

ITEM 7.01 | ISSUE 1

Issue 1:

The plaintiff objects to the doctor selected by the defendant to examine the plaintiff.

Resolution:

Judges generally will allow the medical examination to be conducted by the doctor of the defendant's choice. The rationale sometimes given is that the plaintiff's examining and treating physicians have been selected by the plaintiff.¹¹ However, whether to permit a defendant's request for examination under Rule 1.360 is a matter of judicial discretion. Furthermore, Rule 1.360(a)(3) permits a trial court to establish protective rules for the compulsory examination. Thus, a defendant does not have an absolute right to select the expert to perform the examination.¹²

*Trial Lawyers Section of the Florida Bar
Conference of Circuit Court Judges
Conference of County Court Judges*

Footnotes

¹¹ *Toucet v. Big Bend Moving & Storage* 581 So. 2d 952 (Fla. 1st DCA 1991).

¹² See *State Farm Mutual Auto Insurance Company v. Shepard*, 644 So. 2d 111 (Fla. 2d DCA 1994).

