II. THE DISPLACED EMPLOYEE

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Introduction

The traditional make-whole remedy in arbitration involves putting the employee back to work with back pay and benefits, less any earned income. Interest on back pay is seldom applied, unless specified in the collective bargaining agreement or the law of a particular state. This paper examines how to make an employee financially whole when the employee is displaced from the workplace without just cause, and cannot be put back into the same workplace.

It may not be possible or proper to reinstate all employees who have not been discharged for just cause. Reasons why it may not be proper to reinstate an employee include a history of friction built up between the employee and management, or the employee and other employees, that is too acrimonious to allow return of the employee to the workplace. Race and/or sex discrimination in a work environment may make it detrimental to the employee and the employer to reinstate the employee to the workplace. Make-whole remedies in the courts and other countries do not necessarily reinstate the wrongfully discharged employee, but attempt instead to compensate the employee financially for the loss suffered.

If the employee is not reinstated to the workplace, then the employee is displaced from the workplace. The question that then arises is how to compensate this displaced employee. Back pay and benefits are no longer sufficient. The employee is likely to face increased unemployment time after the award, and in all probability a decrease in pay when finally returning to work.[1]

The loss of pay and benefits as a result of job displacement must first be broken down into back-pay and front-pay losses. Back pay and benefits include the loss of pay and benefits up to the time of the hearing. Calculation of back pay and benefits is usually straightforward. Raises, layoffs, changes in hours, and benefits are usually known as of the time of the hearing. This information, combined

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[1] *See, e.g.*, Masumura & Ryscavage, *Dynamics of Economic Well Being: Labor Force and Income 1990 to 1992* (U.S. Gov't Printing Office, No. P70-40, 1994), 20.

with the employee's employment history, can allow back-pay and benefit losses to be computed. This calculation is analogous to reinstatement with back pay and benefits and I shall not dwell on it.

The question of front-pay loss is a little more perplexing. Front-pay loss is the amount of pay that the employee is likely to earn after being displaced, subtracted from the amount of pay the employee would have earned if never displaced from the job. Front-pay loss essentially involves forecasting the employee's pre-termination earnings' path and subtracting from it the employee's post-termination earnings' path.

Determining Front Pay and Benefit Losses

There are at least three elements of economic loss that should be examined in determining personal losses from job displacement. The three elements are lost earnings, lost employer Social Security contributions that result in reduced Social Security payout during retirement, and lost fringe benefits. Each element is examined below.

Lost Earnings

Determining lost earnings involves establishing pre- and post-termination earnings' paths. It should not be assumed that an individual's real income (income after inflation) will rise consistently year after year with no declines. This is not the way the average person's worklife unfolds. The Bureau of the Census publishes data on earnings from which age/earning profile changes can be calculated. Age/earning profile changes represent percentage changes in earnings that can be expected for individuals each year as they age. They are based on a cross-sectional analysis of census data. A graph of the age/earning profile for a female with four years of college is demonstrated in Figure 1. Figures 2 through 4 demonstrate generic age/earning profile paths for males and females with college and high school education levels based on the 1992 Survey of Population Census Data. Suffice it to say that there are age/earning profiles for males and females at eight different education levels that can be applied. There are also separate age/earning profiles for individuals who work full-time, year-round versus all individuals (includes part-time employees).

Figure 1. Age/Earning Profile
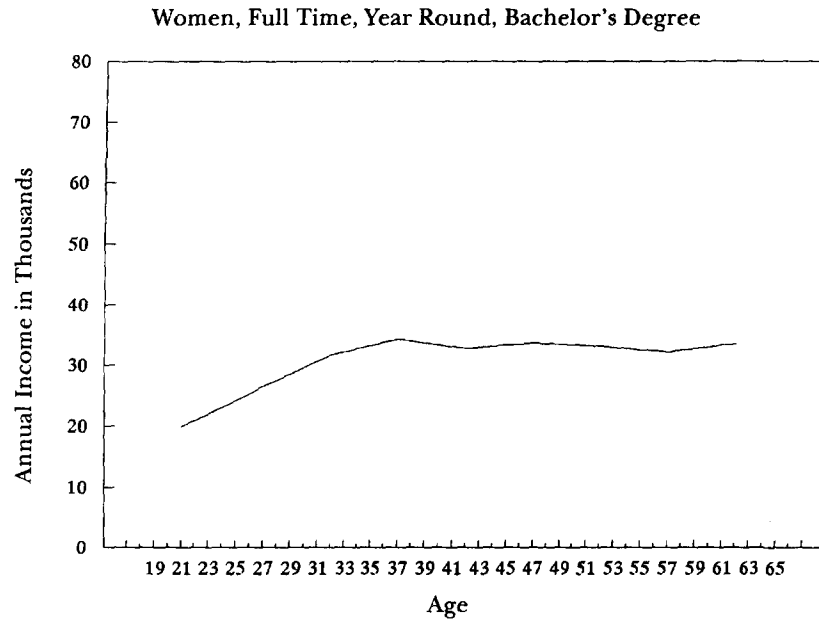
Women, Full Time, Year Round, Bachelor's Degree

Source: Bureau of the Census, Current Population Reports, Series P60–184, Money Income of Households, Families, and Persons in the United States: 1992 (1993).

Figure 5 demonstrates pre- and post-termination earnings' paths for a 30-year-old female who has a four-year college degree. This case involved a wrongful discharge. The individual was able to return to work on the same age/earnings path, but at a lower pay level.

The literature on displaced employees demonstrates that displaced employees on balance face longer unemployment and permanent decreases in compensation when (and if) they return to work.[2] The literature also demonstrates that employees discharged for cause, and employees embroiled in employment

[2] *See, e.g., Displaced Workers 1987–91* (U.S. Bureau of Lab. Statistics Bull. No. 247, 1993); Ruhm, *Are Workers Permanently Scarred by Job Displacements?* 81 Am. Econ. Rev. No.1, 319 (1991).

Figure 2. Age/Earning Profile
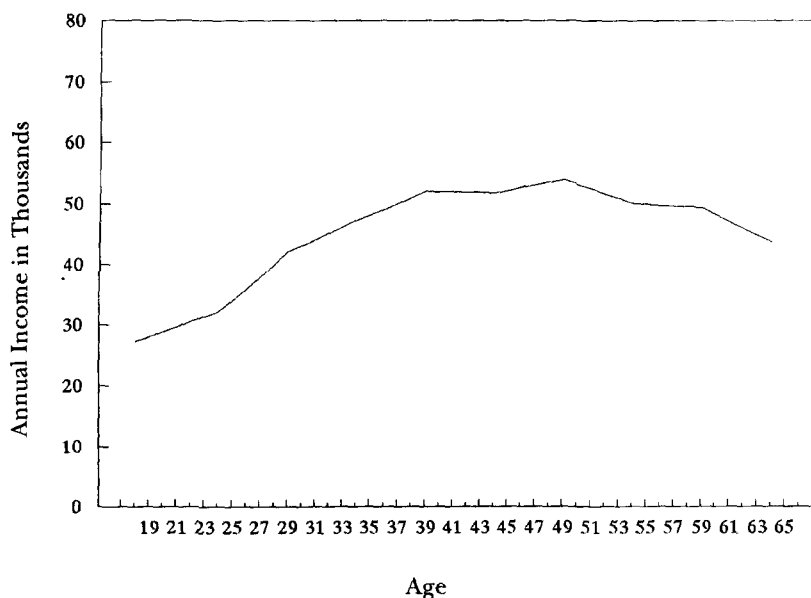
Men, Full Time, Year Round, Bachelor's Degree

Age

Source: Bureau of the Census, Current Population Reports, Series P60–184, Money Income of Households, Families, and Persons in the United States: 1992 (1993).

disputes when leaving a job, face longer unemployment and larger decreases in pay.[3] The exact length of the unemployment time and the amount of decrease in pay depends on the age and pay status of the employee at the time of displacement. Generally, the older employees, and the employees with more firm-specific skills, face the longest unemployment and the largest decreases in pay.[4] This

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[3]*See, e.g.* Cutler & Cutler, *Lasting Consequences of Wrongful Dismissal,* Trial, September 1994, at 46; Rodgers & Stieber, *Employee Discharge in the 20th Century: A Review of the Literature,* 108 Monthly Lab. Rev. No. 9, 35 (1985).

[4]*See, e.g.,* Jacobson, LaLonde & Sullivan, *Earnings Losses of Displaced Workers,* 83 Am. Econ. Rev. No. 4, 685 (1993); Kletzer, *Returns to Seniority After Permanent Job Loss,* 79 Am. Econ. Rev. No. 3, 536 (1989); Rones, *Employment, Earnings, and Unemployment Characteristics of Older Workers,* in The Older Worker, eds. Borus, Parnes, Sandell & Seidman (IRRA 1989), 21.

Figure 3. Age/Earning Profile

Women, Full Time, Year Round, High School Graduate
(Includes Equivalency)

Age

Source: Bureau of the Census, Current Population Reports, Series P60–184, Money Income of Households, Families, and Persons in the United States: 1992 (1993).
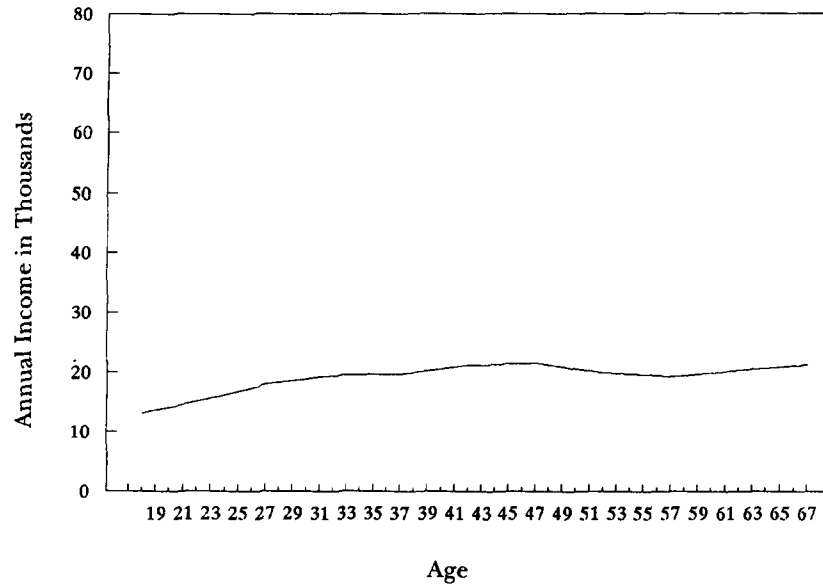
paper outlines an approach to quantifying an employee's loss of pay and benefits as a result of job displacement.

There are at least five steps to go through in determining pre- and post-termination earnings' paths. *The first step* is to determine an appropriate starting point for the pre-termination earnings' path. This is a crucial step. The starting point in most cases will be the individual's last wage, plus any increases due. The individual's background, education, and plans may have to be looked at in some cases, particularly if the displacement of a worker will alter previous vocational career plans. A vocational assessment by a Vocational Rehabilitation Specialist may even be required.

The second step is to determine the appropriate starting point for the post-termination earnings' path. The methodology for doing this will vary considerably with the particular case. If the person is

Figure 4. Age/Earning Profile
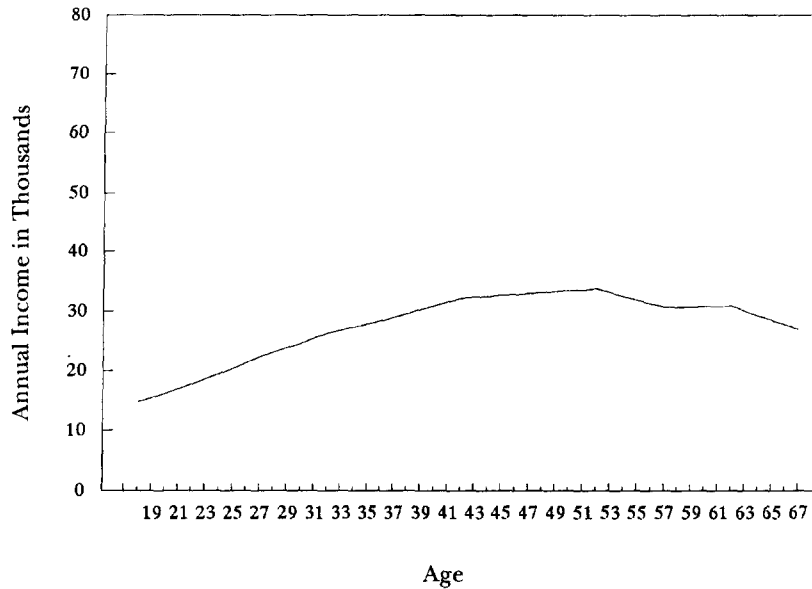
Men, Full Time, Year Round, High School Graduate
(Includes Equivalency)

Source: Bureau of the Census, Current Population Reports, Series P60–184, Money Income of Households, Families, and Persons in the United States: 1992 (1993).

successfully back at work, then this process may be relatively straightforward. If the person has not returned to work, then a *good* vocational assessment report may be required to establish the potential post-termination earnings' path (if any). A period of unemployment and possible retraining will have to be factored into the post-termination earnings' path.

The third and fourth steps are to project the initial earnings forward along the age/earning path(s) and then discount them back to present-value dollars. This should be done *without* any inflationary increases. No one can forecast inflation, and thus nominal wage growth, with certainty. Tables 1 and 2 outline the calculation of the pre- and post-earnings' paths demonstrated in Figure 5. Table 3 demonstrates the present value of the net lost earnings and Social Security contributions.

Figure 5. Pre-Termination v. Post-Termination Earnings

Pre-Termination   Post-Termination
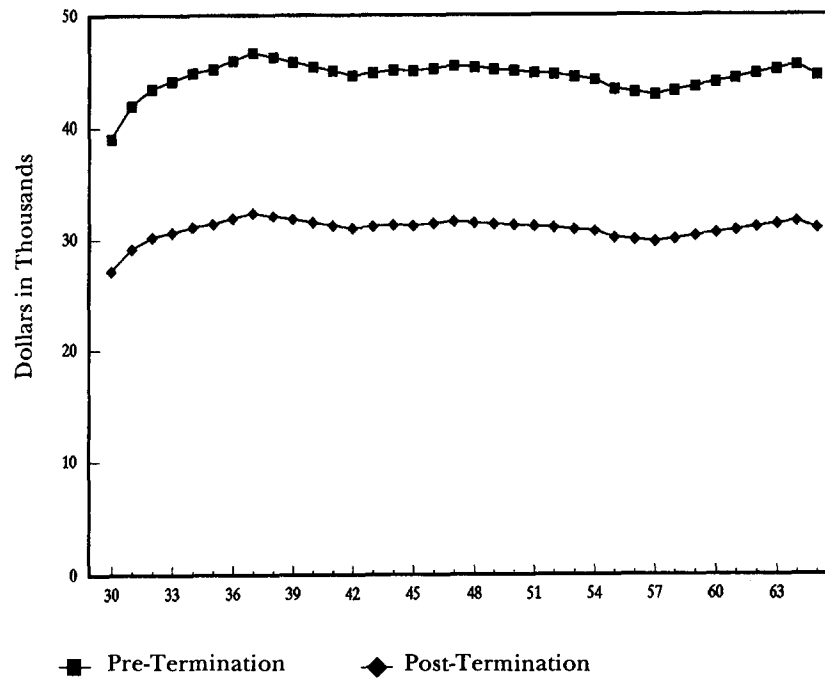
Discounting to present value involves determining how many dollars must be paid *now* in order to have a certain amount of dollars at a set time in the future. The discount rate used is the interest rate that is assumed to be paid on the dollars from the present to the time they are needed in the future. The choice of an appropriate discount rate is very important. Inflation, and inflationary expectations, are integral parts of market wages *and* market interest rates. If you allow inflation projections in future wage projections, then you must allow them in the future interest rates used to discount the future wages. If you do not project any inflation in the future wages, then you should not allow any inflation in the interest rates used to discount the future wages.

Thus, the methodology for projecting the earnings forward determines the appropriate discount rate to be used. If inflationary, or nominal, increases in wages are projected, then a market, or

Table 1. Present Value of Pre-Termination Earnings and Benefits

Starting Income/Yr.	A/E AWE %	Adjusted Earnings	Employm't Adjust. %	Expected Earnings	Real Disc. Rate 2.5%	Pres. Val. Lost Earn.	Soc. Sec. Rate	Pres. Val. ESS Cont.	Year	Age
		40264.12	96.83	38987.75	1.00	38987.75	6.20	2417.24	1993	30
40264.12	7.409	43247.29	96.83	41876.35	1.00	41876.35	6.20	2596.33	1994	31
43247.29	3.609	44808.08	96.83	43387.67	0.98	42519.91	6.20	2636.23	1995	32
44808.08	1.591	45520.98	96.83	44077.96	0.95	41874.07	6.20	2596.19	1996	33
45520.98	1.591	46245.22	96.83	44779.25	0.93	41644.70	6.20	2581.97	1997	34
46245.22	1.591	46980.98	96.17	45181.61	0.91	41115.26	6.20	2549.15	1998	35
46980.98	1.591	47728.45	96.17	45900.45	0.88	40392.39	6.20	2504.33	1999	36
47728.45	1.591	48487.81	96.17	46630.72	0.86	40102.42	6.20	2486.35	2000	37
48487.81	-0.905	48048.99	96.17	46208.72	0.84	38815.32	6.20	2406.55	2001	38
48048.99	-0.905	47614.15	96.17	45790.53	0.82	37548.23	6.20	2327.99	2002	39
47614.15	-0.905	47183.24	96.17	45376.12	0.80	36300.90	6.20	2250.66	2003	40
47183.24	-0.905	46756.23	96.17	44965.47	0.78	35073.07	6.20	2174.53	2004	41
46756.23	-0.905	46333.09	96.17	44558.53	0.76	33864.48	6.20	2099.60	2005	42
46333.09	0.539	46582.82	96.17	44798.70	0.74	33151.04	6.20	2055.36	2006	43
46582.82	0.539	46833.91	96.17	45040.17	0.73	32879.32	6.20	2038.52	2007	44
46833.91	0.539	47086.34	95.48	44958.04	0.71	31920.21	6.20	1979.05	2008	45
47086.34	0.539	47340.14	95.48	45200.36	0.69	31188.25	6.20	1933.67	2009	46
47340.14	0.539	47595.30	95.48	45443.99	0.67	30447.47	6.20	1887.74	2010	47
47595.30	-0.340	47433.48	95.48	45289.48	0.66	29891.06	6.20	1853.25	2011	48
47433.48	-0.340	47272.20	95.48	45135.50	0.64	28886.72	6.20	1790.98	2012	49
47272.20	-0.340	47111.48	95.48	44982.04	0.63	28338.68	6.20	1757.00	2013	50
47111.48	-0.340	46951.30	95.48	44829.10	0.61	27345.75	6.20	1695.44	2014	51
46951.30	-0.340	46791.66	95.48	44676.68	0.60	26806.01	6.20	1661.97	2015	52
46791.66	-0.567	46526.35	95.48	44423.36	0.58	25765.55	6.20	1597.46	2016	53

Table 1. continued

Starting Income/Yr.	A/E AWE %	Adjusted Earnings	Employm't Adjust. %	Expected Earnings	Real Disc. Rate 2.5%	Pres. Val. Lost Earn.	Soc. Sec. Rate	Pres. Val. ESS Cont.	Year	Age
46526.35	-0.567	46262.55	95.48	44171.48	0.57	25177.74	6.20	1561.02	2017	54
46262.55	-0.567	46000.24	94.13	43300.03	0.55	23815.01	6.20	1476.53	2018	55
46000.24	-0.567	45739.42	94.13	43054.52	0.54	23249.44	6.20	1441.47	2019	56
45739.42	-0.567	45480.08	94.13	42810.40	0.53	22689.51	6.20	1406.75	2020	57
45480.08	0.872	45876.66	94.13	43183.70	0.51	22023.69	6.20	1365.47	2021	58
45876.66	0.872	46276.71	94.13	43560.26	0.50	21780.13	6.20	1350.37	2022	59
46276.71	0.872	46680.24	94.13	43940.11	0.49	21530.65	6.20	1334.90	2023	60
46680.24	0.872	47087.29	94.13	44323.27	0.48	21275.17	6.20	1319.06	2024	61
47087.29	0.872	47497.89	94.13	44709.77	0.47	21013.59	6.20	1302.84	2025	62
47497.89	0.872	47912.07	94.13	45099.64	0.45	20294.84	6.20	1258.28	2026	63
47912.07	0.872	48329.87	94.13	45492.90	0.44	20016.88	6.20	1241.05	2027	64
48329.87	0.872	48751.30	91.35	44534.32	0.43	19149.76	6.20	1187.28	2028	65
48751.30	0.872	49176.42	91.35	22910.55*	0.42	9622.43	6.20	596.59	2029	66

Total Present Value of Pre-Termination Earnings: $1,108,374
Total Present Value of Pre-Termination Employer Social Security Contributions: $68,719

Note. A/E Cycle: Women, Full Time, Year Round, Bachelor's Degree. 0% Real Increase
*Represents 51% of the year 2029.

Table 2. Present Value of Post-Termination Earnings and Benefits

Starting Income/Yr.	A/E AWE %	Adjusted Earnings	Employm't Adjust. %	Expected Earnings	Real Disc. Rate 2.5%	Pres. Val. Earn.	Soc. Sec. Rate	Pres. Val. ESS Cont.	Year	Age
		28000.00	96.83	27112.40	1.00	27112.40	6.20	1680.97	1993	30
28000.00	7.409	30074.52	96.83	29121.16	1.00	29121.16	6.20	1805.51	1994	31
30074.52	3.609	31159.91	96.83	30172.14	0.98	29568.70	6.20	1833.26	1995	32
31159.91	1.591	31655.66	96.83	30652.18	0.95	29119.57	6.20	1805.41	1996	33
31655.66	1.591	32159.31	96.83	31139.86	0.93	28960.07	6.20	1795.52	1997	34
32159.31	1.591	32670.96	96.17	31419.66	0.91	28591.89	6.20	1772.70	1998	35
32670.96	1.591	33190.75	96.17	31919.55	0.88	28089.20	6.20	1741.53	1999	36
33190.75	1.591	33718.82	96.17	32427.39	0.86	27887.55	6.20	1729.03	2000	37
33718.82	-0.905	33413.66	96.17	32133.92	0.84	26992.49	6.20	1673.53	2001	38
33413.66	-0.905	33111.27	96.17	31843.11	0.82	26111.35	6.20	1618.90	2002	39
33111.27	-0.905	32811.61	96.17	31554.93	0.80	25243.94	6.20	1565.12	2003	40
32811.61	-0.905	32514.67	96.17	31269.36	0.78	24390.10	6.20	1512.19	2004	41
32514.67	-0.905	32220.41	96.17	30986.37	0.76	23549.64	6.20	1460.08	2005	42
32220.41	0.539	32394.08	96.17	31153.39	0.74	23053.51	6.20	1429.32	2006	43
32394.08	0.539	32568.68	96.17	31321.30	0.73	22864.55	6.20	1417.60	2007	44
32568.68	0.539	32744.23	95.48	31264.19	0.71	22197.57	6.20	1376.25	2008	45
32744.23	0.539	32920.72	95.48	31432.70	0.69	21688.57	6.20	1344.69	2009	46
32920.72	0.539	33098.16	95.48	31602.13	0.67	21173.42	6.20	1312.75	2010	47
33098.16	-0.340	32985.63	95.48	31494.68	0.66	20786.49	6.20	1288.76	2011	48
32985.63	-0.340	32873.48	95.48	31387.60	0.64	20088.06	6.20	1245.46	2012	49
32873.48	-0.340	32761.71	95.48	31280.88	0.63	19706.95	6.20	1221.83	2013	50
32761.71	-0.340	32650.32	95.48	31174.52	0.61	19016.46	6.20	1179.02	2014	51
32650.32	-0.340	32539.31	95.48	31068.53	0.60	18641.12	6.20	1155.75	2015	52

Table 2. continued

Starting Income/Yr.	A/E AWE %	Adjusted Earnings	Employm't Adjust. %	Expected Earnings	Real Disc. Rate 2.5%	Pres. Val. Earn.	Soc. Sec. Rate	Pres. Val. ESS Cont.	Year	Age
32539.31	-0.567	32354.81	95.48	30892.37	0.58	17917.58	6.20	1110.89	2016	53
32354.81	-0.567	32171.36	95.48	30717.21	0.57	17508.81	6.20	1085.55	2017	54
32171.36	-0.567	31988.95	94.13	30111.19	0.55	16561.16	6.20	1026.79	2018	55
31988.95	-0.567	31807.57	94.13	29940.46	0.54	16167.85	6.20	1002.41	2019	56
31807.57	-0.567	31627.22	94.13	29770.70	0.53	15778.47	6.20	978.27	2020	57
31627.22	0.872	31903.01	94.13	30030.30	0.51	15315.45	6.20	949.56	2021	58
31903.01	0.872	32181.20	94.13	30292.17	0.50	15146.08	6.20	939.06	2022	59
32181.20	0.872	32461.82	94.13	30556.31	0.49	14972.59	6.20	928.30	2023	60
32461.82	0.872	32744.89	94.13	30822.76	0.48	14794.93	6.20	917.29	2024	61
32744.89	0.872	33030.43	94.13	31091.54	0.47	14613.02	6.20	906.01	2025	62
33030.43	0.872	33318.45	94.13	31362.66	0.45	14113.20	6.20	875.02	2026	63
33318.45	0.872	33608.99	94.13	31636.14	0.44	13919.90	6.20	863.03	2027	64
33608.99	0.872	33902.06	91.35	30969.53	0.43	13316.90	6.20	825.65	2028	65
33902.06	0.872	34197.68	91.35	15932.19*	0.42	6691.52	6.20	414.87	2029	66

Total Present Value of Post-Termination Earnings: $770,772
Total Present Value of Post-Termination Employer Social Security Contributions: $47,788

Note. A/E Cycle: Women, Full Time, Year Round, Bachelor's Degree. 0% Real Increase
*Represents 51% of the year 2029.

Table 3. Net Loss Between Pre-Termination and
Post-Termination Earnings

Earnings	Pre-Termination	Post-Termination	Net Loss
Present Value of Earnings	$1,108,374	$770,772	$337,602
Present Value of ESS Contributions	$68,719	$47,788	$20,931
Total Present Value of Net Lost Earnings and Social Security Contributions (pre-termination less post-termination)			$358,533

nominal, interest rate must be used to discount the earnings back to a present-day value. If wages are correctly projected forward in *real* terms (without inflation), then a real (without inflation) below-market interest rate should be used to discount earnings back to present-value dollars. The employee will be compensated for future inflation increases in our society by receiving an inflation premium, over and above the real rate of interest, built into the market interest rate received on funds set aside for future years. Exactly what this premium will be, if any, will be determined by future inflation, and inflationary expectations, within our society.

Historically the real (after inflation) rate of return on safe, prudent investments has been between 2 and 3 percent. The U.S. Supreme Court in *Jones & Laughlin v. Pfeifer*,[5] has stated:

> Forecasts of future price inflation remain too unreliable to be useful in many cases, it will normally be a costly and ultimately unproductive waste of . . . resources. . . . For that reason, both plaintiffs and trial courts should be discouraged from pursuing that approach . . . .

> If forecasts of future price inflation are not used, *it is necessary to choose an appropriate below-market discount rate . . . . [W]e do not believe a trial court should be reversed if it adopts a rate between 1 percent and 3 percent . . . .*[6]

If wages are projected forward with an inflation estimate built in, then the discount rate used should be *at least* 1 to 3 percent greater than the assumed rate of wage inflation. The calculation of

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[5] 103 S.Ct. 2541 (1983).
[6] *Id.* (emphasis added).

lost earnings should be done in pretax dollars. The real discount rate of 1 to 3 percent recommended is a pretax interest rate. The calculation is done in pretax dollars because the award for back pay is normally subject to income tax.

If for some reason the award is to be calculated in after-tax dollars, then the discount rate *must* be reduced by the same percent as the assumed tax rate.[7] The present-value calculation may actually yield a *higher* award in after-tax dollars depending on the length of the loss and the immediate impact of the tax. The reason for this anomaly is that the government will take out an extra amount of tax up front because of the higher tax bracket. This means there are fewer dollars available up front to earn interest to pay for future years' losses. The net result when the taxes are factored into the calculation can be a higher award in present-value terms.

The fifth step is to estimate real wage growth. Real wage growth is growth in wages over and above inflation that is not attributed to age/earning profile changes. Historically real (after inflation) wage growth has been in the area of 2 percent per year. However, recent history has seen a lot of shifting around in this area and a generally lower rate of real wage growth for most employees. Female high school graduates have been doing better recently than male high school graduates at attaining real increases.[8]

Productivity is a key element accounting for increases in employees' *real income* (over and above inflation).[9] Thus an examination of the industry productivity trends and earning increases will aid in determining the appropriate real increase to apply, if any. The increases need not be the same for the two earnings' paths.

Wages are normally projected to retirement. Unless the individual indicates otherwise, retirement is normally assumed between age 65 and 67, depending upon when the individual is eligible for full Social Security retirement. Both earnings' paths have to be reduced each year by a probability of unemployment and a probability of being unable to work. The unemployment rates projected

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[7] *Id.*

[8] *See, e.g.,* 1993 Handbook on Women Workers: Trends & Issues, U.S. Dep't of Labor Women's Bureau (1994); Levy & Murane, *U.S. Earnings Levels and Earnings Inequality: A Review of Recent Trends and Proposed Explanations,* XXX J. Econ. Literature, 1333 (1992).

[9] *See, e.g.,* Griliches, *Productivity, R & D, and the Data Constraint,* 84 Am. Econ. Rev. No. 1, 1 (1994); Kronemer, *Productivity in Industry and Government: 1973–1991,* 116 Monthly Lab. Rev. No. 7, 44 (1993); *Productivity and the Economy: A Chartbook* (Bureau of Lab. Statistics Bull. No. 2431, 1993).

for the pre- and post-termination paths need not be the same. This is especially true if the employee is being displaced from a job covered by a collective bargaining agreement that determines layoffs based on seniority, and the individual had considerable seniority. The Census Bureau provides data by age, sex, and education level on the probability of unemployment. It also provides data by age level and sex for the probability of being unable to work.

Lost Social Security Benefits

The employer's contribution to the employee's Social Security account is an important element of loss. Employees are entitled to employer contributions to Social Security based on their gross earnings. The exact level of the Social Security retirement benefit is based in part on the contributions made to the Social Security account of the employees as a percent of the maximum contribution possible each year. The employer's contribution as a percentage of earnings for 1995 is 6.2 percent of gross earnings up to $61,200. The 1.45 percent Medicare contribution has no impact on the level of retirement benefits received; therefore, it should not be part of the loss calculation.

Ideally, one would like to be able to compute the present value of the exact loss in the retirement benefit; however, this is not possible. The Social Security Administration will not release the formula for the weighting for each year. The exact dollar loss cannot be calculated without the relevant weighting. However, by applying the percentage of the employer's contribution to the present value of the dollar loss each year, up to the maximum, the loss to the employee's account can be determined in present value form. If this amount is set aside and prudently invested, it should replace the employee's Social Security loss.

Lost Fringe Benefits

Fringe benefits can be an important part of any economic loss. Table 4 gives the average dollar fringe benefit packages by worker classification. It is important to obtain information on the actual fringe benefits that an individual has, or would have, received. Unionized workers on balance have much better fringe benefit packages than the average employee within our society. Fringe

Table 4. Employer Contributions to Fringe Benefits

Compensation Component	Private Industry	White Collar	Blue Collar	Service
Insurance	10.00%	9.22%	12.62%	7.41%
Retirement and Savings	4.03%	3.98%	5.09%	1.70%
Federal Unemployment	0.25%	0.21%	0.27%	0.46%
State Unemployment	0.92%	0.77%	1.27%	1.39%
Workers' Compensation	3.28%	1.61%	6.36%	4.48%
Other Benefits	0.34%	0.28%	0.64%	
Employer contribution as percent of wage or salary:	18.8%	16.1%	26.2%	15.4%

Source: Employment Cost Indexes and Levels, 1975–1993, U.S. Bureau of Lab. Statistics Bull. No. 2434 (1993), at 92.

benefits such as vacations, holidays, and supplemental pay are usually considered with the lost earnings. However, if there are major differences in these benefits between the pre- and post-termination employment, then a separate calculation will be necessary. Once fringe benefits are established as a percent of income, that percent can be applied to the present value of the lost earnings to determine the present value of the lost fringe benefits.

III. UNION PERSPECTIVE

ANDREW H. BAKER*

My role as the union advocate is to address what is actually happening with the union members who are affected by what Professor Snow and Dr. McCausland have been discussing. From the union perspective, the expanded remedies available in the nonunion setting have been having a major impact on the unions' ability to adequately represent their members and to satisfy their members' expectations. Union grievants often have expectations of what they should get through their arbitration cases based not on their understanding of 50 years of collective bargaining arbitra-

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