

Mock Hearing: Vocational Expert Testimony

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Mock Hearing: Vocational Expert Testimony

Thomas Krause, Esq.

Questioning Your Client

In many hearing offices, the vocational expert prepares a written summary of the claimant's past relevant work prior to hearing. A copy is given to the representative just prior to the hearing. Often, the summary will not include the strength demands of the claimant's past work. Check with the claimant to be sure it accurately describes the work and acquired skills. Be sure to ask the claimant about the strength demands for any job that the vocational expert left blank. Check with the ALJ before the hearing; many ALJs do not want to hear about the claimant's past work if the summary is correct. Be sure to bring out favorable evidence about past work, such as working for the same employer for 27 years.

Use your questions to bring favorable evidence to the ALJ's attention and fill in gaps in the favorable evidence. Assume you have a treating physician's statement that the claimant need to lay down for an hour at unscheduled times during the day. At the hearing, ask the claimant if s/he needs to lay down during the day. How often? How long? Ask the vocational expert about the effect of laying down for an hour at unscheduled times during the day. Similarly, if the treating doc says "no prolonged standing," ask the claimant how long they can stand. Incorporate treating docs general limitation with claimant's more specific limitations.

Ex 1. Do you have any problems standing/walking? What kind of problems?
How long can you stand/walk at one time?

Total in an eight hour day?

Remember going down to the District Office to file the application? The Claims Representative from SSA said:

1E/3: NH walked into the office to my desk somewhat hunched over. It appeared that she struggled to stand up straight. She sat at my desk for about 25 minutes, then had to stand up for about 5. She sat back down for another 25 minutes or so. When the interview was over, she had to use the desk to help her stand up. She walked slowly to the door.

Is that typical for you?

Ex. 2. Dr. Smith reported in Ex. 14F/3 that you should avoid prolonged standing. How long can you stand at one time?

Vocational Expert Testimony Generally

Vocational expert testimony generally contains three components. Initially, the ALJ will ask some background questions regarding the vocational expert's qualifications and potential bias. The second area has the vocational expert classify the claimant's past work. Finally, the vocational expert responds to hypothetical questions.

Structure Of A Hypothetical Question

1) The hypothetical question begins with the claimant's age, education, past relevant work, impairments, and functional limitations.

Assume the claimant is a 47 year old man with a high school education and past relevant as described in Ex. 17E. Assume further that the claimant has lumbar disk disease with anxiety and depression. As a result of his impairments, the claimant is limited to lifting 20 pounds occasionally and 10 pounds frequently; he can stand and walk 30 minutes at a time and 6 hours out of an 8 hour workday; he can sit for 60 minutes at a time and 6 hours a day; he is further limited to simple, routine, activities and occasional, superficial contact with the public, co-workers, and supervisors.

- Is the claimant capable of returning to any past work, either as he performed it or as it is generally performed?
- Does the claimant have any transferable skills?
- Are there other jobs the claimant can perform?
(VE should list jobs by DOT number, title, and number in the nation/region)

2) The hypothetical question begins with the claimant's past work, impairments, and functional limitations; tracking the regulations, the claimant's age and education are added only after determining the claimant cannot return to past relevant work.

Assume the claimant has past relevant as described in Ex. 17E. Assume further that the claimant has lumbar disk disease with anxiety and depression. As a result of his impairments, the claimant is limited to lifting 20 pounds occasionally and 10 pounds frequently; he can stand and walk 30 minutes at a time and 6 hours out of an 8 hour workday; he can sit for 60 minutes at a time and 6 hours a day; he is further limited to simple, routine, activities and occasional, superficial contact with the public, co-workers, and supervisors.

Is the claimant capable of returning to any past work, either as he performed it or as it is generally performed?

(If the claimant is unable to return to past work) Assume further the claimant is 47 years old and has a high school education.

- Does the claimant have any transferable skills?
- Are there other jobs the claimant can perform?
- (VE should list jobs by DOT number, title, and number in the nation/region)

This format is a little more cumbersome than the first format, but technically more appropriate.

3) The hypothetical question includes the claimant's age, education, past work, and only a general statement of functional limitations.

Assume the claimant is a 47 year old man with a high school education and past relevant as described in Ex. 17E. Assume the claimant has lumbar disk disease with anxiety and depression. Assume further I find the claimant's testimony to be credible.

- Is the claimant capable of returning to any past work, either as he performed it or as it is generally performed?
- Does the claimant have any transferable skills?
- Are there other jobs the claimant can perform?
(VE should list jobs by DOT number, title, and number in the nation/region)

This type of hypothetical question is technically improper as too vague and requiring the vocational expert to make decisions as to what limitations to include. The question, though, still may be useful. On cross-examination, ask the vocational expert to identify the specific limitations that preclude work.

4) The hypothetical question builds on a prior hypothetical question.

Returning to the ALJ's first hypothetical, what if the claimant is absent three days a month. Is the claimant capable of performing past work or any other work?

This type of hypothetical question often comes after several other hypothetical questions, so the format is somewhat shortened. The additional limitation is often a "killer limitation"; that is, the additional limitation precludes all work. Common "killer limitations" include:

- the need to be absent at least three workdays a month
- the need to take frequent, unscheduled breaks for an hour a day
- the need to work at a slow pace for one-third of an eight hour workday
- the need to lie down at unscheduled times for one hour out of an eight hour workday
- the need to elevate both legs to heart level for one hour of an eight hour workday
- the need to alternate positions every fifteen minutes for a minute or two

Special Situations**1) The ALJ calls a vocational expert but asks no questions**

If the ALJ has a vocational expert present at the hearing but asks no questions, it can mean one of several things. The ALJ may be prepared to find the claimant is disabled (e.g., meets the Listings). Alternatively, the ALJ may believe the claimant does not have a severe impairment or can return to past work. It helps to know the ALJ.

2) The ALJ calls a vocational expert and asks only one hypothetical question

Generally, the ALJ will decide the case based on that hypothetical. If the vocational expert identifies jobs, the ALJ will likely deny the claim; if the vocational expert does not identify jobs, the ALJ will likely allow the claim. If the ALJ asks one hypothetical question and the vocational expert indicates the claimant cannot work, generally do not ask the vocational expert any questions.

3) The claimant is advanced age.

Know the Medical-Vocational Guidelines. If the claimant is age 52 years old, limited to sedentary work with additional mental limitations, and the vocational expert testifies the claimant cannot return to past work and cannot transfer skills, do not ask the vocational expert if the claimant is capable of performing unskilled sedentary. The claimant is disabled even if able to do the full range of unskilled sedentary work. See, e.g., Vocational Rule 201.09, 201.10, 201.12, 201.14

Preparing For Appeal

Generally, the better practice is to ask several hypothetical questions that result in vocational expert testimony that there are no jobs. Then, on appeal, choose the best theories. Sometimes, it is appropriate to ask a hypothetical question without knowing how the vocational expert will respond. If the vocational expert responds that jobs exist, do not raise the issue on appeal. Generally, it is better to know that theory is not viable and not raise the issue. If the question is not asked but the issue is raised on appeal, the case may be remanded only to find at the supplemental hearing that claimant is not disabled.

VE Testimony Preparation

Niki Fisher, Esq.

Develop and understand your client's work history:

- What type of work
 - Last 15 Years
 - 20 C.F.R. § 404.1565—Any past work that was done within the last 15 years, lasting long enough for you to learn to do it **AND** was substantial gainful activity.
 - We do not usually consider that work you did 15 years or more before the time we are deciding whether you are disabled (or when the disability insured status requirement was last met, if earlier) applies.
 - Supervisor
 - Working Supervisor
 - Did the Client hire or fire any employees
 - Arrange time schedules
 - How many people does the client supervise
- Skill level
 - Dictionary of Occupational Titles (DOT)

Job Title	DOT Code	Skill Level	Physical Demand per DOT
Parts Inspector Inspector General	609.684-010	Semi-Skilled SVP 4	Light
Parts Inspector/Conveyor (he would eye the item to make sure it met standards)	921.686-014	SVP2	Medium
Chef	313.131-014	SVP7	Light
Kitchen Helper	318.687-010	SVP2	Med
Fast Foods Worker	311.472-010	SVP2	Light

- Work History Report SSA 3369
- Claimant's Work Background HA-4633
 - Full Time or Part Time work
 - Exertional level
- Employer statements
- Substantial Gainful Activity
 - Detailed Earnings Query
 - Summary Earnings Query
 - DIBWIZ
 - New Hire Query
 - WHAT Query
 - Certified Earnings Record

Vocational Expert Testimony

- If you do not know what the VE is saying—ask

7D - 4 of 6 Detailed Earnings Query Doc. Dt.: 06/04/2009

QRY DATE: 06/02/09 AN DOC: UNIT: TOMIKA
 0002 AA WAGE TOTAL 19717.82 18301.04
 OASDI EMPLOYER TOTAL 19717.82
 02 OASDI YEARLY TOTAL 19717.82

EIN JELD-WEN INC
 RPYR REO LOAC NAME EARNINGS TOTAL COMP CONTROL NUMBER PR
 0003 AA 21857.55 21857.55
 WAGE TOTAL 21857.55
 OASDI EMPLOYER TOTAL 21857.55
 03 OASDI YEARLY TOTAL 21857.55

EIN JOSEPH T RYERSON & SON INC

CHICAGO
 RPYR REO LOAC NAME EARNINGS TOTAL COMP CONTROL NUMBER PR
 0004 AA 4213.71 4213.71
 WAGE TOTAL 4213.71
 OASDI EMPLOYER TOTAL 4213.71

EIN JELD-WEN INC
 0004 AA 18338.71 17948.76
 WAGE TOTAL 18338.71
 OASDI EMPLOYER TOTAL 18338.71
 04 OASDI YEARLY TOTAL 22552.42

EIN: JOSEPH T RYERSON & SON INC
 RPYR REO LOAC NAME EARNINGS TOTAL COMP CONTROL NUMBER PR
 0005 AA 10764.39 10764.39
 WAGE TOTAL 10764.39
 OASDI EMPLOYER TOTAL 10764.39
 05 OASDI YEARLY TOTAL 10764.39

EIN TEMP ASSOCIATES-MARSHALLTOWN INC
 % ROBERT D JENSEN

MUSCATINE IA
 RPYR REO LOAC NAME EARNINGS TOTAL COMP CONTROL NUMBER PR
 0006 AA 7289.50 7289.50
 WAGE TOTAL 7289.50
 OASDI EMPLOYER TOTAL 7289.50

EIN: LENNOX MANUFACTURING INC

DALLAS TX
 0006 AA 14310.25 14310.25
 WAGE TOTAL 14310.25
 OASDI EMPLOYER TOTAL 14310.25
 06 OASDI YEARLY TOTAL 21599.75

EIN: LENNOX MANUFACTURING INC
 RPYR REO LOAC NAME EARNINGS TOTAL COMP CONTROL NUMBER PR
 0007 AA 11795.27 9230.00
 AA 9230.00 9230.00
 WAGE TOTAL 21025.27
 OASDI EMPLOYER TOTAL 21025.27
 07 OASDI YEARLY TOTAL 21025.27

EIN: LENNOX INDUSTRIES INC

3D - 1 of 1 Summary Earnings Query Doc. Dt.: 12/31/2007

SEQY DTE:12/31/07 DOC UNIT PG: 001
MEF: QN: NA: DB SX: AK:
SUMMARY FICA EARNINGS FOR YEARS REQUESTED
YEAR EARNINGS YEAR EARNINGS YEAR EARNINGS YEAR EARNINGS
1990 1372.65 1995 10770.88 1999 19151.07 2003 21857.55
1991 2776.59 1996 8110.61 2000 .00 2004 22552.42
1992 2550.49 1997 4486.62 2001 9490.17 2005 10764.39
1993 10240.33 1998 23777.81 2002 19717.82 2006 21599.75
1994 12323.82
SUMMARY MQGE EARNINGS FOR YEARS REQUESTED
NO MQGE EARNINGS FOR YEARS REQUESTED
REMARKS
CLAIMS ACTIVITY -- SEE MBR
NON-COVERED EARNINGS PRESENT FOR: 2001-2002,2004

Abbreviated DIB Review Sheet	Page 1
SSN	Query Date: 6/2/2009
	Unit:

The Abbreviated DIB Review Sheet path was selected for this report. Therefore, the report WILL NOT contain any data from the following queries: MDW, MSSICS, MCS, PUPS, Internet DIB, APPT WKSHT or DCF.

Name:
Other Last Names (from NUMI):
Date of Birth (from NUMI): **Date of Death (from NUMI):**
Attainment of Critical Ages (GN 00302.400A for attainment; RS 00615.003A for Full Retirement Age (FRA)):

Age 18	Age 31	Age 55	Age 62
Age 22	Age 50	Age 60	FRA:

RECENT WORK

SEQY and DEQY Data

Year	Covered Earnings	MQGE Earnings	Non-Covered Earnings
Year: 2008	\$539.04	\$0.00	\$0.00
Year: 2007	\$21,025.27	\$0.00	\$0.00
Year: 2006	\$21,599.75	\$0.00	\$0.00
Year: 2005	\$10,764.39	\$0.00	\$0.00
Year: 2004	\$22,552.42	\$0.00	\$389.95

Note - to view the complete SEQY and last 15 years of the DEQY, please go to the Queries Menu and select query 'G SEQY and DEQY'.

Wage Info (NDWG) Data:

Year, Quarter	Wages	Employer	Name/SSN Verified
Year, Quarter: 2008, 1ST	\$636.00	LENNOX INDUSTRIES INC	No
Year, Quarter: 2007, 4TH	\$1,143.00	LENNOX MANUFACTURING INC	No
Year, Quarter: 2007, 3RD	\$766.00	LENNOX MANUFACTURING INC	No
Year, Quarter: 2007, 2ND	\$5,483.00	LENNOX MANUFACTURING INC	No

PRIOR DISABILITY CLAIM DENIALS

MBR Data (Title II)
 SSN: BIC: A Date of Birth: Debit Run Date (DRD): X-REF AN:

MBR DIB Line(s) Data
 Date of Onset (DDO): Date Adjudicated(DSD): 06/2008
 Level of Denial (LOD): 2 Reconsideration
 Basis of Denial (BDC): J1 [DIB] Capacity for SGA - other work (Earnings req. last met on or after date of current decision)

MBR BEN DENY Data
 Date of Filing: 12/21/07 DIB Onset: 02/22/2007 Level of Denial: RECON Disalow/Den RSN: 0J1

SSID Data (Title XVI)

Record Number: 1	Application Date: 12/21/2007	Date of Onset: 2/22/2007
Date of Denial: 02/28/08	Basis for Denial: N32 Capacity for SGA-other work, no visual impairment	
Appeal Type: I Initial Claims	Appeal Level: H Hearing	
Appeal Reason: DI Initial Disability	Date Appeal Filed: 7/22/2008	
Appeal Decision:	Date of Decision:	

Record Number: 1	Application Date: 12/21/2007	Date of Onset: 2/22/2007
Date of Denial: 02/28/08	Basis for Denial: N32 Capacity for SGA-other work, no visual impairment	
Appeal Type: I Initial Claims	Appeal Level: R Reconsideration	
Appeal Reason: DI Initial Disability	Date Appeal Filed: 3/13/2008	
Appeal Decision: UF Unfavorable	Date of Decision: 5/29/2008	

DDSQ and OHAQ DATA

DDSQ Data
 Claim Level/Type: RC-DIB reconsideration-disability insurance benefits Program: 02 STATUS: CLOSED
 Application Date: 12/21/2007 Recon Date: 3/13/2008
 Basis Code for Decision: J1 [DIB] Capacity for SGA - other work (Earnings req. last met on or after date of current decision)
 Decision Code: DE denial
 Date Claim Cleared DDS: 5/29/2008 State: IA X-Ref:

Abbreviated DIB Review Sheet SSN:	Page 2 Query Date: 6/2/2009 Unit:
---	---

Claim Level/Type: RC-DI reconsideration-disabled individual Program: 16 STATUS: CLOSED
 Application Date: 12/21/2007 Recon Date: 3/13/2008
 Basis Code for Decision: N32 Capacity for SGA-other work, no visual impairment
 Decision Code: DE denial
 Date Claim Cleared DDS: 5/29/2008 State: IA X-Ref:

DDSQ Development History Data

Claim Level: IN initial claim Title: 02
 Basis Code for Decision: J1 [DIB] Capacity for SGA - other work (Earnings req. last met on or after date of current decision)
 Decision Code: DE denial
 Date Claim Cleared DDS: 2/28/2008 State: IA X-Ref:

Claim Level: IN initial claim Title: 16
 Basis Code for Decision: N32 Capacity for SGA-other work, no visual impairment
 Decision Code: DE denial
 Date Claim Cleared DDS: 2/28/2008 State: IA X-Ref:

OHAQ Data (For additional Hearing and Appeals information, use the CPMS or ARPS websites)

Claim Type: SSDC Supplemental Security Income Disabled Claimant Concurrent with T2 Issue:
 Last Action Taken: 305 Claim File Received in HO Date Action Taken: 07/22/08

Hearing Section:

Hearing Type: NRH-REG 10 New request for hearing - Regular
 Hearing Request Date: 07/21/08 Disposition Date (DID): ALJ:
 ALJ Disposition Title II:
 ALJ Disposition Title XVI:

Appeals Council (AC) Section:

AC Request Date: AC Disposition Date (ADD): AAJ:
 AC Disposition Title II:
 AC Disposition Title XVI:

(AC Review Information updated after 03/03/08 will no longer be on the OHAQ; use the CPMS or ARPS website.)

Court Section:

Advised of Suit Date: Court Disposition Date (CDD): District Court Code:
 Attorney Served Date:
 Court Disposition Title II:
 Court Disposition Title XVI:

Remember-- If the ALJ dismissed a request for hearing, treat any new application as if no hearing request was ever filed. If the AC (without issuing decision) denies or dismisses a request for review of the ALJ's decision, the period adjudicated reverts to the ALJ decision (DID). (Refer to POMS DI 27510.001B, Exhibit 2)

When a prior claim is at the ALJ level and a new claim (initial or CDR) under the same title is filed, the new claim should generally be routed to the ALJ (via the FO). If the prior claim is at the AC level and a new claim under the same or different title is filed, the subsequent claim will be processed as a new Initial claim. However, if the AC remands the prior claim back to the ALJ, the DDS should stop development and forward the subsequent claim to the appropriate HO for association. (Refer to POMS DI 20101.025)

CURRENT OR PRIOR DISABILITY ENTITLEMENT
--

FOLDER LOCATIONS

SSID Data (Title XVI)

RN: Current Folder Location:
 Receipt Date: 07/22/08-C Prior Folder Location:

DDSQ Data

Claim Level/Type: Program: SLC Code:
 LTJ Code: EDC (EDC indicates an EDCS claim) LTG Code:
 Date Received in DDS (SRD): Date Case Cleared DDS(SCD): Destination of Case at Closure:

WAGE INFO DATE: 09/02/2009 SSN: 479-90-4433 PG: 1 OF: 2 NDWG
QUARTER PAID: 1ST/2008
NAME (F,MI,L): NAME/SSN VERIFIED: N
WAGES PAID: \$ 636.00 EIN:
EMPLOYER: LENNOX INDUSTRIES INC
ER ADDRESS:
CITY ST ZIP: DALLAS TX
REPORTED BY: IA REPORT PROCESSED: 07/16/2008

QUARTER PAID: 4TH/2007
NAME (F,MI,L): NAME/SSN VERIFIED: N
WAGES PAID: \$ 1,143.00 EIN:
EMPLOYER: LENNOX MANUFACTURING INC
ER ADDRESS:
CITY ST ZIP: DALLAS TX
REPORTED BY: IA REPORT PROCESSED: 04/16/2008

WAGE INFO DATE: 09/02/2009 SSN: 479-90-4433 PG: 2 OF: 2 NDWG
QUARTER PAID: 3RD/2007
NAME (F,MI,L): NAME/SSN VERIFIED: N
WAGES PAID: \$ 766.00 EIN
EMPLOYER: LENNOX MANUFACTURING INC
ER ADDRESS:
CITY ST ZIP: DALLAS TX
REPORTED BY: IA REPORT PROCESSED: 01/17/2008

Refer to:

SSN:

Misc ODAR Notes

Expand All Links Collapse All Links	
Year:	
2008	2008 Detail Covered FICA Earnings OASDI Yearly Total: 208.00 EIN: Employer: KESTERSON INVESTMENT CORP Show Address Earnings Totals: Show Details Wage Total: 208.00 OASDI Employer Total: 208.00
2006	2006 Detail Covered FICA Earnings OASDI Yearly Total: 76.34 EIN: Employer: FSQ INC Show Address Earnings Totals: Show Details Wage Total: 76.34 OASDI Employer Total: 76.34
2005	2005 Detail Covered FICA Earnings OASDI Yearly Total: 4254.02 EIN: Employer: FSQ INC Show Address Earnings Totals: Show Details Wage Total: 4561.13 OASDI Employer Total: 4561.13 EIN: Employer: ARBOR SPRINGS OF WEST DES MOINES Show Address Earnings Totals: Show Details Wage Total: 3692.89 OASDI Employer Total: 3692.89
2004	2004 Detail Covered FICA Earnings OASDI Yearly Total: 3928.61 EIN: Employer: FSQ INC Show Address Earnings Totals: Show Details Wage Total: 3910.35 OASDI Employer Total: 3910.35 EIN: Employer: ACCESSIBLE MEDICAL SERVICES INC Show Address Earnings Totals: Show Details

5D - 1 of 2 Certified Earnings Records Doc. Dt.: 12/29/2009

```

NH NAME          SN          PG
INPUT           12/29/09   DO:   UNIT:   DERO MOD:
RUN DATE       12/29/09   V:
CONTROL

EVENT          ICERS EARNINGS RECORD
TID            CERTIFIED EARNINGS RECORD
ALERTS        NH HAS 09 YOC'S FOR NONCOVERED PENSION PIA
              PRIOR CLAIM DATA DOES NOT EXIST ON DRAMS
              POSSIBLE GAPS 2007
              POSSIBLE INCOMPLETES 1991 2006
INFORMTNL     NH HAS 09 DIS EX YOC'S FOR NONCOVERED PENSION PIA
              DISABILITY NON-EXCLUSION 20/40 INSURED TEST MET
              DISABILITY EXCLUSION FULLY INSURED STATUS MET
              DISABLED NH IS FULLY INSURED RIB
              DISABILITY NON-EXCLUSION FULLY INSURED STATUS MET
              DISABILITY EXCLUSION 20/40 INSURED TEST MET
              PRIOR CLAIM STATUS - A
              NO RECOMPUTATION INCREASE   JAN 2009
ID INFO       REQ NAME:MCCALL   REQ SEX:   REQ DATE OF BIRTH:
DATES         FILING DATE:11/06/08   DATE OF ONSET:01/12/2006
DIB INPUT    MBR/INPUT DATA
              ONSET:01/12/2006 DENIAL/DISALLOWANCE:J1
INS STAT     DISABILITY: EXCL REQ QC:16 EXCL HAS:040
              NON-EXCL REQ QC:17 NON-EXCL HAS:040 DIS DLI:12/10
              OTHER: FIRST INSURED:01/01
TOT COV      SSA QC
              1937 THRU 1950 QC: 0
              WAGE QC AFTER 1946: 70 WAGE QC AFTER 1950: 70
              SE QC:NONE AG QC:NONE
TOT EARN     SSA
              TOT AFTER 1936: 231321.94
              TOT AFTER 1950: 231321.94
COMPUTATIONAL YEARLY EARNINGS
MAX      AMT YR QC      REGULAR  U  NH INDEXED  RAILROAD  RQSM  DMW SE AG
42000   440 86 NNNN      353.81  U   728.15
43800   460 87 CCCC      5734.17 L   11093.52
45000   470 88 CCCC      11794.07 H   21746.18
48000   500 89 CCCC      14104.46 H   25015.66
51300   520 90 CCCC      3657.21  6200.04
53400   540 91 NNNN      19.29   31.53
55500   570 92 CCNN      1513.59 2352.57
57600   590 93 CCCC      8351.65 H   12870.29
60600   620 94 CCCC      11774.20 H   17670.35
61200   630 95 CCCC      15772.42 H   22758.51
62700   640 96 CCCC      12879.62 H   17717.90
65400   670 97 CCCC      10714.90 H   13927.32
68400   700 98 CCCC      26455.31 H   32676.59
    
```

5D - 2 of 2 Certified Earnings Records Doc. Dt.: 12/29/2009

NH NAME SN: PG 002
 INPUT 12/29/09 DO UNIT: DERO MOD:

COMPUTATIONAL YEARLY EARNINGS

MAX	AMT	YR	QC	REGULAR	U	NH INDEXED	RAILROAD	RQSM	DMW	SE	AG
72600	740	99	CCCC	24595.52	H	28775.82					
76200	780	00	CCCC	30576.16	H	33898.36					
80400	830	01	CCCC	18929.16	H	20496.89					
84900	870	02	CCCC	8241.77		8835.75					
87000	890	03	CCCC	8287.66		8672.93					
87900	900	04	CCCC	9028.61	L	9028.61					
90000	920	05	CCCC	8254.02		8254.02					
94200	970	06	NNNN	76.34		76.34					
97500	1000	07	NNNN								
102000	1050	08	NNNN	208.00		208.00					
106800	1090	09	NNNN								

COMP DATA DI - COMP TYPE: NS 78 DIS EX AIME: \$1715.00
 EFF DATE: 11/07 PIA: \$959.80 PIFC: L FAM MAX: \$1439.70
 EFF DATE: 12/07 PIA: \$981.80 PIFC: L FAM MAX: \$1472.80
 EFF DATE: 12/08 PIA: \$1038.70 PIFC: L FAM MAX: \$1558.20
 EFF DATE: 12/09 PIA: \$1038.70 PIFC: L FAM MAX: \$1558.20
 START BASE YEAR/START DATE: 1951 LAST BASE YEAR/CLOSE DATE: 2006
 DIVIDEND: \$267676.00 DM: 156 DOY: 3 YOC: I/Y: ELG YR: 2006
 TRIAL COMPUTATIONS: NS 78 \$1017.60 SP MIN \$36.90 NS 78R
 \$1017.60 NS 78R DIS EX \$1038.70

SOCIAL SECURITY ADMINISTRATION
Office of Disability Adjudication and Review

Form Approved
OMB No 0960- 0300

Prepared for OHA March 8, 2010

CLAIMANT'S WORK BACKGROUND

A. To be completed by the Office of Disability Adjudication and Review

(Claimant and Social Security Number)	(Wage Earner and Social Security Number) (Leave blank if same as claimant)	The last time we brought your case up-to-date was:
Bob Smith		

B. To be completed by the claimant

PLEASE PRINT

Start with your most recent job, and list that and any work performed within the past 15 years.

Dates of Employment (Approximately)	Name of Employer and Location of Employment	Duties Performed
From 2006 To 1 year	Lennox	I worked full-time as a top setter. I was constantly standing, walking, reaching, grabbing, pushing, pulling, bending, and lifting up to 50 lbs.
From 2006 To	Temp Associates	It is the same as Lennox
From 2004 To 2005	Joseph Ryerson	I worked full-time as a steel cutter working at a machine. I was constantly standing, reaching, grabbing, pushing, pulling, bending, and lifting up to 75 lbs.
From 2001 To 2005	Jeld-Wen	I worked full-time grading door skin on assembly line. I was constantly standing, reaching, grabbing, pushing, pulling, bending, and lifting up to 75 lbs.
From 2001 To	Superior Staffing	I worked temporary in a warehouse pulling orders. I was constantly standing, reaching, grabbing, pushing, pulling, bending, and lifting up to 75 lbs.
From 2001 To	EMCO	I worked full-time. Packing door on an assembly line. I was constantly standing, reaching, grabbing, pushing, pulling, bending, and lifting up to 30 lbs.
From 1997 To	Rubbermaid	I worked full-time packing the molded plastics into boxes. I

SSA-3369 EDCS

WORK HISTORY REPORT - Form SSA-3369

(3369) Work History Report

Section 1 - Information About The Disabled Person

A. Name (First, Middle Initial, Last)	B. Social Security Number

C. Daytime Telephone Number (If you have no number where you can be reached, give us a daytime number where we can leave a message for you.):

Your number

Section 2 - Information About Your Work

A. List all the jobs that you have had in the 15 years before you became unable to work because of your illnesses, injuries, or conditions.

Job Title	Type of Business	Dates Worked (From-To)
1. Cook	Restaurant	1993 - 1994
2. Events coordinator	Home remodeling company	2004 - 12/13/2008
3. Personal trainer	Health club	2007 - 07/2008
4. Telemarketing	Telemarketing company	2000 - 2004
5. Heartland Communicator	Telemarketing company	- 1999 - 2000
6.		-
7.		-

Give us more information about Job No. 1. Estimate hours and pay, if you need to.

Job Title No. 1:	Cook		
Rate of Pay:	\$8.00	Per:	Hour
Hours Per Day:	8	Days Per Week:	5

Employer Questionnaire

Re: Bob Smith

1. Please state your name and how you know Bob Smith (supervisor, coworker, etc).
2. Please state the name and type of business/organization.
3. Please state how long you have known Mr. Smith.
4. Please state whether you saw/see Mr. Smith regularly and are/were able to observe his work.
5. Do you believe Mr. Smith can work 8 hours a day, five days a week at any kind of job effectively? If not, why not? (e.g., cannot sit or stand very long at a time, frequent absences, unable to finish a workday, etc.)
6. Please give examples or short stories to illustrate difficulties or inadequacies Mr. Smith had performing work activities.

7. Please mark any that apply:

- _____ Allowed to work irregular hours or take frequent rest periods;
- _____ Absent more frequently than normally allowed/expected;
- _____ Require(s/d) and receive(s/d) special assistance from other employees in performing the job;
- _____ Permitted to perform at a lower standard of productivity or efficiency than other employees; or
- _____ Able to work only within a framework of specially arranged circumstances, such as where other persons helped him prepare for or get to and from work;
- _____ Granted the opportunity to work, despite his handicap, because of family relationship, past association with the firm, or other altruistic reason; or
- _____ Provided with special equipment or was assigned work especially suited to the impairment.

Please explain any statements that are marked:

Please sign and date and include your address and phone.

Date

Signature
[

**Bob Smith
SSN 000-00-000**

2007			
Please state the gross amount earned each month.			
January	\$	July	\$
February	\$	August	\$
March	\$	September	\$
April	\$	October	\$
May	\$	November	\$
June	\$	December	\$

2008			
Please state the gross amount earned each month.			
January	\$	July	\$
February	\$	August	\$
March	\$	September	\$
April	\$	October	\$
May	\$	November	\$
June	\$	December	\$

2009			
Please state the gross amount earned each month.			
January	\$	July	\$
February	\$	August	\$
March	\$	September	\$
April	\$	October	\$
May	\$	November	\$
June	\$	December	\$

Signature

Office of Hearings and Appeals
Social Security Administration (S.S.A.)
Department of Health and Human Services

Volume I
Division II: Administrative Law Judge Hearings
Subject: Obtaining Evidence
Chapter: I-2-5

- I-2-5-48. VOCATIONAL EXPERTS—GENERAL**
- I-2-5-50. WHEN TO OBTAIN VOCATIONAL EXPERT OPINION**
- I-2-5-52. SELECTING A VOCATIONAL EXPERT**
- I-2-5-54. OBTAINING VOCATIONAL EXPERT TESTIMONY**
- I-2-5-55. THE VOCATIONAL EXPERT'S TESTIMONY**
- I-2-5-56. OBTAINING VOCATIONAL EXPERT OPINION AFTER THE HEARING**
- I-2-5-57. OBTAINING VOCATIONAL EXPERT OPINION THROUGH INTERROGATORIES**
- I-2-6-74. TESTIMONY OF A VOCATIONAL EXPERT**

I-2-5-48. Vocational Experts—General

VEs are vocational professionals who provide impartial expert opinion during the hearings process on claims under title II and title XVI of the Social Security Act or claims for Black Lung Benefits by either testifying at hearings or providing written responses to interrogatories.

The following general guidelines apply to an ALJ's use of a VE in the hearing proceedings:

- The ALJ may use a VE before, during, or after the hearing
- The ALJ must avoid any off-the-record discussion with the VE. If such a discussion occurs, the ALJ must summarize the discussion on the record at the hearing or by entering a written summary into the record as an exhibit
- The ALJ may not use a VE who has had prior professional contact with the claimant
- The ALJ may not ask a VE to provide an opinion on psychological (i.e., medical) matters even if the VE is a certified mental health professional. (See [I-2-5-61](#), Use of Dually-Qualified Vocational and Medical Experts.)
- The VE's opinion is not binding on the ALJ. The ALJ must weigh a VE's opinion along with all other evidence.

I-2-5-50. When to Obtain Vocational Expert Opinion**A. When an ALJ May Need to Obtain VE Opinion**

An ALJ may need to obtain a VE's opinion, either in testimony at a hearing, in person, by telephone, by video teleconference or in written responses to interrogatories, when: 1. the ALJ is determining whether the claimant's impairment(s) prevents the performance of past relevant work; or 2. the ALJ is determining whether the claimant's impairment(s) prevents the performance of any other work and he or she cannot decide the case under any of the tables in Appendix 2, Subpart P of Regulations No. 4, because:

- the claimant's residual functional capacity falls between two exertional levels; e.g., the claimant may be able to perform more than the full range of sedentary work, but less than the full range of light work
- the claimant has solely nonexertional limitations; or
- the claimant has a combination of exertional and nonexertional limitations; e.g., back impairments with limited sitting or standing tolerance.

B. When the ALJ Must Obtain VE Opinion

The ALJ must obtain a VE's opinion, either in testimony at a hearing in person, by telephone, by videoconference or in responses to written interrogatories, when directed by the Appeals Council or a court.

I-2-5-52. Selecting a Vocational Expert

A. General

All ALJ contact with a VE about a case must be in writing or at a hearing, and all correspondence with the VE must be made part of the record.

When an ALJ determines that VE testimony is needed, the ALJ or designee will inform the claimant and the representative by placing a statement to that effect in the “REMARKS” section of the Notice of Hearing. (See I-2-3-15, Notice of Hearing.)

The ALJ or designee will, before the hearing, furnish the VE with copies of all evidence relating to the claimant’s vocational history. If additional vocational evidence is received at the hearing, the ALJ will, if possible, provide it to the VE for review before the VE testifies.

B. HO Staff Recommends Use of VE

Before scheduling the hearing, the ALJ or designee must thoroughly review the case to determine what, if any, additional evidence is needed to decide the case. If a designee performs the review and believes that VE opinion is needed, the designee will make that recommendation to the ALJ.

C. ALJ Determines that VE Opinion is Needed

If the ALJ determines (or agrees) that VE opinion is needed, the ALJ will decide the manner in which to receive the VE opinion (i.e., whether to receive the opinion in testimony at the hearing, by telephone, by videoconference or in response to written interrogatories). (See I-2-5-30, Medical or Vocational Expert Opinion—General.)

D. Selection of VE from RO Roster

Each RO maintains a roster of VEs who have agreed to provide impartial expert opinion pursuant to a BPA with OHA. (See I-2-5-31, Blanket Purchase Agreements.) The ALJ or designee must select a VE from the roster in rotation to the extent possible; i.e., when an ALJ selects a VE to provide expert opinion in a case, that VE will go to the bottom of the roster and will not be called again by that ALJ or any other ALJ in the HO until all other VEs on the roster are called. Each RO maintains a roster of VEs who have agreed to provide impartial expert opinion pursuant to a BPA. If a VE is not available on the RO roster of the HO’s region, then the ALJ should look to other RO rosters to obtain the services of a VE.

If an ALJ uses a VE from the roster, the HO staff will assign a purchase order number and complete a Contractor’s Invoice in WebBass. (To access the Contractor Invoice, Form HA-590, in DGS, go to DGS, click on the “Contractor’s Invoice” tab.)

E. Selection of VE Not on RO Roster

An ALJ may use a VE who does not have a BPA with OHA if no VE on any RO roster is available, or there are other extenuating circumstances which require the one-time purchase of such VE’s services.

The same terms and conditions that apply to a VE providing services pursuant to a BPA also apply to a VE providing services without a BPA. Authorize payment to a VE without a BPA by completing Optional Form 347, Order for Supplies or Services.

I-2-5-54. Obtaining Vocational Expert Testimony

A. The HO staff will contact the VE and schedule him or her for hearings as necessary.

The notification letter is produced when the Notice of Hearing is generated. To request an VE to testify at a hearing, the ALJ or HO staff will complete the notice in DGS at the same time the Notice of Hearing is generated for the claimant. Under the "Hearing Information" tab in the Notice of Hearing user form, select either "Vocational Expert" or "VE & ME" depending on what type of expert testimony needed, and the VE's notice will be generated automatically. The HO staff must modify the form as necessary to adapt it to the specific case and include:

- all identifying information;
- the issues to be considered; and
- the name and telephone number of an HO staff person the VE may contact if he or she has any questions or problems.

B. Distribution of Notice of Hearing to Vocational Expert

Distribute the Notice of Hearing to the VE as follows:

- Send the original to the VE, along with any necessary enclosures (See [I-2-5-38 C.](#), below.)
- Send copies to the claimant and the representative.
- Place a copy in the CF.
- Place a copy in the HO file.

C. Providing the VE with Relevant Evidence

The ALJ must provide the VE with relevant vocational evidence that will assist the VE in providing the vocational opinion. This evidence must include:

- photocopies of the vocational evidence arranged in chronological order and marked as proposed exhibits;
- a copy of the VE's professional qualifications for verification;

NOTE: Do not include the professional qualifications of other sources.

- a list of the proposed exhibits tendered to the VE using Form HA-540, Exhibits List (to access Form HA-540 go to DGS, click on the "Exhibit" tab; then click on "Exhibit List" tab); copies of all prior correspondence between the ALJ and the VE, if any;

- a transcript or summary of any vocational testimony provided in a prior hearing on the same case; and
- a copy of pertinent parts of the VE orientation package if there is no BPA with the VE.

I-2-5-55. The Vocational Expert's Testimony

During the opening statement, the ALJ must explain why VE testimony is necessary. The VE may attend the entire hearing, but this is not required.

Before the VE testifies, the ALJ must:

- ensure on the record that the VE has examined all vocational evidence of record;
- ensure that the record contains an accurate statement of the VE's professional qualifications;
- give the claimant and the representative an opportunity to ask the VE questions about his or her professional qualifications; and
- summarize the opening statement or relevant testimony on the record (e.g., testimony regarding the claimant's vocational history) if the VE was not present.

NOTE: All VE testimony must be on the record.

The ALJ should take care to elicit useful and objective testimony from the VE. For examples of the types of questions the ALJ might ask, see [I-2-5-94](#), Sample-Interrogatories to Vocational Expert.

If the VE's reply to an ALJ's question is ambiguous or overly technical, the ALJ must follow-up with more specific questions. An ALJ must not question a VE about any matter which is not within the VE's area of expertise and responsibility. For example, the ALJ must not ask a VE about medical matters, how the ALJ should decide the case or whether the number of jobs identified by the VE in the regional and national economies are "significant." However, the ALJ can ask the VE to provide the number of specific jobs identified in the regional and national economies.

If certain VE testimony is based on an assumption, the VE or ALJ must clearly describe the assumption on the record.

If a claimant raises an objection about a VE's opinion, the ALJ must rule on the objection and discuss any ruling in the decision.

The ALJ must also determine if there are any conflicts between the jobs identified by the VE and how the jobs are described in the Dictionary of Occupational Titles and how the jobs are performed in today's workplace. If there are conflict(s), the ALJ must ask the VE to identify the conflict(s) and inquire how the VE resolved the conflict(s) and whether the conflict(s) impact the number of jobs testified to by the VE. If the number of jobs testified to by the VE as being available are impacted, the ALJ must obtain from the VE the basis of any adjustments and how the adjustments were derived. See [SSR 00-4p](#).

I-2-5-56. Obtaining Vocational Expert Opinion After the Hearing

A. Identifying the Need for VE Opinion After the Hearing

Although these situations occur relatively infrequently, the ALJ may identify the need for VE evidence during or after the hearing. For example:

- The claimant may submit evidence during or after the hearing which establishes the existence of another severe impairment which raises issues that require VE testimony for a determination at step 5 of the sequential evaluation process.
- Evidence submitted after the hearing indicates that the claimant's functional limitations differ from those covered in the hypothetical questions to which the VE responded at the hearing.

B. Obtaining VE Opinion After the Hearing

When an ALJ decides to obtain evidence from a VE after the initial hearing, the ALJ must determine the most appropriate method to obtain this evidence consistent with the claimant's rights with respect to posthearing evidence. (See I-2-7, Posthearing Actions.) Live testimony in person, by video teleconference, or telephone conference with opportunity to question the VE is the preferred method for obtaining VE opinion, but written interrogatories may be used. (See I-2-5-30, Medical or Vocational Expert Opinion—General.)

NOTE: Regardless of the method used, or whether the claimant is represented, the ALJ must question the VE in lay terms and, to the extent possible, elicit responses in terms which the claimant can understand.

C. Determining the Most Appropriate Method to Obtain VE Opinion After the Hearing

Some of the factors that the ALJ must weigh in determining whether it is more appropriate to obtain the evidence by requesting a VE to appear and testify at a supplemental hearing or answer written interrogatories are:

- whether and when a VE is available to testify in person, by telephone, or by video teleconference;
- the feasibility of scheduling a hearing at a remote hearing site and the availability of a VE; and
- the potential for delays if the ALJ schedules a supplemental hearing.

I-2-5-57. Obtaining Vocational Expert Opinion Through Interrogatories

A. General

Live testimony in person, by telephone, or by video teleconference with opportunity to question the Vocational Expert (VE) is the preferred method for obtaining VE opinion, but written interrogatories may be used. Written interrogatories are often used when the Administrative Law Judge (ALJ) receives posthearing evidence, but can be used at other points in the hearing process. The claimant or representative may ask the ALJ to obtain interrogatories, or the ALJ may decide to use them on his or her own initiative.

NOTE: Attorney Adjudicators (AA) and hearing office (HO) staff (with the authority to issue interrogatories in cases not yet assigned to an ALJ under the direction of the Hearing Office Chief Administrative Law Judge (HOCALJ)) may also use written interrogatories on their own initiative. (See Chief Judge Bulletin 08-03. Screening Cases That May Meet the Disability Requirements Through the Use of Pre-hearing Interrogatories.)

B. Preparing Interrogatories

When preparing interrogatories, the ALJ must:

- Phrase each question in a way that will not suggest any specific conclusion, but will elicit a clear and complete response that can ultimately be expressed (to the extent possible) in lay terms (See I-2-5-94, Sample-Interrogatories to Vocational Expert.); and
- Leave sufficient space between the questions for the answers.

C. Sending Interrogatories to the VE

1. Initial Transmission of Interrogatories to the VE

The ALJ will send the interrogatories to the VE along with the following:

- a. A letter explaining the request and the requested method of response. (See I-2-5-95 Sample-Letter to Expert Witness-Written Interrogatories.)
 - Include all identifying information in the letter.
 - Request a response within 10 days.
 - Mark one copy of the letter as an exhibit and place it in the CF.
 - Place a copy of the letter in the HO file.
- b. For a Certified Electronic Case, create a CD of the exhibit list and send it with the interrogatory.c. For a paper case, send a copy of the exhibit list; Open DGS; click on the “Exhibit Menu” from the tool bar; select “Exhibit Dir”. Enter the SSN to find the Exhibit List being sent; and
 - Photocopies of the pertinent evidence, arranged in chronological order.
 - A copy of the VE’s professional qualifications for verification.

NOTE: Do not include the professional qualifications of any other sources. d. A transcript or summary of any pertinent testimony provided in an earlier hearing. e. A statement of the issues in the case. f. A Contractor’s Invoice generated in WebBass for signature by the VE. (To access the contractor invoice, HA-590, in DGS, go to DGS and click on the “Contractor’s Invoice” tab.) **NOTE:** If the Office of Disability Adjudication and Review (ODAR) does not have a Blanket Purchase Agreement (BPA) with the VE, provide any pertinent VE orientation materials available, and use Optional Form 347 (Order for Supplies or Services) to obtain payment. g. The name and telephone number of an HO contact person. h. A self-addressed, postage paid

envelope large enough for the VE to return all enclosures. NOTE: After the VE responds to the initial transmission of interrogatories, a copy of the response will be sent to the claimant and representative and will be included in the record as an Exhibit. The claimant and representative may request that the ALJ allow additional interrogatories be submitted to the VE or that a supplemental hearing be held to question the VE if the answers to the interrogatories are unfavorable to the claimant.

2. Subsequent Transmission of Interrogatories to a VE

When an ALJ receives new evidence after a VE has provided testimony or responded to interrogatories, and decides to forward the new evidence to the VE for review with interrogatories to determine if it affects the prior testimony or response, the ALJ must:

- a. Send the interrogatories to the VE with:
 - A letter explaining the request and the requested method of response (See I-2-5-96 Sample-Transmittal Letter to Expert Witness—Evidence Received After Interrogatories. Include all identifying information in the letter and request a response within 10 days.);
 - A photocopy of the new evidence;
 - Copies of pertinent evidentiary documents the VE previously reviewed if not maintained by the VE at the request of the ALJ; and
 - The name and telephone number of an HO contact.
- b. Distribute the letter as follows:
 - Send the original to the VE;
 - Mark one copy of the letter as an exhibit and place it in the CF; and
 - Place a copy in the HO file.
- c. Diary the case for the requested response date and make the appropriate follow-up contacts.

NOTE: After the VE responds to the subsequent transmission of interrogatories, a copy of the response will be sent to the claimant and representative and will be included in the record as an Exhibit. The claimant and representative may request that the ALJ allow additional interrogatories be submitted to the VE or that a supplemental hearing be held to question the VE if the answers to the interrogatories are unfavorable to the claimant.

I-2-6-74. Testimony of a Vocational Expert

Citations:

- 20 CFR §§ 404.1566(e) and 416.966(e)
- SSR 00-4p

A. Prehearing Actions

When an administrative law judge (ALJ) determines that the testimony of a vocational expert (VE) is needed at the hearing, the ALJ must:

- have no substantive contact related to the merits of the case with the VE except at the hearing or in writing, and any such writing will be made an exhibit; and
- request that the VE examine any pertinent evidence received between the time the VE completed the case study and the time of the hearing.

For instructions on obtaining testimony or written opinion from a VE, see the Hearings, Appeals and Litigation Law (HALLEX) manual, sections I-2-5-48 through I-2-5-61. Assisting hearing office (HO) staff will:

- send copies of any correspondence between the ALJ and the VE to the claimant and make such correspondence an exhibit; and
- if the VE is appearing via telephone, contact the VE before the hearing to confirm the telephone number to be used at the hearing.

NOTE: When a VE is scheduled to testify at a hearing, the HO staff must notify the claimant of this appearance in the “REMARKS” section of the Notice of Hearing. The Notice of Hearing must also specify the manner in which the VE will appear.

B. Conduct of the Hearing

At the hearing, the ALJ must advise the claimant of the reason for the VE's presence and explain the procedures to be followed. The VE may attend the entire hearing, but this is not required. If the VE was not present to hear pertinent testimony, such as testimony regarding past relevant work or educational background, the ALJ will summarize the testimony for the VE on the record.

After administering the oath or affirmation, the ALJ must:

- “qualify” the VE by eliciting information regarding his or her impartiality, expertise, and professional qualifications;
- ask the claimant and the representative whether they have any objections to the VE testifying; and
- rule on any objection. The ALJ's ruling may be on the record or in narrative form that is made an exhibit. The ALJ may also address the ruling in the body of his or her decision.

C. Questioning the VE

The ALJ will ask the VE questions designed to elicit clear and complete information. The claimant and the representative have the right to question the VE fully on any pertinent matter within the VE's area of expertise. However, the ALJ will determine when they may exercise this right and whether questions asked or answers given are appropriate. For example:

- If the VE's replies are ambiguous or overly technical, the ALJ will follow up with more specific questions in order to obtain a response that is understandable to the average person.
- The ALJ will not permit the VE to respond to questions on medical matters or to draw conclusions not within the VE's authority, e.g., the VE may not provide opinions regarding the claimant's residual functional capacity or the resolution of ultimate issues of fact or law.
- The ALJ will not ask or allow the VE to conduct any type of vocational examination of the claimant during the hearing.

D. Hypothetical Questions

The ALJ may use hypothetical questions to elicit the VE's opinion about the availability of jobs that an individual could perform given certain factual situations.

E. Conflicts with the *Dictionary of Occupational Titles*

Before the ALJ may rely on a VE's testimony to support a disability decision, the ALJ must inquire on the record whether there are any conflicts between occupational evidence the VE provided and information contained in the *Dictionary of Occupational Titles (DOT)*, including its companion publication, the *Selected Characteristics of Occupations Defined in the Revised Dictionary of Occupational Titles (SCO)*, published by the U. S. Department of Labor. The ALJ must identify and obtain a reasonable explanation for any such conflict. The ALJ also must explain in the decision how any identified conflict has been resolved. See Social Security Ruling 00-4p.



SOCIAL SECURITY ADMINISTRATION

Refer To:

Office of Disability Adjudication and Review
4400 Westown Parkway, Suite 300
Regency West, Building #7
West Des Moines, IA 50266
Tel: 515-223-5038 / Fax: 515-223-0371

March 16, 2010

Dear :

I am requesting your professional opinion in connection with a Social Security disability claim.

Please correct, if necessary, your professional qualifications we have on file. Enclosed is vocational evidence with exhibits selected for inclusion in the record of this case and includes a list of this evidence for your reference.

Please complete the enclosed interrogatory based on the evidence provided, as well as your professional knowledge. A copy of this letter and the completed interrogatory will be made a part of the record of the proceedings in this case.

Your charge for this service should be submitted in accordance with your contract with the Social Security Administration. The enclosed Contractor's Invoice should be signed and returned to me, along with the completed interrogatory and the evidence provided to you.

Please return the materials in the enclosed envelope as soon as possible, but not later than 10 days from the date of this letter. If you have any questions, please contact my staff at the number listed above.

Sincerely yours,

Administrative Law Judge

Enclosures

VOCATIONAL INTERROGATORY

In The Case Of: ****[CLAIMANT'S NAME AND SSN]****

Alleged Onset Date: ****[ALLEGED ONSET DATE]****

1. Are you aware that your responses to these interrogatories are sought from you in the role of an impartial vocational expert, without regard to the source of your fee?
 Yes No
2. Have you reviewed the evidence in this case relating to the claimant's vocational background?
 Yes No
3. Have you discussed the substance of this case with the Administrative Law Judge or with any member of the hearing office staff, the claimant or with the claimant's representative?
 Yes No
4. Have you had prior professional contact with the claimant or served as a vocational expert with the Social Security Administration for this individual?
 Yes No
5. Is there sufficient evidence to allow you to form an opinion of the claimant's vocational status?
 Yes No *(If no, omit the remaining questions and identify what additional evidence you believe is required)*
6. Does the claimant have work experience within the past 15 years?
 Yes *(If yes, provide the DOT Title and Code, skill level with specific vocational preparation (SVP) time, and exertional level for each job. If the claimant performed any job differently than it is normally performed, please describe the difference in terms of exertional level, skill level and/or other job functions. Complete questions #8, #9, #10 and #11)*
 No *(If no, omit questions #8 and #9. Complete questions #10 and #11)*
7. Assume a hypothetical individual who was born on ****[DATE OF BIRTH]****, ****[IS UNABLE TO COMMUNICATE IN ENGLISH/IS ILLITERATE/HAS A MARGINAL EDUCATION/HAS A LIMITED EDUCATION/HAS AT LEAST A HIGH SCHOOL EDUCATION]**** as defined in 20 CFR 404.1564 and 416.964, and has work experience as described in your response to question #6. Assume further that this individual has the residual functional capacity (RFC) to perform ****[INSERT RFC]****.

8. Could the individual described in item #7 perform any of the claimant’s past jobs as actually performed by the claimant or as normally performed in the national economy?
- Yes** *(If yes, identify the job(s) the individual could perform and explain how the mental and physical demands are accommodated by the RFC)*
 - No** *(If no, explain how the RFC precludes the performance of each past job as actually performed by the claimant and as normally performed in national economy):*
9. Are there any conflicts between the occupational evidence you have provided for question #8 and the occupational information contained in the DOT and/or the SCO?
- Yes** *(If yes, identify the conflict and explain why the information you provided differs from that contained in the DOT and/or SCO).*
 - No**
10. Could the individual described in item #7 perform any unskilled occupations with jobs that exist in the national economy?
- Yes** *(If yes, provide the DOT Title, Code and SVP time as well as the number of jobs that exist in the national economy for each unskilled occupation that the individual could perform.)*
 - No**
11. Are there any conflicts between the occupational evidence you have provided for question #10 and the occupational information contained in the DOT and/or the SCO?
- Yes** *(If yes, identify the conflict and explain why the information you provided differs from that contained in the DOT and/or SCO).*
 - No**

Printed Name of Vocational Expert

Date

Signature of Vocational Expert

Date


SSA VE Testimony (Practical Considerations for Representatives)

Melinda Stahr, MS CRC
Stahr and Associates, Inc.

3/17/2010 1

Overview

- Comments on Mock Hearings
- What representatives need to know
- Preparation for the Hearing
- Role at the Hearing



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Comments on Mock Hearings

Hearing 1 Issues: SGA, SVP, Reaching (overhead, bi-lateral), Using functional terms, Job #s

Hearing 2 Issues: Erosion of Job #s, departure from DOT definitions, Significance of Job #s

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Vocabulary

- PRW – Past Relevant Work
- TSA – Transferable Skills Analysis
- RFC – Residual Functional Capacity
- SGA – Substantial Gainful Employment

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Past Relevant Work

- Generally the work a claimant performed within the last 15 years and which lasted long enough for the individual to learn the job.
 - Case prep...
 - At hearing...

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TSA – Transferable Skills

- Applying a claimant’s demonstrated work skills that are acquired to the performance of PRW to meet the demands of other semi-skilled or skilled jobs.
 - Case prep...
 - At hearing...

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RFC – Residual Functional Capacity

- An assessment by an ALJ of the maximum degree to which the claimant retains the capacity for sustained performance of the physical and mental requirements of jobs.
 - Case prep...
 - At hearing...

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SGA – Substantial Gainful Employment

- Work that involves doing significant physical or mental activities and is done for pay or profit.
 - Case prep...
 - At hearing...

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Other Considerations

- Significance of job numbers
- What not to ask

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Where to Get More Information

Excerpts from:

- "The Vocational Expert Under Social Security"
Blackwell, Field, Field. 1992.
- Melinda Stahr, MS CRC
Stahr and Associates, Inc.
809 Wheeler Street, Suite 6-340
Ames, IA 50010
melindastahr@stahrandassociates.com
515/ 450-1037

3/17/2010

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**Past Relevant Work
Prepared by
Vocational Expert 1**

Job Title	DOT Code	Occupationally Significant Characteristics	Strength Demands per DOT	Strength Demands per Claimant	Skill level	Basic Acquired Skills
Warehouse worker	922.687-058	performs a combination of tasks to receive, store, and distribute materials, etc. within establishments.	Medium	Heavy	Unskilled sp2	None
Janitor	381.687-014	Keeps premises of commercial property in clean and orderly condition	Heavy	Light	Unskilled 2	None
Furnace tender	512.685-010	Tends furnace that remelts nonferrous alloyed metal	Heavy		Semi-skilled 3	Knowledge of furnaces, tending procedures
Machine feeder	699.686-010	Feeding and offbearing pieces to fabricating machinery on a production basis	Med	Heavy	SVP 2 Unskilled	None
Dishwasher/ busboy		(Not SGA)				

**Past Relevant Work
Prepared by
Vocational Expert 2**

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Job Title	DOT Code	Occupationally Significant Characteristics	Strength Demands per DOT	Strength Demands per Claimant	Skill level	Basic Acquired Skills
Cashier	211.462-010	Receives cash from customers or employees in payment for goods or services and records amounts received	Light	Medium	Unskilled (2)	
Cook - Day Care	313.381-030	Prepares food in school cafeteria	Medium	Light	Skilled (6)	Utilizing cafeteria equipment and cooking experience
Certified Nurse Assistant	355.381-030	Performs any combination of duties in care of patients in hospital, nursing home, or other medical facility, under direction of nursing and medical staff	Medium	Very heavy	Semi-skilled (4)	Assisting nursing staff. Keeping records. Knowledge of safety procedures
Cleaner	323.687-014	Cleans rooms and halls in commercial establishments.	Light	Light	Unskilled (2)	