



contained within the reports may be admissible as admissions by a party opponent under Fed. R. Evid. 801(d)(2), if Richardson's statements contained in those documents are properly authenticated or, on cross examination, as extrinsic evidence of a prior inconsistent statement under Fed. R. Evid. 613(b).

The IME reports are not, however, admissible under Fed. R. Evid. 803(4) because they emanate from appointments made for evaluation only and not for care, treatment or consultation. Plaintiff's statements during those visits were not, therefore, made for purposes of obtaining treatment of his condition and lack the indicia of truthfulness justifying that particular hearsay exception.

Nor are the reports admissible as business records under Fed. R. Evid. 803(6). The three cases defendants cite in support of that proposition all consider medical records maintained by the declarant's treating physicians. Where as here, the evaluating doctor creates the report at the request of the plaintiff's employer rather than in the regular course of treating the plaintiff's medical condition, the reports lack the indicia of truthfulness justifying that exception.

**So ordered.**

/s/ Nathaniel M. Gorton  
Nathaniel M. Gorton  
United States District Judge

Dated November 1, 2012