

Company's principal and registered agent is presumably in possession of documents and other information that would reflect the nature of Liberty's relationship with KNR. These documents are necessary to prove or disprove the allegations of Class C ("[a]ll current and former KNR clients who paid interest or fees on a loan taken through Liberty Capital Funding, LLC"), including that the relationship between KNR and Liberty was not arms-length, that the Defendants received kickback payments from Liberty Capital, and that such facts were not properly disclosed to members of the putative class. Cerrato might also have personal documents that reflect his ownership interest in Liberty Capital Funding or the reason for its incorporation and subsequent inactivity.

Accordingly, Plaintiffs request that the Court grant the Commission to Issue Florida Subpoena (attached as Ex. A) requesting that the court in Florida issue a subpoena (attached as Ex. B) for deposition and the production of documents to Ciro Cerrato.

Respectfully submitted,

/s/ Peter Pattakos

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CERTIFICATE OF SERVICE

I certify that on December 7, 2017 a copy of the above Petition was filed with the Court's electronic filing system and service will be made on all necessary parties through that system:

/s/ Peter Pattakos

Attorney for Plaintiff

Exhibit A

IN THE COURT OF COMMON PLEAS
SUMMIT COUNTY, OHIO

<p>MEMBER WILLIAMS, <i>et al.</i>,</p> <p style="text-align: center;">Plaintiffs,</p> <p>vs.</p> <p>KISLING, NESTICO & REDICK, LLC, <i>et al.</i>,</p> <p style="text-align: center;">Defendants.</p>	<p>Case No. 2016-CV-09-3928</p> <p>Judge Patricia A. Cosgrove</p> <p>Commission to Issue Florida Subpoena</p>
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TO: The Clerk of the Circuit Court of the Fifteenth Judicial Circuit, in and for Palm Beach County

WHEREAS, there is an action in this, the Summit County Court of Common Pleas, captioned as above, and this Court is of the opinion that complete justice in the action cannot be done without a subpoena issuing and being served on Ciro Cerrato, within your jurisdiction requiring the witness to provide testimony and produce certain documents; and

WHEREAS, this Court has determined that good cause exists for the deposition of Ciro Cerrato and for the production of certain documents in this case.

THEREFORE, this Court requests, in the interest of justice and under Rule 45 of the Ohio Rules of Civil Procedure, Rule 1.410(g) of the Florida Rules of Civil Procedure, and Florida Statute § 92.251, that the Clerk issue a subpoena by the Circuit Court's proper and usual process summoning the following witness:

CIRO M CERRATO
8276 CALABRIA LAKES DR
BOYNTON BEACH, FL 33473

Sandra Kurt, Summit County Clerk of Courts

to appear before a duly appointed Florida court reporter to give testimony under oath, and to produce certain documents identified in the subpoena noticed by Plaintiffs in this case.

Judge Patricia A. Cosgrove

Date

Exhibit B

**IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA**

Case No. _____

Division: _____

<p>MEMBER WILLIAMS, <i>et al.</i>,</p> <p style="text-align: center;">Plaintiffs,</p> <p>vs.</p> <p>KISLING, NESTICO & REDICK, LLC, <i>et al.</i>,</p> <p style="text-align: center;">Defendants.</p>	<p>Pending in Summit County Ohio Case No. 2016-CV-09-3928 Judge Patricia A. Cosgrove</p>
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**SUBPOENA FOR DEPOSITION AND PRODUCTION OF DOCUMENTS
UPON NONPARTY IN THE STATE OF FLORIDA**

TO: *Ciro M. Cerrato*, 8276 Calabria Lake Rd., Boynton Beach, FL 33473

YOU ARE ORDERED TO go to Florida Court Reporting, 2161 Palm Beach Lakes Blvd., Suite 302, West Palm Beach FL 33409, on March 28, 2018 at 10:00 AM, or at another mutually convenient date and time to be determined, TO TESTIFY AS A WITNESS in this action.

This deposition will be recorded stenographically and by videotape.

YOU ARE FURTHER ORDERED TO produce at that address, by January 28, 2018, the documents, electronic information and other tangible things identified in the attached EXHIBIT 1.

These items will be inspected and may be copied at that time. You will not have to leave the original items.

You may obey this subpoena by providing readable copies of the items to be produced to the Plaintiffs or their attorney, Peter Pattakos, The Pattakos Law Firm LLC, 101 Ghent Road, Fairlawn, Ohio 44333, 330.836.8533, on or before January 28, 2018. You may condition the preparation of the copies upon payment in advance of the reasonable cost of preparation. If you mail or deliver the copies to the attorney whose name appears on this subpoena before the date indicated above, you do not have to deliver the documents in person.

You may be in contempt of court if you fail to: (1) appear as specified; (2) furnish the records instead of appearing as provided above; or (3) object to this subpoena. You can only be excused by the Plaintiffs' attorney whose name appears on this subpoena and, unless excused by that attorney or the Court, you shall respond as directed.

Any minor subpoenaed for testimony shall have the right to be accompanied by a parent or guardian at all times during the taking of testimony notwithstanding the invocation of the rule of sequestration of section 90.616, Florida Statutes, except upon a showing that the presence of a parent or guardian is likely to have a material, negative impact on the credibility or accuracy of the minor's testimony, or that the interests of the parent or guardian are in actual or potential conflict with the interests of the minor.

If you are a person with a disability who needs any accommodation in order to participate in this deposition, you are entitled, at no cost to you, to the provision of certain assistance. Please contact Attorney Peter Pattakos at the phone number and address listed above at least 7 days before your scheduled disposition, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days; if you are hearing or voice impaired, call the Florida Telecommunications Relay Service by dialing 711.

Date: _____

Clerk of the Circuit Court

EXHIBIT 1**INSTRUCTIONS**

- A. Definitions. In answering each request, use the following definitions:
1. The word “person” means any natural person, firm, partnership, association, corporation, whether public or private, governmental agency or entity, joint venture, or any other form of business entity.
 2. “You,” “Your” and refers to the recipient of this subpoena, *Ciro M.Cerrato*.
 3. “Liberty Capital” refers to the now defunct Florida corporation Liberty Capital Funding, LLC.
 4. “KNR” refers Defendant, *Kisling, Nestico & Redick, LLC*.
 5. The term “Complaint” refers to the operative complaint filed in the above-captioned case.
 6. The term “Defendant” means any of the Defendants in the above-captioned case.
 7. The term “document” or “documents” means the original and a copy, regardless of origin or location, of any writing or records of any type or description, whether official or unofficial, including, but not limited to, the original and any copy of any book, pamphlet, periodical, letter, memorandum, telegram, report, record, study, inter- or intra-office communication, handwritten or other note, working paper, publication, permit, ledger and/or journal, whether general or special, chart, paper, graph, survey, index tape, disk, data sheet or data-processing card, or any other written, recorded, transcribed, filed, or graphic matter, however produced or reproduced, to which Defendant had access or now has access. “Document” or “documents” also includes any magnetically, mechanically, and/or electronically stored, maintained, and/or recorded data, whether the data consists of words, symbols, numbers, graphs, or other matters, including but not limited to **email and text messages**.
 8. “Identify” means, with respect to any individual person, that the answer shall state, to the extent known, the person’s name, sex, approximate age, present home address, present home telephone number, present business address, present business telephone number, present employer, present title, present job description, salary grade, roll group, and relationship to Defendant, if any. If Defendant does not know the person’s present home address, he shall so state and list the person’s last-known home address. If Defendant does not know the person’s name, he shall so state and provide a physical description of the person, including describing the clothing the person was wearing at the time of the events charged in the Complaint. “Identify” means, with respect to a communication, the place of the communication, the date and time of the communication, the participants in the communication, and the substance of the communication.

9. "And" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the Interrogatory all responses that might otherwise be construed to be outside its scope.
10. The term "current" means as of the date of service of these requests for production and "concerning" or "regarding" and their cognates mean "in whole or in part."
11. "Any" includes the word "all," and "all" includes the word "any."
12. "Relate to" and "relating to" mean regarding, concerning, containing, consisting of, referring to, reflecting, supporting, demonstrating, showing, identifying, mentioning, contradicting, prepared in connection with, used in preparation for, pertaining to, having any relationship to, evidencing, constituting evidence of, or being in any way legally, logically, or factually connected with the matter discussed.
- B. These requests shall be deemed continuing in nature and are to be supplemented as additional information or documents pertinent to any interrogatory is obtained or created, including, but not limited to, additional information that adds to a previous answer, corrects a previous answer, and/or clarifies a previous answer.
- C. Privileges
1. For each request you refuse to answer on grounds of privilege, state:
- The specific privilege asserted;
 - The basis for the privilege; and
 - The identity of the documents and/or information claimed to be privileged.
- D. Information requested is any and all information within your knowledge or that of your agents, employees, attorneys, representatives, and/or assigns.

REQUESTS

Provide the following documents in accordance with the instructions above.

- All documents reflecting the portion of Liberty Capital's loan volume that was attributable to cases being handled by KNR.
- All written agreements between You or Liberty Capital and any of the Defendants or documents discussing or reflecting upon the term of any such written or oral agreements.
- All documents reflecting any solicitation by You or Liberty Capital of Defendants' clients, or Defendants' solicitation of Your or Liberty Capital's business.
- All documents showing how the Defendants' relationship with You and Liberty Capital came to be.
- All documents reflecting a discussion of the number of referrals made or to be made by any of the Defendants to Liberty Capital.
- All documents reflecting an agreement, formal or otherwise, from any of the Defendants to refer clients to Liberty Capital.
- All documents reflecting Defendants' or any of their clients' satisfaction or dissatisfaction with the services provided to Defendants' clients by Liberty Capital.
- All documents reflecting negotiations with or disagreements over referrals to or from KNR.

9. All documents reflecting Defendants' reasons for referring their clients to You or Liberty Capital.
10. Any documents reflecting any negotiation or discussion of the interest rates and fees Liberty Capital would charge KNR's clients' for loans or cash advances.
11. Any documents discussing the propriety of KNR referring all their clients who wish to pursue litigation finance loans or cash advances to Liberty Capital.
12. Any documents discussing the propriety of KNR using Liberty Capital as their "preferred lender."
13. Any documents reflecting a payment made by any Defendant to You or Liberty Capital.
14. All documents reflecting a payment made by You or Liberty Capital to any Defendant.
15. All documents reflecting the sources of the capital Liberty Capital used to make loans.
16. All documents reflecting the capital structure or total capitalization of Liberty Capital.
17. All document reflecting the ownership structure of Liberty Capital.
18. All documents reflecting dividends, salaries or pass-through business income paid by Liberty capital to any source.
19. All documents reflecting Your income from Liberty Capital during the period of its' operation.
20. Any business planning documents associated with Your decision to start Liberty Capital.
21. Any prospectus prepared for any potential investor in Liberty Capital.
22. Any documents reflecting Your background in consumer lending prior to opening Liberty Capital.
23. All documents reflecting any input provided by any Defendant into the content or design of your loan documents.
24. Documents sufficient to show Liberty Capital's revenues and expenses for all years in which Liberty Capital was an active Florida corporation, including the source of such revenues.
25. Tax returns, including all forms and attachments, for You and Liberty Capital for any year in which Liberty Capital was an active Florida corporation.
26. Documents sufficient to identify all bank accounts used by You and Liberty Capital during the time period in which Liberty Capital was an active Florida corporation, including the name and address of each bank and the name of each account.
27. All documents reflecting loan terms provided to clients referred from attorneys not associated with KNR.
28. All documents reflecting loan terms provided to clients referred from attorneys at KNR.
29. All documents purporting to reflect a risk analysis utilized in determining Liberty Capital's fees and interest rates.
30. All documents purporting to reflect a cost-of-capital analysis utilized in determining Liberty Capital's fees and interest rates.

31. All documents purporting to reflect a costs analysis utilized in determining Liberty Capital's fees.