certified Life Care Planner, Forensic Economist
Certified Functional Capacity Evaluator
Vocational Expert

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 a 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 AREA newsletter, and recommend to them membership in AREA!

For more membership information, please contact our Vice-President, External, Ron Smolarski, MA, CEA’99, CLCP, CRC, CDEII, ABVE/D, IPEC at ron@beaconrehab.com.

VOCATIONAL ECONOMISTS NEED FRIENDS, TOO!

Sponsors are now immediately sought for periodic virtual webinars at the requested donation of \$75 per sponsor. Newsletter sponsor options are also available in an advertising form.

If you are a **Friend of the Association**, you’ll get exposure. We have more Friends than ever right now. Thank you to Beacon Rehab; Premier Vocational Experts; Re-Employment Resources, L.C.; Forensic JobStats; Jeroen Walstra, CEA; Jacqueline Crawford-Apperson, M.S., C.R.C.; Consultative Review & Rehabilitation; Shipp Needham Economic Analysis; VME VocMedEcon; Terry Dinneen (a founding member and Past President of AREA); Ronald Rosenberg, Ph.D. (longtime AREA member); OSC Vocational Systems, Inc.; SkillTran; Thomas Roney, LLC; William Houston Reed, Ph.D., Ltd; and Raymond E. Cestar Jr., FVE ’23, Vocational Expert.

Please contact Bob Paré, MS, FVE ’19 at rpare@consultativerehab.com for more information. We extend a big thank-you to all sponsors for their invaluable contributions to AREA.



10 Savannah Must-Dos for First-Time Visitors

Savannah Top Tours & Activities

WELCOME NEW MEMBERS

Denis Boudreaux

Merrill Cohen

CONGRATULATIONS NEW CERTIFICANTS AND REGISTRANTS

Jeremy Jackson, CEA '23

Dawn Kovner, CEA '23

Raymond Cestar, FVE '23

Denis Boudreaux, RFE '23

THE EARNINGS ANALYST (“TEA”)

BECAUSE “BEST JOURNAL ON THE PLANET” IS NOT A TITLE WE COULD USE

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 to publish, for those working in the fields of forensic economics, vocational analysis, or life care planning. If you have information which has been researched and proven effective in analyzing your forensic work, please consider submitting an article to the TEA. Your experience, research and findings can help many in our field become 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/>.

TEA's Volume 18 was released in 2022. Featured articles include: “CMS Health Care Price Projections and Issues for Damages Experts, Updated for 2021-2030” by Joseph Rosenberg and Sean Keehan — “Estimating the Loss of Social Security Benefits” and “Exploring the Possibility of Worklife Expectancies for Specific Disabilities” by James Rodgers. There is also an *In Memoriam* section for Rick Gaskins, Jim Rodgers, and J. Herbert Burkman, as well as two Practice Notes from Bill Landsea.

As a member of AREA and/or CPDE, you are benefited not only with great collegial discussion and camaraderie, but with access to *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.

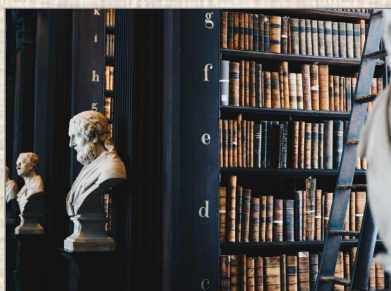
Members' unlimited access to *The Earnings Analyst* begins with simple registration for access. If you have not done this yet, please follow the instructions below.

Please go to <https://theearningsanalyst.com/>. 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 member access to the journal using the *member/* *subscriber* link on the right-hand side. If you have problems, please reach out for assistance.

CASE LAW OF INTEREST TO FORENSIC ECONOMISTS AND VOCATIONAL EXPERTS

In case you haven't heard yet, 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>.

Scroll down to the link titled "Masterlist of Legal Decisions Since January 1, 2010." The following few cases are presented here in this newsletter. Some of the citations contain a further explanation by Dr. Ireland himself. There are many more cases listed in this link and on Dr. Ireland's website, and you are encouraged to search through it.



James v. Antarctic Mech. Servs, 2020 U.S. Dist. LEXIS 52619 (S.D. MS 2020). Economic expert Dr. George Carter relied upon earnings projections of vocational expert Kathy Smith, who did not rely on James's actual earnings record. The Court stated that loss of earning capacity in Mississippi must be based at least in part on a plaintiff's actual earnings record, if such a record existed. For that reason and because lost fringe benefit can only be calculated if there is evidence that a plaintiff is actually using them, Smith's testimony was excluded and Carter's testimony that relied upon Smith's opinions on lost earning capacity was also excluded. Carter was permitted to testify about household services based on Carter's assumption that James's custodial granddaughter would continue to live with James until age 18.

Miller v. Juarez Cartel, 2022 U.S. Dist. LEXIS 112463 (D. N.D. 6-24-2022). This was a judicial ruling by Federal Magistrate Judge Clare R. Hochhalter in an ATA (Anti-Terrorism Act) case involving deaths and injuries to two American families by the Juarez Cartel. The defendant was not represented and there was no expectation that the defendant would pay awarded damages. The case was bench-tried and expert reports were submitted in writing. Damage opinions of economic expert Stan V. Smith for one group of plaintiffs and by J. Matthew Sims for another group of plaintiffs were reported in the decision. Smith's opinions included loss of wages and benefits, loss of household services, loss of guidance and counsel, loss of accompaniment services, life care services of one decedent for a family member, value of life of decedents, or loss of society and relationship. Sim's damage opinions included loss of wages and benefits, household services and care for fellow family members, and cost of vocational rehabilitation for injured minor children. Sims did not include guidance and counsel, loss of accompaniment services, value of life, or loss of relationship, but Judge Hochhalter included amounts based on Smith's calculations for the first group of plaintiffs.



To ensure receipt of future newsletters and educational announcements, please email your CONTACT INFORMATION (full name, firm name, cell phone number, and preferred email address) to area@gasvcs.net, with "Add me to your email distribution list" in the subject line. Thank you!

FRIENDS OF THE ASSOCIATION ... THANK YOU!



**BEACON
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Established 1979

Certified Life Care Planner CLCP
Forensic Economist CEA
Vocational Expert IPEC, CRC, ABVE/D, CVE
Certified Functional Capacity Evaluator CDEII



Consultative **R**ever & **R**ehabilitation



PREMIER VOCATIONAL EXPERTS
Life Care Planning & Rehabilitation Services



Vocational Expert Witnesses



SHIPP NEEDHAM
Economic Analysis, LLC



**RE-EMPLOYMENT
RESOURCES, L.C.**



Thomas Roney LLC
Economic Consulting



VOCMEDECON



Jacqueline Crawford-Apperson,
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**WALSTRA
EXPERT
WITNESS
COMPANY**

TERRY DINNEEN
**A Founding Member and
Past President of AREA**

Raymond E. Cestar, Jr., FVE '23
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**RONALD
ROSENBERG PHD**