

IN THE CIRCUIT COURT FOR BALTIMORE CITY, MARYLAND

AINSLEY DONOVAN PECKOO, *

Plaintiff, *

v. *

CASE NO.: 24-C-04-006398 MT

JOSEPH HENRY WALKER, *

Defendant. *

* * * * *
**PLAINTIFF'S RESPONSE TO DEFENDANT'S
MOTION TO COMPEL PHYSICAL EXAMINATION**

Ainsley Peckoo, Plaintiff, by and through her attorneys, Ronald V. Miller, Jr., J. Matthew Bodman and Miller & Zois, LLC, requests that this Honorable Court deny Defendant's Motion to Compel a Physical Examination because Plaintiff has not filed a good faith certificate and because it has not offered any fact, evidence or argument in support of his motions. In further support, Plaintiff states as follows:

1. As set forth in Defendant's Exhibit A, Defendant's counsel made an appointment for a defense medical exam in less than three weeks without consulting with counsel regarding a convenient date for Plaintiff or to discuss the conditions and scope of the examination.
2. Plaintiff's counsel responded with a list of conditions. See Defendant's Exhibit B.
3. Without filing a certificate of merit, Defendant filed his motion to compel.
4. Physical examinations of plaintiffs are not a matter of right, but remain within the discretion of the court. Maryland Rule 2-423.

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5. Defendant states that these conditions are “onerous, ridiculous, and unnecessarily fetter the defense.” Counsel does not bother to explain why this is so. Is it onerous or ridiculous that the Plaintiff, for example, be given the option of being “accompanied by a nurse, friend or relative whose role will be limited solely to observation” or that this be the “only medical exam to which the plaintiff will be required to submit”? If so, why? Similarly, Plaintiff seeks assurances that Defendant will provide the examining doctor’s financial information (which he has since sought independently through discovery given Defendant’s refusal to comply with this request). Counsel needs to demonstrate why these and the other requests are onerous, ridiculous, and unnecessarily fetter the defense.

Accordingly, because Defendant failed to file a good faith certificate and because Defendant has refused to offer a scintilla of fact or argument to support its contention that conditions set by Plaintiff’s counsel are inappropriate, this Court should exercise its discretion and deny Defendant’s Motion to Compel. In the alternative, this Court should set a hearing to determine the appropriate conditions for defendant’s expert’s medical exam of the Plaintiff.

Respectfully submitted,

MILLER & ZOIS, LLC



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Certificate of Service

I hereby certify that a copy of the foregoing was sent via U.S. Mail, first-class, postage prepaid, this 25th day of November, 2005, to:

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* * * * *

ORDER

Upon consideration of the Defendant's Motion to Compel, it is this _____ day of _____, 2005, by the Circuit Court for Baltimore City, Maryland, hereby

ORDERED, that the Defendant's Motion to Compel be denied.

JUDGE

COPIES TO:

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