

THE WETC PSYCHOLOGY NEWSLETTER

Dr. Bruce Leckart

"Find the Truth, Tell the Story"

Westwood Evaluation & Treatment Center
11340 Olympic Blvd., Suite 303, Los Angeles, CA 90064
(844) 444-8898, DrLeckartWETC@gmail.com, www.DrLeckartWETC.com

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A Cost/Benefit Analysis of Getting an Apricot™

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)

Many of you who have referred cases to me over the last three plus decades know that for the last 10 years I have been writing Apricots™. An Apricot™ is a work-product privileged report written for an insurance adjuster and/or an attorney who believes they have a substantially flawed psychological or psychiatric report that can harm their client's case. My job is to find and describe those flaws in non-technical language and to discuss the specific techniques and strategy for cross-examining the doctor with simple questions designed to get those flaws on the record during a deposition or trial despite the doctor's potential evasiveness. That same Apricot™ can be used to write a brief for the trial court or an appeal.

One fact that has always fascinated me is that the vast majority of reports coming from forensic psychiatrists and psychologists are substantially flawed. Last month I wrote a newsletter addressing the question, "Why Are There So Many Weak Psych Reports?" So, this month I'm going to talk about the economics of Apricots™.

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

"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."

How much does an Apricot™ cost? The answer to this question must first address the issue of how an Apricot™ works. With few exceptions, the strategy for demonstrating that a psychiatrist's or a psychologist's report is substantially flawed rests on showing that there is no support for the doctor's or their failure to make a diagnosis. This is done by revealing that there are no data in the doctor's report indicating either that the patient has met the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders diagnostic criteria. Essentially, in the case of the former, the cost depends on the number of diagnoses that must be addressed. The more incorrect diagnoses provided by the doctor the more time it takes me to show that they have erred sufficiently to disqualify their report as being capable of proving or disproving a disputed medical fact. At the very least you can expect to pay about \$4,000 and the office record is about \$12,000 with most reports costing about \$7,000 to \$8,000. If you're concerned about how much a specific report might cost to demolish, just send it to me by email and I'll tell you exactly what's wrong with it and give you a free estimate.

Now, is it worth it? Well, if you're a personal injury defense lawyer what is your exposure? If the plaintiff was in an automobile accident and is claiming a Posttraumatic Stress Disorder as well as some

physical injuries, how much of the potential loss to the carrier is the claim of a psych injury? Simple arithmetic. Similarly, if you are a personal injury plaintiff attorney and the defense has gotten a washout report, how much of the potential gain will be lost to you and your client if that washout report is allowed to stand? Again, simple arithmetic.

Moving on to workers' compensation, the same logic applies. At the risk of being old school and trite, how much is it going to be worth to you and your client to

demonstrate that the opposing doctor's report is not worth the paper it's written on? Simple arithmetic. Most importantly, it won't cost you anything if I can't show the report is flawed and provide you with a set of questions to ask the doctor during a deposition or a trial that will clearly and unequivocally demonstrate that the doctor has not shown what he or she has claimed in their conclusions.

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

This is the one hundred thirty-second 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.