

6.08 | PHYSICAL OR MENTAL EXAMINATIONS (FEDERAL RULE OF CIVIL PROCEDURE 35)

Federal Rule of Civil Procedure 35 provides that, when the physical or mental condition of a party or a nonparty over whom a party has custody or legal control is in controversy, on motion the Court may order a physical or mental examination. A showing of good cause is a prerequisite. The order defines the circumstances of the examination. It is usually the defendant requesting that the plaintiff be examined in relation to the injuries the plaintiff is seeking to be compensated for. The party against whom the order is made is entitled to request a copy of the examining physician's report. Such a request, however, obligates that party, in turn, to make available his own, similar reports of examinations previously or thereafter made. Moreover, by making such a request, the party examined waives any privilege (e.g., the patient-physician privilege) regarding the testimony of one making similar examinations. Usually, but not necessarily, the examination is conducted by a physician designated by the party seeking the examination. The examined party's own physician may -- but need not -- be present.

*(US District Court, New York, Western District // Buffalo, NY 14202
Pro Se Litigation Guidelines)*

