

IN THE CIRCUIT COURT OF THE
EIGHTEENTH JUDICIAL CIRCUIT
IN AND FOR BREVARD COUNTY, FLORIDA

CASE NO.:

Plaintiff(s),

vs.

Defendant(s).

.....I

ORDER REGARDING RULE 1.360
EXAMINATION¹

Pursuant to Florida Rule of Civil Procedure 1.360 ("Examination of Persons"),
Defendant(s) counsel has notified Plaintiff(s) counsel 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 INVOLVED:**

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

¹ This Order is subject to modification based upon the unique circumstances of each case, upon motion of any party.

evaluation, including a brief medical history as well as present complaints. The examination is to be limited to the specific medical or psychological conditions in controversy and unless modified by another court order, such examination will be the only exam for the specific conditions or issues in controversy (without limiting the possibility of multiple specialties). No invasive testing shall be performed without informed consent by the Plaintiff/examinee, or further Order of court.

2. The examinee will not be required to complete any forms upon arrival at the examiner's office. The examinee will furnish the doctor with name, address, and date of birth. Questions pertaining to present medical complaints, mechanism of injury and prior/subsequent similar injuries 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 hired his/her attorney, who referred the Plaintiff to any doctor, and what the Plaintiff told his attorney, investigators, witnesses or treating physicians or other health care providers are not permitted.

3. It shall be the defense attorney'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 as part of the examination. Unless he or she has exclusive control of any original records or imaging studies, Plaintiff shall not be required to bring anything to the exam other than valid identification (e.g. Driver's License, Official Florida Identification Card or government-issued Passport).

4. Plaintiff is permitted to have his/her attorney (and spouse, or parent, or other representative) present for the examination, provided that only one of these listed non-

attorney persons may attend. Such persons may unobtrusively observe the examination, unless the examiner or defense counsel 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 video feed. If the examination is to be recorded or observed by others, the request or response of the examinee's attorney shall include the number of people attending, their role, and the methods of recording.

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

6. Neither Defendant's attorney 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 the defense counsel obtain a copy. The medical examiner shall not be entitled to any payment of an additional fee or accommodation fee from the Plaintiff or his/her counsel, simply because of the presence of legally permitted third parties.

7. If a videotape or digital recording is made of the examination by counsel for Plaintiff, it is 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, subject to discovery only upon a showing of need and undue hardship.

8. The examining physician shall prepare a detailed written reporting setting forth all of the examining physician's findings, including all tests made, diagnoses and

conclusions. The report of the examiner shall be sent to Plaintiff's counsel, 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: In addition to the report, the examiner shall provide all raw data, including copies of all notes, tests, test results, scoring and test protocols, to Plaintiffs 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 HIPPA requirements and shall not be disseminated by the examiner or defense counsel to any other person or entity not a party to this case without a specific order from this court.

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

11. Plaintiff 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 Compulsory Medical Examination doctor is not required to wait any longer than thirty (30) minutes from the start time referenced above for the Plaintiff to arrive. If there is an emergency by either the physician or the Plaintiff, each person shall immediately notify their respective legal representative with the reason for the need to reschedule.

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

It is further ADJUDGED that within five days from the date of eservice of this Order, the Defendant shall:

- a. Furnish a copy of this Order to each self-represented party by U.S. Mail, first class, postage paid; and
- b. File a certificate signed by Defendant's counsel that delivery of this Order has been made as set forth herein.

DONE AND ORDERED at Melbourne, Brevard County, Florida, this DDDD.

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Copies have been furnished to all counsel via the Florida e-Filing Portal this MMMM.

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