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JOHN T. FREY
CLERK, CIRCUIT COURT
FAIRFAX, VA

VIRGINIA :

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

JOHN C. DEPP, II

Plaintiff,

v.

AMBER LAURA HEARD

Defendant.

Civil Action No.: CL-2019-0002911

**DEFENDANT’S RULE 4:10 MOTION
FOR AN INDEPENDENT MENTAL EXAMINATION OF PLAINTIFF**

COME NOW the defendant Amber Laura Heard (“Defendant”), by counsel, pursuant to Rule 4:10 of the Rules of the Supreme Court of Virginia (the “Rules”) and moves this Court for an Order requiring plaintiff John C. Depp, II (“Plaintiff”) to submit to an Independent Mental Examination in accordance with Rule 4:10 and states as follows:

1. As set forth in the attached Memorandum in Support (“Memorandum”), which is incorporated herein by reference, Mr. Depp’s mental condition is in controversy and good cause exists for this Court to order a Rule 4:10 Independent Mental Examination of Plaintiff.

2. As set forth in the Memorandum, David R. Spiegel, M.D. (“Dr. Spiegel”) of Norfolk, Virginia is a board-certified psychiatrist licensed by the Virginia Board of Medicine and in good standing; he is a qualified health care provider as defined in Virginia Code § 8.01-581.1; and Dr. Spiegel is the appropriate health care provider to perform the Independent Mental Examination of Plaintiff pursuant to Rule 4:10. *See generally* Memo. at 4-5, Ex. 2 (Dr. Spiegel’s Curriculum Vitae).

3. Dr. Spiegel is prepared to conduct the Independent Mental Examination of Plaintiff on December 16, 2019 at or around 9:00 a.m. ET at Cameron/McEvoy, PLLC 4100 Monument

Corner Drive, Suite 420, Fairfax, Virginia 22030, or another date, time and location mutually agreed to by Mr. Depp and Dr. Spiegel.

4. If necessary or appropriate, Dr. Spiegel is available and willing to travel to any location within the United States to conduct the Independent Mental Examination of Plaintiff on any day in the following date range: December 16, 2019 to January 17, 2019.

5. Dr. Spiegel is prepared to conduct the Independent Mental Examination in a period not to exceed eight (8) hours of examination in a single day and beginning at or around 9 a.m. with a one (1) hour lunch break, two (2) fifteen minute (15 min.) breaks in the morning and two (2) fifteen minute (15 min.) breaks in the afternoon and/or a different break schedule if mutually agreed between Dr. Spiegel and Mr. Depp.

6. The Independent Mental Examination would be preceded by Dr. Spiegel's review of Mr. Depp's pertinent medical, psychiatric and counseling records, and relevant pleadings and information that identify relevant allegations, events and time frames at issue in this action.

7. The Independent Mental Examination would consist of a one-on-one interview and discussion between Dr. Spiegel and Mr. Depp, with appropriate testing as determined by Dr. Spiegel based on his training, experience and expertise.

8. Pursuant to Rule 4:10, the scope of Dr. Spiegel's Independent Mental Examination would be Plaintiff's current mental condition and his mental condition during relevant events and time frames at issue in:

(i) Plaintiff's Complaint;

(ii) Defendant's Declaration executed on May 26, 2016 that was submitted to the Superior Court of California, County of Los Angeles on May 27, 2016 in connection with Defendant's Request for Domestic Violence Restraining Order;

(iii) Defendant's Declaration executed on April 10, 2019 that was submitted to this Court in connection with Defendant's Motion to Dismiss pursuant to Va. Code § 8.01-265(i);

(iv) Plaintiff's Declaration executed in May of 2019 that was submitted to this Court in connection with Defendant's Motion to Dismiss pursuant to Va. Code § 8.01-265(i); and

(v) other documents and information produced or received through discovery.

9. The evaluation of Plaintiff's mental condition will include an evaluation of:

(i) Plaintiff's mental condition when under the influence of prescribed and non-prescribed drugs and alcohol;

(ii) Plaintiff's alleged (a) volatility, (b) paranoia, (c) temper, (d) aggressive and destructive tendencies; (e) delusional, irrational and incoherent ideations, (f) understanding of reality that "oscillates, depending upon his interaction with alcohol and drugs," and (g) need for anger management counseling, *see* Mem. in Supp. Ex. 1 at ¶¶ 5, 7, 9-12;

(iii) mood, psychotic and/or personality disorders;

(iv) alcohol and substance use disorders; and

(v) any other mental condition identified by Dr. Spiegel during his review of relevant records and/or examination of Mr. Depp.

10. Pursuant to Rule 4:10(a) and as will be fixed by this Court's Order, Dr. Spiegel will prepare and file a report of the Independent Mental Examination within twenty-one (21) days or fewer, if appropriate, of completion of the Independent Mental Examination.

11. Defendant, pursuant to the express language of Rule 4:10 and in light of Plaintiff's allegations and the matters in controversy in this case, petitions this Court for entry of an Order for Rule 4:10 Independent Mental Examination of Plaintiff.

WHEREFORE, Defendant Amber Laura Heard, by counsel, moves the Court for entry of an Order for a Rule 4:10 Independent Mental Examination of Plaintiff by David R. Spiegel, M.D. and such further and other relief as the Court deems proper.

Dated this 1st day of November, 2019

Respectfully submitted,
Amber L. Heard

By Court 

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CERTIFICATE OF SERVICE

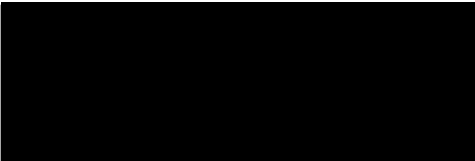
I certify that on this 1st day of November, 2019, a copy of the foregoing shall be served by first class mail, postage prepaid, and by email, upon:

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