

# **RODERICK C. STONEBURNER, M.S., ICVE, IPEC, ABVE VOCATIONAL EVALUATION & REHABILITATION**

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November 10,

Ms. Attorney  
1234 Main Street  
Ontario, CA 91764

RE : Alice Smith  
Employer : Medical Science Company  
DOI : 3/13/2019

## **RULE 26 EXPERT WITNESS VOCATIONAL EVALUATION REPORT**

### **REFERRAL:**

The case of Alice Smith was referred for a vocational evaluation designed to address the following issues:

1. Preparation of a comprehensive review of Ms. Smith's past education and occupational history.
2. Complete a vocational analysis of medical and legal documents to identify vocationally relevant residual functional abilities.
3. Conduct an analysis of Ms. Smith's, acquired skills to determine her employment qualifications, potential to meet the demands of her past work, and her ability to engage in full-time work, given the criteria for competitive employment.
4. Conduct a comprehensive vocational evaluation with Ms. Smith to determine her earning capacity based on her occupation as an Associate Sales Representation and/or employment qualifications required for the occupation of Sales Representative, Medical Devices.
5. Conduct a geographic analysis of the labor market to determine Ms. Smith's potential earning capacity as a Sales Representative, Medical Devices for determination of future lost earnings.

### **HISTORY OF INJURY:**

On 3/13/2019, Ms. Smith was involved in a motor vehicle accident. She sustained injuries to her neck, shoulders, right arm, and right and left buttocks. As a result, Ms. Smith experiences migraine headaches, eye pain, dizziness, and cognitive problems, and her vision has been affected.

*Last Day of Work: 3/20/2019.*

**RETURN TO WORK:**

Ms. Smith reported that she attempted to return to work during the week following the motor vehicle accident. She was unable to provide details regarding her return-to-work activities, other than going to a hospital or clinic on one day and then going to Bakersfield on the second day. She had no memory of her work activities on either day, other than she “thought” that she may have made a sales presentation to a group of people in Los Angeles and had some recall of her trip back to the Los Angeles area from Bakersfield. She reported that she had visual problems on her trip home from Los Angeles that she described as blurry vision and loss of vision that she described as a “gray out”.

Ms. Smith reported that her memory of the trip to Bakersfield was limited to the return trip in which she “drove over mountains” and again, experienced blurry vision and loss of vision. She indicated that she had some recall regarding a family member coming to pick her up but was unable to be more specific. When questioned about the days that she worked, Ms. Smith could not be specific. She indicated that her recall was that she worked two days and perhaps had time off in between. When specific dates of those activities were presented to her, her response was perhaps they may be accurate. According to medical treatment records, it appears that Ms. Smith’s last day of work was 3/20/2019.

**MEDICAL TREATMENT:**

She was seen by Dr. Armstrong, a family doctor, on 3/13/2019 in the City of Upland. Medications were prescribed, and she received an injection. She was prescribed rest.

On 3/16/2019, she returned to the hospital for ongoing headaches. On 3/20/2019, she returned to the hospital because her vision was blurry. She went to Hospital Emergency Room, where she had imaging studies completed on 3/22/2019.

Ms. Smith was treated by Fred MacMurray, M.D. through Healthy for the first month following the accident on 3/26/2019. Physical therapy and rest were recommended.

She began receiving neurological treatment through Casa Colina from neurologist, Bradley Cooper, M.D., on April 19, 2019. Dr. Cooper supervised and coordinated the progress of her medical treatment. He also prescribed medication for pain and dizziness before she became pregnant in October 2019. Concurrently, she was being seen by occupational medicine (Healthy) through workers’ compensation. Her neurologist was Samuel Goldwyn, M.D. She initially saw him every two weeks. Around July 2019, she received occipital blocks through Dr. Goldwyn. However, this caused her pain to worsen. Since then, the treatment recommendations made by Dr. Goldwyn were not authorized, and her appointments changed to a quarterly basis.

Ms. Smith was evaluated by neurological QME, Dr. Song. He evaluated her twice on 11/22/2019 and 8/28/2020 when she was deemed permanent and stationary on a neurological basis.

In June 2019, she began to receive physical therapy and vestibular therapy. She has been receiving these therapies continuously for about 2 years with a break from March to August 2020 due to COVID-19. She attends these therapies at the same time at about 3 times per week. Speech therapy started towards the beginning of April 2021, twice per week. Physical therapy, vestibular therapy and speech therapy were provided at the Casa Colina facility.

In June 2019, she began to see Dr. Jeans for counseling through workers' compensation. She saw Dr. Jeans once for an evaluation and was then transferred to someone else in his office for counseling. She saw the counselor until ending in the fall 2019. In June 2019, she also began to see Melissa, LMFT for anxiety. She feels that these appointments have been helpful. Ms. Smith saw neuropsychologist Elizabeth, Ph.D. on 1/6/2021, three times total.

**Permanent and Stationary/Maximum Medical Improvement:**

- **Samuel Goldwyn, M.D. (Neurology) dated 7/30/2019.**
- **PQME Brian Song, M.D. (Neurology) dated 11/22/2019.**

**RECORD REVIEW:**

**MEDICAL**

**PRIMARY TREATING PHYSICIAN REPORTS (17 pages):**

- Fred MacMurray, M.D. Doctor's First Report of Injury dated 3/26/2019; PR2 & Progress Reports dated 3/26/2019, 4/2/2019, and 4/16/2019; and Radiology report (CT scan of head) from San Antonio Regional Hospital, Patient Education Materials; Concussion, Adult;

**PSYCHIATRY**

- Clark Gable, M.D. (Psychiatry) Initial Psychiatric Panel Qualified Medical Evaluation dated 5/10/2021.

**PSYCHOLOGY**

- Levi Jeans, Ph.D. (Psychology) Progress Note (PR-2) dated 6/20/2019.

**NEUROLOGY**

- Healthy Medical Group Corona—Samuel Goldwyn, M.D. (Neurology) Maximum Medical Improvement report dated 7/30/2019; PR-2 dated 3/26/2019, 4/2/2019 (Signed by Fred MacMurray, M.D.), 4/16/2019, 4/26/2019 (Signed by Dr. Goldwyn); Progress Notes / Work Status dated 4/2/2019 (Signed by Fred MacMurray, M.D.), 6/7/2019 (Signed by Dr. Goldwyn);
- PQME Brian Song, M.D. (Neurology) PQME Evaluation dated 11/22/2019; Follow-Up Visit dated 8/14/2020.

**CASA COLINA (1)**

- Gary Cooper, M.D. (Neurology) Outpatient Progress Note Casa Colina dated 4/19/2019, 5/31/2019, 6/21/2019, 7/19/2019, 8/9/2019 (Signed by Dr. Cooper), 10/18/2019 (Signed by Eric T. Ikeda, OD), 1/10/2020, 2/28/2020, 11/20/2020, and 4/24/2020 (Signed by Dr. Cooper), PT Outpatient Evaluation Form dated 1/22/2020 to 4/20/2020. Neuro Optometry Clinic Note dated 10/17/2019 (Signature illegible). Various Prescriptions, Referral Forms to Clinical Laboratory, Outpatient Therapy, Physical Therapy & Diagnostic Imaging, Notifications & Hospital Records, including identifications and Consent Forms, as well as Admission Forms. MRI Brain & Spine dated 6/13/2019. EEG and Brainstem Auditory Evoked Potential dated 5/17/2019. Visual Evoked Potential dated 5/17/2019. Various Patient Information Forms for inpatient/outpatient. PT Outpatient Treatment Note/Plan of Care/PT Outpatient Evaluation dated 6/4/2019, 6/7/2019, 6/14/2019, 6/21/2019, 6/25/2019, 6/28/2019, 7/2/2019, 7/5/2019, 7/11/2019, 7/16/2019, 7/18/2019, 7/23/2019, 7/25/2019, 7/30/2019, 7/31/2019, 8/1/2019, 8/6/2019, 8/8/2019, 8/13/2019, 8/15/2019, 8/16/2019, 8/20/2019, 8/27/2019, and 8/28/2019 (Signed by Dr. Cooper, Elizabeth Jensen, PT, DPT, Melissa SPT, and/or Maybel Kyin PT, DPT).

**CASA COLINA (2)**

- Inpatient / Outpatient information dated 4/19/2019, 8/26/2019 (Signed by); Outpatient Progress Note/Outpatient/Clinic Consultation dated 4/19/2019, 5/31/2019, 6/21/2019, 7/19/2019, 8/9/2019 by Dr. Cooper; Referral to Outpatient Therapy dated 5/3/2019 by Dr. Cooper; PT Outpatient Treatment Note dated 8/16/2019; Various Prescriptions; Referral to Specialty Center Physicians

Vocational Evaluation: Alice Smith

November 10,

dated 8/9/2019 by Dr. Cooper; Mike Tyson M.D, Otolaryngology report dated (?); Outpatient Radiology Referral dated 6/3/2019; and Results of Neurology diagnostic studies dated 5/17/2019.

**URGENT CARE**

- Louis Armstrong, M.D., Prescriptions & Doctor's Notes dated 3/13/2019 to 3/20/2019 (Most notes are illegible.)

**MISCELLANEOUS**

- San Antonio Regional Hospital—CT head and Laboratory Work signed by Michael Tulip, DO dated 3/23/2019 with discharge instructions.

**PSYCHIATRY**

**Clark Gable, M.D. (Psychiatry) Initial Psychiatric Panel Qualified Medical Evaluation dated 5/10/2021.**

Dr. Gable performed an Initial PQME in Psychiatry dated 5/10/2021.

He reviewed medical records and administrative records. He considered results of diagnostic testing: Beck Anxiety Inventory, Beck Depression Inventory, MMPI-3, Hamilton Psychiatric Rating Scale for Depression, Hamilton Rating Scale for Anxiety, Epworth Sleepiness Scale, Insomnia Severity Index, and Katz ADL scale.

Dr. Gable documented summary of the industrial events as related by Ms. Smith, psychiatric symptomatology, non-industrial factors, current medications, current condition and treatments, past medical and surgical history, past psychiatric history, family medical and psychiatric history, substance abuse history, social history, occupational history, activities of daily living, mental status examination, cognitive exam, and system review.

**Current Medications:**

- Ibuprofen—NSAID for pain. 1-2 times per week.

**Activities of Daily Living:**

- Bending, squatting, lifting, walking and sitting too long.
- Difficulties traveling and going long distances.
- Dizziness with over stimulation and physical discomfort.
- Difficulties concentrating and making mistakes.
- Starts tasks but does not complete them.
- Performs tasks slowly.

**Mental Status Examination:**

- Tearful when discussing accident.

**Review of Systems as Listed by Ms. Smith:**

- Fatigue.
- Blurred or double vision.
- Eye pain/failing vision/sensitivity to light.
- Persistent nausea or vomiting.

**Work Function Impairment Form:**

All categories rated minimal to slight.

- Slight in Ability to make Generalizations, evaluations or decisions without immediate supervision.
- Slight in Ability to accept and carry out responsibility for direction, control and planning.

**Diagnostic Impression:**

**Axis I (Primary Psychiatric Diagnosis):**

Posttraumatic Stress Disorder, chronic  
Major Depressive Disorder, single episode, mild

**Axis II (Personality or Developmental Disorders)**

Diagnosis deferred

**Axis III (General Medical Conditions)**

h/o Colon polyps  
Dizziness, cognitive difficulties, visual difficulties and imbalance post-concussion  
Headaches  
Pain in right arm, neck, shoulder and back

**Axis IV (Psychosocial Stressors)**

Problems with primary support group  
Occupational problems  
Economic problems

**Axis V Global Assessment of Functioning Scale (GAF): 65**

**Explanation of GAF Rating:**

61-70 Some mild symptoms (e.g., depressed Mood and mild insomnia) OR some difficulty in social, occupational, or school functions (e.g. occasional truancy, or theft within the household) but generally functioning pretty well, has some meaningful interpersonal relationships.

**Levels of Permanent Mental Impairment all deferred until MMI.**

**Discussion:**

**Vocationally Relevant:**

She was cooperating and forthcoming over the course of the evaluation.

“The applicant is claiming specific DOI of 3/13/2019 to head, vision, neck, back, right elbow, right knee and psych.”

**Conceptualization of the case based upon Applicant Interview:**

“Based upon the applicant interview, I believe that the case is best conceptualized as psychiatric injuries stemming from the traffic accident that occurred on 3/13/2019 while Ms. Smith was traveling in performance of her usual and customary duties for the subject employer, ABC & Company. As a result of the traffic accident, Ms. Smith’s psychiatric condition has been impacted in two distinct ways:

“A portion of her psychiatric injury is derived from the physical injuries to her head, right arm, neck, shoulder and back. With respect to the injury to her head, she now experiences headaches, dizziness, cognitive difficulties and loss of balance.

“Secondly, the applicant describes her emotional state having been affected directly by the traumatizing event. She relives the event and specifically recalls her fear when she believed a semi-truck was going to impact her vehicle. She describes hypervigilance and expectation of another accident when she is traveling.”

“The event has subsequently resulted in two psychiatric diagnoses:

- *Posttraumatic Stress Disorder (PTSD), Chronic.* The applicant began to experience symptoms of PTSD about a week after the accident in the form of nightmares, flashbacks, avoidance of stimuli, insomnia, difficulty concentrating, irritability and panic attacks.” “She continues to experience these symptoms which include hypervigilance, nightmares, flashbacks, poor concentration and irritability.”

- *Major Depressive Disorder, Single Episode, Mild.* The applicant continues to manifest symptoms of depression which she attributes to her ongoing physical pain and stress from being unable to work.”

**Causation of Disability:**

- *Direct traumatizing effects of her the [sic] motor vehicle accident which occurred on 3/13/2019.* 40% of her psychiatric injury was a direct result of these traumatizing effects and is deemed industrial.
- *Neurologic sequelae of the injury post (concussive cognitive difficulties, post traumatic migraines and dizziness) which have been specified as industrial by Dr. Song (neurologic QME).* 30% of her psychiatric injury was derived by these neurologic factors which is deemed industrial.
- *Injuries to her back, shoulder, neck and right arm.* It would appear that these issues are orthopedic and have not yet been specified. Dr. Song did not address these issues as neurologic in his QME report. He specifically referred to her post concussive cognitive difficulties, post traumatic migraines and dizziness as industrial. At his time, the applicant states that 30% of the cause of her psychiatric injury is related to her back, shoulder, neck and right arm pain. The industrial relatedness of these complaints needs to be addressed by a qualified or medical evaluator in the field of orthopedics.

“Although the applicant has some physical injuries which have not been clearly specified as industrial, the direct traumatizing effects of the accident and the neurologic injuries are considered industrial factors. Combined, these two factors are 70% the cause of her psychiatric injury.”

**Current Limitations:**

“Ms. Smith has physical limitations related to bending, squatting, lifting, walking and sitting for too long. She describes difficulty with her ability to clean and cook because she has difficulty organizing her thoughts. She is able to get dressed and groom though feels that she no longer takes time to consider her outfits. She dresses more simply.”

“She reports that traveling and going long distances affects her. She describes anxiety attacks because she feels an accident may be imminent. She also has visual difficulties which cause her to become dizzy and off balance.

“Psychiatrically, she denies any difficulty interacting with small groups of people. She has more difficulty with overstimulation. She becomes dizzy, overwhelmed and physically uncomfortable. At this time, she describes difficulty concentrating on tasks and making mistakes. She starts tasks but does not complete them. She also performs tasks more slowly.

**Temporary Disability:**

“With respect to temporary disability, the applicant is considered temporarily partially disabled from 3/20/2019 through the present. Much of the applicant’s current limitations relate to her physical injuries such as her cognitive difficulties, dizziness, poor balance and visual difficulties. These are deferred to the appropriate specialist.”

“From a psychiatric standpoint, she could be accommodated if working in small groups and limited in traveling such as through teleworking. For this reason, she is deemed to be temporarily partially disabled on a psychiatric basis.”

**Treatment:****Vocationally Relevant:**

Treatment modalities recommended by Dr. Gable do not appear to be those that would impair performance, production, or attendance.

**Permanent and Stationary:**

“The applicant has not yet reached maximal medical improvement and therefore is not yet permanent and stationary.”



**Permanent Disability:**

“The level of permanent disability is deferred as the applicant has not yet been determined to be permanent and stationary from a psychiatric basis.”

**Factors of Disability:**

“The factors of permanent disability are deferred as the applicant has not yet been determined to be permanent and stationary from a psychiatric basis.”

**Work Restrictions:**

“In keeping with the *en banc* decision on vocational rehabilitation and the ensuing statutory sunset of vocational rehabilitation, I will focus my comments upon work restrictions and the need for a modified position on a psychiatric basis. Work restrictions will be addressed upon reevaluation as the applicant is not yet permanent and stationary.”

## PSYCHOLOGY

**Levi Jeans, Ph.D. (Psychology) Progress Note (PR-2) dated 6/20/2019.**

Dr. Jeans performed a Psychological Assessment dated 6/20/2019.

He documented subjective complaints, objective findings, assessment, and a plan in the form of a PR-2.

**Diagnoses:**

1. Post-traumatic Stress Disorder, chronic.
2. Major depressive disorder, single episode. Severe without Psychotic Features.
3. Unspecified symptoms and signs.

**Objective Findings:**

“The patient continues to be anxious, depressed, worried, and restless. The patient continues to experience cognitive difficulties.”

**Plan:** “Continue cognitive behavioral therapy (3<sup>rd</sup> session completed today; 3 sessions remaining)”.

“Continue treatment with neurologist. Full neurocognitive assessment battery if cognitive symptoms continue.”

## NEUROLOGY

**Healthy Med Group Corona—Samuel Goldwyn, M.D. (Neurology) Maximum Medical Improvement report dated 7/30/2019; PR-2 dated 3/26/2019, 4/2/2019 (Signed by Dr.. MacMurray, M.D.), 4/16/2019, 4/26/2019 (Signed by Dr. Goldwyn); Progress Notes / Work Status dated 4/2/2019 (Signed by, M.D.), and 6/7/2019 (Signed by Dr. Goldwyn).**

*Information taken from the MMI report dated 7/30/2019, unless otherwise indicated.*

Dr. Goldwyn performed a Neurological MMI report dated 7/30/2019.

He reviewed medical records. He considered the results of diagnostic studies.

He documented chief complaints, history of present illness as related by the patient, job title with job description, present complaints, past medical history, a neurological examination, and a physical examination.

**Diagnoses /Assessment:**

1. Myalgia, other site.
2. Occipital neuralgia.
3. Cervicalgia.
4. Dizziness and giddiness.
5. Headache.
6. Other symptoms and signs involving cognitive functions and awareness.
7. Concussion with loss of consciousness of unspecified duration, subsequent encounter.
8. Cervical myalgia.
9. Cervical strain.

**Discussion:**

“All the medications were denied. The patient complains of having headaches, which is related to postconcussion mixed with cervicogenic headache secondary to cervical myofascial pain and occipital neuralgia bilateral.”

**Physical Examination:**

Vocationally Relevant:

Cervical Spine:

“Tenderness over the trapezius and scalene muscles bilaterally. On palpation, there were trapezius muscle spasms noted bilaterally.”

**Neurological Examination:**

Mental Status:

“Recent memory is impaired. She cannot recall 3 objects in 5 minutes.” “Attention and concentration are impaired. Subtracting series of 7 from 100 impaired.”

**Maximum Medical Improvement:**

“The patient has reached maximum medical improvement.”

**Work Status:**

“The patient can return to work with the following restrictions, sedentary work only.”

**PQME Brian Song, M.D. (Neurology) PQME Evaluation dated 11/22/2019; Follow-Up Visit dated 8/14/2020.**

*Information taken from the report dated 8/14/2020, unless otherwise indicated.*

Dr. Song performed a PQME Neurology Evaluation Follow-up dated 8/14/2020.

Dr. Song documented current complaints, current medication, a physical examination, and a neurological examination.

Dr. Song reviewed medical records. He considered results of diagnostic studies.

**Assessment:**

1. Post concussion syndrome.
2. Dizziness.
3. Post concussion migraines with aura which are intractable without status migrainosus.
4. Post traumatic stress disorder.

**Permanent and Stationary Status:**

“The patient’s post concussion syndrome, dizziness and post traumatic migraines became permanent and stationary one year after the accident. Since the accident occurred on March 13, 2019, these conditions became permanent and stationary on March 13, 2020.

“In regard to the post traumatic stress disorder, I would recommend psychiatric QME for establishing a permanent and stationary status and impairment rating and apportionment if necessary.”

**Work Restrictions:**

“Since the patient is getting three to six hours of headaches associated with blurred vision on a daily basis, along with her decreased concentration and focus and the dizziness with nausea, I think she is incapable of gainful employment.”



## CASA COLINA

**Gary Cooper, M.D. (Neurology) Outpatient Progress Note Casa Colina dated 4/19/2019, 5/31/2019, 6/21/2019, 7/19/2019, 8/9/2019 (Signed by Dr. Cooper), 10/18/2019 (Signed by Eric T. Ikeda, OD), 1/10/2020, 2/28/2020, 11/20/2020, and 4/24/2020 (Signed by Dr. Cooper), PT Outpatient Evaluation Form dated 1/22/2020 to 4/20/2020.**

**Neuro Optometry Clinic Note dated 10/17/2019 (Signature illegible). Various Prescriptions, Referral Forms to Clinical Laboratory,**

**Outpatient Therapy, Physical Therapy & Diagnostic Imaging, Notifications & Hospital Records, including identifications and Consent Forms, as well as Admission Forms.**

**MRI Brain & Spine dated 6/13/2019.**

**EEG and Brainstem Auditory Evoked Potential dated 5/17/2019.**

**Visual Evoked Potential dated 5/17/2019.**

**Various Patient Information Forms for inpatient/outpatient.**

**PT Outpatient Treatment Note/Plan of Care/PT Outpatient Evaluation dated 6/4/2019, 6/7/2019, 6/14/2019, 6/21/2019, 6/25/2019, 6/28/2019, 7/2/2019, 7/5/2019, 7/11/2019, 7/16/2019, 7/18/2019, 7/23/2019, 7/25/2019, 7/30/2019, 7/31/2019, 8/1/2019, 8/6/2019, 8/8/2019, 8/13/2019, 8/15/2019, 8/16/2019, 8/20/2019, 8/27/2019, 8/28/2019, and 9/5/2019 (Signed by Dr. Cooper, Elizabeth Jensen, PT, DPT, Melissa SPT, and/or Maybel Kyin PT, DPT).**

## **NEUROLOGY OUTPATIENT**

**PTP Gary Cooper, M.D. (Neurology) Progress Report dated 11/20/2020.**

*Information taken from this report, unless otherwise indicated.*

Dr. Cooper documented history of treatment, current complaints, history of present illness, social history, medications, family history, review of systems, testing, a physical examination, and mental status.

Dr. Cooper oversaw services and treatment at Casa Colina. He reviewed medical records. He considered results of diagnostic studies.

### **Assessment:**

1. Post-concussion syndrome.
2. Cervical whiplash injury.
3. Lumbar spine whiplash injury.
4. Posttraumatic migraine headaches.
5. Right rotator cuff injury.
6. Status post pregnancy.

### **Review of Systems:**

#### Vocationally Relevant:

- “Recurrent headaches since the accident, but not before.”
- “Intermittent blurred vision. No previous glaucoma or eye problems.”
- “Complains of posttraumatic vertigo.”
- “Mood is improved.”

### **Testing:**

#### Vocationally Relevant:

1. “Small annular disk bulge at C4-C6.”
2. “Incidental finding of soft tissue nodule in the posterior oropharyngeal pharynx as well.”

**Plan:** Vestibular therapy was recommended for eight weeks; however, it might not be considered if employed. Moreover, no treatment recommended would impair performance, production, or attendance if employed post-treatment.

**VISUAL****Eric Estrada, OD Outpatient /Clinic Consultation dated 10/18/2019.****Examination Findings:**

Unaided distance acuities are 20/15 for each eye. Unaided near acuities also 20/15 for each eye.

“Subjective refraction showed minus quarter DS right and minus quarter DS left with no change in acuities. Cover testing showed orthophoric postures at distance and near.”

“Ocular motilities appeared full and symmetric. Pupils were 4 mm, round, reactive to light with no APD. Confrontation fields were full. Binocular testing showed 3 XOP with no hyper, at distance 3 XOP at near with no hyperdeviation vergence amplitudes were minimally reduced. NPC was 5, 3, and 6 inches. Neuromotor evaluation showed no head turn or tilt, good ocular cosmesis. Visual midline testing revealed a posterior midline shift.

“Ocular health evaluation: Intraocular pressures by Tono-Pen were 16 mmHg right, 15 mmHG left eye. Slit lamp examination showed a normal-appearing adnexa. Cornea and lens were clear. Anterior chamber was deep and quiet.

**Impressions:**

1. Accommodative dysfunction.
2. Visual special deficit post-trauma vision syndrome.
3. Ocular motor dysfunction.

**Plan:**

1. Apply binasal occlusion to her current sunglasses and her clear lenses. Continue wearing the reading glasses for all near viewing particularly with the device in the computer.
2. Recommend physical therapy to work more on peripheral processing and enhancing peripheral awareness and avoid working with focal targets at this time.

**LEGAL:**

- Offer of Employment BD Bard March 8, 2018
- 7/29/2019- Workers’ Compensation Deposition of Alice Smith 47 pages
- 10/18/2022 Deposition of Alicen Smith (Read and Sign Only) 130 pages
- Earning Statement (Direct Deposit Pay Checks)
- Traffic Collision Report by E. G. Marshall dated 3/13/2019.
- 2018 W2 – A. Smith
- 2019 W2 – A. Smith
- BD Interactive Accommodation Process – Reasonable Accommodation Request A. Smith 9/5/2019
- Photographs of Ms. Smith’s home (pre-injury and post injury)

**THIS CONCLUDES THE MEDICAL-LEGAL RECORD REVIEW****VOCATIONAL ANALYSIS OF MEDICAL IMPAIRMENTS & WORK RESTRICTIONS****Converting Medical Impairments and Work Restrictions to Vocational Factors of Disability:**

Medical factors of disability, as identified by evaluating physicians, are based upon their measurement of the medical impairment(s) and the degree to which they impact their patient. Evaluating physicians may document work restrictions and/or work limitations separately or they may document them narratively in the description of medical impairments and/or disability status.

Thus, analysis of medical factors of disability results in the identification of the injured individual's ability to engage in activities of work. Converting medical impairments and work restrictions requires a structured criterion-referenced measurement approach that can be accurately replicated. Vocational Factors of Disability are based upon the vocational impact of the medical impairments, work restrictions, physician's opinions, and medical test results documented in the medical reports.

The vocational analysis involves the basic foundations for elemental work; the exertion of force, frequency of activity on a one-time basis and cumulative basis, and duration of each task on a one-time basis and cumulative basis. Force, frequency, and duration associated with task, job, or occupation can be used to analyze the medical impairments as follows:

1. Loss of functional ability in general.
2. Loss of strength factor (lift/carry/push/pull),
3. Loss of range of motion for the whole body, upper extremities, and lower extremities
4. Loss of functional use of hands for handling, gripping, grasping, and loss of manual dexterity.
5. Vocational impact of pain & discomfort and/or the use of pain medication upon functional ability.
6. Vocational impact of non-exertional medical impairments; neurologic, visual, psychiatric.

The vocational analysis is based on the primary work demands involved with competitive employment. Every job or occupation is characterized by employer requirements for job performance, productivity, and attendance. The parameters involved with these three factors vary based on the specifics of each job or occupation. However, the basis of success in the performance of an individual job remains constant, as follows:

1. Performance: Employee must be able to meet demands such as quality of work, and appropriate behavior consistent with company structure, rules, and employment guidelines.
2. Productivity: Employee must be able to meet the daily production demands as identified in each individual job description. Production demands may be hourly, daily, weekly, monthly, or annually.
3. Attendance: Employee must be able to meet the employer's demand for work schedule for any given job or occupation, in terms of work schedule (hourly, daily, monthly, etc.) and conform to the limits for vacation and sick leave.

### **VOCATIONAL SUMMARY:**

I completed a review of the medical documentation that has identified medical impairments as follows:  
Neurological:

Dr. Goldwyn has diagnosed Ms. Smith with cervical strain, symptoms involving cognitive functioning and awareness, dizziness, headache, cervicgia, cervical myalgia and occipital neuralgia. He assigned a work restriction limiting Ms. Smith to sedentary work only.

Dr. Song diagnosed Ms. Smith with Post Concussion Syndrome, dizziness, post-concussion migraines, and Post-traumatic Stress Disorder. He concluded that Ms. Smith was incapable of gainful employment.

Dr. Cooper (Casa Colina) has been treating Ms. Smith for post-concussion syndrome, posttraumatic migraine headaches, noting that she was experiencing intermittent blurred vision, recurrent headaches, and posttraumatic vertigo. His treatment notes range from 2019 to 2020, with Ms. Smith reporting that that she continues treating with Dr. Cooper and Casa Colina. Dr. Cooper reported that Ms. Smith has been treated for cognitive dysfunction, vestibular therapy and physical therapy.

#### Psychiatric/Psychology:

Ms. Smith was psychologically examined by Dr. Jeans, Ph.D. with a diagnosis of Post-Traumatic Stress Disorder, chronic and a Major Depressive Disorder, severe without psychotic features. Dr. Jeans reported objective findings of anxiety, depression and cognitive difficulties.

Dr. Gable conducted a psychiatric evaluation of Ms. Smith on 5/10/2021. He administered various testing. He diagnosed Post-traumatic Stress Disorder, chronic, Major Depressive Disorder, single episode, mild, Dizziness, Cognitive Difficulties, and Visual Difficulties with post-concussion imbalance. Dr. Gable referenced orthopedic issues but indicated that orthopedic examinations are not present. He identified limitations related to bending, squatting, lifting, walking, and sitting for too long. He reported that she has difficulty organizing her thoughts. He reported that she experiences anxiety attacks when traveling. He reported that she was experiencing visual difficulties which cause her to become dizzy and off balance. He noted that she denies having difficulty interacting with small groups of people but has difficulty with overstimulation. She has difficulty with concentrating on tasks and making mistakes. He documented limitations that include working in small groups and limited travel activities. He did not assign work restrictions as he determined that she had not reached maximum medical improvement.

#### Visual:

Ms. Smith was examined by Dr. Estrada, who was identified as a neuro optometrist. He documented impressions of Accommodative Dysfunction, Visual Special Deficit Post-Trauma Syndrome and Ocular Motor Dysfunction. He documented his plan to apply binasal occlusion to her glasses and recommended physical therapy to “work more on peripheral processing and enhancing peripheral awareness. He recommended that she avoid working with focal targets at this time”.

Ms. Smith apparently sustained injuries to her neck, shoulders, and lumbar spine with emphasis on her cervical spine. However, there is no medical information of an orthopedic nature that allows for vocational analysis. Medical impairments and resulting vocational disability may be present. However, I cannot address these issues without appropriate orthopedic documentation.

I found that the concussion Ms. Smith sustained in the motor vehicle accident of 3/13/2019, resulted in psychiatric impairments, neurological impairments, and visual impairments that adversely affect her ability to function from a vocational perspective. Specifically, Ms. Smith now experiences cognitive impairments that adversely affect her ability to focus and concentrate on tasks at hand. She is experiencing visual impairments that result in dizziness and adversely affect her ability to maintain balance on a consistent basis. Further, it appears that her vision is not stabilized, resulting in loss of vision and physical balance.

The vocational impact of these impairments has significant impact on her ability to meet performance standards when considering any form of employment. Should she be required to engage in activities requiring change in focal targets (changing vision point from one location to another) she encounters dizziness and loss of visual acuity.

Thus, the issue of quality control (making mistakes) in work product or process would be a factor preventing her from functioning at a competitive work level. Her visual impairment combined with her cognitive deficits would adversely affect her ability to maintain pace and persistence required for competitive employment (productivity).

The vocational impact of the diagnosis of Post-traumatic Stress Disorder would adversely affect her ability to deal effectively with the environmental demands of competitive employment. Her ability to engage in driving and/or traveling has been adversely affected as she experiences anxiety (panic) attacks that she is unable to control effectively.

The adverse effect of the cognitive impairments as described by the evaluating physicians indicate she has difficulty with memory (short-term & long-term), and some executive functioning for problem solving. Given the vocational impact of the aforementioned medical impairments, it is my professional opinion with reasonable vocational certainty that Ms. Smith is unable to return to her past occupation as an Associate Sales Representative/Sales Representative, her prior occupations as a journalist/reporter, or any other occupation found in the open labor market.

#### **VOCATIONAL EVALUATION PROCESS:**

Ms. Smith was seen for a vocational evaluation on November 7, 2022, at my office in Murrieta, California. She was accompanied by her mother, who drove her to the appointment. Her mother was not present for the evaluation. The purpose and process of the vocational evaluation was explained to Ms. Smith, and she was advised that a vocational evaluation report would be prepared that would document the review of medical/legal documents associated with this process, information collected from the interview process, and results of the vocational testing administered to her. The purpose of the vocational evaluation was to determine Ms. Smith's ability to return to her past work as an Associate Sales Representative, as a Sales Representative or occupations from past employment, and determine her ability to engage in competitive employment if any, based on the vocational impact of medical impairments resulting from her motor vehicle accident. Information from the vocational evaluation would be used to determine Ms. Smith's earning capacity based on her past education, work experience, and employment qualifications as a Sales Representative.

Ms. Smith was interviewed to obtain information regarding her past education, her work history, and the specific job duties and responsibilities required of her as an Associate Sales Representative. Information was collected from Ms. Smith regarding her return to work after the motor vehicle accident. Information was collected from Ms. Smith regarding her treatment process at Casa Colina and her progress resulting from the treatment. Information was collected regarding her post-injury work activities. Information was collected from Ms. Smith regarding her current attempt to engage in work activities.

#### **VOCATIONAL INTERVIEW:**

Ms. Smith provided information regarding her past education and employment activities. She appeared to have difficulties with recall of specific information from her past work. She had little or no recall of her attempt to return to work at ABC & Company and required prompting from information extracted from medical records. She recalled that she had returned to work for two days following the accident but could not recall specific dates. She remembered going to a Los Angeles location that she thought was a clinic (but could be a hospital) and presented to a group of people. She was unable to recall the subject of the presentation or what exactly occurred that day. She remembers experiencing visual

problems, and she was forced to stop driving. She described symptoms of dizziness and loss of vision. When questioned further, she described a feeling that her vision was fading or “graying” out. She thought that a family member came to get her but could not remember details. Mr. Smith reported that she went to Bakersfield on the second day that she attempted to return to work but could not recall if that occurred the next day.

Ms. Smith was questioned regarding her education and employment history. She was able to recall her graduation date from high school, and when she began her college education at San Diego State University. She cited major and minor studies but had no recollection of her grades or performance other than she thought she did well. Ms. Smith was questioned regarding her job duties, responsibilities and extent of training she completed with Becton, Dickenson & Company. She knew that she went to Arizona for four-months to complete training. However, she could not recall the nature of training, where in Arizona the training occurred, or the specific time spent in training. She indicated that she was provided in-service training, citing a two-week period in Kansas City, but she could not recall the training received or when exactly she attended the training. When questioned about her job duties, she was unable to provide specific information. She was asked about procedure for contacting customers to schedule appointments and more specifically how she engaged potential customers but could provide no specific information.

Ms. Smith was questioned about prior employment. She was unable to provide some information about her job duties, products that she sold, or how she was paid. When questioned about the work product at Synergy Medical, Ms. Smith indicated that they sold “big machines used for delivering medications”. She was able to provide some information regarding her work as a journalist/reporter for Yahoo in that she wrote articles, did some editing/proofing and engaged in research for writing articles.

Ms. Smith was questioned about her current work activities. She reported that she has been working with a friend who is a travel agent. Her work activities consist of some research and development of travel arrangements/trips for people with disabilities. She indicated that she makes her own schedule for work and spends up to 10 hours per week doing research and assisting in scheduling trips. She indicates that she engages in this work for approximately 45 minutes to 1 hour at one time before she must stop and rest. She indicates that she is paid on a commission basis from funds paid to her employer/friend when the trip has been completed. She did not recall the specifics regarding the agreement regarding pay.

**Education/Training:**

Ms. Smith reported that she completed her high school education at Bonita High School in 2009. She continued her education at San Diego State University, earning a Bachelor of Arts in Communication with a minor in International Studies (2009-2013).

Ms. Smith reports that she was provided training with ABC & Company in the form of a 4-month training program in Arizona and then subsequently, shorter, in-service training relating to those products sold. When questioned, Ms. Smith could not recall the dates she was involved in training, nor could she recall the specifics of training provided her.

**Employment History:**

Employment information was obtained from Ms. Smith during the course of an interview with her and from information found in medical records. Of note, Ms. Smith was able to generalize regarding information pertaining to dates of employment, specific employment activities, or the duties and responsibilities assigned to her.



**Employment History:**

<b>Dates of Emp.</b>	<b>Company</b>	<b>Job Title, Duties &amp; Responsibilities</b>
March 2018 to 3/20/2019	ABC & Company	Medical Devices Sales Representative in the Cardiac Division: FT, 5 days/week, averaging 55-60 hours/week. Salary at time of injury was \$60,000 plus \$20,000 bonus in the first year. Managed accounts several accounts throughout Los Angeles, San Bernardino and Riverside counties. When first hired she assisted three more senior sales representatives throughout these counties. Explained products or implement the right settings. 4-6 hours per day would be this type of training. Interacted with nurses, administrative and purchasing staff at the various facilities. Primarily dealt with hospitals and outpatient surgery centers.
January 2017 to March 2018	Magical Medical Devices	Sales Representative: Sold medical supplies and equipment
4/2016 to 12/2016	Seagull Hill Newport, CA	Events and Salesperson: Temporary Position Coordinated events with customers according to contract agreements and functioned as a food and beverage server and coordinator.
2012 to 2016	Property Management	Salesperson: Engaged in office activities as a clerical support. This business was owned and operated by her father.
4/2015 to March 2016	Yahoo New Zealand	Journalism/Communications: Ms. Smith was assigned articles on a variety of subjects assigned to her. She conducted research, engaged in some editing/proofreading, and performed some field work for article development.
2013 to 2015	Daily Mail	Journalism: Ms. Smith was assigned articles on a variety of subjects assigned to her. She conducted research, engaged in some editing/proofreading, and performed some field work for article development.

**Pre-Injury Earnings:**

Information was collected from initial offer of employment by ABC, & Company and was verified with W2 statements.:

Reported wages: ABC & Co.	Monthly Average	Annual Wage
Wages (Exempt status)	\$5,000	\$ 60,000
Bonus	Yearly	\$25,000

**Vocational Testing:**

Ms. Smith was administered the Purdue Pegboard Dexterity Test designed to measure hand-eye coordination, hand speed, finger rate, and fine-finger dexterity. Ms. Smith was administered each subtest once for right hand, left hand, both hands and assembly. Scores were noted to be below the 5<sup>th</sup>ile as compared to female hourly production workers. Of note, observations of her performance did not reflect difficulties with hand-eye coordination, handling small parts, or fine finger dexterity. She demonstrated the ability to grasp, manipulate and place objects with both hands with only one observed drop and no

apparent difficulty completing the task. When questioned, Ms. Smith indicated that she had no problems with her visual acuity as she was able to hold her head steady in one place to complete the task. She indicated that she had problems primarily when she had to shift her visual focus (either left or right) to perform a task. Depressed scores were attributed to hand and finger speed as opposed to manual dexterity.

Ms. Smith was administered the Gates-MacGinitie Reading Test designed to measure understanding of vocabulary and reading comprehension ranging up to high school graduate level. Ms. Smith's performance was noted to be at the 12.9+ grade level for both subtests, with percentile ranking at the 66<sup>th</sup>ile and 68%ile, respectively. Of significance would be the observed error patterns for both subtests. As standardized tests, degree of difficulty for the test items increases from simple to difficult. Expected error patterns should reflect an increase in number of errors towards the end of the test. The observed error pattern on both the vocabulary and comprehension subtest were randomly scattered throughout each of the testing protocols. Ms. Smith's scores were considered depressed when compared to her English language proficiency required for successful completion of her Bachelor of Arts degree in Communication, her work as a journalist/reporter, and her work as an Associate Sales Representative. Her performance is, however, consistent with the medical analyses of her cognitive disabilities as documented by the evaluating professionals.

Behavioral observations of Ms. Smith during the vocational evaluation were recorded. When questioned, she complained of neck pain and was observed supported her head with her hand and arm when engaged in the vocational testing process. Other than that, I saw no behavior that would indicate she was experiencing pain-related symptoms. She was observed to be able to sit for periods of time up to two hours without evidence of difficulty. She was able to sustain work-like activities at the Sedentary Work level for the duration of the vocational evaluation. Although she complained of a headache, Ms. Smith also indicated that her headache was constant with episodes of increased discomfort. She reported that she did not experience an increase in her headache during the vocational evaluation. I did observe behavior consistent with diagnoses and assessment of Ms. Smith's cognitive issues and visual issues.

Ms. Smith exhibited problems with her recall/memory relating to her past work and, in some instances, recall of a specific word. She would describe information related to the word when she was able to recall. When the word was identified, Ms. Smith would verify correct application of the word. Ms. Smith seemed to have difficulty with the comprehension section of the Gates-MacGinitie Reading Test. She was observed continuously referencing the paragraph that was used to answer the corresponding questions (after the initial reading). It is expected that the test-taker would reference the paragraph after the initial reading once or perhaps twice. Ms. Smith was observed to be engaged in this referencing process continuously. When questioned, she indicated that she had difficulty coordinating between the reference paragraph and the question to be answered. This behavior is consistent with the diagnoses and analysis of the related medical impairments for cognitive problems and executive functioning.

### **SUMMARY & CONCLUSION:**

Based on the results of the vocational analysis of medical impairments and the consistent results of the vocational evaluation, I have concluded that Ms. Smith cannot return to her position at time of the motor vehicle accident as an Associate Sales Representative, or the occupation of Sales Representation for which she is qualified. Further, she cannot return to other occupations/jobs identified from her work history and is unable to meet the demands of competitive employment. Thus, with reasonable vocational certainty, Ms. Smith is unemployable.

**JOB ANALYSIS/ANALYSIS OF ACQUIRED SKILLS:**

I referenced the Dictionary of Occupational classification system to classify Ms. Smith's past employment with ABC and Company as an Associate Sales Representative in order to accurately relate her occupation to the labor market in 2019 to present. That information produced the following job title most consistent with her specific job title, her work activities, her job duties, and her responsibilities. Although her position was identified as that of an Associate, Ms. Smith's job duties and responsibilities as performed were consistent with the job title identified. Of note, this job title includes alternative job titles (might be known as), but is considered the most relevant and appropriate for this vocational evaluation:

**276.257-010 SALES REPRESENTATIVE, DENTAL AND MEDICAL EQUIPMENT AND SUPPLIES**

ALTERNATE JOB TITLES (Might also be known as): **HOSPITAL EQUIPMENT SALES; SALES PERSON, BIO-MEDICAL EQUIPMENT; SALES REPRESENTATIVE, DENTAL AND MEDICAL EQUIPMENT; SALES REPRESENTATIVE, DENTAL EQUIPMENT AND SUPPLIES; SALES REPRESENTATIVE, DENTAL PROSTHETICS; SALES REPRESENTATIVE, PROSTHETIC AND ORTHOTIC APPLIANCES**

Sells medical and dental equipment and supplies, except drugs and medicines, to doctors, dentists, hospitals, medical schools, and retail establishments: Studies data describing new products to develop sales approach. Compiles data on equipment and supplies preferred by customers. Advises customers of equipment for given need based on technical knowledge of products. Provides customers with advice in such areas as office layout, legal and insurance regulations, cost analysis, and collection methods to develop goodwill and promote sales. Performs other duties as described under SALES

REPRESENTATIVE (retail trade; wholesale tr.) Master Title. May be designated according to type of equipment and supplies sold as Sales Representative, Dental Equipment and Supplies (wholesale tr.). May sell orthopedic appliances, trusses, and artificial limbs and be designated Sales Representative, Prosthetic and Orthotic Appliances (wholesale tr.). May sell services of dental laboratory and be designated Sales Representative, Dental Prosthetics (wholesale tr.).

Master Description -----

Sells products to business and industrial establishments or individual for manufacturer or distributor at sales office, store, showroom, or customer's place of business, utilizing knowledge of product sold: Compiles lists of prospective customers for use as sales leads, based on information from newspapers, business directories, and other sources. Travels throughout assigned territory to call on regular and prospective customers to solicit orders or talks with customers on sales floor or by phone. Displays or demonstrates product, using samples or catalog, and emphasizes salable features. Quotes prices and credit terms and prepares sales contracts for orders obtained. Estimates date of delivery to customer, based on knowledge of own firm's production and delivery schedules. Prepares reports of business transactions and keeps expense accounts. DATA SOURCES: U.S. Dept. of Labor, *Dictionary of Occupational Titles Fourth Edition, Revised (1991)*, (including subsequent amendments by the U.S. Department of Labor. Various Military-Civilian occupational titles cross-references.

**RESIDUAL EMPLOYABILITY:**

I conducted a review of Ms. Smith's education and employment history to establish her qualifications for present and future employment. I conducted a review of statistics found in the Bureau of Labor Statistics and the associated web site; O\*NET OnLine. Based on information provided by O\*NET OnLine, employment qualifications for a medical equipment Sales Representative noted a preference for a Bachelors' degree and two years' experience.

Ms. Smith was employed as Sales Representative for Magical Medical Devices (1 year), and as an Associate Sales Representative for ABC & Company for one year. Additionally, she was provided specialized training by her company to prepare her for the transition to the position of a Sales Representative. At the time of her accident, Ms. Smith was engaged in work activities consistent with a Sales Representative and was anticipating assignments of specific accounts for which she would be responsible.

An analysis of data from the Bureau of Labor Statistics and O\*NET OnLine resource center, Ms. Smith was engaged at the start of a career path as a Sales Representative. To analyze Ms. Smith's present and future earning capacity, I have concluded with reasonable vocational certainty that the Occupation of Sales Representative is an appropriate designation.

I considered the information provided by her regarding her current attempts to return to work. This job is best classified as a Travel Clerk, based on a description of her job duties. However, I do not consider this as gainful employment. She is unable to work more than part-time (up to 10 hours per week), is not performing the essential functions of this occupation as performed in the open labor market, and is provided accommodations by her friend/employer for work activities and work schedule that would be considered even part-time. She is not held to a specific work schedule, is not held accountable for her work activities or meeting deadlines and is not held accountable for any errors associated with her work. Thus, I have concluded with reasonable vocational certainty that work activities identified for Travel Clerk do not meet the definition of competitive employment as she does not meet the employment requirements for this occupation.

#### **EARNING CAPACITY ANALYSIS FOR FUTURE EARNINGS:**

I research resource information Provided by the California Employment Development Department for Occupational Employment Statistics Survey Results. Employment information is collected by the California Employment Development Department from information provided by employers by Standard Occupational Classification Codes.

The Standard Occupational Classification Code (SOC) for Ms. Smith's occupation as a Sales Representative was identified as 41-4011; Representatives, Wholesale and Manufacturing, Technical and Scientific Products. This SOC Classification includes Ms. Smith's specific job/occupation and other jobs/occupations that fall in this general category. Thus, wage information as reflected in the Occupational Employment Statistics Survey results includes a wide range of earnings/wages that vary from occupation to occupation. Ms. Smith's job/occupation involved the highest level of technical application within the medical industry. As noted, she was required to make technical presentations to

Cardiologists and staff. She was required to join the Cardiologist during cardiac catheterization procedures and provide advanced technical advice on the appropriate use of her company's product. Therefore, her earning capacity as a Sales Representative would fall within the highest range of the population presented.

The following table reflects a statistical analysis of the SOC Code for her occupational field for 2019, 2020, 2021, and 2022. Given the nature of her specific occupation, her earning capacity would be best identified at or above the 75<sup>th</sup> %ile and should be considered the minimum level for wage and salary expectations.

California Employment Development Department for Occupational Employment Statistics Survey

Year	Geographic Area Name	SOC Code	Occupational Title	Mean Hourly Wage	Mean Annual Wage	25%-ile Hourly Wage	50%-ile (Median) Hourly Wage	75%-ile Hourly Wage
2018-2019	Los Angeles-Long Beach-Glendale MD	41-4011	Sales Representatives, Wholesale and Manufacturing, Technical and Scientific Products	\$47.69	\$99,193	\$30.03	\$40.96	\$61.86
2019-2020	Los Angeles-Long Beach-Glendale MD	41-4011	Sales Representatives, Wholesale and Manufacturing, Technical and Scientific Products	\$45.05	\$93,702	\$29.65	\$39.11	\$56.39
2020-2021	Los Angeles-Long Beach-Glendale MD	41-4011	Sales Representatives, Wholesale and Manufacturing, Technical and Scientific Products	\$50.21	\$104,441	\$32.95	\$44.54	\$62.54
2021-2022	Los Angeles-Long Beach-Glendale MD	41-4011	Sales Representatives, Wholesale and Manufacturing, Technical and Scientific Products	\$47.99	\$99,822	\$31.63	\$42.43	\$63.32
2021-2022	State of California	41-4011	Sales Representatives, Wholesale and Manufacturing, Technical and Scientific Products	\$58.59	\$121,861	\$38.17	\$51.79	\$78.74

At 75<sup>th</sup>ile Annual Wage is \$131,705. LA County 2021

At 75<sup>th</sup>ile Annual Wage is \$163,779. California 2021

Earnings for the occupation of Sales Representative is generally based on a base salary, plus bonus and/or commission of sales. Earnings variance therefore must be factored into Ms. Smith’s present and future earning capacities. It is reasonable to consider her base earning capacity to be at or above \$150,000 per year for the first two years of employment as a Sales Representative. During that first two-year period, accounts would be added that would increase earnings. At present, yearly earnings for a Sales Representative employed in this specialized capacity can range up to and exceed \$300,000 per year.

Ms. Smith demonstrated the necessary skill set to function as a Sales Representative, and I expect her initial earnings to range from \$150,000 to \$200,000. After an additional two years of experience, I would expect her future earning capacity to range from \$250,000 to \$300,000 per year. There is a variance issue as earnings are based on the structure for bonuses and commissions and may vary depending on the nature of the labor market and the professional competencies of each individual. Earnings reflected for Ms. Smith are considered minimum ranges, with the potential for her income to increase accordingly.

**SUMMARY AND CONCLUDING OPINIONS:**

I was asked to conduct a vocational evaluation in the case of Alice Smith and address the following issues. I have reached the following conclusion with reasonable vocational certainty:

1. I analyzed Ms. Smith's past work as an Associate Sales Representative, Medical Equipment, her past education and employment history and determined her to be qualified as a Sales Representative.
2. I completed a review of medical and legal documents to extract relevant vocational data needed to identify her current functional ability to engage in her past occupation or any alternative occupations. I concluded that medical impairments resulting from the motor vehicle accident of 3/13/2019 are sufficient to preclude her from returning to her past occupation and employer.
3. I completed a comprehensive vocational evaluation with Ms. Smith and compared the findings of that evaluation to those documented by medical experts and found consistency with results in determining the level of her vocational disability.
4. I completed research of national and local labor market information and concluded that Ms. Smith meets the qualifications for the position/occupation of Sales Representative for medical equipment. I identified the population of employees consistent with her job title and Standard Occupational Classification Code I identified a range of earnings that would be consistent with Ms. Smith's employment qualifications. Ms. Smith's earning capacity as a Sales Representative would commence at a range of \$150,000 to \$200,000 per year. Her potential earnings would increase after a period of an additional two years to a range of \$250,000 to \$300,000 per year. The variance of earnings is an issue as income for this occupation often involves a salary plus commission or bonus, which is based upon individual employee achievement. Earnings are considered at a minimum level.

*I declare under penalty of perjury that the information contained in this evaluation and its attachments, if any, is true and correct to the best of my knowledge and belief, except as to the information that I indicated I received from others. As to that information, I declare under penalty of perjury that the information accurately describes the information provided to me and, except as noted herein, that I believed it to be true. The contents of this evaluation are true and correct to the best of my knowledge. The statement is made under penalty of perjury. I reserve the right to augment or modify the findings expressed in this evaluation as may be required should any additional information become available through the ongoing discovery being conducted by the parties to this litigation, including the offering of any opinion(s) by other vocational consultants or experts.*

Submitted by



Roderick C. Stoneburner, M.S., ICVE, IPEC, ABVE,  
Vocational Evaluation & Rehabilitation