

**UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA**

Bagos v. City of Vallejo

No. 2:20-cv-00185-DAD-AC (E.D. Cal. Mar. 31, 2025) · No. 2:20-cv-00185-DAD-AC · Decided March 31,
2025

OPINION

Bagos v. City of Vallejo

PER CURIAM.

1 VERONICA A.F. NEBB

City Attorney, SBN 140001

2 By: KATELYN M. KNIGHT

Assistant City Attorney, SBN 264573 3 CITY OF VALLEJO, City Hall 555 Santa Clara Street,
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katelyn.knight@cityofvallejo.net 6 Attorneys for Defendants CITY OF VALLEJO,

7 MICHAEL JONES and NICKOLAS SLOAN

8 UNITED STATES DISTRICT COURT

9 EASTERN DISTRICT OF CALIFORNIA, SACRAMENTO DIVISION

10 ANGEL BAGOS, an individual, Case No. 2:20-cv-00185-DAD-AC 11 Plaintiff,
STIPULATION TO EXAMINATION

[FRCP 35]; [PROPOSED] ORDER

12 v. 13 CITY OF VALLEJO, a municipal corporation; NICKOLAS SLOAN in his individual
capacity 14 as a law enforcement officer for the CITY OF VALLEJO; MICHAEL JONES in his
15 individual capacity as a law enforcement officer for the CITY OF VALLEJO; and

16 DOES 1-50,

17 Defendants. 18

19 WHEREAS, Plaintiff ANGEL BAGOS has alleged a claim that Plaintiff suffered a brain 20
injury in connection with his arrest underlying this action; and 21 WHEREAS, the parties have
agreed that Defendants may conduct a neuropsychological 22 examination of Plaintiff; and 23
WHEREAS, Defendants have retained Catherine L. Marreiro, PhD, ABPP for the 24 purposes of
performing the examination; 25 IT IS HEREBY STIPULATED by and between Plaintiff ANGEL
BAGOS, by and 26 through his Guardian ad Litem JAMES BAGOS, and Defendants CITY OF
VALLEJO, 27 MICHAEL JONES, and NICKOLAS SLOAN, through their designated counsel,
that Plaintiff 1 Procedure as follows: 2 1. Said examination shall take place on April 25, 2025, at
9:00 a.m. and will be 3 conducted by Catherine Marreiro, PhD, ABPP-CN at the offices of Bay
Area Cognitive Health, 4 533 Airport Blvd, Suite 400, Burlingame, California 94010, Telephone
(650) 770-2224. The 5 examination may be rescheduled on reasonable notice by agreement of the

parties. 6 2. This examination will be conducted for the purpose of determining the nature and 7 extent of Plaintiff's physical injuries and the relationship thereof to the accident which is the 8 subject of this litigation. Dr. Marreiro shall conduct the examination of Plaintiff, which total 9 examination (from start to finish and including any written testing) may take up to 7 hours, not 10 including any reasonable and appropriate breaks or lunch Plaintiff may take as needed. The 11 exam involves history taking and observation of the Plaintiff to gather information in specific 12 areas. These areas shall include current complaints for which Plaintiff might seek care, and the 13 history of alleged injuries, including Plaintiff's subjective report of the events leading to injuries. 14 The examination will also gather information concerning the development of psychological and 15 physical symptoms, which treatments Plaintiff has received, and the effect of those treatments on 16 Plaintiff's symptoms. 17 3. The examination will gather important information about past psychological and 18 medical illnesses and difficulties, past behavioral difficulties, and educational and occupational 19 history. It will also gather important developmental information concerning the Plaintiff's 20 family of origin, including psychological, medical, and educational difficulties within her family, 21 and their educational background, work history, and social developmental history, including 22 information about marriages and children. Simultaneous with the first part of the examination, 23 Dr. Marreiro will make observations and inquiries necessary for a mental status evaluation of the 24 Plaintiff, including Plaintiff's moods, thought processes, and thought content. 25 4. Plaintiff will not be questioned concerning conversations with counsel, or any 26 person affiliated with counsel or counsel's offices, counsel's evaluation of any of Plaintiff's 27 claims against any of the Defendants, nor is Plaintiff to be questioned about any discussions 1 client and attorney work product privileges. 2 5. In conjunction with the interview and information gathering, the examination will 3 include a series of standardized and validated psychological and neuropsychological tests. The 4 tests are not duplicative of the examination interview and are accepted by the psychological and 5 neuropsychological community as useful for an informed and objective opinion as to the cause, 6 nature, and degree of emotional distress and cognitive dysfunction being claimed by the Plaintiff. 7 The parties agree that the test battery Dr. Marreiro uses is flexible and, to some extent, depends 8 on the nature of symptoms presented. As a consequence, the following list of anticipated tests is 9 provisional, with some omissions or substitutions likely: 10 A4/17/2025CS-Test of Premorbid Functioning 11 Delis-Kaplan Executive Function System (subtests) 12 Wechsler Adult Intelligence Scale IV 13 Wechsler Memory Scale IV (subtests) 14 Wide Range Assessment of Memory and Learning, 3rd Edition (subtests) 15 B-Test 16 Brief Visuospatial Memory Test – Revised 17 Brown Location Test 18 Conners Continuous Performance Test – 3 or Test of Variable Attention 19 Dot Counting 20 Boston Naming Test 21 NAB Naming Test 22 Controlled Oral Word Association Test 23 Animal Naming test 24 Repetition of phrases task 25 Victoria Symptom Validity Test 26 Rey Auditory Verbal Learning Test OR California Verbal Learning Test – 27 II or III 1 Victoria Stroop Test 2 Word Choice Test 3 Stroop Color Word Test

(Golden)

4 TOMM

5 Ruff Figural Fluency Test 6 Rey Figure Copy 7 Wisconsin Card Sorting Test – CV OR
Wisconsin Card Sorting Test OR 8 Wisconsin Card Sorting Test – 64 9 Grooved Pegboard Test
10 Wide Range Achievement Test – Fifth Edition 11 Woodcock Johnson Tests of
Achievement – 4th Edition (subtests) 12 Minnesota Multiphasic Personality Inventory- 3rd
Edition OR Minnesota 13 Multiphasic Personality Inventory-2-Restructured Format (MMPI-2-
RF) Or 14 Personality Assessment Inventory (PAI) 15 Trauma Symptom Inventory – 2 16
Word Memory Test 17 6. At the conclusion of any testing of Plaintiff by Dr. Marreiro, a copy of
“raw data” 18 generated by the exam and all test results regarding Plaintiff shall be exchanged
simultaneously 19 with Plaintiff’s neuropsychological expert only. With respect to the raw data
generated and all 20 test results regarding Plaintiff (hereinafter “Data”), the parties agree to the
following: 21 Access to “raw data” created in the testing is limited to, and shall be 22
exchanged only, between licensed neuropsychologists retained by the 23 parties, and shall not be
shared with counsel, or other experts. 24 Use of Data is limited to only that which is required
for the resolution of 25 the pending action; 26 “Raw Data” defined above, is subject to the
terms of this Stipulation and 27 may be used only for limited purposes in connection with this
action; 1 Defendants’ counsel’s possession will be destroyed, along with all copies 2 thereof, save
the Data in possession of Dr. Marreiro (not including Dr. 3 Marreiro’s formal written report) and 4

The parties shall seek to seal the record to the extent any portion of non- 5 privileged Data are
disclosed in pleadings, testimony, exhibits, or other 6 documents which would otherwise be
available for public inspection. 7 All “raw data”, and test results generated by Plaintiff’s neuro-
psych experts 8 in this action, when completed, shall be delivered directly to Dr. Marreiro 9 via
email. All reports generated from this testing shall be provided to 10 Defense counsel pursuant to
Federal Rule of Civil Procedure 35(b). 11 7. Dr. Marreiro will review her consent form with
Plaintiff who will be asked to sign 12 the consent following review of the content with Dr.
Marreiro. The consent form shall be 13 provided to Plaintiff’s counsel in advance. The consent
form outlines the purpose of the 14 evaluation, the lack of a doctor-patient relationship, lack of
direct feedback from Dr. Marreiro 15 regarding results, retaining party (responsible for payment
and recipient of results/report), and 16 limits of confidentiality (e.g., disclosure of abuse/neglect of
children or vulnerable adults, 17 disclosure of imminent risk of suicide/harm to others). 18 8.
Plaintiff shall be entitled to take reasonable breaks during the examination 19 process, including,
but not limited to taking a lunch break, rest breaks and bathroom breaks. If at 20 any time during
the proceedings, Plaintiff feels in reasonable good faith that the proceeding has 21 become
abusive, Plaintiff will immediately notify counsel or other designated representative in 22 order to
try to resolve the matter at that time. Plaintiff has the right to terminate the proceeding 23 and seek
a protective order from the Court. If the parties are unable to resolve the issue, should 24 the Court
order that the examination be reconvened, Defendants will have up to 8 hours, 25 including prior

time spent and not including reasonable and appropriate breaks and lunch, to 26 complete the examination originally ordered by the Court, but not any additional time. 27 9. No invasive or painful procedures will be utilized. This evaluation will be 1 Ragge v. MCA/Universal, 165 F.R.D. 605, 610 (C.D. Cal. 1995) and Underwood v. Fitzgerald, 2 229 F.R.D. 548, 550 (M.D. Tenn. 2005), the parties have stipulated that no videotaping or third- 3 party observation (by any person, including but not limited to, attorneys and court reporters) will 4 be allowed in connection with the examination. Dr. Marreiro will audio record the interview 5 portion of the exam. Plaintiff may also audio record the interview. If Plaintiff does not audio 6 record the interview portion on her own, Dr. Marreiro will provide access to this recording to 7 counsel for Plaintiff upon request. Dr. Marreiro will accommodate all reasonable requests to 8 accomplish this recording, including, but not limited to, taking any necessary breaks during the 9 examination, taking a break if technical difficulties arise, and making available all other 10 reasonable accommodations to allow the effective recording the defense mental examination. 11 10. Defendants are to immediately transmit a copy of this Stipulation and Order to 12 Dr. Marreiro to promptly advise her that she must comply with the Order, and by proceeding 13 with the examination, Dr. Marreiro will be deemed to have consented to its terms and to have 14 consented to this court asserting jurisdiction over her to enforce this order. 15 //// 16 //// 17 //// 18 19 20 21 22 23 24 25 26 27 1 □□□ Pursuant to FRCP 35(b), Defendants shall, on request, deliver a copy of 2 || Dr. Marreiro's report to Plaintiff's counsel. Dr. Marreiro's report shall be in writing and shall set 3 || forth in detail all findings, diagnoses, conclusions, and the results of any tests. Defendants are 4 || entitled to receive and Plaintiff shall provide any like reports of earlier or later examinations of 5S || the same condition. By requesting and obtaining the examiner's report, or by deposing the 6 || examiner, the Plaintiff waives any privilege it may have—in that action or any other action 7 || involving the same controversy—concerning testimony about all examinations of the 8 || same condition. 9 || SO STIPULATED. 10 }

Dated: March 24, 2025 LAW OFFICES OF

KENNETH CHIKE ODIWE, PC

11 /s/_K. Chike Odiwe (as authorized on 03/24/2025)

12 K. CHIKE ODIWE

Attorney for Plaintiff ANGEL BAGOS 13 14] Dated: March 25, 2025 /s/_ Katelyn M. Knight

KATELYN M. KNIGHT

15 Assistant City Attorney Attorney for Defendants CITY OF VALLEJO,

16 MICHAEL JONES and NICKOLAS SLOAN

17 || SO ORDERED

18 || DATED: March 31, 2025 19 20 Cttear,— Chore

4 ALLISON CLAIRE

UNITED STATES MAGISTRATE JUDGE

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7 STIPTIT ATION FOR BY AMINATION

