

**IN THE COURT OF COMMON PLEAS
SUMMIT COUNTY, OHIO**

MEMBER WILLIAMS)	
)	CASE NO. CV-2016-09-3928
Plaintiff,)	
)	JUDGE ALISON BREAUX
vs.)	
)	
KISLING, NESTICO & REDICK, LLC, et al.)	
)	<u>SUR-REPLY BRIEF IN OPPOSITION TO</u>
Defendants.)	<u>PLAINTIFF'S MOTION FOR STAY OR</u>
)	<u>CONTINUANCE OF APRIL 5, 2017</u>
)	<u>HEARING</u>

For its Sur-Reply, Defendant Kisling, Nestico, & Redick, LLC ("KNR") states the following:

This oral hearing has been set since December 9, 2016 (after the election of Judge Breaux) with several rescheduled dates because of scheduling conflicts. It was recently rescheduled on March 9, 2017 for April 5, 2017. There has been plenty of time, dating back to November, 2016, to consult with counsel regarding Plaintiff's fabricated campaign allegations. Plaintiff's counsel may need more time because they cannot find counsel to provide them with the advice that they want to hear. That is not sufficient reason to continue the hearing.

Furthermore, the additional motions (e.g., the sanctions hearing, the Motion to Show Cause, the Motion for Gag Order, etc.) are all due to the conduct of Plaintiff's counsel. They have brought these proceedings and motions on themselves. Therefore, they should not have the benefit of additional time.¹

Finally, to the extent that counsel's allegations of close connections between this Court and KNR and Mr. Nestico² is based on alleged support of Judge Breaux in her election, the Ohio Supreme Court has repeatedly concluded that campaign involvement, including campaign

¹ The qualifications of counsel are not at issue regarding whether the April 5 hearing should be stayed or continued.

² Mr. Nestico is no longer a defendant, despite Plaintiff's counsel continuing to refer to him as one.

contributions, in a judicial race does not require recusal or disqualification. *Jones v. Baker & Hostetler (In re Burnside)*, 113 Ohio St. 3d 1211, 2006-Ohio-7223, ¶ 8 (“[E]lected judges are generally not required to recuse themselves from cases in which a party is represented by an attorney who has contributed to or has raised money for the judge's election campaign.”). Simply put, Plaintiff’s Motion for Stay is a clear ploy to keep her counsel’s social media and website posts up despite the Court’s clear Gag Order. The Motion should be denied.

Respectfully submitted,

/s/ James M. Popson

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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was filed electronically with the Court on this 4th day of April, 2017. The parties may access this document through the Court's electronic docket system.

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