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10 Attorneys for Defendant,
11 Patrick Byrne

12 **UNITED STATES DISTRICT COURT**
13 **CENTRAL DISTRICT OF CALIFORNIA**

14 ROBERT HUNTER BIDEN, an
15 individual,

16 Plaintiff,

17 vs.

18 PATRICK M. BYRNE, an individual,

19 Defendant.

20 Case No.: 2:23-cv-09430-SVW-PD
21 Judge: Honorable Stephen V. Wilson
22 Courtroom: "10A"

23 **JOINT STIPULATION FOR**
24 **INDEPENDENT MENTAL**
25 **EXAMINATION OF PLAINTIFF**
26 **ROBERT HUNTER BIDEN AND**
27 **[PROPOSED] ORDER**

28 Complaint Filed: November 8, 2023

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1 **TO THE HONORABLE PATRICIA A. DONAHUE**

2 Plaintiff Robert Hunter Biden (“Plaintiff”) and Defendant Patrick Byrne
3 (“Defendant”) (collectively the “Parties”) hereby submit this joint stipulation and
4 proposed order for an Independent Mental Examination pursuant to Rule 35(b)(6)
5 of the Federal Rules of Civil Procedure.

6 Plaintiff is seeking emotional distress damages in connection with his claim
7 for defamation against Defendant Patrick Byrne.

8 The Independent Mental Examination of Plaintiff Robert Hunter Biden will
9 be conducted by Dr. Nathan E. Lavid on October 11, 2024, beginning at 9:00 a.m.

10 Plaintiff and Defendant stipulate as follows:

11 1. Plaintiff Robert Hunter Biden shall appear at the mental examination
12 on October 11, 2024 at 9:00 a.m.

13 2. The mental examination(s) that will be performed by Dr. Nathan E.
14 Lavid. Dr. Lavid’s office is located at 834 E. 4th St., Suite F, Long Beach, CA
15 90802.

16 3. No one will accompany Plaintiff into the examination room. The
17 examination will be limited to seven hours of face to face interview time and
18 psychological testing, excluding breaks and paperwork, which is estimated to take
19 fifteen to thirty minutes.

20 4. The Parties hereby agree that the defense may conduct a single mental
21 examination of Plaintiff and will be required to seek leave of court for any
22 additional mental examinations.

23 5. Defendant represents that Dr. Nathan E. Lavid is a licensed medical
24 professional with the State of California and is in good standing.

25 6. The mental examination is expected to start on time on the day and
26 time agreed to by the Parties. If Plaintiff arrives later than the agreed upon
27 examination start time, that time may be made up at the end of the examination. If
28 Plaintiff does not cooperate with the examination, resulting in delay during the

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1 examination itself, then any further time needed to complete the examination will
2 be made up at the end of the examination. If Plaintiff fails to appear for the
3 examination on the date agreed by the parties, then Defendant may proceed with a
4 motion for payment of Dr. Nathan E. Lavid’s fees associated therewith for
5 reimbursement of the examiner’s fees. Plaintiff may cancel the examination up to
6 72-hours prior to the examination without consequence, and the examination will
7 be rescheduled upon a date and time that is mutually agreeable by all Parties.

8 7. Dr. Lavid may use, and Plaintiff shall cooperate in the use of, accepted
9 diagnostic tests, including but not limited to a clinical interview of Plaintiff and a
10 testing period during which Dr. Lavid will administer a variety of standardized
11 written tests.

12 8. It is anticipated that the examination will include a clinical interview
13 of Plaintiff and administration of the following tests: (1) SIRS (Structured Interview
14 of Reported Symptoms); (2) PAI (Personality Assessment Inventory); (3) MMPI-3
15 (Minnesota Multiphasic Personality Inventory, 3rd Edition); (4) Beck Depression
16 Inventory; (5) Beck Anxiety Inventory; (6) OCI-R (Obsessive-Compulsive
17 Inventory – Revised); (7) YMRS (Young Mania Rating Scale); (8) PCL-C (PTSD
18 Checklist—Civilian Version); (9) PCL-5 (PTSD Checklist) with LEC-5; (10)
19 Clinician-Administered PTSD Scale for DSM-5; (11) MMSE (Folstein Mini
20 Mental State Examination); (12) MoCA (Montreal Cognitive Assessment); and (13)
21 VIP (Validity Indicator Profile)

22 9. Dr. Lavid will inquire into aspects of Plaintiff’s alleged emotional
23 distress and psychological functioning. The interview may include Plaintiff’s
24 claimed emotional damages in addition to his medical history, psychological
25 history, personal history, social history, and educational history.

26 10. Dr. Lavid is permitted to inquire concerning the general health of
27 family members and the existence of medical or mental conditions and whether
28 treatment was received. Plaintiff will fully participate in the mental exam to the

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1 best of his abilities. In the event Dr. Lavid believes in good faith that Plaintiff is not
2 participating and/or obstructing the examination, Dr. Lavid will notify counsel for
3 Defendant in order to attempt to resolve the matter at that time with Plaintiff’s legal
4 counsel. If the Parties are unable to resolve the issue, Defendant reserves the right
5 to terminate the examination and file a Motion to Compel with the Court and either
6 party may seek monetary sanctions.

7 11. Dr. Lavid shall conduct the examination of Plaintiff, which total
8 examination (from start to finish and including any written testing) shall not take
9 more than seven hours, which shall include lunch breaks, rest breaks, and bathroom
10 breaks. This total hour limitation is subject to Plaintiff participating in the
11 examination to the best of his abilities and not obstructing the examination. If at
12 any time during the proceedings, Plaintiff feels in reasonably good faith that the
13 proceeding has become abusive or harassing, he will immediately notify his counsel
14 or other designated representative in order to try to resolve the matter at that time.

15 12. Defendant shall provide a copy of a detailed written report to
16 Plaintiff’s counsel setting out the history, examinations, findings, including the
17 results of all tests made, diagnoses, prognoses, and conclusions of the examiner
18 within 30 days of the completion of the examination. Defendant shall make Dr.
19 Lavid available for a deposition within a reasonable amount of time after production
20 of the expert report. Plaintiff shall also make his rebuttal expert available for a
21 deposition within a reasonable amount of time after production of Dr. Lavid’s
22 expert report.

23 13. Production of Examiner’s Testing and Raw Data:

- 24 a. Testing and Raw Data to Plaintiff’s Mental Health Expert: The
25 defense medical examiner will provide to Plaintiff’s mental health
26 expert, as retained and designated by Plaintiff in writing in this
27 action (“Plaintiff retained mental health expert”), all testing and raw
28 data related to or generated by the mental examination. Similarly,

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1 Plaintiff's retained mental health expert shall also disclose to the
2 defense medical examiner all testing and raw data related to or
3 generated by any mental examination of Plaintiff conducted by
4 Plaintiff's retained health expert.

5 b. At the conclusion of any testing of Plaintiff by Dr. Lavid, a copy of
6 the actual test pages, raw data generated and all test results regarding
7 Plaintiff shall be exchanged simultaneously with Plaintiff's
8 respective experts in the specified field of expertise, whose
9 information will be provided at a subsequent time. No other
10 individuals will be able to receive said raw data and test materials
11 due to the ethical and legal obligations described in sections below.
12 This is the usual and customary practice that allows Dr. Lavid to
13 abide by his ethical and legal obligations.
14

15 14. The purpose of the Independent Mental Examination is to assist
16 counsel and the trier of fact in understanding the origin, nature, and severity of
17 Plaintiff's alleged emotional distress and mental health injuries, and in turn,
18 prognosis and future treatment needs, if any.

19 15. The Parties shall be permitted to make an audio recording of the
20 interview portion of the examination. The production of the recording shall be
21 limited to Plaintiff's counsel, Defendant's counsel, Defendant, and all experts
22 designated by the parties who are professionally qualified, subject to the express
23 terms and conditions of the Stipulated Protective Order between the Parties in this
24 matter.

25 16. The defense's medical professionals and their staff will accommodate
26 all reasonable requests to accomplish this recording, including, but not limited to
27 taking any necessary breaks during the examination, taking a break if technical
28 difficulties arise, making available all other reasonable accommodations to allow

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1 the effective recording of the mental examination.

2 17. There shall be no third-party observers allowed in the evaluation. This
3 is the standard of practice in psychiatry and is a standard in these medical-legal
4 proceedings.

5 18. The medical examiner’s office will not take any photographs,
6 fingerprints or other identification information from the Plaintiff, including, but not
7 limited to license, Social Security number and home address.

8 19. Plaintiff’s agreement to submit to this examination is contingent on the
9 agreement by Defendant that they will not schedule any other examinations by any
10 other doctors in the same areas of this examination without leave of court. By
11 proceeding with the examination, it will be deemed that Defendant has agreed to
12 this condition.

13 20. Nothing herein shall be construed as a waiver of Plaintiff or his
14 family’s privacy rights, medical privacy rights, doctor patient privilege, attorney-
15 client privilege, or psychotherapist patient privileges. Nothing herein shall be
16 construed as a waiver of Plaintiff’s right to challenge the admissibility or
17 appropriateness of any opinion or contention.

18
19 **IT IS SO STIPULATED:**

20
21 Dated: September 16, 2024

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22
23 By: /s/ Michael C. Murphy, Esq.

24
25 _____
26 Michael C. Murphy, Esq.
27 Michael C. Murphy, Jr., Esq.
28 Attorneys for Defendant,
Patrick Byrne

1 Dated: September 16, 2024

EARLY SULLIVAN WRIGHT
GIZER & MCRAE LLP

2
3
4 By: Zachary Hansen
5 Bryan M. Sullivan, Esq.
6 Zachary C. Hansen, Esq.
7 Attorneys for Plaintiff,
8 Robert Hunter Biden

9
10 Dated: September 16, 2024

WINSTON & STRAWN, LLP

11
12 By: MAA
13 Abbe D. Lowell, Esq.
14 Paul B. Salvaty, Esq.
15 Attorneys for Plaintiff,
16 Robert Hunter Biden

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IT IS SO ORDERED.

DATED: _____, 2024

Honorable Patricia Donahue
United States Magistrate Judge

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PROOF OF SERVICE
UNITED STATES OF AMERICA

I am employed and am a resident of the County of Ventura, State of California.

I am over the age of 18 and not a party to the within action. My business name and address is as follows:

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Westlake Village, CA 91361

On September 17, 2024, I served the foregoing document(s) on Opposing Counsel in this action described as follows:

1. JOINT STIPULATION FOR INDEPENDENT MENTAL EXAMINATION OF PLAINTIFF ROBERT HUNTER BIDEN AND [PROPOSED] ORDER

_____ by placing the true copies thereof enclosed in sealed envelopes addressed as stated on the attached mailing list.

_____ by placing a copy of the original enclosed in sealed envelopes addressed as follows (“U.S. Mail”):

by placing copies of the original through electronic transmission (“e-mail”) to all parties appearing on the electronic service list as follows:

_____ by placing copies of the original through facsimile transmission (“fax”) to all parties appearing on the service list as follows:

1 Paul B. Salvaty, Esq.
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7 Email: PSalvaty@winston.com
8 Email: gaellis@winston.com

Attorneys for Plaintiff
ROBERT HUNTER BIDEN

7 Abbe David Lowell, Esq.
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9 Washington, D.C. 20036-3508
10 Tel: (202) 282-5000
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13 Bryan M. Sullivan, Esq.
14 Zachary C. Hansen, Esq.
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16 6420 Wilshire Blvd., Suite 17th Fl.
17 Los Angeles, CA 90048
18 Tel: (323) 301-4660
19 Fax: (323) 301-4676
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21 Email: zhansen@earlysullivan.com
22 Email: bsullivan@earlysullivan.com

22 The sender's name and email address are as follows:
23 Name: Michael C. Murphy, Jr., Esq.
24 Email: Michael.jr@murphlaw.net.

25 _____ (State) I declare under penalty of perjury under the laws of the State of
California that the above is true and correct.

26 (Federal) I declare under penalty of perjury under the laws of the United
27 States of America that the above is true and correct.

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1 Executed on September 17, 2024 at Westlake Village, California.
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4 By: /s/ Michael C. Murphy, Jr., Esq.
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