

IN THE COURT OF COMMON PLEAS  
SUMMIT COUNTY, OHIO

MEMBER WILLIAMS  Plaintiff,  vs.  KISLING, NESTICO & REDICK, LLC  Defendant.	Case No. CV-2016-09-3928  Judge Alison Breaux
<b>REPLY IN SUPPORT OF PLAINTIFFS' MOTION FOR STAY OR CONTINUANCE OF APRIL 5, 2017 HEARING</b>	

In reply to Defendants' Opposition to Plaintiffs' motion for a stay or continuance of the April 5, 2017 hearing, Plaintiffs respectfully note the following:

Defendants do not bother to respond to Plaintiffs' counsel's plea that they need time to consult with other counsel regarding Defendants' and the Court's various efforts and threats to attack them with baseless sanctions. It would be manifestly unfair for the Court to be heedless of that plea. Since March 9, 2017, the number of issues between the parties and the Court have metastasized from those originally contemplated to now include multiple sanctions and show-cause motions, a vague and unconstitutional gag order that has spawned additional motions from the defense, an order limiting access to the docket, an order striking Plaintiff's perfectly lawful Motion for Leave to File a Second Amended Complaint, various unfounded accusations against Plaintiffs and their counsel that the Court has simply assumed to be true without waiting for a response, and more. Plaintiffs must have time to consider all of these developments, prepare necessary filings, and

consult with counsel as needed given efforts by the defense to personalize the disputes.

Further, Defendants ducked altogether the information attached to the motion for stay touching upon this Court's close connections with Defendants. The continued pretense that there are no such connections and nothing to be revealed disgraces this process. While no one disputes that R.C. 2701.03 requires at least seven days before a hearing before an affidavit of disqualification is filed, Plaintiffs do intend to file such a motion, in good faith, based on previously undisclosed information they acquired during the seven-day period preceding the hearing. Defendants' conclusion that "Plaintiff's Motion should be denied and the hearing should proceed" based upon a truism about the seven-day requirement is a non-sequitur. It evades the question of why the Court should actively rush to make decisions that might be improper for it to make, when the Chief Justice's consideration of an affidavit of disqualification is inevitable. If this Court is doing nothing improper, surely, out of an abundance of prudence and caution, it should be indifferent to, and indeed welcome the scrutiny. Surely a fair court would want to afford the opportunity to be heard to a party that is concerned about the appearance of impropriety instead of shutting down that conversation and pretending it is not happening.

Finally, Plaintiffs ask the Court to consider that Plaintiffs' Counsel are highly experienced, particularly in high-profile matters from civil defense, civil plaintiffs', criminal-prosecution, and criminal-defense perspectives. They have distinguished backgrounds and a documented track record of success. The firm's managing partner, undersigned, was a federal prosecutor, law director for the City of Cleveland, candidate for Ohio attorney general (endorsed by most newspapers including the *Akron Beacon Journal* and generously supported, among others, by defense counsel Eric Kennedy). Contrary to Defendants' repeated suggestion that Plaintiffs' counsel are reckless desperadoes with nothing better to do than file a frivolous lawsuit merely to engage in a "smear campaign," Plaintiffs'

counsel would not file an affidavit of disqualification lightly, and have never before felt the need to do so. The circumstances in this case are highly unusual and merit reflection by all—including the Court—before hasty action.

For these reasons, as well as those contained in the underlying motion, Plaintiffs request that the Court stay the April 5 motions hearing, or continue it for at least 30 days, to afford Plaintiffs' counsel the time to make the necessary consultations with other counsel concerning all pending motions and court decisions targeted against them, and to prepare and file an affidavit of disqualification.

If the Court denies this motion it will highlight again that Defendants in this matter get pretty much whatever they want, whenever they want it—even when their requests are contrary to established legal authority and Plaintiffs have had no chance to respond or contest false assertions of fact—while on the other hand, even a humble request for a continuance or stay by Plaintiffs—to have time to respond to extraordinary gag orders and sanctions threats and be heard on their concerns about the integrity of this process—is greeted with disregard.

Dated: April 4, 2017

Respectfully submitted,

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## CERTIFICATE OF SERVICE

The foregoing document was served on all other parties by operation of the Court's e-filing system on April 4, 2017.

/s/ Subodh Chandra  
*One of the Attorneys for Plaintiff*