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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

HEIDE VELARDE,
Plaintiff,
v.
COUNTY OF ALAMEDA, *et al.*,
Defendants.

Case No. [15-cv-03323-SI](#)

**ORDER GRANTING DEFENDANTS’
MOTION TO COMPEL STIPULATED
MENTAL EXAMINATION WITHOUT
LIMITATIONS REQUESTED BY
PLAINTIFF’S COUNSEL**

Re: Dkt. No. 82

Defendant’s motion to compel is scheduled for a hearing on June 7, 2017 at 4:00 p.m. Pursuant to Civil Local Rule 7-1(b), the Court determines that this matter is appropriate for resolution without oral argument and VACATES the hearing.

Federal Rule of Civil Procedure (“Rule”) 35 permits “[t]he court where the action is pending [to] order a party whose mental . . . condition . . . is in controversy to submit to a . . . mental examination by a suitably licensed or certified examiner.” Fed. R. Civ. P. 35(a)(1). “To permit such an examination, Defendant must establish that: (1) Plaintiff has placed his condition in controversy, and (2) good cause exists for the examination.” *Tan v. City & County of San Francisco*, No. C 08-01564 MEJ, 2009 WL 594238, * 1 (N.D. Cal. March 4, 2009) (citing *Schlagenhauf v. Holder*, 3798 U.S. 104, 116–17 (1964)).

Plaintiff does not dispute that she has put her mental condition in controversy by claiming severe emotional distress as a result of the events giving rise to this lawsuit, and plaintiff has stipulated to an independent medical examination by defendant’s psychiatric expert, Dr. Jeffrey

1 Gould. The parties' dispute centers on how much time should be allocated for the exam, with
2 plaintiff asserting that five hours is sufficient and defendants seeking eight hours without prejudice
3 to their right to ask for additional time upon a showing of good cause.

4 Plaintiff argues that Dr. Gould should be able to complete the exam within five hours
5 because, *inter alia*, plaintiff already provided a lot of background information in her deposition.
6 Plaintiff also states that she is concerned about "being required to repeatedly relive the trauma of
7 her solitary confinement," and that an eight hour examination, plus breaks and travel time, would
8 result in an unreasonably long day. Dkt. No. 85 at 3-4.

9 Defendants counter that plaintiff "has significant pre-existing psychological issues related
10 to previous interactions with police unrelated to this lawsuit, previous civil litigation unrelated to
11 this lawsuit, and family stressors unrelated to this lawsuit that will require detailed examination by
12 a psychiatrist in the context of the claims and allegations made by Ms. Velarde in this case." Dkt.
13 No. 86 at 1. Defendants have submitted Dr. Gould's declaration in which he states that the
14 standard psychiatric testing that is part of the exam takes approximately two hours, but can take
15 considerably longer. Gould Decl. ¶ 6 (Dkt. No. 82-1). Dr. Gould also states that the interview
16 portion of the exam typically takes four to five hours, and can take longer depending on the
17 examinee. *Id.* ¶ 5. Defendants state it is possible Dr. Gould may not need eight hours to complete
18 the examination, but they request that the examination be set for a full eight hours in the event that
19 all the time is necessary.

20 The Court finds that defendants have demonstrated good cause for an eight hour
21 examination. Dr. Gould states that based upon his review of plaintiff's psychiatric records and
22 history, as well as the fact that plaintiff has not previously undergone objective psychological
23 testing, it is his opinion that it would be very difficult to complete the examination within five
24 hours. While the Court recognizes that eight hours of examination may be difficult and tiring for
25 plaintiff, those concerns do not outweigh defendants' need to adequately evaluate plaintiff's
26 mental state. Accordingly, the Court GRANTS defendants' motion to compel the stipulated
27 mental examination of plaintiff. The exam shall take place on a mutually agreeable date and time,
28 and may last up to eight hours, not including breaks. Although the Court expects that eight hours
shall be sufficient to complete the examination, defendants may seek additional time upon a

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showing of good cause.

IT IS SO ORDERED.

Dated: June 6, 2017



SUSAN ILLSTON
United States District Judge