

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA

Owens v. Fluz Fluz LLC, a Delaware limited liability company

Owens · No. 24-cv-01083-MMC (TSH) · Decided April 8, 2025

SUMMARY

The United States District Court for the Northern District of California orders Plaintiff to revise redactions in medical records after conducting an in camera review under the patient-litigation exception to the physician-patient and psychotherapist-patient privileges. The Court identifies categories of information that may not be redacted and orders an exhibit containing the redacted records to remain sealed.

CASE DETAILS

COURT	United States District Court for the Northern District of California
WRITING FOR THE COURT	Thomas S. Hixson
JURISDICTION	United States District Court for the Northern District of California
DECIDED	April 8, 2025
DOCKET	24-cv-01083-MMC (TSH)
DISPOSITION	other
PROCEDURAL POSTURE	Discovery order resolving objections to redactions in Plaintiff's medical records after in camera review.
STANDARD OF REVIEW	In camera review of medical-record redactions for compliance with the patient-litigation exception to applicable privileges.
PRECEDENTIAL VALUE	Unpublished district court discovery order

TOPICS

- discovery dispute
- privilege
- medical records privacy
- evidence
- civil procedure

PRACTICE AREAS

- civil procedure
- evidence
- health law

QUESTIONS PRESENTED

1. Whether the redactions to Plaintiff's medical records complied with the patient-litigation exception to the physician-patient and psychotherapist-patient privileges.
2. Which identifying, prescription, pharmacy, and medical-record information could permissibly be redacted.

HOLDINGS

1. The patient-litigation exception is not broad enough to require disclosure of every aspect of a patient-litigant's personality or medical information merely because it may be relevant; the permitted inquiry depends on the nature of the injuries placed at issue by the patient-litigant.
2. Certain identifying information, including Plaintiff's date of birth, legal sex, name, document-printing date and time, and other patient-identification information, may not be redacted; pharmacy and prescription information related to conditions at issue also may not be redacted. Redactions concerning conditions not at issue may remain where permitted by the order.
3. The redacted version of Plaintiff's medical records, Exhibit A to ECF No. 37, must remain sealed.

KEY QUOTATIONS

“Disclosure cannot be compelled with respect to other aspects of the patient-litigant’s personality even though they may, in some sense, be ‘relevant’ to the substantive issues of litigation.” (at 1)

“The patient thus is not obligated to sacrifice all privacy to seek redress for a specific mental or emotional injury; the scope of the inquiry permitted depends upon the nature of the injuries which the patient-litigant himself has brought before the court.” (at 1)

FACTUAL BACKGROUND

Plaintiff's medical records contained redactions made under the physician-patient and psychotherapist-patient privileges. The Court reviewed those redactions in camera and determined that the patient-litigation exception did not permit withholding all information relating to Plaintiff's personality or medical records. The Court found that certain identifying information and prescription or pharmacy information related to conditions at issue in the litigation had to be disclosed, while other redactions could remain.

PROCEDURAL HISTORY

The Court previously ordered an in camera review of redactions to Plaintiff's medical records to determine whether they complied with the patient-litigation exception to the physician-patient and psychotherapist-patient privileges. After reviewing the records, the Court sustained most redactions, identified categories of information that could not be redacted, ordered Plaintiff to revise the redactions, and ordered the redacted medical-record exhibit to remain sealed.

DISPOSITION

other

CASES CITED

- In re Lifschutz, 2 Cal. 3d 415, 435 (1970)

OPINION

Owens v. Fluz Fluz LLC, a Delaware limited liability company

PER CURIAM.

1 2 3

4 UNITED STATES DISTRICT COURT

5 NORTHERN DISTRICT OF CALIFORNIA

6 7 RYAN OWENS, Case No. 24-cv-01083-MMC (TSH) 8 Plaintiff,

DISCOVERY ORDER

9 v. Re: Dkt. Nos. 37, 38

10 FLUZ FLUZ LLC,

11 Defendant. 12

13 In ECF No. 34, the Court explained that it would conduct an in camera review of the 14 redactions to Plaintiff's medical records to determine if they were consistent with the patient 15 litigation exception to the physician-patient and psychotherapist-patient privileges. The Court has 16 now undertaken that review. The Court gives no weight to Dr. Amyanne Freeburg's opinion that 17 "[p]sychological evaluations consider the totality of the person" (ECF No 38-1 ¶ 7) because even 18 if that is true as a medical matter, the patient litigation exception is not that broad as a legal matter. 19 See In re Lifschutz, 2 Cal. 3d 415, 435 (1970) ("Disclosure cannot be compelled with respect to 20 other aspects of the patient-litigant's personality even though they may, in some sense, be 21 'relevant' to the substantive issues of litigation. The patient thus is not obligated to sacrifice all 22 privacy to seek redress for a specific mental or emotional injury; the scope of the inquiry permitted 23 depends upon the nature of the injuries which the patient-litigant himself has brought before the 24 court.") 25 The Court SUSTAINS the redactions in the medical records except as follows: 26 1. On the top right of every page of the Sutter Health records, counsel has redacted the 27 patient's date of birth and legal sex. That is not permitted. 1 redacted the date and time the document was printed. That is not permitted. 2 3. Counsel cannot redact pharmacy information for a prescription that is related to a 3 condition at issue. See, e.g., RYANOWENS000536 &540. 4 4. Counsel may not redact the second prescription near the bottom of 5 RYANOWENS000366, nor the second one at the top of RYANOWENS000367 because page 366 6 || makes clear it relates to one of the conditions at issue. 7 5. In many of the after visit summaries (e.g., RY ANOWENS000376), counsel has 8 || redacted the plaintiff's name and the date and time the document was printed. This is not 9 appropriate. 10 6. In the BioReference documents (e.g., RY ANOWENS000575 & 577), there is a box at 11 the top that says "patient." Counsel has redacted everything in that box except the patient's name, 12 || but none of that information should be redacted. 13 7. On the "face sheet" at RYANOWENS000745, the top box is

patient information. The 14 || two boxes on the top right can be redacted because they relate to conditions not at issue, but the 3 15 remaining information cannot be redacted it is just identification information about the plaintiff. a 16 The Court ORDERS Plaintiff to bring his redactions into compliance with this order. The 3 17 Court also ORDERS Exhibit A to ECF No. 37 to remain sealed, as it is a redacted version of 18 Plaintiff's medical records. 19 This order terminates ECF Nos. 37 and 38. 20 IT IS SO ORDERED. 21 22 || Dated: April 8, 2025 23 AY \ .
lj~—

THOMAS S. HIXSON

24 United States Magistrate Judge 25 26 27 28