

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

Sandra Memmesheimer,

Plaintiff,

vs.

Case No. 3:09-cv-1035-J-25MCR

State Farm Mutual Automobile Insurance
Company,

Defendant.

ORDER

THIS CAUSE is before the Court on Defendant's Amended Motion for Order for Rule 35 Physical Examination (Doc. 13) filed March 19, 2010. Defendant seeks to have an orthopaedic surgeon examine Plaintiff in order to "determine whether she sustained a permanent physical injury as a result of the accident [which is at issue in this case], and express opinions regarding diagnosis, causation, prognosis, and permanency." (Doc. 13, p.2). Defendant proposes the exam be conducted by Dr. Marc E. Harr on April 13, 2010 at 8:00 a.m.

Rule 35(a)(1) and (2) of the Federal Rules of Civil Procedure provides:

The court where the action is pending may order a party whose mental or physical condition [] is in controversy to submit to a physical or mental examination by a suitably licensed or certified examiner . . .

The order may be made only on motion for good cause and on notice to all parties and the person to be examined; and must specify the time, place, manner, conditions, and scope

of the examination, as well as the person or persons who will perform it.

Rule 35(a)(1) and (2), Fed.R.Civ.P.

According to Defendant, Plaintiff has placed her physical condition at issue by claiming to have “sustained permanent physical injuries to her neck and back . . . as a result of the motor vehicle accident alleged in the Complaint.” (Doc. 13, p.1).

Additionally, Defendant notes Plaintiff does not oppose the examination. The Court finds Plaintiff has indeed placed her physical condition into controversy, that good cause exists for the medical examination, and as there is no opposition, will grant the request for examination by Dr. Harr pursuant to Rule 35.

Accordingly, after due consideration, it is

ORDERED:

1. Defendant’s Amended Motion for Order for Rule 35 Physical Examination (Doc. 13) is **GRANTED**.

2. Plaintiff shall submit to a medical examination by Dr. Marc E. Harr, at the Orthopaedic Center of Volusia, 1630 Mason Avenue, Daytona Beach, Florida 32117 on **Tuesday, April 13, 2010 at 8:00 a.m.**

DONE AND ORDERED in Chambers in Jacksonville, Florida this 22nd day of March, 2010.

Monte C. Richardson

MONTE C. RICHARDSON
UNITED STATES MAGISTRATE JUDGE

Copies to:

Counsel of Record