

THE WETC PSYCHOLOGY NEWSLETTER

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"Find the Truth, Tell the Story"

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Trashing Flawed Psych Reports: A Bit More Information

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 Problem: You've got a psych case in which a doctor diagnosed a disorder and concluded that the patient has had a psychiatric injury and is psychiatrically disabled. You also have lots of collateral information indicating that none of this is true.

How do you cross-examine the doctor?

If you're an attorney working on a psych case there is only one way to trash a substantially flawed/incompetent report. When you take the doctor's deposition or trial testimony you attack the doctor's DSM diagnosis with a line of questioning that will show that their report doesn't support their diagnosis.

If the diagnostic manual's criteria are not supported by the data in the doctor's report, the doctor's diagnosis and all the conclusions flowing from that diagnosis are worthless.

If you take any other approach the doctor will simply hide behind their "professional opinion." Quite simply, any approach or strategy other than attacking the doctor's diagnosis may produce piddling results but will not produce a prideful, winning outcome.

For example, if you are a defense attorney operating in a California worker's compensation case and you are going to argue causality, you might take this approach,

"Dr. X are you aware that Ms. Y's medical records indicate that she was severely clinically depressed on multiple occasions indicating that her current injury was not the

"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."

predominant cause of her current mental disorder?" In response, the Dr. will simply state, "Yes, I'm aware of that but it is my professional opinion that she had completely recovered at the time of the litigated injury?"

Similarly, if you argue for substantial apportionment by stating, "Dr. X are you aware that Ms. Y had a substantial psychiatric disability prior to her litigated injury that indicates that substantial apportionment is required?" In response, the Dr. will simply state, "Yes, I'm aware of that but it is my professional opinion the amount of disability attributable to her litigated injury accounts for no less than 95% of her current permanent disability?"

I've been singing the same song for over thirty years of critiquing tens of thousands of psych reports. The only thing that consistently works is attacking the doctor's diagnosis.

In any event, if you have a substantially flawed/incompetently written report and you want to get the best possible outcome, just ask me! 844-444-8898. No charge for the initial phone call to get an overview of your case and a free estimate for a complete report, including specific embarrassing, fault-demonstrating questions to ask the doctor on cross-examination.

Oh, one more thing. If you are on the other side of the case and you've got a wash-out report, I've got methods for dealing with that doctor too.

End of the story.

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

This is the one hundred twenty-seventh 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.