



## **Court Cases Utilizing the Electrodiagnostic Functional Assessment (EFA)**

### ***State of California Department of Industrial Relations, Workers' Compensation Appeals Board Claim #A6001974.***

The claimant was ordered to take the EFA evaluation to determine if surgery and treatment were appropriate. The EFA findings and MaryRose Cusimano's expert testimony were used to settle the case.

### ***Geressy v. Digital Equipment Corporation U.S. District Court. 980 F. Supp, 640, 64-48 (E.D.N.Y., 1997).***

The EFA was used to overturn the 5.3 million dollar product liability verdict against Digital Equipment Corp. MaryRose Cusimano, Ph.D. performed the EFA and was admitted as an expert witness.

### ***Texas Workers' Compensation Commission 149066368.***

The EFA report was used to age the injury and the BRC agreed with the report. MaryRose Cusimano, Ph.D. and Dr. Coyle were the experts on this case.

### ***Texas Workers' Compensation Commission 077-037048 077-03837.***

TWCC 69 filed claim was closed with no impairment. MaryRose Cusimano, Ph.D. was involved in the case.

### ***St. Louis, MO Injury No 94-181391.***

This was a highly litigated case where the evaluation determined there was no permanent total disability and the pathology was attributable to another accident. MaryRose Cusimano, Ph.D. was the expert witness on the case.

### ***Cleveland, TN No 04-023.***

The EFA aged the disc pathology and identified minimal related soft tissue pathology. The patient received the appropriate care and the claim was closed. The patient returned to work and claimed a re-injury. The subsequent EFA revealed no new pathology and no new claim was opened. MaryRose Cusimano, Ph.D. and Coyle gave depositions that were presented to the trial Judge. The EFA was admitted and Plaintiff's counsel dismissed all claims.

### ***Las Vegas, NV No 20040023.***

The EFA aged the disc pathology and found it was not related. The EFA found minimal myofascial pathology. The injured worker appealed the decision of the carrier not to pay for the disc pathology. The EFA report went before the hearing officer and the EFA findings were affirmed.

### ***Las Vegas, NV, No 08722-DH.***

The claimant alleged a low back injury with findings on the MRI. The EFA findings revealed the pathology was chronic, long-standing and unrelated to the date of loss. The EFA report went before the hearing officer and the EFA findings were affirmed. The claim was closed.

### ***U.S. District Court Civil No. 96-1077 (General liability claim).***

The Plaintiff was ordered to take the EFA as part of Sanctions from the Federal Court Judge. The evaluation proved that the claimant could use the injured side and it was a defense zero dollar verdict. MaryRose Cusimano, Ph.D. performed the EFA and was admitted as an expert witness.

***Houston, TX, No 2002-52121.***

An individual slipped and fell in a grocery store. She alleged low back and cervical pathology and had positive findings on the MRI. The EFA found that there was no pathology related to the date of loss, the MRI findings were consistent with her age and not related to the fall and that she had symptom magnification. She was demanding over six figures. MaryRose Cusimano, Ph.D. and Dr. Coyle gave deposition testimony and were scheduled to go to trial. The EFA proved effective to settle the case for under \$10,000.

***Illinois No 2002-52121. (2006) Delacourt vs. Lankford Construction Case # 05 WC 8897.***

46 year-old construction worker claiming he injured his back at the workplace. EFA underwent and passed Daubert challenge whereby the validity and admissibility as well as expert testimony from Dr. Coyle and MaryRose Cusimano-Reaston, Ph.D. demonstrated that the EFA is scientifically valid and can be applied to the acts of the case. EFA findings showed non-compliance as well as inconsistency between objective findings and subjective complaints. The patient was deemed at maximum medical improvement (MMI) and not a surgical candidate. The EFA was pivotal in resolving the case and saved the employer in excess of \$500,000.

***Louisiana; Moore vs. M.C. Pratt, et al; Civil Action No. 6:09-CV-1973.***

Federal Court Judge in Louisiana ordered Plaintiff to undergo EFA April 2011.

***Louisiana; Knowles v. Thomas J. Ritter, Gootee Construction, Inc., Arch Insurance Company, and State Farm Mutual Automobile Insurance Company, CDC for New Orleans Parish, Case No. 07-13150, Div. "G".***

The EFA was admitted in court and was able to substantially reduce the verdict by aging the injury. The EFA was introduced 1 month before a highly contested liability trial in New Orleans, LA. Prior to the EFA, the Plaintiff had undergone back surgery and was pending additional surgery. After mediation, the Judge suggested to the Defendants to pay high six figures. Defendants decided to go to trial and then an EFA was performed. The EFA stated the majority of the pathology was pre-existing and that the additional surgery was not necessary. MaryRose Cusimano-Reaston, Ph.D. testified and, after the jury was polled, they stated the EFA went to the heart of causation. Because of the EFA the verdict was reduced by almost half.

***Michael Hernandez v. Reed Hycalog (NOV), Workers' Compensation Claim, Houston Texas.***

Highly contested claim involving the lowback date of injury 1/31/09. After MaryRose Cusimano Reaston's, Ph.D. deposition in March 2013, his attorney fired him as a client and dropped the case.

***Branch v. Heater Fabricators of Tulsa Workers' Compensation Claims Court, Tulsa, OK Case 2013-12369A***

Employee, a 50 year-old male, underwent a court ordered IME (Independent Medical Exam) which included the EFA (Electrodiagnostic Functional Assessment) on 3-12-14. DOI was 7/31/13 when he fell 5 feet from a ladder. The findings were chronic unrelated pathology, non-compliance and inconsistency between the "objective" EFA findings and the "subjective" complaints from the employee. The findings were consistent with the employees' age and prior history. Employee was asking for additional medical care, to include **surgery**. It was found by the Court based on the IME/EFA and testimony that additional medical care was denied and that his complaints were due to a longstanding condition and not as a result of the 7/31/13 event.