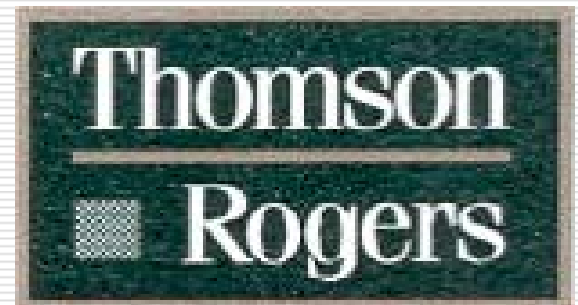


Using Cutting Edge Technology Applications to Effectively Analyze and Present Your Claim

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THE NEED FOR TECHNOLOGY

- ❑ It is difficult and time consuming to accurately quantify the value of a personal injury claim
- ❑ It is difficult and time consuming to clearly explain and present a personal injury assessment to opposing counsel and clients
- ❑ It is difficult and time consuming to calculate and explain the net return (or total cost) to clients when exchanging settlement offers

THE PROBLEMS WITH TECHNOLOGY

Why do people struggle to embrace new technology?

- 1) My way works—the way I am doing it works for me**
- 2) Technology isn't reliable—I can never get it to work when I need it to**
- 3) Tried and failed—I tried it but I couldn't get it to work**

Answer: Get on the learning curve!

THE KEY MESSAGE

It is no longer cost effective and practical to use a standard 'calculator' to assess and negotiate a personal injury claim

LIFE AFTER CALCULATORS

- ❑ Like word processors have replaced typewriters, spreadsheets have now replaced calculators
- ❑ Spreadsheet software is available on virtually every laptop computer (the most popular software is “Excel”)

OVERVIEW OF PRESENTATION

- ❑ This presentation will use examples to demonstrate how spreadsheets can be used effectively in personal injury claims
- ❑ This presentation will demonstrate the use of spreadsheets by showcasing a product entitled the Personal Injury Damages Calculator (the 'PIDC')
- ❑ Participation in this presentation is strongly encouraged

INTRODUCTION TO SPREADSHEETS

- ❑ Spreadsheet programs, like Excel, are essentially sophisticated calculators
- ❑ Spreadsheets allow for easy manipulation of figures and assumptions
- ❑ Spreadsheet programs can also be used to prepare graphs and charts

	A	B	C
1		computer ledger	
2			
3		car loan	\$12,000.00
4		interest	9.60%
5		# of payments	60
6			
7		Monthly Pmt.	\$252.61

WHY USE A SPREADSHEET

- The best way to explain how a spreadsheet is better than a calculator is through the use of real life examples
- The slides that follow introduce an example to illustrate how spreadsheets can effectively be used to:
 - a) assess a personal injury claim, and
 - b) analyze settlement proposals at mediation

DAMAGE ASSESSMENT EXAMPLE

THE FACTS:

- David Jones was born on April 15, 1970
- David was injured as a passenger in an Ontario car accident on February 2, 2004
- In the accident David suffered serious and permanent (but non-catastrophic) injuries
- You are David Jones' lawyer. You provided notice to the defendant on April 15, 2005
- You issued a claim on behalf of David and his wife Debbie back on January 17, 2006. A mediation is scheduled for September 26, 2007

DAMAGE ASSESSMENT EXAMPLE

YOUR ASSESSMENT:

- You believe David's gross general damages for his pain and suffering is worth up to \$115,000**
- You believe David's wife Debbie's claim for loss of care, guidance and companionship is properly assessed at a maximum of \$25,000 gross**
- You believe David has a justifiable future housekeeping claim of \$100 a week for the remainder of his life expectancy and a past housekeeping claim from February 3, 2006 to date in the total amount of \$8,500**
- You believe that there may be a future loss of opportunity claim worth \$10,000 per year for the remainder of David's working life expectancy (a working life expectancy that you believe is 65 years)**

DAMAGE ASSESSMENT EXAMPLE

THE QUESTIONS:

Q1: What is the defendant's maximum damage exposure under your assessment?

(note: this is when you pull out your blackberry/cell phone calculators)

A1: General damages, inclusive of interest: \$_____

A2: FLA claim, inclusive of interest: \$_____

A3: Past Housekeeping claim, inclusive of interest: \$_____

A4: Future Housekeeping claim: \$_____

A5: Loss of Opportunity claim: \$_____

A6: Total damages, inclusive of interest: \$_____

DAMAGE ASSESSMENT EXAMPLE

THE DEFENDANT'S ASSESSMENT:

- Defence counsel assesses David's gross general damages at \$75,000
- Defence counsel assesses Debbie's FLA claim at \$17,500 gross
- Defence counsel assesses David's future housekeeping claim at \$50 per week until age 50 and acknowledges a past housekeeping claim of \$5,000
- Defence counsel assesses David's loss of opportunity claim at \$5,000 per year until age 62
- Defence counsel believes David is 15% contributory negligent for not wearing a seatbelt

DAMAGE ASSESSMENT EXAMPLE

THE QUESTIONS:

Q2: What is the value of the defendant's assessment?

A7: General damages, inclusive of interest: \$_____

A8: FLA claim, inclusive of interest: \$_____

A9: Past Housekeeping claim, inclusive of interest: \$_____

A10: Future Housekeeping claim: \$_____

A11: Loss of Opportunity claim: \$_____

A12: Total damages, inclusive of interest: \$_____

MEDIATION EXAMPLE

ANALYZING THE DEFENDANT'S OFFER:

-Defence counsel has just made a settlement proposal of \$225,000 plus partial indemnity costs, assessable disbursements and GST

-Assume the Defendant's offer includes a contribution of 15% plus GST towards your partial indemnity costs

-Assume your assessable disbursements are \$10,000, inclusive of GST

-Assume you plan on charging your clients 15% plus GST out of their damage award as your solicitor-client account

MEDIATION EXAMPLE

THE QUESTIONS:

Q3: What do you tell your clients they would receive in their pocket if they accept the defendant's offer?

A13: \$_____

Q4: Assume your clients instruct you to make a settlement proposal that results in a net return to them of \$325,000. What is the all-inclusive settlement proposal that you would make to defence counsel?

A14: \$_____

Q5: Assume the defendant's final offer is for a settlement at \$350,000 all inclusive. What do you tell your clients they would receive in their pocket if they accept the defendant's final offer?

A15: \$_____

ADDITIONAL USES OF THE PIDC

- ☐ **The Personal Injury Damages Calculator can also do the following:**
 - ☐ **Calculate Present Values of Future Care Reports**
 - ☐ **Apply both the Bill 59 and Bill 198 Ontario MVA systems**
 - ☐ **Prepare Directions and Accounts**
 - ☐ **Prepare Basic Releases**

OTHER TECHNOLOGIES

- ☐ The PIDC is just one example of a spreadsheet program
- ☐ Spreadsheets can be effectively used to prepare graphs and charts (see example that follows)
- ☐ Spreadsheets can also be used in accident benefit disputes (for example when calculating compound interest owed under the Ontario Insurance Act)

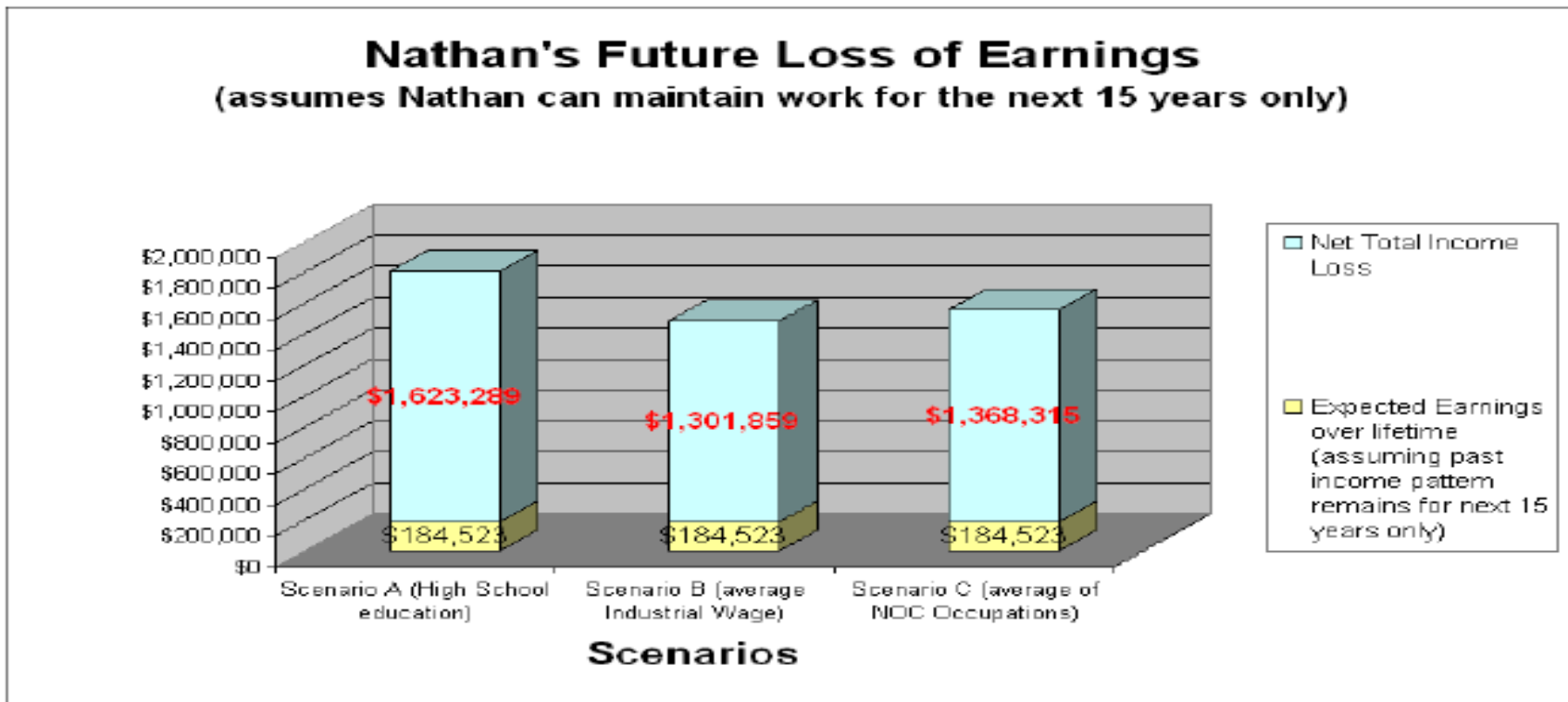
GRAPH/CHART EXAMPLE

- ❑ Graphs/charts can easily be generated from spreadsheet programs and are effective means of presenting important information
- ❑ For example, the document on the right is one of three pages prepared by Professor Jack Carr in the *Resch v. Canadian Tire* trial
- ❑ The page that follows graphically depicts the income loss calculations prepared by Professor Jack Carr in the *Resch v. Canadian Tire* trial

NET FUTURE INCOME LOSS	
SCENARIO 'C'	
WITHOUT INCIDENT EARNINGS	\$1,552,838.
<u>LESS WITH INCIDENT EARNINGS:</u>	
A) TO AGE 62	<u>(\$407,868.)</u>
NET LOSS	\$1,144,970.
B) 15 YEARS	<u>(\$184,523.)</u>
NET LOSS	\$1,368,315.

GRAPH/CHART EXAMPLE

(note the original is in colour)



MANAGEMENT FEE--Professor Carr testified that a 5% management fee should apply			
	Amount	Management Fee	Total
Scenario A	\$1,623,289	\$81,164.44	\$1,704,453.14
Scenario B	\$1,301,859	\$65,092.94	\$1,366,951.82
Scenario C	\$1,368,315	\$68,415.73	\$1,436,730.43

CONCLUSION

- ❑ Technology is now available to help evaluate and negotiate personal injury claims
- ❑ While technology can be intimidating it is time for technology to be embraced
- ❑ Using cutting edge technology will save time and make your life easier

Thank you,

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NOTE THE ANSWERS ON THE PAGES THAT FOLLOW ARE NORMALLY IN COLOUR