

Civil Procedure (Section I)
Fall 2008
Prof. Brill

Quiz #8

North Dakota has a statute that provides: "because of the confidentiality involved in physician-patient matters, no court has the authority to compel medical examinations of parties to lawsuits." North Dakota has strictly followed that statute in all state courts since 1958.

FRCP 35 permits a federal trial court to order the medical examination of a party when the medical condition of the party is in controversy. The rule is discretionary with the federal trial judge.

Dan Dakota brings a personal injury lawsuit against John Deere, Inc. The lawsuit is brought in federal court in North Dakota and jurisdiction rests on diversity.

The defendant John Deere, Inc. requests that the court order a medical examination of Dan, who has alleged serious injuries.

Does the federal trial court have the authority to order the medical examination of Dan?

- A) No, according to York.
- B) Yes, according to Byrd.
- C) No, according to Hanna, Part I.
- D) Yes, according to Hanna, Part II.
- E) No, according to Stewart.
- F) Yes, according to Gasparini.

TEAR OFF

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Name

Answer

If you believe this question is vague, ambiguous, misleading or unfair, please explain why.