

Tests:

Dear Dr. _____

You have been provided with a report and raw data from the defense expert, Dr. _____

Please look at report and raw data to look for issues such as

- a. Doctor claims in report to give a test but when you look through the raw data you find nothing for that test.
- b. The doctor claims to give a test but gave only part of the test.
- c. The doctor didn't finish scoring or scored improperly a test that was referenced in his report.
- d. The doctor represents a score in the test as flunking when it is a passing score. Example: Plaintiff scored 49 on two trials of TOMMS and these scores fall within the malingered range.
- e. The doctor does testing too soon after you test the plaintiff (retest effect) and claims the improved scores means the patient is getting better.
- f. The doctor refers to a test incorrectly (ie the MMPI2, reveals good memory testing. The mmpi2 is not a memory test but a personality inventory)
- g. The doctor didn't give tests he should have. Example: Patient diagnosed as having PTSD and doctor gave no tests for this condition Or the patient has right sided occipital and parietal damage and the doctor failed to give tests sensitive to the deficits one sees in this kind of injury. Point out the tests he did give that are irrelevant to the issues at hand.

On all tests

1. Were proper age and educational and gender norms used? If not, what would have happened if they'd been used (ie the patient would score out as more impaired, for example)
2. Is the test the most recent? If not, what is the name of the most recent version and how long has it been around? Ie Flynn effect indicates if you give an older version of a test then you are comparing your client to a population who was essentially, less smart than the current populations that were used in more current tests (Flynn effect indicates we, as a population are getting smarter so the doctor would be using an older test so your client is compared to dumber, for want of a better word, people and your client would appear less impaired. Imagine comparing your 30 year old client who has a PhD to scores reached by people who were in their 80's.
3. Was the entire test given? Ie WAIS manual says to give entire test. What tests were left out?
4. What test was not given that should be given?

5. Why, in your opinion was it left out? (for example, it may be sensitive to measures of the particular type of damage suffered by plaintiff)
6. What test was given that was not necessary?
7. Did doctor misrepresent in his report what the test was used for? If so what test? What page of the report?
8. Any retest effect? If so, what test? (ie the test was given too soon after another doctor gave the same test meaning your client would score artificially higher based on the retest or practice effect)
9. If the Bender was given: Was it scored? If so, using what method? (Some doctors give the Bender but have no clue how to score it so you will find no numbers or % on the raw data having to do with this test)
10. Was the California Verbal Learning Test (CVLT) given? Was the score on the forced choice component a good score such that it could be argued that it does not support malingering? (some doctors will claim if a patient misses a few items on this scale in the CVLT it's a sign of malingering. However, if the patient does well on this measure then the doctor doesn't discuss it in his report. Was patient's responses to FC within the non-malingered range? Yes__ no__
(this is a scale that if it's elevated the DME will claim means malingering, if it's not he will say nothing about it. If your client's score is normal or not elevated, point out if the DME didn't admit this in the report)
11. Was a test given that was not scored? Discuss what is the score on the test would have been had he scored it *(please put in % not Z scores, scaled scores or T scores etc. Lawyers and juries understand scores reflected as percentiles better than in T, Z or ss format)*
12. Was a test given wherein the report only discussed part of the scores or trials? Ie the patient passed 2 out of 3 trials in Test of Memory Malingering and DME only talks about the trial the patient flunked. Did the defense doctor ignore your testing in his report? Yes_____ No_____
13. Was a test mislabeled? Ie a pain scale called a malingering scale, or depression test called a cognitive test?
14. IF the doctor's scores are not represented in his report as %, please convert scores represented in Scaled scores, T scores, or Z scores in terms of percentile as follows:

Test:

Name

Score

(z, t, whatever) = Percentile__

15. How it's referred to in the report (ie normal, low average) when it's really an impaired score, (ie bottom 2%)
16. What scores reflect impairment or low scores that the doctor did not discuss in his report.

PAI

Was there a suggested or rule out diagnosis at end of printout? If so, what were they?

Did they match the doctor's own diagnosis? (*Example: test printout reveals the best fit for a diagnosis would be major depression and the doctor didn't diagnose this condition.*)

Are there elevations in scales the doctor didn't discuss in his report?

What were they?

MCMI

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What were they?

MMPI2

Malingering:

What was the Fp?

(this is the scale that measures possible exaggeration of mentally ill when compared to an inpatient group with severe mental illness. If below T 65, then it means your client's answers were similar to non malingered but legitimately mentally ill patients)

What was the F score?

If it is not above ___ it means your client was not exaggerated.

What is Sc3 scale (if above T 65 it is a cognitive subscale of scale 8 meaning your client had problems thinking)

Did the plaintiff say true to any of the following questions on suicide?

Was the depression scale elevated? If so, in what category per the manual (ie high, very high)

Was this admitted in the report?

Was scale 8 elevated? Per manual, if so it can be due to closed head injury

If the doctor used the Minnesota Report to generate a report which describes the patient, did the doctor leave that out of his report findings in the interpretation helpful to the plaintiff?

If so, what were they?

Example: Scale 2 (depression) was quite elevated and doctor ignored it.

MMPI2 RF:

Same questions as above. Note: This is a controversial “new” test which is nothing more than the old mmpi2 minus over 200 items thus making it less reliable. There is a great deal of uproar over this by learned persons in this field accusing the test of being inadequate. Many of the questions having to do with psychopathology have been removed so it runs the risk of mislabeling someone as unimpaired or psychiatrically fit when they are not.