

M.R. 3140

**IN THE  
SUPREME COURT  
OF  
THE STATE OF ILLINOIS**

Order entered March 28, 2011.

(Deleted material is struck through and new material is underscored.)

Effective immediately, Supreme Court Rule 215 is amended, as follows.

**Amended Rule 215**

**Rule 215. Physical and Mental Examination of Parties and Other Persons.**

**(a) Notice; Motion; Order.** In any action in which the physical or mental condition of a party or of a person in the party's custody or legal control is in controversy, the court, upon notice and on motion made within a reasonable time before the trial, may order such party to submit to a physical or mental examination by a licensed professional in a discipline related to the physical or mental condition which is involved. The motion shall suggest the identity of the examiner and set forth the examiner's specialty or discipline. The court may refuse to order examination by the examiner suggested but in that event shall permit the party seeking the examination to suggest others. A party or person shall not be required to travel an unreasonable distance for the examination. The order shall fix the time, place, conditions, and scope of the examination and designate the examiner. The party calling an examiner to testify at trial shall disclose the examiner as a controlled expert witness in accordance with these rules.

**(b) Examiner's Fee and Compensation for Loss of Earnings.** The party requesting the examination shall pay the fee of the examiner and compensation for any loss of earnings incurred or to be incurred by the party or person to be examined in complying with the order for examination, and shall advance all reasonable expenses incurred or to be incurred by the party or person in complying with the order.

**(c) Examiner's Report.** Within 21 days after the completion of the examination, the examiner shall prepare and mail or deliver to the attorneys for the party requesting the examination and the party examined duplicate originals of a written report of the examination, setting out the examiner's findings, results of all tests made, and the examiner's diagnosis and conclusions. The court may enforce compliance with this requirement. If the report is not delivered or mailed to the attorney for the party examined within the time herein specified or within any extensions or modifications thereof granted by the court, neither the examiner's report, the examiner's testimony, the examiner's findings, X-ray films, nor the results of any tests the examiner has made may be received in evidence except at the instance of the party examined or who produced the person examined. No examiner under this rule shall be considered a consultant.

**(d) Impartial Medical Examiner.**

(1) *Examination Before Trial.* A reasonable time in advance of the trial, the court may on its own motion or that of any party, order an impartial physical or mental examination of a party ~~whose~~ where conflicting medical testimony, reports or other documentation has been offered as proof and the party's mental or physical condition is thereby placed in issue, when in the court's discretion it appears that such an examination will materially aid in the just determination of the case. The examination shall be made by a member or members of a panel of physicians chosen for their special qualifications by the Administrative Office of the Illinois Courts.

(2) *Examination During Trial.* Should the court at any time during the trial find that compelling considerations make it advisable to have an examination and report at that time, the court may in its discretion so order.

(3) *Copies of Report.* A copy of the report of examination shall be given to the court and to the attorneys for the parties.

(4) *Testimony of Examining Physician.* Either party or the court may call the examining physician or physicians to testify. Any physician so called shall be subject to cross-examination.

(5) *Costs and Compensation of Physician.* The examination shall be made, and the physician or physicians, if called, shall testify without cost to the parties. The court shall determine the compensation of the physician or physicians.

(6) *Administration of Rule.* The Administrative Director and the Deputy Administrative Director are charged with the administration of the rule.

Amended June 1, 1995, effective January 1, 1996; amended March 28, 2002, effective July 1, 2002; amended March 28, 2011, effective immediately.

Committee Comments

(March 28, 2011)

Paragraph (d) provides that a trial court may order impartial medical examinations only where the parties have presented conflicting medical testimony, reports or other such documentation which places a party's mental or physical condition "in issue" and, in the court's discretion, it appears that the examination will materially aid in the just determination of the case. Mere allegations are insufficient to place a party's mental or physical condition "in issue."

The impartial medical examiner cannot answer the ultimate legal issues in the case; rather, the examiner can render a medical opinion which can assist in the resolution of those issues.