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## Cross-Examination of Vocational Expert on U.S. Publishing Data

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**Disability lawyers can attack the method of compilation.**

*By David F. Traver*

Excerpted from [Social Security Disability Advocate's Handbook](#)

ALJ: Mr. Angermeier, do you have any questions?

Attorney: Let me focus on your last hypothetical. That was sedentary. Can you give me the DOT code for the first job you described as a general laborer?

VE: Sure. General laborer. Unskilled, sedentary 700.687-038.

Attorney: Then, for the unskilled inspector, what was the DOT code?

VE: The DOT code for the unskilled, sedentary inspector is 715.684-122, although I should point out that it does have an SVP code of 3

Attorney: So that is a semi-skilled job?

VE: Correct, although in my opinion it would be a low semi-skilled job.

ALJ: Which one is that?

VE: Borderline unskilled.

Attorney: Inspector number 2 in response to the sedentary hypothetical.

ALJ: That's an SVP 3. Okay.

VE: SVP 3. Correct.

Attorney: Then, the packer, what is the DOT number?

VE: The packer, packager. 753.687-038.

Attorney: The SVP on that.

VE: I'll look it up.

Attorney: That's all right. . . . Okay. Now, my next question, then. What statistical source did you rely upon when you gave us the numbers for these three jobs?

VE: I was relying on the Occupational Employment Quarterly, which is the compilation of figures from the Department of Labor and the U.S. Census Bureau. I also cross-referenced my numbers with the Department of Workforce Development, numbers from Milwaukee County. But the numbers I gave were statewide.

Attorney: If we reduced this, it was Milwaukee County, that would be, what, an 80% reduction from your statewide numbers, a 75% reduction?

VE: Oh, boy. I actually do not have that number specifically, but in my opinion it would be approximately 75% reduction.

ALJ: 75% of the number or 25% of the number?

VE: I would say 25 to 30% of the number just given population and labor market.

Attorney: Just so we are clear, if you said there were 418 packers statewide at the unskilled, sedentary level, in Milwaukee County, we would reduce it by 75%?

VE: Correct.

Attorney: Okay.

VE: That is a general reduction.

Attorney: For the statewide numbers, you relied upon the Occupational Employment Quarterly, correct?

VE: Correct.

Attorney: That comes out periodically. Which one did you rely upon?

VE: I was using 2006, 4 Quarter which ran through the end of December of 2006. I am momentarily awaiting the first quarter of 2007.

Attorney: Save your money. Now the Occupational Employment Quarterly reports jobs by census code, correct?

VE: Correct.

Attorney: They do not report jobs by DOT numbers?

VE: No, they don't. They group DOT codes.

Attorney: Okay. Tell me, what is the method you use to extrapolate from the Occupational Employment Quarterly if they only report by census code? How are you able to extrapolate to a specific DOT occupation?

VE: Once again, the numbers I gave were a compilation of the DOT titles within a compile. So the census occupation titles, then they list the number of DOT titles that are grouped within that. I was giving you examples of the most prevalent positions that would be listed within those numbers.

Attorney: I understand the methodology for U.S. Publishing to publish the Occupational Employment Quarterly is that they will take a census code, and if there are 10 occupations recorded under that census code, they will assume half of them are sedentary and half of them are light. Correct?

VE: Correct.

Attorney: Okay. There is a problem with that methodology. It is kind of a leap of faith. Isn't it?

VE: It is.

Attorney: The problem is that the U.S. Census Bureau is not recording jobs or collecting data by DOT numbers and as a result publications such as Occupational Employment Quarterly make an extrapolation that kind of defies logic in certain instances. You would have to agree.

VE: That is true. That is true.

Attorney: The overall problem is no one goes through and collects data by DOT title.

VE: No, I wish. That would be great.

Attorney: That would be great. Make our jobs easier or more miserable—I'm not sure which. It would be different.

VE: The data that I was working with—fortunately or unfortunately, however you look at it, the data collection methods are consistent across from the Department of Labor at the national level down to the County specific information that the Department of Workforce Development collects. So they are using the same methodology. For better or worse.

Attorney: But the Occupational Employment Quarterly relies upon data collected by the Census Bureau, correct?

VE: Correct.

Attorney: The data collected by the Census Bureau is the data collected when we fill out census forms, correct?

VE: Correct.

Attorney: So someone fills out a census form and says "I am an assembler," we are left to guess whether they assemble Happy Meals or whether they assemble the space station if they are not more specific. Correct?

VE: Right.

Attorney: And that is one of the problems in your science.

VE: It is not an exact science.

Attorney: That is all I have.

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**David F. Traver** has represented hundreds of claimants at SSA and over 200 claimants in U.S. District Courts. He has bachelor and master degrees in vocational rehabilitation, and is the author of [Social Security Disability Advocate's Handbook](#), from which this article is excerpted.

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