

OHIO CASE SUMMARIES

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Ohio case summaries will be provided on a continuing basis every Wednesday and Friday of each week (excluding holidays). Summaries include brief descriptions of cases decided in the past week by the Ohio Supreme Court and lower appellate courts on issues related to insurance law. To discontinue receiving this service, please call Sean McCormick at 937.224.3333 or send an email to smccormick@green-law.com.

Court of Appeals: Eighth District Court of Appeals

Case Name: *Wooten v. Westfield Insurance Co.*, 2009-Ohio-494

Decided: February 5, 2009

Issue(s): Release of Medical Information/Protective Order

Summary of Opinion: Wooten was injured in an automobile accident and sought to recover damages from Westfield Insurance Company (Westfield). During discovery, Westfield sought release of all Wooten's medical records from the previous several years, without any limitations in scope or subject matter. Wooten suggested that the parties use a "pseudo in-camera inspection" process, but Westfield rejected that proposal, and sought to have her sign unlimited authorizations.

Consequently, Wooten filed a motion for a protective order, seeking not to have to execute the releases proposed by Westfield. In response, Westfield sought an order compelling Wooten to present the medical records as requested. The trial court denied Wooten's motion without comment. Wooten appealed.

The Eighth District Court of Appeals first explained that the proper standard for review in an appeal from the interpretation and application of R.C. § 2317.02(B), the statute governing doctor-patient privilege, was *de novo*, not the abuse of discretion standard that generally governs discovery.

The court then went on explain that although the doctor-patient privilege generally does not apply when the patient files a civil action putting her physical or mental condition at issue, under R.C. 2317.02(B)(3)(a) the information sought must be causally related to

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the physical and/or mental injuries that are relevant to the claim. As a result, the court reasoned that since Westfield's requests were not limited to the injuries alleged, the trial court erred in not conducting an in-camera inspection to determine which records were discoverable. The court concluded that the trial court had the authority to regulate discovery, including the power to direct and in-camera inspection, under Civ.R. 26(C).

The judgment was reversed and remanded for further proceedings consistent with the opinion.

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