

**S292834**

Supreme Court Number \_\_\_\_\_

**In the Supreme Court  
of the State of California**

LINDSAY MARKS ORSINI et al.,

*Plaintiffs and Respondents,*

v.

SCOTT WOOLLARD et al.,

*Defendants and Petitioners.*

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After a Decision by the Court of Appeal for the  
Second Appellate District, Division Six  
Second Civil Number B348101  
Appeal from the Superior Court of the State of  
California  
For the County of Santa Barbara, Anacapa Division  
Case No. 24CV00596  
The Honorable Colleen K. Sterne, Dept. SB-5

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**PETITION FOR REVIEW**

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### **ISSUE PRESENTED**

The issue presented here is whether a defendant can be forced to provide raw neuropsychological testing data to lay persons when it will cause the withdrawal of their chosen expert and that of at least 269 other qualified experts in the state because the turn-over order violates their professional duties, resulting in denial of the defendant's right to defend against a plaintiff's mental health damages claims.

## **INTRODUCTION AND WHY REVIEW SHOULD BE GRANTED**

The ruling of the trial court in this matter allowing a neuropsychological examination of Plaintiff Lindsay Marks Orsini (“Orsini” or “Plaintiff”), but requiring that Defendants and Petitioners Scott Woollard and Brook Woollard (“the Woollards” or “Defendants”) turn over the raw testing data to Orsini, unfairly deprives the Woollards of their right to the examination by an expert of their choosing because such a requirement would force their expert and at least 269 other expert neuropsychologists in California to withdraw from the case according to their sworn declarations. The declarations all state that, even with a protective order, the order to deliver raw psychological testing data to non-psychologists violates their professional duties and the advice of multiple professional psychology associations.

Consequently, the Woollards—and all other defendants in similar positions—are forced to forego having an expert witness examine Plaintiff and opine on her claimed severe and potentially permanent mental health injuries, unless the Woollards can find an expert who will willingly violate the advice, guidance, and rules set out by the California Board of Psychology, the American Psychological Association, the National Academy of Neuropsychology, the American Academy of Clinical Neuropsychology, and the American College of Professional Neuropsychology. This Sophie’s choice severely impacts the

Woollards’, and all similarly situated defendants’, ability to defend against Plaintiff’s mental health damages claims.

The Woollards will suffer extreme and incurable prejudice if forced to either lose their chosen expert—and the ability to hire any one of at least 269 other highly qualified and licensed neuropsychologists in California as their expert—or to forego having their expert examine Plaintiff and rely solely on the information provided by Plaintiff’s treating provider or experts.

Review is necessary here “to settle an important question of law[.]” (Cal. Rules of Court, rule 8.500(b)(1).) Namely, whether a defendant can be forced to provide raw neuropsychological testing data to lay people when it will cause the withdrawal of their chosen expert and that of at least 269 other qualified experts in the state.

In *Randy’s Trucking, Inc. v. Superior Court* (2023) 91 Cal.App.5th 818 (“*Randy’s Trucking*”), the court held the trial court did not abuse its discretion when it ordered transmission of defendant’s neuropsychologist’s raw data and audio recording of plaintiff’s mental health examination. In that case, the trial court did not have any affidavits from the defense in which other psychologists or neuropsychologists stated their concerns regarding test security and refusals to participate in any case in which they would be ordered to turn raw testing data over to an individual who was not a licensed psychologist or neuropsychologist. (*Id.* at pp. 847–848.)

Here, the Woollards presented overwhelming evidence that their own expert, and 269 other neuropsychologists in the state, would refuse to participate as expert witnesses if forced to turn over their raw data. As a result, the Woollards will not be able to obtain an independent psychological examination of Orsini. Forcing the Woollards to proceed to trial without the benefit of an independent psychological evaluation of the claimed severe and permanent mental damages is extremely prejudicial and violates their due process rights. The impact of the trial court's ruling has far-reaching consequences beyond just this case, as it has been, and will continue to be, weaponized by the plaintiff's bar to deter independent psychological evaluations in cases involving mental health damage claims.

## **STATEMENT OF THE CASE**

This case involves a personal injury claim arising out of a motor vehicle accident. The Petitioners and Defendants are Scott Woollard and Brooke Woollard. [App., Exh. 1, p. 10.] Respondent is the Superior Court of the State of California for the County of Santa Barbara. [App., Exh. 1, p. 10; Exh. 11, pp. 274-284.] Plaintiffs and real parties in interest are Lindsay Marks Orsini and Christian Orsini. [App., Exh. 1, p. 10.]

### **A. Orsini's complaint.**

Orsini's complaint asserts causes of action for negligence in the operation of a motor vehicle, negligent entrustment, and loss of consortium. [App., Exh. 1, pp. 10, 14-16.]

As part of their complaint, Orsini alleges “serious and permanent head, neck, and back injuries” that she “will never fully recuperate” from and “mental suffering, loss of enjoyment of life, ... grief, anxiety, humiliation, and emotional distress.” [App., Exh. 1, p. 14.]

In response to the Woollards’ discovery requests, Orsini stated that she had extensive physical and psychological claims but referred simply to her medical records. [App., Exh. 6, pp. 186–189.] In her deposition, Orsini stated that she sustained injuries to her neck, back, pelvis, groin, right hip, and head (including headaches, difficulty concentrating, brain fog, tinnitus, memory issues, dizziness, balance issues, difficulty sleeping, anxiety, and depression). [*Id.* at pp. 199-206.]

**B. The Woollards move to compel a mental health examination and Orsini objects.**

The Woollards demanded a neuropsychological examination of Orsini on January 23, 2025. [App., Exh. 6, pp. 208-209.] The neuropsychological examination demand stated that the raw testing data would be shared by directly sending the data to Orsini’s designated psychologist or neuropsychologist upon Orsini’s counsel providing the name and address. [App., Exh. 6, p. 209.]

Orsini’s counsel objected to the demand for Orsini’s neuropsychological examination and demanded that the raw testing data be provided directly to Orsini’s counsel pursuant

to *Randy's Trucking, supra*, 91 Cal.App.5th 818. [App., Exh. 6, pp. 220-221, 224.]

The Woollards filed a motion to compel a neuropsychological examination of Orsini. [App., Exh. 4, pp. 22-25.] The Woollards argued there was good cause for a neuropsychological examination because Orsini put her neuropsychological status at issue when she alleged multiple issues including headaches, difficulty concentrating, brain fog, tinnitus, memory issues, dizziness, balance issues, difficulty sleeping, anxiety, and depression resulting from the accident at issue here. [App., Exh. 4, pp. 30-33.] The Woollards also argued that serious harm would result if the raw test data was produced to Orsini's counsel because the efficacy of various tests is dependent on the subject's naivete to the questions being asked. Thus, good cause existed to prevent the raw test data from being sent directly to Orsini's counsel. [App., Exh. 4, p. 33-34, 36-39.]

The Woollards explained that a protective order would not sufficiently protect the interests of the test makers, nor would it abrogate the professional and ethical duties of the psychologist or neuropsychologist in protecting the testing information. Additionally, Orsini's counsel did not have a compelling interest in receiving the raw data or audio of the testing rather than giving the same information to their designated expert psychologist or neuropsychologist. [App., Exh. 4, pp. 33-34, 38-39.]

The Woollards further argued that the discovery statutes do not require that this data be given directly to Orsini's counsel and that *Randy's Trucking, supra*, 91 Cal.App.5th 818, was centered not on whether this disclosure to counsel was mandatory but on whether the trial court in that case had abused its discretion in ordering the disclosure in the first place when there was no analysis as to why the professional and ethical obligations of the examiner would be violated if a protective order was issued. [App., Exh. 4, pp. 34-35.]

Finally, the Woollards argued that a thorough canvass of psychologists and neuropsychologists showed that the overwhelming majority of the neuropsychology community (some 269 expert witnesses other than the designated expert in this matter) refuse to conduct examinations under parameters that threaten to violate the validity of the assessment processes, none of which were available to the trial or appellate court in *Randy's Trucking, supra*, 91 Cal.App.5th 818. [App., Exh. 4, p. 39-40; Exh. 6, pp. 49-149.] Indeed, the California Board of Psychology, American Psychological Association, National Academy of Neuropsychology, American Academy of Clinical Neuropsychology, and American College of Professional Neuropsychology prohibit the distribution of testing materials

to non-professionals or lay persons.<sup>1</sup> [App., Exh. 6, pp. 62–63; 151-169; 171-172.]

Orsini opposed the Woollards’ motion to compel, arguing that access to the raw data and audio recordings are essential to her counsel’s ability to effectively cross-examine the defense psychologist. [App., Exh. 7, pp. 231.] She asserted that “[w]ithout the raw data and audio recording, plaintiff would be extremely prejudiced at trial because her counsel would be unable to prepare for and effectively cross-examine the defense psychologist. Indeed, our adversarial legal system requires the evidence to be produced so that it can be vigorously scrutinized to ensure cases are decided on the merits.” [*Id.* at p. 231.]

Orsini also argued that reliance on a neuropsychologist alone is prejudicial because she should not be forced to hire a psychologist or neuropsychologist to prepare and conduct an effective cross-examination or to gain access to the test materials. [App., Exh. 7, p. 233.]

Orsini argued that a protective order would be sufficient to protect the integrity of the testing data. [App., Exh. 7, p. 233.] According to Orsini, a protective order would prevent any ethical obligations of the defense experts from being violated. [*Id.* at pp. 235–236.] Orsini next argued that the American Academy of

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<sup>1</sup> “Lay persons” in this context would apply to any individual who is not a licensed psychologist or neuropsychologist trained in how to interpret and use the raw testing data to come to medical conclusions or diagnoses.

Forensic Psychology, the American Psychological Association, and the National Academy of Neuropsychology support the release of raw testing data with a protective order. [App., Exh. 7, pp. 235-236.]

Finally, Orsini claimed there is no prejudice to forcing the Woollards to seek out a new expert witness who will agree to serve as the defense mental health examiner *and* will agree to turn over the raw data, and that Orsini's counsel would be happy to refer the Woollards to experts who will comply with the court's order and not recuse themselves. [App., Exh. 7, p. 237.]

**C. The trial court grants in part and denies in part the Woollards' motion to compel.**

Respondent court granted the motion to compel the mental health examination, finding good cause for the examination and granting all of the Woollards' proposed specifics except the restriction on preventing the raw testing data from being produced directly to Orsini's counsel. [App., Exh. 10, pp. 272-273.] Respondent court ordered that the raw testing data be produced within 30 days of the conclusion of the evaluation to Orsini's counsel subject to the order provided by respondent court that "[t]he Raw Data, described herein, which shall be maintained as confidential and used by the parties solely for the purposes of this case. The Raw Data, including any audio recordings of the evaluation, shall not be revealed, discussed with, or disclosed to any other person outside the litigation other than the parties, their counsel and neuropsychological experts, and the court.

In addition, plaintiffs shall, within thirty days after the conclusion of this litigation, either destroy the Raw Data and provide a certification in writing that the data has been destroyed, or return the Raw Data to defendants' counsel or Dr. Goodman." [*Id.* at p. 273.]

**D. The Court of Appeal summarily denies the Woollards' petition for writ of mandate.**

On August 8, 2025, the Woollards filed a petition for writ of mandate with the Court of Appeal. On August 26, 2025, the Court of Appeal summarily denied the petition. No reason for the denial was given.

**LEGAL ARGUMENT**

**I. Review Is Necessary To Settle An Important Question Of Law Regarding Whether An Order Forcing The Withdrawal Of A Defendant's Chosen Expert And At Least 269 Other Qualified Experts Is Violative Of The Defendants' Due Process Rights.**

This court reviews appellate decisions "when necessary to secure uniformity of decision or to settle an important question of law." (Cal. Rules of Court, rule 8.500(b)(1).) The Court of Appeal summarily denied the Woollards' petition for writ of mandamus, leaving intact the trial court's ruling requiring turn-over of raw test data to lay persons. Review is sought to provide relief from the portion of the court's order denying the Woollards' request that the raw testing data not be provided directly to Orsini's counsel. The Woollards have no plain, expedient, or adequate remedy at law other than the relief requested in this petition.

Review is necessary because the Woollards and all similarly situated defendants throughout California will be severely prejudiced and disadvantaged if they must comply with the order to turn over the raw testing data. These defendants will immediately lose the ability to have a mental health examination performed by an expert witness of their choice if the expert is forced to provide the raw data to any individual other than another psychologist or neuropsychologist, where the expert refuses to act in conflict with the ethical guidelines and guidance provided by the California Board of Psychology, the American Psychological Association, the National Academy of Neuropsychology, the American Academy of Clinical Neuropsychology, the American College of Professional Neuropsychology, and 269 of their peers who are also licensed psychologists or neuropsychologists in California.

Review is also necessary because the Woollards and all similarly situated defendants will be severely prejudiced and disadvantaged if they must comply with the order to turn over the raw testing data because they face the high chance of not being able to retain a qualified neuropsychologist willing to perform the necessary mental health testing—effectively leaving a plaintiff's claims of significant, severe, and potentially permanent damages to their mental health unchallenged by expert opinion based on an independent evaluation by anyone other than plaintiff's treating physicians. This essentially forecloses the defense's right to defend against that portion of a plaintiff's claims.

Finally, review is necessary because the Woollards and all similarly situated defendants in the state will be severely prejudiced and disadvantaged if they must comply with the order to turn over the raw testing data because each will face a Sophie's choice of being able to retain a neuropsychologist to serve as an expert witness only if the expert is willing to ignore the advice, guidance, and rules set out by the California Board of Psychology, the American Psychological Association, the National Academy of Neuropsychology, the American Academy of Clinical Neuropsychology, and the American College of Professional Neuropsychology.

**A. There is no requirement under the discovery code that mandates that raw test data be delivered directly to Plaintiff's counsel.**

Code of Civil Procedure section 2032.610, subdivision (a)(1), provides that if a party submits to a mental examination, "that party has the option of making a written demand that the party" seeking the examination deliver to the demanding party "[a] copy of a detailed written report setting out the history, examinations, findings, including the results of all tests made, diagnoses, prognoses, and conclusions of the examiner."

The court in *Roe v. Superior Court* (2015) 243 Cal.App.4th 138, determined that the petitioners did not show that the statute required "defendants to deliver the written testing materials and [the patient's] raw answers to plaintiffs. Consequently, they have not demonstrated in this writ

proceeding that the superior court was under a legal duty to order, or that its discretion could be legally exercised only by ordering, such delivery.” (*Id.* at p. 148; see also *Carpenter v. Super. Ct.* (2006) 141 Cal.App.4th 249, 271, 274–275 [noting “there is no express statutory authority for Carpenter’s position, neither is there statutory authority precluding a trial court, in its discretion, from ordering the disclosure of the written test questions” and in exercise of that discretion courts may consider examiner’s ethical and professional obligations].)

The *Randy’s Trucking* court agreed: “... *Roe* stands for the proposition that a trial court is not *required* to order the production of test materials or test data under section 2032.610.” (*Randy’s Trucking, supra*, 91 Cal.App.5th at p. 837, original italics.) While *Randy’s Trucking* went on to hold that it was reasonable and within the trial court’s discretion to order the production of raw testing data to the plaintiff’s counsel, the reason it did so is extremely important.

**B. *Randy’s Trucking* is distinguishable from this matter because here the Woollards presented extensive evidence that they would be unable to find a suitable expert witness to perform the examination and testify at trial.**

This court should take the opportunity to provide definitive guidance to litigants on the issue of forcing turn-over of protected raw test data from mental health evaluations to lay people. Trial courts throughout the state make decisions regarding whether *Randy’s Trucking* applies to the case before them with

varying results. Some courts agree with the Woollards' position, and some agree with the trial court here. This important issue of law requires this court's guidance to provide state-wide clarity and consistency on this issue.

The trial court relied upon *Randy's Trucking, supra*, 91 Cal.App.5th 818, in its order compelling the Woollards to submit Dr. Goodman's raw testing data generated in her mental health examination of Orsini directly to Orsini's counsel. [App., Exh. 10, pp. 270–273.] But the facts here are distinguishable from those in *Randy's Trucking*.

The Court of Appeal in *Randy's Trucking* was asked to review whether the trial court abused its discretion when it ordered the defendant to produce raw testing data following a plaintiff's mental health examination directly to the plaintiff's counsel pursuant to a protective order. (*Randy's Trucking, supra*, 91 Cal.App.5th at pp. 824–825.) However, in that case, the trial court did not have any affidavits from the defense in which other psychologists or neuropsychologists stated their concerns regarding test security and refusals to participate in any case in which they would be ordered to turn raw testing data over to any individual who was not a licensed psychologist or neuropsychologist. (*Id.* at pp. 847–848.)

In contrast, here, counting the Woollards' designated expert witness, Dr. Goodman, respondent court had the sworn declarations of 269 licensed psychologists and neuropsychologists before it, prior to issuing its order directing that the raw testing

data be disclosed directly to Orsini's counsel. All 269 experts agreed in their sworn declarations that turning over the raw testing data would violate their ethical, professional, and licensure requirements. All 269 experts agreed in their sworn declarations that they would refuse to serve as an expert witness in any case where that would be required of them. [App., Exh. 4, p. 33; Exh. 6, pp. 57–143.] This is a major distinguishing factor between this case and *Randy's Trucking*.

*Randy's Trucking* cited with approval the proposition that “a court must act with great care before entering an order which as a practical matter excludes a designated expert from testifying.” (*Id.* at p. 847, quoting *Stony Brook I Homeowners Assn. v. Super. Ct.* (2000) 84 Cal.App.4th 691, 700.) The court discussed the fact that the trial court did not have evidence before it that defendants would be unable to retain another neuropsychologist. (*Id.* at p. 842.) The court thus concluded that “[b]ased on the record before it, the trial court reasonably could believe defendants would be able to retain a neuropsychologist who would comply with its order. In sum, the trial court did not abuse its discretion in ordering transmission of raw data and audio recording to plaintiffs’ attorney subject to a protective order[.]” (*Ibid.*)

Respondent court did not address the arguments made by the Woollards that they would lose their expert and 268 other neuropsychologists as potential expert witnesses for the defense as a result of the order to turn over the raw data. As the

argument was made in both the written materials and in the oral argument, at what point, then, could defendants like the Woollards produce convincing evidence that an order like this one would effectively deprive them of having a designated expert testify at trial? Is not the sworn testimony of 269 highly qualified experts and defense counsel's statements on the record regarding the extreme reservations against hiring an expert witness who would violate the advice, guidance, and rules set out by the California Board of Psychology, the American Psychological Association, the National Academy of Neuropsychology, the American Academy of Clinical Neuropsychology, and the American College of Professional Neuropsychology enough?

The Woollards respectfully submit that such evidence is enough to show they cannot reasonably obtain another qualified neuropsychologist to perform an examination pursuant to the respondent court's order. The order is therefore an abuse of respondent court's discretion because it unreasonably denies the Woollards the ability to have a designated expert both testify at trial and examine Orsini's mental health. This denial severely impedes the Woollards' ability to defend themselves from Orsini's claims of severe and potentially permanent mental health damages at trial.

**C. The denial of qualified experts to examine Orsini's mental health status is extremely prejudicial to the defense of the case and to all similarly situated defendants in California.**

The neuropsychological examination is critical to the defense. “[D]efendants must be allowed to investigate the continued existence and severity of plaintiff’s alleged damages.” (*Vinson v. Super. Ct.* (1987) 43 Cal.3d 833, 841.)

“[P]laintiff cannot be allowed to make her very serious allegations without affording defendants an opportunity to put their truth to the test.” (*Id.* at p. 842.) “The right of access to the courts may be compromised if a defendant is deprived of the opportunity to conduct the discovery necessary to prove his or her case.” (*Zhao v. Wong* (1996) 48 Cal.App.4th 1114, 1129.)

Experienced counsel, such as counsel for Orsini in this case, can and have skillfully taken the depositions of expert witnesses by asking questions to elicit opinions and the basis of those opinions without counsel reviewing the raw test data.

The practical effect of *Randy’s Trucking*, however, has been immense. In a multitude of cases throughout the state, plaintiffs have effectively forced the withdrawal of demands for mental health examinations for lack of any defense expert willing to participate in the case if orders like that in *Randy’s Trucking* are enforced. The cases are then forced to proceed to trial with either no defense expert or a defense expert who never met or examined the plaintiff but must testify regarding a review of the plaintiff’s

mental health records by merely commenting on the plaintiff's treating providers' and expert witnesses' opinions.

The trial court's order was a manifest abuse of discretion. Despite finding there was good cause to order the neuropsychological examination [App., Exh. 10, p. 269], and rather than acknowledge the lack of prejudice to Orsini in denying access to raw test data, the trial court entered an order that results in the denial of expert neuropsychologist review of Orsini's mental health status. The order is a miscarriage of justice as it deprives the Woollards of the opportunity to conduct the discovery the trial court determined was necessary to their defense.

**II. Review Is Necessary Because The Trial Court's Refusal To Give Weight To The Opinions Of The Experts As To Why A Protective Order Is Insufficient To Satisfy Their Legal And Ethical Obligations Was A Manifest Abuse Of Discretion.**

The declarations of the 269 expert psychologists and neuropsychologists discussed at length the reasons why a protective order is not enough to assuage their professional, ethical, and legal concerns regarding the release of raw testing data to non-psychologists. [See App., Exh. 6, pp. 59-138.] Among those reasons is the concern that the disclosure of the testing materials and data are a direct threat to the scientific process behind the tests employed to evaluate *all* people, resulting in widespread social harm. [*Id.* at p. 66.] The declaration indicates that the intentional or inadvertent

violation of the protective order in this or any other case can invalidate the tests which take years or decades to develop by fundamentally altering the accuracy of the results. [*Id.* at pp. 60–61, 66.] The following excerpt from the Woollards’ motion to compel is particularly enlightening regarding the cost and expense in developing new or updated psychological screening tests:

The development of standardized psychological tests requires considerable time and expense. [Citation.] The process “is arduous, expensive, time consuming, and cannot be immediately replicated when test content becomes compromised.” [Citation.] Nearly all such measures are protected by copyright law that prohibits their reproduction in any form, including audio-recording, without express written permission of the publisher. [Citation.] Improper disclosure of test materials “can result in damage both to those who have an ownership interest in the test and to all who rely on the availability of the test.” [Citation.]

[App., Exh. 4, p. 37, citing App., Exh. 6, pp. 54, ¶ 15; Exh. 6, pp. 60-61, ¶ 4 (describing “five-stage, nationwide research program” requiring advisory panel of experts and examiners, sample size of 2,200 examinees aged 16–90, validity testing, quality assurance, and examiner training and reeducation, market research across eight cities, and more).]

The declarations of the experts further discuss the inability of protective orders to “claw back” the intentionally or inadvertently leaked information. In the digital age, once a document has been leaked, it is almost certain to be

permanently available. [App., Exh. 6, p. 65.] In this age of data breaches, to which law firms are not immune, even a perfectly behaving counsel can unintentionally release information that is subject to a protective order.<sup>2</sup>

In light of the expert declarations of 269 witnesses, respondent court's decision to not address their testimony [App., Exh. 10, p. 271-273] was an abuse of discretion when considering whether a protective order would adequately protect the examination materials or address the concerns of the experts such that they would not recuse themselves from serving on this matter.

This court should take the opportunity to overturn and distinguish the facts of this case from those found in *Randy's Trucking*, or clarify the holding and make it applicable throughout the state to provide much needed guidance to the trial courts. Litigants and the courts require consistency when an order like that in *Randy's Trucking* is appropriate and when a defendant has shown enough evidence to change that outcome and preserve their right to have a mental health examination by an expert of their choosing.

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<sup>2</sup> By way of example, in May of 2024, Bloomberg Law reported that at least 21 law firms had reported data breaches in the first five months of the year. (Sam Sholnik, Bloomberg Law, *Wake Up Call: 2024 on Pace to Set Law Firm Data Breach Record* (May 24, 2024) <<https://news.bloomberglaw.com/business-and-practice/wake-up-call-2024-on-pace-to-set-law-firm-data-breach-record>> [as of September 5, 2025].)

Trial courts throughout the state are facing this argument regarding whether *Randy's Trucking* applies to the case in front of them with varying results. Some courts agree with the Woollards' position, and some agree with the trial court here. Clarity and certainty regarding this issue can be granted by this court, drawing a brighter line and relieving litigants throughout the state from burdensome law and motion requirements.

### **CONCLUSION**

Based on the foregoing reasons, the Woollards respectfully request this court grant review of the Court of Appeal's order denying the Woollards' petition for writ of mandate.

Respectfully Submitted,

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Raymond K. Wilson, Jr.

*Attorneys for Defendants and Petitioners*

**SCOTT WOOLLARD AND BROOKE WOOLLARD**

## **CERTIFICATE OF COMPLIANCE WITH RULE 8.504**

I, the undersigned, Raymond K. Wilson Jr., declare that:

1. I am a partner in the firm of Lewis, Brisbois, Bisgaard & Smith LLP, counsel of record for defendants and petitioners Scott Woollard and Brooke Woollard.
2. This certificate of compliance is submitted in accordance with rule 8.504(d)(1) of the California Rules of Court.
3. This petition for review was produced with a computer. It is proportionately spaced in 13-point Century Schoolbook typeface. The petition contains 4,527 words, including footnotes.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed at San Diego, California, on September 5, 2025.

/s/ Raymond K. Wilson Jr.  
Raymond K. Wilson Jr.

**ATTACHMENT: COURT OF APPEAL'S ORDER**

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT  
DIVISION SIX

SCOTT WOOLLARD et al.,

Petitioners,

v.

THE SUPERIOR COURT OF  
SANTA BARBARA COUNTY,

Respondent;

LINDSAY MARKS ORSINI et  
al.,

Real Parties in Interest.

B348101  
(Super. Ct. No. 24CV00596)  
(Santa Barbara County)

O R D E R

COURT OF APPEAL – SECOND DIST.

**FILED**

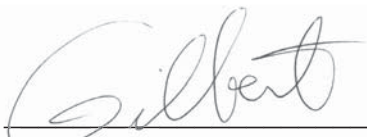
**Aug 26, 2025**

EVA McCLINTOCK, Clerk

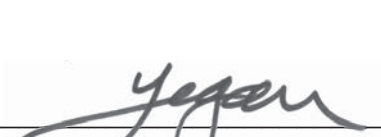
S. Claborn Deputy Clerk

THE COURT:

The petition for a writ of mandate filed on August 8,  
2025, is denied.



GILBERT, P.J.



YEGAN, J.



BALTODANO, J.

**ATTACHMENT: SUPERIOR COURT'S ORDER**

**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SANTA BARBARA**

|                        |                  |          |           |
|------------------------|------------------|----------|-----------|
| Dated and Entered:     | 06/09/2025       | Time:    | 10:00 AM  |
| Judicial Officer:      | Colleen K Sterne |          |           |
| Deputy Clerk:          | Stephen Rebernik | Dept:    | SB Dept 5 |
| Bailiff/Court Officer: | Jorge Reyes      |          |           |
| Court Reporter:        | Shelley Cockrell | Case No: | 24CV00596 |

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**Lindsay Marks Orsini et al vs Scott Woollard et al**

Parties Present:

|            |                                |
|------------|--------------------------------|
| Hani Ganji | Plaintiffs' Counsel (via Zoom) |
| Wilma Gray | Defendants' Counsel (via Zoom) |

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**NATURE OF PROCEEDINGS: Motion: Compel Neuropsychological Evaluation of Plaintiff Lindsay Marks Orsini**

The matter was regularly called for hearing.

Counsel presented oral argument.

The Court adopted its tentative ruling as follows:

**(1) The motion of defendants to compel the neuropsychological evaluation of plaintiff Lindsay Marks Orsini is granted, in part and in accordance with this ruling.**

**(2) Plaintiff Lindsay Marks Orsini shall, subject to each of the conditions and restrictions set forth in this ruling, appear for a neuropsychological examination to be conducted by defendants' neuropsychologist, Rebecca Goodman, Ph.D., ABPP-CN, on a date and at a time mutually agreed to by the parties.**

**(3) No later than 30 days after the conclusion of the neuropsychological examination ordered herein, defendants and their neuropsychologist identified above shall produce to plaintiffs' counsel, all raw testing data as further described in this ruling, including without limitation: audio recordings; history; all raw test data forms and procedures; instructions, tests, questions, answers, and score summaries; findings, narrative reports, any additional summaries, and results of all tests made; and the diagnoses, prognoses, and conclusions of the examiner. The raw testing data to be produced by defendants' neuropsychologist as described herein shall be maintained as confidential and used by the parties to this proceeding solely for the purposes of this case, and shall not be discussed with, revealed, or disclosed to any other person outside this litigation other than the parties, their counsel and neuropsychological experts, and the court. All provisions of this ruling restricting the communication or use of the raw testing data shall continue to be binding after the conclusion of this action unless the parties agree otherwise. No later than thirty days after the conclusion of this action, any party in possession of raw testing data that is not contained in the public file, shall either destroy the raw testing data and certify in writing that the data has been destroyed, or return the raw testing data to counsel or the nonparty who provided that data.**

**(4) The neuropsychological examination of plaintiff ordered herein shall not include any tests which are not identified in exhibit A to “Defendants’ Demand For Neuropsychological Evaluation Of Plaintiff”, a copy of which is attached as exhibit I to the Index of Evidence filed by defendants on April 15, 2025, in support of the present motion.**

**(5) Plaintiffs and their counsel may record the neuropsychological evaluation of plaintiff by audio technology.**

**(6) Defendants shall submit for the court’s approval, a corrected proposed order that conforms to the court’s ruling herein, in compliance with California Rules of Court, rule 3.1312.**

**Background:**

The second amended complaint (SAC) filed on August 22, 2024, by plaintiffs Lindsay Marks Orsini (Lindsay) and Christian Orsini (Christian) (collectively, plaintiffs) is the operative pleading. In the SAC, plaintiffs allege three causes of action against defendants Brooke Woollard (Brooke) and Scott Woollard (Scott) (collectively, the Woollards): (1) negligence; (2) negligent entrustment; and (3) loss of consortium. (**Note:** To avoid confusion due to common familial surnames, the court will refer to the parties by their first names. No disrespect is intended.)

Briefly, plaintiffs allege in the SAC that on March 7, 2022, while speeding in an SUV owned by Scott and talking on a cell phone, Brooke rear-ended a vehicle driven by Lindsay, causing Lindsay to suffer serious injuries from which she will never fully recuperate.

The Woollards answered the SAC on September 24, 2024, generally denying its allegations and asserting six affirmative defenses.

On September 26, 2024, the Woollards filed a motion for an order striking the claim for punitive damages alleged by plaintiffs in the SAC, which plaintiffs opposed. On December 2, 2024, the court entered a Minute Order granting that motion, without leave to amend, and striking paragraph 26 and prayer paragraph 3 from the SAC.

On April 15, 2025, the Woollards filed a motion for an order compelling Lindsay to appear for a neuropsychological evaluation by a defense neuropsychologist.

In support of the present motion, the Woollards submit a declaration of their counsel, Wilma J. Gray (Gray), and an Index of Exhibits (the Index). Gray states that Lindsay’s responses to written discovery set forth Lindsay’s claim of injuries and referred to medical records for details. (Gray Decl., ¶ 4; Index, Exh. G.) Gray’s office issued subpoenas to all known treatment facilities for treatment, therapy, evaluations and medication management records. (Gray Decl., ¶ 5.)

Gray also refers to excerpts of Lindsay’s deposition transcript which are attached to the Index as exhibit H and which, according to Gray, set forth Lindsay’s testimony as to the physical and mental injuries resulting from the accident that are the subject of this litigation. (Gray Decl., ¶ 6; Index, Exh. H.) Gray contends that Lindsay has placed her mental status in controversy, justifying a defense neuropsychological evaluation. (Gray Decl., ¶ 5.)

Gray asserts that, given the nature of the injuries claimed by Lindsay, the Woollards retained Rebecca Goodman, Ph.D. (Dr. Goodman) to conduct a neuropsychological evaluation (the evaluation) of Lindsay. (Gray Decl., ¶ 7.) On February 27, 2025, the Woollards served a demand (the demand) for the evaluation by Dr. Goodman, which includes a list of neuropsychological tests to be administered to Lindsay. (Gray Decl., ¶ 8; Index, Exh. I.) Plaintiffs served objections to the demand on February 12, 2025. (Gray Decl., ¶ 9; Index, Exh. J.)

Gray contends that she attempted to meet and confer with attorney Hani Ganji (Ganji) regarding the objections and to resolve the dispute. (Gray Decl., ¶ 10; Index, Exh. K.) Though Gray asked Ganji to confirm that Lindsay would appear, Lindsay did not appear for the evaluation on February 27, 2025. (Gray Decl., ¶ 11.) Gray further met and conferred with Ganji on March 10, 2025, in an attempt to resolve the dispute, but the parties have reached an impasse. (Gray Decl., ¶ 12.)

Gray contends that the key dispute is plaintiffs' demand that Dr. Goodman turn over raw data directly to an attorney, which Gray contends would not be permitted by any licensed psychologist following "the guidelines." (Gray Decl., ¶ 13.) Gray further contends that, without a current and accurate assessment of Lindsay, the Woollards will be prejudiced in preparing for trial. (Gray Decl., ¶ 14.)

Though the notice of the present motion states that it is based on a memorandum and the Gray declaration and does not identify a declaration of Dr. Goodman, the memorandum submitted in support of the motion includes references a declaration of Dr. Goodman, a copy of which is attached to the Index. In that declaration, Dr. Goodman states that, as part of a neuropsychological evaluation of an individual, she administers a battery of tests to help assess various aspects of that individual's cognition, and that for each patient, Dr. Goodman determines which tests would be best suited given the examinee's specific circumstances. (Goodman Decl., ¶ 7.)

Dr. Goodman explains that, though she uses a "standard practice fixed flexible assessment" approach under which Dr. Goodman provides the complete battery of tests that may be administered, Dr. Goodman reserves the right to use her clinical judgment to remove or incorporate a test based on the examinee's performance. (Goodman Decl., ¶ 7.) Dr. Goodman contends that this flexibility is necessary because the interview or test results may indicate that the administration of some tests may be inappropriate. (*Ibid.*) For these reasons, Dr. Goodman contends, the specific tests to be administered cannot be anticipated, but that Dr. Goodman will not administer any test that has not been identified. (*Ibid.*)

Dr. Goodman further explains that, during a neuropsychological examination, neuropsychologists obtain "raw test data" (the Raw Data) which includes actual test forms recording the examinee's responses and any audio recordings of test procedures. (Goodman Decl., ¶ 8.) The recorded test forms and audio recordings contain what Dr. Goodman describes as protected psychological test information provided by test publishers, including questions, answers, instructions, scoring procedures and summaries, and narrative reports. (*Ibid.*) Dr. Goodman asserts that neuropsychologists do not release the Raw Data to non-psychologists because these materials contain protected information and material. (Goodman Decl., ¶ 9.)

Dr. Goodman further asserts that, due to ethical and professional obligations to preserve test security and because examinations use sensitive or copyrighted materials, Dr. Goodman does not permit third party audio recordings of test procedures unless she retains custody of the original recording, and that she will agree to transmit copies of any audio recordings only to retained neuropsychologist experts who are bound by the same ethical and legal duties. (Goodman Decl., ¶ 9.)

Dr. Goodman also contends that the California Board of Psychology has imposed a rule that limits distribution of test materials and requires psychologists to refrain from compromising the security of test instruments. (Goodman Decl., ¶ 10.) Dr. Goodman states that, to ensure her compliance with this rule, she only provides test materials and audio recordings to other licensed psychologists who are trained and qualified to review the data. (Goodman Decl., ¶¶ 11-12.) According to Dr. Goodman, the neuropsychologist in receipt of the audio recording can meet and confer with attorneys to discuss the methodology including whether standard procedures were followed. (Goodman Decl., ¶ 11.)

Dr. Goodman states that the maintenance of “test security” is critical to the value and the usefulness of these specialized measures which require that an examinee cannot have had previous access to, knowledge of, or familiarity with the specific test material and content or the actual instructions given for each measure that is administered. (Goodman Decl., ¶ 12.) Dr. Goodman contends that if examinees have the opportunity, through the dissemination of audio recording files, to learn about the details of these specialized, proprietary tools, this will compromise test security and the integrity of the specific measures. (*Ibid.*) Dr. Goodman contends that this would lead to situations where examinees are incompletely assessed or potentially misunderstood, would negatively affect the value of neuropsychological examinations, and negatively impact the public in general. (Goodman Decl., ¶¶ 13-15.)

Dr. Goodman states that various professional organizations within the field of psychology and neuropsychology have issued practice guidelines and official statements regarding the importance of maintaining testing security and integrity, including the American Academy of Clinical Neuropsychology and the California Psychological Association, and that a protective order is not suitable to address concerns that may arise from the disclosure of Raw Data to attorneys who may use the Raw Data to coach current and future clients. (Goodman Decl., ¶¶ 16-20; Exh. E.)

Dr. Goodman states that, should the court order the evaluation of Lindsay to proceed with the condition that the Raw Data and any audio recordings be transmitted to Lindsay’s attorney, she will be required to recuse herself from this case. (Goodman Decl., ¶ 27.)

The motion is opposed plaintiffs. In their opposition, plaintiffs state that they agree that the Woollards are entitled to conduct a neuropsychological examination of Lindsay, provided that the Woollards’ expert identifies the specific tests to be administered, produces the examination’s raw data to their counsel, and allow plaintiffs to audio record the examination pursuant to Code of Civil Procedure section 2032.530, subdivision (a). (Opp. at p. 2, *ll.* 2-8.)

In support of their opposition, plaintiffs submit the declaration of their counsel, Ganji, who states that though the parties met and conferred extensively regarding Lindsay’s agreement to sit for the evaluation provided the Raw Data at issue is sent to Ganji’s office pursuant to a protective order in accordance with the decision in *Randy’s Trucking, Inc. v. Superior Court* (2023) 91 Cal.App.5th 818 (*Randy’s Trucking*), defense counsel refused, which Ganji further contends violates the decision in *Carpenter v. Superior Court* (2006) 141 Cal.App.4th 249. (Ganji Decl., ¶ 2.)

Ganji further asserts that the Woollards’ counsel also refused to list the tests that would be performed, and that the present motion also shows that the Woollards seek to deny Lindsay her statutory right under Code of Civil Procedure section 2032.530, subdivision (a), to audio record the examination, and will not produce their own audio recording. (Ganji Decl., ¶ 3.) Ganji contends that the Woollards never met and conferred on these issues. (*Ibid.*)

Ganji contends that if Ganji is not permitted to obtain and review Dr. Goodman’s entire file, including actual tests, test answers, interpretative materials used, literature, reports of tests, scoring, audio recordings, and test results associated with Dr. Goodman’s evaluation of Lindsay, the Woollards will be prejudiced at trial because Ganji will not be able to properly cross-examine Dr. Goodman as to the bases for her opinions. (Ganji Decl., ¶ 4.)

Ganji also submits copies of the American Academy of Forensic Psychology’s official position on the disclosure of such “raw data”, and the American Psychological Association’s Ethical Principles of Psychologists and Code of Conduct, and the National Academy of Neuropsychology’s “Test Security Appendix”. (Ganji Decl., ¶¶ 5-7 & Exhs. A-C.)

Ganji asserts that in the “highly unlikely” event that the Woollards’ expert recuses herself, and the Woollards are unable to choose among other doctors or psychologists that can administer the tests, Ganji is “happy to offer defense counsel a few names of other defense doctors who have adhered to their ethical and legal obligations and forwarded the raw data to Plaintiff’s counsel pursuant to a protective order.” (Ganji Decl., ¶ 8.)

### **Analysis:**

Subject to court-imposed restrictions set forth in Code of Civil Procedure section 2019.010 et seq., “[a]ny party may obtain discovery ... by means of a ... mental examination of ... a party to the action....” (Code Civ. Proc., § 2032.020, subd. (a).) (**Note:** Undesignated code references herein shall be to the Code of Civil Procedure unless otherwise stated.) If a party wishes to obtain discovery by a mental examination, “the party shall obtain leave of court.” (Code Civ. Proc., § 2032.310, subd. (a).) A motion for a mental examination must include the matters set forth in subdivision (b) of section 2032.310, and the notice of the motion must be served “on the person to be examined and on all parties who have appeared in the action.” (Code Civ. Proc., § 2032.310, subd. (b) & (c).) “The court shall grant a motion for a ... mental examination under Section 2032.310 only for good cause shown.” (Code Civ. Proc., § 2032.320, subd. (a).)

Plaintiffs do not contend, and appear to concede, that the present motion is procedurally appropriate and statutorily compliant. Further, the parties do not dispute that Lindsay has placed her mental condition in controversy, or that the Woollards are authorized, and have demonstrated good cause, to obtain discovery of Lindsay’s condition by means of the evaluation to be conducted by Dr. Goodman. (See Code Civ. Proc., § 2032.020, subd. (a); *Doyle v. Superior Court* (1996) 50 Cal.App.4th 1878, 1887.)

Based on the points advanced by the parties and further detailed above, it is the court’s understanding that the present dispute centers on whether or not Dr. Goodman must produce her entire file pertaining to the evaluation of Lindsay, including the Raw Data, directly to Lindsay’s counsel, whether Lindsay may audio record the examination and obtain any audio recording made by the Woollards or Dr. Goodman, and whether the tests that will be administered by Dr. Goodman must be disclosed prior to the evaluation.

Section 2032.610 provides that “[i]f a party submits to, or produces another for, a ... mental examination in compliance with a demand under Article 2 (commencing with Section 2032.210), an order of court under Article 3 (commencing with Section 2032.310), or an agreement under Section 2016.030, that party has the option of making a written demand that the party at whose instance the examination was made deliver both of the following to the demanding party:

“(1) A copy of a detailed written report setting out the history, examinations, findings, including the results of all tests made, diagnoses, prognoses, and conclusions of the examiner.

(2) A copy of reports of all earlier examinations of the same condition of the examinee made by that or any other examiner.

(b) If the option under subdivision (a) is exercised, a copy of the requested reports shall be delivered within 30 days after service of the demand, or within 15 days of trial, whichever is earlier.

(c) In the circumstances described in subdivision (a), the protection for work product under Chapter 4 (commencing with Section 2018.010) is waived, both for the examiner’s writings and reports and to the taking of the examiner’s testimony.” (Code Civ. Proc., § 2032.610, subds. (a)-(c).)

In determining whether raw data and audio recording of an examination by a defendants' neuropsychologist must be produced to plaintiff's counsel, the Fifth District Court of Appeal addressed a substantively similar if not identical dispute in *Randy's Trucking*. Though the Woollards contend that plaintiffs' reliance on this decision is misplaced, the court finds *Randy's Trucking* instructive under the circumstances present here.

*Randy's Trucking* involved a suit filed by, among others, a school bus driver against the driver of a tractor-trailer that rear-ended a school bus, and that driver's employer. (*Randy's Trucking*, *supra*, 91 Cal.App.5th at p. 824.) The plaintiff school bus driver claimed that she suffered a traumatic brain injury as a result of the collision. (*Ibid.*) Defendants in *Randy's Trucking* sought to compel the plaintiff school bus driver to submit to a mental examination by a defense neuropsychologist. (*Id.* at p. 825.)

The parties in *Randy's Trucking* could not agree to the "ground rules" for the mental examination at issue in that case. (*Randy's Trucking*, *supra*, 91 Cal.App.5th at p. 825.) Specifically, plaintiff would not agree to the examination "unless the examining neuropsychologist provided ... all testing materials [and] raw test data", while defendants maintained that their expert neuropsychologist "was unwilling to transfer those items to plaintiffs' counsel, although she would provide them to a similarly situated expert who was subject to the same professional and ethical duties to which she was subject." (*Ibid.*) The dispute resulted in the filing of a motion by defendants for an order granting leave to conduct the neuropsychological examination of the school bus driver plaintiff "without having to provide raw data and copyrighted examination questions to plaintiffs' counsel." (*Ibid.*)

To support their motion, defendants in *Randy's Trucking* submitted a declaration of their examining neuropsychologist, which advanced the same if not a substantively similar points as those advanced by Dr. Goodman here, including that disclosure of raw testing data would sacrifice test security and integrity, that there exists no authority requiring disclosure of raw testing data to non-psychologists attorneys, that psychologists are subject to ethical and professional obligations to preserve test security, and that protective orders are insufficient because attorneys coach clients on how to "prepare" for neuropsychological testing, among other things. (See Motion at pp. 6-11; *Randy's Trucking*, *supra*, 91 Cal.App.5th at p. 826.)

For example, defendants in *Randy's Trucking* also argued that the disclosure of raw data and other materials relating to the examination of the plaintiff in that case would cause defendants' neuropsychologist "to violate her ethical and professional duties", and that "the raw data and examination questions were of no use to plaintiffs' counsel 'other than to utilize it improperly to corrupt the process by preparing future clients using the copyrighted questions.'" (*Randy's Trucking*, *supra*, 91 Cal.App.5th at pp. 825-826.) Similar to the Woollards, defendants in *Randy's Trucking* requested that the court instead "order the transfer of data to plaintiffs' retained neuropsychologist. (*Id.* at p. 826; see also Motion at p. 13 [requesting that the court order that raw test data be confidentially produced to Lindsay's treating psychologist].)

Similar to the points advanced by plaintiffs here, plaintiffs in *Randy's Trucking* "asserted they only were seeking to have the raw data from the examination provided to their counsel in addition to plaintiffs' expert", and offered to sign a protective order "making the data available for use only in this case and only for review by counsel's team and experts, with the data to be destroyed at the conclusion of the case ...." (*Randy's Trucking*, *supra*, 91 Cal.App.5th at p. 826.) Plaintiff in *Randy's Trucking* relied on *Carpenter v. Superior Court* (2006) 141 Cal.App.4th 249 (*Carpenter*), in which the court concluded, among other things, that copyright law did not preclude a plaintiff from obtaining a copy of written test materials. (*Randy's Trucking*, *supra*, 91 Cal.App.5th at p. 826; *Carpenter*, *supra*, 141 Cal.App.4th at p. 253.)

The trial court in *Randy's Trucking* granted the defendants' motion and directed, among other things, that "all raw data' be provided to [plaintiffs'] counsel ... subject to a protective order." (*Randy's Trucking, supra*, 91 Cal.App.5th at p. 828.) Defendants sought review of the trial court's order, based on the contention that the trial court erred by ordering the transmission of the raw data to anyone other than a licensed psychologist or neuropsychologist. (*Id.* at p. 834.)

In conducting its review of the trial court's order, the appellate court noted the absence of "statutory authority ... precluding a trial court from ordering the disclosure of test materials or test data when ordering a mental examination." (*Randy's Trucking, supra*, 91 Cal.App.5th at p. 834.) The appellate court also recognized "the trial court's broad discretion in discovery matters" and its "power to order disclosure of test materials and data to the plaintiff's attorney." (*Id.* at p. 835.)

The court further noted that the only evidence submitted by defendants in that case was a declaration of their neuropsychologist. (*Randy's Trucking, supra*, 91 Cal.App.5th at p. 837.) Based on information provided by that neuropsychologist, the appellate court acknowledged the "dangers" which may result from the exposure of test materials and raw data, which include "compromising the validity of future neuropsychological test results", the potential for "misuse and misinterpretation of tests" by untrained persons, "potential conflicts with the APA Ethical Standards" including " 'several key principles in the Specialty Guidelines for Forensic Psychology of the American Psychological Association (2013)' ", "an increased likelihood test content and instructions would be disseminated which 'raises the risk that motivated parties will coach and prepare examinees for testing in advance, specifically to influence test results' ", and that " ' "[l]awyers involved in brain injury litigation routinely coach their clients how to approach neuropsychological testing to their advantage." ' " (*Ibid.*)

Notwithstanding the "dangers" noted by the court in *Randy's Trucking*, which are effectively the same dangers cited by Dr. Goodman and the Woollards in the present motion, the court found that defendants failed to show why a protective order would not ameliorate these dangers, or any risk of violating the neuropsychologist's ethical obligations. (*Randy's Trucking, supra*, 91 Cal.App.5th at pp. 837-838.) The court further noted that, while defendants' neuropsychologist had identified various standards which the neuropsychologist claimed could be violated by the disclosure of raw examination data, the neuropsychologist had failed to explain these potential violations or submit copies of the applicable standards to the trial court. (*Id.* at p. 838.)

When weighing the evidence submitted by defendants against "plaintiffs' right to take discovery and cross-examine defendants' expert witnesses, which includes being able to examine the expert on the matter upon which the expert's opinion is based and the reasons for that opinion ...", the court in *Randy's Trucking* determined that "[w]ithout the raw data ..., plaintiffs cannot effectively scrutinize the way the data was collected, determine if there are discrepancies, and cross-examine the neuropsychologist on the basis and reasons for the neuropsychologist's opinion." (*Randy's Trucking, supra*, 91 Cal.App.5th at p. 838.) The court concluded that "[b]ased on the record before it, the trial court reasonably could find plaintiffs had a legitimate need for the raw data ... and the concerns about maintaining test security would be satisfied with a protective order." (*Ibid.*) For these, and other reasons more fully discussed in *Randy's Trucking*, the court found that relief from the trial court's order was not warranted. (*Id.* at p. 848.)

As the dispute at issue in *Randy's Trucking* is substantively similar if not identical to the parties' present dispute, that decision is persuasive and on point.

Noted above, Dr. Goodman describes a rule imposed by the California Board of Psychology. Dr. Goodman does not explain where a copy of this rule appears in the Index. Instead, Dr. Goodman quotes

select portions of this rule, which Dr. Goodman appears to contend could be violated if the Raw Data is transmitted to Lindsay's counsel. (See Goodman Decl., ¶¶ 10-11.)

Further, the conclusory contentions offered by Dr. Goodman regarding potential violations of practice guidelines issued by "professional organizations" within the field of neuropsychology which purportedly could occur if the Raw Data is provided to Lindsay's counsel, are themselves insufficient to explain any purported violations.

For example, though Dr. Goodman asserts that the guidelines or official statements referenced in the Goodman declaration are based on the premise that disclosure of test questions to non-psychologists would undermine the effectiveness or validity of the neuropsychological tests, Dr. Goodman fails to explain where the guidelines or statements provide that disclosure would violate practice guidelines. (Goodman Decl., ¶ 16.) Dr. Goodman also fails to explain why the publication by the American Academy of Clinical Neuropsychology referenced in the Goodman declaration and attached as exhibit D to the Index shows that disclosure of the Raw Data to Lindsay's counsel would violate any practice guidelines, or that a protective order would not be sufficient to ameliorate any risk of violating such guidelines. (*Ibid.*)

Further, the language of the "rule" imposed by the California Board of Psychology set forth in Dr. Goodman's declaration does not on its face show that Dr. Goodman is prohibited from releasing the Raw Data under the circumstances present here.

The "rule" set forth in the Goodman declaration states that a "psychologist shall not reproduce or describe in public or in publications subject to general public distribution any psychological test or other assessment devices...." (Goodman Decl., ¶ 10.) This language, which was selected by Dr. Goodman to show why the Raw Data or audio recordings may not be disclosed to Lindsay's counsel, suggests to the court that, to the extent an appropriate protective order includes language sufficient to maintain the integrity and security of the Raw Data or any audio recordings, including by prohibiting their use or dissemination outside of this litigation, Dr. Goodman would not be prohibited from releasing the Raw Data or any audio recordings to Lindsay's counsel. For these reasons, Dr. Goodman fails to sufficiently explain why an appropriate protective order could not satisfy any requirements imposed under this rule, which appears on its face to pertain only to the disclosure of test data or devices to the general public.

As to Dr. Goodman's concerns regarding counsel's qualifications to interpret the Raw Data, counsel "would not necessarily be required to do so to use the materials for purposes of cross-examination, since disclosure of these materials may help to protect against abuse and disputes over what transpired during the examination ...." (*Randy's Trucking, supra*, 91 Cal.App.5th at p. 838.) Moreover, Lindsay "should not be forced to retain an expert to gain access to these materials and even if [she does] retain one, that expert can only assist [Lindsay's counsel] in preparing for cross-examination; to prepare and conduct an effective cross-examination, 'the attorney must themselves possess more than a secondhand understanding of the information being scrutinized.'" (*Ibid.*) For these reasons, any purported inability of counsel to interpret the Raw Data does not, alone, justify Dr. Goodman's refusal to produce the Raw Data to counsel.

In addition, though Dr. Goodman also asserts, generally, that attorneys may use test information and devices to coach future clients, "that risk is not unique to psychological testing." (*Randy's Trucking, supra*, 91 Cal.App.5th at p. 841.) Further, Dr. Goodman and the Woollards have failed to "show testing integrity is meaningfully compromised by the potential for some attorney recall." (*Ibid.*)

The remaining arguments advanced by the Woollards and Dr. Goodman are themselves insufficient to show that "attorneys regularly violate protective orders, including those concerning psychological or neuropsychological testing materials" or that there exists "a substantial risk of abusive intentional dissemination or an unacceptable risk of inadvertent disclosure" such that no protective order would be

adequate to address Dr. Goodman's concerns about the integrity or security of the Raw Data, including audio recordings, or the potential for their disclosure outside of this litigation. (*Randy's Trucking, supra*, 91 Cal.App.5th at p. 842.)

For all reasons further discussed above, though the Woollards have made a sufficient showing of good cause for the evaluation, Lindsay has made a sufficient showing of the need for her counsel to obtain the Raw Data, including audio recordings of the evaluation, in order to enable counsel to understand the information at issue with respect to the evaluation. There is nothing to suggest, or which would allow the court to conclude, that a protective order could not sufficiently address any concerns regarding the security, integrity, or potential for misuse of the Raw Data or audio recordings, or to prevent their disclosure or release to persons not a party to or otherwise involved in this litigation.

Moreover, section 2032.530 grants Lindsay "the right to record [the evaluation] by audio technology." (Code Civ. Proc., § 2032.530, subd. (a).) Under section 2032.310, a motion for a mental examination must also specify the "manner, conditions, scope, and nature of the examination...." (Code Civ. Proc., § 2032.310, subd. (b).)

For all of the foregoing reasons, the court will grant the present motion, in part, and order Lindsay to appear for the evaluation on a date and at a time to be mutually agreed to by the parties, subject to the following conditions and restrictions. (Code Civ. Proc., § 2019.030.) No later than 30 days after the conclusion of the evaluation, Dr. Goodman shall produce to plaintiffs' counsel all raw data and audio recording of the evaluation, including the Raw Data described herein, which shall be maintained as confidential and used by the parties solely for the purposes of this case. The Raw Data, including any audio recordings of the evaluation, shall not be revealed, discussed with, or disclosed to any other person outside this litigation other than the parties, their counsel and neuropsychological experts, and the court. In addition, plaintiffs shall, within thirty days after the conclusion of this litigation, either destroy the Raw Data and provide a certification in writing that the data has been destroyed, or return the Raw Data to defendants' counsel or Dr. Goodman.

Furthermore, the evaluation will not include any tests not identified in exhibit A to "Defendants' Demand For Neuropsychological Evaluation Of Plaintiff", a copy of which is attached to the Index as exhibit I. Plaintiffs and their counsel are authorized to record the evaluation by audio technology.

The court has reviewed the proposed order submitted by the Woollards and does not intend to sign it. The court will direct counsel for the Woollards to submit a corrected proposed order for the court's approval that conforms to the court's ruling herein, in compliance with California Rules of Court, rule 3.1312.

DARREL E. PARKER, EXECUTIVE OFFICER

Minutes Prepared by:

\_\_\_\_\_  
Stephen Rebernik, Deputy

**PROOF OF SERVICE**  
*Woollard et al. v. Orsini et al.*  
Second Civil Number B348101  
Supreme Court Number \_\_\_\_\_

I, Janis Kent, state:

I am employed in the County of San Diego, State of California. I am over the age of 18 and not a party to the within action. My business address is 550 West C Street, Suite 1700, San Diego, California 92101.

On September 5, 2025, I served the following document described as **PETITION FOR REVIEW** on all interested parties in this action through TrueFiling, addressed to all parties appearing on the electronic service list for the above-titled case. The service transmission was reported as complete and a copy of the TrueFiling Receipt/Confirmation will be filed, deposited or maintained with the original document in this office.

On September 5, 2025, I served the following document described as **PETITION FOR REVIEW** by placing a true copy enclosed in a sealed envelope addressed as stated on the attached service list. I am readily familiar with the firm's practice for collection and processing correspondence for regular and overnight mailing. Under that practice, this document will be deposited with the Overnight Mail provider and/or U.S. Postal Service on this date with postage thereon fully prepaid at San Diego, California to addresses listed below in the ordinary course of business.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on September 5, 2025, at San Diego, California.

/s/ Janis Kent  
Janis Kent

**SERVICE LIST**

*Woollard et al. v. Orsini et al.*  
Second Civil Number B348101  
Supreme Court Number \_\_\_\_\_

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LINDSAY MARKS ORSINI and

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*(Via TrueFiling)*

Santa Barbara County Superior Court

The Honorable Colleen K. Sterne (Dept. SB-5)

Anacapa Division

1100 Anacapa Street

Santa Barbara, CA 93121

Telephone: (805) 882-4570

*(Via Overnight Mail)*

California Supreme Court

Attn: Clerk of Court

350 McAllister Street, Room 1295

San Francisco, CA 94102

*(Via Electronic)*

Presiding Judge (Civil)

Santa Barbara County Superior Court

Anacapa Division

1100 Anacapa Street

Santa Barbara, CA 93121

*(Via Overnight Mail)*

Clerk of the Court  
California Court of Appeal  
Second Appellate District, Division Six  
Court Place  
200 East Santa Clara Street  
Ventura, CA 93001  
*(Via Overnight Mail)*

STATE OF CALIFORNIA  
Supreme Court of California

**PROOF OF SERVICE**

STATE OF CALIFORNIA  
Supreme Court of California

Case Name: **Lindsay Marks Orsini, et al. v. Scott Woollard, et al.**

Case Number: **TEMP-41QKYRJN**

Lower Court Case Number:

1. At the time of service I was at least 18 years of age and not a party to this legal action.
2. My email address used to e-serve: **raymond.wilson@lewisbrisbois.com**
3. I served by email a copy of the following document(s) indicated below:

Title(s) of papers e-served:

| Filing Type                               | Document Title                                  |
|-------------------------------------------|-------------------------------------------------|
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This proof of service was automatically created, submitted and signed on my behalf through my agreements with TrueFiling and its contents are true to the best of my information, knowledge, and belief.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

9/5/2025

Date

/s/Janis Kent

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Signature

Wilson, Raymond (284686)

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Last Name, First Name (PNum)

Lewis Brisbois Bisgaard & Smith, LLP

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Law Firm