

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF  
CALIFORNIA

Coleman Elliott v. Autoquip Corporation

Elliott v. Autoquip · No. 2:23-cv-02355-JAM-CKD · Decided February 24, 2025

SUMMARY

The United States District Court for the Eastern District of California resolved a discovery dispute concerning the duration and scope of a Federal Rule of Civil Procedure 35 physical examination. The court limited Dr. Rubenstein’s independent medical examination to four hours and excluded examination of the genital, anal, and rectal areas.

CASE DETAILS

|                       |                                                                                                                                                                                                                            |
|-----------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | United States District Court for the Eastern District of California                                                                                                                                                        |
| WRITING FOR THE COURT | Carolyn K. Delaney                                                                                                                                                                                                         |
| JURISDICTION          | United States District Court for the Eastern District of California                                                                                                                                                        |
| DECIDED               | February 24, 2025                                                                                                                                                                                                          |
| DOCKET                | 2:23-cv-02355-JAM-CKD                                                                                                                                                                                                      |
| DISPOSITION           | other                                                                                                                                                                                                                      |
| PROCEDURAL POSTURE    | The parties submitted a joint statement regarding a discovery dispute concerning the length and scope of a physical examination under Federal Rule of Civil Procedure 35. The court ruled on the papers without a hearing. |
| STANDARD OF REVIEW    | The court reviewed the parties' joint statement and the relevant law in resolving the Rule 35 discovery dispute.                                                                                                           |
| PRECEDENTIAL VALUE    | nonprecedential                                                                                                                                                                                                            |

TOPICS

- discovery dispute
- civil procedure

PRACTICE AREAS

- civil procedure
- discovery

QUESTIONS PRESENTED

1. What duration was appropriate for the Rule 35 independent medical examination?
2. What body areas should be excluded from the scope of the physical examination?

#### HOLDINGS

1. The independent medical examination of Plaintiff by Dr. Rubenstein was limited to no more than four hours.
2. The examination was limited to exclude examination of the genital, anal, and rectal areas.

#### KEY QUOTATIONS

*“The length of Dr. Rubenstein’s Independent Medical Examination (“IME”) shall be no longer than four hours. Further, the scope of the examination shall be limited to exclude examination of the following specific body parts: genital, anal, or rectal areas.” (2)*

#### FACTUAL BACKGROUND

The parties disputed the permissible length and scope of Plaintiff's independent medical examination, scheduled for February 27, 2025. The examination was to be conducted by Dr. Rubenstein under Federal Rule of Civil Procedure 35. Discovery was scheduled to close on February 28, 2025.

#### PROCEDURAL HISTORY

Plaintiff filed the complaint in San Joaquin County Superior Court, and Defendant removed the action to the Eastern District of California. The parties filed a re-notice of motion and joint statement concerning the scheduled independent medical examination. The court granted the amended discovery-dispute request and imposed limits on the examination.

#### DISPOSITION

other

#### CASES CITED

- Narayan v. Compass Group USA, Inc., No. 2:17-cv-00999-MCE-CKD, 2019 WL 265109, at \*5

#### OPINION

1 J. DOMINIC CAMPODONICO (SBN 188035) 2 dcampodonico@grsm.com KRISTIN A. BLOCHER (SBN 283730) 3 kblocher@grsm.com GORDON REES SCULLY MANSUKHANI, LLP 4 315 Pacific Avenue San Francisco, CA 94111 5 Tel: (415) 986-5900 Fax: (415) 986-8054 6 Attorneys for Defendant 7 AUTOQUIP CORPORATION 8 UNITED STATES DISTRICT COURT 9 EASTERN DISTRICT OF CALIFORNIA 10 11 COLEMAN ELLIOTT, ) CASE NO. 2:23-cv-02355-JAM-CKD 12 ) Plaintiff, ) ORDER REGARDING DISCOVERY 13 ) DISPUTE PERTAINING TO LENGTH vs. ) OF TIME AND SCOPE OF PHYSICAL 14 ) EXAMINATION AUTOQUIP CORPORATION and DOES ) 15 1-25 ) ) Complaint filed September 5, 2023 16

Defendants. ) ) Removed from Superior Court of San 17 ) Joaquin County, STK-CV-UPL-2023- )  
0009514 18 Plaintiff Coleman Elliott and Defendant Autoquip Corporation (the “Parties”) filed on  
19 February 20, 2025 a re-notice of motion (“Motion”) for hearing date, along with the Parties’ 20  
accompanying Joint Statement Regarding Discovery Dispute (hereinafter, “Joint Statement”).

21 The Motion and Joint Statement relate to the length of time and scope of the physical 22  
examination scheduled to take place on February 27, 2025 at 1 p.m. pursuant to Federal Rules 23  
of Civil Procedure 35. The parties requested that the Court rule on the papers and without a 24  
hearing. Discovery closes February 28, 2025. 25 The court has reviewed the parties’ Joint  
Statement and the relevant law.

See Narayan 26 v. Compass Group USA, Inc., No. 2:17-cv-00999-MCE-CKD, 2019 WL 265109,  
\*5 (noting 27 that permissible Rule 35 examination was not “overly invasive”). ] 1. The amended  
request regarding discovery dispute (ECF No. 22) is GRANTED; 2 2.

The length of Dr. Rubenstein’s Independent Medical Examination (“IME”) shall be 3 no longer  
than four hours. Further, the scope of the examination shall be limited to 4 exclude examination of  
the following specific body parts: genital, anal, or rectal 5 areas. 6 IT IS SO ORDERED. 7 1) BS  
ge Fad fol) Ie dad ae 8 || Dated: February 24, 2025 Calf hk. “APs CAROLYN K. DELANEY 9  
UNITED STATES MAGISTRATE JUDGE 10 11 2 12 13 (14 1s am & 16 17 18 19 20 21 22 23  
24 25 26 27 28