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 9 UNITED STATES DISTRICT COURT
 10 EASTERN DISTRICT OF CALIFORNIA

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 12 JAMES M. GROGAN,)
)
 Plaintiff,)
)
 v.) **PLAINTIFF'S RESPONSE TO**
) **DEFENDANT'S AUDIO RECORDING**
) **OF FRCP 35 PSYCHOLOGICAL EXAM**
)
 14 UNITED STATES OF AMERICA,)
)
 Defendants.)
)
)
)

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18 Pursuant to the Court's February 17, 2017 minute order, Plaintiff responds to Defendant's
 19 submissions regarding Dr. Rosenberg's request to record the FRCP 35 psychological exam of Mr.
 20 Grogan.

21 Plaintiff does not believe that Dr. Rosenberg's declaration satisfies the Defendant's burden
 22 of establishing the recording is necessary for clinical and/or diagnostic reasons and not for
 23 litigation purposes. However, should the Court be persuaded that Dr. Rosenberg's declaration is
 24 satisfactory; Plaintiff requests that a copy of the recording be made available only to Plaintiff's
 25 psychological expert(s). It is Plaintiff's position that the recording is akin to raw test data and
 26 should only be used for the purposes of forming clinical and/or diagnostic impressions, and not
 27 shared with defense counsel or reduced to a written transcript. Defendant previously stated that it
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does not object to Dr. Rosenberg providing a copy of the recording to Plaintiff's expert(s). See Defendant's Statement Regarding Audio Recording of IME.

DATED: February 28, 2017 HILDEBRAND, MCLEOD & NELSON, LLP

By: /s/ Bradley W. Wahrlich
Bradley W. Wahrlich
Attorneys for Plaintiff
JAMES M. GROGAN