

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

MELBA CAROLINA GALINDO,

Plaintiff,

v.

Case No: 2:17-cv-99-FtM-99CM

CITY OF CAPE CORAL, G.J.
BUONOCORE, J. DUFFY, T.N.
KORTWRIGHT, G.A. LYTLE, D.C.
RUSH, J.A. CARSON, A.P.
GALLO, J.P. CIELSLINSKI and
B.W. KEARNEY,

Defendants.

ORDER

This matter comes before the Court upon review of Defendants' Unopposed Motion to Compel Physical Examination of Plaintiff (Doc. 21) filed on February 2, 2018. According to Plaintiff's Amended Complaint, nine police officers, who are named as Defendants here, arrived at Plaintiff's residence on May 2, 2014 and questioned her regarding the whereabouts of her son. Doc. 11 ¶¶ 23-24. Plaintiff alleges that during the officers' encounter with her, the officers physically assaulted and battered her, causing her to suffer injury. *Id.* ¶ 25. Defendants seek to have Donn Fuller, M.D., conduct an orthopedic examination of Plaintiff on April 17, 2018 or such other date as agreed by the parties because Plaintiff's physical conditions are

in controversy here. Doc. 21 at 3-4. Plaintiff does not object to the requested relief.¹ *Id.* at 4.

Under Rule 35(a) of the Federal Rules of Civil Procedure, the court “may order a party whose mental or physical condition [] is in controversy to submit a physical or mental examination by s suitably licensed or certified examiner.” Fed. R. Civ. P. 35(a)(1). Rule 35 further states that 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.” Fed. R. Civ. P. 35(a)(2).

Here, by agreeing to an orthopedic examination, Plaintiff has conceded to the existence of good cause for an orthopedic examination. *Cartrette v. T&J Transport, Inc.*, No. 3:10-cv-277-J-25MCR, 2011 WL 652860, at *1 (M.D. Fla. Feb. 14, 2011). The Court also finds good cause for an orthopedic examination in light of Plaintiff’s alleged injuries. *See id.*

ACCORDINGLY, it is hereby

ORDERED:

1. Defendants’ Unopposed Motion to Compel Physical Examination of Plaintiff (Doc. 21) is **GRANTED**.

¹ On April 26, 2017, Senior United States District Judge John E. Steele entered a Case Management and Scheduling Order, setting the deadlines to disclose expert reports for Plaintiff to February 12, 2018 and for Defendants to February 28, 2018, the mediation deadline to April 26, 2018, the discovery deadline to May 21, 2018, the deadline for dispositive motions to May 30, 2018 and a trial term to commence on October 1, 2018. Doc. 20 at 1-2.

2. Plaintiff shall subject herself to an orthopedic examination by Donn Fuller, M.D., on **April 17, 2018**, or at a time and place mutually agreed by the parties.

DONE and **ORDERED** in Fort Myers, Florida on this 2nd day of February, 2018.



CAROL MIRANDO
United States Magistrate Judge

Copies:
Counsel of record