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Corness v. Ng, 2022 BCSC 334 (Vancouver, B.C.)

By Cara L. Brown, M.A.

In this issue, I discuss the results of a Vancouver case in which this author testified in person: *Corness v. Ng*. Although I was given the option of testifying via Zoom due to the pandemic-related restrictions, I offered to travel at my own cost from Calgary to appear in person at the June 2021 trial. I did so because economic evidence is difficult to convey at the best of times, and in-person evidence is always more compelling than explaining formulae and tables on a screen.

Because Brown Economic prepared the income loss report in this case, I can offer supplemental information as to how the awards were determined in *Corness v. Ng.*

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- "Economic Damages due to Sexual Assault: *John Doe (G.E.B. #25) v. The Roman Catholic Episcopal Corporation of St. John's",* February 2018, vol. 15, issue #2
- "*Baker Estate v. Poucette* (2016-2017): Appeal Decision sets Principles for "Fairness" in Fatality Cases" November 2017, vol. 14, issue #9
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Corness v. Ng **released March 3, 2022: Total award = $1,867,000** [para. 174]

- Non-pecuniary damages: **$120,000**[2]
- Past loss of earning capacity: **$189,900**
- Future loss of earning capacity: **$1,385,500** (includes $195,500 for "loss of labour capacity related to real estate investments")
- Cost of future care: **$68,297.50**
- Special damages: **$102,978.38** (the bulk of this award was $90,000 for landscaping and maintenance at several properties[3] owned by the plaintiff)

In this case, damages were the central focus because Wilkinson, J. states in paragraph [1] that "liability [was] admitted by the defendant during the trial. These reasons reflect my decision on the appropriate quantum of damages." The defendant's position was summarized by the court as "The defendants dispute the plaintiff has ongoing symptoms, or if

[1] These newsletter issues sample various cases out of the 150 court appearances Ms. Brown has completed since 1989. For a more complete list of cases, see this author's CV.
[2] The current inflation-adjusted cap on non-pecuniary damages equals $407,000 using Statistics Canada's February 2022 *Consumer Price Index* (CPI) rates (based on the 12-month rolling average from February 2021 to February 2022)-see page 12. Or use Brown Economic's **Non-Pecuniary Damages Calculator**™ at www.browneconomic.com, which is updated monthly after the CPI release.
[3] The specific properties for which receipts and evidence were submitted by the plaintiff were cited by the court in para. [150]).

he does they dispute causation” (para. [7]). Wilkinson, J. also comments in para. [12] that “the defendants also submit that any award should be discounted on the basis that they allege the plaintiff failed to mitigate his damages”, a contention that this court did not accept (para. [173]). The defendants also challenged the plaintiff’s “credibility” and alleged Mr. Corness’ evidence was not reliable, an allegation with which the court did not concur (para. [47]).

Brown Economic was hired by plaintiff’s counsel in this case. A Vancouver economist testified for the defense. Because Mr. Corness was self-employed and was no longer able to perform hardware flooring installations himself after the 2018 incident, he hired 3rd-party installers to undertake the physical work he could no longer do and his company, Performance Hardwood Inc., paid the installers. In assessing the plaintiff’s potential loss of earning capacity, the court stated as follows:

> [46] Post-accident, the evidence of the plaintiff and other witnesses was consistent: the plaintiff reduced his work hours and limited his heavy work. He started to turn down work. He hired additional contractors at his company and to complete renovations on his personal property. He stopped recreational activity and reduced his time at the gym. He began to take pain killers at a level far exceeding his level from three years prior.
>
> [47] I find the plaintiff to be generally credible. The issues raised by the defendants do not rise to the level of a witnesses being unreliable and not credible. He did not understate his pre-Accident injury or pain nor overstate his post-Accident pain…
>
> [99] …The plaintiff was a 33 year old hard working highly skilled and productive floor installer and home renovator…

In assessing the impact of the 2018 incident on Mr. Corness, Wilkinson, J. remarked:

> [107] Due to injuries caused by the Accident I find that, on balance of probabilities, Mr. Corness has lost his career as a flooring installer. Surgery or not, he will not regain his ability to do what has set him apart from his peers. Further, he will not be able to engage in the heavy labour he previously contributed to in renovating his own properties. Even with serious daily medications he is in pain all the time.

How the court in *Corness* decided damages for loss of earning capacity

In our report quantifying Mr. Corness’ potential loss of income, we generated three alternate scenarios of the past and future cost of replacement hardware flooring installers. The three scenarios diverged depending on the annual payments made to each installer by Mr. Corness’ company:[4]

Scenario A1: $121,000 per year

Scenario A2: $103,000 per year

Scenario A3: $71,500 per year

[4] The plaintiff provided accounting records from his company attesting to the payments made to these individuals, including statements from Canada Revenue Agency entitled *Summary of Contract Payments,* form T5018 issued by Mr. Corness’ company, Performance Hardwood Inc., to each 3rd-party installer. Form T5018 asks the company owner the “total number of T5018 slips filed” and “Total construction subcontractor payments” each year. In this author’s view, information such as form T5018 is invaluable as evidence to demonstrate replacement costs.

In her judgment, Wilkinson, J. used Brown Economic's **scenario A2,** a replacement cost of $103,000 per year for the tasks Mr. Corness could no longer perform.

Interestingly, plaintiff's counsel asked me on the witness stand "why did you not use the statistics about what average floor installers make?" to estimate Mr. Corness' replacement costs (instead of the T5018 forms). To this I answered:

> A: Well, we certainly looked at that in a number of tables in our report, but when quantifying a specific individual's potential loss, actually having the specific information that that person may be paying in replacement costs is always superior information next to the statistics.
>
> The statistics help us – give us some context as to what Mr. Corness had been earning, but in this specific situation we have something even better. We have the specific information of payments made to these individuals.[5]

I provided this transcript excerpt to demonstrate the courts' persistent preference for information from the plaintiff, and how "statistics" (however invaluable) may not make the cut when it comes to supplying evidence for income loss awards (except when we *only* have statistics).

The other point that I testified about was how to determine a plaintiff's true compensation when s/he owns an incorporated company:

> A: [When you] have to deal with someone who's self-employed, because unlike a wage-earner who…you could look at their T4s and line 101 on their tax returns [but] someone who's self-employed that's got an incorporated entity like Performance Hardwood and the numbered company Mr. Corness has, they earn – the company earns the money in the year, but they don't have to withdraw anything if they don't want, right? They've got options…ranging from not withdrawing anything to paying themselves a salary like a wage-earner or paying themselves dividends.
>
> So, it would be remiss of us if [we did not review this] because for Mr. Corness – he took out sort of a constant amount every year, about $76,000 in dividends.
>
> *We have to look at what money was left in the company that he did not withdraw, because that – he owns that, he's earned it, and eventually it will come to him.* So, we can't just look at Mr. Corness' personal tax returns. We have to look at the financial statements to see if there's – and it cuts both ways. If there's money left in the company after he's paid himself, or did he pay himself more than there's money in the company and there's a loss? *If there was a loss, we would actually reduce his income by that loss, because all of that means is that the person, in that year…withdrew more money from the company than it earned [in that year].*
>
> So, either way, whether it's a loss, whether it's profit – net profit, we have to look at it and we have to add it in. (emphasis added)[6]

The importance of this excerpt relates to the information all quantum experts require when assessing income losses for self-employed persons:

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[5] Examination in Chief by counsel C. McDougall of Cara Brown, June 18, 2021 (p. 6, lines 37-47).
[6] Examination in Chief by counsel C. McDougall of Cara Brown, June 18, 2021 (pp. 15-16).

1) **T1 General tax returns** for 10 years before the incident, and all years since the incident
2) **Financial statements**[7] **for <u>all</u> companies owned by the plaintiff,** including numbered companies and holding companies for 10 years before the incident, and all years since the incident
3) **Canada Revenue Agency Form T5018** for all subcontractor payments made to replacement workers hired to perform job duties the plaintiff is unable to perform following an incident

Not only do the financial statements listed in (2) above assist us in determining the plaintiff's <u>total</u> income, we also examine them to determine if any "add-backs"[8] should be used to finalize the total income figures. In Mr. Corness' case, we did not have information to be able to "add-back" company expenses that may not have been necessary to earn company revenues, so the net income of his companies was not adjusted. If there were personal expenses intermingled with business expenses, <u>and</u> we had been given such information, it would have <u>increased</u> Mr. Corness' total income from employment.

For plaintiffs who operate as sole proprietors, the **T1 General** tax returns will suffice but the *Statement of Business Activities* (SBA) <u>must</u> be included with the tax returns, otherwise we have no information as to the performance of the plaintiff's business.

How the court in *Corness* addressed the <u>duration</u> of the plaintiff's future loss of earning capacity

In our March 16, 2021 report on behalf of Mr. Corness, we assumed a retirement age of 65, which is consistent with one of the most powerful influences on Mr. Corness' predicted retirement age: self-employment. Statistics consistently show, year after year, that self-employed males work more hours and work later than employees,[9] and retire at an average age of 68.[10]

The judge based the loss of income awards on an <u>annual replacement cost of $103,000 per year until the plaintiff's aged 53</u> (Mr. Corness was 36.4 years old at the date of trial in June 2021). Wilkinson, J. stated the following about her decision to extend the annual loss to Mr. Corness' age 53:

> [121] The plaintiff submits that the plaintiff would have stopped laying flooring at the age of 60. One floor layer contractor witness testified that he knows a floor layer who is over 60 years old who continues to work but has leg problems. However, none of the contractors hired by the plaintiff appear to be over the age of 50. Floor laying is labour intensive. Jobs are costed by piece work, and the quicker the job can get done the more jobs the plaintiff and his company can complete in a year. Given the plaintiff's [strong] work ethic and high standards there is a real and substantial likelihood that he would have continued to work as a floor layer at his pre-Accident level for many years *but then transitioned to more administrative or management duties some years before he retired.* (emphasis added)

What is worth noting about the court's comments in para. [121] is exactly what should have been considered in Mr. Corness' line of work. Unfortunately, despite oft-repeated requests for retirement age data <u>by occupation</u> (and

[7] At a minimum, we require the *Balance Sheet* and *Income Statement* for each fiscal year.
[8] These "add-backs" refer to any business expenses which were legitimately deducted but may not be absolutely necessary to operate the business, such as personal cell phone use, personal vehicle use, use of home office, and meals & entertainment costs, to name the most common.
[9] We included this research in endnote [j] on p. 10 and PARA 4(32) on pp. 30-31 of our March 16, 2021 report.
[10] Source: Statistics Canada data table 14-10-0060-01 (formerly CANSIM table 282-0051) *Labour force survey estimates, retirement age by class of worker and sex.*

particularly for physically demanding occupations), there is no economic data that can assist with predicting these variables. The closest match we can find is from the Government of Canada's *Canadian Occupational Projection System* **(COPS)** that utilizes 293 occupational groupings from the 2016 *National Occupational Classification* (NOC). **COPS** reports information about the number of job openings and job seekers to identify those occupations which may experience shortages or surpluses of human resources. **COPS** also provides the median age of Canadian workers in each occupation (41.4 years old for floor covering installers) and the median age of retirement in each occupation (66 years old for floor covering installers).[11] On occasion, rates of part-time work are published by **COPS.** But none of this data can tell us at which age (if any) the individual worker might scale back work hours, how much the hours would be scaled back in any given year, or if the plaintiff would have shifted to non-physically demanding roles, as identified by Wilkinson, J.[12]

The usefulness of the COPS data in Mr. Corness' case is also problematic because it obscures the outsize influence that employment status – *especially being self-employed* – has on the retirement age decision. In addition, it combines both men and women in each profession, and data consistently show that women retire, *on average,* 2 years earlier than men.[13]

With these parameters, Justice Wilkinson adopted the loss figures directly from Brown Economic's report. For Mr. Corness' past loss of income, the court used the figure of $316,500 for scenario A2[14] and discounted it by income tax to derive a net figure[15] of **$189,900** (para. [115]). For Mr. Corness' future loss of income, the court utilized Brown Economic's figure of $1,491,913 across from Mr. Corness' age 52.9 in 2038[16] (para. [123]). The court then rounded that figure to $1,400,000 and applied a -15% contingency[17] to arrive at a final award of **$1,190,000** (para. [140]).

To the figure of **$1,190,000,** Wilkinson J. awarded an additional **$195,500** for:

> [145] I find that it is *likely that the plaintiff would have continued to renovate and sell investment properties to the age of 60 at the rate of one property every two years.* Based on a current value of $25,000 per property which I attribute to loss of the plaintiff's labour contribution to renovations, I assess this loss of $230,000 under this head of damage using Ms. Brown's multiplier for guidance. This is reduced by the contingency reduction of 15% set out above, for an award of $195,500. (emphasis added)

The total award under the heading of "future loss of earning capacity" was **$1,385,500** (para. [146]).

[11] Using NOC code 7295, the same occupation code used in our March 16, 2021 report.
[12] Some economists might argue that participation rates could be applied at older ages to reduce the potential income the claimant may have earned as s/he aged. However, participation rates used by such economists are so broad (by age, gender, and education level) that they do not convey the correct information, mainly because they are not narrowed by occupation code or employment status (i.e., self-employed). A better proxy to handle declining hours of work may be through a negative health contingency, but this might overlap with the standard disability contingency always implemented in the future loss calculations (from the *Canada Pension Plan* disability program). For more information about a yearly contingency for negative health, see C.L. Brown, "*Warner v. Calgary Regional Health Authority (Rockyview General Hospital)* 2020 ABQB 172: A Negative Contingency for Pre-Existing Health Issues and Household Costs" **HEARSAY** Canadian Defence Lawyers June 2020 edition.
[13] Source: C.L. Brown, **Damages: Estimating Pecuniary Loss** (Toronto, Ontario: Canada Law Book, a Thomson Reuters business), December 2021 (30th edition), Figure 4-3, p. 4-112.
[14] Shown as the potential "Pre-trial Loss" of income in Table 2-1, p. 5 of Brown Economic's March 16, 2021 report.
[15] After taxes at 40%, as submitted by plaintiff's counsel (para. [113]). Notably, the rate of 40% is virtually identical to the top tax rate in BC in 2021 (39.04%) based on the amount of the judge's award for past loss of income ($316,500 as per para. [115]), calculated using www.taxtips.ca.
[16] Brown Economic's March 16, 2021 report, p. 70.
[17] Wilkinson, J. observed in para. [139] that "Ms. Brown's multiplier already accounts for the risk of death and the statistical odds of disability", so her assessment of a -15% negative contingency in para. [140] is assumed to reflect other contingent events than a non-incident related injury or non-incident related death.

The impact of taxation in the pre-trial loss period

One of the more interesting aspects of this claim was how to handle Mr. Corness' potential past loss of income from 2018 to 2021 given the strictures of British Columbia legislation, which mandate that any award for pre-trial loss of income (from a motor vehicle accident) must be after taxes and *Employment Insurance* (EI) employee premiums[18] for MVA cases occurring after June 17, 1997 (section 97).

However, the replacement costs that Mr. Corness' company incurred were paid as salaries "before taxes" and statutory deductions for CPP and EI. I testified at trial that an inherent conflict existed between the MVA legislation in BC and Mr. Corness' actual costs (losses) in this case, since Performance Hardwood Inc. only ever incurred the gross (before-tax) payment amounts to replace Mr. Corness' tasks.

Ultimately, Wilkinson, J. applied plaintiff's counsel's tax rate of 40% in making the past loss award of $189,900 in para. [115].

From an economist's view, it is possible to calculate an alternative tax rate than the global rate of 40% deducted from the whole pre-trial sum. Using the court's choice of an annual replacement cost of $103,000 per year (Brown Economic's **scenario A2**), we can calculate the taxes Mr. Corness would have paid on this salary amount as if he had been able to earn this salary in the absence of the 2018 incident. For example, in Table 2-1 of our March 16, 2021 report, we presented the pre-trial loss sums using the <u>before-tax</u> replacement values in scenarios A1, A2 and A3. Underneath Table 2-1, we stated that "If the pre-trial losses are recalculated using Mr. Corness' tax rate, they would decrease by approximately 19% in scenario A1, 16% in scenario A2, and 11% in scenario A3." These tax rates matched the annual replacement costs in each scenario: $121,000 in scenario A1; $103,000 in scenario A2; or $71,500 in scenario A3. Nevertheless, the court did not choose this option, and instead deducted taxes at 40% on the lump sum award of $316,500 from Table 2-1 in our March 16, 2021 report to arrive at a past loss of income of **<u>$189,900</u>** (para. [115]).

The judge's negative contingency adjustment (15%)

In applying a -15% negative contingency to the income loss awards and the "loss of labour capacity related to real estate investments", the court discussed the likelihood of both positive and negative contingencies affecting these awards in paras. [124] to [140], and in particular the plaintiff's pre-existing back problems (disc herniation) in para. [127]. In assessing this likelihood, Wilkinson J. remarked:

> [135] I find that given the nature of the plaintiff's work, there is significant likelihood that the plaintiff's back would become a problem that impacted his career in the future, although this would likely not be until at least 10 years into the future.

The court subsequently relied on various authorities to decide the appropriate contingency reduction of -15%.

In this case, the court limited the duration of <u>future</u> loss of income (age 36 to 53) and applied a -15% contingency deduction to account for the physically demanding nature of Mr. Corness' profession and that, over time, he may have shifted his responsibilities to non-physical tasks.

[18] As per sections 95 and 98 of the *Insurance (Vehicle) Act,* R.S.B.C. 1996, c. 231. For a summary of regulations in all jurisdictions across Canada, see C.L. Brown, **Damages: Estimating Pecuniary Loss** (Toronto, Ontario: Canada Law Book, a Thomson Reuters business), December 2021 (30th edition), Table 14-1, pp. 14-2 to 14-3.

Mitigation

The defendants challenged the plaintiff's efforts at mitigating his damages since the 2018 incident due to his "failure to get an epidural cortisone injection despite his claim of its curative effect in 2015" (para. [169]). The court decided the following on this issue:

> [173] There is no evidentiary support for the defendant's argument that the plaintiff failed to mitigate his damages.

Award for cost of care

As noted above, the court also awarded Mr. Corness a sum of $80,350 for cost of care, which was reduced to **$68,297.50** by the court's -15% negative contingency (para. [168]).

In preparing our March 16, 2021 report, we were asked to calculate the lifetime present value – inclusive of contingencies[19] – for each of the recommendations made by a cost of care expert. We did so on page 61 of our report, which summarized the 35 goods and services recommended, along with their frequency of replacement, starting date or age, duration the good or service is needed, whether a productivity increase should be included, whether a health adjustment should be applied, and if the item is eligible for a medical expense tax credit.[20] In estimating the lifetime present value of each good or service, we incorporate all of the above-noted assumptions (which could be different for every recommendation) simultaneously. We also provide present value multipliers for each cost of care item in the event the cost assessed by the court differs from the cost suggested by the cost of care expert.

Wilkinson, J. awarded monies for the following cost of care items using Brown Economic's cost of care multipliers (para. [168]):

i) Occupational therapy
ii) Office modifications
iii) Kinesiology sessions
iv) Physiotherapy
v) Injections
vi) Annual medication allowance
vii) Outside maintenance (until age 70) and
viii) Surgery related costs.

Important quantum findings from *Corness v. Ng* – approval of "replacement costs" for a self-employed individual

From a quantum expert's view, the critical take-away from *Corness* is that the judge accepted the plaintiff's evidence that he had paid other installers to do the work he could no longer do; and that this need would continue in the future. This finding was assisted in part by the excellent evidence submitted by the plaintiff as to the impact of his impairments on his business (financial statements and Form T5018 for replacement workers). Without concrete

[19] Contingencies included in our calculations pertain to a negative health adjustment (applied to exterior house maintenance only) and a mortality adjustment (applied to all items).
[20] The latter determination is only for the tax gross-up calculated on the future cost of care award.

information as to who were the replacement workers and what they were paid,[21] a court may be reluctant to make an award like that in *Corness* in another case.

The other key factor about *Corness* is the judge's willingness to compensate the plaintiff for his "loss of labour capacity related to real estate investments" that he could no longer do after the 2018 incident ($230,000 reduced by 15% to **$195,500** in para. [145]). Of course, this was aided by the fact of Mr. Corness' training and occupation as a flooring installer; but it is still a unique finding. The determination of this award appears to have been bolstered by the plaintiff-specific information and the court's finding of credibility on the part of the plaintiff.

In addition to the award in para. [145], the judge also granted the plaintiff **$90,000** for "renovation labour costs" (per para. [152]) to compensate Mr. Corness for having to hire future replacement labour to renovate properties he owned,[22] based on his history of purchasing, renovating, and selling homes before the 2018 incident.

Both awards in para. [145] ($195,500) and [152] ($90,000) are extraordinary, especially since they were added to the past loss of income ($189,900 per para. [115]) and future loss of income ($1,190,000, per para. [140]).

Use of future loss multipliers

In Appendix D of our March 16, 2021 report, we supplied a chart which allowed the court to easily and quickly vary a future loss of income award in the event the judge found:

a) A different annual replacement cost than captured in Brown Economic's scenarios A1, A2 and A3; or
b) A different duration of future loss (i.e., different from age 36.4 to age 65).

In my direct evidence, I explained the use of the multiplier table (Table D-1 in our report) to the court.[23] Below, I reproduce this table from our report, and explain the columns as so:

i) **Retirement age** – this is the ending age for the future loss calculation. The first line synchronizes with our retirement age assumption for Mr. Corness (age 65). Across from age 65, we show the future loss figures we estimated in our March 16, 2021 report for each of scenarios A1, A2 and A3.[24]

ii) **Multiplier (Future loss of income)** – this column provides the future loss multiplier associated with different durations of loss. The shortest duration is at the bottom, across from Mr. Corness' age 37, which is only 0.60 years, since Mr. Corness was 36.4 years old at the date of trial. At age 53 (the age at which the judge ceased the future loss calculation), the multiplier is 13.9 and the future loss of income equals

[21] In our report on behalf of Mr. Corness, we supplied several tables of salary benchmarks to evaluate the annual replacement costs paid to the 3rd-party installers by Mr. Corness' company. These benchmarks included Statistics Canada's *Small Business Profiles* reporting net profits for flooring contractors (NAICS code 238330) in British Columbia from 2014 to 2019 (inclusive); earnings of senior managers (NOC code 0016) from Statistics Canada's 2001, 2006 and 2016 *Census* and the 2011 *National Household Survey;* earnings of construction managers (NOC code 0711) from Statistics Canada's 2001, 2006 and 2016 *Census* and the 2011 *National Household Survey;* earnings of workers in senior construction positions from Hays' *2021 Canada Salary Guide: Hiring Trends & Compensation Insights;* earnings of individuals employed in top management positions from Towers Watson's *2015 General Industry Executive Compensation Survey – Canada* (purchased for a fee but not disbursed on the Corness file); and earnings of hard-wood flooring installers working as employees (NOC code 7295) from Statistics Canada's 2001, 2006 and 2016 *Census,* the 2011 *National Household Survey,* Canada Job Bank's *Labour Market Information,* and Statistics Canada's *Job Vacancy and Wage Survey.*
[22] The court referred to actual properties Mr. Corness owned in para. [150], namely: 30A Aldergrove, 207A Langley, 248 Langley, and 2841 Abbotsford.
[23] Examination in Chief by counsel C. McDougall of Cara Brown, June 18, 2021 (pp. 10-12).
[24] The figures at age 65 in Table D-1 match the potential "Future loss of income" sums shown in Table 2-1 of our report.

$1,431,700.[25] This is almost identical to the future loss award that the judge used for Mr. Corness ($1,400,000 in para. [140], before the court's 15% contingency adjustment).

iii) **Example Calculation of Future Loss of Income** – these 3 columns show the present value of Mr. Corness' potential future loss of income, depending on (i) retirement age and (ii) annual replacement cost in scenarios A1, A2 or A3. In this case, the judge accepted scenario A2, an annual replacement cost of $103,000.

Retire-ment Age	Multiplier (Future Loss of Income) [1]	Example Calculation of Future Loss of Income		
		A1: $121,000 paid to RM	A2: $103,000 paid to JD	A3: $71,500 paid to RK
		[2] = [1] x $121,000	[3] = [1] x $103,000	[4] = [1] x $71,500
65	**21.4**	$2.6 million	$2.2 million	$1.5 million
64	**20.9**	$2,528,900	$2,152,700	$1,494,350
63	**20.3**	$2,456,300	$2,090,900	$1,451,450
62	**19.7**	$2,383,700	$2,029,100	$1,408,550
61	**19.1**	$2,311,100	$1,967,300	$1,365,650
60	**18.5**	$2,238,500	$1,905,500	$1,322,750
59	**17.8**	$2,153,800	$1,833,400	$1,272,700
58	**17.2**	$2,081,200	$1,771,600	$1,229,800
57	**16.6**	$2,008,600	$1,709,800	$1,186,900
56	**15.9**	$1,923,900	$1,637,700	$1,136,850
55	**15.2**	$1,839,200	$1,565,600	$1,086,800
54	**14.5**	$1,754,500	$1,493,500	$1,036,750
53	**13.9**	$1,681,900	$1,431,700	$993,850
52	**13.1**	$1,585,100	$1,349,300	$936,650
51	**12.4**	$1,500,400	$1,277,200	$886,600
50	**11.7**	$1,415,700	$1,205,100	$836,550
49	**10.9**	$1,318,900	$1,122,700	$779,350
48	**10.1**	$1,222,100	$1,040,300	$722,150
47	**9.4**	$1,137,400	$968,200	$672,100
46	**8.6**	$1,040,600	$885,800	$614,900
45	**7.7**	$931,700	$793,100	$550,550
44	**6.9**	$834,900	$710,700	$493,350
43	**6.1**	$738,100	$628,300	$436,150
42	**5.2**	$629,200	$535,600	$371,800
41	**4.3**	$520,300	$442,900	$307,450
40	**3.4**	$411,400	$350,200	$243,100
39	**2.5**	$302,500	$257,500	$178,750
38	**1.6**	$193,600	$164,800	$114,400
37	**0.6**	$72,600	$61,800	$42,900

Feel free to contact **Cara Brown** to discuss the quantum aspects of *Corness v. Ng* (2022) via email at cara.brown@browneconomic.com or at **1-800-301-8801,** ext. **201.**

[25] This figure is different than the court's figure of $1,491,913 (stated in para. [123]) because the court used our future loss schedule for scenario A2 on p. 70 of our March 16, 2021 report which corresponds to Mr. Corness' age 53.0. The figure in Table D-1 ($1,431,700) at age 53 differs from the figure on p. 70 because the latter shows the present value result at age 52.9 (Mr. Corness' exact age on Jan. 1, 2038, the year he turns 53).

Consumer Price Index		Unemployment Rate	
From February 2021 to February 2022* (rates of inflation)		For the month of February 2022	
Canada**	5.7%	Canada:	5.5%
Vancouver:	4.8%	Vancouver:	5.4%
Toronto:	5.7%	Toronto:	7.4%
Ottawa:	6.3%	Ottawa:	5.0%
Montréal:	5.4%	Montréal:	5.2%
Edmonton:	5.5%	Edmonton:	6.9%
Calgary:	6.4%	Calgary:	8.0%
Halifax:	5.4%	Halifax:	5.7%
St. John's, NF:	4.7%	St. John's, NF:	7.3%
Saint John, NB:	5.5%	Saint John, NB:	7.3%
Charlottetown (PEI):	7.7%	Charlottetown (PEI):	9.0%
* Using month-over-month indices. Source: Statistics Canada			
** 12 month rolling average up to February 2022 is 4.2% (see non-pecuniary awards table).			

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Updating Non-Pecuniary Awards for Inflation (Feb. 2022, Canada)

Year of Accident/ Year of Settlement or Trial	"Inflationary" Factors*	Non-Pecuniary Damages - Sample Awards $10,000	$25,000	$50,000	$75,000	$100,000
February 2021-February 2022	1.041	$10,413	$26,031	$52,063	$78,094	$104,125
Avg. 2020-February 2022	1.043	$10,431	$26,077	$52,154	$78,231	$104,308
Avg. 2019-February 2022	1.051	$10,506	$26,265	$52,530	$78,795	$105,060
Avg. 2018-February 2022	1.071	$10,711	$26,777	$53,554	$80,331	$107,108
Avg. 2017-February 2022	1.095	$10,953	$27,383	$54,765	$82,148	$109,530
Avg. 2016-February 2022	1.113	$11,128	$27,820	$55,640	$83,459	$111,279
Avg. 2015-February 2022	1.129	$11,287	$28,218	$56,435	$84,653	$112,870
Avg. 2014-February 2022	1.141	$11,414	$28,535	$57,071	$85,606	$114,142
Avg. 2013-February 2022	1.163	$11,632	$29,079	$58,158	$87,237	$116,317
Avg. 2012-February 2022	1.174	$11,741	$29,352	$58,703	$88,055	$117,406
Avg. 2011-February 2022	1.192	$11,919	$29,797	$59,595	$89,392	$119,189
Avg. 2010-February 2022	1.227	$12,266	$30,665	$61,329	$91,994	$122,658
Avg. 2009-February 2022	1.248	$12,484	$31,211	$62,422	$93,634	$124,845
Avg. 2008-February 2022	1.254	$12,544	$31,359	$62,718	$94,078	$125,437
Avg. 2007-February 2022	1.282	$12,818	$32,046	$64,092	$96,137	$128,183
Avg. 2006-February 2022	1.309	$13,092	$32,730	$65,460	$98,190	$130,920
Avg. 2005-February 2022	1.335	$13,354	$33,385	$66,769	$100,154	$133,539
Avg. 2004-February 2022	1.365	$13,650	$34,125	$68,250	$102,374	$136,499
Avg. 2003-February 2022	1.390	$13,904	$34,759	$69,518	$104,277	$139,036
Avg. 2002-February 2022	1.429	$14,287	$35,719	$71,437	$107,156	$142,874
Avg. 2001-February 2022	1.461	$14,610	$36,526	$73,052	$109,578	$146,103
Avg. 2000-February 2022	1.498	$14,978	$37,445	$74,890	$112,335	$149,780
Avg. 1999-February 2022	1.539	$15,386	$38,465	$76,931	$115,396	$153,861
Avg. 1998-February 2022	1.565	$15,652	$39,131	$78,262	$117,393	$156,525
Avg. 1997-February 2022	1.581	$15,808	$39,521	$79,042	$118,563	$158,083
Avg. 1996-February 2022	1.606	$16,064	$40,161	$80,322	$120,482	$160,643
Avg. 1995-February 2022	1.632	$16,318	$40,794	$81,588	$122,381	$163,175
Avg. 1994-February 2022	1.667	$16,668	$41,670	$83,339	$125,009	$166,678
Avg. 1993-February 2022	1.670	$16,695	$41,738	$83,476	$125,213	$166,951
Avg. 1992-February 2022	1.701	$17,007	$42,518	$85,036	$127,554	$170,071
Avg. 1991-February 2022	1.726	$17,260	$43,150	$86,299	$129,449	$172,599
Avg. 1990-February 2022	1.823	$18,231	$45,578	$91,156	$136,734	$182,312
Avg. 1989-February 2022	1.910	$19,104	$47,760	$95,520	$143,280	$191,040
Avg. 1988-February 2022	2.006	$20,056	$50,140	$100,281	$150,421	$200,562
Avg. 1987-February 2022	**2.086**	$20,862	$52,154	**$104,308**	$156,462	$208,616
Avg. 1986-February 2022	2.177	$21,771	$54,427	$108,854	$163,281	$217,708
Avg. 1985-February 2022	2.268	$22,683	$56,708	$113,417	$170,125	$226,834
Avg. 1984-February 2022	2.358	$23,582	$58,955	$117,910	$176,865	$235,820
Avg. 1983-February 2022	2.460	$24,597	$61,493	$122,986	$184,478	$245,971
Avg. 1982-February 2022	2.604	$26,041	$65,102	$130,204	$195,306	$260,408
Avg. 1981-February 2022	2.884	$28,843	$72,108	$144,216	$216,323	$288,431
Avg. 1980-February 2022	3.245	$32,446	$81,115	$162,230	$243,345	$324,461
Avg. 1979-February 2022	3.573	$35,733	$89,332	$178,664	$267,996	$357,329
Jan. 1978-February 2022	**4.070**	$40,701	$101,752	$203,504	$305,256	**$407,009**

$104,308= $50,000 x 2.086 represents the dollar equivalent in February 2022 of $50,000 based on inflation increases since 1987. Similarly, $407,009 (=$100,000 x 4.070) represents the dollar equivalent in February 2022 of $100,000 in 1978 based on inflationary increases since the month of January 1978.

* Source: Statistics Canada, Consumer Price Index, monthly CPI release, rolling average (except for Jan. 1978).

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