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SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

ARI ROBBINS,)	
)	
)	No. 17-2-32900-2 SEA
Plaintiff,)	
)	ORDER ON PLAINTIFF’S MOTION
vs.)	FOR PROTECTIVE ORDER
)	
SWEDISH HEALTH SERVICES, INC., et. al.,)	
Defendants.)	
)	
)	
)	

The above-entitled Court, having read Plaintiff’s Motion for Protective Order, Defendant’s Response to Motion, and Plaintiff’s Reply, as well as all Declarations and Attachments to the Pleadings, and having reviewed all files under this cause, the Court finds as follows:

FINDINGS AND ANALYSIS

Plaintiff Ari Robbins filed a lawsuit seeking damages from Defendants. Plaintiff claims that Defendant discriminated against him by unlawfully denying him gender confirmation surgery. Plaintiff seeks damages including compensatory losses for serious irreparable harm including, “unnecessary months of pain and mental distress,” and that he, “had to drive to Idaho in the midst of law school final examination.” (Complaint at 1). He further contends that,

1 because of the delay in gender confirmation surgery required by the denial of services, he had to
2 continue with chest binding for an extended period of time. (Complaint at 6). Plaintiff contends
3 that, “binding is painful and caused him shortness of breath, chest pain, soreness, rashes, severe
4 neck and back pain, headaches, and bruised ribs.” (Complaint at 6). This pain, “interfered with
5 [Plaintiff’s] ability to focus during [law] school [at the University of Washington].” (Complaint
6 at 7).

7 Defendant issued subpoena duces tecum seeking records from four non-party entities: (1)
8 University of Washington School of Law; (2) Plaintiff’s primary care physician Country Doctor;
9 (3) Insurance Provider Apple Health; and (4) Linea Cosmetic Surgery. The Court will address
10 the subpoenas for each entity separately.

11 1. UNIVERSITY OF WASHINGTON LAW SCHOOL

12 Plaintiff has alleged that Defendant’s actions damaged him by affecting his school work.
13 Documents related to this issue are relevant or potentially relevant, and thus discoverable. The
14 Court also finds that the subpoena as currently written is too broad. Thus, the Court authorizes
15 the subpoena, modified as followed: “YOU ARE COMMANDED to produce and permit
16 inspection and copying of the following documents or tangible things at the place, date and time
17 specified below: Student records related to academic performance between entry into the school
18 and the present and transcripts relating to student ARI ROBBINS a/k/a ANDREA M. ROBBINS
19 DOB 9/10/1987.”

20 The Court further finds that these are private education-related records and deserve the
21 Court’s protection. Thus, the Court orders that the documents shall remain in the possession of
22 the lawyers for each of the parties. Copies of the documents shall not be disseminated beyond
23 the parties and their lawyers. The documents shall not be shown to anyone other than the parties,
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1 expert witnesses retained by the parties, and their legal teams. Once this litigation is complete,
2 all copies of the documents shall be destroyed.

3 2. WASHINGTON APPLE HEALTH

4 Plaintiff contends that Defendant's actions required Plaintiff to engage unnecessarily with
5 his insurance provider, Apple Health, causing distress and delay. Moreover, Plaintiff contends
6 that one of the reasons Defendant gave not to perform the surgery was that Apple Health was
7 requiring extra documentation. This communication resulted in Plaintiff engaging directly with
8 his health care provider.

9 The Court finds that a subpoena duces tecum, as outlined below, is sufficient for
10 Defendant to discover relevant or potentially relevant information while still protecting
11 Plaintiff's privacy: "YOU ARE COMMANDED to produce and permit inspection and copying
12 of the following documents or tangible things at the place, date and time specified below: The
13 complete benefits statements, service requests related to potential gender confirmation chest
14 reconstruction surgery, and patient/provider correspondence related to chest reconstruction
15 surgery..."

16 The Court further finds that these are private healthcare-related records and deserve the
17 Court's protection. Thus, the Court orders that the documents shall remain in the possession of
18 the lawyers for each of the parties. Copies of the documents shall not be disseminated beyond
19 the parties and their lawyers. The documents shall not be shown to anyone other than the parties,
20 expert witnesses retained by the parties, and their legal teams. Once this litigation is complete,
21 all copies of the documents shall be destroyed.

1 3. LINEA COSMETIC SURGERY

2 Defendant's explanation for denial of services was, at the time of denial, that the surgery
3 was too complex for her to perform. Plaintiff claims that this explanation was a pretext for a
4 discriminatory reason to deny services. Thus, the complexity of the surgery that Linea Cosmetic
5 Surgery *proposed to complete* is potentially relevant. Anything that actually occurred during the
6 surgery would be irrelevant and would not have a bearing on whether a medical provider would
7 view the surgery as potentially too complex. As such, the Court amends the subpoena duces
8 tecum for Linea as follows: "YOU ARE COMMANDED to produce and permit inspection and
9 copying of the following documents or tangible things at the place, date and time specified
10 below: Medical records indicating the proposed course of surgery related directly to the gender
11 confirming chest reconstruction surgery performed on ARI ROBBINS a/k/a ANDREA M.
12 ROBBINS, DOB 9/10/1987, and redacting or excluding from production any and all
13 communications between ARI ROBBINS and any medical personnel not directly related to the
14 proposed course of surgery."

15 The Court further finds that these are private medical records and deserve the Court's
16 protection. Thus, the Court orders that the documents shall remain in the possession of the
17 lawyers for each of the parties. Copies of the documents shall not be disseminated beyond the
18 parties and their lawyers. The documents shall not be shown to anyone other than the parties,
19 expert witnesses retained by the parties, and their legal teams. Once this litigation is complete,
20 all copies of the documents shall be destroyed.

21 4. COUNTRY DOCTOR HEALTH CLINIC

22 Defendant contends that Plaintiff's medical records from his primary care physician are
23 potentially relevant to questions of Defendant's motives in denying service and Plaintiff's
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1 damages. The Court agrees that the referral process for the chest reconstruction surgery, any
2 delays in receiving the referral, the dates upon which the referrals were communicated, and other
3 information related to Plaintiff's health in conjunction with the proposed surgery are relevant.

4 As such, the Court amends the subpoena duces tecum for Country Doctor as follows

5 "YOU ARE COMMANDED to produce and permit inspection and copying of the
6 following documents or tangible things at the place, date and time specified below: All medical
7 records reflecting health concerns, appointments, referrals, reports, notes and memoranda
8 relating directly to the proposed course of gender confirming chest reconstruction surgery
9 eventually performed on ARI ROBBINS a/k/a ANDREA M. ROBBINS, DOB 9/10/1987. These
10 records should include information from appointments with Country Doctor where Mr.
11 ROBBINS discussed issues of binding and pain resulting from binding."

12 The Court further finds that these are private medical records and deserve the Court's
13 protection. Thus, the Court orders that the documents shall remain in the possession of the
14 lawyers for each of the parties. Copies of the documents shall not be disseminated beyond the
15 parties and their lawyers. The documents shall not be shown to anyone other than the parties,
16 expert witnesses retained by the parties, and their legal teams. Once this litigation is complete,
17 all copies of the documents shall be destroyed.

18 **ORDER**

19 Plaintiff's Motion for Protective Order is GRANTED in part and DENIED in part,
20 consistent with the Court's analysis, above.

21 DATED this 5th day of April, 2018.

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23 
24 _____
JUDGE ROGER ROGOFF