

ORDERS

TABLE OF CONTENTS

Note: Word search not accurate on pdf

<u>Case</u>	<u>Date</u>	<u>State</u>	<u>Bate Stamped Page</u>
1. Lamasa v. Bachman	4/13/05	NY Liption P 2 the def objects to DTi and court below let it in.	2
2. Andrus v. Fulgham	7/17/06	UT Page 12 saying dti is developing technology and nothing suggests it is inherently unreliable or inadmissible	12
1.a Lamasa v. Bachman	11/20/08	NY	15
3. Booth v. Kit, Inc.	3/23/09	NM Orrison see page 20 def fialed to show his method. So suspect as to be wholly unreliable, def motion denied subject to ability to request a daubert hearing	17
4. Leboeuf v. B&K Contractors, Inc	5/27/09	LA Orison Trial court opinion is affirmed. Dr. Adams defense expert said on page 33 that DTI has no accepted meaning in tbi evaluation and no correlation with function.	24
5. Rye v. Kia	2/16/10	MI	40

		2 page order denying motion to strike benson	
6. Whilden v. Cline	5/10/10	<p>CO Orison Page 42</p> <p>“The court finds the technology to be sufficiently reliable and scientifically accepted so as to be of benefit to the jury. Therefore the motion in limine will be denied.”</p> <p>“This court is convinced that it produces predictable, reproducible results and accurately images the portions of the brain to which it is applied. For these purposes, it is sufficiently accepted in the scientific and medical communities. 1 It has been the subject of a substantial number of published studies and articles, including peer reviewed articles.”</p> <p>“There have been at least 3393 articles on DTI with 176 articles related to DTI and</p>	42

		<p>traumatic brain injury and 29 articles related to DTI and mild traumatic brain injury. “</p> <p><i>page 44 from the court says you can't use dTI as the only method of diagnosing tbi</i></p>	
7. Wills v. Sullivan	9/13/10	<p>MN Dr. Wu Short order, doesn't discuss issues.</p>	47
8. Zawaski v. Gigs, Daubert hearing	9/13/10	<p>MA Page 53 describes the denial of the claim DTI is not reliable</p>	49
9. Hammar v. Sentinel	9/20/10	<p>FL Page 55 Diffusion Tensor Imaging (DTI) is not new or novel science. 2. Plaintiffs have demonstrated that the basic underlying principles of DTI have been sufficiently tested and accepted by the relevant scientific and medical communities</p> <p>page 56</p> <p>DTI of the brain is a proven and well-established imaging modality in the evaluation and assessment of normal and abnormal conditions of the brain. DTI demonstrates evidence of traumatic brain injury pathology and can</p>	56

		<p>reveal abnormalities that are not visible on standard MRIs. According to Dr. David Herbst, a Board Certified Radiologist, DTI studies are definitely accepted by practicing radiologists and are depended upon by physicians who order them to assist in diagnosing and treating brain injuries.</p> <p>4.DTI is generally accepted by the medical community, approved, peer reviewed and FDA approved, and a commercially marketed imaging modality which has been m clinical use for the evaluation of suspected head traumas including mild traumatic brain injury.</p>	
10. Hansen v. Crain	4/4/11	<p>MIN Page 60 Line 11 discusses dti Same page Not novel and relied upon by medical professionals</p>	59
11. Ruppel v. Kucanin	6/20/11	<p>IN Benson Great order on how good Benson is</p> <p>Page 73 A traditional MRI shows the structure of the brain and the majority of people with mild brain injury will</p>	66

		<p>have a normal MRI even if they have significant impairment. (<i>Id.</i> ¶ 6.) DTI is a more sensitive, three-dimensional type of MRI that examines the microstructure of the white matter in the brain. (<i>Id.</i> ¶¶ 7-8.) DTI can show reduction in fractional anisotropy (“FA”) meaning that the white matter in the brain has been damaged.</p> <p>Page 75</p> <p>As will be discussed, DTI and FA quantification based on comparative scans appear to be reliable methods for Dr. Benson to arrive at his expert opinion...</p> <p>page 76</p> <p>The evidence shows that while DTI is a relatively new technology it is gaining general acceptance as a method for detecting TBI. First, as explained in further detail below, there have been numerous</p>	
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		<p>validation studies, published in peer reviewed journals, on the use of DTI to detect diffuse axonal injuries. (Dr. Benson Aff. ¶ 14.)</p> <p>Second, DTI is regularly used as a diagnostic tool at the Detroit Medical Center and at other locations throughout the country. (<i>Id.</i> ¶ 15.)</p> <p>Third, Dr. Benson, Dr. Pareigis, and Dr. Bradley Sewick, a neuropsychologist, all determined that DTI would be helpful in diagnosing Ruppel. (Dr. Bradley Sewick Aff. ¶ 10.)</p> <p>Fourth, the United States Army Telemedicine and Advanced Technology Research Command (“TATRC”) sponsored a “Diffusion MRI TBI Roadmap Development Workshop” at which it was acknowledged:</p> <p>“DTI has detected abnormalities associated with brain trauma at several single centers.” (Benson Aff. ¶ 4.) It was also stated that “the workshop seeks</p>	
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		<p>to identify and remove barriers to rapid translation of advanced diffusion MRI technology for TBI . . . in order to expedite getting the benefits of diffusion MRI to reach those who need it most, especially injured soldiers and veterans.” (<i>Id.</i>) Fifth, in 2001, the Food and Drug Administration (“FDA”) approved the product “Diffusion Tensor Imaging Option for MRI” for marketing as a Class II Special Control</p> <p>Page 78 as to the fact that insurance co don’t pay for dti</p> <p>Surely insurance companies’ willingness to pay for a test is not dispositive of its reliability.</p> <p>Page 79</p> <p>Importantly, as discussed below, there are many articles</p>	
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		<p>published in peer-reviewed publications that cover the effectiveness of DTI in detecting mild TBI.</p> <p>Error rates: page 81 the error rate is not higher than other methods commonly relied upon such as MRIs.</p>	
12. Wu v. Lauriat	9/5/12	<p>MAS Benson Atty Abraham Page 100 says judge says he can talk about dti consistent with TBI</p>	99
13. Chiulli v. Newbury Fine Dinning	10/17/12	<p>MASS Page 102 denies Benson MIL on DTI</p>	102
14. Rotunda v. Petruska	4/4/13	<p>PA Dr Wu, PET too Dianne weaver Denied challenge to</p>	112

		<p>DTI but seemed to leave it open as applied to TBI page III</p> <p>Page 137 he talks about FA</p> <p>152 he says dti used 20 years</p> <p>212 reflects some limitations on testimony</p>	
15. Gutcher v. Toyota	8/26/13	<p>CA Dr wu Denied MIL regarding his testimony of TBI but granted on risk of dementia</p>	114
16. Nelson v. BNSF Railway	10/1/13	MI	217
17. Nordstrom v. Fleet Farm	11/15/13	<p>MIN Denied MIL re dr. wu and dti</p>	219
18. Ebel v. Apache	12/11/13	<p>NM Dorothy's case Denied MIL on DTI</p>	227
19. Sworin v. Harris	1/13/14	<p>FL Dianne Weaver, Dorothy Sims and Steve smith</p> <p>Page 230 Dti fda approved Tested peer reviewed</p> <p>232 benson is an expert</p>	228

		and his opinions accepted	
20. Woods v. Ruth	2/14/14	CO Benson 236 find DTI reliable	235
21. Ferrante v. City of AC	5/29/14	NJ Bruce stern Benson case	238
22. Grigs v. Snapple	5/2014	NY Lipton 242 They cite blast injury article	240
23. Sullivan v. Walters	7/9/14	NY Involving Lipton Tsiouris is expert for defense Involving an infant 252 denied cross motion to limit Tsiouris	247
24. Hyman v. Chang	7/18/14	MI This order doesn't say who the expert is or what the issues are.	255
25. Velez	11/6/14		279

Therefore, there appear to be 24 orders above denying frye/daubert challenges on DTI.