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4 Attorney for Plaintiff in Intervention
5 RAUL TOMAS GUTIERREZ

6 UNITED STATES DISTRICT COURT
7 NORTHERN DISTRICT OF CALIFORNIA

9 EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION, et al.,

10 Plaintiffs

11 vs.

12 INTERSTATE HOTELS, L.L.C., et al.

13 Defendants.

Case No. C-04-4092 WHA

~~PROPOSED~~ ORDER GRANTING
DEFENDANTS' REQUEST FOR A
MEDICAL EXAMINATION OF
INTERVENOR; AND PLAINTIFF'S
REQUESTS FOR A PROTECTIVE
ORDER.

Discovery Cut Off; June 24, 2005
Motion Cut Off: August 11, 2005
Trial Date: October 31, 2005

16 On June 22, 2005, the parties appeared before the Court for a telephone hearing
17 on the June 15, 2005 request of Defendants Interstate Hotels, LLC, HMC Acquisition
18 Properties, Inc., Penny Richardson, and John Trovato ("Defendants") for a Rule 35
19 medical examination of Plaintiff in Intervention Raul Gutierrez ("Gutierrez") by Dr. Miles
20 Adler; and the May 27, 2005 request of Plaintiff EEOC for a protective order. After
21 reviewing the respective papers and hearing the argument of counsel, the Court
22 adopted the following rulings:

- 23 1. Defendants' request for a Rule 35 medical examination of Plaintiff in
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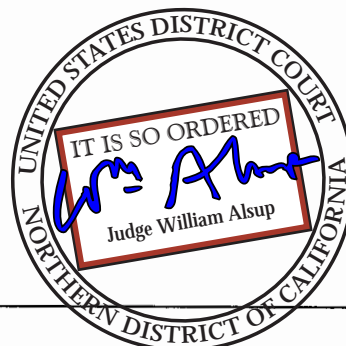
1 Intervention, Raul Gutierrez, is granted as follows:

- 2 a. Dr. Adler's medical examination of Raul Gutierrez is limited to his
3 emotional distress, hypertension, dyspepsia, and acid reflux disease, and
4 shall not exceed one hour;
- 5 b. Joan Herrington, Counsel for Raul Gutierrez, may attend the medical
6 examination, but may not interfere in the medical examination;
- 7 c. Dr. Adler may take the blood pressure of Raul Gutierrez;
- 8 d. Dr. Adler may question Raul Gutierrez about the following potential
9 causes or stressors: his bankruptcy, diet, use of tobacco, consumption of
10 alcohol, exercise, and obesity; and make a general inquiry as to whether
11 anyone else in his family suffers from hypertension, dyspepsia, and acid
12 reflux disease; and also make a general inquiry as to whether Mr.
13 Gutierrez has experienced any other stressors that may have caused or
14 contributed to his emotional distress, hypertension, dyspepsia, and acid
15 reflux disease.

16 2. Plaintiff EEOC's request for a protective order is denied without prejudice as
17 currently moot. Plaintiff EEOC may raise these same issues in Motions *in Limine* at
18 time of trial.

19 IT IS SO ORDERED.

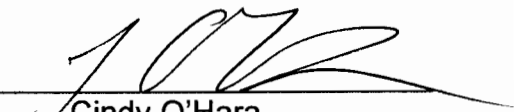
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21 Dated: June 23, 2005



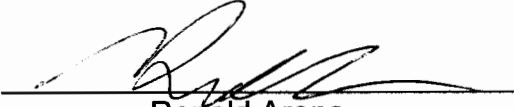
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23 UNITED STATES DISTRICT JUDGE.

1 Approved as to form:

2 Date: June 22, 2005

By: 
Cindy O'Hara
Attorney for EEOC

4 Date: June 22, 2005

By: 
Ronald Arena
Attorney for Defendants

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