

# Welcome

## Adding Civil Case Expertise to Case Management and Social Security Expert Practices

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Vocational Rehabilitation Counselor and Consultant

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# Outline

- INTRODUCTION and FUNDAMENTALS
- I. TWO PRACTICE MODELS to APPLY OUR SKILLS and INTERESTS WITHIN
- II. COMPARE and CONTRAST FEATURES ACROSS ALL 3 LINES OF WORK
- III. CIVIL CASE EVALUATION PROCESS
- IV. FOUR FOUNDATIONS
  - A-Mentorship
  - B-Training Sources
  - C-Sustainability – evolution of expert from beginner to mid-career
  - D-Attorney interactions and pay philosophies

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# Premises

- No substitute for experience.
- New practice areas are sustainable by incremental change-- What was full-time becomes part-time and what was part-time becomes full-time.
- There are right and wrong reasons to do some things-- Feeling restricted in current case composition and *then needing* to do something-- is a right reason.
- We see ourselves as life-time learners and temperamentally broad, straddling both helping work and investigative/research work, in an adversarial arena.
- At a national conference our seat neighbors from different states work in completely different environments, use different terminology.

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**I. TWO PRACTICE MODELS to APPLY OUR SKILLS and INTERESTS WITHIN**

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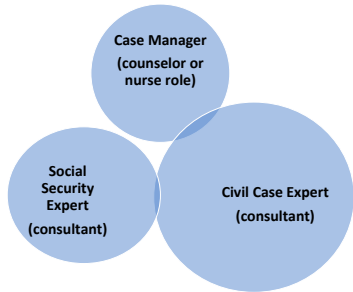
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**Three Lines of Work as Simultaneous Services**



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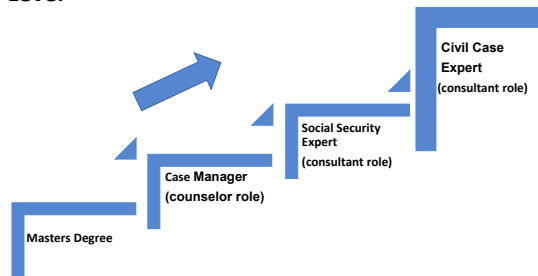
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**Three Lines of Work as Stepping Stones to the Next Level**



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**II. COMPARE and CONTRAST ASPECTS ACROSS ALL THREE LINES OF WORK**

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**Skill Comparison Between Case Manager and Consultant**

**Counselor key skillset-  
Workfield 298**

-Affecting the adjustment of people with financial, vocational, spiritual, educational and other problems according to established procedures.

**Nurse key skillset- Workfield 294**

-Health Caring-Treating people

\*RHAJ

**Consultant key skillsets -  
Workfield 251, 271**

-Inquiring into fundamental knowledge areas,,, for the purpose of discovering facts and making interpretations...

- obtaining and evaluating data about persons, places,,, for the purpose of solving cases, settling claims,.,,

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**Our Interests in Counseling vs Consulting**



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**II. Common Aspects in All 3 Lines of Work**

- Record Trail
- Rehabilitation hierarchy
- Residual Functional Capacity- \*RFC\*
- Transferability of skills (TSA)
- Establish Employability

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**Rehabilitation Hierarchy**

**US Dept of Labor work comp general approach to job placement:**

- Return to work with same employer/same job
- Return to work with same employer/modified job
- Return to work with same employer/different job– (TSA)
- Return to work with new employer/similar job
- Return to work with new employer/different job– (TSA)
- Formal training or education (followed by a return to work with a same or new employer)

\*US DOL DFEC

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**Residual Functional Capacities Form (Physical)**

Name: \_\_\_\_\_ SSN: \_\_\_\_\_

Please complete the following items based on your clinical evaluation of the above named patient/claimant. Any item you do not believe you can assess should be marked N/A.

In an 8 hour workday, the patient/claimant can: [Circle full capacity for activity]

		<b>Continuously</b>	<b>With Rests</b>
Sit 1 2 3 4 5 6 7 8 [hrs]		_____	_____
Stand 1 2 3 4 5 6 7 8 [hrs]		_____	_____
Walk 1 2 3 4 5 6 7 8 [hrs]		_____	_____

	<b>Never</b>	<b>Occasionally</b> [1% - 33%]	<b>Frequently</b>	<b>Continuously</b> [34% - 66%] [67% - 100%]
Lift:				
10 lbs.	_____	_____	_____	_____
11-20 lbs.	_____	_____	_____	_____
21-50 lbs.	_____	_____	_____	_____
51-100 lbs.	_____	_____	_____	_____

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**The Concept of Skills and Transferability (in TSA)**

- The principle of “continuous use” is established on the basis of similarity between jobs...

Similarity is determined by comparing relevant occupational elements:

- I. What a worker does ... with data, people, things
- II. What gets done in jobs
- III. The materials, products, subject matter, services

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**Case Management vs SSVE vs Civil Cases  
Dissimilarities**

	Case Mangmt	SSVE	Civil Cases
In-Person Meeting?	Yes	No	On the Plaintiff Side
Written Report?	Yes- Monthly	No	Yes- Earning Capacity
Testimony?	WC Hearings	Defending Hypotheticals	“Verbal Open-Book Exam” (2-4 hours)
Marketing?	Yes	No	Yes
Flexible Schedule?	Yes	No	Yes

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**III. CIVIL CASE EVALUATION PROCESS**

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**III. Basic process in a civil case evaluation job**

- Background or orientation call with attorney
- Record review-- identify the \*RFC\*
- Evaluation interview—history, care, ADLs, testing
- Research- TSA, LMR, journal articles
- Reporting—verbal and or written
- Prepare for testimony- deposition or trial (open book test)

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**Telephone referral form**

*Telephone Referral Form - Forensic*

Phone/Fax#: \_\_\_\_\_ Date(s): \_\_\_\_\_ #Pages in record pack: \_\_\_\_\_  
 Spelling of your name: \_\_\_\_\_ Theory of the case: \_\_\_\_\_  
 Name/address of firm: \_\_\_\_\_ Case Schedule: \_\_\_\_\_  
 Who referred me to you?: \_\_\_\_\_ Next Steps: \_\_\_\_\_  
 Opposing lawyers and experts: \_\_\_\_\_ Comments: \_\_\_\_\_  
 Name/ spelling of client: \_\_\_\_\_  
 Age: \_\_\_\_\_  
 Education/ English: \_\_\_\_\_  
 Occupations: \_\_\_\_\_  
 DDA: \_\_\_\_\_  
 Disability/Injuries? \_\_\_\_\_

Treatment: \_\_\_\_\_

Records—All relevant medical records up to the present, therapy records (physical, occupational, cognitive), functional capacity evaluations (FCE), work restrictions/limitations, independent exams, depositions, petitions/interrogatories, decket control/scheduling, tax or pay records, job search records, school records.

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**Back to the \*RFC\*... “restrictions and limitations”**

Previous court case:  
**In Gearding v Bombardier, Inc (2003)**  
 -Reliability of vocational expert was questioned because “proper methodology requires “ expert to contact plaintiff’s treating doctor and “get limitations or restrictions” before forming opinion.  
**Answer:**  
 -Voc expert had reviewed records, performed interview, ascertained that medical records supported self-reported limitations, and then spoke with the doctor who confirmed symptoms fit physical findings.  
 -Judge upheld that voc expert was sufficiently reliable.

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About the \*RFC\* Cont'd... from our literature:

Terms- Restriction is what a person should not do; limitation is what a person can not do. .

- AMA Physician Guide to RTW

Tasks are central to assessment of human capacities. After a task is reduced by impairment, what is left is a limitation: "lift up to 20 pounds occasionally."

From Forensic Case Book-

"A person with 20/40 vision is not restricted by an ophthalmologist. However, by it's very nature, the person is limited in use of their eyesight. This can apply to any physical, mental or cognitive function."

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Deposition testimony as open book exam:

- *The invite to deposition is \*not\* because*
- *your report is bad-- Time to Teach !*
- Reasons to depose:
  - To learn assumptions and opinions
  - Evaluate your credibility and qualifications
  - Probe for bias and weaknesses
  - To learn all about case and settlement value of case

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IV. FOUR FOUNDATION PILLARS

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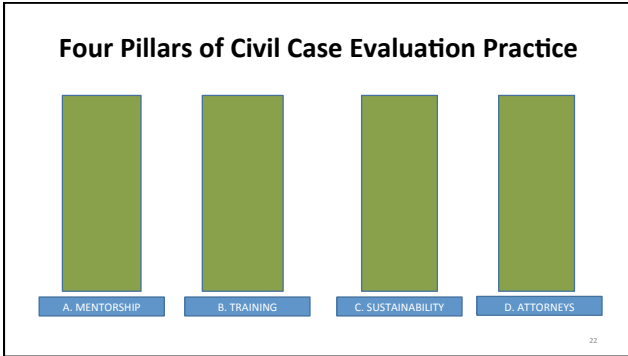
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- ### A. Mentorship in all its forms
- -GRADUATE SCHOOL PROFESSORS
  - -CO-EXPERTS: ECONOMISTS, LIFE CARE, THERAPISTS
  - -IARP COLLEAGUES
  - -PREVIOUS REHAB EMPLOYER MANAGERS

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- ### B. Training Sources
- -REHAB CONFERENCE SESSIONS
  - -SEAK: ANNUAL AND TOPIC CONFERENCES
  - -ACADEMIC CERTIFICATES- FVE
  - -"FAILURE EXPERIENCES"
  - -EXPERT GROUPS

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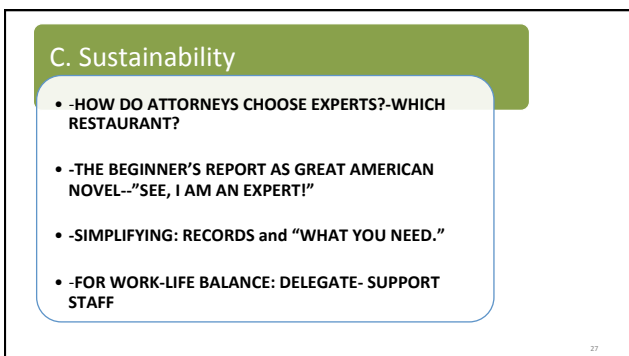
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**D. Attorney Interactions**

- -ACTIVE AND PASSIVE MARKETING
- -SETTING COMPETITIVE PRICES– NOT TOO HIGH OR LOW... DECIDE ABOUT RETAINERS AND “COMBAT PAY.”
- -FIND WAYS TO BE EASY FOR LAWYER’S SUPPORT STAFF

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**Remember most: *It’s a \*long\* learning curve***

**Thank you !**

**brad@re-employ.com**

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