

Rejoinder: The P Problem Fallacy—A Second Attempt At Obfuscation Also Fails

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Dr. Gamboa's article is a second attempt by employees and/or leaders of Vocational Economics, Inc. (VEI) to deal with the Brookshire and Forlines (2014) article published in this journal. Dr. Gamboa's article bears no relationship to the first effort by his colleagues Crouse et al. (2015), and our rejoinder (2015), published in the last issue. Like the first attempt, however, Dr. Gamboa's article fails to diminish the importance of our conclusions and recommendations; creates straw man verbiage, examples, and tables irrelevant to our analysis and conclusions; and misrepresents what we have said. The Gamboa article also provides a curious and irrelevant defense of the Gamboa Gibson Worklife Tables (GGWT). It is a case study in the use of obfuscation when scientific and data-based criticisms do not exist.

Dr. Gamboa is unclear in his attempt at criticizing the dominance of participation (P) rates, versus employment (E) rates, in worklife (PE) declines of the disabled, but let us consider two possibilities. He may be saying that our participation versus employment rate conclusions are insignificant because the data analyzed are not sufficiently disaggregated by gender, level of education, type of disability, etc. Perhaps he should actually read our article, or test our conclusions on any data set that allows P rates and E rates to be separated. In fact, our conclusions about the dominance of P rates hold for ACS, CPS, or any other government data set, and for re-formulations of these data sets like Cornell and the GGWT, where P versus E disaggregation is possible. Our article demonstrates the dominance of the P rate for the ACS non-disabled versus all-disabled categories, and versus all of the more specific categories such as cognitive, hearing, vision, etc. We also know that where worklife expectancy differs significantly between adjacent education levels in CPS (PINC-04) data, the P rate difference dominates the E rate difference. Dr. Gamboa offers nothing in his article or from the GGWT document which suggests that our P rate versus E rate conclusions are affected by age range. The same is true for disaggregations by severe versus non-severe disabilities. Common sense suggests, of course, that severe disabilities would generally result in a greater weight of P rate decline in overall PE decline. If an injury means that a person cannot (realistically) attempt to

work, the E rate of those who try is irrelevant, and the post-injury PE rate is zero.

Let us now assume that Dr. Gamboa is suggesting that the average PE rates he calculates in the GGWT, and we disaggregate, are irrelevant for our purpose because vocational rehabilitation experts simply consider these PE averages and then apply their "clinical judgment" to case specifics, reaching conclusions about the decline in worklife (PE) variables due to the specific injury. First, we leave to others a discussion of standards for using "clinical judgment" with PE average data to assert lost earning capacity. Yet, our article was clearly aimed at those who use ACS or CPS data sets, or these sets filtered through the GGWT, as sources and guidelines for testifying about worklife (PE) differences between pre-injury and post-injury scenarios. Those experts must deal with the fact that 79-91 percent of PE declines from these sources are declines in P rates, not E rates.

Since Dr. Gamboa uses his article to attempt either a defense or a promotion of the GGWT that he produces and sells, let us point out that his 2015 and previous documents promote the direct use of PE averages from his tables. The clinical judgment required is that a user correctly look up a PE number in a table. The GGWT document announces that not only vocational experts but also accountants, economists, physicians, and a host of others can use the tables, and such persons are indeed capable of looking up a number. Throughout the country, vocational experts, economists, and others are making seemingly rote use of PE numbers in these tables.

Further, the GGWT (2015) document provides three suggestions for users when they can't match a specific plaintiff to the average PE's in any (disabled) category.

- 1.) State as a range
- 2.) Use as a continuum
- 3.) Use an assumed worklife

The first two extend the user task to looking up two PE numbers. The third is the abandonment of PE averages—some value is chosen other than a PE average from the tables. In none of these three does the user escape the need to justify a reduced P rate (and E rate)

caused by an injury. Moreover, what is not provided in the GGWT is any methodology, scale, or metric for estimating either P or E rate reductions in a specific personal injury case.

Dr. Gamboa's three tables serve as visual obfuscations which take up space. Tables 1 and 2 are copied from our article, with no accompanying analysis which relates to our data analysis and conclusions. Table 3 simply reports differing PE rates by age, education attainment, and disability severity. This is nice of Dr. Gamboa, but we already knew that PE rates go up with age, peak, and decline; that PE rates increase with education; and that PE rates are lower as injuries are more severe. It is the relative weighting of P versus E rate declines that is the point. Dr. Gamboa offers no example of when the 4-to-1 dominance of the P decline in PE declines does not hold, and we have found this dominance in every data set where the P rate versus E rate effects could be disaggregated and measured.

Many of Dr. Gamboa's paragraphs are a rambling obfuscation through a Disneyland of topics, such as inflation rates, wage growth rates, CEO's of tobacco companies, and rankings of journals. He protests more than a bit too much about criticisms of his GGWT, which were not the focus of our article and are unrelated to our conclusions. These detours from our article are such obvious obfuscations that they are an insult to the truly skilled obfuscators sometimes encountered in forensic work.

In his meanderings, Dr. Gamboa makes statements or implications which are simply untrue and/or in error. For example, he says that our "try rate" has no statistical base. "Try" rate is a very good descriptor of the participation (P) rate, there is an enormous literature and much data on participation rates, and it is the GGWT document, itself, which incorrectly re-defines joint PE rates as "employment rates". Dr. Gamboa's attempt to use BLS deadlines as some sort of justification for this attack is pathetic, but we have used official U. S. government definitions of the P rate, and data grouped via this definition, to reach our conclusions. Dr. Gamboa is correct that the PE rate is not equivalent to a try rate. The reason, however, is that "try rate" is a good description of the participation rate, which is one of two variables in the PE rate. The descriptor used for the P rate is a sideline issue because, again, we know that 79-91 percent of the statistical PE decline shown for self-defined disability is a decline in the P rate values, not in the E rate values.

Dr. Gamboa further suggests that vocational experts need not be concerned, or cannot be concerned, about whether worklife loss estimates represent voluntary or involuntary declines in participation. This is bad advice by someone who cannot scientifically deal with reductions in participation rates per se. Our article highlights why those asserting worklife losses must show how a specific injury affects the P rate and/or the

E rate of the individual and the duty to mitigate is problematic for those discussing P rate declines in loss estimates.

Finally, Dr. Gamboa attempts to challenge our six recommendations. If our article is correct about the P problem in establishing worklife losses, and if our data based conclusions are accurate, and if those conclusions stand undiminished after two attempts at a response, then our recommendations logically follow from our conclusions and are also correct.

References

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