

# EpicRehab, LLC

“To recognize and develop the value in each of us.”

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Re: Cabinetmaker, Jose

## Work Capacity Evaluation

Jose Cabinetmaker is a 55-year-old male whose case was referred to us for an evaluation of his work capacity and rehabilitation potential. He was injured in an automobile accident 18 months previously..

Mr. Cabinetmaker’s description hit his head on the side window with an absence of recall for a period of time afterwards that may have been only seconds up to a minute. He has poor recall of the immediate subsequent events. In addition to the complaints described above, he also reported poor balance, dizziness, forgetfulness, constant headache, visual symptoms of blackness, left-sided head numbness and questionable tingling, insomnia, and mood swings.

Mr. Cabinetmaker had previous right hand finger amputations in a work accident from which he had been successfully rehabilitated.

A PET scan of the brain found asymmetric metabolic deficits of two standard deviations or more in Brodmann Area 47, the orbital frontal lobes bilaterally, and Brodmann Area 13 on the left. The asymmetries are consistent with a traumatic brain injury rather than disease-based dementia, drug use, alcohol abuse, or another toxic process.

Mr. Cabinetmaker’s wife reports that he is forgetful and often left his tools at work and would have to go back to the job site to retrieve them. He reports dizziness with positional changes, and in the dark. He becomes anxious when he is with large numbers of people. Pain is constant on the left side with radiation to the left leg that varies based on activity and position. Prolonged standing, sitting, and walking exacerbate his pain and have led to changes in physical activities such as walking the dog. Cervical pain is also responsive to activities and also involves his left shoulder. He reports the left arm is weaker and that he drops things from his hand from time to time. He has constant headaches, with migraine episodes two or three times each month that are associated with nausea and vomiting. There are premonitory symptoms of increased temperature and swelling in his head with tenderness and eye-watering.

Mr. Cabinetmaker’s wife reports that he has experienced a change in his usual personality, now characterized by frequent irritability. He has difficulty initiating tasks and finishing tasks. Sexual interest is substantially decreased. His headaches are

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initiated or exacerbated by smells such as gasoline or spray paint. Cold temperature worsens his neck pain and back pain. Humidity increases the achiness in his hip and neck. He has trouble sleeping, both falling asleep and staying asleep. He sleeps three hours to four hours each night and naps once or twice each day since he has been off of work. Due to problems with kneeling and the pain symptom responses in his back and neck and left arm, he works less in his garden, in which he had taken great pride.

Most of Mr. Cabinetmaker's personal activities of daily living are able to be performed independently, but he has cognitive deficits for safety response and planning. His instrumental activities of daily living are avoided, although he had previously been independent and active. He is not able to listen to and transcribe a telephone number. He uses large bills to pay for purchases to avoid making the correct change. He will lose his keys unless they are in his pocket. He scrolls with a TV remote rather than selecting by channel.

Mr. Cabinetmaker has difficulty following the plot of television stories. He has more difficulty with reading, experiencing fatigue and difficulty with visual perception. He has problems with grasping tools with his left hand. He does not try to navigate a menu, but relies on his wife. Walking on uneven ground exacerbates back pain.

Mr. Cabinetmaker's diagnoses include the following:

1. Chronic pain including headaches, migraines, the neck and left shoulder, and back and left leg.
2. Anxiety characterized by feelings of suffocation, chest palpitations and pain in public places.
3. Impaired memory and concentration.
4. Altered receptive communication with reading, understanding and using numbers, and understanding blueprints.
5. Disturbed sleep pattern.
6. Ineffective health management.
7. Increased risk of injury due to problems with balance, and altered sensation, chronic pain and cognitive issues, and apparent problems with emergency response capability.
8. Activity intolerance due to chronic pain and lack of initiation.
9. Social isolation.
10. Sexual dysfunction.
11. Imbalanced nutrition due to poor eating pattern.

The neuropsychologist diagnosed Mr. Cabinetmaker with post-concussion syndrome and recommended a functional assessment and vocational assessment to help him identify alternate work. He also recommends six months of weekly cognitive rehabilitation and one year of cognitive behavior therapy accompanied by antidepressant medication.

In Dr. Neuro's most recent evaluation of Mr. Cabinetmaker, he found that he had been laid off or fired from his job. He reports that he was unable to complete his jobs safely and had poor performance.

### **Intake Interview**

Prior to participating in the vocational evaluation, Mr. Cabinetmaker met with me for a structured intake interview in the living room of his home.

**Behavioral Observations** - Mr. Cabinetmaker was dressed in neat and casual clothing and was well-groomed. He appeared to be approximately his stated age. He sat with good posture during the interview, and arose every 30 to 40 minutes to stretch. He walked with a slightly uneven and unbalanced, and apparently uncomfortable gait. He wore slip-on shoes. He reported that he uses eyeglasses, which he wore to the intake interview. Mr. Cabinetmaker uses assistive devices, including a splint when he was "on the job 90% of time". He reports that this "helped me feel better until I got home". On arriving home he would use "Icy Hot" or "Bengué" or a heating pad when the weather was cold or when he had been working in an air-conditioned office.

On gross observation during the interview, Mr. Cabinetmaker appeared to be fully alert. He was fully oriented to person, place, time, and purpose of the interview. His responses to my questions were usually to the point and thorough, but occasionally were tangential. He appeared to be fully cooperative. His affect was appropriate to the issues under discussion, and occasionally sad. His speech was fluid, without pressure, retardation, or dysarthria. His associations were tight, without circumlocutions, aside from the occasional tangentiality. During the interview prior to the evaluation, his immediate recall and recent memory appeared to be within normal limits, while his remote memory appeared to be inconsistent. This appeared to be attentional; he responded to cueing and was able to reconstruct these memories, although with difficulty.

**Self-Report** - Mr. Cabinetmaker reported that he is ambidextrous, stands 71 inches tall, and weighs 151 pounds. He was born right-handed. Due to the injury to his right hand in the sheet metal accident, he developed left-handed skills and became ambidextrous. He reports that he uses his left hand for most tool handling tasks.

Mr. Cabinetmaker reported that he uses prescription medications for pain prescribed by Dr. Neuro, 3-4 days per week. He uses Advil, over-the-counter tablets two at a time approximately 3 times each week. "I try not to take any medicine... Only if I really have to... I just learned how to deal with the pain." He reported that the pain medications are moderately effective but have problematic side-effects, principally GI distress.

Mr. Cabinetmaker reported that he was born in Guadalajara, Mexico, coming to the United States at age 12. He and his family settled in Long Beach, California where he

grew up. He attended Long Beach High School, from which he graduated in 1977. He married his wife in 1978. His adult son is a college-educated claims adjuster and his adult daughter is a Master's student majoring in Special Education.

In his last year of high school, Mr. Cabinetmaker took coursework at the Regional Occupational Program in automotive maintenance and repair. He did well enough in this program that he was hired to do commercial work in this setting. He worked for this employer for about 12 months to 18 months before a disagreement with employer led to him quitting. He recalls that he was earning about \$10 an hour at that time.

Mr. Cabinetmaker found another job soon thereafter doing cleanup at XYZ Sheet Metal in Long Beach California, "pushing a broom" in about 1978. He soon thereafter took on delivery driving for the company. He was curious about the work of the sheet metal mechanics and was introduced to the craft by various workers and a work supervisor. He moved up in this company, becoming a punch press operator, shear operator, sheet metal breaking and bending machine operator, arc welder and heliarc welder, sheet metal mechanic and fabricator, and then the shop Foreman over a period of about three years. The company primarily built parts for aircraft and large power plants, including the Hoover Dam. They worked with aluminum and stainless steel. He worked for this company until 1988, when he was injured in an industrial accident, losing the fingertips of the four fingers on his right-dominant hand.

Mr. Cabinetmaker went through surgical reconstruction and repair and extensive rehabilitation, requiring more than 18 months due to problems with recurrent neuromas. He was very active in his hand rehabilitation, often as a volunteer taking extra session whenever they were offered.

Mr. Cabinetmaker subsequently participated in vocational rehabilitation, receiving retraining as a quality control inspector. However, this work was not sufficiently challenging for Mr. Cabinetmaker, and he began to work with finish carpentry on a self-taught basis on the patio behind his home. He enjoyed this work and began building cabinetry for friends and family and also began to do molding. He built a small shop behind his house that was set up for finish carpentry. He built speaker cabinets for JBL electronics that were sold in their store in Long Beach.

One of Mr. Cabinetmaker's main projects was to build disc jockey setups that were fit with turntables, amplifiers, speakers, and record storage areas. He recalls that he built about 10 of these gradually, using them as a mechanism to engage local youth in a project that he had "to keep them out of trouble". The arrangement that he made was that he would rent out the disc jockey setup for a party or wedding and also provide one or two disc jockeys, who were the teenagers that he supervised. He gave as an example a typical job in which he would charge \$200 and provide \$150 to \$170 to the disc jockeys.

One day Mr. Cabinetmaker was working in his front yard, finishing a cabinet that he had built for his daughter, when a man drove by and told him that he was a contractor and needed to hire a Finish Carpenter. The man was from Hill Billy Construction, a company that built and remodeled restaurants including McDonald's, Chili's, Macaroni Grill, and Applebee's.

Mr. Cabinetmaker hired on as a helper with Hill Billy's crew at a local McDonald's restaurant and within three or four months had become the lead man on that crew. As with his work in the sheet metal shop, his strong work ethic and his ability to speak English and Spanish fluently allowed him to move up quickly. He worked for this company for about 18 months, traveling throughout California and back east. He also worked for a related company for about two years, doing remodeling and restoration for restaurants such as Castaways and On the Border. The company went out of business and soon thereafter he found a job with Southern California Building Services, the company by whom he was employed at the time of the accident that is the focus of this lawsuit.

Mr. Cabinetmaker was initially hired by Southern California because of his knowledge of sheet metal. Initially he did sheet metal caps and flashing, but soon after hiring began to work as a finish carpenter and within a few years had worked up to his position as "Foreman or superintendent when the company was busy". When the company was busy, he supervised between 15 and 25 workers and several subcontractors.

After about one year on this job, Mr. Cabinetmaker also began to work on the side, with several projects provided to him by his employer, when the projects were too small for the employer to take on a profitable basis. These involved residential restoration as well as residential remodeling. In addition to these projects, he received referrals from other satisfied homeowners. He reports that he had several high-profile clients including Vin Scully of the Dodgers, Jorge Rivera, and some of the players on the Lakers basketball team. He would do the finish carpentry himself and, when the job involved plumbing or electrical work, would arrange to have a licensed contractor work for him. He was not formally licensed as a contractor himself. He reports that he often made more money on the side jobs that he would do after work and on Saturdays and Sundays than he did in his regular job, but maintained his regular employment due to the benefits that it provided. Mr. Cabinetmaker reports that he loved this job and never missed a day of work and did not take any vacations. He reports that, "I put the kids through college and was paying off the house and getting ready to buy another house and rent it out" when the accident occurred.

I asked Mr. Cabinetmaker about the workday on which the accident occurred and how this affected him that day. He reports that the accident occurred while he was on his way to work at about 6:30 the morning on a Friday. He did not return to work that day and rested over the weekend and returned to work on Monday in the morning but stayed in

the office. He did light-duty work for about six months. He returned to the field with a 25-pound lifting limit and a restriction from overhead work due to a problem with headache. He was also restricted from working at a low level due to a problem with low back pain. The focus after the accident appears to have been on his musculoskeletal injuries. He reports that these symptoms have improved but continue to be somewhat limiting.

In addition to his side jobs doing finish carpentry and remodeling, Mr. Cabinetmaker earned between \$3,000 and \$5,000 each year growing and selling exotic palm trees. He started with palm tree seeds that he was able to get from Disneyland, and would start them in seed beds and transfer them to pots, which he would then sell to friends and neighbors. On visiting his home, I saw several homes nearby that had well-established exotic palm trees that he told me he had provided.

Mr. Cabinetmaker reported that he last worked as a Service Technician and Finish Carpenter for Southern California Building Services Company. His last day of employment was September 7, 2012. His duties consisted of interior restoration after leaks and fire and water damage or damage due to termites. He was employed by this firm from April 16, 1998 until September 7, 2012. He was discharged due to diminished productivity and what he termed "mistakes" that he had made. He reported that he was earning \$26.50 per hour for a 40 hour workweek with occasional overtime. He was steadily employed by this firm, earning about \$47,200 in 2010 and \$50,560 in 2011. He reported that he was very satisfied with this job and reported that he had planned on "working until normal retirement". He also reported, "I loved it! I'm bummed out that I'm not working."

In his job with Southern California, Mr. Cabinetmaker drove a company truck and was provided with a gas credit card. He typically would drive the work truck home, to the office, and then to the job site. He reports that, "when we had special clients, my boss would send me to finish up". The company did restoration from water damage, smoke and fire damage, termite damage in restaurants and offices and homes.

Mr. Cabinetmaker reported that his primary problems with this work include making a great number of mistakes on the job due to problems with concentration, memory, mental fatigue, and physical fatigue. His productivity had decreased due to diminished speed of work and inefficiency that was caused by problems with memory. These problems were exacerbated by physical fatigue and mental fatigue that accumulated over the course of the day and on a day-to-day basis. He also experienced more difficulty handling stress due to pressure to perform, which was not present before because of the high standard of quality work he was able to perform. As a consequence of all these problems, he has diminished self-confidence about his ability to do the primary work that has been the focus of his most recent career. When he was discharged from employment, his employer told him, "I'm not running a charity" in spite of his long tenure of employment.

He gives as an example a mistake that he made in July of 2012, cutting a gas pipe as he was doing an interior finish carpentry job. This created major problems for his employer. He reports that he would never have made such a mistake prior to the accident.

Mr. Cabinetmaker also reports that he is unable to do projects at home in his workshop, such as making molding and building furniture. He showed me the workshop, which is set up to do professional level work, but has obviously not been used in several months. He reports that he used to do projects on the side and sell them but does not have an estimate of his revenue. He also reports that he used to grow palm trees for sale, but is no longer able to do so. He showed me numerous trees at various stages of growth.

When asked about his goals, Mr. Cabinetmaker responded that, "To go back to what I was doing. Maybe I can learn something new."

When asked about the favorite activities that he is unable to do or has difficulty with at the present time that he had done previously without limitation, Mr. Cabinetmaker described significant limitations with "Work as a finish carpenter and also gardening; I specialized in palm trees from seeds that I got from Disneyland. I would plant them and grow and groom them and sell them." He showed me several dozen trees that he has started in his backyard that are obviously not getting the care that they require. He reports that he would come home from work and work another hour or two each night grooming his trees, but has not done so for several months.

In comparing his experience with recovering from the hand injury, he reports that it took about two years before he was able to become functional due to problems with right-hand hypersensitivity and neuromas. He reports that he learned that control of pain and return to function is "all in your head... I went through hell and survived. But now my head's not okay... Some days I feel okay but usually, not usually."

Mr. Cabinetmaker reports that he had fully recovered from the hand injury and was excited and enthusiastic about work and providing for his family at the time of the automobile accident. Now, he reports that his motivation is very depressed. "Before, I always jumped to get things done". Now he contrasts this by reporting that he has a difficult time getting to even simple projects around the house. He gave as an example putting off fixing the toilet in the bathroom until the simple repair left unattended led to a major problem with water damage that required much more work. For this project, even after allowing it to deteriorate, he estimates that prior to the accident it would have taken four evenings after work to get it done. He was able to complete the project (which he showed to me), but, "I made the job harder than it was... It took a month to get it done!"

**Cognitive Work Demand Stimulation** - In order to observe Mr. Cabinetmaker's response to cognitive demands that would be similar to those encountered in a generic workplace, a structured work simulation was administered. This involved assembling a

homeowner's wheelbarrow<sup>1</sup> following written directions provided in several forms; on the carton, in a simple assembly manual placed in the bottom of the parts box, and on a single-page supplementary guide handed to him before the task. His performance was video-recorded. He did not organize his work area nor plan and layout his materials for efficiency. He required about three times as long to finish the assembly as would be required of a person without functional limitations. Although cautioned in the initial instructions to not tighten nuts until the final step, he used the provided wrench to tighten nuts several times and had to return to loosen them when errors were detected or when this created alignment problems. He made three errors in sub-assemblies that had to be redone. He made two errors in selection of bolts of incorrect length.

Overall, Mr. Cabinetmaker's responses to the work simulation demonstrated a much-lower-than-competitive rate of performance that will lead to non-competitive quantity of productivity. He also had an unacceptably high rate of error identification and correction that will lead to non-competitive quality of productivity. He also required more assistance with identifying potential safety problems than normally would be available in a competitive employment setting for such simple tasks.

### **Occupationally Relevant Functional Limitations**

Based on review of his medical records, review of deposition transcripts, and interview and testing of Mr. Cabinetmaker, there are 30 functional limitations that are pertinent to his occupational disability<sup>2</sup>. The factors that will limit the range of occupations and prohibit labor market entry are presented in Appendix B to this report. Based on these factors, Mr. Cabinetmaker is not feasible for employment in any occupation in the competitive labor market. His primary limitations for competitive employment stem from his problems with executive dysfunction, including problems with working memory and error control. He also has musculoskeletal problems and significant problems with cognitive processing with both numerical and verbal information.

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<sup>1</sup> Butler R, Anderson L, Furst C, Namerow N. Behavioral assessment in neuropsychological rehabilitation: A method for measuring vocational related skills. *Clinical Neuropsychologist*. 1989;3(3):235-43.

<sup>2</sup> Gaudino, E., Matheson, L., & Mael, F. (2001). Development of the Functional Assessment Taxonomy. *Journal of Occupational Rehabilitation*, 11(3), 155-175.