

IN THE COURT OF COMMON PLEAS
SUMMIT COUNTY, OHIO

<p>MEMBER WILLIAMS, <i>et al.</i>,</p> <p>Plaintiffs,</p> <p>vs.</p> <p>KISLING, NESTICO & REDICK, LLC, <i>et al.</i>,</p> <p>Defendants.</p>	<p>Case No. CV-2016-09-3928</p> <p>Judge James Brogan</p> <p>Plaintiffs' Notice of Service of Subpoena on Kelly Phillips, Esq.</p>
---------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------

Plaintiffs hereby give notice that they served, under Civ.R.45, the attached subpoena on Richard Gunning, Esq., by U.S. certified mail, return-receipt requested.

Respectfully submitted,

/s/ Peter Pattakos

Peter Pattakos (0082884)
Dean Williams (0079785)
THE PATTAKOS LAW FIRM LLC
101 Ghent Road
Fairlawn, Ohio 44333
Phone: 330.836.8533
Fax: 330.836.8536
peter@pattakoslaw.com
dwilliams@pattakoslaw.com

CERTIFICATE OF SERVICE

The foregoing document was served on all necessary parties by operation of the Court's e-filing system on October 17, 2018.

/s/ Peter Pattakos
Attorney for Plaintiffs

SUBPOENA
SUMMIT COUNTY COMMON PLEAS COURT

MEMBER WILLIAMS,

CASE NO: 2016-CV-09-3928

Plaintiff,

SUBPOENA IN A CIVIL CASE

vs.

ATTORNEY: Peter Pattakos

KISLING, NESTICO & REDICK, LLC, *et al.*,ADDRESS: The Pattakos Law Firm
101 Ghent Road
Fairlawn, OH 44333
peter@pattakoslaw.com

Defendants.

SUPREME CT. NO. 0082884

TO: KELLY PHILLIPS, ESQ.
PHILLIPS FIRM LLC
111 W. JOHNSTOWN RD., SUITE C
GAHANNA, OH 43230

PURSUANT TO CIVIL RULE 45 YOU ARE HEREBY COMMANDED TO:

XX. PRODUCE THE DOCUMENTS AND ELECTRONICALLY STORED INFORMATION IDENTIFIED IN THE ATTACHED EXHIBIT 1 IN ACCORDANCE WITH THE INSTRUCTIONS THEREIN ON OR BEFORE November 1, 2018 AND

XX. ATTEND AND GIVE TESTIMONY AT A DEPOSITION on November 21, 2018 at 9:30 AM or at another mutually convenient date and time at the Pattakos Law Firm, 101 Ghent Road, Fairlawn, Ohio 44333.

You may contact the Plaintiffs attorney Peter Pattakos regarding this subpoena, including to finalize the date and time of the required deposition, at the above mailing address, by phone at 330.836.8533, or by email at peter@pattakoslaw.com. Witness fees have been tendered with this subpoena as required by Ohio law.

HEREOF FAIL NOT UNDER PENALTY OF THE LAW

WITNESS MY SIGNATURE AND SEAL OF SAID COURT, THIS 19th DAY OF SEPTEMBER, 2018:

_____
Attorney Peter Pattakos

RETURN OF SERVICE

Received this Subpoena on the _____ day of _____, 20__ at _____ and on the _____ day of _____, 20__, at _____, I served the same upon _____ by delivering to _____

Personally or Residential a true copy of this subpoena.

 Sheriff-Attorney-Process Server-
 Notary

Mileage: _____ miles@ _____ : TOTAL \$ _____

PROTECTION OF PERSONS SUBJECT TO SUBPOENAS:

1. A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena.
2. (a) A person commanded to produce under divisions (A)(1)(b)(ii), (iii), (iv) or (v) of this rule need not appear in person at the place of production or inspection unless commanded to attend and give testimony at a deposition, hearing or trial.
 (b) Subject to division (D)(2) of this rule, a person commanded to produce under divisions (A)(1)(b)(ii),(iii),(iv), or (v) of this rule may, within fourteen days after service of the subpoena or before the time specified for compliance if such time is less than fourteen days after service, serve upon the party or attorney designated in the subpoena written objections to production. If objection is made, the party serving the subpoena shall not be entitled to production except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena, upon notice to the person commanded to produce may move at any time for an order to compel the production. An order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the production commanded.
3. On timely motion, the court from which the subpoena was issued shall quash or modify the subpoena, or order appearance or production only under specified conditions, if the subpoena does any of the following – Fails to allow reasonable time to comply; requires disclosure of privileged or otherwise protected matter and no exception or waiver applies; requires disclosure of a fact known or opinion held by an expert not retained or specially employed by any party in anticipation of litigation or preparation for trial as described by CIV R. 26(B)(4), if the fact or opinion does not describe specific events or occurrences in dispute and results from study by the expert that was not made at request of any party; subjects a person to undue burden.
4. Before filing a motion pursuant to division (C) (3) (d) of this rule, a person resisting discovery under this rule shall attempt to resolve any claim of undue burden through discussions with the issuing attorney. A motion filed pursuant to division (C) (3)(d) of this rule shall be supported by an affidavit of the subpoenaed person or a certificate of that person's attorney of the efforts made to resolve any claim of undue burden.
5. If a motion is made under division(C)(3)(c) or (C)(3)(d) of this rule, the court shall quash or modify the subpoena unless the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated.

DUTIES IN RESPONDING TO SUBPOENAS:

1. A person responding to a subpoena to produce documents shall, at the person's option, produce them as they are kept in the usual course of business or organized and labeled to correspond with the categories in the subpoena. A person producing documents or electronically stored information pursuant to a subpoena for them shall permit their inspection and copying by all parties present at the time and place set in the subpoena for inspection and copying.
2. If a request does not specify the form or forms for producing electronically stored information, a person responding to a subpoena may produce the information in a form or forms in which the information responding is ordinarily maintained if that form is reasonable useable, or in any form that is reasonably useable. Unless ordered by the court or agreed to by the person subpoenaed, a person responding to a subpoena need not produce the same electronically stored information in more than one form.
3. A person need not provide discovery of electronically stored information when the production imposes undue burden or expense. On motion to compel discovery or for a protective order, the person from whom electronically stored information is sought must show that the information is not reasonably accessible because of undue burden or expense. If a showing of undue burden or expense is made, the court may nonetheless order production of electronically stored information if the requesting party shows good cause. The court shall consider the factors in Civ. R. 26(B)(4) when determining if good cause exists. In ordering production of electronically stored information, the court may specify the format, extent, timing, allocation of expenses and other conditions for discovery of the electronically stored information.

4. When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.
5. If information is produced in response to a subpoena that is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a receiving party must promptly return, sequester, or destroy the specified information and any copies within the party's possession, custody or control. A party may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the court under seal for determination of the claim of privilege or of protection as trial-preparation material. If the receiving party disclosed the information before being notified, it must take reasonable steps to retrieve it. The person who produced the information must preserve the information until the claim is resolved.

SANCTIONS:

1. Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed contempt of the court from which the subpoena issued. A subpoenaed person or that person's attorney who frivolously resists discovery under this rule may be required by the court to pay the reasonable expenses, including reasonable attorney's fees of the party seeking discovery. The court from which a subpoena was issued may impose upon a party or attorney in breach of the duty imposed by division (C)(1) of this rule an appropriate sanction, which may include, but is not limited to, lost earnings and reasonable attorney's fees.

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 "MRS" refer to the recipient of this subpoena, MRS Investigations LLC and its principal, Michael Simpson, both individually and collectively.
 3. "KNR" refers to Defendant, Kisling, Nestico & Redick, LLC.
 4. The term "Complaint" refers to the operative complaint filed in the above-captioned matter.
 5. The terms "Defendant" or "Defendants" refers to the Defendants in the above-captioned matter.
 6. 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**.
 7. "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.

8. "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.

9. 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."

10. "Any" includes the word "all," and "all" includes the word "any."


11. "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:
 - a. The specific privilege asserted;
 - b. The basis for the privilege; and
 - c. 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.

1. All documents pertaining to the practices discussed in the currently pending Complaint in the lawsuit in which this subpoena has been served, including any non-privileged information regarding the "investigation fees" and "narrative fees" that the KNR law firm charges its clients and documentation reflecting or relating to any quid pro quo relationship between KNR and chiropractors or other health care providers.

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mail piece, or on the front if space permits. 	<p>A. Signature <input type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee</p>	
<p>1. Article Addressed to:</p> <p>Kelly Phillips Esq. Phillips Firm LLC 111 W. Johnstown Rd. S.W.C Gahanna OH 43230</p>  <p>9590 9403 0176 5120 6808 41</p>	<p>B. Received by (Printed Name)</p>	<p>C. Date of Delivery 10-3-18</p>
<p>2. Article 1.5</p>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p> <p>3. Service Type</p> <ul style="list-style-type: none"> <input type="checkbox"/> Adult Signature <input type="checkbox"/> Adult Signature Restricted Delivery <input checked="" type="checkbox"/> Certified Mail® <input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Registered Mail™ <input type="checkbox"/> Registered Mail Restricted Delivery <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Signature Confirmation™ 	
<p>Form</p>	<p>Confirmation Delivery Return Receipt</p>	