

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

**RICHARD C. KING**

**V.**

**PATTI LABELLE A/K/A PATRICIA  
EDWARDS, ZURI KYE EDWARDS,  
EFREM HOLMES, AND NORMA  
HARRIS**

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**CIVIL ACTION NO.  
4:11-CV-02396**

**DEFENDANTS' REPLY TO PLAINTIFF'S RESPONSE TO MOTION TO COMPEL  
NEUROPSYCHOLOGICAL EXAMINATION**

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

Defendants, Patti LaBelle a/k/a Patricia Edwards, Zuri Kye Edwards, Efrem Holmes and Norma Harris (hereinafter referred to as "Defendants"), hereby file this Reply to Plaintiff's Response to Motion to Compel a Neuropsychological Examination of Plaintiff, Richard King ("King") [Dkt. #68].

**I.**

**PLAINTIFF MISREPRESENTS THE EXTENT OF TESTING REQUESTED**

Plaintiff's counsel argues that Defendants are seeking to subject King to "over thirty-three separate tests during an eight (8) hour period". This is inaccurate. A review of Defendants' Motion to Compel a Neuropsychological Examination ("Motion to Compel") and the attached correspondence from Dr. Perez clearly indicate that not all tests listed in the protocol will be performed. *See* Dkt. # 67-3. Specifically, Dr. Perez states that depending on King's presentation, "the appropriate tests will be selected and administered". *Id.* Instead, the protocol is simply an all-inclusive list of the potential tests to be administered which cannot be determined until King presents for the examination.

**II.**  
**PLAINTIFF SHOULD NOT BE GRANTED LEAVE TO DESIGNATE A**  
**NEUROPSYCHOLOGICAL EXPERT**

King's expert designation deadline in this matter was March 3, 2014. See Dkt. # 63. King had the opportunity to designate a neuropsychologist, if he chose to do so, prior to that date. King's failure to timely designate an expert in neuropsychology to opine on King's condition and injuries sustained as a result of the incident should not preclude Defendants from addressing King's condition and injuries with a qualified expert. As set forth in Defendant's Motion to Compel, King's mental health is in controversy and Defendants have met the requirements under Federal Rule of Civil Procedure 35. Plaintiff counsel's contention that King has been examined by and given tests by other neuropsychologists in the past should not preclude Defendants from having the opportunity to conduct further examination of King, in the context of the pending litigation, to ensure that the results show King's current condition, that the tests were adequately administered, that the results were valid, and that appropriate validity tests were completed. Defendants contend that King may not have been entirely truthful with his treating physicians, including the neuropsychologists, and that further examination by Dr. Perez will allow all pertinent information to be considered, including a review of King's complete medical records and history regarding the incident in question.

WHEREFORE, PREMISES CONSIDERED, Defendants, request that their Motion to Compel a Neuropsychological Examination [Dkt. #67] be granted, and that they have such other and further relief, general or special, at law or in equity, to which they are entitled.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing instrument has been forwarded to all counsel, through the Court's ECF system and facsimile, on this the 27<sup>th</sup> day of March, 2014 as follows:

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