

Bond Case Briefs

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McNair v. City and County of San Francisco

Court of Appeal, First District, Division 4, California - November 22, 2016 - Cal.Rptr.3d - 2016 WL 6879277

Patient brought action against city and physician employed by the city's department of public health for breach of contract and violation of the California Confidentiality of Medical Information Act (CMIA).

The Superior Court granted summary adjudication on patient's intentional tort cause of action and nonsuit on his breach of contract claim. Patient appealed.

The Court of Appeal held that:

- Litigation privilege barred patient's CMIA cause of action based on physician's disclosure of patient's cognitive deficits to the Department of Motor Vehicles (DMV);
- Catchall provision of the CMIA authorized physician's disclosure of patient's cognitive deficits to the DMV; and
- Litigation privilege barred patient's breach of contract cause of action based on physician's disclosure of patient's cognitive deficits to the DMV.

The litigation privilege barred patient's cause of action under the California Confidentiality of Medical Information Act (CMIA) arising from physician's report to the Department of Motor Vehicles (DMV) that patient suffered from cognitive deficits calling into question whether it was appropriate for him to have a commercial driver's license, even assuming that the physician's report did not comply with the statute providing that a physician may report a patient's condition to a local health officer upon a good faith belief that the report will serve the public interest, since the letter to the DMV was a communication "authorized by law."

A voluntary disclosure of confidential medical information falls within the reach of the catchall provision of the California Confidentiality of Medical Information Act (CMIA) if a public policy exists encouraging such disclosure, the disclosure involves issues of public safety, and it is a communication which would otherwise be immunized by the litigation privilege.

The litigation privilege barred patient's breach of contract cause of action against city and a city-employed physician arising from physician's report to the Department of Motor Vehicles (DMV) that patient suffered from cognitive deficits calling into question whether it was appropriate for him to have a commercial driver's license, where the contract did not clearly prohibit the physician's conduct.