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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RICK EATON,

Plaintiff,

No. CIV S-07-315 FCD KJM

vs.

MARK SIEMENS, et al.,

Defendants.

ORDER

_____ /

Defendants' motion to compel use of certain psychological tests in a mental examination of plaintiff came on regularly for hearing April 1, 2009. James Ashworth appeared for plaintiff. Christopher Onstott appeared for defendants. Upon careful review of the helpful documents in support and opposition, the deposition transcripts of plaintiff and his wife, the treatise MMPI, MMPI-2 and MMPI-A in Court, Pope, Butcher & Seelen (2000), upon hearing the arguments of counsel, and good cause appearing therefor, THE COURT FINDS AND ORDERS AS FOLLOWS:

Plaintiff has stipulated to a mental examination and the court accordingly does not reach the threshold question of whether a mental examination is appropriate in this matter. The only issue before the court is the scope of the examination. Given the circumstances of this case and the nature of plaintiff's claims made in the amended complaint, and taking into account the

1 kind of emotional distress claimed by plaintiff, use of the MMPI-2 and MCMI-III tests in
2 plaintiff's mental examination is not warranted. See, e.g., Bowen v. Parking Authority of the
3 City of Camden, 214 F.R.D. 188, 195 n.7 (2003); see also MMPI, MMPI-2 and MMPI-A in
4 Court at 58. Defendants' motion accordingly is denied.

5 DATED: April 3, 2009.

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8 U.S. MAGISTRATE JUDGE
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