

**State of Nita Circuit Court
Circuit Court of Darrow County
Civil Division**

**Jeffrey T. Potter, the Administrator of the Estate of Katherine Potter,
and Jeffrey T. Potter, individually
(Plaintiff)**

V.

**Charles T. Shrackle and
The Shrackle Construction Company
(Defendants)**

**Expert Report of Elizabeth Buchanan, Ph.D.
•Assistant Professor of Economics, Nita State University
Nita City, Nita
September 1, 2002**

1.0 Introduction

I Elizabeth C. Buchanan, Ph.D., understand this matter involves Jeffrey T. Potter, the Administrator of the Estate of Katherine Potter, and Jeffrey T. Potter, individually, as plaintiff, and Charles T. Shrackle and The Shrackle Construction Company (collectively, “Shrackle”) as defendants. As I understand this matter, Ms. Katherine Potter was struck by an automobile driven by Mr. Charles T. Shrackle on November 30, 2001. Ms. Potter died on December 4, 2001 as a result of injuries sustained in that accident.

2.0 Qualifications

I am an Assistant Professor of Economics at Nita State University with fields of concentration in labor economics and industrial organization. I am also a graduate of the University of Nita, holding both a bachelors and doctorate degree in economics. I have taught at Nita State University for the past five years: two years as a visiting professor, two years as a lecturer and one year as an assistant professor. Appendix A is a copy of my current resume. It contains a listing of my papers and publications for the past 10 years

2.1 Engagement of Elizabeth Buchanan

As part of this engagement, James Barber of Pierce, Johnson & Clark (“Pierce”), counsel for defendants Shrackle, requested that I:

- Review the expert report on damages prepared by Dr. Robert Glenn;
- Review the Potter v. Shrackle case file, including but not limited to:
 - the complaint and answer;
 - depositions of James Marshall, Victoria Williams, Michael Young, Charles T. Shrackle, Jeffrey Potter, and Daniel Sloan;
 - statements of Marilyn J. Kelly, Juanita Williams, Victoria Williams, Alice Mallory, Benjamin Crimson;
 - and other documents which I have reviewed which have been produced in this matter;
- Collect information relevant to a calculation of economic losses resulting from a wrongful death; and
- Provide economic and statistical analysis regarding plaintiff’ specific claims.

In preparing my analysis, I have relied on counsel, Pierce, for any interpretation of legal issues.

2.2 Supplemental Analysis and Opinions

I understand that discovery in this matter is still ongoing and that additional documents, statements, deposition or trial testimony on topics relevant to the opinions issued in this report may be forthcoming. As a result, I reserve the right to supplement this report or to address any such testimony at trial.

3.0 Opinion

Based upon my continuing review and analysis of Dr. Glenn's expert report and the Potter v. Shrackle case file, supplemented with my own research of relevant economic and demographic information, I have developed the following opinion regarding economic damages in this matter.

- Dr. Robert Glenn substantially overstates the total value of loss allegedly suffered by the plaintiff due to incorrect and inappropriate assumptions used in his damages model.
- In my own opinion, from the date of her death through her eventual retirement at age 55, the value of Katherine Potter's lost earnings, benefits and household work, net of her consumption is a loss of \$411,077 to her estate and to her husband, Jeffrey Potter. In present discounted value, this amount is a loss of \$333,719 to the plaintiff.

4.0 Bases for Opinions

- It is my opinion that Katherine Potter would have reasonably been expected to work full-time until the age of 50 and then would work part-time until her retirement at age 55. Deposition testimony from her husband, Jeffrey Potter, stated that he and Katherine talked about taking an early retirement. My calculations of loss valuation is conservative in that it treats Katherine as having worked to the age of 55, which would tend to overstate the loss if she were to retire before that age.
- It is my opinion that Katherine Potter would have an average annual salary increase of five percent per year. Dr. Glenn averages Katherine's salary increases during her entire period of employment at Techno-Soft, Inc. This method would overstate the salary increases Katherine would likely receive in the period after her death. I note that her salary increases are smaller and smaller, in percentage terms, and thus the use of long-run averages would be ignorant of this trend. Instead, I use an average of her annual salary increases over the last three years to capture the fact that she may be reaching the upper salary limit of her position.
- I assume that the imputed value of benefits enjoyed by Katherine Potter is 17.5% of her annual salary. Like Dr. Glenn, I have spoken to Linda Graham, Human Resources Director at Techno-Soft, Inc. Based upon my discussion with Ms. Graham, I learned that Dr. Glenn's calculation of future fringe benefits overstates this value since it ignores the fact that Katherine Potter received a special one-time bonus payout of \$2,000 in 2001 for staying beyond ten years at Techno-Soft, Inc. Were this one-time payout to be removed, the actual rate of benefits would be lowered from 20% to 17.5% of her annual salary. Dr. Glenn thus overstates all future projections for fringe benefit calculations since he does not appropriately evaluate the baseline year. I use the more justifiable number of 17.5% in my projections.
- Although Katherine Potter shared equally in the household work with her husband, Jeffrey Potter, and her death will result in a loss equal to the value of Katherine's labor, I disagree with Dr. Glenn's methodology of using her imputed hourly wage as the appropriate replacement wage. Katherine's hourly wage, assuming a 2080-hour work year, is imputed to be approximately \$41 per hour. Dr. Glenn uses this amount as the value of Katherine's lost labor. This methodology is incorrect in that Dr. Glenn should value the loss of Katherine's household labor at its replacement cost. Since many of the household tasks did not require the use of Katherine's specialized skills, I use a more appropriate measure of replacement cost, the minimum wage.
- It is my opinion that, as a member of the Potter household, Katherine Potter consumed approximately 75 percent of her annual income as her personal consumption. The amount of

consumption that Mrs. Potter consumed for her benefit out of her income should not be included in an award of damages to Mr. Potter as he did not necessarily benefit from this consumption during Mrs. Potter's lifetime. Although Mrs. Potter would continue to consume as a member of the household after her retirement, in order to be conservative in the estimate of damages. I exclude this amount from the calculation of loss to Mr. Potter. Inclusion of this stream of consumption of retirement would make the damages amount even smaller as Mrs. Potter would continue to consume but not be earning any wage or salary income.

- In sum, these inappropriate and inaccurate assumptions used by Dr. Glenn in his model result in a significant overstatement of any likely damages suffered. I believe that he may have overstated damages by as much as a factor of four. I believe that damages suffered by the plaintiff would not have exceeded \$334,000.

5.0 Exhibits

For purposes of presenting our opinions and their bases, I may develop and use exhibits including overheads, flip charts, and other summary graphics. I may also use certain demonstrative aids and illustrations in presenting technical concepts and analyses.

6.0 Compensation

The hourly rates for myself and my research associates who worked on this matter range between \$50 and \$250 per hour. My hourly rate is \$250 per hour

Elizabeth C. Buchanan
Professor of Economics
Nita State University
Nita City, Nita
September 1, 2002

September 1, 2002

POTTER v. SHRACKLE AND THE SHRACKLE CONSTRUCTION COMPANY

REBUTTAL DAMAGES MODEL OF EUZABETH C. BUCHANAN, P.H.D.

TABLE 1. SUMMARY OF ECONOMIC LOSS, WRONGFUL DEATH OF KATHERINE POTTER

SUMMARY OF ECONOMIC LOSS

	<i>Nominal Dollars</i>	<i>Present Discounted Value</i>
A. Future Value of Earnings	\$807,964	\$680,250
B. Future Value of Fringe Benefits	\$141,394	\$119,044
C. Future Value of Household Work	\$68,500	\$45,293
D. Future Value of Personal Consumption	\$606,781	\$510,868
E. Total Value of Loess (A + B + C - D)	<u>\$411,077</u>	<u>\$333,719</u>

POTTER v. SHRACKLE AND THE SHRACKLE CONSTRUCTION COMPANY
 REBUTTAL DAMAGES MODEL OF ELIZABETH C. BUCHANAN, P.H.D.

TABLE 2. FUTURE VALUE OF EARNINGS OF KATHERINE POTTER, AGE 45 TO 60

Date of Birth:	June 15, 1956			
Date of Death:	December 4, 2001			
Appraisal Period:	2002 to 2016			
Projected Retirement Age:	55			
Discount Rate:	6.00%			
Earnings Growth Rate: 5.00%	5.00%			

<i>Year</i>	<i>Projected Age</i>	<i>% of Full-Time Employment</i>	<i>Projected Value of Earnings</i>	<i>Present Discounted Value of Earnings</i>
2001	45	100%		\$85,000
2002	46	100%	\$89,252	\$89,252
2003	47	100%	\$93,717	\$93,717
2004	48	100%	\$98,405	\$92,835
2005	49	100%	\$103,328	\$91,961
2006	50	100%	\$108,497	\$91,096
2007	51	50%	\$56,962	\$45,119
2008	52	50%	\$59,811	\$44,695
2009	53	50%	\$62,803	\$44,274
2010	54	50%	\$65,945	\$43,857
2011	55	50%	\$69,244	\$43,445
2012	56	0%	(RETIRED)	(RETIRED)
2013	57	0%	(RETIRED)	(RETIRED)
2014	58	0%	(RETIRED)	(RETIRED)
2015	59	0%	(RETIRED)	(RETIRED)
2016	60	0%	(RETIRED)	(RETIRED)
Value of Future Earnings:			\$807,964	\$680,250

POTTER v. SHRACKLE AND THE SHRACKLE CONSTRUCTION COMPANY

REBUTTAL DAMAGES MODEL OF ELIZABETH C. BUCHANAN, P.H.D.

TABLE 3. HISTORICAL EARNINGS GROWTH OF KATHARINE POTTER, 1978 TO 2001

<i>Year</i>	<i>Age</i>	<i>Earnings</i>	<i>% Change from Previous Year</i>	<i>Job</i>
1978 to 1980	22-24	\$0	n/a	(1)
1981	25	\$19,000	n/a	(2)
1982	26	\$19,600	3.2%	(2)
1983	27	\$20,250	3.3%	(2)
1984	28	\$20,900	3.2%	(2)
1985	29	\$21,600	3	(2)
1986	30	\$22,300	3.2%	(2)
1987	31	\$23,000	3.1%	(2)
1988	32	\$23,750	3	(2)
1989	33	\$24,500	3.2%	(2)
1990	34	\$25,400	3	(2)
1991	35	\$34,000	33.9%	(3)
1992	36	\$42,000	23	(3)
1993	37	\$50,000	19.0%	(3)
1994	38	\$57,500	15.0%	(3)
1995	39	\$62,500	8.7%	(3)
1996	40	\$67,500	8.0%	(3)
1997	41	\$71,000	5.2%	(3)
1998	42	\$73,500	3.5%	(3)
1999	43	\$76,000	3.4%	(3)
2000	44	\$78,000	2.6%	(3)
2001	45	\$85,000	9.0%	(3)
2002	Deceased*	\$0	-100.0%	Deceased

Average Income Growth Rate (1999 to 2001): 5.00%

Job Information:

- (1) Attending Graduate School, University of Nita
- (2) Computer Instructor, Nita City Unified School District
- (3) Computer Instructor, Techno-Soft, Inc.

POTTER v. SHRACKLE AND THE SHRACKLE CONSTRUCTION COMPANY

REBUTTAL DAMAGES MODEL OF ELIZABETH C. BUCHANAN, P.H.D.

TABLE 4. FUTURE VALUE OF FRINGE BENEFITS OF KATHERINE POTTER, AGE 45 TO 60

Date of Birth:		June 15, 1956	
Date of Death:		December 4, 2001	
Appraisal Period:		2002 to 2016	
Projected Retirement Age:		55	
Discount Rate:		6.00%	
Benefits as % of Income:		17.50%	

<i>Year</i>	<i>Projected Age</i>	<i>Projected Value of Fringe Benefits</i>	<i>Present Discounted Value of Fringe Benefits</i>
2001	45	\$14,875	
2002	46	\$15,619	\$15,619
2003	47	\$16,400	\$16,400
2004	48	\$17,221	\$16,246
2005	49	\$18,082	\$16,093
2006	50	\$18,987	\$15,942
2007	51	\$9,968	\$7,896
2008	52	\$10,467	\$7,822
2009	53	\$10,991	\$7,748
2010	54	\$11,540	\$7,675
2011	55	\$12,118	\$7,603
2012	56	(RETIRED)	(RETIRED)
2013	57	(RETIRED)	(RETIRED)
2014	58	(RETIRED)	(RETIRED)
2015	59	(RETIRED)	(RETIRED)
2016	60	(RETIRED)	(RETIRED)
Value of Future Fringe Benefits:		\$141,394	\$119,044

POTTER v. SHRACKLE AND THE SHRACKLE CONSTRUCTION COMPANY

REBUTTAL DAMAGES MODEL OF ELIZABETH C. BUCHANAN, P.H.D.

TABLE 5. FUTURE VALUE OF HOUSEHOLD WORK OF KATHERINE POITER, AGE 45 TO 60

Date of Birth:	June 15, 1956	
Date of Death:	December 4, 2001	
Appraisal Period:	2002 to 2016	
Projected Retirement Age:	55	
Discount Rate:	6.00%	
	<i>Before Retirement</i>	<i>During Retirement</i>
# Of Hours Per Day at Household Work	2	4
Days Per Year Doing Household Work	250	250
Total Hours Per Year	500	1000

<i>Year</i>	<i>Projected Age</i>	<i>Hourly Replacement Wage for Household Work</i>	<i>Projected Value of Household Work</i>	<i>Present Discounted Value of Household Work</i>
2001	45	\$6.00	\$3,000	
2002	46	\$6.00	\$3,000	\$3,000
2003	47	\$6.00	\$3,000	\$3,000
2004	48	\$6.00	\$3,000	\$2,830
2005	49	\$6.00	\$3,000	\$2,670
2006	50	\$6.50	\$3,250	\$2,729
2007	51	\$6.50	\$3,250	\$2,574
2008	52	\$6.50	\$3,250	\$2,429
2009	53	\$6.50	\$3,250	\$2,291
2010	54	\$7.00	\$3,500	\$2,328
2011	55	\$7.00	\$3,500	\$2,196
2012	56	\$7.00	\$7,000	\$4,143 (Retired)
2013	57	\$7.00	\$7,000	\$3,909 (Retired)
2014	58	\$7.50	\$7,500	\$3,951 (Retired)
2015	59	\$7.50	\$7,500	\$3,727 (Retired)
2016	60	\$7.50	\$7,500	\$3,516 (Retired)

Value of Future Household Work:

\$68,500

\$45,293

POTTER v. SHRACKLE AND THE SHRACKLE CONSTRUCTION COMPANY

REBUTTAL DAMAGES MODEL OF ELIZABETH C. BUCHANAN, P.H.D.

TABLE 6. FUTURE VALUE OF PERSONAL CONSUMPTION OF KATHERINE POTTER, AGE 45 TO 60

Date of Birth:	June 15, 1956
Date of Death:	December 4, 2001
Appraisal Period:	2002 to 2016
Projected Retirement Age:	55
Discount Rate:	6.00%
Consumption as % of Full-Time Income:	75.10%

<i>Year</i>	<i>Projected Age</i>	<i>Projected Value Of Personal Consumption</i>	<i>Present Discounted Value of Personal Consumption</i>
2001	45	\$63,835	
2002	46	\$67,028	\$67,028
2003	47	\$70,381	\$70,381
2004	48	\$73,902	\$69,719
2005	49	\$71,599	\$69,063
2006	50	\$81,481	\$68,413
2007	51	\$42,778	\$33,885
2008	52	\$44,918	\$33,566
2009	53	\$47,165	\$33,250
2010	54	\$49,525.	\$32,937
2011	55	\$52,002	\$32,627
2012	56	(RETIRED)	(RETIRED)
2013	57	(RETIRED)	(RETIRED)
2014	58	(RETIRED)	(RETIRED)
2015	59	(RETIRED)	
2016	60	(RETIRED)	(RETIRED)
Value of Future Consumption:		\$606,781	\$510,868

CURRICULUM VITAE
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Education: B.S., University of Nita, 1988 (economics)
Ph.D. University of Nita, 1992 (economics)

Current position: Assistant Professor of Economics, Nita State University. Concentration in labor economics and industrial organization.

Employment history: Assistant Professor of Economics, Nita State University since 1997.
Dunhill Consultants, private economics consulting group, 1992-1997

Principal publications since 1992:

“The Value of Household Services,” 18 Journal of Labor Economics 284 (1994)

“Damage Assessment for the Infringement of Intellectual Property Rights,” 82 Contemporary Economics Problems 1204 (1998)

“Economic Loss in Copyright Cases,” 4 Journal of Law and Economics 48 (1999)

“Can We Accurately Evaluate Lost Wages?” 7 Journal of Law and Economics 87 (2001)

“Intellectual Property and Modern Economic Thought,” 80 Harvard Public Policy Review 438 (2002)

Expert Testimony: Homer v. Underhill, Nita Superior Court, June 1997 (personal injury case, testified for the plaintiff with regard to economic loss resulting from injury)

Glandon v. Schwartz, Nita Superior Court, May, 1999 (wrongful death case, testified for defendant with regard to economic loss resulting from death)

Marydale v. Fan Nita Superior Court, September, 2001 (personal injury case, testified for the defendant with regard to economic loss resulting from injury)