

Doctors Paid for False Reports in Injury Cases?

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This New York personal injury lawyer takes a back seat to no one in his admiration for physicians, especially orthopedic surgeons. I maintain that day in and day out doctors are among the noblest of our citizens, they do what no one else can and they are in general underpaid and overstressed. And the pressures on them are getting worse in the current political climate.

But, and you knew there would be a but, there are many who sully the well-earned high reputation most physicians have and one of the main ways they do this is in their examinations and reports regarding injured persons seeking compensation for their injuries.

I am not talking about the treating physicians for injured people; instead, what we focus on today are those physicians hired by insurance companies to examine injured persons and report back to the carriers so that the report can be used to minimize the injury claims in lawsuits or workers compensation claims.

It's only fair that insurance companies defending a driver in a car crash case or workers compensation carriers paying out benefits for a worker injured on the job have the right to challenge the claims made by an injured person. These so called independent medical exams are provided for under law and no one disputes the right of carriers to conduct them by physicians of their own choice. What plaintiffs' personal injury lawyers do challenge, though, is the independent nature of these exams. We prefer to call them **insurer medical exams** or **defense medical exams**, as we have long contended there is nothing independent about them.



During personal injury lawsuit settlement negotiations, the defense usually asks for time to have a medical exam of the plaintiff before making an offer. My usual response, tongue in cheek, is often something like [Jackie Mason](#), the comedian, might say.

I tell the insurance company adjuster that there is no need to wait for the defense medical report because I've already seen it and can tell the adjuster what's in it. Incredulous, as the exam hasn't even been requested yet, the adjuster asks how that could be possible. I simply say I've seen the report and here's what it says:

- my client was never in an accident
- if he was in an accident, he suffered no injuries at all
- if he did sustain injuries, they are not related to the accident
- if the injuries were major, they resolved in full quickly
- if they will be long lasting, they will have little or no impact

You get the point. And so does the adjuster. **It's pretty rare that a defense doctor doesn't come up with some if not many of the foregoing positions.**

Cynical you say. Couldn't be? Well, I've got many years of experience dealing with these issues and while there are many doctors who tell it like it is and let the chips fall where they may and render reports without fear or favor, there are too many who do not. There are too many who generate reports with items in them or deleted from them as dictated by the insurance companies.

Couldn't be you say? Take a look at [today's' New York Times](#), on the front page, where N. R. Kleinfield has **blown the lid off these insurance company tactics** in the workers compensation field. Here are some of his **findings**:

- an orthopedic surgeon who's done many workers comp exams said: "If you did a truly pure report, you'd be out on your ears and the insurers wouldn't pay for it. **You have to give them what they want**"
- the newspaper's review of case files and medical records and interviews with participants indicates that the **exam reports are routinely tilted to benefit insurers** by minimizing or dismissing injuries
- it's widely known that most of the doctors who perform insurance exams are those who are much older than average and who are no longer operating; according to one surgeon who does exams for carriers anyone can get the job so long as he's not a murderer and has a medical license

The system appears to be broken at an important juncture. If workers comp claimants and personal injury lawsuit plaintiffs are faced with insurance company doctors who report falsely about their injuries or minimize them without basis then there is a **gross miscarriage of justice.**

We are all well aware of the complaints and concerns of many about so called outrageous lawsuits (the McDonald's hot coffee case is often mentioned for example, [here](#) and [here](#)), runaway verdict amounts (though they are often reduced on appeal) and corrupt lawyers. We share some of those concerns and complaints.

We don't though, hear enough about the people who are injured and who are denied justice because of **insurance companies who hire doctors to phony up reports of injured claimants' injuries so that juries will be misled and award little or nothing. That's wrong and it needs to be changed. Now.**