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6 UNITED STATES DISTRICT COURT  
 7 NORTHERN DISTRICT OF CALIFORNIA  
 8 SAN JOSE DIVISION

9 CUC DANG,  
 10 Plaintiff,  
 11 vs.  
 12 SUTTER’S PLACE, INC. dba BAY 101 or  
 13 BAY 101 CASINO, et. al.,  
 14 Defendants.

Case No. 10-CV-02181 (RMW) (PSG)

**AMENDED STIPULATION AND**  
**~~PROPOSED~~**  
**ORDER FOR INDEPENDENT MENTAL**  
**EXAMINATION OF PLAINTIFF**

**[Fed. R. Civ. P. 35]**

Complaint Filed: May 20, 2010

17  
 18 On December 12, 2011, the Court issued an Order based upon a December 9, 2011  
 19 Stipulation submitted by Plaintiff and Defendant for an independent mental examination of  
 20 Plaintiff to take place on January 24, 2012. Plaintiff has just received notice that her appearance  
 21 at a Naturalization Oath Ceremony is required on January 24, 2012 to complete her  
 22 naturalization process to become a US citizen. To permit Plaintiff to attend the Naturalization  
 23 Oath Ceremony, the parties have agreed to continue Plaintiff’s IME for three (3) days. In order  
 24 to avoid prejudice to Defendant for this brief continuance, the parties have also agreed to  
 25 continue the trial deadlines pertaining to expert discovery.

26 Accordingly, Plaintiff, Cuc Dang (“Dang”), and defendant, Sutter’s Place, Inc. dba Bay  
 27 101 (“Bay 101”) (collectively “the parties”), by and through their respective attorneys of record,  
 28

1 hereby submit this amended stipulation with respect to the time, place, manner, conditions,  
2 examiner and scope of examination for an independent mental examination of Dang. A separate  
3 stipulation and proposed order will be submitted with respect to the continuance of trial  
4 deadlines pertaining to expert discovery.

5 1. Dang has placed her mental condition in controversy. In her First Amended  
6 Complaint (“FAC”), Dang alleges that as a result “of the harassment and unfair treatment she  
7 suffered [at Bay 101], plaintiff became severely distressed and depressed[,] ... was forced to  
8 seek medical treatment for the severe stress and depression, and was placed on medical disability  
9 for several weeks.” (FAC, ¶ 26). Dang further alleges that “[a]s a direct, foreseeable, and  
10 proximate result of Bay 101’s discriminatory acts, [she] has suffered, and continues to suffer, ...  
11 humiliation, embarrassment, severe mental and emotional distress, and discomfort[.]” (FAC, ¶¶  
12 56, 63, 71, 77, 83, and 90).

13 2. To date, Dang continues to receive treatment for the stress and depression she is  
14 claiming in this litigation.

15 3. Good cause exists for an independent mental exam (“IME”). Dang’s FAC and  
16 deposition testimony both allege that Dang has suffered, and continues to suffer, from emotional  
17 distress as a result of the conduct at Bay 101 as alleged in her FAC.

18 4. The IME will be conducted by Dr. Mark Lipian, M.D., Ph.D., on **Friday,**  
19 **January 27, 2012,** at his office in San Francisco located at 50 California Street, Suite 1500, San  
20 Francisco, California 94111, (415) 477-9330. The IME will begin at 9:00 a.m. and will end no  
21 later than 5:00 p.m., including meal and rest breaks. However, if Dang is not present at the IME  
22 by 9:00 a.m., then the IME will end eight (8) hours from its starting time, including meal and rest  
23 breaks. Dr. Lipian will audio record the IME.

24 5. Also present at the IME will be a certified Vietnamese interpreter for Dang. No  
25 one else shall be allowed in the examination.

26 6. Dr. Lipian practices psychiatry and forensic psychiatry in Los Angeles, San  
27 Francisco and Newport Beach, California. He serves as the Chief of Psychiatry, Forensic  
28 Outpatient Services, for the Orange County Health Care Agency, and is the Medical Director of

1 the Conditional Release Program of Orange County. He has served as an Assistant Clinical  
2 Professor in the Department of Psychiatry and Biobehavioral Sciences at UCLA since 1991  
3 where he teaches clinical and forensic psychiatry to residents and postgraduate fellows in  
4 Forensic Psychiatry. Dr. Lipian is licensed to practice medicine in the State of California, and is  
5 Board Certified in both Psychiatry and Forensic Psychiatry by the American Board of Psychiatry  
6 and Neurology.

7           7.       The scope of Dr. Lipian's examination shall be limited as set forth in Paragraphs  
8 7, 8 and 9 below. Dr. Lipian will conduct a forensic psychiatric evaluation of Dang so as to  
9 evaluate the nature and extent of Dang's mental and emotional distress if any, and the cause(s)  
10 thereof, together with whether Dang's past experiences or psychological conditions provide an  
11 explanation for Dang's perception of disputed fact allegations or an explanation for the mental  
12 and emotional distress she claims to have suffered. Dr. Lipian will conduct a standard forensic  
13 psychiatric examination which consists of a one-day interview with Dang where he will ask  
14 Dang general open-ended questions about her medical and mental history and the possible  
15 sources of any alleged emotional trauma.

16           8.       Dr. Lipian's exam will include a review of Dang's medical and mental health  
17 history. Dr. Lipian must determine, for example, whether Dang suffered from prior traumas (in  
18 the form of injuries, diseases, or life events) that may bear on her current mental state. He must  
19 determine whether Dang is taking, or has taken, any medications that might have produced  
20 relevant side effects. He must determine how Dang has coped with any significant stressors in  
21 the past and whether and to what extent her current condition differs from past stressors; and he  
22 must determine whether Dang suffers from a psychotic and/or personality disorder, its extent and  
23 prognosis, that may bear upon Dang's mental state and capacity at the time of events at issue and  
24 its possible impact upon those events, as well as upon her present mental state and capacity. Dr.  
25 Lipian must also determine the interrelationship, if any, between psychiatric condition and  
26 physical complaints; and which, if either, preceded, caused, underlay, or resulted from the other  
27 in this case. From a psychiatric standpoint, all of these areas of inquiry relate to Dang's mental  
28 condition.



1 Dated: January 11, 2012

ROBINSON & WOOD, INC.

2  
3 /s/  
ANN A. NGUYEN  
4 Attorneys for Plaintiff,  
CUC DANG  
5

6 **ORDER**

7 Good cause appearing therefor, an independent mental exam of Cuc Dang may be  
8 conducted by Dr. Mark Lipian, with the assistance of a certified Vietnamese interpreter, on  
9 Friday, January 27, 2012, from 9:00 a.m. to 5:00 p.m. at 50 California Street, Suite 1500, San  
10 Francisco, California 94111, according to the manner, conditions and scope of examination as set  
11 forth in the above stipulation.  
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13 Dated: 1/20/2012

14 *Paul S. Arenal*  
15 UNITED STATES DISTRICT COURT  
16 NORTHERN DISTRICT OF CALIFORNIA  
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