

SUPREME COURT OF OHIO

Leopold v. Ace Doran Hauling & Rigging Co.

136 Ohio St. 3d 257, 2013-Ohio-3107 (Ohio 2013) · No. 2012-0438 · Decided July 18, 2013

SUMMARY

The Supreme Court of Ohio held that the physician-patient testimonial privilege did not protect statements Danielle Laurence made to emergency-room personnel concerning a motor-vehicle accident. Under R.C. 2317.02(B)(1)(a)(iii) and (B)(3)(a), the privilege did not apply because Laurence filed a cross-claim, and the statements related causally or historically to injuries relevant to the civil action. The court affirmed the judgment denying her request for a protective order.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	O'Donnell, J.; O'Connor, C.J.; Kennedy, J.; French, J.; Pfeifer, J.; Lanzinger, J.; O'Neill, J.
JURISDICTION	Ohio
DECIDED	July 18, 2013
DOCKET	2012-0438
DISPOSITION	affirmed
PROCEDURAL POSTURE	Discretionary appeal from an appellate judgment affirming denial of Laurence's motion for a protective order seeking to prevent use of medical records and statements produced in her prior personal-injury litigation.
PRECEDENTIAL VALUE	Published Supreme Court of Ohio opinion; binding precedent in Ohio.
PARTIES	Danielle Laurence v. Todd L. Leopold, Linda Leopold, Stephen L. Stillwagon, Ace Doran Hauling & Rigging Company, Ace Doran Brokerage Company

TOPICS

[privilege](#) [evidence](#) [statutory interpretation](#) [civil procedure](#)

PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the physician-patient testimonial privilege under R.C. 2317.02 protected Laurence's medical records and statements after she filed contribution or indemnification cross-claims in a civil action arising from the same accident.
2. Whether, when the statutory exception to the physician-patient privilege applies, the physician may testify or be compelled to provide discovery concerning communications causally or historically related to injuries relevant to the other civil action.

HOLDINGS

1. Under R.C. 2317.02(B)(1)(a)(iii), the physician-patient testimonial privilege does not apply when the patient files any type of civil action, including a contribution or indemnification cross-claim.
2. When the privilege does not apply under R.C. 2317.02(B)(1)(a)(iii), a physician may testify or be compelled to testify or submit to discovery only concerning communications that relate causally or historically to physical or mental injuries relevant to the other civil action.

KEY QUOTATIONS

“When the physician-patient privilege described in R.C. 2317.02(B)(1) does not apply as provided in R.C. 2317.02(B)(1)(a)(iii), a physician may testify or be compelled to do so only as to a communication that related causally or historically to physical or mental injuries relevant in the other civil action.” (2013-Ohio-3107, ¶ 18)

“This exception is all-inclusive as to the type of civil action that may be filed by the patient and does not contain any exclusion for or limitation of indemnification or contribution claims.” (2013-Ohio-3107, ¶ 14)

FACTUAL BACKGROUND

A multivehicle accident occurred on Interstate 90, involving Laurence's vehicle and a tractor-trailer driven by Stephen Stillwagon for Ace Doran. Laurence was treated at MetroHealth and told emergency-room personnel that she had struck a vehicle, was hit from behind by a semi, and was pushed into a concrete wall. She later produced her medical records in a personal-injury action arising from the accident, voluntarily dismissed that action, and subsequently filed contribution or indemnification cross-claims in litigation arising from the same accident.

PROCEDURAL HISTORY

Laurence initially sued Stillwagon and Ace Doran for injuries arising from the accident and produced medical records in discovery before voluntarily dismissing that action. In a later action brought by the Leopolds, Laurence was added as a defendant and filed cross-claims for contribution or indemnification. The trial court denied her motion for a protective order, and the Eighth District Court of Appeals affirmed. The Supreme Court of Ohio accepted the discretionary appeal and affirmed.

DISPOSITION

affirmed

CASES CITED

- Hageman v. Southwest Gen. Health Ctr., 119 Ohio St. 3d 185, 2008-Ohio-3343, 893 N.E.2d 153
- Biddle v. Warren Gen. Hosp., 86 Ohio St. 3d 395, 715 N.E.2d 518 (1999)
- 2012-Ohio-497

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