

THE WETC PSYCHOLOGY NEWSLETTER

Dr. Bruce Leckart

"Find the Truth, Tell the Story"

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3 Ways to Deal With Psych Reports During the COVID-19 Pandemic

In the words of John Henry Wigmore, cross-examination is "beyond any doubt the greatest legal engine ever invented for the discovery of truth."

3 Wigmore, Evidence §1367, p. 27 (2d ed. 1923)

The COVID-19 pandemic has certainly demanded pause in many aspects of life. However, something that will never cease are mental problems experienced by humans. In fact, early studies show that the chaos of the current pandemic has elevated mental and emotional problems, some of which are experienced by essential workers because of the stress of their essential job. Attorneys and insurance professionals who handle personal injury and/or workers' compensation claims are likely working remotely and have begun to see claims of mental or emotional injury due to events associated with COVID-19. Attorneys and adjusters who handle psych cases stemming from events of COVID-19, or any psych case antedating the COVID-19 pandemic, will be in a good position if they are able to understand the report submitted by a psychologist, psychiatrist, or neuropsychologist.

I've been doing medical-legal evaluations on a psychological basis for over 30 years. In addition to evaluating patients with personal injury or workers' compensation claims, I am firmly dedicated to helping

"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 demonstrate that these flaws exist."

attorneys and insurance professionals understand the psych reports they receive and empowering them to see better outcomes with their psych cases. While my attorney-client privileged consultations can be done on the phone, they are most effective in a written report format that the report can be taken to and used during depositions and trials. I call these written-reports Apricots™.

Of course, the current pandemic situation has probably "paused" in-person depositions and court appearances indefinitely. No need to worry. You can still challenge the psych doctor's report with an Apricot™. An Apricot™ is a written analysis of the substantial flaws that exist in the psych doctor's report that can be used to cross-examine the doctor by video or phone, to draft a trial brief or petition for the court, and/or to negotiate a favorable settlement with the opposition.

1) Cross-Examine the Doctor by Video or Telephone

Attorneys working remotely can cross-examine a psych doctor by video or phone using an Apricot™. Apricots™ provide information that an attorney needs to successfully cross-examine a psychiatrist, a psychologist or a neuropsychologist. It also provides an extensive list of questions that will expose the flaws in a psych doctor's report during cross-examination.

Browse Dr. Leckart's Book at
www.DrLeckartWETC.com

2) Draft a Trial Brief

Current stay-at-home orders may prevent attorneys from taking the doctor's deposition and/or trial testimony. When taking the doctor's testimony by video and/or phone is also not an option, or not desired, an Apricot™ can be used to draft a brief for the court. Apricots™ are written reports that describe the major flaws that exist in psych reports using easy-to-understand terminology that provides information that an attorney needs to successfully draft a brief. Attorneys simply copy and paste the short paragraphs with citations to the psychological literature that describe the report's fatal flaws from the Apricot™ into the trial brief.

3) Negotiate a Favorable Settlement

An overwhelming majority of psychological and psychiatric reports are flawed and do not constitute substantial medical evidence. An Apricot™ will describe all of the flaws found in a report submitted by psychologists, psychiatrists and/or neuropsychologists. Apricots™ are written on an expert witness basis where the written report is not admissible but protected by the work product doctrine

and completely confidential. However, attorneys can choose to use the Apricot™ as a negotiating tool with the opposing attorney.

In summary, if you are an attorney or adjuster who handles psych cases in general, and psych cases that are the result of events of the COVID-19 pandemic in particular, you can use an Apricot™ to help see better outcomes. Working remotely should not have to preclude you from challenging the psych doctor's conclusions or accepting a flawed report. In fact, a recent testimonial from a defense attorney communicates the essence of an Apricot™. According to the attorney, the Apricot™ was the most thorough document she has encountered and used almost all of the questions provided. She indicated that she was able to completely discredit the doctor's diagnosis of a Major Neurocognitive Disorder during deposition to the point that the opposing attorney was staring at her in shock (mouth agape) while she was asking the doctor questions provided by the Apricot™.

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(e-mail us at DrLeckart@DrLeckartWETC.com
for more information)

This is the one hundred thirty-fifth 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.