

**THE DREAM TEAM:
EXPERT TRENDS IN TRAUMATIC BRAIN INJURY CASES**

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A. TRAUMATIC BRAIN INJURY (TBI)

- a. **What is it?** A form of acquired brain injury that occurs when a sudden trauma causes damage to the brain.
 - i. Can result when the head violently hits an object, or when an object pierces the skull and enters the brain tissue.
- b. **Three Types:** depending on damage to the brain
 - i. Mild
 - ii. Moderate
 - iii. Severe

B. MILD TRAUMATIC BRAIN INJURY (CONCUSSION)

- a. **What is it?** A TBI caused by a bump, blow, or jolt to the head or by a hit to the body that causes the head and brain to move rapidly back and forth
- b. **Symptoms:**
 - i. Dizziness
 - ii. Headaches
 - iii. Blurred Vision
 - iv. Nausea
 - v. Vomiting
 - vi. Slurred Speech
 - vii. Appearing dazed/confused
 - viii. Ringing in the ears
 - ix. Delayed response to questions
 - x. Loss of consciousness
 - xi. Mood swings
- c. 80% of concussions resolve over 7-14 days, with the average of 10
- d. **Watch for:** Symptoms should start worse and then improve (not the other way around)

C. DIFFUSE AXONAL INJURY (DAI) = THE CAR ACCIDENT TBI

- a. One of the most common types of TBI
- b. Occurs when the brain rapidly shifts inside the skull
- c. Axons are sheared and as a brain rapidly accelerates and decelerates inside the skull
- d. Changes from DAI are tiny and difficult to pick up on CT or MRI

D. TBI LITIGATION = CONSTANTLY CHANGING

- a. The Invisible Injury = hard to disprove
- b. **Expensive**
 - i. Numerous experts
 - ii. Testing/IME
 - iii. Complex Discovery
 - iv. Videotape Deposition

- v. Surveillance

E. WHY THE INCREASE IN TBI LITIGATION

- a. Big Verdicts
- b. Hard to Disprove
- c. Easy to push Settlement - \$\$\$
- d. Interplay with Psych Conditions
 - i. Studies show that common psychological conditions can affect cognition such as depression, anxiety and PTSD
 - ii. Is it a cognition issue or psych issue?
 - 1. Pre-existing medical history is crucial

F. DEFENDING TBI CASES

- a. Basic Guidelines:
 - i. Expensive and Time Consuming
 - ii. Require highly tailored discovery
 - iii. Videotape Depositions
 - iv. Medical Timelines
 - v. Subpoena School and Employment Records
 - vi. Develop a solid team of experts

G. CHANGE IN EXPERTS IN TBI CASES

- a. The Old Way:
 - i. Neurologist
 - ii. Neuropsychologist
- b. The New Way:
 - i. Neurologist
 - ii. Neuropsychologist
 - iii. Psychologist/Psychiatrist
 - iv. Neuro-Ophthalmologist
 - v. ENT
 - vi. Endocrinologist
 - vii. Neuro-Radiologist
 - viii. ????????

H. WHY THE CHANGE? Plaintiffs change the way they develop the cases

- a. Example: Dr. Randall Benson
 - i. Popular Expert used by Plaintiffs in TBI cases
 - ii. Neurologist and Neuro-behavioralist
 - iii. Uses Diffusion Tensor Imaging (DTI)
 - iv. Guards his methods/Control Group
 - v. The Gatekeeper = has his own dream team
- b. Change to meet new science = "See what sticks" approach

I. HOW DO WE DEFEND AGAINST THIS?

- a. **Expert Tips:**
 - i. Use the Match Method
 - ii. Do you need a neuropsych or a records review?
 - iii. Make sure you use experts with proper credentials = "Neuro"
 - iv. Do not underestimate the psych issue
 - v. Opt for universities over directories

- vi. Do your homework on the expert before retention

J. THE DREAM TEAM

a. **Neurologist = LEAST important**

- i. A medical doctor who diagnoses treats, and manages disorders of the brain and nervous system
- ii. Usually the treating physicians
- iii. What can they do for you?
 - 1. General Overview
 - 2. Help with anatomy
 - 3. Examine the common scans – MRI, CT
 - 4. Treatment and prognosis

b. **Neuropsychologist = MOST important**

- i. A psychologist who specializes in understanding the relationship between the physical brain and behavior – THE EFFECTS
- ii. What can they do for you?
 - 1. Cognitive Impairment – Understand the effects
 - 2. Perform Neuropsychological testing
 - a. Process
 - i. Interview patient
 - ii. Psychometrist gives the tests
 - iii. Test on writing, drawing, solving puzzles
 - iv. Check mood symptoms
 - v. Norm-Reference tests = compare to same age etc.
 - b. Validity Measures
 - i. Are they giving effort or malingering?
 - ii. “Performance Validity Measures”
 - 1. Stand alone tests
 - 2. Tests done throughout the exam
 - 3. Credentials matter
 - a. Neurobehavior study is not a neuropsych
 - 4. Confidentiality of Neuropsych
 - a. Protected
 - i. Raw data
 - 1. Test stimuli
 - 2. Test Protocols/questions
 - 3. Actual patient responses
 - ii. Codified in Law
 - iii. Ethics Code (9.11)
 - b. Not Protected
 - i. Screening measures – MoCA, PHQ-9, GAD-7
 - ii. Neurobehavioral findings

c. **Neuroradiologist**

- i. A radiologist who specializes in the use of scanning devices for the nervous system – brain, spine, head, and neck
- ii. What can they do for you?
 - 1. Review Brain MRI and CT scan
 - 2. Review and Critique DTI
- iii. Diffusion Tensor Imaging (DTI)

1. A viable **RESEARCH TOOL** that can show signs of TBI
2. MRI technique that looks at how water moves through the brain
3. The use of DTI on an individual level is not standard of practice
4. DTI is non-specific meaning changes can be caused by a number of things (smoking, psychiatric illness)
5. Software for using DTI quantitatively (Benson way) is not FDA approved
6. **NOT USED CLINICALLY**
7. Admissibility of DTI
 - a. Successful Daubert challenges have been made
 - b. DTI has been found not reliable

d. **Endocrinologist**

- i. Doctor who specializes in the endocrine system – pituitary gland and the hypothalamus located near the brain
- ii. TBI can injure these small parts
- iii. Growth Hormone Deficiency
 1. Have to base this off “stimulation testing”
 2. Causes
 - a. TBI
 - b. Tumors or Structural Abnormality
 - c. Idiopathic (rare)
 3. Medication = Norditropin - EXPENSIVE
- iv. What can they do for you?
 1. Make sure proper testing is used
 2. Check the results

e. **Neuro-ophthalmologist**

- i. Sub-specialty of neurology and ophthalmology – specialize in vision problems related to the brain
- ii. What they can do for you
 1. Examine Prism-glasses
 - a. Help with double vision, balance, and dizziness
 - b. Data is in debate = do they work for TBI?
 2. Evaluate vision issues

f. **ENT – Otolaryngologist**

- i. Doctor that specializes in ear, nose, and throat
- ii. What can they do for you?
 1. Examine claims of inner ear problems, balance, dizziness
 2. Help with Superior Canal Dehiscence
 - a. A condition caused by an abnormal opening between the uppermost semicircular canal in the upper part of the inner ear and the brain
 - b. Causes problems with hearing and balance
 - c. Causes:
 - i. Congenital
 - ii. Infections
 - iii. Head Trauma

K. **FINAL THOUGHTS**

