

Why in the world would you want to use a vocational expert in a discrimination case?

Chrisann Schiro-Geist, Ph.D., Diplomate of the American Board of Vocational Experts
Alan Crone, JD, Attorney

The big picture on discrimination law

- Liability is “intent” driven
- Damages focus and center on economic harm—like medical bills in a personal injury case
- Back pay and Front pay rather than reinstatement—Make plaintiff whole
- Plaintiff must mitigate his damages—find a new job substantially similar to the old job

Where does Vocational Expertise fit into damages

- The good news is: “it’s not your problem to worry about liability”
- Has the client truly experienced a vocational loss
- Past Present Future
- How do you quantify the loss?
- How do you substantiate the loss?

How and when to use a Vocational Expert in a case

- Front pay hard to quantify
- Plaintiff in niche job or industry
- Mitigation efforts in question
- Issue arises about what kind of work a plaintiff can and cannot perform
- Geographic region poses particular challenges for re-employment

How to justify Vocational Loss

- Using readily available data similar to that which you would use in other cases
- Using computerized data systems
- Having a thorough understanding of the client's vocational history and salary issues
- How to estimate return-to-work in a new position
- How to establish a true loss in the future

How and when does the Vocational Expert interact with the Economist

- Make sure you stay in your own area of expertise
- What information do I have to give the economist
- How to write a report that answers the vocational issues and gives appropriate information for the economist's testimony
- How and when does the actual transfer of information take place

How does this kind of testimony differ from other Vocational testimony

- Social Security
- Worker’s Compensation
- Personal Injury
- Divorce
- Medical Malpractice
- Other Forensic Testimony
- Vocational Assessment

Sample hypothetical cases

The future of this kind of testimony

- Economists are limited in accessing vocational issues
- Disabilities more broadly defined, courts will need more guidance about accommodations and reemployment
- Get shades—the future is bright

Questions

- Why in the world would you want to do this kind of forensic testimony?
- Other questions...
