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20 **UNITED STATES DISTRICT COURT**

21 **FOR THE EASTERN DISTRICT OF CALIFORNIA, FRESNO DIVISION**

22 STEVEN ARIZAGA )

No. 13-cv-01981-MJS

)  
Magistrate Judge Michael J. Seng

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Plaintiff, )

**STIPULATION RE: PHYSICAL  
AND MENTAL EXAMINATION  
OF PLAINTIFF STEVEN  
ARIZAGA; ORDER**

vs. )

29 JOHN BEAN TECHNOLOGIES )  
30 CORPORATION, et al. )

31 Defendants. )  
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Stipulation Re: Physical and Mental Examination of Plaintiff Steven Arizaga  
and Proposed Order – No. 13-cv-01981-MJS

1 Plaintiff Steven Arizaga (“Mr. Arizaga”) and Defendant John Bean Technologies  
2 Corporation (“JBTC”), agree and stipulate that Mr. Arizaga shall submit to a physical and a  
3 mental examination with the following manner, conditions, and scope under Federal Rules of  
4 Civil Procedure Rule 35:

5 **Physical Examination**

6 1. The date and time for the physical examination will be September 25, 2015 at 3:00  
7 p.m. Pacific Time.

8 2. The physical examination will be performed by Mark W. Howard, M.D. Attached to  
9 this stipulation as Exhibit “A” is a true and correct copy of Dr. Howard’s Curriculum Vitae  
10 setting forth his qualifications and background.

11 3. The location for the examination will be Sierra Valley Medico, Inc., 7033 N.  
12 Fresno Street, Suite 201, Fresno, CA 93720.

13 4. The manner for the physical examination will be a two-part examination  
14 consisting of:

15 a. An interview in doctor’s office, consisting of a history of Mr. Arizaga’s injury and  
16 Mr. Arizaga’s treatment for his injury; and

17 b. A physical examination involving vitals being taken and examination of injured  
18 body parts, including left arm, brachial plexus, brachial artery, and ribs. The  
19 vitals to be taken include Mr. Arizaga’s blood pressure, height and weight only.

20 c. The examination will not include any diagnostic test or procedure that is painful,  
21 protracted or intrusive.

22 5. The conditions and scope of the physical examination will be a two-part  
23 examination, consisting of an interview and physical examination, with a total duration of no  
24 longer than one (1) hour. The examination will focus on Mr. Arizaga’s injury and Mr. Arizaga’s  
25 treatment for his injury.

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28 Stipulation Re: Physical and Mental Examination of Plaintiff Steven Arizaga  
and Proposed Order – No. 13-cv-01981-MJS

1           6.       It is further stipulated that, following the examination, a copy of Dr. Howard's report  
2 related to the examination will be produced to Ms. Arizaga's counsel as required by Federal Rule of  
3 Civil Procedure Rule 35.

4           7.       It is further stipulated that JBTC will be responsible for the fees associated with this  
5 examination, including Dr. Howard's cancellation policy. Mr. Arizaga agrees to reasonably comply  
6 with Dr. Howard's cancellation policy and will advise JBTC if he is unable to attend this  
7 examination within fourteen (14) days of the examination in compliance with this cancellation  
8 policy. Should Mr. Arizaga be unable to comply with Dr. Howard's cancellation policy for any  
9 unexpected health reason, Mr. Arizaga reserves the right to object to the payment of Dr. Howard's  
10 cancellation costs incurred. JBTC reserves the right to seek payment for any cancellation by Mr.  
11 Arizaga. In this situation, Mr. Arizaga and JBTC agree to work together to promptly reschedule the  
12 examination and reasonably resolve any issues regarding the payment of Dr. Howard's cancellation  
13 costs incurred.

14 **Mental Examination**

15           8.       The date and time for the mental examination will be August 27, 2015 at 1:30  
16 p.m. Pacific Time.

17           9.       The mental examination will be performed by Howard Terrell, M.D. Attached to  
18 this Stipulation as Exhibit "B" is a true and correct copy of Dr. Terrell's Curriculum Vitae  
19 setting forth his qualifications and background.

20           10.      The location for the mental examination will be 724 Medical Center Drive East,  
21 Suite 102, Clovis, CA 93619.

22           11.      It is further stipulated that the only parties present during the examination will be Mr.  
23 Arizaga and any member of Dr. Terrell's staff necessary to facilitate the examination.

24           12.      The manner for the mental examination will be a clinical interview, specifically  
25 based on the DSM-5 diagnostic and classification criteria.

26           13.      The examination will not include any diagnostic test or procedure that is painful,  
27 protracted or intrusive.

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Stipulation Re: Physical and Mental Examination of Plaintiff Steven Arizaga  
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1           14.     The conditions and scope of the mental examination will be a clinical, diagnostic,  
2 and background interview by Dr. Terrell focused on the mental or psychiatric impact of Mr.  
3 Arizaga’s alleged accident, the emotional distress Mr. Arizaga allegedly suffers from since the  
4 accident, and the potential factors impacting Mr. Arizaga’s alleged emotional distress.

5           15.     The duration of Dr. Terrell’s total examination and evaluation of Mr. Arizaga will  
6 be no longer than three (3) hours.

7           16.     There will be no videotaping of any portion of the examination. The examination  
8 will be audio recorded by JBTC. A copy of this audio recording shall be provided to Mr.  
9 Arizaga.

10          17.     It is further stipulated that, following the examination, a copy of Dr. Terrell’s report  
11 related to the examination will be produced to Ms. Arizaga’s counsel as required by Federal Rule of  
12 Civil Procedure Rule 35.

13          18.     It is further stipulated that JBTC will be responsible for the fees associated with this  
14 examination, including Dr. Terrell’s cancellation policy. Mr. Arizaga agrees to reasonably comply  
15 with Dr. Terrell’s cancellation policy and will advise JBTC if he is unable to attend this examination  
16 within five (5) business days of the examination in compliance with this cancellation policy. Should  
17 Mr. Arizaga be unable to comply with Dr. Terrell’s cancellation policy for any unexpected health  
18 reason, Mr. Arizaga reserves the right to object to the payment of Dr. Terrell’s cancellation costs  
19 incurred. JBTC reserves the right to seek payment for any cancellation by Mr. Arizaga. In this  
20 situation, Mr. Arizaga and JBTC agree to work together to promptly reschedule the examination and  
21 reasonably resolve any issues regarding the payment of Dr. Terrell’s cancellation costs incurred.

22          19.     Following the examination, the parties will instruct their respective experts to  
23 mutually exchange the raw data, if any, obtained during their respective experts’ examinations of Mr.  
24 Arizaga at the appropriate time prior to the completion of expert discovery.

25                 The parties agree that this Stipulation may be signed in counterpart, and each counterpart  
26 shall be deemed an original, and all counterparts so executed shall constitute one Stipulation, and  
27 further, that faxed signatures shall be treated as originals.

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                          Stipulation Re: Physical and Mental Examination of Plaintiff Steven Arizaga  
  and Proposed Order – No. 13-cv-01981-MJS

1 IT IS SO STIPULATED.

2  
3 Dated: August 20, 2015

/s/ Adam B. Stirrup  
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Attorneys for: Plaintiff Steven Arizaga

7  
8 Dated: August 20, 2015

/s/ Henry Turner, Jr.  
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Stipulation Re: Physical and Mental Examination of Plaintiff Steven Arizaga  
and Proposed Order – No. 13-cv-01981-MJS

1 **ORDER**

2 Pursuant to Plaintiff Steven Arizaga's and Defendant John Bean Technologies Corporation's  
3 Stipulation and for good cause shown, the above Stipulation is accepted, adopted and made the Order  
4 of the Court.

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6 IT IS SO ORDERED.

7 Dated: August 21, 2015

8 /s/ Michael J. Seng  
9 UNITED STATES MAGISTRATE JUDGE

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Stipulation Re: Physical and Mental Examination of Plaintiff Steven Arizaga  
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**CERTIFICATE OF SERVICE**

I certify that a copy of the **Stipulation Re: Physical and Mental Examination of Plaintiff Steven Arizaga; Proposed Order** was filed electronically and has been served on the opposing counsel listed below by U.S. Mail, on August 20, 2015. Parties may access this filing through the Court's ECF system.

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Respectfully submitted,

/s/ Henry Turner, Jr.  
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