

THE WETC PSYCHOLOGY NEWSLETTER

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"Find the Truth, Tell the Story"

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Psychiatrists and Psychological Testing: A Frequent Problem

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)

As a psychologist who helps attorneys strategize and use techniques to effectively cross-examine psychiatrists and psychologists I frequently have the opportunity to read depositions and trial records.

In those cross-examinations, psychiatrists are often asked about the results of psychological testing that either appears or is completely left out of their examinations and reports.

The most bizarre testimonies are in response to questions about their failure to administer a keystone psychological test, the Minnesota Multiphasic Personality Inventory (MMPI). More often than you might imagine, the psychiatrist openly testifies something like, "I didn't give an MMPI because I'm not an expert in psychological testing."

This kind of answer is bizarre because a forensic psychiatrist's job is to evaluate the patient and come to some conclusion about whether or not they have a psychological disorder, and if so, what is it's likely cause, how disabling is that disorder and what can be done to return the patient to their normal level of functioning.

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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 demonstrate that these flaws exist."

How this is done is not a mystery. The doctor makes their diagnosis using as many as five sources of information.

1. The patient's life history and presenting complaints or symptoms.
2. The doctor's face-to-face Mental Status Examination.
3. The objective psychological testing results.
4. The patient's medical records.
5. Any available collateral sources of information in the form of historical data provided by the patient's relatives, friends and co-workers.

Of these five sources the only one that is objective, i.e., not colored by the doctor's subjective impressions and can be presented to the court in numerical fashion with the interpretations backed up by multiple decades of academic research is the psychological testing.

As such, when a psychiatrist testifies that he/she doesn't know anything about psychological testing, didn't give any objective tests and has no objective data to support his/her conclusions there is hardly a reasonable jurist, attorney or jury member who will place any trust in the doctor's opinions.

Of course, it is difficult to understand why psychiatrists would not obtain the needed testing or expertise to do a competent job. However, they often walk into court proceedings or submit reports expecting to get by on their credentials, not their knowledge or behavior. “Trust me, I’m a doctor?”

The net result of this situation is that even when a psychiatrist gives an MMPI and sends it to a computer service for scoring and interpretation all they usually can do is parrot the conclusions found in the computer report. Those conclusions are very frequently incorrect and thus vulnerable to the right questions and a little bit of knowledge. Such a psychiatrist’s behavior is analogous to an orthopedist claiming he or she can’t read x-rays!

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for more information)

As the attorney cross-examining such a doctor, what you need is an expert on your side to point out the weaknesses in the psychiatrist’s report, testimony, knowledge and conclusions.

That’s exactly what I do with simply written reports in common English, not psychologese. If you suspect you have such a doctor on the other side, and you can probably tell from nothing more than their reputation, give me a call. I’ll advise you what can be done, how to do it, and provide revealing questions that will give you the upper hand. Unless it’s purely a nuisance case, the report will easily pay for itself.

This is the one hundred twenty-eighth 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.