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Attorneys for Defendant
COHEN & STEERS CAPITAL MANAGEMENT, INC.

UNITED STATES DISTRICT COURT
IN AND FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

JANET HALEY,

Plaintiff,

v.

COHEN & STEERS CAPITAL
MANAGEMENT, INC., A New York
Corporation Doing Business in California; and
DAVID EDLIN, an individual,

Defendants.

Case No. C10-03856-PJH

**STIPULATION REGARDING
PLAINTIFF'S MENTAL
EXAMINATION PURSUANT TO
FRCP 35
AND ORDER BY COURT**

Plaintiff Janet Haley ("Haley") and Defendants Cohen & Steers Capital Management, Inc. ("Cohen & Steers") and David Edlin ("Edlin") (collectively, "Defendants") (collectively, "the Parties"), by and through their respective counsel, hereby stipulate with regard to an independent mental health examination under Rule 35 of the Federal Rules of Civil Procedure as follows:

I. IDENTIFICATION AND PERSONAL INFORMATION

Plaintiff recognizes the examiner's, Dr. Bernard S. Rappaport, need to identify Plaintiff at the time of the examination and will provide the following information:

1. Full name;
2. Date of birth;

1 3. Current residence address;

2 4. Social Security Number.

3 Plaintiff will not be required by Dr. Rappaport to complete any forms other than those
4 that are part of the written tests identified in paragraph B(2) of this stipulation or provide
5 Dr. Rappaport with the following:

6 1. Residence telephone number;

7 2. Medical insurance information or other insurance information.

8 **II. EXAMINATION**

9 1. Dr. Rappaport will conduct a mental examination of plaintiff on December 20,
10 2011 commencing at 9:00 a.m. at 3 Altarinda Road, Suite 207, Orinda, CA 94563.

11 2. Dr. Rappaport's psychiatric evaluation will consist of a mental status
12 examination, an assessment of current functioning, delineation of the allegations, and exploration
13 of concurrent mental health history and past mental health history. The examination will consist
14 of the taking of a history, including family history, educational history and work history.
15 Dr. Rappaport may employ widely accepted written tests, including the Minnesota Multiphasic
16 Personality Inventory-2 (MMPI-2), among others. All of these tests and measures are routinely
17 utilized by mental health care professionals when conducting independent mental examinations.
18 Dr. Rappaport will agree to exchange said testing (raw data) with Plaintiff's expert psychologist
19 Linda Barnard, Ph.D., 418 Alhambra Blvd., Sacramento, CA 95816, (916) 606-8748, within
20 seven (7) days of the date of the independent mental health exam.

21 3. Dr. Rappaport may ask, and Plaintiff shall answer, questions relating to the nature
22 of events that Plaintiff claims were the cause of the emotional damages that are the subject of
23 this action. Dr. Rappaport may also ask, and Plaintiff shall answer, questions about other
24 stressors in Plaintiff's life that may have impacted and may continue to impact her mental health
25 and/or mental state. To the extent that Plaintiff's intimate relationships have impacted and may
26 continue to impact her mental health and/or mental state, Dr. Rappaport may inquire into such
27 subjects. Dr. Rappaport shall not, however, inquire into the details of Plaintiff's sexual
28 relationship with any person unless Plaintiff claims that she is suffering from sexual dysfunction

1 or problems as a result of wrongs she attributes to Defendant. Dr. Rappaport may also inquire
2 into Plaintiff's general social history and the general social interactional patterns in which
3 Plaintiff has engaged. Questions relating to Plaintiff's work environment and allegations set
4 forth in the complaint will be permitted, but Dr. Rappaport should already be familiar with the
5 case and Plaintiff's deposition so unduly repetitive questions are avoided and minimized.

6 4. No one other than Dr. Rappaport (or a designee appointed by Dr. Rappaport) and
7 Plaintiff shall be present during the examination. All forms and questionnaires required in
8 connection with the psychological testing must be completed by Plaintiff herself, without outside
9 assistance of her counsel or any other person. Neither party may record the examination through
10 audio, video, or other electronic means.

11 5. Dr. Rappaport shall be provided by Defendant's counsel copies of any medical
12 records relating to the Plaintiff's emotional and mental health claims as alleged as part of this
13 action prior to her examination by Dr. Rappaport. The parties agree to exchange written reports
14 prepared by Dr. Rappaport and any individual retained by Plaintiff for the purpose of evaluating
15 Plaintiff, pursuant to Rule 35(b) of the Federal Rules of Civil Procedure. Counsel for Plaintiff
16 shall be provided with Dr. Rappaport's report within thirty (30) days of the examination or by
17 the date required pursuant to the current Scheduling Order. Plaintiff also demands copies of any
18 and all supplemental reports prepared by Dr. Rappaport. Dr. Rappaport's report, and any
19 supplemental reports, will be marked as "CONFIDENTIAL" pursuant to the Stipulated
20 Protective Order. Any and all of Dr. Rappaport's reports, notes, charts, and other documents will
21 not be provided to any individual or entity outside of this litigation.

22 6. While testifying at trial, Dr. Rappaport may refer to a particular response or
23 answer given by Plaintiff in response to any written testing device administered by the examiner.

24 7. The entire mental health exam shall be conducted during normal business hours,
25 with an hour for lunch plus appropriate breaks, and shall last no more than seven hours.

26 8. This stipulation is being entered into pursuant to Federal Rule of Civil
27 Procedure 35, and, except as expressly provided in the stipulation, the examination will be
28 conducted pursuant to Federal Rule of Civil Procedure 35.

1 9. A copy of this stipulation shall be forwarded to Dr. Rappaport and Dr. Rappaport
2 shall acknowledge, in writing, that he will conduct the mental examination pursuant to the terms
3 of this stipulation.

4 IT IS SO STIPULATED.

5
6 DATED: November 8, 2011

SEYFARTH SHAW LLP

7
8 By /s/ Andrea N. de Koning
Andrea N. de Koning
9 Attorneys for Defendant
COHEN & STEERS CAPITAL
10 MANAGEMENT, INC.

11 DATED: November 15, 2011

SHEA LAW OFFICES

12
13 By /s/ Mary Shea Hagebols
Mary Shea Hagebols
14 Attorney for Plaintiff Janet Haley

15 DATED: November 15, 2011

VAN DE POEL LEVY & ALLEN LLP

16
17 By /s/ Jeffrey William Allen
Jeffrey William Allen
18 Attorneys for Plaintiff Janet Haley

19 DATED: November 15, 2011

AKIN GUMP STRAUSS HAUER & FELD
20 LLP

21
22 By /s/ Catherine A. Conway
Catherine A. Conway
23 Attorneys for Defendant David Edlin

24 **ORDER**

25
26 It is hereby ORDERED that Plaintiff Janet Haley submit to a mental examination
27 performed by Dr. Bernard Rappaport on December 20, 2011 at 9:00 a.m. at 3 Altarinda Road,
28

1 Suite 207, Orinda, CA 94563 pursuant Rule 35 of the Federal Rules of Civil Procedure and the
2 terms of the above stipulation.

3 IT IS SO ORDERED.

4
5 DATED: 11/17/11

6 DISCOVERY MATTERS SHOULD GO
7 TO MAGISTRATE JUDGE LAPORTE
8 IN THE FUTURE.

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