

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 James A. Brogan</p> <p>DEFENDANT MINAS FLOROS' BRIEF IN OPPOSITION TO PLAINTIFFS' MOTION FOR LEAVE TO FILE FIFTH AMENDED COMPLAINT</p>
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Plaintiffs have requested leave to file a fifth-amended complaint. Plaintiffs' proposed-fifth complaint raises similar claims made in their supplemental fourth-amended complaint, which this Court recently rejected. It seeks to add a new class representative, Movant Richard Harbour. It seeks to add new medical claims against Defendant Sam Ghoumbrial, which allege that he coercively administered unnecessary and overpriced pain-relief injections to his patients. It also seeks to add unrelated and unsupported accusations that certain Defendants engaged in racist behaviors. This Court should deny leave for these reasons:

- The proposed-amended complaint is made in bad faith and unduly prejudicial to Defendants.
- The proposed-amended complaint alleges "facts" that the plaintiff representatives admitted were false in their deposition testimonies.
- The proposed-amended complaint makes unsupported accusations that certain defendants engaged in racist behavior. These allegations are unrelated to Plaintiffs' alleged claims and only serve the bad-faith purpose of damaging defendants' reputation.
- The proposed-amended complaint adds medical claims that are time barred, futile, improperly pled, and inappropriate for class certification.

INTRODUCTION

Since filing their original complaint in September 2016, the parties have engaged in a significant amount of briefing. This includes motions to dismiss, motions to strike class allegations, motions on the pleadings, motions for protective orders, and motions to compel. The parties have also engaged in a significant amount of discovery, which includes several sets of interrogatories, request for admissions, and request for production of documents, as well as depositions of class representatives and their witnesses. To date, Defendants have spent over \$500,000 in defense cost. These litigation costs are expected to increase greatly, as Plaintiffs have notified Defendants that they plan on deposing at least a dozen other individuals. Half of these witnesses are nonparties that have had no connection with the named Plaintiffs. Most of these depositions are scheduled to last the entire day.

In previous motions, Defendants asked this Court to add “structure and order” to this case, which has been pending for over two years without even reaching the preliminary issue of class certification. In response, this Court agreed to a discovery deadline for class certification of November 1, 2018. At Plaintiffs’ request, this Court extended the deadline to February 1, 2018. As of right now, the discovery deadline for class certification is March 1, 2018.

In an obvious attempt to further delay this case and cause harm to Defendants, Plaintiffs have requested leave to file a fifth amended complaint, which seeks: 1) to add Harbour as another class representative in the investigation fee claims (proposed Class A) and TENS unit claims (proposed Class D); 2) to add a new set of class-action claims (proposed Class E), which alleges that Ghoubril coercively administered unnecessary and overpriced injections to his patients; and 3) to allow Plaintiff Matthew Johnson to withdraw as a party and class representative for the Liberty Capital claims (proposed Class C).

Plaintiffs' request for leave is in bad faith. Plaintiffs are asserting "facts" in their proposed fifth-amended complaint that they know contradict testimony from the named representatives. Plaintiffs are also seeking to add medical claims that are time barred, futile, improperly pled, and inappropriate for class certification.

Moreover, although not discussed in their motion for leave, Plaintiffs want to add accusations that certain Defendants engaged in racist behavior and used racist slurs. These accusations have nothing to do with alleged class claim, and only serve to embarrass Defendants and damage their reputations.

Defendants will be unduly prejudiced if this Court allows Plaintiffs to expand unreasonably the scope of their claims and continue to delay resolving this action. This is especially true for Floros, since he has limited funds and is paying out-of-pocket for his defense costs, with no insurance coverage.

Floros, therefore, requests that this Court deny Plaintiffs motion for leave.

MEMORANDUM IN SUPPORT

While Civ.R. 15(A) generally allows for liberal amendment of a complaint, a motion for leave to amend must be made timely. *See Brown v. FirstEnergy Corp.*, 9th Dist. Summit No. 22123, 159 Ohio App. 3d 696, 2005-Ohio-712, 825 N.E.2d 206, ¶6. A motion for leave should be denied if there is a showing of "bad faith, undue delay or undue prejudice to the opposing party." *Hoover v. Sumlin*, 12 Ohio St.3d 1, 465 N.E.2d 377 (1984). "A party seeking leave to amend a pleading is required to do so in good faith, therefore there must be at least a *prima-facie* showing that the movant can marshal support for the new matters sought to be pleaded, and that the amendment is not simply a delaying tactic or one which would cause prejudice to the defendant." *Glazer v. Chase Home Fin. LLC*, 8th Dist. Cuyahoga Nos. 99875, 99736, 2013-

Ohio-5589, ¶98; *see also* *Lottridge v. Gahanna-Creekside Invests., LLC*, 2015-Ohio-2168, 36 N.E.3d 744 (10th Dist.).

Courts may consider a motion for leave prejudicial if a proposed amendment alters the case's theory and is proposed late enough that the opponent would have to engage in significant new preparation. *Wright & Miller, Federal Practice and Procedure*, §1487. Courts will also deny motions for leave to amend a complaint when the claims are futile or lack evidentiary support. *See, e.g. Hensley v. Durrani*, 1st Dist. Hamilton No. C-130005, 2013-Ohio-4711, ¶14; *State ex rel. Brewer-Garrett Co. v. MetroHealth Sys.*, 8th Dist. Cuyahoga No. 87365, 2006-Ohio-5244, ¶17.

Moreover, courts will deny a motion for leave when the moving party seeks to add time-barred claims. *Thornton v. Hardiman, Buchanan, Howland & Trivers*, 8th Dist. Cuyahoga No. 83400, 2005-Ohio-1969; *Porter v. Probst*, 2014-Ohio-3789, 18 N.E.3d 824 (7th Dist.); *Yates v. Hassell*, 10th Dist. Franklin No. 11AP-588, 2012-Ohio-328, ¶ 11("The general rule is that a person may not be brought into a civil action as a new party defendant when the cause of action as to him is barred by the statute of limitations.").

A. Plaintiffs' motion for leave is made in bad faith, untimely, and unduly prejudicial to Defendants.

In bad faith, Plaintiffs continue to allege "facts" that are contrary to the named Plaintiffs' deposition testimony. For example, Plaintiffs' proposed complaint alleges that Floros' narrative-expert reports were fraudulent, worthless, and cut directly from the client's medical records. *See* Proposed Fifth Compl. ¶ 65. Plaintiff Thera Reid deposition testimony directly refutes these accusations.¹ Reid testified that Floros' narrative report benefited her case, and that she

¹ Defendants deposed Reid on July 3, 2018.

personally benefited from Floros' chiropractic services. Ex. 1, Reid's Depo. 170-177, 181, 213-214. She testified that the narrative report contained more than just boilerplate information from her medical records. *Id.* She admitted that the narrative report was not fraudulent. *Id.* Reid admitted that she benefited from a \$525 reduction in her chiropractic bill, which was more than the cost of the narrative report. *Id.*, 184, 298. Rather, Reid's main gripe with the report is that it should have been cheaper (\$85 instead of \$150). *Id.* at 177, 186, 214, 258, 288.

Reid also refuted the complaint allegation that she was coerced by Defendants to go to Akron Square Chiropractor (ASC) and KNR. Proposed Fifth Compl. ¶ 17. Reid instead testified that she voluntarily went to ASC because they offered free transportation and a free initial exam. *Id.* at 260, 274. Reid also admitted that ASC did not force her to talk to KNR about representation and that it was a voluntary choice. *Id.* at 106-107, 287-288.

Reid also testified that KNR received no financial benefit from Floros. *Id.* at 272. This testimony contradicts Plaintiffs' complaint allegations that KNR received a financial benefit from the narrative-expert report. *Id.*

According to Reid, the allegation in her complaint that she only received \$12,349.70 of \$48,720 is false. Ex. 1, at 292-293, 296. Reid testified that her actual total settlement was \$46,500 (not \$48,720) and that she received over \$21,000 (not \$12,349.70). *Id.* Reid continued to testify that she would amend the pleading to reflect the correct amount. Plaintiffs, however, have refused to do so with their proposed-fifth complaint. *Id.*

Reid's testimony also contradicted Plaintiffs' class allegations that common legal and factual issues predominate individual issues affecting the class claims. *See* Proposed Fifth Compl. ¶180. According to Reid, the value and benefit of the narrative reports would differ for each client and require a separate inquiry. *Id.* at 214-216, 221, 290. Reid also believed that a

separate inquiry would be required in determining why the clients treated with certain chiropractors and whether that treatment harmed a client's specific case. *Id.*

As KNR and Ghoubrial detailed in their briefs, Harbour's new medical claims also contradict his prior testimony. For instance, in their proposed-fifth amendment, Plaintiffs alleged that KNR directed Harbour to treat with Ghoubrial. This is false. Harbour testified that he was referred to Ghoubrial by his primary-care physician. *See* KNR's BIO, pg. 4. Plaintiffs also alleged that the cortisone shots were unnecessary and unbeneficial. This too is false. Harbour specifically testified that the cortisone shots helped relieve his pain. *Id.*, pg. 5.

Although Plaintiffs now want to dismiss Plaintiff Mathew Johnson, his testimony is worth discussing because it also conflicts with the allegations in Plaintiffs' fifth-proposed complaint. As KNR detailed in their recent motion to compel, Johnson's deposition testimony directly contradicts Plaintiffs' Class C allegations.² *See* KNR's Mot. Compel, filed 11/07/2018. For instance, contrary to what is alleged, Johnson approached KNR about obtaining a loan. Johnson admitted that he knew better loan sources existed. *Id.* Johnson testified that his loan payments were not deducted from the settlement proceeds. *Id.* Instead, Johnson claimed that he paid off the loan himself before settling his case. *Id.* Johnson also testified that he was not complaining about the loan interest being too high, but only that Defendant Rob Nestico was the sole owner of Liberty Capital. Shockingly, Johnson also claimed that he would not change the allegations even if proven false. *Id.*³

The deposition testimonies discussed above directly undermine and contradict Plaintiffs' allegations. Because of this, Plaintiffs know that they will not obtain class certification or survive

² Defendants deposed Johnson on July 6, 2018.

³ While Monique Norris has not been deposed yet, her claims against Ghoubrial are also baseless because he did not actually treat Norris.

a dispositive motion. At great costs to Defendants and Floros, Plaintiffs are now baselessly seeking another chance to relitigate these issues with a new party, new claims, and new defendant. Plaintiffs are not entitled to this fifth opportunity to relitigate and amend their complaint. This will lead to substantial delay and unnecessary litigation expenses.

Moreover, it should not be overlooked that Plaintiffs' counsel is a direct competitor of KNR and practices personal injury litigation in the same location of KNR.⁴ This means that Plaintiffs' counsel stands to benefit from any harm this lawsuit causes to the reputation of KNR and their business contacts.

While Plaintiffs' counsel will likely deny any wrongdoing or ill-motives, his hands are anything but clean. As detailed above, the facts pled by Plaintiffs' counsel substantially differ from the facts established by his own client's testimony. Even giving Plaintiffs' counsel the benefit of doubt on why he originally pled these facts, he has no excuse for his continued refusal to correct the amended pleadings when the claims are objectively false.⁵ Plaintiffs' counsel also continues to engage in a public smear campaign against Defendants and their business contacts on social media and local news outlets.⁶

Bad faith is also evident in that Plaintiffs' counsel wants to add accusations that certain Defendants engaged in racist behavior and used racist slurs. These accusations have nothing to

⁴ Pattakos Law Firm LLC advertises "personal injury" as a practice area.
<https://www.pattakoslaw.com/>

⁵ In *Am. Chem. Soc. v. Leadscope, Inc.*, 133 Ohio St.3d 366, 2012-Ohio-4193, 978 N.E.2d 832, the Ohio Supreme Court recognized a claim for unfair competition based upon legal action where the claim allegations are objectively baseless and intended to injure a party's ability to be competitive.

⁶ In previous motions, KNR and Ghoubril raised concerns over Plaintiffs' counsel marketing their fraud claims against Defendants on social media.

do with alleged class claim or the named representatives. Plaintiffs are solely using these unsupported accusations to damage KNR's and Ghoumbrial's reputation.

For these reasons, this Court should deny Plaintiffs' motion for leave since it is in bad faith, untimely, and unduly prejudicial to defendants.

B. Plaintiffs' motion for leave is futile because it seeks to add medical claims that are time barred, improperly pled, and inappropriate for class certification.

Plaintiffs' claims that Ghoumbrial coercively administered unnecessary and overpriced cortisone injections to his patients are medical claims under ORC 2305.113. As a result, Plaintiffs' proposed claims are subject to the statute of limitations and statute of repose for medical practice actions. Under R.C. 2305.113(A), "medical claims" are subject to a one-year statute of limitation. Under R.C. 2305.113(C), there is also an absolute bar on medical claims that are more than four-years after the act or omission occurred.

In the proposed fifth complaint, Harbour claims that he received treatment from Ghoumbrial between 2011-2016. This is untrue. As discussed in Ghoumbrial's brief, Harbour's last treatment with Ghoumbrial occurred almost six-years ago in June 2012. That said, even if Harbour did receive care in 2016, his claim would still be time barred, which makes Plaintiffs motion for leave futile.

Plaintiffs will likely argue that the "discovery rule" applies here because Harbour was unaware of his injury until Plaintiffs' counsel informed him about this pending lawsuit. This is not how the "discovery rule" works. A party's knowledge of a lawsuit does not toll the statute of limitations. *See Estate of Greenawalt v. Estate of Freed*, 10th Dist. Franklin No. 17AP-62, 2018-Ohio-2603. Rather, under the "discovery rule" the statute of limitations for medical claims begin to run when the patient discovers or should have discovered his resulting injury. Harbour would have known if his cortisone shots were beneficial in relieving pain when the shots were

administrated. Harbour would have also been aware of the cost when he agreed to payment in April 2012 and July 2015.

Under Civ. R. 10(D)(2), a party must also file affidavit of merit when they file a medical liability lawsuit in Ohio. The required affidavit must include statements that the affiant: (1) has reviewed all medical records reasonably available, (2) is familiar with the applicable standard of care, and (3) finds that the defendants breached the standard of care and caused the plaintiff's injury. If a medical claim is filed without an affidavit of merit, then it will be dismissed for failure to state a claim. Plaintiffs have failed to attach an affidavit of merit in support of their new medical claims. As a result, their new medical claims fail as a matter of law.

As discussed earlier, Harbour's testimony also contradicts the new proposed allegations, as he admitted that his primary doctor referred him to Ghoubril and that he benefited from the cortisone shots. A medical claim of this nature would also require individual inquiry into whether each patient benefited and consented to the medical treatment and cost. This makes it inappropriate for a class action.

Lastly, no law exists that holds a doctor liable for not communicating their profit margin on their medical services to a patient. Nor is there any law that holds attorneys liable for what a doctor charges for medical services.

Thus, this Court should deny Plaintiffs' motion for leave because it seeks to add medical claims that are time barred, futile, improperly pled, and inappropriate for class certification.

CONCLUSION

For the reasons state above, Floros requests that this Court deny Plaintiffs Motion for Leave to File a Fifth Amended Complaint because it is in bad faith, untimely, futile, unduly prejudicial to defendants, and raises new claims that are time barred.

Respectfully submitted,

/s/ Shaun H. Kedir

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CERTIFICATE OF SERVICE

A copy of Defendant Floros' Brief in Opposition to Plaintiffs' Motion for Leave to File a Fourth Amended Complaint was served electronically on this 13th day of November, 2018. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system.

/s/ Shaun H. Kedir

Shaun H. Kedir (#0082828)

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<p>1 STATE OF OHIO,) COUNTY OF SUMMIT.) SS: 2 3 IN THE COURT OF COMMON PLEAS 4 MEMBER WILLIAMS, et al.,) 5 Plaintiffs,) 6 vs.) JUDGE BERRAUX 7 KISLING, NESTICO &) CASE NO. CV-2016-09-3928 8 REDICK, LLC, et al.,) 9 Defendants.) 10 11 THE VIDEOTAPE DEPOSITION OF 12 THERA REID 13 TUESDAY, JULY 3, 2018 14 15 The deposition of THERA REID, called by the 16 Defendants for examination pursuant to the Ohio 17 Rules of Civil Procedure, taken before me, the 18 undersigned, Margaret A. Trombetta, RMR and Notary 19 Public within and for the State of Ohio, taken at 20 the offices of Kisling, Nestico & Redick, LLC, 3412 21 W. Market Street, Fairlawn, Ohio, commencing at 22 10:30 a.m., the day and date above set forth. 23 24 25</p>	<p>1 APPEARANCES CONTINUED: 2 3 On behalf of Defendant Minas Floros, D.C.: 4 Shaun H. Kedir, Esq. 5 LAW OFFICES OF GLENN D. FEAGAN, P.S.C. 6 101 W. Prospect Avenue 7 Cleveland, Ohio 44115 8 216-696-2852 9 skedir@feaganlaw.com 10 11 On behalf of Defendant Rob A. Nestico, Esq.: 12 David M. Best, Esq. 13 DAVID M. BEST CO., LPA 14 4900 West Bath Road 15 Akron, Ohio 44333 16 330-665-1855 17 dmb@dmbestlaw.com 18 19 On behalf of Defendant Robert W. Redick Esq.: 20 Daniel P. Goetz, Esq. 21 WEISMAN, KENNEDY & BERRIS CO., LPA 22 1600 Midland Building 23 Cleveland, Ohio 44115 24 216-781-1111 25 dgoetz@weismanlaw.com 26 27 ALSO PRESENT: 28 John Reagan, Esq. 29 Rob Nestico, Esq. 30 Robert Redick, Esq. 31 Alex Cook, Videographer</p>
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<p>1 APPEARANCES: 2 3 On behalf of the Plaintiffs: 4 Peter Pattakos, Esq. 5 PATTAKOS LAW FIRM LLC 6 101 Ghent Road 7 Fairlawn, Ohio 44333 8 330-836-8533 9 peter@pattakoslaw.com 10 and 11 Joshua R. Cohen, Esq. 12 COREN, ROSENTHAL & KRAMER LLP 13 3208 Clinton Avenue 14 Cleveland, Ohio 44113 15 216-815-9500 16 jcohen@crklaw.com 17 18 On behalf of Defendant Kisling, 19 Nestico & Redick: 20 Thomas F. Mannion, Esq. 21 LEWIS BRISBOIS 22 1375 E. 9th Street Suite 2250 23 Cleveland, Ohio 44114 24 216-344-9467 25 tom.mannion@lewisbrisbois.com 26 and 27 James M. Popson, Esq. 28 SUTTER O'CONNELL CO. 29 1301 East 9th Street 30 Cleveland, Ohio 44114 31 216-928-2200 32 jpopson@sutter-law.com</p>	<p>1 WITNESS INDEX 2 3 EXAMINATION 4 THERA REID 5 BY MR. MANNION 6 7 EXHIBIT INDEX 8 9 EXHIBIT 10 11 Defendants' Exhibit 1, Defendants' 12 Amended Notice of Deposition 13 Defendants' Exhibit 2, Office Visit 14 Progress Notes 15 Defendants' Exhibit 1A, Important 16 Information sheet 17 Defendants' Exhibit 14, Third 18 Amended Counterclaim 19 Defendants' Exhibit 3, RNR Survey 20 Defendants' Exhibit 3A, an E-mail 21 Chain 22 Defendants' Exhibit 3B, an E-mail 23 Chain 24 Defendants' Exhibit 9, Contingency 25 Fee Agreement 26 Defendants' Exhibits 15 and 16, two 27 checks 28 Defendants' Exhibit 5, Settlement 29 Memorandum 30 Defendants' Exhibit 5A, Receipt, 31 Release and Trust Agreement 32 Defendants' Exhibit 6, Report of 33 Dr. Minas Floros, DC</p>

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<p style="text-align: right;">Page 105</p> <p>1 A He said that he had a patient in his office who 2 was in a motorcycle accident who is looking for 3 an attorney. 4 Q Okay. 5 A They stated something to him. I'm not sure 6 what it was. And he said, "Okay, here you go," 7 and handed me the phone. 8 Q Did he stay for that conversation then or did 9 he walk out? 10 A He stayed. 11 Q Was there anybody else in the room? 12 A My mother. 13 Q Okay. Anybody else? 14 A No. 15 Q How long did you talk to the attorneys? 16 A I would say about 15, 20 minutes. 17 Q Was this the same chiropractor that ended up 18 treating you throughout? 19 A Yes. 20 Q And you don't know his last name? 21 A Oh, my goodness, not right offhand, no. 22 Q Who did you call him when you went in? 23 A Mike, Dr. Mike. 24 Q Okay. Got you. 25 So tell me about that conversation with</p>	<p style="text-align: right;">Page 107</p> <p>1 A No. There was nothing like that said. 2 Q When was the next time you saw anybody from 3 KNR? 4 A I didn't see anybody from KNR for a while. I 5 hadn't met anybody. It was all phone calls for 6 a good while. Honestly, I do not know the 7 exact date that I met anybody here. 8 Q Did Matt talk with you when you were at the 9 chiropractor's office that day about sending an 10 investigator out to see you? 11 A There was something said about an investigator, 12 but nobody came out to see me. 13 Q Okay. Do you know when they were supposed to 14 see you? 15 A No, I do not. 16 Q What day did the accident occur? 17 A It was April 20th. I'm not sure of the day. 18 Q Okay. Was an investigator supposed to come out 19 and you had to cancel for some reason or they 20 just didn't show? 21 A They just didn't show that I know of. I don't 22 remember cancelling anything. I know somebody 23 came to my door from KNR when I was at the 24 chiropractor because there was this welcome 25 thing, you know, with all their KNR goodies in</p>
<p style="text-align: right;">Page 106</p> <p>1 KNR. Do you know who you talked to? 2 A I think it was Matt. 3 Q Tell me about that conversation. 4 A He asked me what had happened. He asked me 5 about the accident, when it was, what had 6 happened, where I had went to the hospital, 7 what the x-rays were, if I had x-rayed there at 8 the chiropractor. And eventually they did give 9 me x-rays at the chiropractor. 10 Q That day or later? 11 A Later on. 12 Q Okay. You certainly weren't forced to talk to 13 KNR on the phone, were you? 14 A I wasn't forced to, no. It's not like he 15 twisted my arm and told me, you know, I had to, 16 but I mean I did. 17 Q You voluntarily talked to KNR? 18 A Right. 19 Q You could have chose to call any of the 20 attorneys who had already contacted you, fair? 21 A Yes, I could have. 22 Q You made the choice to talk to KNR? 23 A Yes, I did. 24 Q Did the chiropractor's office say they wouldn't 25 treat you if you didn't use KNR?</p>	<p style="text-align: right;">Page 108</p> <p>1 there and they left it on my porch and that was 2 it. I don't remember -- I mean, there was 3 nobody else from KNR that came to visit me. 4 Q Did you save those materials at all? 5 A No, I did not. 6 Q But you had already decided to retain KNR 7 before you saw those materials? 8 A Right. 9 Q Okay. Was Matt pleasant to you? 10 A Yes, he was. 11 Q Answered all your questions? 12 A Yes, he did. 13 Q Did you go and talk with any other lawyers to 14 see maybe I should work with somebody else? 15 A Actually no, I didn't. I just went with them. 16 - - - - - 17 (Defendants' Exhibit 9, Contingency 18 Fee Agreement, was marked.) 19 - - - - - 20 Q Okay. I'm going to show you a copy of this. 21 This is the Contingency Fee Agreement. 22 Is that your signature at the bottom of 23 Defendants' Exhibit 9? 24 A Yes. 25 Q It says this was signed on April 22nd, 2016.</p>

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<p>1 Number 2 now. It says in there, the question</p> <p>2 to you was "Admit that the narrative report</p> <p>3 that Dr. Floros drafted contains additional</p> <p>4 medical information and analysis that is not</p> <p>5 contained in plaintiff's medical records from</p> <p>6 Akron Square Chiropractic."</p> <p>7 Did I read that correctly?</p> <p>8 A I'm not -- hold on a second. I'm sorry. My</p> <p>9 eyes are messed up.</p> <p>10 Q Okay. I'm sure if I misread it, your attorney</p> <p>11 would say something, but...</p> <p>12 A No, no, it's not your -- it's not you. I have</p> <p>13 eye problems --</p> <p>14 Q Okay.</p> <p>15 A -- and they're just going crazy right now.</p> <p>16 Q If you need extra time to read it, that's okay.</p> <p>17 A No.</p> <p>18 Okay.</p> <p>19 Q Okay. Now, the request to you was "Admit that</p> <p>20 the narrative report that Dr. Floros drafted</p> <p>21 contains additional medical information and</p> <p>22 analysis that is not contained in plaintiff's</p> <p>23 medical records from Akron Square</p> <p>24 Chiropractic."</p> <p>25 Did I read that correctly?</p>	<p>1 Q That you reviewed?</p> <p>2 A Yes.</p> <p>3 Q Okay.</p> <p>4 A It wasn't Akron Square.</p> <p>5 Q So you've never read Akron Square's records?</p> <p>6 A No.</p> <p>7 Q Or Dr. Floros' report?</p> <p>8 A No. Correct.</p> <p>9 Q Now, if you go to Dr. Floros' report,</p> <p>10 Defendants' Exhibit 6 underneath there.</p> <p>11 A This one here?</p> <p>12 Q Yes. Do you see at the bottom of there where</p> <p>13 it says KNR02191?</p> <p>14 A Yes.</p> <p>15 Q Now, go back to those answers.</p> <p>16 Do you see there where it says --</p> <p>17 A Yes.</p> <p>18 Q -- "to the extent the document produced by</p> <p>19 Defendants Bates stamp KNR02191," do you see</p> <p>20 that?</p> <p>21 A Yes.</p> <p>22 Q That's the same number as what Defendants'</p> <p>23 Exhibit 6 is, correct?</p> <p>24 A Yes.</p> <p>25 Q And what you've answered here is if that's a</p>
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<p>1 A Yes.</p> <p>2 Q Okay. And did you actually review the medical</p> <p>3 records from Akron Square Chiropractic and</p> <p>4 compare them to Dr. Floros' draft report,</p> <p>5 narrative report at any time?</p> <p>6 A Did I review mine?</p> <p>7 Q Did you review the narrative report that</p> <p>8 Dr. Floros drafted and compare it to your</p> <p>9 medical records at Akron Square Chiropractic to</p> <p>10 see if the report contained information in</p> <p>11 addition to what was in the medical records?</p> <p>12 A I reviewed what was in my medical records and I</p> <p>13 didn't get -- I didn't review what he had</p> <p>14 wrote, no.</p> <p>15 Q Okay. How many pages of medical records from</p> <p>16 Akron Square Chiropractic were there that you</p> <p>17 reviewed? Do you recall?</p> <p>18 A No, I do not recall.</p> <p>19 Q Now, earlier you had told me that you had never</p> <p>20 seen Defendants' Exhibit 6, if you go to that,</p> <p>21 please.</p> <p>22 A No, no, no, no, no, no, no, no, scratch. I</p> <p>23 did not review Akron Square's records.</p> <p>24 Q Okay.</p> <p>25 A It was the hospital's records.</p>	<p>1 true and accurate copy of Dr. Floros' report,</p> <p>2 then it does contain additional medical</p> <p>3 information not contained in the medical</p> <p>4 records, correct?</p> <p>5 A Correct.</p> <p>6 Q Okay. How did you answer that if you never</p> <p>7 compared the medical records to the report?</p> <p>8 A I've not seen this.</p> <p>9 Q And when you say "this," are you talking about</p> <p>10 the report or the answers to the requests for</p> <p>11 admission or both?</p> <p>12 A I signed papers for requests for admission.</p> <p>13 Q Okay. So you saw this answer before?</p> <p>14 A I don't --</p> <p>15 Q Do you know whether the records identified here</p> <p>16 as Bates Stamp 1683 to 2199 --</p> <p>17 A Okay.</p> <p>18 Q -- in that answer contain -- excuse me, whether</p> <p>19 this report contains any additional information</p> <p>20 that wasn't contained in those records? Do you</p> <p>21 know as you sit here?</p> <p>22 A I don't.</p> <p>23 Q Okay. And you never compared the two before</p> <p>24 this answer was provided to the defendants,</p> <p>25 true?</p>

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<p style="text-align: right;">Page 173</p> <p>1 A True.</p> <p>2 Q Because you've never even done that as we sit</p> <p>3 here today, fair?</p> <p>4 A Fair.</p> <p>5 Q Now, at the end of that answer, it states,</p> <p>6 "Plaintiff further states," and by "plaintiff"</p> <p>7 that means you, right?</p> <p>8 A Yeah.</p> <p>9 Q "Plaintiff further states that this additional</p> <p>10 information and analysis is largely, if not</p> <p>11 entirely, cut and pasted boilerplate and denies</p> <p>12 that this report was necessary or justified the</p> <p>13 \$150 that she was charged for it."</p> <p>14 Did I read that correctly?</p> <p>15 A Yes.</p> <p>16 Q Is that what you're claiming?</p> <p>17 A Yeah.</p> <p>18 Q Was that a yes?</p> <p>19 A Yes.</p> <p>20 Q Okay. Now, how is it that you're claiming that</p> <p>21 if you never compared the two?</p> <p>22 A Well, I know -- well, I know they were getting</p> <p>23 records.</p> <p>24 Q Okay. But what this says is that the report</p> <p>25 from Dr. Floros, which is the exhibit here in</p>	<p style="text-align: right;">Page 175</p> <p>1 Exhibit 6, can you read that last sentence to</p> <p>2 us.</p> <p>3 A Plaintiff objects to this --</p> <p>4 Q I'm sorry. Exhibit 6. The one you're holding.</p> <p>5 A Oh.</p> <p>6 Q Last sentence.</p> <p>7 A "In my opinion, based upon reasonable</p> <p>8 chiropractic probability, the injuries Thera</p> <p>9 Reid sustained were due to the motor vehicle</p> <p>10 accident and the treatments rendered thus far</p> <p>11 have been a necessity as a result."</p> <p>12 Q Do you know whether that was cut and pasted</p> <p>13 from anywhere else?</p> <p>14 A No.</p> <p>15 Q Okay. If you look up a little bit before that,</p> <p>16 it talks about a study being published in the</p> <p>17 Journal of Bone and Joint Surgery.</p> <p>18 Do you see that?</p> <p>19 A Yes.</p> <p>20 Q Do you know if that was cut and pasted from</p> <p>21 your medical records?</p> <p>22 A Not from my records.</p> <p>23 Q Okay. And a little further above that, there's</p> <p>24 a paragraph that starts "The time needed for</p> <p>25 injured soft tissue to heal."</p>
<p style="text-align: right;">Page 174</p> <p>1 front of you.</p> <p>2 A Okay.</p> <p>3 Q "Is largely, if not entirely, cut and pasted</p> <p>4 boilerplate."</p> <p>5 A Okay. What is that?</p> <p>6 Q Okay. That's what I'm asking you. What did</p> <p>7 you mean by "boilerplate"?</p> <p>8 A I don't know.</p> <p>9 Q Okay. Those weren't words that you authorized,</p> <p>10 were they?</p> <p>11 A No.</p> <p>12 Q And can you look at Defendants' Exhibit 6 now.</p> <p>13 Do you know what boilerplate means?</p> <p>14 A No.</p> <p>15 Q Okay. So there is nothing in Exhibit 6 that</p> <p>16 you can identify as boilerplate, is there?</p> <p>17 A I don't even know what the heck -- what that</p> <p>18 is.</p> <p>19 Q Now, you know what cut and paste means, don't</p> <p>20 you?</p> <p>21 A Yes.</p> <p>22 Q And what does that mean to you?</p> <p>23 A It's taken out of one sentence, cut out of one</p> <p>24 place and pasted into something else.</p> <p>25 Q Okay. If you look at the very last sentence of</p>	<p style="text-align: right;">Page 176</p> <p>1 Do you see that?</p> <p>2 A Uh-huh, yes.</p> <p>3 Q And do you know whether that was cut and pasted</p> <p>4 from your medical records?</p> <p>5 A Not from my records.</p> <p>6 Q Okay. Well, do you think it was cut and pasted</p> <p>7 from anywhere, or you don't know?</p> <p>8 A I don't know. It could have been.</p> <p>9 Q And further down on that paragraph, it talks</p> <p>10 about the "Quebec Task Force."</p> <p>11 Do you see that?</p> <p>12 A Yeah.</p> <p>13 Q Okay. Did you ever talk to Dr. Floros about</p> <p>14 the Quebec Task Force?</p> <p>15 A I've never seen this. How do I know about the</p> <p>16 Quebec Task Force?</p> <p>17 Q I'm just saying did he talk to you about it?</p> <p>18 A No.</p> <p>19 Q And this is information that Matt told you,</p> <p>20 your attorney told you they were providing to</p> <p>21 Allstate to help get a settlement for you,</p> <p>22 correct?</p> <p>23 A I've never heard of the Quebec Task Force.</p> <p>24 Q Well, that's fine. I'm talking about this</p> <p>25 report and the opinions that Dr. Floros put in</p>

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1 here. You understood that Dr. Floros' opinions
2 were one of the things that were helping you
3 get a settlement from Allstate, correct?
4 A Yes.
5 Q And do you know how long it took Dr. Floros to
6 prepare this?
7 A He didn't see me very often, but no.
8 Q Okay. That wasn't the question. The question
9 was --
10 A Well, I answered it.
11 Q -- do you know how long it took him --
12 A No.
13 Q -- to prepare this?
14 Do you know how long he spent reviewing
15 any research before he wrote this?
16 A No.
17 Q Do you know how long he spent reviewing your
18 medical records before this?
19 A No.
20 Q If we go up at the top, you'd agree that that's
21 the correct patient name?
22 A Yes.
23 Q It's the correct date of the injury?
24 A Yes.
25 Q The correct medical provider?

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1 A Yes.
2 Q Okay. And the patient's description of pain,
3 "Thera Reid presented to Akron Square
4 Chiropractic following a motor vehicle accident
5 with symptoms of moderate to severe spinal soft
6 tissue injury."
7 Do you see that?
8 A Yes.
9 Q And that's what they were treating you for,
10 correct?
11 A Actually, they were treating me for shoulder
12 injury.
13 Q Well, we'll get there in a second. It says
14 "soft tissue injury," it doesn't describe where
15 yet, but it was a soft tissue injury.
16 Do you know what that means or not?
17 A Yes, I know what that means.
18 Q And that's what they were treating you for,
19 correct?
20 A Yeah.
21 Q The next line, "She presented with most pain
22 through her entire spine and right shoulder."
23 That's an accurate description, isn't it?
24 A Yes.
25 Q "Her joint pain was relentless as a result of

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1 the motor vehicle accident."
2 Is that true?
3 A Yes.
4 Q Okay. "She had sleepless nights following the
5 motor vehicle accident."
6 Is that true?
7 A Still do.
8 Q "She described the pain as being constant,
9 dull, burning and sharp."
10 Are those words you used?
11 A Yes.
12 Q "Ranges of motion were restricted throughout
13 her spine as a result of pain, muscle spasms,
14 intersegmental swelling and joint dysfunction."
15 Did I read that correctly?
16 A Yes.
17 Q "She was forced to modify her daily activities
18 to accommodate her high pain levels."
19 Was that true?
20 A Still is.
21 Q Okay. And there were several diagnoses that he
22 put on there then, correct?
23 A Yes.
24 Q And it went on and talked about the treatment
25 for you which included light spinal

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1 manipulation, mechanical traction and a number
2 of other things, true?
3 A Yes.
4 Q And those are things that you received, right?
5 A Yes.
6 Q Okay. And so are you saying that \$150 is too
7 much for Dr. Floros to review your medical
8 records, come to chiropractic opinions to a
9 reasonable degree of certainty or probability
10 and prepare this report? Are you saying \$150
11 is too much?
12 A I didn't see him very often.
13 Q That wasn't the question.
14 A I know that wasn't the question, but I'm
15 telling you my answer, sir.
16 Q Okay. Well, you're saying --
17 A And it's a little bit longer than a yes or no,
18 please.
19 Q Go ahead. Actually go ahead.
20 A Thank you.
21 Q Take your time.
22 A Thank you.
23 Q Go at it.
24 A Thank you.
25 Q You have the floor.

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1 A Thank you very much.
2 Q You're welcome.
3 A I didn't see him but a couple of times.
4 Q Okay.
5 A So yes, honestly I do think \$150 is a little
6 much to go in and write out a report.
7 Q Really?
8 A When all's I did was go in and see him and he
9 just wrote out a prescription for pain meds,
10 yes, really.
11 Q Okay. Thank you. Do you know what this report
12 was used for?
13 A Yes.
14 Q What was it used for?
15 A For them, KNR.
16 Q Excuse me?
17 A To get me this little bit of money.
18 Q Okay. It was used to help settle your case,
19 fair?
20 A Yeah.
21 Q Okay. And so how much do you think a
22 chiropractor or a health care provider should
23 charge to prepare a detailed report like this
24 to help you get a settlement?
25 A Well, sir, when you've got a thousand dollars

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1 down here for Akron Square Chiropractic,
2 5,000-some-odd dollars, and then you've got up
3 here, come on, really?
4 Q That really wasn't my question though. I'll
5 ask my question again in a second.
6 A I know what you were --
7 Q I'll go to where you were --
8 A I know what you were asking. You were saying
9 how much do you think they should be, you know.
10 Q Do you know if you could have got a settlement
11 from Allstate without this report?
12 A No, I don't.
13 Q Okay.
14 A And if I -- it would have probably been what
15 Richard got, \$3,000.
16 Q So if you got more than \$150 extra from
17 Allstate because of this report, aren't you
18 glad that they prepared it?
19 A In some way, yeah.
20 Q Okay. Now, you did mention though about the
21 two charges, so let's look back at Defendants'
22 Exhibit 5, ma'am, if you could please remove
23 that and look at Exhibit 5 again.
24 Okay. Now, on Exhibit 5 you noted the
25 Akron Square Chiropractic bill that was \$5,025

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1 in parenthesis.
2 Do you see that?
3 A Oh, yeah.
4 Q And then 4,500 was the amount that they were
5 actually paying to him though, correct?
6 A Yes.
7 Q So this was for your actual chiropractic
8 treatment; when you add up all the visits and
9 how much they charged for the visits, it was
10 \$5,025, correct?
11 A Okay.
12 Q Correct, ma'am?
13 A Okay, yes.
14 Q And in fact, KNR was able to negotiate \$525 off
15 of that bill, correct?
16 A I don't know.
17 Q Well, they only paid them 4,500, correct?
18 A That's how much they took that day you said.
19 Q Okay. Do you know whether they ever paid Akron
20 Square Chiropractic anything else?
21 A No, I do not.
22 Q And you don't owe Akron Square Chiropractic
23 practice as you sit here, do you?
24 A I haven't received a bill.
25 Q Okay. So if they negotiated a discount of \$525

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1 off that bill, that's 525 extra dollars that
2 went in your pocket, true?
3 A If they negotiated it, yes.
4 Q If so you look at the top, the 150 for this
5 report, would you have rather had them
6 negotiate 520 off and pay the 150 or would you
7 have rather paid the whole 5,025?
8 A I guess I would have rather negotiated.
9 Q Okay. And so if we look back now at the
10 interrogatory or request for admissions answer,
11 and you say that you "deny the report was
12 necessary."
13 Okay. Why do you deny that this report
14 was necessary?
15 A I didn't say it was nec --
16 Q Do you believe it was necessary?
17 A I'm looking at it and -- I don't know.
18 Q Okay.
19 A I just -- I don't know.
20 Q And you have no idea what a reasonable charge
21 from a chiropractor is for reports setting
22 forth opinions like this, is that true?
23 A That's true.
24 Q Okay. Why then are you saying the \$150 is too
25 much for this report?

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1 A Because that seems like an awful steep amount
2 for a piece of paper and to sit and do a report
3 and to do some reviews and I mean -- wow.
4 Q Have you talked to any other chiropractors or
5 experts who have told you that \$150 is too much
6 for a report like this?
7 A I've talked to one.
8 Q Okay. Who was that?
9 A He doesn't live around here, so you wouldn't
10 know him. He is a relative of mine.
11 Q Okay. Who is that?
12 A His name is Jared.
13 Q His whole name, please?
14 A Thormaier.
15 Q Spell that.
16 A T-H-O-R-M-A-I-E-R.
17 Q You actually brought back a fun memory. I said
18 "spell that," and you started with T-H, I
19 thought you were going to say A-T, spell
20 "that."
21 I only got one detention my entire school
22 career. She asked me to spell it and I said I
23 I-T. You brought back a long --
24 A I could have been a real smart one.
25 Q You could have.

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1 Okay. And so is he a chiropractor?
2 A Yes.
3 Q And are you saying that he's going to be an
4 expert that's going to come in and say that
5 \$150 is too much for this report?
6 A He wouldn't come in. He's not in state.
7 Q Okay.
8 A Okay, but --
9 Q You're saying he reviewed this report?
10 A No, he hasn't reviewed anything.
11 Q Well, how would he know it's too much if he
12 hasn't seen the report?
13 A Because I've talked to him and he wouldn't
14 charge me that. I mean, he's my family. He
15 wouldn't charge me that being family, but he's
16 saying \$150, he wouldn't be charging that. It
17 would be like 80 something, 85, 70, I don't
18 know, but he wouldn't be charging 150.
19 Q And he didn't review this, so how did you
20 describe the report to him?
21 A He knows I was in a wreck and I broke my
22 shoulder.
23 Q I guess what I'm trying to understand is if
24 you've never seen this report before today, how
25 could you describe it adequately so that your

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1 relative is telling you 150 is too much for it?
2 A Well, he knew what I was talking about.
3 Q How did you know what you were talking about if
4 you've never seen it?
5 A It was when I was reading the paper, the --
6 what do you call it?
7 Q The complaint?
8 A Yes, the complaint.
9 Q So what you told him was the chiropractor did a
10 narrative report?
11 A Yes.
12 Q Okay. But you didn't show him the report?
13 A No, because I did not have it and I have not
14 seen it until just today.
15 Q Did you tell him that there was research
16 referenced in the report?
17 A I'm unsure.
18 Q Well, how is it --
19 A I'm sure I did. I --
20 Q How would you have known that there was
21 research referenced in the report?
22 A I don't. I didn't.
23 Q Okay. What's his address?
24 A I don't have it on hand.
25 Q Okay. Please provide it.

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1 A He's in California.
2 Q Okay. What's his phone number?
3 A I don't have it on hand.
4 Q Is it in your phone now?
5 A Probably.
6 Q Okay. If we take a break, I'd ask you to
7 please look it up.
8 Where in California?
9 A Oh, my goodness. San Diego. Why?
10 Q Okay. Anybody else that you've talked to
11 expert wise, chiropractor, physician, anything
12 of that nature who said \$150 is too much for
13 this report?
14 A No.
15 Q Okay. Let's go back to Exhibit 5 which is the
16 Settlement Memorandum, if you could pull that
17 up, please, in front of you.
18 A Oh, my gosh. Oh, wow.
19 Q Do you have Exhibit 5 in front of you?
20 A Yeah.
21 Q Any other expenses on that first part under
22 "deduct and retain to pay"? Are there any
23 expenses under there that you're alleging were
24 not necessary or were not justified other than
25 what you've said about Dr. Floros?

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<p>1 you see he actually did the narrative, correct?</p> <p>2 A Yeah.</p> <p>3 Q So what about it other than the fact you think</p> <p>4 it was too much do you think was fraudulent?</p> <p>5 A Well, who knows if it wasn't cut and pasted?</p> <p>6 Q Well, you do not know, do you?</p> <p>7 A No. Do you?</p> <p>8 Q Hey, I do actually. I do.</p> <p>9 A Really?</p> <p>10 Q Yes.</p> <p>11 A Okay.</p> <p>12 Q Now, why would you allege something is</p> <p>13 fraudulent if you don't know if it's true or</p> <p>14 not?</p> <p>15 A Didn't look real to me, to be honest.</p> <p>16 Q Well, my point is at the time this complaint</p> <p>17 was filed, you had never seen the report?</p> <p>18 A No, I didn't.</p> <p>19 Q So how would you know it was fraudulent?</p> <p>20 A Because that's an awful lot of doggone money to</p> <p>21 charge for a frigging report.</p> <p>22 Q Okay. Anything else about it that you think</p> <p>23 was fraudulent?</p> <p>24 A No.</p> <p>25 Q So you think it was too much doggone money to</p>	<p>1 A No.</p> <p>2 Q It would depend on how much care they received?</p> <p>3 A Right.</p> <p>4 Q How long the report was, correct?</p> <p>5 A Right.</p> <p>6 Q How much time was spent on the report?</p> <p>7 A Right, their injuries.</p> <p>8 Q It would be different for every patient?</p> <p>9 A Right, right.</p> <p>10 Q Different for every client?</p> <p>11 A Right.</p> <p>12 Q You'd have to ask the chiropractor or whoever</p> <p>13 provided the report about each and every one of</p> <p>14 those patients to know whether that particular</p> <p>15 patient received value for \$150 for that</p> <p>16 report, true?</p> <p>17 A I'd say yes.</p> <p>18 Q Okay. And that would be the same with the \$50</p> <p>19 for an investigator, you'd have to see what the</p> <p>20 investigator did in each and every case to know</p> <p>21 whether it was worth \$50, true?</p> <p>22 A Yes.</p> <p>23 Q To do that, you'd have to talk to and look at</p> <p>24 everything the investigator did in a particular</p> <p>25 case, correct?</p>
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<p>1 pay for a report that you had never seen before</p> <p>2 and that's what you mean by "fraudulent</p> <p>3 narrative fee"?</p> <p>4 A Yes.</p> <p>5 Q Okay.</p> <p>6 MR. MANNION: We can take a</p> <p>7 break.</p> <p>8 MR. PATTAKOS: Thanks.</p> <p>9 THE VIDEOGRAPHER: Off the record.</p> <p>10 The time is 4:12.</p> <p>11 - - - - -</p> <p>12 (Recess was had.)</p> <p>13 - - - - -</p> <p>14 THE VIDEOGRAPHER: Back on the</p> <p>15 record. The time is 4:25.</p> <p>16 Q We were talking about the narrative fee, and</p> <p>17 one of the things you told me, if I heard you</p> <p>18 correctly, is that \$150 was too much and it</p> <p>19 should have been more in the 80 or \$85 range.</p> <p>20 Do you recall that?</p> <p>21 A Yes.</p> <p>22 Q Okay. Now, as far as how much that narrative</p> <p>23 fee is worth to anybody else's case, any other</p> <p>24 clients of KNR, you don't know how much it's</p> <p>25 worth to them, do you?</p>	<p>1 A Yes.</p> <p>2 Q Okay. And you don't know how much time</p> <p>3 Dr. Floros or any other chiropractor put into</p> <p>4 any narrative report for any other client, do</p> <p>5 you?</p> <p>6 A No.</p> <p>7 Q We'd have to look at each one of those cases</p> <p>8 separately, fair?</p> <p>9 A Fair.</p> <p>10 Q You don't know how much value any of the</p> <p>11 insurance companies put value wise on those</p> <p>12 reports for anybody's case, do you?</p> <p>13 A No, I don't.</p> <p>14 Q You'd have to ask every individual claims</p> <p>15 examiner how much value they put on that</p> <p>16 report?</p> <p>17 A Yes.</p> <p>18 Q Do you know how many people received these</p> <p>19 narrative reports?</p> <p>20 A In this class action?</p> <p>21 Q Yes.</p> <p>22 A I think there are four or five of us.</p> <p>23 Q Okay. But do you know for the people that</p> <p>24 you're saying where you are the class</p> <p>25 representative, do you know how many people are</p>

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1	A It had to have been the complaint.	1	Q Did you review the affidavit of Gary Petty?
2	Q Okay. Give me an example of one of the	2	A I went over it. I didn't go over it and review
3	extensive quotations from the defendants' own	3	it myself.
4	documents.	4	Q Well, do you remember asking me earlier today
5	A I don't know. My goodness.	5	when answering one of my questions "who's Gary
6	Q Why did you raise your hand and verify under	6	Petty?"
7	penalty of perjury that quotations from the	7	A Yes.
8	defendants' own documents provided this	8	Q So if you didn't know who he was, how would you
9	evidence if you didn't know?	9	know what he put down in an affidavit?
10	A All this is confusing.	10	A He read it to me.
11	Q I agree. It is. We're confused as to why --	11	Q Okay. But you didn't even know who Gary Petty
12	A You're confusing me.	12	was when you answered me earlier?
13	Q -- this states --	13	A No, I don't know him.
14	Well, these are your answers, ma'am. You	14	Q Okay. Well, you had not even heard of the name
15	read these and verified that they were true and	15	before, had you?
16	accurate to the best of your knowledge,	16	A It didn't sound familiar, no.
17	correct?	17	Q Okay. So what in the affidavit of Gary Petty
18	A Yes.	18	provides a basis for your answer to
19	Q You took an oath before you signed that,	19	Interrogatory Number 10?
20	correct?	20	A Oh, my goodness, I don't even know.
21	A Yes.	21	Q Do you know?
22	Q Okay. And yet you're telling me your answer is	22	A No.
23	confusing?	23	Q Okay.
24	A This is what I've read. This is what we went	24	A I don't know what the heck this --
25	over.	25	Q Okay. Now, Request --
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1	Q Give me one quotation from one document from	1	A -- what you're talking about.
2	the defendants that you're referring to in	2	Q Request for Admission Number 11, do you see
3	answer to Interrogatory Number 10.	3	that?
4	A I don't remember any quotations.	4	A Yes.
5	Q Okay. You never authorized the wording	5	Q Okay. "Admit that at the time you filed the
6	"including extensive quotations from	6	complaint that you had no evidence that KNR
7	defendants' own documents," did you? You never	7	ever received a direct financial benefit from
8	authorized that language to be used, did you?	8	in the narrative fees."
9	A Wow.	9	Response, "Deny."
10	Q Are those your words?	10	Do you see that?
11	A If I signed it, I signed it.	11	A Yes.
12	Q Okay. "Including extensive quotations from	12	Q Okay. Let me ask you, what evidence do you
13	defendants' own documents," those aren't your	13	have and that you had at the time you filed the
14	words, are they, ma'am?	14	complaint that KNR received a direct financial
15	A They're not my words.	15	benefit from the narrative fees? And I'm
16	Q And you didn't even know who Gary Petty was	16	talking a little louder now because of the
17	earlier and now you're saying that the	17	weather outside. I'd ask sort of that you do
18	affidavit of Gary Petty is the basis, one of	18	the same so we can hear it.
19	the bases for your answer? What does he say in	19	A Okay, I personally do not have any information
20	his affidavit?	20	on that. That you would have to talk to my
21	A This is what I went over with my attorney.	21	attorney on.
22	Q I'm asking you --	22	Q Request for Admission Number 12, "Admit that
23	A This is one of the papers I just went over.	23	KNR did not and does not receive any financial
24	Q Which?	24	benefit from the narrative fees."
25	A Oh, my goodness.	25	And what was your answer?

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<p>1 A "Deny."</p> <p>2 Q Okay. What's the basis of that?</p> <p>3 A What do you mean by that?</p> <p>4 Q Well, why did you deny it?</p> <p>5 A I did not know.</p> <p>6 Q Okay. So you're saying that KNR did receive a financial benefit from the narrative fee?</p> <p>7 A I do not know if they did or not.</p> <p>8 Q Okay. And as you sit here, do you know whether they did, ma'am?</p> <p>9 A I'm assuming they did.</p> <p>10 Q Well, assuming. Okay. What was the financial benefit that KNR received from the narrative fee?</p> <p>11 A I'm unsure at the moment.</p> <p>12 Q Okay. Can you point to one financial benefit to KNR from the narrative fee?</p> <p>13 A Not at the moment.</p> <p>14 Q And you certainly don't remember any such benefit -- strike that.</p> <p>15 And at the time the complaint was filed, you don't recall any evidence you had that KNR received any financial benefit from the narrative fee, true?</p> <p>16 A True.</p>	<p>1 Q Well, I'm asking you. What evidence do you have that somehow Dr. Floros charged KNR less than 150?</p> <p>2 A I said I don't.</p> <p>3 Q Okay.</p> <p>4 A I'm going on my attorney.</p> <p>5 Q You are not aware of a single fact to support a contention that Dr. Floros charged KNR less than 150 for that narrative report, true?</p> <p>6 A True.</p> <p>7 Q Do you have any facts or evidence to show that KNR did not pay Dr. Floros the narrative fee that was identified in the Settlement Memorandum that you agreed to?</p> <p>8 A No.</p> <p>9 Q And do you agree that if you did not settle your case or you did not recover, then you would not have to pay Dr. Floros that fee based upon your Contingency Fee Agreement?</p> <p>10 A Yes.</p> <p>11 Q And that KNR would have had that responsibility, not you, fair?</p> <p>12 A Fair.</p> <p>13 Q Even if they didn't collect a single penny from anybody else, they still had to pay that, true?</p>
Page 226	Page 228
<p>1 Q Now, Request For Admission Number 14, "Admit that KNR does not add a surcharge or an up-charge on the narrative fee and that it is a pass-through third-party expense."</p> <p>2 Did I read that correctly?</p> <p>3 A Yes.</p> <p>4 Q Okay. Now, in your answer, you're saying that up-charge and pass-through third-party expense are vague.</p> <p>5 Do you see that?</p> <p>6 A Yes.</p> <p>7 Q Okay. So let me ask it this way: Are you claiming in any way that Dr. Floros charged KNR less than 150 for that report but that KNR somehow charged you 150?</p> <p>8 A Possible.</p> <p>9 Q Well, it's possible?</p> <p>10 A It's possible.</p> <p>11 Q Would you file a complaint against somebody making these type of allegations on a possibility?</p> <p>12 Ma'am?</p> <p>13 A No. But I would if they did.</p> <p>14 Q Okay. But you don't know if they did, true?</p> <p>15 A No. But I'm going on my attorney's word.</p>	<p>1 A Yes.</p> <p>2 Q And do you have any evidence from any other potential plaintiffs or class members that Dr. Floros or any other chiropractor charged less for the narrative report than KNR was charging that client?</p> <p>3 A My attorney would.</p> <p>4 Q Well --</p> <p>5 A I don't. My attorney would.</p> <p>6 Q Well, are you saying that that occurred?</p> <p>7 A I'm saying if it did, I wouldn't have it. My attorney would.</p> <p>8 Q You don't know of a single --</p> <p>9 A I do not.</p> <p>10 Q Let me finish, please.</p> <p>11 You do not know of a single client of KNR in which Dr. Floros or any other chiropractor charged less for the narrative report than KNR was charging the client, true?</p> <p>12 A I do not.</p> <p>13 Q Okay. And to determine that, you'd have to look at each and every one of those cases separately, correct?</p> <p>14 A Yes.</p> <p>15 Q You'd have to ask Dr. Floros what he charged?</p>

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<p style="text-align: right;">Page 257</p> <p>1 A Her name was -- oh, what was her name? She was 2 down -- Child Guidance and Family Solutions. 3 I'll call and get her name. 4 Q Is that over like on Exchange or where is that? 5 Do you know? 6 A Yes, it's down Exchange. 7 Q Okay. How did Akron Square contact you? 8 You're not sure who it was? 9 A I'm not -- no, I don't remember who it was, but 10 it was by phone. 11 Q Okay. Now, in your answers to interrogatories, 12 you've indicated it was through a telemarketer. 13 What did you mean by telemarketer, just 14 that it was by phone? 15 A Yes. 16 Q Okay. You don't mean that it was somebody they 17 hired separate from them, do you? 18 A I don't -- no. 19 Q You don't know? 20 A No. 21 Q Okay. And you're not saying that KNR 22 instructed Akron Square to do that, are you? 23 A I'm not -- I don't think so. 24 Q I mean, I'm asking, are you saying that? 25 A No.</p>	<p style="text-align: right;">Page 259</p> <p>1 here at the very bottom. 2 MR. MANNION: Let me finish 3 my statement, please. Please do not write on 4 any exhibits until you talk with us. This was 5 something that the plaintiff herself wrote out. 6 MR. PATTAKOS: It's very 7 clear, Tom. There's no issue here. 8 "Confidential subject to protective order." 9 That's all I wrote. 10 Is there any dispute about that? 11 MR. MANNION: I'm asking you 12 not to write on my exhibits unless we talk 13 about it. That's all I'm asking. We don't 14 need to get into a fight about it. You've 15 already written on it. 16 Q So if you could look at your answer to 17 Interrogatory Number 31 there. The question 18 was "Describe how defendants illegally 19 solicited plaintiff through Dr. Floros and 20 Akron Square Chiropractic as alleged in 21 Paragraph 71 of the complaint." 22 And your response, we'll go sentence by 23 sentence or maybe stop at some of the commas 24 here. 25 "Akron Square contacted plaintiff through</p>
<p style="text-align: right;">Page 258</p> <p>1 Q No. Okay. And do you know whether there's any 2 type of cost that Akron Square and KNR or KNR's 3 lawyers somehow share in? 4 A I'm unsure. 5 Q Okay. You don't know of any, do you? 6 A No, I don't know of any. 7 Q Okay. Are you saying that they both pay the 8 person who called you? You don't know that? 9 A I'm unsure. 10 Q You don't know? 11 A No. 12 Q Okay. 13 A I don't know. 14 Q So if you could look at your response to 15 Interrogatory Number 31. 16 MR. PATTAKOS: I'm just going 17 to write "confidential subject to protective 18 order" on here, on Exhibit 18. 19 MR. MANNION: I just wish you 20 would not have written on an exhibit that the 21 plaintiff wrote on. I mean, you could have put 22 that on the record or asked us, but I just ask 23 that you not -- 24 MR. PATTAKOS: Just being 25 safe, Tom. It's very clear what I'm writing</p>	<p style="text-align: right;">Page 260</p> <p>1 a telemarketer." 2 Now, we already talked about that one, 3 correct? 4 A Through the phone, yes. 5 Q But when you say "telemarketer," all you mean 6 is they contacted you by phone? 7 A Right. 8 Q "Advised plaintiff not to speak with any other 9 attorneys or chiropractors"? 10 A Correct. 11 Q Okay. Now, meaning that they said "hey, you 12 don't have to talk to anybody else, you can 13 trust us, we'd like to help you," is that 14 essentially what they said? 15 A Pretty much, yes. 16 Q They didn't say "you're forbidden from talking 17 to anybody else," did they? 18 A Not forbidden, but they said "Don't talk to 19 anybody. We're going to help you." 20 Q Okay. Well, you knew that you could talk to 21 somebody else if you wanted to, true? 22 A If I wanted to, down -- yeah. I wasn't 23 forbidden, but... 24 Q They didn't prevent you from talking to anybody 25 else, did they?</p>

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<p style="text-align: right;">Page 269</p> <p>1 marketing costs?</p> <p>2 A Just what I was reading. I mean, I don't think</p> <p>3 it was testimony.</p> <p>4 Q Okay. When you say "reading," you mean in the</p> <p>5 complaint?</p> <p>6 A Yes.</p> <p>7 Q Because I'm trying to find out, do you have any</p> <p>8 type of proof that there were split marketing</p> <p>9 costs between KNR and Akron Square, actual</p> <p>10 proof?</p> <p>11 A I don't have anything. If there's anything, my</p> <p>12 lawyer would have it. I don't have proof.</p> <p>13 Q You personally haven't even seen any proof of</p> <p>14 it, true?</p> <p>15 A True.</p> <p>16 - - - - -</p> <p>17 (Defendants' Exhibit 19, Chase Online -</p> <p>18 Check Details, was marked.)</p> <p>19 - - - - -</p> <p>20 Q Okay. Now, also we were talking about that</p> <p>21 \$150. And do you have Exhibit 19 in front of</p> <p>22 you? I know we've had some disputes about the</p> <p>23 numbers.</p> <p>24 A Somewhere, right there.</p> <p>25 Q Okay. And do you see that that's a check from</p>	<p style="text-align: right;">Page 271</p> <p>1 hundred, fair?</p> <p>2 A I guess so.</p> <p>3 Q Well, the reason they charged you 150 is</p> <p>4 because that's what Dr. Floros charged them for</p> <p>5 the report.</p> <p>6 Do you agree?</p> <p>7 A I guess.</p> <p>8 Q So you would agree then there was no up-charge</p> <p>9 for that report?</p> <p>10 A I don't know.</p> <p>11 Q Do you see one?</p> <p>12 A I see this. This is what I see.</p> <p>13 Q Okay. Do you see any up-charge on that report?</p> <p>14 You know what I mean by "up-charge," don't you?</p> <p>15 A Yes. No, I don't.</p> <p>16 Q Okay. So would you withdraw that allegation</p> <p>17 that they up-charged you for that report?</p> <p>18 MR. PATTAKOS: What</p> <p>19 allegation? Objection.</p> <p>20 Q Go ahead.</p> <p>21 A Do you want me to --</p> <p>22 Q Would you withdraw the claim that they received</p> <p>23 some type of financial benefit for charging you</p> <p>24 \$150 because they actually had to pay that \$150</p> <p>25 back to Dr. Floros?</p>
<p style="text-align: right;">Page 270</p> <p>1 KNR to Dr. Floros for \$150?</p> <p>2 A Yes.</p> <p>3 Q And you see at the bottom it has Thera Reid?</p> <p>4 Do you see that?</p> <p>5 A Yes.</p> <p>6 Q So do you agree that KNR paid Dr. Floros \$150</p> <p>7 for his narrative report?</p> <p>8 A I guess that's what it's for, yes.</p> <p>9 MR. PATTAKOS: Tom, let me</p> <p>10 just clarify. So what was formerly marked as</p> <p>11 Exhibit 17, we changed that to Exhibit 19?</p> <p>12 MR. MANNION: I think that</p> <p>13 was clarified, but yes, it's 19.</p> <p>14 MR. PATTAKOS: Okay.</p> <p>15 Q And in fact then, you were charged exactly what</p> <p>16 Dr. Floros charged KNR for that report, true?</p> <p>17 A Yes.</p> <p>18 Q There was no money that KNR made off of</p> <p>19 charging you 150 for the report because they</p> <p>20 had to pay it to Dr. Floros, true?</p> <p>21 A I don't know.</p> <p>22 Q Well, based on this, isn't that true?</p> <p>23 A Yeah, I guess, yes.</p> <p>24 Q Okay. It's not like they charged you 150, took</p> <p>25 that money and then only paid Dr. Floros a</p>	<p style="text-align: right;">Page 272</p> <p>1 A You want me to withdraw it?</p> <p>2 Q The claim that they somehow received, that KNR</p> <p>3 somehow received a direct financial benefit</p> <p>4 from charging you \$150 for Dr. Floros's report</p> <p>5 because that's exactly what they had to pay him</p> <p>6 for the report.</p> <p>7 A Well, no, I'm not going to withdraw it.</p> <p>8 Q Okay. Well, did you know at the time you</p> <p>9 answered these interrogatories -- had you ever</p> <p>10 seen this check before?</p> <p>11 Is that a no?</p> <p>12 A I don't know. I've seen a lot of papers.</p> <p>13 Q Okay. Do you recall seeing this check before</p> <p>14 today?</p> <p>15 A I don't know.</p> <p>16 Q Okay. Now, if KNR charged you \$200, but only</p> <p>17 paid Dr. Floros 150, they would have had a \$50</p> <p>18 financial benefit, true?</p> <p>19 A Yes.</p> <p>20 Q But in this case, they charged you 150 and they</p> <p>21 paid Floros 150, true?</p> <p>22 A I guess so.</p> <p>23 Q Which would be no financial benefit, fair?</p> <p>24 A Yes.</p> <p>25 Q And when they in fact called and talked with</p>

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<p style="text-align: right;">Page 273</p> <p>1 you the very first time and in the office, when</p> <p>2 Akron Square did, they told you specifically</p> <p>3 that they were not affiliated with any other</p> <p>4 type of entity as far as who they were speaking</p> <p>5 for, true?</p> <p>6 A Who said that?</p> <p>7 Q Whoever you talked to from Akron Square.</p> <p>8 A I don't remember that.</p> <p>9 - - - - -</p> <p>10 (Defendants' Exhibit 20, Patient</p> <p>11 Acknowledgment, was marked.)</p> <p>12 - - - - -</p> <p>13 Q Okay. Let's look at now if you could pull</p> <p>14 Exhibit 20 that's marked there.</p> <p>15 At the bottom, do you see how you had to</p> <p>16 use your left hand to write "TR"?</p> <p>17 A Yes.</p> <p>18 Q But that is your initials, true?</p> <p>19 A Yes.</p> <p>20 Q And that was the only way you could sign your</p> <p>21 name because of your injury at the time?</p> <p>22 A Yes.</p> <p>23 Q And this was signed on the very date you went</p> <p>24 to see Akron Square?</p> <p>25 A Yes.</p>	<p style="text-align: right;">Page 275</p> <p>1 Q Okay. Any other reasons than what I just</p> <p>2 listed?</p> <p>3 A No.</p> <p>4 Q Okay. Now, let's go through this. You do</p> <p>5 agree you read and signed, to the extent your</p> <p>6 initials or signature, Exhibit 20, correct?</p> <p>7 A Yes.</p> <p>8 Q And you read it first?</p> <p>9 A Yes.</p> <p>10 Q Did you have any questions for them at the</p> <p>11 time?</p> <p>12 A I don't know. I had questions and papers and I</p> <p>13 signed a lot of things.</p> <p>14 Q Okay. You don't recall whether you did have</p> <p>15 questions or whether you didn't have questions</p> <p>16 about Exhibit 20?</p> <p>17 A No, I do not.</p> <p>18 Q Okay. So we'd have to rely on their memory if</p> <p>19 they remember, true?</p> <p>20 A Probably, yes.</p> <p>21 Q Okay. You wouldn't have signed this if there</p> <p>22 was something about it you didn't understand,</p> <p>23 would you?</p> <p>24 A No.</p> <p>25 Q So let's look at this. In the first paragraph,</p>
<p style="text-align: right;">Page 274</p> <p>1 Q Now, when you talked with Akron Square on the</p> <p>2 phone, what they actually offered to you, and</p> <p>3 this is when you talked to them the day after</p> <p>4 the accident, when you talked to them on your</p> <p>5 phone, what they actually told you was that</p> <p>6 they would give you a free chiropractic</p> <p>7 consultation and a free ten-point spinal</p> <p>8 screening exam without any obligation or any</p> <p>9 costs to anybody for that, true?</p> <p>10 A Yes.</p> <p>11 Q And that's one of the reasons you went to see</p> <p>12 them, fair?</p> <p>13 A One of.</p> <p>14 Q Okay. One of the others is because they</p> <p>15 provided a ride and you had trouble with</p> <p>16 transportation?</p> <p>17 A One of.</p> <p>18 Q One of the others is because you trusted them</p> <p>19 from talking to them on the phone?</p> <p>20 A Correct.</p> <p>21 Q Okay. And one of the others is because you</p> <p>22 needed some health care attention?</p> <p>23 A Correct.</p> <p>24 Q Any other reasons?</p> <p>25 A I thought I could trust them.</p>	<p style="text-align: right;">Page 276</p> <p>1 can you read that first paragraph, please.</p> <p>2 A "I was told in the very first such phone call</p> <p>3 conversation."</p> <p>4 Q One second. Sorry about that. The very first</p> <p>5 paragraph, right before that. "I confirm."</p> <p>6 A "I confirm I was contacted by telephone on one</p> <p>7 or more occasions by one or more persons who I</p> <p>8 understood to be representatives of Akron</p> <p>9 Square Chiropractic regarding the availability</p> <p>10 of chiropractic consultations, spinal screening</p> <p>11 examinations."</p> <p>12 Q Okay. Now, that is what they talked to you</p> <p>13 about when they contacted you by telephone,</p> <p>14 correct?</p> <p>15 A Yes.</p> <p>16 Q Now, this says "on one or more occasions," but</p> <p>17 in your case it was only one occasion at this</p> <p>18 time, true?</p> <p>19 A True.</p> <p>20 Q Okay. And you understood at the time they</p> <p>21 talked to you that they were representatives of</p> <p>22 Akron Square Chiropractic and not the</p> <p>23 representatives of anybody else, true?</p> <p>24 A True.</p> <p>25 Q Now, if we look at the next paragraph, "I was</p>

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<p style="text-align: right;">Page 285</p> <p>1 A It probably is. It would be my luck. Yes, it is.</p> <p>2</p> <p>3 Q If you turn to Page 38.</p> <p>4 And do you see Paragraph 138 right above</p> <p>5 that, it has "V Class Allegations"?</p> <p>6 A Yes.</p> <p>7 Q And then you see there's A, B, C and D?</p> <p>8 A Yes.</p> <p>9 Q And do you know which of these you've been</p> <p>10 designated for as the class representative?</p> <p>11 A D.</p> <p>12 Q Okay. Do you know whether you're a member, not</p> <p>13 the representative, but a member of classes A,</p> <p>14 B or C if it's eventually certified as a class?</p> <p>15 A I do not.</p> <p>16 Q Okay. If we now look at the next page, Page</p> <p>17 39.</p> <p>18 And Paragraph 140 alleges that "There's</p> <p>19 common legal or factual issues that affect the</p> <p>20 classes," and then there's some it lists out,</p> <p>21 and if we look at 140, Paragraph 140,</p> <p>22 Subparagraph B, it says for Classes B and D.</p> <p>23 A Okay.</p> <p>24 Q And we just talked about you being the</p> <p>25 potential representative for Class D, correct?</p>	<p style="text-align: right;">Page 287</p> <p>1 "Defendants, as a matter of KNR firm policy,</p> <p>2 directed their clients to treat with certain</p> <p>3 chiropractors regardless of their client's</p> <p>4 preferences or needs."</p> <p>5 Did I read that correctly?</p> <p>6 A Yes.</p> <p>7 Q Okay. They never directed you to treat with</p> <p>8 any specific chiropractor, did they?</p> <p>9 MR. PATTAKOS: Objection.</p> <p>10 Q You've already answered it several times, but</p> <p>11 I'm just making it clear here.</p> <p>12 A It wasn't forceful.</p> <p>13 Q Well, you started treating with them before you</p> <p>14 ever talked to KNR, right? You went to Akron</p> <p>15 Square even before you talked to KNR?</p> <p>16 A Well, I wasn't treating there, but I was there</p> <p>17 at Akron Square, yes, and they put me on the</p> <p>18 phone with KNR.</p> <p>19 Q Okay.</p> <p>20 A But I wasn't getting treated with Akron Square.</p> <p>21 Q So we can go back and look at some of the</p> <p>22 testimony if we need to.</p> <p>23 A No, it's all right.</p> <p>24 Q But would you agree that, and you already told</p> <p>25 us earlier, KNR never directed you to treat</p>
<p style="text-align: right;">Page 286</p> <p>1 A Yes.</p> <p>2 Q So it goes on say what the complaint alleges</p> <p>3 and the common legal or factual issues, and if</p> <p>4 we look at number -- I shouldn't say -- however</p> <p>5 you want to call it, little letter i, do you</p> <p>6 see that on the next page on Page 40?</p> <p>7 A Yes.</p> <p>8 Q "Defendants maintained arrangements with Akron</p> <p>9 Square and other chiropractors from</p> <p>10 Plambeck-owned clinics 'the chiropractors' by</p> <p>11 which defendants and Akron Square split certain</p> <p>12 marketing costs to target clients for both KNR</p> <p>13 and the chiropractors."</p> <p>14 Now, you have no idea whether that's</p> <p>15 true, do you?</p> <p>16 A I do not know.</p> <p>17 Q Okay. In ii, you allege as one of the</p> <p>18 plaintiffs and potential class representative</p> <p>19 that the chiropractor's representatives, their</p> <p>20 actions were to circumvent the Ohio rules of</p> <p>21 professional conduct.</p> <p>22 You don't know whether that's true, do</p> <p>23 you?</p> <p>24 A I was relying on my attorney.</p> <p>25 Q Okay. And iii on Page 40 indicates</p>	<p style="text-align: right;">Page 288</p> <p>1 with any certain chiropractor, true?</p> <p>2 A True.</p> <p>3 Q Okay. And for us to determine whether KNR</p> <p>4 directed any of their clients to treat with any</p> <p>5 certain chiropractor, we'd have to look at each</p> <p>6 of those cases separately, wouldn't we?</p> <p>7 A Yes.</p> <p>8 Q We'd have to talk to the lawyers and paralegals</p> <p>9 at --</p> <p>10 A Yes, you would.</p> <p>11 Q You'd have to talk to the separate lawyers or</p> <p>12 paralegals who interacted with those clients?</p> <p>13 A Yes.</p> <p>14 Q Okay. In v, it talks about the narrative fee</p> <p>15 being paid as a way to "reward certain</p> <p>16 chiropractors."</p> <p>17 Now, you don't expect chiropractors to</p> <p>18 write narrative reports for free, do you?</p> <p>19 A I wouldn't say for free.</p> <p>20 Q And you have no idea as to whether KNR has a</p> <p>21 policy or doesn't have a policy regarding</p> <p>22 narrative fees in order to reward</p> <p>23 chiropractors, do you?</p> <p>24 A I was just like I said earlier, I was going --</p> <p>25 Q On your attorney?</p>

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Page 289	Page 291
<p>1 A Yes.</p> <p>2 Q Okay. Now, it says "Defendants received</p> <p>3 kick-backs."</p> <p>4 Which defendants received kick-backs?</p> <p>5 A It would be the five of us.</p> <p>6 Q Okay. Well, this is defendants received the</p> <p>7 kick-backs, not plaintiffs.</p> <p>8 A Okay. Well, oh the defendants, that would be</p> <p>9 the KNR.</p> <p>10 Q Okay. And you're saying --</p> <p>11 A Other benefits. Wait a minute.</p> <p>12 Q Yep.</p> <p>13 A Yeah, that would be.</p> <p>14 Q Okay. So let me ask you this. You're saying</p> <p>15 that KNR received a kick-back for referring</p> <p>16 cases to the chiropractors?</p> <p>17 A That's the only way I would see it.</p> <p>18 Q I'm sorry?</p> <p>19 A That's the way I see it.</p> <p>20 Q That's the way you read that you mean?</p> <p>21 A Yes.</p> <p>22 Q Okay. But you don't have any evidence of any</p> <p>23 kick-backs that KNR received, do you?</p> <p>24 A I'm going on my attorney.</p> <p>25 Q Okay. So when it says, "And other benefits in</p>	<p>1 Q And that's because whether your treatment with</p> <p>2 Akron Square was detrimental or beneficial to</p> <p>3 your case has nothing to do with whether it was</p> <p>4 beneficial or detrimental to somebody else's</p> <p>5 case, true?</p> <p>6 A True.</p> <p>7 Q Okay.</p> <p>8 MR. PATTAKOS: Seven minutes</p> <p>9 here, Tom.</p> <p>10 MR. MANNION: Wow, time</p> <p>11 flies.</p> <p>12 Q By the way, actually, go back to Paragraph 76.</p> <p>13 A Okay.</p> <p>14 Q On Page 22. Tell me when you're there.</p> <p>15 A I'm here.</p> <p>16 Q Okay. Now, in this paragraph, you are alleging</p> <p>17 that you only received \$12,349.70 of the total</p> <p>18 amount that KNR recovered on your behalf,</p> <p>19 correct?</p> <p>20 A Yes.</p> <p>21 Q And as we talked about, that's not accurate, is</p> <p>22 it?</p> <p>23 A As you say.</p> <p>24 Q Well, we already looked at you actually</p> <p>25 received over 21,000, true?</p>
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<p>1 exchange for referring cases," do you know what</p> <p>2 "and other benefits" means or are you relying</p> <p>3 on your attorney?</p> <p>4 A I'm relying on my attorney.</p> <p>5 Q Okay. Now, lower case viii, "Defendants knew</p> <p>6 that advising their clients to treat with the</p> <p>7 chiropractors would be detrimental to their</p> <p>8 clients' cases due to various fraud lawsuits by</p> <p>9 major insurance carriers against the owner of</p> <p>10 the chiropractic clinics."</p> <p>11 Did I read that correctly?</p> <p>12 A Yes.</p> <p>13 Q Now, you have no evidence whatsoever that</p> <p>14 treating with Dr. Floros or Akron Square was</p> <p>15 detrimental to your case, do you?</p> <p>16 MR. PATTAKOS: Objection.</p> <p>17 A I have no idea.</p> <p>18 Q Okay. And if we wanted to find out whether or</p> <p>19 not treating with a chiropractor was</p> <p>20 detrimental to any specific client's case, we'd</p> <p>21 have to look at all those cases separately to</p> <p>22 determine that?</p> <p>23 MR. PATTAKOS: Objection.</p> <p>24 Q True?</p> <p>25 A I would say, yes.</p>	<p>1 A Then I had to pay back that 3,000, but okay,</p> <p>2 yes.</p> <p>3 Q You received over \$21,000, true?</p> <p>4 A Yeah.</p> <p>5 Q And although I disagree with you saying to take</p> <p>6 3,000 off of it, but even if you took 3,000 off</p> <p>7 of it, you would have received over 18,000, but</p> <p>8 in this complaint that's put for the public to</p> <p>9 see, you put you only received 12,000, true?</p> <p>10 A Yes.</p> <p>11 Q Are you going to amend that and change that to</p> <p>12 be truthful and accurate?</p> <p>13 A I can do that.</p> <p>14 Q Okay. And then it says that KNR recovered</p> <p>15 \$48,720 on your behalf. That's not accurate</p> <p>16 either, is it?</p> <p>17 A Okay. How much did they recover then?</p> <p>18 Q Well, there was a 45,000 settlement, correct?</p> <p>19 A Okay.</p> <p>20 Q And there was a thousand medical payment,</p> <p>21 correct?</p> <p>22 A Well, they didn't really recover that for me.</p> <p>23 They gave it to me, but okay.</p> <p>24 Q Well, your words here, "KNR recovered." My</p> <p>25 point is the 48,720 isn't the correct amount,</p>

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<p style="text-align: right;">Page 297</p> <p>1 the \$150 report that you think was only worth</p> <p>2 85?</p> <p>3 A Well, yeah because it wasn't even worth 85, to</p> <p>4 be honest with you.</p> <p>5 Q Okay. So you'd rather have just paid the whole</p> <p>6 5,025?</p> <p>7 A I'd rather not even pay that.</p> <p>8 Q Well, I mean Akron Square had a right to be</p> <p>9 paid for the treatment they gave you --</p> <p>10 A Yes --</p> <p>11 Q -- don't they?</p> <p>12 A -- they had a right to be paid for the</p> <p>13 treatment and that was costly treatment.</p> <p>14 Q Okay. And you're not alleging that the cost of</p> <p>15 that treatment was improper, are you?</p> <p>16 MR. PATTAKOS: Objection.</p> <p>17 A No.</p> <p>18 MR. MANNION: Basis?</p> <p>19 MR. PATTAKOS: Form.</p> <p>20 Q Are you alleging in any way that Akron Square's</p> <p>21 bills to you, the \$5,025 for the treatment that</p> <p>22 you received there was fraudulent or incorrect</p> <p>23 in any way?</p> <p>24 A No, just costly.</p> <p>25 Q Well --</p>	<p style="text-align: right;">Page 299</p> <p>1 THE VIDEOGRAPHER: Off the record.</p> <p>2 The time is 6:33.</p> <p>3 - - - - -</p> <p>4 (Deposition was concluded at 6:33 p.m.)</p> <p>5 - - - - -</p> <p>6 (Signature reserved.)</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 298</p> <p>1 A I get they're costly.</p> <p>2 Q Well, how much was it a visit?</p> <p>3 A I don't know how much it was a visit.</p> <p>4 Q How many visits did you have?</p> <p>5 A I don't even remember.</p> <p>6 Q Have you called other chiropractors to see what</p> <p>7 they charge?</p> <p>8 A No, but I get they're expensive.</p> <p>9 Q Okay. And in fact, they had to forego getting</p> <p>10 paid for --</p> <p>11 A A few visits, yes, I understand that. Quite a</p> <p>12 while actually.</p> <p>13 Q Exactly, which is money they could have had in</p> <p>14 their business?</p> <p>15 A I understand that.</p> <p>16 Q Okay. You're certainly grateful to Akron</p> <p>17 Square for reducing their bill by \$525, aren't</p> <p>18 you?</p> <p>19 A Yes.</p> <p>20 Q Okay.</p> <p>21 MR. MANNION: Do you want to</p> <p>22 recess for now?</p> <p>23 MR. PATTAKOS: Yes, sir.</p> <p>24 MR. MANNION: Okay.</p> <p>25 MR. PATTAKOS: Thank you.</p>	<p style="text-align: right;">Page 300</p> <p>1 THE STATE OF OHIO,) SS:</p> <p>2 COUNTY OF CUYAHOGA.)</p> <p>3</p> <p>4 I, Margaret A. Trombetta, a Notary Public</p> <p>5 within and for the State of Ohio, duly commissioned</p> <p>6 and qualified, do hereby certify that THERA REID,</p> <p>7 was first duly sworn to testify the truth, the whole</p> <p>8 truth and nothing but the truth in the cause</p> <p>9 aforesaid; that the testimony then given by her was</p> <p>10 by me reduced to stenotypy in the presence of said</p> <p>11 witness, afterwards transcribed on a</p> <p>12 computer/printer, and that the foregoing is a true</p> <p>13 and correct transcript of the testimony so given by</p> <p>14 her as aforesaid.</p> <p>15 I do further certify that this deposition was</p> <p>16 taken at the time and place in the foregoing caption</p> <p>17 specified. I do further certify that I am not a</p> <p>18 relative, counsel or attorney of either party, or</p> <p>19 otherwise interested in the event of this action.</p> <p>20 IN WITNESS WHEREOF, I have hereunto set my hand</p> <p>21 and affixed my seal of office at Cleveland, Ohio, on</p> <p>22 this 16th day of July, 2018.</p> <p>23 _signature_</p> <p>24 Margaret A. Trombetta, Notary Public</p> <p>25 within and for the State of Ohio</p>