

# THE WETC PSYCHOLOGY NEWSLETTER

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"Find the Truth, Tell the Story"

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## Sub Rosa Videos and Psychological Evaluations

During the slightly more than 30 years I have been conducting workers' compensation and personal injury evaluations in the State of California I have participated in the examination of between 5,000 and 10,000 patients. In the last decade the majority of those examinations have been Agreed Medical Evaluations for workers' compensation purposes. In the course of conducting those evaluations I have watched my share of sub rosa video surveillances. How relevant are those recordings?

A few years ago I conducted an evaluation on a patient who suffered a physical injury at his place of employment, did not recover sufficiently to return to work, and was severely clinically depressed and suffering from a Major Depressive Disorder at the time of my examination. He obviously needed both psychotherapy and psychotropic medication on an industrial basis, which the carrier provided. This gentleman was referred back to me for a re-evaluation at which time it was quite clear that his psychological condition had deteriorated and he had reached the point of Maximum Medical Improvement. At the time of my re-examination I concluded that his Global Assessment of Functioning (GAF) score was sufficiently low that the patient was not only unable to return to his former non-technical job but I believe was unable to perform any gainful employment in the labor market. This conclusion did not sit well with the carrier. Shortly after mailing my

*If in reading a psych report you find reason not to trust its credibility you can send it to me for a thorough analysis.*

report the defense attorney provided me with a sub rosa video of the applicant, which he subsequently used when taking my deposition as a basis for questioning my conclusion about the patient's permanent psychiatric disability.

In this particular case, the video was not at all helpful in drawing any conclusions about the patient's psychiatric disability. Essentially, the video showed the applicant walking in the street, getting into and out of automobiles as a passenger, shopping for and purchasing some items in a store and talking to his spouse. For some reason this defense attorney seemed to feel that these simple behaviors were inconsistent with the diagnosis of a Major Depressive Disorder. I don't think I ever convinced him that this was not correct. However, people who are severely psychologically disturbed can be, and often are, observably quite functional in the often mundane events depicted on sub rosa surveillance recordings. While in my office they may provide multiple sets of data indicating that they are severely disturbed, even to the point of being delusional, such behaviors, thoughts and feelings would never show up on a "normal" surveillance video that simply follows the person in completing some relatively simple tasks and errands. Clearly, while those recordings may be meaningful to an orthopedist, they have little value to a psychologist or a psychiatrist in a medical-legal context.

Browse Dr. Leckart's Book,  
**Psychological Evaluations in  
Litigation: A Practical Guide for  
Attorneys and Insurance Adjusters**  
at [www.DrLeckartWETC.com](http://www.DrLeckartWETC.com)

Now contrast this case with another patient who very slowly and gingerly walked into my office using two canes with arm support braces, two heavy black wrist braces and two heavy black knee braces. He appeared to have a good deal of difficulty finding a comfortable place to sit and seemed to be in considerable pain as a result of almost every movement. When I asked the patient about the history of his orthopedic problems he told me that he had been the way he presented for over a year and was not getting any better. What he did not know is that prior to my examination I watched some recent video of this relatively physically slight gentleman single handedly wrapping both arms around and lifting up a chest of drawers and moving it from his garage into his driveway, a distance of approximately 40 feet, without stopping, stumbling or having any noticeable difficulty. He also did this without any canes or braces. Now I am not an orthopedist, but I do not believe I have to be in order to conclude that this claimant was not exactly telling me the truth about his medical condition.

The moral of these stories is that the second applicant discussed above is the rare exception and the first is much more normal in terms of what video surveillance has to offer an Agreed Medical Evaluator in either psychology or psychiatry. Clearly, sub rosa videos by their very nature are taken at a distance and typically do not contain any audio. Accordingly, unless there is a gross discrepancy between what is visually shown and the patient's history and presentation in my office, they have little to offer in the way of providing information about the applicant's psychological status. Overall, the average sub rosa video depicting an individual walking down the street, driving a car, going shopping, gardening, talking to a friend, smoking a cigarette etc., has little value in providing information relevant to drawing conclusions about their psychological status.

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for more information)

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This is the eighty-sixth 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 listed on the next page, and would like copies, send us an email requesting the newsletter(s) that you would like forwarded to you.