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24 M.M. and MICHELE SMITH

25 UNITED STATES DISTRICT COURT
26 NORTHERN DISTRICT OF CALIFORNIA

27 MICHELE SMITH and M.M., a minor by and
28 through his guardian ad litem MICHELE SMITH

Plaintiff(s),

vs.

ANTIOCH UNIFIED SCHOOL DISTRICT,
TOBINWORLD, SARA FORGHANI, ANDREW
ALTES and DOES 1-30

Defendant(s).

) CASE No. 3:16-cv-01676-RS

) Assigned to Hon. Richard Seeborg

) **STIPULATION AND [PROPOSED]
ORDER FOR MENTAL EXAMINATION
OF PLAINTIFF M.M. [FRCP Rule 35(a)]**

) Complaint Filed: April 4, 2016
) Amended Complaint Filed: July 28, 2016

1 IT IS HEREBY STIPULATED by and between Plaintiff M.M. and Defendants
2 TOBINWORLD, SARA FORGHANI, ANDREW ALTES, and ANTIOCH UNIFIED SCHOOL
3 DISTRICT that:

4 1. Plaintiff M.M. will submit to a mental examination, consisting of a psychiatric
5 examination which will be performed by Richard Shaw, M.D. ("Dr. Shaw"), board certified
6 psychiatrist and child and adolescent psychiatrist, on June 27, 2017 at 9:00 a.m. at the Autism
7 Center of Northern California located at 870 Market St., Suite 472, San Francisco, California and a
8 psychological examination which will be performed by Mariam King, PsyD., a child clinical
9 psychologist at the Autism Center of Northern California (as to M.M. only), on July 11, 2017 at
10 10:30 a.m. at the Autism Center of Northern California located at 870 Market St., Suite 472, San
11 Francisco, California.

12 2. The examinations, which will include reasonable breaks and a 30 minute lunch
13 break, will last a maximum of six (6) hours, divided between parent and child. Any questionnaires
14 will be provided to Plaintiffs in advance of the examinations. The Mental Examination is an
15 official court proceeding expected to start on time on the day and time agreed to.

16 3. Content of the **psychiatric assessment** will include:

17 a. A 2-3 hour semi-structured interview alone with MICHELE SMITH during which
18 the topics of inquiry will include:

19 i. Details of current psychiatric symptoms of M.M. including nature of
20 difficulties and for each identified symptom:

- 21 1. Duration;
- 22 2. Frequency and intensity;
- 23 3. Precipitants;
- 24 4. Circumstances in which the symptoms occur
- 25 5. Consequences including degree of distress; interference with social,
26 family, cognitive, emotional and/or academic functioning; adverse
27 impact on development;
- 28 6. Details of attempts to get help/treatment.

- 1 ii. Developmental history including pregnancy, birth, prenatal exposure to
2 drugs or alcohol, and early infancy.
- 3 iii. Physical development and medical history.
- 4 iv. School history.
- 5 v. Composition of family and relationships with family members.
- 6 vi. Peer and social relationships.
- 7 b. A 1-2 hour structured interview alone with M.M. during which the topics of inquiry
8 will include:
- 9 i. Details of current psychiatric symptoms including nature of difficulties and
10 for each identified symptom:
- 11 1. Duration;
- 12 2. Frequency and intensity;
- 13 3. Precipitants;
- 14 4. Circumstances in which the symptoms occur;
- 15 5. Consequences including degree of distress; interference with social,
16 family, cognitive, emotional and/or academic functioning; adverse
17 impact on development;
- 18 6. Details of attempts to get help/treatment;
- 19 ii. School history;
- 20 iii. Past psychiatric history;
- 21 iv. History of alcohol or substance abuse;
- 22 v. Legal history;
- 23 vi. Prior history of abuse or trauma;
- 24 vii. Composition of family and relationships with family members;
- 25 viii. Peer and social relationships;
- 26 c. If indicated, MICHELE SMITH will complete questionnaires to rate the frequency
27 and intensity of her child's psychiatric symptoms, which may include ratings of
28 symptoms of depression (Child Depression Inventory) and posttraumatic stress

1 disorder (UCLA PTSD Index Parent Report).

2 d. If indicated, M.M. will complete questionnaires to rate the frequency and intensity
3 of his psychiatric symptoms, which may include ratings of symptoms of depression
4 (Child Depression Inventory), anxiety (Multidimensional Anxiety Scale for
5 Children), and posttraumatic stress disorder (UCLA PTSD Index – Patient Report).

6 4. Content of the **psychological assessment** will include:

7 a. A structured interview alone with MICHELE SMITH to be conducted by Mariam
8 King, Psy.D., a child clinical psychologist at the Autism Center of Northern
9 California. As part of this interview, Ms. Smith will be asked to respond to
10 standardized questions from the Vineland Behavior Adaptive Scale. Ms. Smith will
11 be asked to execute a consent form acknowledging that the psychological
12 assessment is for forensic purposes only and not meant as diagnosis, treatment, or as
13 any clinical care service.

14 b. Psychological testing of M.M., including cognitive testing, autism testing, and
15 adaptive behavior testing. This testing will be administered by Mariam King,
16 Psy.D. and will not exceed 3 hours. A Ph.D. graduate student in clinical psychology
17 will also be present.

18 5. A representative of Plaintiffs' attorney's office may be present outside of the
19 examination room during any portion of the Mental Examination and may not interfere with the
20 examination unless Plaintiff requires assistance.

21 6. All testing, examination, and interviews with M.M. will be subject to video and
22 audio recording, which will be arranged for by counsel for Plaintiffs; the video setup must allow
23 for M.M.'s face to be captured during the testing, examination, and interviews; the interview with
24 MICHELE SMITH will be subject to audio recording, which will be arranged for by counsel for
25 Plaintiffs; any and all video/audio recordings taken during the IME shall be made available to all
26 parties. MICHELE SMITH will be permitted to watch a live video feed, in a separate room, of
27 M.M.'s psychiatric interview and psychological assessment.

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1 7. Dr. Shaw and Dr. King shall conduct all portions of the IME. No other staff
2 members or representatives of Defendants, Defendants' attorneys, or other persons shall be present
3 in the examination room except that a Ph.D. graduate student in clinical psychology may be present
4 during the psychological testing of M.M. administered by Dr. King.

5 8. Defendants shall produce to Plaintiffs' counsel the written reports of Dr. Shaw and
6 Dr. King, in keeping with Federal Rules of Civil Procedure Rule 35(b), which requires that "the
7 examiner's report must be in writing and must set out in detail the examiner's findings, including
8 diagnoses, conclusions, and the results of any tests" be provided to the examined party.

9 9. Plaintiff will be allowed reasonable breaks during the examination, including 30
10 minutes for lunch. If Plaintiff's stamina or condition worsens to the point that he is unable to
11 complete the exam, an additional session will have to be scheduled with any remaining time left off
12 the original 6 hours.

13 10. The examinations by Dr. Shaw and Dr. King will be the only mental examination
14 conducted by Defendants TOBINWORLD, SARA FORGHANI, ANDREW ALTES, and
15 ANTIOCH UNIFIED SCHOOL DISTRICT.

16 **IT IS SO STIPULATED.**

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18 Dated: June 23, 2017

PERRY, JOHNSON, ANDERSON,
MILLER & MOSKOWITZ LLP

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21 /s/David F. Beach
22 DAVID F. BEACH
23 ANNE C. D'ARCY
24 Attorneys for Defendants
25 TOBINWORLD and SARA FORGHANI

26
27 Dated: June 23, 2017

LAW OFFICES OF TODD BOLEY

28 /s/Todd Boley
29 TODD BOLEY
30 Attorneys for Plaintiffs
31 M.M. and MICHELE SMITH

1 Dated: June 23, 2017

LAW OFFICE OF PETER ALFERT

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3 /s/Peter Alfert
4 PETER ALFERT
5 Attorneys for Plaintiffs
6 M.M. and MICHELE SMITH

7 Dated: June 23, 2017

CHAPMAN & INTRIERI, L.L.P.

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9 /s/Mark G. Intrieri
10 MARK G. INTRIERI, ESQ.
11 JESSICA A. FAKHIMI, ESQ.
12 Attorneys for Defendant
13 ANTIOCH UNIFIED SCHOOL DISTRICT

14 Dated: June 23, 2017

LEONE & ALBERTS

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16 /s/Louis Leone
17 LOUIS LEONE, ESQ.
18 Attorneys for Defendant
19 ANTIOCH UNIFIED SCHOOL DISTRICT

20 Dated: June 23, 2017

ERICKSEN ARBUTHNOT

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22 /s/Lois A. Lindstrom
23 LOIS A. LINDSTROM, ESQ.
24 Attorneys for Defendant
25 ANDREW ALTES
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~~[PROPOSED]~~ ORDER

Having read and considered the Stipulation of [Proposed] Order for Mental Examination of Plaintiff M.M. [FRCP Rule 35(a)] and good cause appearing, it is hereby ordered that Plaintiff submit to a Mental Examination at the dates, times, and location as agreed upon in the Stipulation.

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: 6/26/17



Hon. Judge R. Seeborg