

**Testimony of Timothy S. Fisher
Judiciary Committee Public Hearing
April 10, 2007**

HB 6673

AN ACT COMPENSATING

JAMES C. TILLMAN

**FOR HIS WRONGFUL CONVICTION AND
INCARCERATION**

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**HOUSE BILL 6673: AN ACT COMPENSATING JAMES C. TILLMAN
FOR HIS WRONGFUL CONVICTION AND INCARCERATION**

OVERVIEW

James Tillman is innocent of all crimes with which he was charged, however, he spent the prime of his young adult life imprisoned. HB 6673 will grant Mr. Tillman \$5 million as compensation for over 18 years imprisonment for crime he did not commit. This paper provides background information regarding the conduct by State officials that led to the conviction, factors bearing on his legal rights to damages, and the basis for the \$5 million damages figure.

I. JAMES TILLMAN'S DNA EXONERATION

In 2006, newly available DNA testing on semen from the clothing worn by the rape victim conclusively determined that the semen found did not come from James Tillman and thus that James Tillman was actually innocent of the crime for which he had spent 18 years in prison.

II. STATE RESPONSIBILITY FOR THE WRONGFUL CONVICTION

In 1988, Mr. Tillman was arrested, tried and convicted for rape of a woman he had never met. The crime occurred at night, making identification difficult, and forensic evidence which should have excluded Mr. Tillman was improperly used at trial to inculcate him. State Health Department officers fabricated evidence and failed to disclose exculpatory evidence concerning the testing conducted and the results therefrom. Further, the arresting police officer falsified inculpatory statements by Mr. Tillman and fabricated and failed to provide exculpatory evidence regarding two alibi witnesses, causing Mr. Tillman's wrongful conviction. Thus the City of Hartford faces liability in addition to that of the State.

A. Health Department

One key leading to Mr. Tillman's wrongful conviction was the false reporting of serological testing results by the Chief Toxicologist for the State of Connecticut, Sanders Hawkins (since retired), who worked at the State Health Department Laboratory. Hawkins reported in his pretrial reports and his testimony at trial that the lab conducted serological testing on stains on the victim's clothing and that one of the stains contained semen from an individual who, like Tillman, did not secrete blood markers in his semen. Hawkins's report placed Tillman within a group of only 20% of the population who could have committed the rape. This reporting was false, contrary to the evidence and the most basic principles of serological testing. Based on DNA testing and all of the testimony at trial, it is now clear that this stain actually came from a blood type B-secretor. Mr. Hawkins either misstated the lab's results or was completely incompetent and recklessly presented as scientific opinion that which he should have known had no basis. Had Hawkins accurately tested and reported the results at the time of trial, Mr. Tillman would have been cleared of this crime in 1988.

Officials at the State Health Department Laboratory misapplied known serological testing standards, resulting in incorrect test results. Based on information and belief, the conduct of Mr.

Hawkins in Mr. Tillman's case was not an isolated incident, but rather a pattern of misconduct of this examiner will emerge upon scrutiny of other of his actions during this general time period.

B. City of Hartford Police Department

A City of Hartford police officer, Stephen Kummick (since retired) arrested Mr. Tillman charging him with a brutal rape, during which the victim's face was severely beaten. In order to strengthen a questionable witness identification, Officer Kummick prepared a police report that included false information about Mr. Tillman's statements when arrested. Specifically, Officer Kummick recorded that when arrested, before he had heard any details of the allegations against him, Mr. Tillman stated, "I didn't hit no woman." Mr. Tillman has always denied making this statement. Based upon the DNA exoneration, we know now that Mr. Tillman could not have made this statement, because he did not commit, and was not present for this single assailant crime. Officer Kummick used that alleged statement to suggest that Mr. Tillman, at the time of his arrest, volunteered information that only the perpetrator of the crime would have known and to suggest that Mr. Tillman unwittingly inculpated himself in the commission of the crime. This evidence was a focus at trial and in arguments to the jury and was a cause of Mr. Tillman's conviction.

Officer Kummick fabricated evidence and failed to provide exculpatory evidence concerning with two alibi witnesses provided information regarding Mr. Tillman's actual whereabouts at the time this crime took place. These falsifications of evidence as well as the misconduct by the State Health Department each proximately caused Mr. Tillman's improper conviction.

II. Mr. Tillman's Legal Claims

The compensation proposed in House Bill 6673 would be in lieu of Mr. Tillman's assertion of claims against the State and the City of Hartford for his wrongful conviction. All of Mr. Tillman's claims rely on the invalidation of his conviction.

A. §1983 claim

Mr. Tillman has a federal court claim against Connecticut and the City of Hartford officials, along with a claim against the City of Hartford directly. Mr. Tillman has a strong "pattern and practice claim" against the City of Hartford for failing to properly train and supervise its police officials and a claim that Hartford Police had a pattern and practice of fabricating evidence and withholding exculpatory evidence as demonstrated by the multiple violations in this case. The State and the City will have to defend the direct claims and both entities will be obligated to indemnify their officials and pay the costs of their defense. To prove his federal claim he need only show recklessness that tended to lead to his conviction. The facts in this case demonstrate intentional misconduct. The known facts are sufficient to get to a jury. Most juries rule in favor of innocent persons who have been incarcerated due to misconduct by police or other officials.

B. State Tort claims

Mr. Tillman also has claims against the State itself for malicious prosecution and wrongful imprisonment. To prevail on these claims he need only establish show actions intended to lead

to his conviction, taken without probable cause. Those include the fabrications and concealment of exculpatory evidence detailed above.

C. Statute of Limitations

The Statute of Limitations on Mr. Tillman's federal claims under 42 USC §1983 does not start to run until the wrongful conviction is vacated, because an element of each of Mr. Tillman's claims is the invalidation of his conviction. The United States Supreme Court has issued this as a clear rule and it is followed throughout the country. The Court has explained that its rule "delays what would otherwise be the accrual date of a tort action until the setting aside of an extant conviction...." Wallace v. Kato, ___ US ___, 127 S. Ct. 1091, 1097-98 (2007) (affirming Heck v. Humphrey, 512 U.S. 477 (1994)). Mr. Tillman's conviction was not set aside until June 2006. His rights accrued at that point.

The Statute of Limitations on Mr. Tillman's state law claims will arguably be tolled under state law doctrines. To toll the running of the limitation period he will show that both Health Department representatives and the police took steps to conceal their actions. Their statements kept Mr. Tillman and his attorney, and the Court itself, from recognizing the bias in the lab tests, and from being able to prove the police officer's falsification of testimony.

D. Sovereign Immunity

The federal 1983 claim may proceed in federal court without regard to any sovereign immunity. The state law claims may proceed before the Claims Commissioner, and Mr. Tillman will seek permission from either the commissioner or the Legislature to bring that action, if HB 6673 is not passed.

III. Damages Analysis

A. False Imprisonment Damages

The main element of Mr. Tillman's damages is the personal suffering of being forced to live in prison for over 18 years of his life. Mr. Tillman's imprisonment deprived him of personal liberty, enjoyment of life and relationships with family and friends and caused him mental pain, suffering and permanent psychological damage. While, it is difficult to determine adequate compensation for such severe losses, jury verdicts in these sorts of wrongful incarceration cases generally are in the range of \$1 million per year of imprisonment. The bulk of the proposed funds compensate Mr. Tillman for damages stemming from these harms.

B. Economic Analysis

Mr. Tillman was gainfully employed before his arrest and imprisonment, and the lost years of his life caused him to lose wages he would have earned and also impaired his earning capacity for the future. The attached spreadsheets display a summary of the present value of Mr. Tillman's lost wages. The requested compensation also allocates \$250,000 as compensation for Mr. Tillman's lost future earnings.

C. Medical Malpractice Action

Mr. Tillman injured his leg while in prison and received improper medical care from the University of Connecticut Health Center. He suffered chronic infection for almost an entire year, endured considerable pain from both the infection and the improper follow-up treatment, risked the loss of his leg, required additional surgery, had to walk with a cane, and is still affected by results of the negligent treatment. Orthopedic and nursing experts who have reviewed Mr. Tillman's medical history have provided opinions that the care he received was negligent and constitutes medical malpractice. If litigated, anticipated damages for this claim are between \$750,000 and \$1,000,000. The requested compensation allocates \$500,000 as compensation for Mr. Tillman's physical injury.

D. Legal Fees

A team of attorneys has assembled to assist Mr. Tillman in his efforts to obtain compensation for his wrongful incarceration. Attorneys from the law firms of Cochran, Neufeld & Scheck and McCarter & English LLP, among others, have offer assistance to Mr. Tillman *pro bono* in connection with advising him regarding the process of obtaining state compensation and his legal options. Should this process fail, Mr. Tillman will file a § 1983 suit against the State and City officials. In that event, the State and City would incur substantial legal fees in defending the suit. In addition, if Mr. Tillman prevails on his §1983 claim, the State would be required to pay the legal fees expenses of Mr. Tillman's attorneys, who will no longer be working *pro bono*. Plaintiff's fees and expenses in a case of this magnitude could easily exceed \$2 million.

IV. Compensation by Private Act

A private act to compensate Mr. Tillman is authorized by precedent established in Connecticut Special Act 512 (1947), Connecticut Special Act 343 (1951), Connecticut Special Act 267 (1951) and Connecticut Special Act 244 (1951), which all provided compensation from the State to wrongfully convicted or incarcerated individuals. The \$5 million that House Bill 6673 would grant Mr. Tillman could, by statutory language, be exempted from state tax.

Compensation by private act is in the State's interests. First, Mr. Tillman would likely recover many times more than \$5 million by pursuing his legal claims. Second, the State has no other mechanism to compensate him, and any general compensation statute, if adopted, would not have a agency system in place for months, if not a year or more, and such a delay is completely unfair to him. Third, the private act enables the Legislature to have the benefit of predictability and control over the resulting amount rather than risk the outcome of litigation. Fourth, in spite of his experience Mr. Tillman has not dwelt on the conduct of those responsible for his ordeal and instead has dedicated much of his life to teaching and speaking to youth at risk and others who can learn from his experience. This private act will enable him to continue with that mission. Forcing him into litigation against the State, in contrast, would require both him and the State to focus energies on blame for long-ago wrongful acts rather than positive steps for the future.

Exhibit 1a

Present Value of Lost Adjusted Compensation for James Tilliman Including Fringe Benefits: Average U.S. Income for High School Graduates

Assumptions:

Interest Rate ¹	10.0%
Fringe Benefits as a % of Earnings ²	11.6%
Risk of Unemployment	3.0%

Year [1]	Lost Earnings ³ [2]	Tax Rate [3]	After-Tax Earnings [4]	Fringe Benefits [5]	After-Tax Compensation Including Fringe Benefits [6]	After-Tax Compensation Including Fringe Benefits Adjusted for Unemployment Risk [7]	Present Value (as of July 2006) [8]
1988	21,481	15.00%	18,259	2,492	20,751	20,128	56,359
1989	23,736	15.00%	20,176	2,753	22,929	22,241	60,051
1990	24,038	15.00%	20,432	2,788	23,221	22,524	58,563
1991	24,045	15.00%	20,438	2,789	23,227	22,531	56,327
1992	24,441	15.00%	20,775	2,835	23,610	22,902	54,964
1993	25,532	15.00%	21,702	2,962	24,664	23,924	55,025
1994	26,363	15.00%	22,409	3,058	25,467	24,703	54,346
1995	27,440	15.00%	23,324	3,183	26,507	25,712	53,995
1996	27,349	15.00%	23,247	3,172	26,419	25,627	51,253
1997	34,790	15.00%	29,572	4,036	33,607	32,599	61,938
1998	34,786	15.00%	29,568	4,035	33,603	32,595	58,671
1999	34,151	15.00%	29,028	3,962	32,990	32,000	54,400
2000	38,150	15.00%	32,428	4,425	36,853	35,747	57,196
2001	39,535	15.00%	33,605	4,586	38,191	37,045	55,568
2002	40,301	15.00%	34,256	4,675	38,931	37,763	52,868
2003	40,885	15.00%	34,752	4,743	39,495	38,310	49,803
2004	42,391	15.00%	36,032	4,917	40,950	39,721	47,665
2005	42,133	15.00%	35,813	4,887	40,700	39,479	43,427
2006	21,067	15.00%	17,907	2,444	20,350	19,740	19,740

Present Value of Award as of July 2006 \$ **1,002,159**
Present Value of Award as of April 2007 \$ **1,076,419**

Notes:

- 10 percent interest rate comes from Conn. Gen. Stat. § 37-3a.
- Fringe Benefit data is taken from the U.S. Chamber of Commerce Small Business Center website. According to this source, medical benefits account for 11.6 percent of employer payrolls. Considering that medical benefits are typically just one component of fringe benefits, this is a conservative figure.
- Earnings data are from the U.S. Census for full-time male High School graduates.

Exhibit 1b
Present Value of Lost Adjusted Earnings for James Tillman:
Average U.S. Income for High School Graduates

Assumptions:

Interest Rate ¹	10.0%
Risk of Unemployment	3.0%

Year [1]	Lost Earnings ² [2]	Tax Rate [3]	After-Tax Earnings [4]	After-Tax Earnings Adjusted for Unemployment Risk [5]	Present Value (as of July 2006) [6]
1988	21,481	15.00%	18,259	17,711	49,591
1989	23,736	15.00%	20,176	19,570	52,840
1990	24,038	15.00%	20,432	19,819	51,530
1991	24,045	15.00%	20,438	19,825	49,563
1992	24,441	15.00%	20,775	20,152	48,364
1993	25,532	15.00%	21,702	21,051	48,418
1994	26,363	15.00%	22,409	21,736	47,820
1995	27,440	15.00%	23,324	22,624	47,511
1996	27,349	15.00%	23,247	22,549	45,099
1997	34,790	15.00%	29,572	28,684	54,500
1998	34,786	15.00%	29,568	28,681	51,626
1999	34,151	15.00%	29,028	28,157	47,868
2000	38,150	15.00%	32,428	31,455	50,327
2001	39,535	15.00%	33,605	32,597	48,895
2002	40,301	15.00%	34,256	33,228	46,519
2003	40,885	15.00%	34,752	33,710	43,823
2004	42,391	15.00%	36,032	34,951	41,942
2005	42,133	15.00%	35,813	34,739	38,213
2006	21,067	15.00%	17,907	17,369	17,369

Present Value of Award as of July 2006 \$ 881,817
Present Value of Award as of April 2007 \$ 947,159

Notes:

1. 10 percent interest rate comes from Conn. Gen. Stat. § 37-3a.
2. Earnings data are from U.S. Census for full-time male High School graduates.

Exhibit 1c

Present Value of Future Lost Adjusted Earnings for James Tillman: Average U.S. Income for High School Graduates

Assumptions:

After-Tax Discount Rate ¹	4.4%
Earnings Growth Rate ²	3.0%

Year [1]	Earnings Continuation [2]	Actual Earnings Projection ³ [3]	Lost Earnings [4]	Tax Rate [5]	After-Tax Earnings Difference [6]	Present Value (as of July 2006) [7]
2006	21,067	10,894	10,173	15%	8,647	8,462
2007	48,021	24,833	23,188	15%	19,710	18,472
2008	49,461	25,578	23,884	15%	20,301	18,221
2009	50,945	26,345	24,600	15%	20,910	17,973
2010	52,473	27,135	25,338	15%	21,537	17,728
2011	54,048	27,949	26,098	15%	22,184	17,487
2012	55,669	28,788	26,881	15%	22,849	17,249
2013	57,339	29,651	27,688	15%	23,535	17,015
2014	59,059	30,541	28,518	15%	24,241	16,783
2015	60,831	31,457	29,374	15%	24,968	16,555
2016	62,656	32,401	30,255	15%	25,717	16,330
2017	65,268	33,752	31,516	15%	26,789	16,291
2018	67,226	34,764	32,462	15%	27,593	16,069
2019	69,243	35,807	33,436	15%	28,420	15,851
2020	71,320	36,881	34,439	15%	29,273	15,635
2021	73,460	37,988	35,472	15%	30,151	15,423
2022	75,664	39,127	36,536	15%	31,056	15,213
2023	38,967	20,151	18,816	15%	15,994	7,503

Present Value of Award as of July 2006	\$ 284,259
Present Value of Award as of April 2007	\$ 293,632

Notes:

1. After-Tax Discount Rate is a tax-adjusted figure taken from the 2009-2013 Five-Year Average 10-Year Treasury Note from Blue Chip Economic Indicators, Vol. 32, No. 3, March 10, 2007.
2. Earnings Growth Rate is taken from the 2009-2013 Five-Year Average Real GDP growth from Blue Chip Economic Indicators, Vol. 32, No. 3, March 10, 2007.
3. Actual Earnings Projection uses current earnings data from James Tillman.

Exhibit 2a

Present Value of Lost Adjusted Compensation for James Tillman Including Fringe Benefits: Average U.S. Income for Associate Degree Holders

Assumptions:

Interest Rate ¹	10.0%
Fringe Benefits as a % of Earnings ²	11.6%
Risk of Unemployment	3.0%

Year [1]	Lost Earnings ³ [2]	Tax Rate [3]	After-Tax Earnings [4]	Fringe Benefits [5]	After-Tax Compensation Including Fringe Benefits [6]	After-Tax Compensation Including Fringe Benefits Adjusted for Unemployment Risk [7]	Present Value (as of July 2006) [8]
1988	21,481	15.00%	18,259	2,492	20,751	20,128	56,359
1989	23,736	15.00%	20,176	2,753	22,929	22,241	60,051
1990	24,038	15.00%	20,432	2,788	23,221	22,524	58,563
1991	24,045	15.00%	20,438	2,789	23,227	22,531	56,327
1992	29,671	15.00%	25,220	3,442	28,662	27,802	66,726
1993	31,355	15.00%	26,652	3,637	30,289	29,380	67,575
1994	31,400	15.00%	26,690	3,642	30,332	29,422	64,729
1995	31,097	15.00%	26,432	3,607	30,040	29,139	61,191
1996	34,854	15.00%	29,626	4,043	33,669	32,659	65,318
1997	42,968	15.00%	36,523	4,984	41,507	40,262	76,498
1998	46,537	15.00%	39,556	5,398	44,955	43,606	78,491
1999	45,108	15.00%	38,342	5,233	43,574	42,267	71,854
2000	48,389	15.00%	41,131	5,613	46,744	45,341	72,546
2001	49,061	15.00%	41,702	5,691	47,393	45,971	68,957
2002	52,679	15.00%	44,777	6,111	50,888	49,361	69,106
2003	50,832	15.00%	43,207	5,897	49,104	47,631	61,920
2004	51,448	15.00%	43,731	5,968	49,699	48,208	57,849
2005	54,914	15.00%	46,677	6,370	53,047	51,456	56,601
2006	27,457	15.00%	23,338	3,185	26,523	25,728	25,728
Present Value of Award as of July 2006							\$ 1,196,387
Present Value of Award as of April 2007							\$ 1,285,039

Notes:

1. 10 percent interest rate comes from Conn. Gen. Stat. § 37-3a.

2. Fringe Benefit data is taken from the U.S. Chamber of Commerce Small Business Center website. According to this source, medical benefits account for 11.6 percent of employer payrolls. Considering that medical benefits are typically just one component of fringe benefits, this is a conservative figure.

3. Earnings data are from U.S. Census for full-time male High School graduates, and full-time male holders of an Associate Degree. I understand that James Tillman began taking college courses in prison in 1990. Thus, beginning in 1992, his Lost Earnings figure switches from the High School level to the Associate Degree level.

Exhibit 2b
Present Value of Lost Adjusted Earnings for James Tillman:
Average U.S. Income for Associate Degree Holders

Assumptions:

Interest Rate ¹	10.0%
Risk of Unemployment	3.0%

Year [1]	Lost Earnings ² [2]	Tax Rate [3]	After-Tax Earnings [4]	After-Tax Earnings Adjusted for Unemployment Risk [5]	Present Value (as of July 2006) [6]
1988	21,481	15.00%	18,259	17,711	49,591
1989	23,736	15.00%	20,176	19,570	52,840
1990	24,038	15.00%	20,432	19,819	51,530
1991	24,045	15.00%	20,438	19,825	49,563
1992	29,671	15.00%	25,220	24,464	58,713
1993	31,355	15.00%	26,652	25,852	59,460
1994	31,400	15.00%	26,690	25,889	56,956
1995	31,097	15.00%	26,432	25,639	53,843
1996	34,854	15.00%	29,626	28,737	57,474
1997	42,968	15.00%	36,523	35,427	67,312
1998	46,537	15.00%	39,556	38,370	69,066
1999	45,108	15.00%	38,342	37,192	63,226
2000	48,389	15.00%	41,131	39,897	63,835
2001	49,061	15.00%	41,702	40,451	60,676
2002	52,679	15.00%	44,777	43,434	60,807
2003	50,832	15.00%	43,207	41,911	54,484
2004	51,448	15.00%	43,731	42,419	50,903
2005	54,914	15.00%	46,677	45,277	49,804
2006	27,457	15.00%	23,338	22,638	22,638

Present Value of Award as of July 2006 \$ 1,052,721
Present Value of Award as of April 2007 \$ 1,130,728

Notes:

1. 10 percent interest rate comes from Conn. Gen. Stat. § 37-3a.
2. Earnings data are from U.S. Census for full-time male High School graduates, and full-time male holders of an Associate Degree. I understand that James Tillman began taking college courses in prison in 1990. Thus, beginning in 1992, his Lost Earnings figure switches from the High School level to the Associate Degree level.

Exhibit 2c
Present Value of Future Lost Adjusted Earnings for James Tillman:
Average U.S. Income for Associate Degree Holders

Assumptions:

After-Tax Discount Rate ¹	4.4%
Earnings Growth Rate ²	3.0%

Year [1]	Earnings Continuation [2]	Actual Earnings Projection ³ [3]	Lost Earnings [4]	Tax Rate [5]	After-Tax Earnings Difference [6]	Present Value (as of July 2006) [7]
2006	27,457	10,894	16,563	15%	14,079	13,777
2007	59,014	24,833	34,181	15%	29,054	27,229
2008	60,784	25,578	35,207	15%	29,926	26,859
2009	62,608	26,345	36,263	15%	30,823	26,493
2010	64,486	27,135	37,351	15%	31,748	26,133
2011	66,421	27,949	38,471	15%	32,701	25,778
2012	68,413	28,788	39,625	15%	33,682	25,427
2013	70,466	29,651	40,814	15%	34,692	25,081
2014	72,580	30,541	42,039	15%	35,733	24,740
2015	74,757	31,457	43,300	15%	36,805	24,404
2016	77,000	32,401	44,599	15%	37,909	24,072
2017	80,210	33,752	46,458	15%	39,489	24,014
2018	82,616	34,764	47,852	15%	40,674	23,688
2019	85,094	35,807	49,287	15%	41,894	23,365
2020	87,647	36,881	50,766	15%	43,151	23,048
2021	90,277	37,988	52,289	15%	44,445	22,734
2022	92,985	39,127	53,857	15%	45,779	22,425
2023	47,887	20,151	27,737	15%	23,576	11,060

Present Value of Award as of July 2006	\$	420,328
Present Value of Award as of April 2007	\$	434,186

Notes:

1. After-Tax Discount Rate is a tax-adjusted figure taken from the 2009-2013 Five-Year Average 10-Year Treasury Note from Blue Chip Economic Indicators, Vol. 32, No. 3, March 10, 2007.
2. Earnings Growth Rate is taken from the 2009-2013 Five-Year Average Real GDP growth from Blue Chip Economic Indicators, Vol. 32, No. 3, March 10, 2007.
3. Actual Earnings Projection uses current earnings data from James Tillman.

Exhibit 3a

Present Value of Lost Adjusted Compensation for James Tillman Including Fringe Benefits: Average CT Income for High School Graduates

Assumptions:

Interest Rate ¹	10.0%
Fringe Benefits as a % of Earnings ²	11.6%
Risk of Unemployment	3.0%

Year [1]	Lost Earnings ³ [2]	Tax Rate [3]	After-Tax Earnings [4]	Fringe Benefits [5]	After-Tax Compensation Including Fringe Benefits [6]	After-Tax Compensation Including Fringe Benefits Adjusted for Unemployment Risk [7]	Present Value (as of July 2006) [8]
1988	27,055	15.00%	22,997	3,138	26,135	25,351	70,984
1989	29,895	15.00%	25,411	3,468	28,879	28,013	75,634
1990	30,276	15.00%	25,734	3,512	29,246	28,369	73,759
1991	30,284	15.00%	25,742	3,513	29,255	28,377	70,943
1992	30,783	15.00%	26,166	3,571	29,737	28,845	69,227
1993	32,157	15.00%	27,334	3,730	31,064	30,132	69,304
1994	33,204	15.00%	28,223	3,852	32,075	31,113	68,448
1995	34,560	15.00%	29,376	4,009	33,385	32,384	68,006
1996	34,446	15.00%	29,279	3,996	33,275	32,276	64,553
1997	43,818	15.00%	37,245	5,083	42,328	41,058	78,010
1998	43,813	15.00%	37,241	5,082	42,323	41,053	73,896
1999	43,036	15.00%	36,580	4,992	41,572	40,325	68,553
2000	48,329	15.00%	41,080	5,606	46,686	45,285	72,457
2001	50,510	15.00%	42,933	5,859	48,792	47,329	70,993
2002	50,802	15.00%	43,182	5,893	49,075	47,603	66,644
2003	51,421	15.00%	43,708	5,965	49,673	48,182	62,637
2004	53,827	15.00%	45,753	6,244	51,997	50,437	60,525
2005	53,564	15.00%	45,529	6,213	51,743	50,190	55,209
2006	26,782	15.00%	22,765	3,107	25,871	25,095	25,095
Present Value of Award as of July 2006						\$	1,264,877
Present Value of Award as of April 2007						\$	1,358,604

Notes:

- 10 percent interest rate comes from Conn. Gen. Stat. § 37-3a.
- Fringe Benefit data is taken from the U.S. Chamber of Commerce Small Business Center website. According to this source, medical benefits account for 11.6 percent of
- Earnings data are from the U.S. Census for full-time male High School graduates. The data are then adjusted upward using Bureau of Economic Analysis data to account for the difference in average U.S. and Connecticut earnings.

Exhibit 3b
Present Value of Lost Adjusted Earnings for James Tillman:
Average CT Income for High School Graduates

Assumptions:

Interest Rate ¹	10.0%
Risk of Unemployment	3.0%

Year [1]	Lost Earnings ² [2]	Tax Rate [3]	After-Tax Earnings [4]	After-Tax Earnings Adjusted for Unemployment Risk [5]	Present Value (as of July 2006) [6]
1988	27,055	15.00%	22,997	22,307	62,460
1989	28,895	15.00%	25,411	24,649	66,551
1990	30,276	15.00%	25,734	24,962	64,902
1991	30,284	15.00%	25,742	24,970	62,424
1992	30,783	15.00%	26,166	25,381	60,914
1993	32,157	15.00%	27,334	26,514	60,982
1994	33,204	15.00%	28,223	27,377	60,229
1995	34,560	15.00%	29,376	28,495	59,840
1996	34,446	15.00%	29,279	28,401	56,801
1997	43,818	15.00%	37,245	36,128	68,643
1998	43,813	15.00%	37,241	36,124	65,022
1999	43,036	15.00%	36,580	35,483	60,321
2000	48,329	15.00%	41,080	39,847	63,756
2001	50,510	15.00%	42,933	41,645	62,468
2002	50,802	15.00%	43,182	41,887	58,641
2003	51,421	15.00%	43,708	42,397	55,115
2004	53,827	15.00%	45,753	44,381	53,257
2005	53,564	15.00%	45,529	44,163	48,580
2006	26,782	15.00%	22,765	22,082	22,082

Present Value of Award as of July 2006	\$	1,112,987
Present Value of Award as of April 2007	\$	1,195,459

Notes:

1. 10 percent interest rate comes from Conn. Gen. Stat. § 37-3a.
2. Earnings data are from the U.S. Census for full-time male High School graduates. The data are then adjusted upward using Bureau of Economic Analysis data to account for the difference in average U.S. and Connecticut

Exhibit 3c
Present Value of Future Lost Adjusted Earnings for James Tillman:
Average CT Income for High School Graduates

Assumptions:

After-Tax Discount Rate ¹	4.4%
Earnings Growth Rate ²	3.0%

Year [1]	Earnings Continuation [2]	Actual Earnings Projection ³ [3]	Lost Earnings [4]	Tax Rate [5]	After-Tax Earnings Difference [6]	Present Value (as of July 2006) [7]
2006	26,782	10,894	15,888	15%	13,505	13,216
2007	61,049	24,833	36,216	15%	30,784	28,850
2008	62,880	25,578	37,303	15%	31,707	28,458
2009	64,767	26,345	38,422	15%	32,658	28,071
2010	66,710	27,135	39,574	15%	33,638	27,689
2011	68,711	27,949	40,761	15%	34,647	27,312
2012	70,772	28,788	41,984	15%	35,687	26,941
2013	72,895	29,651	43,244	15%	36,757	26,575
2014	75,082	30,541	44,541	15%	37,860	26,213
2015	77,335	31,457	45,877	15%	38,996	25,857
2016	79,655	32,401	47,254	15%	40,166	25,505
2017	82,975	33,752	49,224	15%	41,840	25,444
2018	85,465	34,764	50,700	15%	43,095	25,098
2019	88,028	35,807	52,221	15%	44,388	24,756
2020	90,669	36,881	53,788	15%	45,720	24,420
2021	93,389	37,988	55,402	15%	47,091	24,088
2022	96,191	39,127	57,064	15%	48,504	23,760
2023	49,538	20,151	29,388	15%	24,980	11,718

Present Value of Award as of July 2006	\$ 443,969
Present Value of Award as of April 2007	\$ 458,607

Notes:

1. After-Tax Discount Rate is a tax-adjusted figure taken from the 2009-2013 Five-Year Average 10-Year Treasury Note from Blue Chip Economic Indicators, Vol. 32, No. 3, March 10, 2007.
2. Earnings Growth Rate is taken from the 2009-2013 Five-Year Average Real GDP growth from Blue Chip Economic Indicators, Vol. 32, No. 3, March 10, 2007.
3. Actual Earnings Projection uses current earnings data from James Tillman.

Exhibit 4a

Present Value of Lost Adjusted Compensation for James Tillman Including Fringe Benefits: Average CT Income for Associate Degree Holders

Assumptions:

Interest Rate¹ 10.0%
 Fringe Benefits as a % of Earnings² 11.6%
 Risk of Unemployment 3.0%

Year [1]	Lost Earnings ³ [2]	Tax Rate [3]	After-Tax Earnings [4]	Fringe Benefits [5]	After-Tax Compensation Including Fringe Benefits [6]	After-Tax Compensation Including Fringe Benefits Adjusted for Unemployment Risk [7]	Present Value (as of July 2006) [8]
1988	27,055	15.00%	22,997	3,138	26,135	25,351	70,984
1989	29,895	15.00%	25,411	3,468	28,879	28,013	75,634
1990	30,276	15.00%	25,734	3,512	29,246	28,369	73,759
1991	30,284	15.00%	25,742	3,513	29,255	28,377	70,943
1992	37,370	15.00%	31,765	4,335	36,100	35,017	84,040
1993	39,491	15.00%	33,568	4,581	38,149	37,004	85,110
1994	39,548	15.00%	33,616	4,588	38,203	37,057	81,528
1995	39,166	15.00%	33,291	4,543	37,835	36,700	77,069
1996	43,898	15.00%	37,314	5,092	42,406	41,134	82,267
1997	54,118	15.00%	46,000	6,278	52,278	50,710	96,348
1998	58,613	15.00%	49,821	6,799	56,620	54,922	98,859
1999	56,843	15.00%	48,317	6,594	54,910	53,263	90,547
2000	61,300	15.00%	52,105	7,111	59,216	57,440	91,903
2001	62,680	15.00%	53,278	7,271	60,549	58,733	88,099
2002	66,406	15.00%	56,445	7,703	64,148	62,223	87,113
2003	63,931	15.00%	54,342	7,416	61,758	59,905	77,876
2004	65,328	15.00%	55,529	7,578	63,107	61,213	73,456
2005	69,812	15.00%	59,340	8,098	67,439	65,415	71,957
2006	34,906	15.00%	29,670	4,049	33,719	32,708	32,708

Present Value of Award as of July 2006 \$ 1,510,199
 Present Value of Award as of April 2007 \$ 1,622,104

Notes:

- 10 percent interest rate comes from Conn. Gen. Stat. § 37-3a.
- Fringe Benefit data is taken from the U.S. Chamber of Commerce Small Business Center website. According to this source, medical benefits account for 11.6 percent of employer payrolls. Considering that medical benefits are typically just one component of fringe benefits, this is a conservative figure.
- Earnings data are from U.S. Census for full-time male High School graduates, and full-time male holders of an Associate Degree. I understand that James Tillman began taking college courses in prison in 1990. Thus, beginning in 1992, his Lost Earnings figure switches from the High School level to the Associate Degree level. The earnings data are then adjusted upward using Bureau of Economic Analysis data to account for the difference in average U.S. and Connecticut earnings.

Exhibit 4c

Present Value of Future Lost Adjusted Earnings for James Tillman: Average CT Income for Associate Degree Holders

Assumptions:
After-Tax Discount Rate¹ 4.4%
Earnings Growth Rate² 3.0%

Year [1]	Earnings Continuation [2]	Actual Earnings Projection ³ [3]	Lost Earnings [4]	Tax Rate [5]	After-Tax Earnings Difference [6]	Present Value (as of July 2006) [7]
2006	34,906	10,894	24,012	15%	20,410	19,974
2007	75,024	24,833	50,192	15%	42,663	39,983
2008	77,275	25,578	51,697	15%	43,943	39,439
2009	79,593	26,345	53,248	15%	45,261	38,903
2010	81,981	27,135	54,846	15%	46,619	38,374
2011	84,441	27,949	56,491	15%	48,018	37,852
2012	86,974	28,788	58,186	15%	49,458	37,337
2013	89,583	29,651	59,932	15%	50,942	36,830
2014	92,270	30,541	61,729	15%	52,470	36,329
2015	95,039	31,457	63,581	15%	54,044	35,835
2016	97,890	32,401	65,489	15%	55,665	35,347
2017	101,970	33,752	68,219	15%	57,986	35,262
2018	105,030	34,764	70,265	15%	59,726	34,783
2019	108,181	35,807	72,373	15%	61,517	34,310
2020	111,426	36,881	74,545	15%	63,363	33,843
2021	114,769	37,988	76,781	15%	65,264	33,383
2022	118,212	39,127	79,084	15%	67,222	32,929
2023	60,879	20,151	40,728	15%	34,619	16,241

Present Value of Award as of July 2006 \$ 616,953
Present Value of Award as of April 2007 \$ 637,294

Notes:

1. After-Tax Discount Rate is a tax-adjusted figure taken from the 2009-2013 Five-Year Average 10-Year Treasury Note from Blue Chip Economic Indicators, Vol. 32, No. 3, March 10, 2007.
2. Earnings Growth Rate is taken from the 2009-2013 Five-Year Average Real GDP growth from Blue Chip Economic Indicators, Vol. 32, No. 3, March 10, 2007.
3. Actual Earnings Projection uses current earnings data from James Tillman.

Exhibit 5

Summary of Present Value of Losses as of April 2007

James Tillman Base Case Scenario - Assumes Average U.S. Income for High School Graduates	
Present Value of Past Lost Compensation, Including Fringe Benefits	\$ 1,076,419
Present Value of Past Lost Earnings, no Fringe Benefits	\$ 947,159
Present Value of Lost Future Earnings	\$ 293,632
Total With Fringe	\$ 1,370,050
Total No Fringe	\$ 1,240,791

James Tillman Scenario 2 - Assumes Average U.S. Income for Associate Degree Holders	
Present Value of Past Lost Compensation, Including Fringe Benefits	\$ 1,285,039
Present Value of Past Lost Earnings, no Fringe Benefits	\$ 1,130,728
Present Value of Lost Future Earnings	\$ 434,186
Total With Fringe	\$ 1,719,225
Total No Fringe	\$ 1,564,914

James Tillman Scenario 3 - Assumes Average CT Income for High School Graduates	
Present Value of Past Lost Compensation, Including Fringe Benefits	\$ 1,358,604
Present Value of Past Lost Earnings, no Fringe Benefits	\$ 1,195,459
Present Value of Lost Future Earnings	\$ 458,607
Total With Fringe	\$ 1,817,210
Total No Fringe	\$ 1,654,065

James Tillman Scenario 4 - Assumes Average CT Income for Associate Degree Holders	
Present Value of Past Lost Compensation, Including Fringe Benefits	\$ 1,622,104
Present Value of Past Lost Earnings, no Fringe Benefits	\$ 1,427,317
Present Value of Lost Future Earnings	\$ 637,294
Total With Fringe	\$ 2,259,398
Total No Fringe	\$ 2,064,611

EXPERT REPORT ON ECONOMIC LOSS – JAMES CALVIN TILLMAN

**Evan S. Schouten
April 9, 2007**

I. QUALIFICATIONS

1. I am a Vice President at CRA International, Inc. (CRA), an internationally-recognized economics, finance, and business consulting firm. I have an undergraduate degree in Economics from Wellesley College and a graduate degree in Economics from the University of Chicago. I was on the faculty at Lake Forest College for six years, where I taught courses in microeconomics, industrial organization, and finance. My specialties include microeconomics, industrial organization, finance, and labor economics.

2. I have served as an expert witness or consultant on numerous personal injury, wrongful death, employment discrimination, and product liability matters. My analyses in these matters have focused primarily on lost economic compensation, medical costs, and lost household services. As a witness, I have testified on behalf of both plaintiffs and defendants. In addition, Shepard's McGraw Hill published a software program I coauthored that calculates economic losses in personal injury and wrongful death matters.

3. In 2002, I was awarded the Amicus Award, conferred by the Association of Trial Lawyers of America, for providing key economic and financial analysis to "Trial Lawyers Care," an organization founded in response to the events of September 11, 2001. Attached as Exhibit 1 is my curriculum vitae.

II. ASSIGNMENT

4. I have been asked by counsel for James Tillman to assess the total economic loss sustained by Mr. Tillman as a result of his wrongful incarceration. As the State of Connecticut has now acknowledged, Mr. Tillman was convicted in 1989 of a kidnapping and sexual assault that he did not commit. Despite his innocence, Mr. Tillman spent eighteen years in jail. Although no amount of money can compensate James Tillman for his loss, in this report, I provide a conservative estimate of the economic loss that Mr. Tillman has suffered as a result of his wrongful incarceration.

5. In the course of my analysis, I, and/or members of my staff operating under my supervision and direction, have reviewed various documentation concerning James Tillman,

including but not limited to: Mr. Tillman's background and employment history, data from various federal and state government agencies, projections compiled by Blue Chip Indicators, and various other relevant documents.

6. Neither CRA nor I has any financial interest in the outcome of this matter. Indeed, the firm and I have provided all of our services on a pro bono basis.

III. BACKGROUND AND EMPLOYMENT HISTORY

7. James Tillman was born in Thomasville, Georgia on August 28, 1961. He moved to Connecticut when he was in second grade. He attended Northwest Jones Elementary School, Louis Fox and Quirk Middle Schools, Hartford High School, and AI Prince Tech and the Board of Education's "Work Places" program (where he attended school ½ of the day and worked at Travelers Insurance for ½ of the day). Mr. Tillman finished high school in 1979, believing that he had met all of the requirements for a diploma. In fact, he was one credit shy of graduation. When he learned of this fact (while he was awaiting his trial), he completed the additional credit and was awarded a high school diploma by the Hartford Board of Education.

8. In 1979, Mr. Tillman joined the CT Army National Guard and went to Ft. Leonard Wood, MO for basic training. However, Mr. Tillman had a difficult time adjusting to the military. He was discharged under honorable conditions through the Training Discharge Program. Following his discharge, Mr. Tillman returned to Connecticut. He secured the first in a series of jobs that he held up until the time of his arrest. Mr. Tillman worked for Wakenhut Security Group as a security guard at the Hartford Civic Center; at Scott Oldsmobile and Hoffman Motors in Avon, preparing cars for delivery; at Jefferson House in Newington as an employee in the maintenance department; at the Martin Luther King housing project (Norris Graves Agency) as an assistant superintendent; at Bob's, Middletown; and as a dishwasher at a restaurant. At times, Mr. Tillman held two jobs simultaneously. At the time of his arrest, Mr. Tillman was employed at Mr. Auto Wash in East Hartford. He lived with his mother in public housing from the time he first came to Connecticut until his wrongful incarceration.

9. Today, Mr. Tillman is employed as an Office Assistant at Capitol Region Education Council (CREC), working full-time (37 ½ hours). In addition, he is employed part-

time at Alpha Printing on Pratt St. in Hartford, working up to 10 hours per week in the afternoons after CREC. Hoping to share his experience, Mr. Tillman is also currently training to become a public speaker.

10. At the time of his wrongful incarceration, Mr. Tillman was relatively new to the workforce. As such, it is difficult to know precisely what his ultimate occupation might have been. However, it is evident both from Mr. Tillman's prior, though limited, employment history and from his current work efforts that he is a man who intended to work full time throughout his worklife. Both before and after his incarceration, he has been employed on a continuous basis, often working at two jobs.

11. Moreover, Mr. Tillman consistently has been interested in furthering his education, a fact that I find relevant in thinking about Mr. Tillman's economic losses. As noted above, upon learning that he had not earned a high school degree, even though he was awaiting trial, Mr. Tillman completed the remaining requirements and was granted his high school diploma. Moreover, despite the fact that he expected to spend 45 years in prison, Mr. Tillman continued his education, earning 30 college credits.

IV. ANALYSIS

12. In calculating economic loss, the goal is to make Mr. Tillman "whole" – that is to say, place him in a position that he would have occupied but-for his wrongful incarceration. To accomplish this, one must determine the difference between what Mr. Tillman would have earned in the *but for* world (a world where Mr. Tillman did not spend 18 years in jail) and what he is expected to earn in the actual world (a world where he did spend 18 years in jail). Mr. Tillman's economic losses include both the earnings that he did not receive during his 18-year incarceration and the reduced future earnings that he will earn during the period after his incarceration until he retires.

13. Based on my calculations, as detailed below, it is my opinion that the total economic loss due to James Tillman is at least \$1.2 million. A reasonable, yet still

conservative, calculation yields a total economic loss of \$2.3 million.¹ The two values differ in the assumptions that are made with respect to: (i) whether Mr. Tillman's earnings profile would have been similar to that of a high school graduate or to that of an individual with an Associate Degree; (ii) whether Mr. Tillman would have received fringe benefits during his worklife; and (iii) whether Mr. Tillman's earnings would have reflected the earnings premium that most Connecticut workers earn in comparison to the U.S. as a whole.

A. LOST COMPENSATION

14. Mr. Tillman was 26 years old at the time of his arrest. It is my understanding that by all accounts he was in good health prior to his incarceration. Had Mr. Tillman not spent 18 years incarcerated, there is no basis to assume that he would not have experienced a normal worklife expectancy. A 44 year-old active African-American man has a worklife expectancy of 17 years.²

i Past Lost Compensation

15. To estimate Mr. Tillman's lost compensation from 1988 to date, in my base case scenario, I assume that his earnings would have been equal to that of the average high school educated male working full-time in the U.S. who was the same age as Mr. Tillman. In different scenarios, I vary my assumptions regarding Mr. Tillman's education and whether his earnings are adjusted to account for the premium that Connecticut workers earned compared to their U.S. counterparts.

16. Exhibit 1a details this base case scenario. Relying on data provided by the Department of Census concerning average historical earnings, I assume that had Mr. Tillman

¹ Exhibit 5 summarizes my calculations of the present value of the economic loss suffered by Mr. Tillman. This range does not include any taxes that Mr. Tillman might have to pay on his award. If Mr. Tillman is required to pay federal taxes on the award provided to him, then the award should be grossed up to account for taxes. The after-tax present value ranges from \$1.6 million to \$2.6 million.

² James Ciecka, Thomas Donley and Jerry Goldman, "A Markov Process Model for Work-Life Expectancies Based on Labor Market Activity in 1997-1998," *Journal of Legal Economics* (Winter 1999-2000), pp. 34-68.

not been incarcerated in 1988 his annual earnings would have been \$23,434 and that his earnings would have increased to approximately \$42,000 by 2006 (see Column 2).³

17. For each year, I assume that Mr. Tillman's effective combined federal, state, and local income tax rates would have been 15%.⁴ I thus reduce Mr. Tillman's before-tax earnings by this tax rate in order to calculate his after-tax earnings (see columns 3 and 4). I further reduce Mr. Tillman's annual earnings by 3 percent to account for the possibility of unemployment (see column 7).

18. In addition to salary, most employees receive fringe benefits. Typically, fringe benefits include medical benefits, payments toward a 401(k) or pension plan, as well as other types of non-salary benefits. In my base case scenario, I assume that in the *but for* world, Mr. Tillman would have received fringe benefits equal to 11.6% (see column 5 and 6).⁵ This figure represents the amount that the average employer pays in medical benefits as a percentage of total payroll, and is thus very conservative.⁶

19. Finally, to account for the time value of money, I increase each year's lost compensation by the simple interest rate of 10%. I base my choice of interest rate on Connecticut statutory law.

³ In another scenario, I assume that beginning in 1992 Mr. Tillman's *but for* salary would have increased to that of the average full-time male with an Associate Degree who was the same age as Mr. Tillman. I base this assumption on the fact that even though he was incarcerated; Mr. Tillman chose to continue his education. According to the Department of Census, in 1992, the average 30 year old full-time male with an Associate Degree in the U.S. earned \$29,671. In 2006, the average full-time 44 year old male with an Associate Degree earned \$54,914. My analysis for this scenario is shown in Exhibits 2a and 2b.

⁴ I base my assumption on a study that Special Master Kenneth Feinberg conducted to determine effective tax rates by earnings for those who perished on September 11th.

⁵ According to the U.S. Chamber of Commerce Small Business Center website, medical benefits account for 11.6 percent of the average employer's payroll. To the extent that medical benefits are typically just one component of fringe benefits, this is a conservative figure.

⁶ I also present an alternative scenario where I assume that Mr. Tillman has suffered no lost fringe benefits as a result of his wrongful incarceration (see Exhibit 1b). In this scenario, I assume, for the sake of argument only, that the medical care that Mr. Tillman received while incarcerated was identical to medical care that he would have received through private employer-sponsored insurance.

I note, however, that Mr. Tillman has filed a Complaint concerning the medical care that he received while in jail. To the extent that this Complaint is accurate, this fact likely implies that the medical care that Mr. Tillman received in jail was not equal to the care that he otherwise would have received.

20. In my base case scenario (where I assume that Mr. Tillman would have earned a salary and fringe benefits equal to that of a full-time male with a high school degree) I find that the value as of April 2007 of the past lost compensation equals \$1,076,419 (see Exhibit 1a)⁷

ii. Future Lost Compensation

21. Despite the fact that Mr. Tillman is now employed (working at two different jobs), he will continue to suffer economic losses. This is due to the fact that even though he has been exonerated, Mr. Tillman's actual current and future earnings are likely to be significantly less than the compensation that he would have been paid in the *but for* world where he had not been incarcerated for 18 years. Simply put, Mr. Tillman has lost 18 years of job experience, and he will not be as valuable to an employer as he would have been had he acquired the skills that an employee learns over the course of 18 years of working.

22. Exhibit 1c provides the details of my calculations of the present value of Mr. Tillman's lost future earnings for the base case scenario (where I assume that Mr. Tillman would have earned the salary of a full time worker with a high school degree). For each year from 2006, when Mr. Tillman was released from jail, until the time that he is expected to retire in 2023,⁸ I calculate the difference between the amount that Mr. Tillman was likely to earn had he not been wrongfully imprisoned (column B) and the amount that he is expected to earn in the actual world (column C).⁹ This difference ranges between \$10,173 for the six-month period in 2006 to \$36,536 in 2022, Mr. Tillman's last full year in the workforce.

23. For each year, I reduce the difference between Mr. Tillman's *but for* and actual earnings by 15%, the assumed tax rate. I then discount losses using the after tax rate of

⁷ Assuming, for the sake of argument only, that he has suffered no lost fringe benefits, the value of his past lost compensation is \$947,159 (see Exhibit 1b). If I assume that Mr. Tillman would have earned an Associate Degree, his past lost compensations is \$1,285,039(see Exhibit 2a). This amount equals \$1,130,728 if I ignore fringe benefits (see Exhibit 2b).

⁸ James Ciecka, Thomas Donley and Jerry Goldman, "A Markov Process Model for Work-Life Expectancies Based on Labor Market Activity in 1997-1998," *Journal of Legal Economics* (Winter 1999-2000), pp. 34-68.

⁹ In 2006, Mr. Tillman's earned \$10 per hour for 37.5 hours at CREC and \$11 per hour for 4 hours per week at Alpha Printing. This is equivalent to an annual salary of \$21,788 or \$10,894 for six months.

4.4%.¹⁰ In the base case scenario, the present value of Mr. Tillman's future economic losses is \$293,632.¹¹

B. OTHER CONSIDERATIONS

24. As noted above, Connecticut salaries are significantly higher than the average salary for the U.S. as a whole. Given that Mr. Tillman had lived nearly all of his life in Connecticut and that his mother and siblings live in Connecticut, it is reasonable to assume that Mr. Tillman would also have spent his worklife in Connecticut.

25. Exhibits 3 and 4 are similar to Exhibits 1 and 2 except that they adjust for the fact that Connecticut salaries are higher than salaries for the U.S. as a whole. In Exhibit 3a through 3c, I assume that Mr. Tillman would have earned the average salary of a full time male high school graduate living in Connecticut. Including lost fringe benefits, Mr. Tillman's past lost compensation equals \$1,358,604. The present value of his future lost compensation equals \$458,607. In Exhibit 4a through 4c, I assume that Mr. Tillman earned the average salary of a full time male worker with an Associate Degree. Including lost fringe benefits, Mr. Tillman's past lost compensation equals \$1,622,104. The present value of his future lost compensation equals \$637,294.

26. Throughout my analysis, to be conservative, I have excluded any losses Mr. Tillman has likely suffered as a result of the fact that his pension will likely be much lower in the actual world than it would have been in the *but for* world. I have also ignored any economic losses resulting from lost household contributions.

V. CONCLUSION

27. Based on my calculations, it is my opinion that the total economic loss that James Tillman has suffered as a result of his wrongful incarceration is between \$1.2 million and \$2.3 million (See Exhibit 5). In my opinion, I believe this range to be a conservative estimate.

¹⁰ This is equivalent to a before tax rate of 5.2%.

¹¹ If I assume instead that in the *but for* world Mr. Tillman would have earned the equivalent of the full time male with an Associate Degree, the present value of his future economic losses is \$434,186.