

# THE WETC PSYCHOLOGY NEWSLETTER

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"Find the Truth, Tell the Story"

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## Personal Injury Psych Reports: Tips to use When Cross-Examining the Doctor

The vast majority of psych reports written in conjunction with personal injury claims are substantially flawed. The major flaw in these reports is a lack of support for the doctor's diagnosis. Without a credible diagnosis, none of the conclusions drawn by the doctor are appropriate and their testimony is vulnerable to a knowledgeable cross-examiner.

My past two newsletters have provided useful tips for reading personal injury psych reports and cross-examining the doctor. Specifically, my June, 2017 newsletter discussed information about the patient's life history and their current symptoms or complaints. Similarly, in July, 2017, I wrote about the Mental Status Examination data found in evaluative psych reports. In this regard, the patient's life history and their current complaints as well as the Mental Status Examination data are two of five sources of information collected by the doctor and incorporated into their report to support their diagnosis.

With respect to the above discussion, it should be understood that Diagnostic and Statistical Manual of Mental Disorders (DSM) psychological diagnoses are made after considering as many as five different sources of information. These sources of information are:

1. the patient's life history and presenting complaints
2. the doctor's report of their Mental Status Examination
3. **the objective psychological test data**
4. the patient's medical records
5. sources of collateral information that are available at the time of diagnosis

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*"An Apricot™ is a written-analysis of a psych report that you have that may not be in your favor. I find every flaw in the report, explain why they are flaws, and provide documentation from the published psychological and psychiatric literature that supports the contention that these flaws exist."*

As such, an examination of the doctor's report should reveal that these sources of information provide support in the form of credible data supporting the doctor's diagnosis. This month's newsletter discusses the third source of information: the objective psychological test data.

Of all of the five sources of information listed above, the only one that is capable of generating objective data in the form of credible numbers of known meaning that can be presented in a courtroom is the psychological testing. Unfortunately, not every psychological test battery is equally or correctly designed by the evaluating physician, much less correctly administered or reported upon. In preparing to cross-examine the doctor, there are a variety of factors to consider that have direct bearing on the credibility and substantiality of the doctor's personal injury psych report and testimony with regard to the psychological testing data.

In my newsletter from June, 2014 titled, The Ten Commandments of Psychological Testing, I discussed ten essential aspects of psychological tests. The July, 2014 newsletter is available for download from my website, [www.DrLeckartWETC.com](http://www.DrLeckartWETC.com). Those Ten Commandments of Psychological Testing are:

1. The doctor shall administer and proctor the tests in their office
2. The doctor shall use at least one test that is known to be capable of measuring credibility and truthfulness
3. The doctor shall use tests that are valid and reliable measures of psychopathology

4. The doctor shall use tests that are objectively scored and interpreted
5. The doctor shall not use overlapping tests
6. The doctor shall correctly score the tests and report on the data
7. The doctor shall not categorically or unquestionably accept a patient's refusal to take the psychological tests
8. The doctor shall have data to support all of their conclusions
9. The doctor shall administer the entire test
10. The doctor shall provide all of the relevant testing scores in their report

When preparing to cross-examine a psych doctor, the attorney should consider the Ten Commandments of Psychological Testing and determine where the doctor has made errors in their methodology and/or reporting. Further, in cases where the doctor has not provided testing data, during cross-examination the attorney should simply ask the doctor where in their report they provided the plaintiff's psychological testing data supporting their diagnostic conclusions. Another frequently encountered flaw is the doctor's use of tests that are incapable of providing information about the patient's credibility. In those situations, a question that might be useful to you in cross-

examining a psych doctor is, "Doctor, will you please confirm for me that neither of two tests that you administered have any methods for measuring the plaintiff's test-taking attitudes and credibility?" A follow-up question might be, "Doctor, will you please tell me where in your report I can read your discussion of the reasons for not administering any psychological tests that are capable of assessing the plaintiff's test-taking attitudes and credibility?"

Essentially, as noted above, the keystone of every psych report written for personal injury evaluations is the doctor's diagnosis. In addition to information about the plaintiff's life history and current complaints, and the Mental Status Examination data, the doctor should provide objective psychological testing data in their report that, first and foremost, shed light on the plaintiff's test-taking attitudes and credibility. When it is discovered that the doctor's report lacks sufficient testing data and/or contains testing data riddled with errors, such as scores that could not have possibly be obtained by the plaintiff, the attorney should ask the doctor to direct them to the place in their report where the data exist supporting their diagnosis. In addition, when it is discovered that the Ten Commandments of Psychological Testing have not been followed, that is a good reason not to accept the doctor's conclusions and to question the doctor's report on cross-examination.

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for more information)

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This is the one-hundred third of a series of monthly newsletters aimed at providing information about pre-deposition/pre-trial consultations, psychological evaluations and treatment that may be of interest to attorneys and insurance adjusters working in the areas of workers' compensation and personal injury. If you have not received some or all of our past newsletters, and would like copies, send us an email requesting the newsletter(s) that you would like forwarded to you.