

## **EFFECTIVE CROSS-EXAMINATION OF NEUROPSYCHOLOGICAL EXPERTS**

- I. Importance of Raw Data – How to Get It:
  - A. National Academy of Neuropsychologists Statement
  - B. Position of the APA
  - C. Sample Protective Order
  - D. Motion to Compel
  
- II. Obtain Normative Data:
  - A. Consulting Expert
  - B. Use as Exhibits – Samples:
    - 1. Bell Curve
    - 2. Heaton Normative Graph
  - C. Use of Academic Transcripts, Military Records, Employment Records (Example)
    - 1. Compare prior achievement/academic testing.
    - 2. Compare post-accident performance reviews.
  
- III. Preparing Cross-Examination:
  - A. Theories are Necessary for Cross-Examination of Neuropsychologist
    - 1. Failure to score tests as author suggests.
    - 2. Failure to conduct complete test or complete battery.
    - 3. APA standards and statements on use of batteries.
    - 4. Application of improper norms due to overstatement of education, or over estimate of prior function, test error. (Example)
  - B. Personality Testing – MMPI
    - 1. Personality issues.
    - 2. Magnification issues.
    - 3. MCMI

4. Individualized answers to each example (MMPI).
5. Use of test to show exaggeration of symptoms.
  - a. Test results so low, they are inconsistent with
    - i. daily function
    - ii. performance in employment
    - iii. social life

IV. Effective Use of Index Scores

- A. Failure to Compute Index.
- B. Purpose Authors Developed Index.
- C. Index May Not Support Conclusions Provider Wants.

V. Co-Stressors and Importance of Complete Effort

- A. Lies/Mistakes
- B. Intentionally Work Slow
- C. Frustration
- D. Distraction
- E. Psychological Stressors
- F. Limiting Effort
- G. Approximately 40 Co-Stressors That Can Impact Scoring, That Cannot Be Detected Under Neuropsych Testing
- H. Complete Lack of Neuropsychological Authority on How to Parse Out Impact of Co-Stressors on Test Results

VI. Effective Use of Raw Data in Cross-Examination

- A. Usual Course – Abnormal Findings by Neuropsychologists That Were Not Noted in Emergency Room, or Hospital
- B. Effective Use of Documents Which Neuropsychologist Failed to Consider
- C. Digit Span (Declining Performance Over Time May Indicate Malingering)
- D. Memory Test Show Inconsistent Performance

- E. PASAT – Intimidating Test Used for Cross-Examination
  - F. Trails B – Declining Score Over Time Indicates Malingering
  - G. Scoring Errors By Neuropsychologist
  - H. Hypertechnical Scoring
- VII. Exhibits to Demonstrate Possible Magnification
- A. DSM4
  - B. MMPI (overlay Butcher exhibit)
  - C. Demonstrate Specific Questions from MMPI
    - 1. Question 41
    - 2. Question 284
    - 3. Question 283
- VIII. Recommended Sources (David Faust)