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

PETER KNOWLES,

Plaintiff,

No. CIV S-09-3470 WBS DAD

v.

CITY OF BENICIA, et al.,

ORDER

Defendants.

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This matter came before the court on February 4, 2011, for hearing of defendants' motion to compel an independent mental examination (IME) of plaintiff, as well as plaintiff's "cross-motion" for a protective order regarding the conditions of the IME. Also before the court were the parties' requests to seal certain documents submitted in support of their motions. Geri L. Green, Esq. appeared for plaintiff Peter Knowles, who was also present. Danielle K. Lewis, Esq. appeared for defendants.

Upon consideration of the parties' arguments on file and at the hearing, and for the reasons set forth in detail on the record, IT IS HEREBY ORDERED that:

1. The parties' requests to seal documents (Doc. Nos. 54 and 60) are denied;
2. Defendants' motion to compel an IME of plaintiff (Doc. No. 49) is granted;

and

1           3. Plaintiff's motion for protective order regarding the conditions of plaintiff's  
2 IME (Doc. No. 55) is granted in part and denied in part. The IME by Ronald Roberts, Ph.D.,  
3 shall proceed on February 7, 2011, and shall be limited to a maximum of 5 and 1/2 hours.  
4 Subject to an opportunity for Dr. Roberts to explain why a different order is necessary, the IME  
5 shall begin with testing that does not exceed 3 hours, with a 15-minute break at an appropriate  
6 breaking point. A 1-hour lunch break shall then be provided. The examination shall conclude  
7 with an interview that does not exceed 2 and 1/2 hours, with a 15-minute break at an appropriate  
8 breaking point. One of plaintiff's attorneys may be on site but may not be visible to plaintiff  
9 during the IME and may not interrupt or be involved in any way in any of the sessions, conferring  
10 with plaintiff only during the short breaks and lunch break provided for above. All test results  
11 obtained and all written reports produced by Dr. Roberts must be provided to plaintiff's counsel,  
12 along with any recording that is made during the IME, so long as plaintiff provides defendants'  
13 counsel with reciprocal discovery of all test results, written reports, and records containing  
14 findings, diagnoses, and conclusions, including any such documents that result from  
15 examinations obtained by plaintiff for rebuttal purposes. The mutual exchange of documents in  
16 this regard shall not include the notes of the examining or treating mental health professionals.  
17 The undersigned will be available on the morning of February 7, 2011, commencing at 9:00 a.m.,  
18 in the event that further court assistance is needed with regard to plaintiff's IME.

19 DATED: February 4, 2011.

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23 DALE A. DROZD  
24 UNITED STATES MAGISTRATE JUDGE

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