

IN THE CIRCUIT COURT OF THE
FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY,
FLORIDA

CASE NO.:

Plaintiff(s),

vs.

Defendant(s).

_____ /

ORDER REGARDING RULE 1.360 EXAMINATION

Pursuant to Florida Rule of Civil Procedure 1.360 (“Examination of Persons”), Defendant(s) lawyer has notified Plaintiff(s) lawyer that the Plaintiff, _____ is requested to present for a noninvasive medical examination as follows:

Examiner:

Address:

Date:

Time:

Scope:

**THE FOLLOWING CONDITIONS ARE TO BE OBSERVED BY ALL PARTIES
AND THE EXAMINER:**

1. This examination is not a deposition so the examiner shall be limited to that information reasonably necessary to conduct the specialty-appropriate examination and evaluation, including their taking a brief medical history as well as inquiring about current

complaints. While there may be reason for compulsory examinations in multiple specialty fields, this examination is limited to the specific medical or psychological conditions in controversy and unless modified by another court order, this examination will be the only exam for those specific conditions or issues. No invasive testing shall be performed without informed consent by the Plaintiff/examinee, or further order of court.

2. The Plaintiff/examinee will not be required to complete any forms upon arrival at the examiner's office. The Plaintiff/examinee will furnish the doctor with their name, address, and birth date. Questions pertaining to present medical complaints, mechanism of injury and prior or subsequent injuries similar to those involved in this action are permitted, limited to the areas of complaints. Questions pertaining to "fault" such as facts and circumstances as to how the injury complained of occurred, when the Plaintiff/examinee hired their attorney, who referred the Plaintiff/examinee to any doctor, and what the Plaintiff/examinee told their attorney, investigators, witnesses or treating physicians or other health-care providers are not permitted.

3. It shall be Defense lawyer's responsibility to provide the examiner with all medical records, imaging studies, test results, and the like, which the Defense wants the examiner to review and rely upon for the examination. Unless they have exclusive control of any original records or imaging studies, Plaintiff/examinee shall not be required to bring anything to the exam other than valid identification (eg. Driver License, Official Florida Identification Card or government-issued Passport).

4. Plaintiff/examinee is permitted to have their lawyer (and any one, but only one, of these: spouse, parent, or other representative) present for the examination. Such persons may unobtrusively observe the examination, unless the examiner or Defense lawyer establishes a case-

specific reason why such person's presence would be disruptive, and that no other qualified individual in the area would be willing to conduct the examination with such person present. In the case of a neuropsychological exam, all observers shall watch and listen from an adjacent room if available, or by one-way audio-and-video feed. If the examination is to be recorded or observed by others, the request or response of the Plaintiff/examinee's lawyer shall include the number of people attending, their role, and the methods of recording.

5. Plaintiff/examinee's lawyer (or a representative) may videotape the examination and/or send a court reporter and/or a videographer to the examination, provided that they do not interfere with the examination.

6. Neither Defendant's lawyer nor any of Defendant's representatives may attend, observe, record or video the exam. Only if the video is identified as impeachment material for use at trial may Defense counsel obtain a copy of the video. The medical examiner shall not be entitled to any payment of an additional fee or accommodation fee from the Plaintiff/examinee or their lawyer, simply because of the presence of legally-permitted third parties.

7. If a video recording is made of the examination by Plaintiff's lawyer, it shall be considered work-product, and neither the Defense nor the examiner is entitled to a copy, unless and until same is designated as (or reasonably expected to become) trial evidence, in which case it shall be subject to discovery only upon a showing of need and undue hardship.

8. The examiner shall prepare a detailed written report setting forth all of the examiner's findings, including all tests made, diagnoses and conclusions. The report of the examiner shall be sent to Plaintiff/examinee's lawyer, as required by Rule 1.360(b), within 30 days

of the examination unless otherwise agreed between counsel for the parties or ordered by the court due to special circumstances.

8a. If the examination involves neuropsychological testing, the examiner shall provide, in addition to the report, all raw data, including copies of all notes, tests, test results, scoring and test protocols, to Plaintiff's treating or retained psychologist or neuropsychologist, who must return them to the defense examiner at the conclusion of this case.

9. All protected health information generated or obtained by the examiner shall be kept in accordance with HIPAA requirements and shall not be disseminated by the examiner or Defense lawyer to any other person or entity not a party to this case without a specific order from this court.

10. The examiner shall not be identified as "independent", "court-appointed" or the like. The examination shall be referred to as a "Compulsory Medical Examination."

11. Plaintiff/examinee shall not be required to wait any longer than thirty (30) minutes for the compulsory examination to begin from the start-time referenced above. Likewise, the examiner is not required to wait any longer than thirty (30) minutes from the start-time referenced above for the Plaintiff to present for the examination. If an emergency arises causing either the examiner or the Plaintiff/examinee to be late, they shall immediately notify their respective lawyer representative advising of the reason for the delay and possible need to reschedule.

12. Defense lawyer must provide the examiner with a copy of this order and explain the need for the examiner's compliance.

13. Defense lawyer shall serve this order on any and all unrepresented parties.

DONE AND ORDERED at, West Palm Beach, Palm Beach County, Florida, this _____ day of _____, 20____.

CIRCUIT JUDGE

Furnished via email to all record lawyers