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VOCATIONAL EVALUATION PROCESS

I am often asked by attorneys and claims personnel to describe my vocational evaluation process for personal injury, employment law, family law and related cases. The vocational evaluation process involves a rigorous approach to determining the plaintiff's employability and earning capacity. The objective is to develop clear, straightforward information and opinions to help the parties, jurors or the Court resolve cases promptly and effectively. Listed below is the process that I typically follow, although it is sometimes modified according to the needs of a particular case.

A. Review Medical Records.

I first review any medical, psychiatric and psychological reports, and deposition transcripts, if any. I look for permanent restrictions and opinions regarding the plaintiff's ability to participate in the competitive labor market. I also review functional capacity assessment reports. Among other things, in the FCA reports, I am interested in information regarding demonstrated work tolerances.

B. Review School and Work Records.

School and work records provide valuable information about the plaintiff's employment skills that can be considered in relation to past, present and future employment opportunities in the competitive labor market.

C. Interview and Test the Plaintiff.

I interview the plaintiff to gain a firsthand impression of his or her work and school history and employment skills. Vocational testing provides a more detailed and specific measure of the plaintiff's academic and employment skills and potential for training. Should the plaintiff not be available for the interview and testing, those skill levels will be established through a review of academic and employment records, as well as deposition transcripts.

D. Review Deposition Transcripts and Videotapes.

If unable to interview the plaintiff, I will review his or her deposition transcript and view surveillance tapes, if available, to gain a better understanding of his or her ability to complete work activities as well as his or her vocational strengths and weaknesses.

E. Evaluate Self-Initiated Return to Work Efforts.

I thoroughly explore all efforts on the part of the plaintiff to return to work through his or her own efforts or through vocational rehabilitation. I am interested in the results of these efforts. Did the plaintiff conduct an adequate job search? What worked? What did not work? Why?

F. Complete a Current Transferable Skills Analysis.

A current transferable skills analysis is completed and compared with other information available to that point. I typically use a combination of a computerized program, such as MTSP, and a manual process, usually with the assistance of an experienced rehabilitation counselor or employment specialist.

G. Determine Employability and Earning Capacity.

I take all of the above information regarding the plaintiff and apply it to the local labor market to determine whether or not the individual is employable at regular positions in the local, competitive labor market. Sufficient labor market research is completed to determine whether or not regular, competitive positions exist. Employability and earning capacity are assessed retrospectively, at the present time and for the future.

Are any accommodations necessary? Is part-time work necessary? Is the plaintiff relegated to home-based employment? If so, would such employment represent regular, competitive employment for the plaintiff?

If the individual is not employable, this conclusion is reached at that point. Should the individual appear to be employable, a list of likely job goals will be prepared. The list will include options for work through direct placement as well as following specific vocational training. Wages and benefits are also researched at entry level and with experience, with reference to the plaintiff's particular circumstances. The location, duration and cost of training are also clarified for the jobs that require training.

H. Determine Placeability.

If the plaintiff is found to be employable, a determination is next made regarding the prospects for actual placement at a regular position in the competitive labor market. Is selective placement necessary? Are accommodations necessary and if so, are they likely to be provided by prospective employers? What do the plaintiff's self-initiated or vocational rehabilitation activities suggest with respect to placeability?

I. Reporting.

The results of the vocational evaluation are then summarized in a written report, if that is the preference of the referring attorney. If not, my findings will be reported verbally to the attorney or to the expert economist who will determine the present value of any lost wages and benefits.

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