

Author says methods detect doctors' lies

By Linda Stein

That many highly paid, white-coated expert witnesses are lying under oath is the shocking contention of Florida plaintiff's lawyer, Dorothy Clay Sims.

Sims, whose book, *Exposing Deceptive Defense Doctors*, details her methods designed to put a stop to these medical charlatans.

Sims, who travels the country lecturing to other plaintiffs lawyers has also started a business, MDinabox, which helps plaintiff's lawyers by providing real-time comments from doctors in India via the internet during trial or deposition testimony of defense doctors.

Sims has gotten death threats for her efforts at stopping the lucrative practice of some less-than-honest defense expert witnesses, she said.

"It's wildly stressful and extremely frustrating," Sims said. "The doctors can get really nasty and insulting and diagnose me with mental disorders. I had one who said being deposed by me was an exercise in sadomasochism. Another told me that if I didn't leave the room, he was going to have me arrested."

Sims based her book on 10 years' experience as a practicing lawyer with Sims & Starkenborg. Her firm handles Social Security disability law and worker's compensation cases.

In that time, she's compiled dossiers on doctors who testify for the defense.

"That's how I started seeing a pattern," said Sims, who was recently interviewed for ABC's 20/20.

Fake Bad Scale

Sims is an opponent of the Fake Bad Scale, which is based on the Minnesota Multiphasic Personality Inventory and purports to show if a plaintiff is



Dorothy Clay Sims

malingerer. Honest people often fail malingering tests, especially if they are depressed or female, she said.

While she has no psychological training, Sims said she has spent "thousand of hours" studying the MMPI test. She always requires the defense doctor or psychologist making claims in his or her report to turn over the interpretation manual that was used. She also asks for a list of all the tests he's given to the client. The ones that are not in his report are likely to be helpful to her case.

"Let's say you're a defense doctor and you want to make the client look smart, like he has no brain damage. You compare the I.Q. scores of an 18-year-old with an 80-year-old, rather than another 18-year-old," she said. She urges lawyers to have the doctor show them where, in the interpretation manual, it allows them to reach the conclusions they've espoused in their reports.

Sims was recently in Houston cross-examining a doctor in a case against Halliburton. Her client was a contractor in Iraq when he was waved through

a checkpoint. By mistake, soldiers begin to shoot at his truck, nearly killing him. Now he suffers from post-traumatic stress disorder and has recurrent nightmares about being shot at by a cannon. The defense doctor claimed those nightmares actually were about the client's sexual performance, she said.

"I said, 'You have no evidence of that,' and he grins," Sims said. "He says these contractors should get over it," Sims said. "People have their children die and get over it."

Doctors have an incentive to take jobs as expert witnesses because of current problems in the health care system where they get paid less and less by Medicare and private insurers but can make \$750 an hour with no overhead expenses as a witness, Sims said.

'They get it'

"It's a great deal," she said. Sims went to India and advertised for physicians for her MDinabox business. About 800 came and she winnowed them to 65 candidates. She played them a tape of a deposition given by a defense doctor and, "They stood up and started shouting. I realized, oh my God, they get it."

By having the board-certified Indian doctors listening and instant-messaging their questions, "It makes it harder for the defense doctors to lie," she said.

A defense doctor said one of Sims' clients had a personality disorder because he was divorced and had had several different employers, she said. Because of her research, Sims was able to ask that doctor on cross if he also had a personality disorder since he was divorced and had changed jobs repeatedly as well.

"Some doctors who are bad seem to suffer from narcissistic

traits like anti-social personality disorder or obsessive compulsive disorder," Sims said. "What I'll do is dig."

She advises plaintiff's lawyers to observe the doctor to see if he's arrogant. "Does he bark to his girls to get him coffee?"

"The thing that disturbs me the most [about psychological tests] are when they are misused in criminal cases or child custody cases," Sims said.

Very different view

Not surprisingly the defense bar has a very different view of the situation.

"From my standpoint as a defense attorney I don't want doctors who lie to testify for me at any trials," said Stephen J. Foley Jr. of Campbell Foley Lee Murphy & Cernigliaro, past president of the New Jersey Defense Association.

He added, "I'm only interested in finding out what the truth is. Quite frankly, if someone is injured and deserves to be compensated, I'd want my doctor to tell me that. I can't imagine there are a great many defense lawyers out there who are enlisting doctors to lie."

Having an expert witness who lacks credibility would do more harm than good since a trial is a search for the truth, he said.

"I don't think you can prove the truth with a lie," Foley said. "If I got a sense that an expert was slanting his opinions, I wouldn't use him any more. It's counter productive."

Another defense lawyer, John C. Simons, of Hoagland Longo Moran, Dunst & Doukas said he's never had a case where a doctor he's retained was lying. Instead, when his experts agree that the plaintiff is injured they tell him.

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