

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.

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 Lifeschutz*, 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