

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 15-cv-01301-PAB-NYW

JOLIE MBAKU,

Plaintiff,

v.

ADECCO USA, INC., and
CHARLES SCHWAB & CO., INC.,

Defendants.

ORDER GRANTING UNOPPOSED MOTION FOR RULE 35 EXAMINATION

Magistrate Judge Nina Y. Wang

This matter is before the court on Defendant Charles Schwab & Co., Inc.'s Unopposed Motion for Mental Examination of Plaintiff (the "Motion"). [#49, filed Mar. 25, 2016]. The Motion was referred to the court pursuant to the order of referral dated June 30, 2015 [#8] and the memorandum dated March 25, 2016 [#50].

Defendant requests, pursuant to Fed. R. Civ. P. 35, that the court order Plaintiff to attend a proposed medical examination by Dr. Doris C. Gunderson, M.D. [#49 at 1]. Defendant represents that it conferred with Plaintiff and that Plaintiff does not oppose the Motion. [*Id.*].

Pursuant to Fed. R. Civ. P. 35, an order for a physical examination of a party whose physical condition is in controversy may be entered provided that there is good cause for the order and that notice is given to all parties and the person to be examined. The order "must specify the time, place, manner, conditions, and scope of the examination, as well as the person

or persons who will perform it.” *Id.* The court finds that the Plaintiff has placed her mental condition in controversy in this action and that good cause exists for the order. Because Plaintiff’s mental condition is directly at issue in this case, there is good cause for an appropriate physical examination.

Accordingly, it is hereby ordered that Defendant Charles Schwab & Co., Inc.’s Unopposed Motion for Mental Examination of Plaintiff pursuant to Federal Rule of Civil Procedure 35 is GRANTED. Plaintiff’s mental examination will be conducted by Dr. Doris C. Gundersen, M.D., on March 28, 2016 from 1:00pm to 4:00pm in Dr. Gundersen’s office, 425 S. Cherry Street, Suite 630, Denver, Colorado 80246. The mental examination will include taking Plaintiff’s mental health history; evaluating whether she currently suffers from any diagnosable mental disorder and, if so, what caused or contributed to any such disorder; and evaluating the impact, if any, on Plaintiff’s ability to perform major life activities such as working.

IT IS ORDERED that the Motion is **GRANTED**.

DATED: March 28, 2016

BY THE COURT:

s/Nina Y. Wang
United States Magistrate Judge