

IN THE COURT OF COMMON PLEAS
SUMMIT COUNTY, OHIO

MEMBER WILLIAMS, et al.,	)	CASE NO. CV-2016-09-3928
)	
Plaintiffs,	)	JUDGE ALISON BREAU
)	
v.)	
)	
KISLING, NESTICO & REDICK, LLC, et al.,	)	<u>DEFENDANTS' MOTION FOR LEAVE TO</u>
	)	<u>FILE MOTION FOR SUMMARY JUDGMENT</u>
Defendants.	)	<u>ON PLAINTIFF MATTHEW JOHNSON'S</u>
	)	<u>INDIVIDUAL CLAIMS IN THE THIRD</u>
	)	<u>AMENDED COMPLAINT</u>

Pursuant to this Court's October 16, 2017 Order, Defendants Kisling, Nestico & Redick, LLC, Alberto R. Nestico, and Robert Redick ("Defendants") respectfully move this Court for leave to file their Motion for Summary Judgment on Plaintiff Matthew Johnson's individual claims in the Third Amended Complaint. A copy of the Motion is attached as Exhibit A. During the October 16, 2017 status conference, Defendants' counsel informed the Court that it planned on filing a Motion for Summary Judgment on Plaintiff Johnson's claims only. In addition, as outlined in Defendants' Motion to Strike Class Allegations, this Motion for Summary Judgment supports the Motion to Strike.

Defendants' Motion for Summary Judgment can be resolved without any further discovery. In fact, this Motion for Summary Judgment will narrow the issues in the lawsuit and dismiss one set of the baseless claims in order to avoid unnecessary and expensive discovery that will only lead to the same result – dismissal of all Plaintiff Johnson's claims.

Plaintiff Johnson's claims are based on inferences that Defendants have an ownership or financial interest in the company Liberty Capital, which loaned money to Plaintiff Johnson. Plaintiff contends: "The allegations above support a strong inference that Defendants assisted in Liberty Capital's formation." (Third Am. Compl., ¶ 133.) Plaintiff also asserts: "The allegations above support a strong inference that Defendants retained an ownership interest in Liberty Capital or obtained a kickback benefits for referring KNR clients for loans." (*Id.*, ¶ 134.)

Plaintiff had no facts to make these allegations. Instead based on the true facts outlined in the affidavits of Defendant Nestico, Defendant Redick, and the former owner of Liberty Capital (Cirro Cerrato), these inferences are not true and no amount of discovery can change that.

Defendants are not seeking leave to file this Motion for Summary Judgment to further delay the proceedings or to unduly burden the Court. Rather, as stated above, this Motion for Summary Judgment will narrow the issues in this lawsuit and save the parties on unnecessary and unproductive discovery.

Accordingly, Defendants' request for leave to file their Motion for Summary Judgment on Plaintiff Johnson's individual claims should be granted.

Respectfully submitted,

/s/ James M. Popson

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Counsel for Defendants

CERTIFICATE OF SERVICE

A copy of the foregoing Motion for Leave to File Motion for Summary Judgment on Plaintiff Matthew Johnson's Individual Claims in the Third Amended Complaint was filed electronically with the Court on this 3rd day of November 2017. The parties may access this document through the Court's electronic docket system.

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Counsel for Defendant Minas Floros, D.C.

/s/ James M. Popson
James M. Popson (0072773)

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SUMMIT COUNTY, OHIO**

MEMBER WILLIAMS et al.,)	CASE NO. CV-2016-09-3928
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Plaintiffs,)	JUDGE ALISON BREAU
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KISLING, NESTICO & REDICK, LLC, et al.,)	<u>DEFENDANTS' MOTION FOR SUMMARY</u>
)	<u>JUDGMENT ON PLAINTIFF MATTHEW</u>
Defendants.	)	<u>JOHNSON'S INDIVIDUAL CLAIMS IN THE</u>
	)	<u>THIRD AMENDED COMPLAINT</u>

Pursuant to Ohio R. Civ. P. 56(B), Defendants Kisling, Nestico & Redick, LLC, Alberto R. Nestico, and Robert Redick ("Defendants") respectfully move this Court for summary judgment on Plaintiff Matthew Johnson's individual claims in the Third Amended Complaint. Defendants are entitled to judgment as a matter of law on Plaintiff's breach of fiduciary duty (Claim Seven) and unjust enrichment (Claim Eight). A memorandum in support of this motion and a sample judgment entry are attached.

Respectfully submitted,

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Exhibit A

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Counsel for Defendants

IN THE COURT OF COMMON PLEAS
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MEMBER WILLIAMS, et al.)	CASE NO. CV-2016-09-3928
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Plaintiff,)	JUDGE ALISON BREAUX
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KISLING, NESTICO & REDICK, LLC,)	<u>MEMORANDUM IN SUPPORT OF</u>
et al.,)	<u>DEFENDANTS' MOTION FOR SUMMARY</u>
)	<u>JUDGMENT ON PLAINTIFF MATTHEW</u>
Defendants.)	<u>JOHNSON'S INDIVIDUAL CLAIMS IN THE</u>
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)	

I. **INTRODUCTION**

Plaintiff Matthew Johnson’s lawsuit is based on his counsel’s imagination and conspiracy theory that Defendants Kisling, Nestico & Redick, LLC, Alberto R. Nestico, and Robert Redick (“Defendants”) had a financial and ownership interest in a lending company called Liberty Capital Funding LLC (“Liberty Capital”). Under counsel’s speculation, Defendants steered Plaintiff to Liberty Capital for a pre-settlement loan because Defendants stood to benefit financially from such a loan and that they received a kickback from Liberty Capital for steering Plaintiff to Liberty Capital. Plaintiff and his counsel’s problem is that the facts do not support their theory and innuendos.

Rather the facts, affidavits from Nestico, Redick, and Ciro Cerrato, the owner of Liberty Capital, and the filing with the Florida Secretary of State, establish that Defendants did not have an ownership or financial interest in Liberty Capital and that there were no kickbacks to Defendants, and no self-dealing by Defendants. Plaintiffs have nothing to refute these facts and discovery will not change this. Based on these undisputed facts, Plaintiff cannot prove his breach of fiduciary duty and unjust enrichment claims. Therefore, Defendants are entitled to summary judgment as a matter of law on these claims.

II. FACTUAL BACKGROUND

A. Plaintiff voluntarily obtained a loan from Liberty Capital.

Plaintiff was involved in an automobile accident that resulted in personal injuries.¹ (Third Am. Compl., ¶ 13.) Plaintiff retained KNR as counsel for this personal injury matter. (Jenna Wiley Affidavit, ¶ 1, attached as Ex. A.) While a client of KNR, Plaintiff twice requested information from KNR regarding a possible advanced loan on his claim. (*Id.*, ¶¶ 4 and 7.) He first sought information about an interest free loan, which was a distribution from the medical payments coverage available under his insurance policy with Erie Insurance. (*Id.*, ¶ 4.) KNR worked with Plaintiff to obtain his medical payments coverage. (*Id.*, ¶¶ 5-6.)

After having exhausted his unemployment benefits and medical payments coverage, Plaintiff asked about a financial boost while his claim was pending. (*Id.*, ¶ 7.) In response, KNR informed Plaintiff that his only option was to obtain a loan against his case. (*Id.*, ¶ 8.) KNR explained to Plaintiff that he would have to pay interest on the loan, which was “essentially...paying money to borrow money.” (*Id.*) Based on this, KNR provided Plaintiff with Liberty Capital’s contact information. (*Id.*, ¶ 9.) Plaintiff responded that he would be willing to look into this loan arrangement. (*Id.*, ¶ 8.) Plaintiff proceeded to contact Liberty Capital and eventually purportedly received a \$250 loan from Liberty Capital at an annual interest rate of 49%, compounded semi-annually. (*Id.*, ¶¶ 10-12; Third Am. Compl., ¶ 13.) The 49% interest rate is stated in bold face type on page 1 of the loan agreement, above where Plaintiff signed his initials. (Wiley Affidavit, Ex. 6.) Furthermore, only after Plaintiff completed the application and returned it to Liberty Capital did KNR receive a copy, and then, only to acknowledge that Plaintiff had applied for and received a loan. (*Id.*, KNR03287.)

¹ Defendants are not admitting all of the allegations in the Third Amended Complaint, except as expressly admitted in their Answers. In fact, Defendants denied many of the allegations. (Defendants’ Answers.) Nevertheless, Defendants cite to some of these contested allegations in order to satisfy the summary judgment standard of construing all facts in favor of Plaintiff. Even construing these contested facts in Plaintiff’s favor, there is still no genuine issue of material fact for the jury to decide. Defendants are still entitled to summary judgment.

B. Without any supporting facts, Plaintiff wildly speculates about alleged kickbacks between KNR and Liberty and self-dealing by KNR.

Without any facts as support, Plaintiff then alleges that Defendants assisted in forming Liberty Capital. (Third Am. Compl., ¶ 133.) In addition, Plaintiff alleges, based on pure innuendo, that Defendants had a financial or ownership interest in Liberty Capital. (*Id.*, ¶ 134.) As a result of this alleged relationship, Defendants purportedly received alleged kickbacks from Liberty Capital or received a financial benefit or kickback from each loan a KNR client made with Liberty Capital. (*Id.*)

Plaintiff then contends that Defendants failed to disclose these facts. (*Id.*, ¶¶ 13 and 130.) As a result, Defendants allegedly breached their fiduciary duty and were unjustly enriched. (*Id.*, Claims 7-8.)

C. Defendants did not and do not have a financial interest in Liberty Capital.

The facts that Plaintiff is missing tell a completely different story – one that cannot be disputed and one that cannot support Plaintiff's claims. Defendants had no ownership or financial interest in Liberty Capital. (Nestico Affidavit, ¶ 2, attached as Ex. B; Redick Affidavit, ¶ 2, attached as Ex. C; Ciro Cerrato Affidavit, ¶¶ 1-2, attached as Ex. D.) Defendants never received any financial benefit or alleged kickback when KNR clients use Liberty Capital to secure an advance on a potential future recovery. (Nestico Affidavit, ¶ 3; Redick Affidavit, ¶ 3, Cerrato Affidavit ¶ 3.) Defendants never were involved in any self-dealing with any account at, or client of, Liberty Capital or KNR. (Nestico Affidavit, ¶ 4; Redick Affidavit, ¶ 4.) In other words, Defendants never received any financial benefit from Liberty Capital for any loan transaction between Liberty Loan and any of KNR's clients. (*Id.*; Cerrato Affidavit, ¶ 4.) Defendants did not form (e.g., drafting and filing of the articles of incorporation, opening up bank accounts, drafting documents, contributing assets or money, etc.), or assist in forming, Liberty Capital. (Nestico Affidavit, ¶ 2; Redick Affidavit, ¶ 2; Liberty Capital's Florida Secretary of State Documents, attached as Ex. A to Cerrato Affidavit.)

III. ANALYSIS AND ARGUMENT

A. Plaintiff cannot offer evidence of kickbacks and self-dealing by Defendants.

Plaintiff simply offers innuendo and conjecture on Defendants receiving kickbacks from the Liberty Capital loans and engaging in self-dealing in those loans. For example, Plaintiff contends: "The allegations above support a strong inference that Defendants assisted in Liberty Capital's formation." (Third Am. Compl., ¶ 133.) Plaintiff also asserts: "The allegations above support a strong inference that Defendants retained an ownership interest in Liberty Capital or obtained a kickback benefits for referring KNR clients for loans." (*Id.*, ¶ 134.) But these allegations are pure speculation. There are no facts to back up these allegations. Indeed, as the affidavits of Nestico, Redick, and Cerrato establish, the allegations are completely false. This whole scheme of self-dealing and kickbacks is a mere fabrication of the minds of Plaintiff's counsel.

And no amount of discovery will change this. In fact, Plaintiff's responses to Defendants' Interrogatories on the "inference" allegations above provide no additional support other than the factually deficient allegations in the Third Amended Complaint. (Plaintiff's Responses to KNR's First Set of Interrogatories to Plaintiff Johnson, No. 22 and 23, a copy of which is attached as Ex. E.)² Plaintiff cannot rely only on false "inference" allegations in the Third Amended Complaint to defeat summary judgment. See *Plikerd v. Mongeluzzo*, 73 Oho App. 3d 115, 120-121, 596 N.E.2d 601 (3rd Dist. 1992) ("The allegations of the complaint are not sufficient to defeat a motion by the defendant for summary judgment. The plaintiff must support the allegations with counteraffidavits or other materials.") Because of the lack of factual allegations, this is merely a fishing expedition that is not supported in fact or law.

² Interrogatory No. 22 refers to paragraph 119 of the Second Amended Complaint and Interrogatory No. 23 refers to paragraph 120 of the Second Amended Complaint. Paragraph 119 is now paragraph 133 of the Third Amended Complaint and Paragraph 120 is now paragraph 134 of the Third Amended Complaint.

Black's Law Dictionary defines self-dealing and kickbacks. Self-dealing is "[p]articipation in a transaction that benefits oneself instead of another who is owed a fiduciary duty." Black's Law Dictionary. A kickback is "[a] return of a portion of a monetary sum received, esp. as a result of coercion or secret agreement." *Id.* None of the above speculation establishes either a kickback or self-dealing. And as outlined in Nestico, Redick, and Cerrato's affidavits, there are no facts that can establish either a kickback scheme (there was no money exchanged from Defendants to Liberty Capital for Liberty Capital to return a portion of it to Defendants) or self-dealing (Defendants received no financial benefit from Plaintiff's Liberty Capital loan). Indeed, the facts establish the opposite. Based on the actual facts rather than innuendo, Plaintiff's entire argument of a grand scheme of kickbacks and self-dealing rings hollow. And again, this will not change with any discovery. This is merely a fishing expedition.

B. The breach of fiduciary duty claim should be dismissed as a matter of law.

Plaintiff asserts a breach of fiduciary duty claim. (Third Am. Compl., Claim 7.) The elements of a breach of fiduciary duty claim are: (1) the existence of a duty arising from a fiduciary relationship; (2) the failure to observe the duty; and (3) an injury proximately resulting. *Vontz v. Miller*, 1st Dist. No. C-150693, 2016-Ohio-8477, ¶ 28. Again, Plaintiff sole basis for his breach of fiduciary duty claim is that Defendants had an ownership or financial interest in Liberty Capital and that they stood to benefit from Plaintiff's loan with Liberty Capital. (Third Am. Compl., ¶¶ 133-134.) But as already established the facts do not support this assertion.

Plaintiff has **no evidence** to refute Defendants' evidence that: (1) Defendants had no financial or ownership interest in Liberty Capital; (2) Defendants received no kickbacks or engaged in self-dealing; (3) Defendants received no financial benefit from the Liberty Capital loan; and (4) Defendants did not form (e.g., drafting and filing of the articles of incorporation, opening up bank accounts, drafting documents, contributing assets or money, etc.) or assist in forming Liberty Capital. (Nestico Affidavit, ¶¶ 2-4; Redick Affidavit, ¶¶ 2-4; Cerrato Affidavit, ¶¶ 2-4.) With these facts undisputed, Plaintiff's innuendos cannot be a basis for a breach of

fiduciary duty claim. There are simply **no facts** to support such a claim. Defendants are entitled to summary judgment on the breach of fiduciary duty claim as a matter of law.

C. Plaintiff's unjust enrichment claim should be dismissed as a matter of law.

Plaintiff asserts an unjust enrichment claim against Defendants. (Third Am. Compl., Claim 8.) The elements of an unjust enrichment claim are: (1) plaintiff conferred a benefit on defendant; (2) defendant knew of such benefit; (3) defendant retained the benefit under circumstances where it would be unjust to do so without payment. *Metz v. Am. Elec. Power Co.*, 172 Ohio App. 3d 800, 2007-Ohio-3520, ¶ 43 (10th Dist.). Plaintiff contends that by agreeing to a loan with Liberty Capital in which Defendants allegedly had a financial interest, he conferred a benefit on Defendants, which Defendants should not be able to retain. (Third Am. Compl., ¶¶ 200-201.) The undisputed facts prove otherwise.

Once again, because Defendants had no financial or ownership interest in Liberty Capital, any loans between Plaintiff (or any of KNR's clients) and Liberty did not unjustly enrich Defendants. In addition, Plaintiff cannot offer any evidence of kickbacks or self-dealing regarding these loans no matter the amount of discovery that he seeks. Without this evidence, there is no unjust enrichment. Defendants are entitled to summary judgment on Plaintiff's unjust enrichment claim as a matter of law.

IV. CONCLUSION

For the foregoing reasons, Defendants are entitled to summary judgment on Plaintiff Johnson's claims as a matter of law and the claims should be dismissed with prejudice. Discovery will not change this outcome.

Respectfully submitted,

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Counsel for Defendants

CERTIFICATE OF SERVICE

A copy of the foregoing Defendants' Motion for Summary Judgment was filed electronically with the Court on this 3rd day of November 2017. The parties may access this document through the Court's electronic docket system.

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IN THE COURT OF COMMON PLEAS
SUMMIT COUNTY, OHIO

MEMBER WILLIAMS, et al.)	CASE NO. CV-2016-09-3928
)	
Plaintiffs,)	JUDGE ALISON BREAUX
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v.)	
)	<u>JUDGMENT ENTRY AND ORDER</u>
KISLING, NESTICO & REDICK, LLC,)	<u>GRANTING MOTION FOR SUMMARY</u>
et al.,	)	<u>JUDGMENT ON PLAINTIFF MATTHEW</u>
	)	<u>JOHNSON'S INDIVIDUAL CLAIMS IN THE</u>
Defendants.	)	<u>THIRD AMENDED COMPLAINT</u>
)	

Based on Defendants' Motion for Summary Judgment on Plaintiff Matthew Johnson's Individual Claims in the Third Amended Complaint, and after having fully reviewed and analyzed all briefs on this Motion, Defendants' Motion is well taken and granted in its entirety. There are no genuine issues of material fact that would prevent summary judgment on Plaintiff Johnson's claims for breach of fiduciary duty and unjust enrichment. Therefore, it is ordered and decreed that Defendants are entitled to summary judgment on Plaintiff Johnson's claims as a matter of law and those claims are hereby dismissed with prejudice.

SO ORDERED:

Judge Alison Breaux

IN THE COURT OF COMMON PLEAS
SUMMIT COUNTY, OHIO

MEMBER WILLIAMS et al.,	)	CASE NO. CV-2016-09-3928
)	
Plaintiffs,	)	JUDGE ALISON BREAU
)	
v.)	
)	
KISLING, NESTICO & REDICK, LLC,	)	<u>AFFIDAVIT OF JENNA WILEY</u>
et al.,)	
)	
Defendants.)	

State of Ohio)
) ss:
County of Summit)

I, Jenna Wiley, being first duly sworn, depose and state that the following is based upon my firsthand knowledge and the review of records and is true and accurate to the best of my belief and recollection:

1. I am a paralegal for Defendant Kisling, Nestico & Redick, LLC ("KNR"). My maiden name was Jenna Sanzone. Matthew Johnson retained KNR to represent him in his claim based on an automobile accident in which he suffered injuries. I was the paralegal working with Paul Steele, the attorney who initially represented Mr. Johnson with respect to injuries Mr. Johnson sustained in his 2012 auto accident.
2. Based on my experience working with attorneys employed by KNR, if a client needed money to pay medical and other bills before completing treatment or if it appeared settlement was not possible in the immediate future, the attorney or paralegal would explain the options available to the client including sending letters of protection, accessing no-fault medical payments coverage if purchased and available under the client's automobile policy, as well as pre-settlement loans available through third-party vendors.

Exhibit A

3. Based on my experience working with KNR attorneys as well as my own practices, KNR would advise clients against taking out loans unless the client needed the money immediately or if the client had no other options such as letters of protection or the availability of medical payments coverage that would not result in additional cost.

4. On April 1, 2012, Mr. Johnson sent me an email requesting information about an "interest free" loan that would be against a settlement of his claim that, from my prior communications with Mr. Johnson, I understood to mean a distribution from the medical payments coverage available under the insurance policy issued by Erie Insurance to Mr. Johnson, which would have to be paid back to Erie out of any settlement to satisfy Erie's contractual right of subrogation. He requested information about the loan because he was not working and needed to pay his rent and his loan on his truck. A true and accurate copy of the April 1, 2012 email is attached hereto as Exhibit 1 that KNR received and maintains in the ordinary course of its business.

5. On May 6, 2012, consistent with KNR's advice and Mr. Johnson's request, I informed him that I would continue our efforts to obtain the remaining balance owed him under his medical payments coverage to assist him with his financial affairs. The May 6, 2012 is included in the email chain attached hereto as Exhibit 1.

6. On May 10, 2012, in response to Mr. Johnson's email of May 9, 2012 advising that he had nearly finished with his chiropractic treatment, I advised him that I would continue to look for his remaining medical payments check and inform him as soon as it came in. A copy of the May 10, 2012 email is attached hereto as Exhibit 2 that KNR received and maintains in the ordinary course of its business.

7. On July 16, 2012, Mr. Johnson, having exhausted his unemployment benefits and medical payments coverage, sent another email asking about a "financial boost" while his claim was pending. He sent this email because of his outstanding bills. A true and accurate copy of the July 16, 2012 email is attached hereto as Exhibit 3 that KNR sent, received, and maintains in the ordinary course of its business.

8. On the same day, I responded that: "The only option available is for you to take out a loan against your case, but you have to pay interest on it ...so essentially you're paying money to borrow money." Mr. Johnson replied: "I'd be willing to look into it to see how worth it it would be to help my [sic] get ahead." Exhibit 3.

9. In response to Mr. Johnson's request, I provided him with Liberty Capital Funding LLC's information. Exhibit 3.

10. Mr. Johnson contacted Liberty that day, and that afternoon, I received an email from Liberty requesting additional information regarding the case needed to evaluate Mr. Johnson's loan application as set forth in the email attached hereto as Exhibit 4 that KNR received, sent and maintains in the ordinary course of its business.

11. On July 17, 2012, I received an email from Liberty attaching a copy of the loan papers already reviewed, initialed and executed by Mr. Johnson requesting that Mr. Steele acknowledge Mr. Johnson's receipt of a pre-settlement loan in the amount of \$250.00. True and accurate copies of this email and the loan documents are attached as Exhibits 5 and 6 that KNR received and maintains in the ordinary course of its business.

12. Paul Steele signed the acknowledgment as requested, and I returned it by email to Liberty. To my knowledge, there were no further communications between KNR,

Liberty and Mr. Johnson regarding the loan before Liberty distributed the \$250.00 directly to Mr. Johnson.

Affiant Further Sayeth Naught.

Jenna Wiley
JENNA WILEY

Sworn to before me and subscribed in my presence this 1 day of November, 2017.

Kimberly M. Major
Notary Public



KIMBERLY M. MAJOR
NOTARY PUBLIC
STATE OF OHIO
Recorded in
Portage County
My Comm. Exp. 9/13/22

Johnson, Mr. Matt	Case Type: A	DOI: 1/13/2012	LIM Date: 1/11/2014
Case #: 219935 ()	Class: CH	Assigned: MARK	Date Opened: 2/20/2012

3/24/2017 04:18 PM

Page 1 of 1

Case Note - Page 20 of 152

Date: 04/02/2012 10:51 AM Staff: PAUL

Topic: E-Mail

Case Status

From: Matthew Johnson [mailto:moose4u2nv@gmail.com]

Sent: Sunday, April 01, 2012 9:22 PM

To: Jenna Sanzone

Subject: Couple questions

Hey Jenna it's Matt Johnson I didn't want to call and bug you tomorrow so I thought I'd just send you an email.

I talked to Paul and in conversation told him that my unemployment is ending April 7th and no income will be coming in till the numbness is out of my arms and left leg from the pinched nerves. He mentioned an interest free loan that would go against the settlement from my insurance company. I've been losing sleep and worrying about bills that are going to be coming in April especially my truck payment and rent I would like to get 5k if possible to hold me over and pay my rent ahead a little and my truck so I know my major bills and need as in a roof over my head and a vehicle to get to doc appts and to seek work when ready.

If you could look into this for me that would be awesome I really just don't want to lose everything I have over something that's not my fault and out of my control. Between you and me all this stuff has my extremely depressed and don't even feel like myself anymore. I've been doing everything the docs tell me and just want to get better. I hope you guys can make something happen it would definately put me at ease for awhile. Thank you for all you guys are doing I really appreciate the service you have helped me obtain the docs have been great. Have a good day.

Matt

Exhibit 1

7/14/2017

RE: I remember

RE: I remember

Jenna Sanzone

Sent: Sunday, May 06, 2012 11:39 AM

To: Matthew [Johnson]

You're not a bother at all. We are still waiting on the remaining medical payments money to come to give to you, so that should help. And we do have that letter from the employer you were supposed to go back to work for, so that will account for the wages lost because of the accident. Most important aspect of this whole thing is to get the medical care you need so there isn't any permanent damage!

Let me know if you need anything else, otherwise I'll let you know as soon as the other check comes in. And thanks for the good wishes for my knee! Doesn't seem to be too terrible (unfortunately I've been through this twice before) as of this point- back to work I go tomorrow! Enjoy the rest of your weekend :)

Thanks,

Jenna Sanzone

Kisling, Nestico & Redick

Paralegal

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Locations: Akron, Canton, Cleveland, Cincinnati, Columbus, Dayton, Toledo & Youngstown

-----Original Message-----

From: Matthew Johnson [mailto:moose4u2nv@gmail.com]

Sent: Sunday, May 06, 2012 12:32 PM

To: Jenna Sanzone

Subject: Re: I remember

I was under the impression that we were waiting for the MRI monies to clear and release that to me, I'm not far behind on anything a little boost would be nice. I'm in a financial situation that I've never been in before and its making me worry probably more than I should. I've been seeking employment in sales field being construction may not be good idea just yet figured I land sales job and like it may just stay there anyway when my body is 100%. The fact that the week after the accident I was supposed to be going to work for a contractor and would still be working for him and the amount of money ive lost out on as a result totally irks me, but I guess that's what I have you guys for. I'm def trying to keep my head up and stay positive and appreciate you guys I'm sure you guys think I'm annoying but I've just never had to deal with something like this so I apologize. Hope your knee feels better and heals quickly for you.

Matt

On May 6, 2012, at 10:57 AM, Jenna Sanzone <jsanzone@knrlegal.com> wrote:

> Hey Matt,

>

> Sorry I didn't get back to you sooner, I had knee surgery Friday and was out of the office. Anyway, 1st suggestion is to no longer try to do physically demanding sporting activities!! Since you are still healing, there is the chance that you could aggravate the injury even worse. Secondly, as far as your credit goes, having outstanding medical bills isn't going to hurt your credit. They're only on your credit score as outstanding and once they're paid in full they disappear. But then again, that doesn't account for missing car payments, etc. Unfortunately you're going to have to do whatever you can to mitigate the circumstances. What were you doing before the accident? Construction or something? It is unfortunate that your unemployment ran out

ps://mail.knrlegal.com/owa/?ae=Item&t=IPM.Note&id=AMB.RgAAAAALMZ6jSWpbRagIP1SNAIMdBwCLcFOxPmYJSJA7MK4b0v5UAAAA1QJ9AA... 1/2

7/14/2017

RE: I remember

but you're going to have to find a way to survive and pay your bills. Lord knows the last thing you want to do is have this accident make life any worse for you. As long as you're trying to get a job then that's one step in the right direction. I wish I had a better answer for you in regard to gaining employment, but unfortunately that part's on you.

>
> Keep your head up...something will come along soon.
>
>
>
> Jenna Sanzone
> Kisling, Nestico & Redick
> Paralegal
> 3412 W. Market St., Akron, Ohio 44333
> Main: 330-869-9007 | Fax: 330-869-9008 | Outside Ohio: 800-978-9007

> Locations: Akron, Canton, Cleveland, Cincinnati, Columbus, Dayton, Toledo & Youngstown

> -----Original Message-----

> From: Matthew Johnson [<mailto:moose4u2nv@gmail.com>]
> Sent: Friday, May 04, 2012 10:50 AM
> To: Jenna Sanzone
> Subject: I remember

> I feel like I bug you when I call so I thought I'd email you and spare you the phone call. I remember what I called for the other day. I got a phone call from my landlord for one, about being a Lil behind on my rent. I put that check you guys got to my toward my truck but still 30 days behind. Been interviewing for sales jobs figured its not physically demanding but haven't landed one yet. I'm not trying to be a burden trying to tough it out but have lost my unemployment benefits. Hoping this whole accident doesn't ruin my credit in the process. I guess I may just be freaking out a Lil bit been doing what I can to get better and yesterday didn't make it off the first tee box swung the club and could tell it was a bad idea, luckily they reimbursed me for the round. Any insight? If I don't hear from you have a great weekend.

> Matt

>
>

7/14/2017

RE: Chiropractor

RE: Chiropractor

Jenna Sanzone

Sent: Thursday, May 10, 2012 4:41 PM

To: Matthew [Johnson]

I'll let you know as soon as a check comes in. Glad to hear you're wrapping things up. Hopefully you feel better soon.

Thanks,

Jenna Sanzone

Kisling, Nestico & Redick

Paralegal

3412 W. Market St., Akron, Ohio 44333

Main: 330-869-9007 | Fax: 330-869-9008 | Outside Ohio: 800-978-9007

Locations: Akron, Canton, Cleveland, Cincinnati, Columbus, Dayton, Toledo & Youngstown

-----Original Message-----

From: Matthew Johnson [<mailto:moose4u2nv@gmail.com>]

Sent: Wednesday, May 09, 2012 5:39 PM

To: Jenna Sanzone

Subject: Chiropractor

I have a visit Friday and a final evaluation on Monday and I should be all done with chiropractor care. He is writing another script for four more deep tissue visits because of the amount of time it's taking her to get the knots out. I'm feeling pretty good still numbness in my right arm/hand, have a possible job in the works. My cams are going out in my truck so when that check comes its going to be a blessing. My only question is does the chiropractor give me paperwork to give to you for "release" of care or give to you directly? Just want to know what is needed from my end so I don't hold anyone up. Have a great night hope your knee is getting better by the day.

Matt

Exhibit 2

7/16/2017

RE: Anymore help available

RE: Anymore help available

Jenna Sanzone

Sent: Monday, July 16, 2012 11:43 AM

To: Matthew [Johnson]

Liberty Capital Funding
1-866-612-6000

Tell them you're a client of Kisling, Nestico & Redick, attorney is Paul Steele

Jenna Sanzone
Kisling, Nestico & Redick
Paralegal
3412 W. Market St., Akron, Ohio 44333
Main: 330-869-9007 | Fax: 330-869-9008 | Outside Ohio: 800-978-9007

Locations: Akron, Canton, Cleveland, Cincinnati, Columbus, Dayton, Toledo & Youngstown

-----Original Message-----

From: Matthew Johnson [mailto:moose4u2nv@gmail.com]

Sent: Monday, July 16, 2012 12:22 PM

To: Jenna Sanzone

Subject: Re: Anymore help available

I'd be willing to look into it to see how worth it it would be to help my get ahead.

Matt

On Jul 16, 2012, at 12:12 PM, Jenna Sanzone <jsanzone@knrlegal.com> wrote:

> The only option available is for you to take out a loan against your case, but you have to pay interest on it...so essentially you're paying money to borrow money. But if the need is necessary I can definitely get you the information.

>

> Thanks,

>

>

>

> Jenna Sanzone

> Kisling, Nestico & Redick

> Paralegal

> 3412 W. Market St., Akron, Ohio 44333

> Main: 330-869-9007 | Fax: 330-869-9008 | Outside Ohio: 800-978-9007

>

> Locations: Akron, Canton, Cleveland, Cincinnati, Columbus, Dayton, Toledo & Youngstown

>

>

>

>

> -----Original Message-----

> From: Matthew Johnson [mailto:moose4u2nv@gmail.com]

> Sent: Monday, July 16, 2012 12:02 PM

> To: Jenna Sanzone

> Subject: Anymore help available

>

>

> Hi Jenna,

Exhibit 3

7: 3/2017

RE: Anymore help available

>
> This doesn't need to waste phone time just wondering if there was any financial boost
available anymore till the end I'm busting my butt to get caught up on bills and almost there
since I'm working a little more I just iced and heat on my back and stretching more than I was and
it feels better so that's good. I missed a couple days work because of it though and just thought
I would email and ask you.
>
>
> Matt
>
>

7/13/2017

RE: Matthew Johnson

RE: Matthew Johnson

Jenna Sanzone

Sent: Monday, July 16, 2012 2:08 PM

To: Ciro [Cerrato]

Importance: High

Attachments: Police Report.pdf (168 KB) ; image001.jpg (5 KB) ; image002.jpg (1 KB) ; image003.jpg (1 KB) ; image004.jpg (1 KB) ; image005.jpg (1 KB)

Date of Accident: 1/13/2012

Description of Accident: He was driving his truck and was forced off the road by a METRO Bus

At Fault Insurance: **Ohio Transit Risk Pool (METRO)**

UM / MP: **Erie Insurance**

Injuries: **neck and shoulders, collar bone**

Treatment : **ER, Chiropractor, M.D., Neurologist, Massage Therapist**

Thank you,



Jenna Sanzone

Kisling, Nestico & Redick

Paralegal

3412 W. Market St., Akron, Ohio 44333

Main: 330-869-9007 | Fax: 330-869-9008 | Outside Ohio: 800-978-9007

Locations: Akron, Canton, Cleveland, Cincinnati, Columbus, Dayton, Toledo & Youngstown



From: Ciro Cerrato [mailto:lc_funding1@gmail.com]

Sent: Monday, July 16, 2012 2:03 PM

To: Jenna Sanzone

Subject: Matthew Johnson

Hi Jenna,

Matthew has contacted us for an advance on his settlement. Can you please send the Police Report and provide the info below?

Date of Accident:

Description of Accident:

At Fault Insurance:

UM / MP:

Injuries:

Treatment :

Exhibit 4

7/13/2017

RE: Matthew Johnson

Thank you,

Ciro Cerrato

Liberty Capital Funding L.L.C.

lc_funding1@gmail.com

PH 1.866.612.6000

Fax: 561.423.0931

7/13/2017

RE: Matthew Johnson Contract

RE: Matthew Johnson Contract

Jenna Sanzone

Sent: Tuesday, July 17, 2012 10:36 AM

To: Ciro [Cerrato]

Importance: High

Attachments: Atty Acknowledgment Matt J~1.PDF (45 KB) ; image001.jpg (5 KB) ; image002.jpg (1 KB) ; image003.jpg (1 KB) ; image004.jpg (1 KB) ; image005.jpg (1 KB)



Jenna Sanzone

Kisling, Nestico & Redick

Paralegal

3412 W. Market St., Akron, Ohio 44333

Main: 330-869-9007 | Fax: 330-869-9008 | Outside Ohio: 800-978-9007

*Locations: Akron, Canton, Cleveland, Cincinnati,
Columbus, Dayton, Toledo & Youngstown*



From: Ciro Cerrato [mailto:lcfunding1@gmail.com]

Sent: Tuesday, July 17, 2012 11:21 AM

To: Jenna Sanzone

Subject: Matthew Johnson Contract

Attached. Please have signed.

Thanks,

—
Ciro Cerrato

Liberty Capital Funding L.L.C.

lcfunding1@gmail.com

PH 1.866.612.6000

Fax: 561.423.0931

Exhibit 5

FAX COVER SHEET

TO	Matthew Johnson
COMPANY	
FAX NUMBER	13306283743
FROM	Ciro Cerrato
DATE	2012-07-16 21:22:46 GMT
RE	Matthew Johnson Contract

COVER MESSAGE

Please initial EVERY page and sign on pg7.

Fax back to 561.423.0931

Thanks,

LCF

866.612.6000

If Need to fax call me at (330) (618-5640) first so I can go Retrieve it.

FAX to (330) 6283743.

I would like direct deposit.

Thanks,

MATT

Exhibit 6

My name is Matthew Johnson and I reside at 2427 Edwin Ave, Akron, OH 44305. I am entering into this non-recourse civil litigation advance agreement ("Agreement") with Liberty Capital Funding LLC ("Company") as of 7/17/2012.

1. I accept the sum of \$250.00 from Company. I direct the funds to be distributed as follows: \$250.00 payable to Matthew Johnson.

2. I assign to Company an interest in the proceeds from my Legal Claim (defined below) equal to the funded amount of \$250.00 plus all other fees and costs to be paid out of the proceeds of my legal claim. I understand that the amount I owe at the end of the first six month interval shall be based upon the amount funded plus the displayed annual percentage rate of return (APRR) charge plus the below listed fees. Each six month interval thereafter shall be computed by taking prior six month balance owed and accessing the displayed six month APRR charge to that total (semi-annual compounding) plus the below listed fees. This shall continue for thirty-six months or until the full amount has been repaid.

MANDATORY DISCLOSURE STATEMENT

1. Total amount of funding received by consumer \$ 250.00

2. Itemized fees:

Application Fee	\$ 0.00
Processing	\$ 20.00
Attorney review	\$ 0.00
Broker	\$ 0.00
Delivery Fee	\$ 50.00
Total fees:	\$ 0.00

3. Total amount to be repaid by consumer - (plus itemized fees)

* if at 6 months: (you will actually pay 24.50% based upon a 49.00% APRR with semi-annual compounding)	\$ 398.40
if at 12 months: (you will actually pay 24.50% based upon a 49.00% APRR with semi-annual compounding)	\$ 496.01
if at 18 months: (you will actually pay 24.50% based upon a 49.00% APRR with semi-annual compounding)	\$ 617.53
if at 24 months: (you will actually pay 24.50% based upon a 49.00% APRR with semi-annual compounding)	\$ 768.82
if at 30 months: (you will actually pay 24.50% based upon a 49.00% APRR with semi-annual compounding)	\$ 957.18
if at 36 months: (you will actually pay 24.50% based upon a 49.00% APRR with semi-annual compounding)	\$ 1191.69

Seller Initials

MWJ

"The "if at 6 months" payment means any payment I make between the day after I get the money and 6 months from that date. The "if at 12 months" payment means any payment I make between the 6 months date and the 12 month date. This is how all the payment dates are calculated.

DEFINITIONS

- 3. "**Customer or Seller**" is *Matthew Johnson* who gets the money.
- 4. "**Company or LCF**" is Liberty Capital Funding LLC, Liberty Capital Funding LLC who gives the money.
- 5. "**Legal Claim**" means (a) the matter which occurred on or about 1/13/2012 which is captioned *Matthew Johnson* ; (b) all applicable proceedings, proceedings on appeal or remand, enforcement, ancillary, parallel, or alternative dispute resolution proceedings and processes arising out of or relating to such case; (c) any other proceedings founded on the underlying facts giving rise to such case in which Customer is a party; and (d) any arrangements made with Customer with another party to such case which resolves any of the Customer's claims against such party.
- 6. "**Proceeds**" means all property or things of value payable on account of the Legal Claim including, without limitation, cash, negotiable instruments, contract rights, annuities and securities whether obtained by judgment, settlement, arbitration award or otherwise. Without limitation, "Proceeds" shall include a reasonable estimate of the monetary value of all non-cash benefits receivable by Customer on account of the Legal Claim.

OBLIGATION TO REPAY IS CONTINGENT

7. If my Legal Claim is lost and no money is awarded or owed to me then I do not have to repay any money to Company. If I am successful on my Legal Claim and I am awarded or owed money, Company shall receive its money before I receive any remaining monies.

FEES AND COSTS

- 8. I agree to pay the entire amounts listed on the schedule on page 1. I understand that all fees and costs will be added to the APRR sums that I pay company out of the proceeds of my legal claim.
- 9. The annual percentage rate of return (APRR) is charged starting from the date of this Agreement until the first date of the scheduled payment period(s) listed on page 1. So for example if you make a payment in month 5, you shall pay the full amount owed listed in "if at 6 months" and so on.
- 10. In the case of multiple fundings, each funding will be treated as a separate and independent transaction and these fees shall accrue on each funded sum from the date

Seller Initials MWS

of each individual funding.

ASSIGNMENT OF PROCEEDS

11. I hereby assign to and grant to Company an assignment, lien and security interest in the proceeds of the Legal Claim in the amount listed on the last line of the Mandatory Disclosure Statement (\$1191.69), which is the amount I would be required to repay after 36 months from today. Nonetheless, I will pay Company the amount that is due at the time of payment, which shall fully satisfy my obligation to Company under this Agreement, whether that amount is lower or higher than \$1191.69.

12. If this assignment and / or lien violates any law, then I agree to pay Company all of the funds due under this Agreement immediately upon the payment of the Legal Claim proceeds as a separate and independent contractual obligation.

13. I direct my attorney, and any future attorney representing me in my Legal Claim, to honor this assignment and/ or lien.

14. The amount due under this Agreement shall be deducted from any money collected as a result of my Legal Claim and will be paid immediately upon collection to Company. The only payments that will take priority over this, and be paid first, are my attorney's fees and costs, legitimate medical liens and payment to any statutory lien holders.

15. I will not receive any money from the proceeds of the Legal Claim until Company has been paid in full. I acknowledge that my receipt or use of any funds prior to the full re-payment to Company may constitute an illegal conversion.

REPRESENTATIONS AND WARNINGS

16. Company has explained to me that the cost of this transaction may be more expensive than traditional funding sources such as a bank, credit card, finance company or obtaining money from a friend or relatives.

17. I acknowledge that my attorney has not offered any tax or financial advice. My attorney has made no recommendations regarding this transaction other than the appropriate statutory disclosures.

18. Company has advised me to consult a lawyer of my own choosing before signing this Agreement. I have either received such legal advice or knowingly choose not to.

19. Company has advised me to consult a financial or tax professional of my own choosing before proceeding with this transaction. I have either received such professional advice or knowingly choose not to.

Seller Initials MWS

20. Because Company is taking a significant and genuine risk in giving me this funding, I understand that they expect to make a profit. However, Company will be paid only from the proceeds of my Legal Claim, and agrees not to seek money from me directly if my Legal Claim is not successful.

21. I have every intension of pursuing my legal claim to its conclusion. I understand that if I decide not to pursue the Legal Claim, I must notify Company by writing, email or fax within FIVE (5) BUSINESS DAYS of that decision.

22. I agree that I will not knowingly create additional assignments of or liens against the proceeds of the Legal Claim without the prior written consent of Company except for those liens or assignments that naturally arise during the prosecution of any Legal Claim (e.g. medical, Medicare, etc as permitted by law). I specifically promise not to create any assignments and / or liens against the proceeds of the Legal Claim in connection with any additional fundings or loans from other companies or persons that I might receive after the date of this Agreement. Any additional unauthorized funding may be deemed a default under this agreement by Company and may result in all sums becoming immediately due and owing. Upon notification of customers desire to seek additional funding, Company may demand the name of such other funding company and seek to offer a lower cost solution to customer; seek to be "bought out" of its position; do nothing but maintain its position and await the conclusion of the legal claim.

23. Company reserves the right to decline any further advances agreed upon but not yet made under this Agreement if, in the sole discretion of Company, the circumstances of the Legal Claim have adversely changed. This shall not affect my obligations to Company regarding any funds that actually were advanced, including but not limited to fees and charges.

OTHER PROVISIONS

24. THE COMPANY AGREES THAT IT SHALL HAVE NO RIGHT TO AND WILL NOT MAKE ANY DECISIONS WITH RESPECT TO THE CONDUCT OF THE UNDERLYING CIVIL ACTION OR CLAIM OR ANY SETTLEMENT OR RESOLUTION THEREOF AND THAT THE RIGHT TO MAKE THOSE DECISIONS REMAINS SOLELY WITH YOU AND YOUR ATTORNEY IN THE CIVIL ACTION OR CLAIM.

25. I understand that I am not assigning my cause of action (the Legal Claim) to Company, but rather I am assigning a right to a portion of and granting a lien against any proceeds of my Legal Claim. Company will play no role whatsoever in the prosecution or the settlement of my legal claim.

26. I have instructed my attorney to cooperate with Company and to give Company periodic updates of the status of my Legal Claim as Company requests. I consent to the sharing of this information. If I change attorneys, I will notify Company within 48 hours of

Seller Initials

MWJ

the change, and provide Company with the name, address and phone number of my new attorney.

27. I understand that the risk of me not recovering in my Legal Claim is Company's risk. If I do not recover money, I will owe Company nothing.

28. This is a non-recourse funding and is not a loan, but if a Court of competent jurisdiction determines that it is a loan, then I agree that interest shall accrue at the maximum rate permitted by law or the terms of this agreement, whichever is less.

29. If any provision of this Agreement shall be deemed invalid or unenforceable, it shall not affect the validity or enforceability of any other provision. This written Agreement represents the entire agreement between the parties. It may only be modified in writing. No prior understandings, representations or agreements between us can change the written terms of this Agreement.

30. Company has fully explained to me the contents of this Agreement and all of its principal terms, and answered all questions that I had about this transaction. This was done in English or French or Spanish (*when appropriate*), the language I speak best.

31. Company will send any notices required under this Agreement to me at the address listed above, *and to my attorney, at the address listed in this paragraph*: If I move, I will notify Company of my new address within 72 hours.

Paul Steele
3412 West Market Street
Akron, OH 44333

32. I represent to Company that there are no pending tax claims, child support liens, criminal allegation(s) or charge(s) against me.

33. If there is a dispute as to the amount owed at the time that my Legal Claim is resolved, it is expressly understood that my attorney shall not disburse any proceeds to me, or to anyone else on my behalf, except for the fees and/or actual disbursements incurred by my attorney in connection with the prosecution of my Legal Claim, until such dispute is resolved. I hereby make the foregoing an irrevocable direction to my attorney, or his successors. Additionally, my attorney shall keep the proceeds in his or her client trust account while any dispute is pending. If this dispute continues beyond a 120 day period, my attorney may elect to transfer the funds from his or her client trust account and deposit the proceeds with a court of competent jurisdiction.

34. I consent to my credit report being run at any time in connection with my applying for and receiving this funding.

35. I further instruct my attorney to not attempt to assert any type of "equitable fund" or

Seller Initials MWJ

attorney's fees or costs to be paid by Company for my attorneys' efforts to pay Company their proceeds.

MISSTATEMENTS, FRAUD, CRIMINAL ACTS

36. I will be liable to Company for all sums advanced, together with outstanding fees and charges, and regardless of the outcome of my Legal Claim, if and only if I make a material misstatement in this application or in connection with my Legal Claim, or commit a fraudulent or criminal act either in connection with this transaction or in a matter that would adversely and significantly impact on my Legal Claim or the ability of Company to recover from the proceeds under this agreement.

CONSUMER'S RIGHT TO CANCELLATION:

37. YOU MAY CANCEL THIS AGREEMENT WITHOUT PENALTY OR FURTHER OBLIGATION WITHIN FIVE (5) BUSINESS DAYS FROM THE DATE YOU RECEIVE FUNDING FROM COMPANY.

To cancel this agreement you must either return to the company the full amount of disbursed funds by delivering the company's uncashed check to the company's offices in person, within five business days of the disbursement of funds, or mail a notice of cancellation and include in that mailing a return of the full amount of the disbursed funds in the form of the company's uncashed check, or a registered or certified check or money order, by insured, registered or certified United States mail, postmarked within five business days of receiving funds from the company, at the address specified in the contract for the cancellation.

CHOICE OF LAW, VENUE AND FEES/COSTS FOR DISPUTE RESOLUTION

38. I agree that any disputes that may arise out of this Agreement shall be adjudicated in Florida. This Agreement will be interpreted in accordance with the laws of the State of Florida.

39. I understand that if Company does not receive payment as required by this Agreement and Company needs to take action to pursue such payment, Company may collect, in addition to the amount due and owing, reasonable attorney's fees and costs incurred in enforcing its rights. I agree that an amount equal to one third (33 1/3%) of the amount due and owing is a reasonable attorney's fee. More generally, I and Company agree that the prevailing party in any legal action arising out of this Agreement shall be entitled to reasonable attorney's fees and costs, and one-third (33_%) of the sum at issue is a reasonable attorney's fee. Additionally, either party may demand that such dispute be heard under the rules of the American Arbitration Association before a single arbitrator with his or her decision being considered final and non-appealable by either party.

Seller Initials

MWS

6

KNR03285

40. I understand that if a dispute arises between myself and the company concerning this agreement, that the responsibilities of my attorney, representing me in my legal claim, shall not be any greater than my attorneys responsibilities under the Florida Rules of Professional Conduct.

INSTRUCTIONS

41. This Agreement may be executed in separate counterparts. A signature transmitted by FAX or Email shall be effective with the same force and effect as an original signature.

42. I will instruct my attorney to mail all payments to:

Liberty Capital Funding LLC
8276 Calabria Lakes Dr.
Boynton Beach, FL 33473

The payment instructions set forth herein are irrevocable and are not subject to modification in any manner, except by Company or any successor to Company so identified by them and only by written notice to me canceling or modifying the payment instructions contained herein. A copy of this contract shall be provided to both me and my attorney. I hereby accept funding from Company under the terms of this Agreement, grant Company a Security Interest and Lien under the terms hereof, and assign the proceeds of my Legal Claim as specified in this Agreement on the 17th day of July, 2012.

DO NOT SIGN THIS CONTRACT BEFORE YOU HAVE READ IT COMPLETELY, OR IF IT CONTAINS ANY BLANK SPACES. YOU ARE ENTITLED TO A COMPLETELY FILLED IN COPY OF THIS CONTRACT. BEFORE YOU SIGN THIS CONTRACT YOU SHOULD OBTAIN THE ADVICE OF AN ATTORNEY. DEPENDING ON THE CIRCUMSTANCES, YOU MAY WANT TO CONSULT A TAX, PUBLIC OR PRIVATE BENEFIT PLANNING, OR FINANCIAL PROFESSIONAL. YOU ACKNOWLEDGE THAT YOUR ATTORNEY IN THE CIVIL ACTION OR CLAIM HAS PROVIDED NO TAX, PUBLIC OR PRIVATE BENEFIT PLANNING, OR FINANCIAL ADVICE REGARDING THIS TRANSACTION.



Seller

Seller Initials AWJ

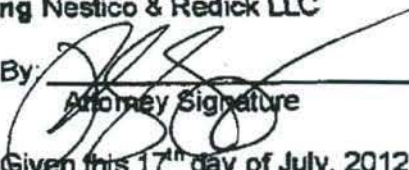
ATTORNEY ACKNOWLEDGMENT OF ASSIGNMENT OF PROCEEDS OF CLAIM

I, Paul Steele of Kisling Nestico & Redick LLC, am counsel to Matthew Johnson in the Legal Claim which arose on or about 1/13/2012 in which Matthew Johnson is expected to receive proceeds from its resolution. I hereby acknowledge the assignment and/or placement of a lien upon the proceeds of the above Legal Claim by my client and granted to Liberty Capital Funding LLC pursuant to a Funding Agreement between both parties. I understand that I am instructed to follow Matthew Johnson's Irrevocable direction and authorization to pay such sums that shall be due and owing at the time of the resolution of the above Legal Claim. At such time that the above Legal Claim is ready for disbursement, I shall contact the above Company for a proper pay-off amount I shall at disbursement time send said check made payable to Liberty Capital Funding LLC located at 8276 Calabria Lakes Dr. Boynton Beach, FL 33473.

If any dispute arises over the amount owed LCF, it is expressly understood that I shall pay LCF the non-disputed amount owed by Matthew Johnson. I shall not disburse any proceeds to Matthew Johnson or to anyone else on Matthew Johnson's behalf, except for my attorney's fees (not to exceed 40%) and/or actual disbursements incurred by me in connection with the prosecution of this Legal Claim, until such dispute is resolved. I shall keep the proceeds in my client trust account while any dispute is pending. If the dispute continues beyond 120 days, I may notify LCF and Matthew Johnson and then transfer the funds from my client trust account and deposit the proceeds with a court of competent jurisdiction. I am being paid per a written contingent fee agreement and all proceeds of the civil claim or action will be disbursed via my client trust account or settlement fund established to receive proceeds from the defendant on behalf of Matthew Johnson. I further represent that to the best of my knowledge Matthew Johnson has NOT taken any other fundings, advances, loans or any funding encumbrances on the above Legal Claim other than LCF herein. I agree to notify LCF if at any time I am no longer counsel on this Legal Claim, or I have joined additional co-counsel to also work on this Legal Claim. While I am not endorsing or recommending this transaction, I have reviewed the contract and all costs and fees have been disclosed to my client, including the annualized rate of return applied to calculate the amount to be repaid by my client. This document is part of the contract between Customer and Company for purposes of Ohio Revised Code Section 1349.55.

Dated: 7/17/12

Kisling Nestico & Redick LLC

By: 
Attorney Signature

Given this 17th day of July, 2012.

Seller Initials

MWJ

IN THE COURT OF COMMON PLEAS
SUMMIT COUNTY, OHIO

MEMBER WILLIAMS et al.,	)	CASE NO. CV-2016-09-3928
)	
Plaintiffs,	)	JUDGE ALISON BREAUX
)	
v)	
)	
KISLING, NESTICO & REDICK, LLC,)	
et al.,	)	<u>AFFIDAVIT OF ALBERTO R. NESTICO</u>
)	
Defendants.)	

State of Ohio)
) ss:
County of Summit)

I, Alberto R. Nestico, being first duly sworn, depose and state that the following is based upon my firsthand knowledge and the review of records and is true and accurate to the best of my belief and recollection:

1. I am a shareholder and the managing shareholder of Defendant Kisling, Nestico & Redick, LLC ("KNR"). I am also a member of the Disciplinary Committee of the Akron Bar Association.
2. Neither KNR nor I had or have any ownership or financial interest in Liberty Capital Funding, LLC ("Liberty Capital"). Neither KNR nor I formed (e.g., drafting and filing of the articles of incorporation, opening up bank accounts, drafting documents, contributing assets or money, etc.), or assisted in forming, Liberty Capital.
3. Neither KNR nor I received or receive any financial, economic, or any kind of benefit or alleged kickback when KNR clients used Liberty Capital to secure an advance on a potential future recovery.
4. Neither KNR nor I were or are involved in any self-dealing with any account at, or client of, Liberty Capital. Neither KNR nor I received or receive any financial, economic,

Exhibit B

or any kind of benefit from Liberty Capital for any loan transaction between Liberty Capital and any of KNR's clients.

Affiant Further Sayeth Naught.



ALBERTO R. NESTICO

Sworn to before me and subscribed in my presence this 31 day of October, 2017.


Notary Public

KIMBERLY M. MAJOR
NOTARY PUBLIC
STATE OF OHIO
Recorded in
Portage County
My Comm. Exp. 8/13/22

IN THE COURT OF COMMON PLEAS
SUMMIT COUNTY, OHIO

MEMBER WILLIAMS et al.,	)	CASE NO. CV-2016-09-3928
)	
Plaintiffs,	)	JUDGE ALISON BREAU
)	
v.)	
)	
KISLING, NESTICO & REDICK, LLC,)	
et al.,	)	<u>AFFIDAVIT OF ROBERT W. REDICK</u>
)	
Defendants.)	

State of Ohio)
) ss:
County of Summit)

I, Robert W. Redick, being first duly sworn, depose and state that the following is based upon my firsthand knowledge and the review of records and is true and accurate to the best of my belief and recollection:

1. I am an attorney at Defendant Kisling, Nestico & Redick, LLC ("KNR") and a former equity shareholder. I am also a member of the Disciplinary Committee of the Akron Bar Association.
2. Neither KNR nor I had or have any ownership or financial interest in Liberty Capital Funding, LLC ("Liberty Capital"). Neither KNR nor I formed (e.g., drafting and filing of the articles of incorporation, opening up bank accounts, drafting documents, contributing assets or money, etc.), or assisted in the formation of, Liberty Capital.
3. Neither KNR nor I received or receive any financial, economic, or any kind of benefit or alleged kickback when KNR clients used Liberty Capital to secure an advance on a potential future recovery.
4. Neither KNR nor I were or are involved in any self-dealing with any account at, or client of, Liberty Capital. Neither KNR nor I received or receive any financial, economic,

Exhibit C

or any kind of benefit from Liberty Capital for any loan transaction between Liberty Capital and any of KNR's clients.

Affiant Further Sayeth Naught.


ROBERT W. REDICK

Sworn to before me and subscribed in my presence this 31st day of October, 2017.


Notary Public



Joetta M. Miller
Resident Summit County
Notary Public, State of Ohio
My Commission Expires: 12/22/2020

IN THE COURT OF COMMON PLEAS
SUMMIT COUNTY, OHIO

MEMBER WILLIAMS et al.,

Plaintiffs,

v.

KISLING, NESTICO & REDICK, LLC,
et al.,

Defendants.

) CASE NO. CV-2016-09-3928

) JUDGE ALISON BREAUX

) AFFIDAVIT OF CIRO M. CERRATO

State of Florida)
) ss:
County of Palm Beach)

I, Ciro M. Cerrato, being first duly sworn, depose and state that the following is based upon my firsthand knowledge and is true and accurate to the best of my belief and recollection:

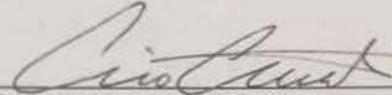
1. I formed Liberty Capital Funding, LLC ("Liberty Capital") in or around April of 2012. A true and accurate copy of Liberty Capital's Electronic Articles of Organization is attached as Ex. A.

2. Kisling, Nestico & Redick, LLC, ("KNR"), Rob Nestico, and Robert Redick did not have any ownership or financial interest in Liberty Capital. KNR, Rob Nestico, and Robert Redick did not form, or assist in forming, Liberty Capital.

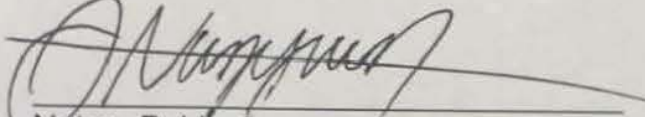
3. KNR, Rob Nestico, and Robert Redick did not receive any financial, economic, or any kind of benefit or alleged kickback when KNR clients used Liberty Capital to secure an advance on a potential future recovery.

4. KNR, Rob Nestico, and Robert Redick did not receive any financial, economic, or any kind of benefit from Liberty Capital for any loan transaction between Liberty Capital and any of KNR's clients.

Affiant Further Sayeth Naught.


CIRO M. CERRATO

Sworn to before me and subscribed in my presence this 24 day of August, 2017.


Notary Public



JAVIER VAZQUEZ
MY COMMISSION # 06 023830
EXPIRES: August 28, 2020
Bonded thru Budget Notary Services

STATE OF FLORIDA
COUNTY OF Broward
Sworn to (or affirm) and subscribed before
me this 24 day of August, 2017
by Ciro M Cerrato

Personally Known _____ OR Produced Identification
Type of Identification Produced Florida Drivers License

**Electronic Articles of Organization
For
Florida Limited Liability Company**

L12000050978
FILED 8:00 AM
April 16, 2012
Sec. Of State
jbryan

Article I

The name of the Limited Liability Company is:
LIBERTY CAPITAL FUNDING LLC

Article II

The street address of the principal office of the Limited Liability Company is:
8276 CALABRIA LAKES DR
BOYNTON BEACH, FL. 33473

The mailing address of the Limited Liability Company is:
8276 CALABRIA LAKES DR
BOYNTON BEACH, FL. 33473

Article III

The purpose for which this Limited Liability Company is organized is:
ANY AND ALL LAWFUL BUSINESS.

Article IV

The name and Florida street address of the registered agent is:
CIRO M CERRATO
8276 CALABRIA LAKES DR
BOYNTON BEACH, FL. 33473

Having been named as registered agent and to accept service of process for the above stated limited liability company at the place designated in this certificate, I hereby accept the appointment as registered agent and agree to act in this capacity. I further agree to comply with the provisions of all statutes relating to the proper and complete performance of my duties, and I am familiar with and accept the obligations of my position as registered agent.

Registered Agent Signature: CIRO M. CERRATO

Exhibit A

Article V

The name and address of managing members/managers are:

Title: MGRM
CIRO M CERRATO
8276 CALABRIA LAKES DR
BOYNTON BEACH, FL. 33473 US

L12000050978
FILED 8:00 AM
April 16, 2012
Sec. Of State
jbryan

Article VI

The effective date for this Limited Liability Company shall be:

04/14/2012

Signature of member or an authorized representative of a member

Electronic Signature: CIRO M. CERRATO

I am the member or authorized representative submitting these Articles of Organization and affirm that the facts stated herein are true. I am aware that false information submitted in a document to the Department of State constitutes a third degree felony as provided for in s.817.155, F.S. I understand the requirement to file an annual report between January 1st and May 1st in the calendar year following formation of the LLC and every year thereafter to maintain "active" status.

IN THE COURT OF COMMON PLEAS
SUMMIT COUNTY, OHIO

MEMBER WILLIAMS et al., Plaintiffs, vs. KISLING, NESTICO & REDICK, LLC, <i>et al.</i> , Defendants.	Case No. 2016-CV-09-3928 Judge Allison Breaux
MATTHEW JOHNSON'S RESPONSES TO DEFENDANT KISLING NESTICO & REDICK'S FIRST SET OF INTERROGATORIES AND REQUESTS FOR ADMISSION	

Named Plaintiff Matthew Johnson responds to Defendant Kisling Nestico & Redick's first set of Interrogatories and Requests for Admission as follows.

GENERAL OBJECTIONS

1. Mr. Johnson's specific objections to each interrogatory or request are in addition to the General Objections set forth in this section. These General Objections form a part of the response to each and every request and are set forth here to avoid duplication. The absence of a reference to a General Objection in each response to a particular request does not constitute a waiver of any General Objection with respect to that request. All responses are made subject to and without waiver of Mr. Johnson's general and specific objections.

2. To the extent that Defendant's requests are inconsistent with each other, Mr. Johnson objects to such requests.

Exhibit E

Sandra Kurt, Summit County Clerk of Courts

3. To the extent that Defendant's requests exceed the scope of permissible inquiry under the Ohio Rules of Civil Procedure, Mr. Johnson objects to such requests. To the extent that responses to such requests are provided herein, it is in an effort to expedite discovery in this action.

4. Mr. Johnson objects to Defendants' requests to the extent that they are unreasonably burdensome, and to the extent they call upon Mr. Johnson to investigate, collect and disclose information that is neither relevant to the subject matter of this action nor reasonably calculated to lead to the discovery of admissible evidence. To the extent that responses to such requests are provided herein, it is in an effort to expedite discovery in this action.

5. Mr. Johnson's responses and objections herein shall not waive or prejudice any objections Mr. Johnson may later assert, including but not limited to objections as to competency, relevance, materiality or admissibility in subsequent proceedings or at the trial of this or any other action.

6. Mr. Johnson objects to Defendant's requests to the extent they seek information or materials that are already within Defendant's possession, custody, or control, or that are equally available to him, on the grounds that such requests are unduly burdensome and oppressive.

7. Mr. Johnson objects to Defendant's requests to the extent that they call upon Mr. Johnson to produce information that is not in Mr. Johnson's possession, custody, or control.

8. Mr. Johnson objects to Defendant's requests to the extent they purport to seek any information immune from discovery because of the attorney-client privilege, the work-product doctrine, or any other applicable law, rule or privilege.

9. Mr. Johnson objects to any request to the extent that it refers to or incorporates a previous request to which an objection has been made.

10. Mr. Johnson objects to Defendant's requests to the extent they are vague or ambiguous.

11. Mr. Johnson objects to Defendant's requests to the extent they seek information that is confidential and proprietary. Such information will be produced only in accordance with a duly entered protective order.

12. As discovery is ongoing, Mr. Johnson reserves the right to supplement these responses.

REQUESTS FOR ADMISSION AND INTERROGATORIES

REQUEST FOR ADMISSION NO. 1: Admit that KNR never had any financial or ownership interest in the Liberty Capital.

RESPONSE:

Deny.

INTERROGATORY NO. 1: If Plaintiff's response to the above Request for Admission is anything but an unqualified admission, identify all evidence and facts to support Plaintiff's response.

RESPONSE:

Plaintiff objects to this contention interrogatory as overly broad and unduly burdensome. "[W]hile contention interrogatories are a perfectly acceptable form of discovery, Defendants' requests, insofar as they seek every fact, every piece of evidence, every witness, and every application of law to fact . . . are overly broad and unduly burdensome." (citations omitted). *Ritchie Risk-Linked Strategies Trading (Ir.), Ltd. v. Coventry First LLC*, 273 F.R.D. 367, 369 (S.D.N.Y. 2010).

Further, Plaintiff objects on the grounds that this is not an appropriate time for Defendant to serve or for Plaintiff to respond to contention interrogatories. "The general policy is to defer contention interrogatories until discovery is near an end, in order to promote

efficiency and fairness.” *Ziemack v. Centel Corp.*, 1995 WL 729295, at *2 (N.D. Ill. Dec. 7, 1995). Indeed, “[t]here is considerable authority for the view that the wisest general policy is to defer propounding and answering contention interrogatories until near the end of the discovery period.” *Schweinfurth v. Motorola, Inc.*, No. 1:05CV0024, 2007 U.S. Dist. LEXIS 98182, 2007 WL 6025288, at *4 (N.D. Ohio Dec. 3, 2007) *aff’d*, 2009 U.S. Dist. LEXIS 8405, 2009 WL 349163 (N.D. Ohio Jan. 26, 2009). see also *Lincoln Elec. Co. v. Travelers Cas. & Sur. Co.*, 2013 U.S. Dist. LEXIS 189111, *188-189 (N.D. Ohio Feb. 4, 2013) (“responses [to contention interrogatories] are inappropriate at this early stage of the proceeding.”); *Hazelkorn v. Morgan*, 1980 Ohio App. LEXIS 12762, *3 (Ohio Ct. App., Trumbull County Dec. 22, 1980) (“An interrogatory otherwise proper is not objectionable merely because an answer to the interrogatory involves an opinion, contention, or legal conclusion, but the court may order that such an interrogatory be answered at a later time, or after designated discovery has been completed, or at a pretrial conference.”); *Graber v. Graber*, 2004 Ohio App. LEXIS 5585, 2004-Ohio-6143, ¶ 33 (Ohio Ct. App., Stark County Nov. 15, 2004) (same).

Plaintiffs are willing to respond fully to properly formed contention interrogatories at such time as discovery is substantially complete. At this time and subject to the above objections, Plaintiff refers the Defendant to the documents cited in and quoted from in the Complaint showing that Nestico directed KNR attorneys to recommend Liberty Capital to KNR clients only weeks after the company was formed, and weeks after he had asked KNR attorneys to send him the agreements that KNR used with other loan companies, including the KNR emails quoted in paragraphs 101–118.

REQUEST FOR ADMISSION NO. 2: Admit that at the time you filed the Complaint that you had no evidence that KNR had any financial or ownership interest in Liberty Capital.

RESPONSE:

Deny.

INTERROGATORY NO. 2: If Plaintiff's response to the above Request for Admission is anything but an unqualified admission, identify all evidence and facts to support Plaintiff's response.

RESPONSE:

Plaintiff incorporates, as though fully rewritten here, Johnson's objections and response to Interrogatory No. 1.

REQUEST FOR ADMISSION NO. 3: Admit that KNR never received any financial benefit from Liberty Capital loans to KNR clients.

RESPONSE:

Deny.

INTERROGATORY NO. 3: If Plaintiff's response to the above Request for Admission is anything but an unqualified admission, identify all evidence and facts to support Plaintiff's response.

RESPONSE:

Plaintiff incorporates, as though fully rewritten here, Johnson's objections to Interrogatory No. 1.

REQUEST FOR ADMISSION NO. 4: Admit that at the time you filed the Complaint that you had no evidence that KNR ever received any financial benefit from Liberty Capital loans to KNR's clients.

RESPONSE:

Deny.

INTERROGATORY NO. 4: If Plaintiff's response to the above Request for Admission is anything but an unqualified admission, identify all evidence and facts to support Plaintiff's response.

RESPONSE:

Plaintiff incorporates, as though fully rewritten here, Johnson's objections to Interrogatory No. 1.

ADDITIONAL INTERROGATORIES

INTERROGATORY NO. 5: Identify all Persons who drafted, assisted in drafting, or provided information for the responses to these Discovery Requests.

RESPONSE:

Matthew Johnson, Peter Pattakos, Dan Frech.

INTERROGATORY NO. 6: Identify all Persons who may have discoverable evidence, information, or knowledge relating to the allegations and claims in this Lawsuit or Complaint, including, without limitation, the allegations in IV.H. of the Second Amended Complaint, class certification allegations, and Claims 7-9 and 11.

RESPONSE:

As discovery has not yet begun in earnest, this list is only partial as Plaintiffs are not currently aware of all of the many witnesses with evidence to support their claims:

- Each of the named Plaintiffs to testify about their experience with KNR
- Nestico, Redick and a corporate representative of KNR to discuss the firm's relationships with chiropractors, marketing practices, use of investigators and fees associated therewith, and use of litigation finance companies including Liberty Capital.
- Other potential witnesses who do or have worked at KNR, to be questioned on the same general topics, include but are not limited to Brandy Lamtman, Holly Tusko, Robert Horton, Gary Petti, Paul Steele, Courtney Weaver, and Megan Jennings.
- Minas Floros and other chiropractors and physicians may be called to testify regarding their referral relationships with KNR.
- Devin Oddo, Matt Ameer, Robert Horton, Jeff Allen, and others may be called to testify specifically regarding their representations of the named Plaintiffs.
- Aaron Czetli, Michael Simpson, AMC Investigations, MRS Investigations, or either company's employees, Gary Monto, Wes Steele, Paul Hillenbrand, Jon Thomas, Jeff

Allen, Tom Fisher, Dave French, Glenn Jones, Gary Krebs, James Smith, Steven Tobias, Ayan Noor, or David Hogan may be called to testify regarding their “investigations” and billing to KNR.

- Ciro Cerrato may be called to testify regarding his time at Liberty Capital and his relationship with the Defendants.

INTERROGATORY NO. 7: Identify all Persons that Plaintiff plans to call as fact witnesses at trial or any hearing in this Lawsuit, and identify the anticipated subject matter of each fact witnesses’ testimony.

RESPONSE:

Plaintiff objects to this request as premature. Plaintiff will comply with all Local Rules and Court Orders in providing a witness list prior to Defendant in advance of trial. Subject to that objection, Plaintiff directs Defendant to those individuals identified in response to Interrogatory No. 6.

INTERROGATORY NO. 8: Identify all Persons that Plaintiff plans to call as expert or opinion witnesses (including, without limitation, expert or opinion witnesses for class certification and related issues) at trial or any hearing in this Lawsuit, and for each witness, state the subject matter on which the expert or opinion witness will testify.

RESPONSE:

Plaintiff objects to this request as premature. Plaintiff will comply with all Civil Rules, Local Rules, and Court Orders in disclosing experts, producing reports and files, and making experts available for deposition in advance of trial. Subject to that objection, Plaintiff states that no expert has yet been engaged.

INTERROGATORY NO. 9: Identify and list each exhibit, Document or any other intangible object that Plaintiff intends to introduce into evidence or use at trial or any hearing (including, without limitation, any class certification hearing) in this Lawsuit.

RESPONSE:

Plaintiff objects to this request as premature Plaintiff will comply with all Local Rules and Court Orders in providing trial exhibits to Defendant in advance of trial.

INTERROGATORY NO. 10: State whether you have ever been involved in any legal proceeding, whether civil or criminal, and, if so, provide the venue, case number, and outcome of the proceeding, such as acquittal, *nolle prosequi*, conviction, settlement, defense verdict, plaintiff verdict, etc.

RESPONSE:

Plaintiff objects to this inquiry to the extent it seeks information about matters unrelated to this case and seeks information on criminal convictions for non-felonies and/or crimes committed more than 10 years ago. Subject to that objection, Plaintiff refers Defendant to Summit County Court of Common Pleas Case Nos. DR-2004-06-2154, CV-2013-12-5734, and CR-2015-08-2506.

INTERROGATORY NO. 11: State whether Plaintiff or her attorneys have communicated, either directly or indirectly, orally or in writing, with any putative member of the alleged class regarding this Lawsuit, its pendency, the allegations of the Complaint, or class certification and, if so, identify each communication (you may exclude communications between an attorney and a client or a prospective client who has, on the initiative of the client or prospective client, consulted with, employed, or proposed to employ the attorney).

RESPONSE:

Any communications Plaintiff's counsel has had with potential class members were initiated by the class member.

INTERROGATORY NO. 12: Identify and calculate the alleged damages that Plaintiff is seeking to recover in this Lawsuit and that the class members are seeking to recover in this Lawsuit.

RESPONSE:

Plaintiff objects to this interrogatory as premature, and as requesting information within the possession of the Defendants and not the Plaintiffs. Without waiving these objections, Plaintiff refers Defendants to the allegations of the Complaint and further states that he seeks damages, on behalf of himself and the class, in the amount of interest and fees on the loans taken from Liberty Capital.

INTERROGATORY NO. 13: With respect to the first communication Plaintiff had with her attorney regarding the Lawsuit, identify the date and describe the circumstances surrounding the communication, including the date of the communication, and the individual who initiated the communication.

RESPONSE:

Plaintiff objects to this interrogatory as not reasonably calculated to lead to the discovery of relevant evidence; Plaintiff also objects to the extent this interrogatory request any information protected by the attorney client or work product privilege. Subject to that objection, Plaintiff states that he first contacted counsel in August of 2016.

INTERROGATORY NO. 14: Identify all facts that support Plaintiff's contentions that "KNR directed its clients to take out high-interest loans with Liberty Capital Funding, a company in which Defendants maintained a financial interest."

RESPONSE: Plaintiff incorporates, as though fully rewritten here, Johnson's objections to Interrogatory No. 1 with respect to contention interrogatories seeking "all evidence and facts" and the timing of the interrogatory.

At this time and subject to those objections, Plaintiff refers the Defendant to the documents cited, facts stated, and communications described in the Complaint, including KNR's advertising materials and the KNR emails quoted in paragraphs 101–118.

INTERROGATORY NO. 15: Identify all facts that support Plaintiff's contentions in paragraph 99 of the Complaint.

RESPONSE: Plaintiff incorporates, as though fully rewritten here, Johnson's objections to Interrogatory No. 1 with respect to contention interrogatories seeking "all evidence and facts" and the timing of the interrogatory.

At this time and subject to those objections, Plaintiff refers the Defendant to the documents cited, facts stated and communications described in the Complaint, including KNR's advertising materials and the KNR emails quoted in paragraphs 101–118.

INTERROGATORY NO. 16: Identify when Plaintiff first became aware of or had knowledge of Defendants' alleged self-dealing with Liberty Capital.

RESPONSE: Plaintiff first became aware of or had knowledge of Defendants' alleged self-dealing with Liberty Capital in March of 2017.

INTERROGATORY NO. 17: Identify all facts that support Plaintiff's contentions that: "Defendants subjected KNR attorneys and staff to harsh discipline if they disbursed settlement or judgment funds to a client without paying amounts owed to Liberty Capital, including, deduction of the amounts owed to Liberty Capital from the KNR attorneys' and staff members' paychecks."

RESPONSE:

Plaintiff incorporates, as though fully rewritten here, Johnson's objections to Interrogatory No. 1 with respect to contention interrogatories seeking "all evidence and facts" and the timing of the interrogatory.

At this time and subject to those objections, Plaintiff states that Robert Horton has informed Plaintiff of this fact.

INTERROGATORY NO. 18: Identify all facts that support Plaintiff's contentions that: "Liberty Capital stopped making loans in 2014, and ceased operations shortly thereafter. KNR clients were Liberty Capital's only customers, or the great majority of its customers, throughout the history of its operations."

RESPONSE:

Plaintiff incorporates, as though fully rewritten here, Johnson's objections to Interrogatory No. 1 with respect to contention interrogatories seeking "all evidence and facts" and the timing of the interrogatory.

At this time and subject to those objections, Plaintiff states that Robert Horton has informed Plaintiff of this fact, which is also supported by emails from Rob Nestico that will be produced, and documents publicly available at the Florida Secretary of State's website.

INTERROGATORY NO. 19: Identify all facts that support Plaintiff's contentions in paragraph 116 of the Complaint.

Plaintiff incorporates, as though fully rewritten here, Johnson's objections to Interrogatory No. 1 with respect to contention interrogatories seeking "all evidence and facts" and the timing of the interrogatory.

At this time and subject to those objections, Plaintiff refers the Defendant to the documents cited, facts stated, and communications described in the Complaint, including paragraphs 101–118, as well as Ciro Cerrato's LinkedIn page, and further states that Robert Horton has informed Plaintiff of some of these facts.

INTERROGATORY NO. 20: Identify all facts that support Plaintiff's contentions that: "As with all of the unlawful practices described in this document, KNR's unlawful relationship with Liberty Capital was a routine subject of discussion among KNR's rank-and-file attorneys. These attorneys were fearful of raising their concerns with Defendants Nestico & Redick, who ruled the firm with an iron fist and swiftly dismissed any dissenters * * *."

RESPONSE:

Plaintiff incorporates, as though fully rewritten here, Johnson's objections to Interrogatory No. 1 with respect to contention interrogatories seeking "all evidence and facts" and the timing of the interrogatory.

At this time and subject to those objections, Plaintiff refers the Defendant to the documents cited, facts stated, and communications described in the Complaint, including regarding Gary Petti, and further states that Robert Horton and Gary Petti have informed Plaintiff of these facts.

INTERROGATORY NO. 21: Identify all facts that support Plaintiff's contentions in paragraph 118 of the Complaint.

RESPONSE:

Plaintiff incorporates, as though fully rewritten here, Johnson's objections to Interrogatory No. 1 with respect to contention interrogatories seeking "all evidence and facts" and the timing of the interrogatory.

At this time and subject to those objections, Plaintiff refers the Defendant to the documents cited, facts stated, and communications described in the Complaint, including at paragraphs 101–118, and particularly the email quoted in paragraph 118 itself.

INTERROGATORY NO. 22: Identify all facts that support Plaintiff's contentions in paragraph 119 of the Complaint.

RESPONSE:

Plaintiff incorporates, as though fully rewritten here, Johnson's objections to Interrogatory No. 1 with respect to contention interrogatories seeking "all evidence and facts" and the timing of the interrogatory.

At this time and subject to those objections, Plaintiff refers the Defendant to the documents cited, facts stated and communications described in the Complaint, including at paragraphs 101–118.

INTERROGATORY NO. 23: Identify all facts that support Plaintiff's contentions in paragraph 120 of the Complaint.

RESPONSE:

Plaintiff incorporates, as though fully rewritten here, Johnson's objections to Interrogatory No. 1 with respect to contention interrogatories seeking "all evidence and facts" and the timing of the interrogatory.

At this time and subject to those objections, Plaintiff refers the Defendant to the documents cited, facts stated, and communications described in the Complaint, including at paragraphs 101–118.

INTERROGATORY NO. 24: Identify all facts that support Plaintiff's contentions that: "Defendants Nestico and Redick are personally responsible for KNR's unlawful acts."

RESPONSE:

Plaintiff incorporates, as though fully rewritten here, Johnson's objections to Interrogatory No. 1 with respect to contention interrogatories seeking "all evidence and facts" and the timing of the interrogatory.

At this time and subject to those objections, Plaintiff refers the Defendant to the documents cited, facts stated, and communications described in the Complaint, including at paragraphs 121–123.

INTERROGATORY NO. 25: Identify all facts that establish or support the allegations that Defendants' committed fraud as alleged in Claim 7.

RESPONSE:

Plaintiff incorporates, as though fully rewritten here, Johnson's objections to Interrogatory No. 1 with respect to contention interrogatories seeking "all evidence and facts" and the timing of the interrogatory.

At this time and subject to those objections, Plaintiff refers the Defendant to the documents cited, facts stated, and communications described in the Complaint, including at paragraphs 101–118.

INTERROGATORY NO. 26: Identify all facts that establish or support the allegations that

Defendants' breached their fiduciary duty as alleged in Claim 8.

RESPONSE:

Plaintiff incorporates, as though fully rewritten here, Johnson's objections to Interrogatory No. 1 with respect to contention interrogatories seeking "all evidence and facts" and the timing of the interrogatory.

At this time and subject to those objections, Plaintiff refers the Defendant to the documents cited, facts stated, and communications described in the Complaint, including at paragraphs 101–118.

INTERROGATORY NO. 27: Identify all facts that establish or support the allegations that Defendants were unjustly enriched as alleged in Claim 9.

RESPONSE:

Plaintiff incorporates, as though fully rewritten here, Johnson's objections to Interrogatory No. 1 with respect to contention interrogatories seeking "all evidence and facts" and the timing of the interrogatory.

At this time and subject to those objections, Plaintiff refers the Defendant to the documents cited, facts stated and communications described in the Complaint, including at paragraphs 101–118.

INTERROGATORY NO. 28: Identify all facts that establish or support the allegations that Defendants are liable for unfair or deceptive trade practices under the Ohio Consumer Sales Practices Act, as outlined in Claim 11 of the Complaint.

RESPONSE:

Plaintiff incorporates, as though fully rewritten here, Johnson's objections to Interrogatory No. 1 with respect to contention interrogatories seeking "all evidence and facts" and the timing of the interrogatory.

At this time and subject to those objections, Plaintiff refers the Defendant to the

documents cited, facts stated, and communications described in the Complaint, including at paragraphs 101–118.

INTERROGATORY NO. 29: Identify all facts that support Plaintiff's contentions in paragraphs 126(C) and 127-130 of the Complaint.

RESPONSE:

Plaintiff incorporates, as though fully rewritten here, Johnson's objections to Interrogatory No. 1 with respect to contention interrogatories seeking "all evidence and facts" and the timing of the interrogatory.

At this time and subject to those objections, Plaintiff refers the Defendant to the documents cited, facts stated, and communications described in the Complaint, including KNR's advertising materials and in paragraphs 101–118.

INTERROGATORY NO. 30: Describe how the putative members of Class C will be identified.

RESPONSE:

Plaintiffs will be able to ascertain the class members of Class C using data and information in the possession of the Defendants. Plaintiffs have requested a deposition with a KNR corporate representative to discuss their communications and information systems, their document management and data systems, and document retention policies.

INTERROGATORY NO. 31: Identify all Persons with whom you communicated about retaining The Chandra Law Firm, LLC, Subodh Chandra, Donald Screen, and Peter Pattakos as your attorneys to represent you in this Lawsuit.

RESPONSE:

Plaintiff objects to this interrogatory because it is not reasonably calculated to lead to the discovery of relevant evidence and would require the disclosure of information protected by the work-product and attorney-client privileges.

REQUEST FOR PRODUCTION OF DOCUMENTS

Responding to all of Defendants' Requests for Production, Plaintiff states, subject to the above and below objections and clarifications, that all of the responsive documents in Plaintiffs's possession were provided to Plaintiff by former KNR attorneys Rob Horton and Gary Petti. Plaintiff has produced or will produce all of the documents provided by Horton and Petti and nothing written above or below should be taken as a statement that Plaintiff intends to withhold any such documents.

1. All Documents Plaintiff used, relied upon, or referred to in answering KNR's First Set of Requests for Admission and Interrogatories.

RESPONSE: All such documents have been or will be produced.

2. All Documents relating to the requests, allegations, and responses in the above First Set of Requests for Admission and Interrogatories.

RESPONSE: Subject to the objections stated herein, all such documents have been or will be produced.

3. All Documents obtained from Robert Horton relating to this Lawsuit, KNR, Nestico, Redick, and the allegations in the Complaint, including, without limitation, Liberty Capital and the alleged undisclosed self-dealing and kickbacks with Liberty Capital.

RESPONSE: All such documents have been or will be produced.

4. All Documents obtained from Gary Petti relating to this Lawsuit, KNR, Nestico, Redick, and the allegations in the Complaint, including, without limitation, Liberty Capital and the alleged undisclosed self-dealing and kickbacks with Liberty Capital.

RESPONSE: All such documents have been or will be produced.

5. All Documents relating to the factual and legal allegations in the Counterclaim.

RESPONSE Objection: A request for "all documents" related to the Defendants multi-claim

Counterclaim is overbroad and unduly burdensome. *See, e.g. Gregg v. Local 305 IBEW*, No. 1:08-CV-160, 2009 U.S. Dist. LEXIS 40761, at *16 (N.D. Ind. May 13, 2009) (“Gregg’s interrogatory encompasses virtually every factual basis for all of the Defendants’ contentions. To respond would be an unduly burdensome task, since it would require the Defendants to produce veritable narratives of their entire case.”). Without waiving this objection, these objections, Plaintiff directs the Defendants to the documents cited in and quoted from in the Plaintiffs’ Complaint, and the other documents produced by Plaintiff in this lawsuit.

6. All Documents relating to, used in, or relied upon in filing Plaintiffs’ Motion for Class Certification.

RESPONSE: Plaintiff objects to this request as premature and overbroad. No depositions have been taken and few documents exchanged. Plaintiffs do not know which documents they will use or rely in their motion for class certification, apart from the documents quoted in the Complaint, and will produce any documents they intend to use as exhibits to their class certification motion prior to or upon the filing of that motion.

7. All Documents relating to the allegations in paragraphs 126(C) and 127-130 of the Complaint.

RESPONSE: Plaintiff objects to this request as premature and overbroad. No depositions have been taken and few documents exchanged. Plaintiffs will support the validity of their class claims in their motion for class certification, plaintiffs will produce any documents they intend to use as exhibits to their class certification motion prior to or upon the filing of that motion.

8. All Documents relating to Plaintiff’s allegations in the Complaint, including, without limitation, IV.H. of the Complaint.

RESPONSE: Plaintiffs object to this discovery request on the basis of vagueness and overbreadth. Further, the request is beyond the scope of permissible discovery. This case is about the behavior of the Defendants and they do not need to be made aware of the contents of

their own documents. The request serves only to allow Defendants to determine what information the Plaintiffs have discovered. Because the second-hand knowledge of the plaintiffs and/or their attorneys is not relevant nor reasonably calculated to lead to admissible evidence, it is beyond the scope and objectives of legitimate discovery. *See Smith v. BIC Corp.*, 121 F.R.D. 235, 244-245 (E.D.Pa. 1988). In addition, Plaintiffs object to this request on the basis that the defendant has equal or greater access to the information sought. Furthermore, Plaintiffs object on the basis of the attorney work-product doctrine, insofar as the selection of the documents requested would reveal the mental impressions, opinions, and/or trial strategy of Plaintiffs' attorneys. *Gould v. Mitsui Mining & Smelthing*, 825 F.2d 676, 680 (2nd Cir. 1987); *Shelton v. American Motors*, 805 F.2d 1323, 1328-1329 (8th Cir. 1986); *Sporck v. Pell*, 759 F.2d 312, 316 (3rd Cir. 1985). Notwithstanding these objections, Plaintiff directs the Defendants to the documents cited in and quoted from in the Plaintiffs' Complaint, and the other documents Plaintiff has produced in this lawsuit.

9. All Documents relating to Plaintiff's contention that Defendants are liable for fraud, as outlined in Claim 7 of the Complaint.

RESPONSE: See objection to RFP No. 8. Without waiving this objection, Plaintiff will produce documents responsive to this request.

10. All Documents relating to Plaintiff's contention that Defendants are liable for breach of fiduciary duty, as outlined in Claim 8 of the Complaint.

RESPONSE: See objection to RFP No. 8. Without waiving this objection, Plaintiff will produce documents responsive to this request.

11. All Documents relating to Plaintiff's contention that Defendants are liable for unjust enrichment, as outlined in Claim 9 of the Complaint.

RESPONSE: See objection to RFP No. 8. Without waiving this objection, Plaintiff will produce documents responsive to this request.

12. All Documents relating to Plaintiff's contention that Defendants are liable for unfair or deceptive trade practices under the Ohio Consumer Sales Practices Act, as outlined in Claim 11 of the Complaint.

RESPONSE: See objection to RFP No. 8. Without waiving this objection, Plaintiff will produce documents responsive to this request.

13. All Documents relating to Attorney Robert Horton.
14. All Documents relating to Gary Petti.
15. All Documents relating to KNR.
16. All Documents relating to Nestico.
17. All Documents relating to Redick.
18. All Documents relating to Liberty Capital.
19. All Documents relating to Defendants' alleged undisclosed self-dealing and kickbacks with Liberty Capital.
20. All Documents relating to the alleged damages that Plaintiff seeks to recover in this Lawsuit.
21. All Documents that allegedly demonstrate that Defendants were purportedly unjustly enriched.
22. All Documents relating to putative class members relating to the allegations in the Complaint.

RESPONSE to Requests 13–22: See objection to RFP No. 8. Without waiving this objection, Plaintiff will produce responsive documents.

23. All Documents that Plaintiff may use as exhibits, introduce as evidence, or rely upon at trial or any hearing (including, without limitation, any class certification hearing) in this Lawsuit.

RESPONSE: Objection: This request is premature. Plaintiff will comply with all Local Rules and

Court Orders in providing trial exhibits to Defendant in advance of trial.

24. All Documents provided to, relied upon by, created by, generated by, or reviewed by Plaintiff's opinion or expert witness (including, without limitation, opinion or expert witnesses on class certification and related issues) in reaching his or her opinion, performing any analysis, reaching any conclusion, or drafting his or her expert report.

RESPONSE: Objection: This request is premature. Plaintiff will comply with all Local Rules and Court Orders in disclosing experts, producing reports and files, and making experts available for deposition in advance of trial.

25. To the extent not previously requested herein, all Documents that relate in any way to the Lawsuit.

RESPONSE: See objection to RFP No. 8.

Dated: October 24, 2017

Respectfully submitted,

/s/ Peter Pattakos

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CERTIFICATE OF SERVICE

The foregoing document was served on counsel for Defendants by email on October 24, 2017.

/s/ Peter Pattakos

Attorney for Plaintiffs

