

IN THE COURT OF COMMON PLEAS
SUMMIT COUNTY, OHIO

MEMBER WILLIAMS, <i>et al.</i> , Plaintiffs, vs. KISLING, NESTICO & REDICK, LLC, <i>et al.</i> , Defendants.	Case No. 2016-CV-09-3928 Judge James Brogan Plaintiffs' Second Motion to Compel Discovery from the KNR Defendants and Motion for Sanctions under Civ.R. 37
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On July 30, 2018, the Court issued an order overruling the KNR Defendants' objections to more than 140 of Plaintiffs' written discovery requests that were served in the summer of 2017. *See* July 30 order attached as **Exhibit 1**. By September 17, the KNR Defendants provided supplemental responses, ostensibly in response to this Court order, but that nevertheless egregiously disregard the order as to many of the requests at issue. Plaintiffs have been corresponding with the Defendants about the deficiencies in these responses since early October, to no avail.¹ Thus, this motion is necessary to compel complete responses to these requests, as outlined below, and to sanction Defendants for their violation of the July 30 order and the Civil Rules.

- 1. The KNR Defendants should be ordered to confirm that they have made a good faith search for responsive documents and have produced all such documents of which they are aware.**

The main problem necessitating this motion is that, even after the Court overruled their objections to many of Plaintiffs' requests on July 30, the KNR Defendants have taken the position that the Court's order of July 24—which excuses them from conducting electronic searches of their

¹ Plaintiffs counsel wrote to defense counsel on October 12 and again on November 7 to outline the deficiencies in Defendants' responses and request complete responses be provided. *See* email exchanges attached as **Exhibit 2**. Two months later and no substantive response has been provided.

entire file and producing all responsive documents²—somehow gives them a license to produce documents, or not, at their own convenience, and on their own self-serving and ever-shifting terms. A brief review of Defendants’ most recently revised responses, as summarized below, shows several instances where the Defendants acknowledge that responsive documents exist, but nevertheless refuse to produce these documents, let alone identify them or explain why they haven’t been produced. The fact that the Court has excused the KNR Defendants from making a comprehensive search of their electronic files should not excuse them from otherwise complying with the Civil Rules. For all of the requests where Defendants’ objections have been overruled, they should be ordered to confirm that their employees and agents have all been advised of the requests, that all such employees have made a good faith effort to locate responsive documents, and that all such documents of which Defendants are aware have been produced.

If Defendants are not required to confirm the completeness of their responses in this manner, Plaintiffs will be denied the benefit of the Civil Rules, and, effectively, access to the court system, while Defendants will remain free to withhold or produce documents, no matter how relevant and probative, at their own whim. For example, two days ago Defendants finally produced an email exchange between one of their former attorneys, Kelly Phillips, and Defendant Nestico, where Phillips raises concerns that the KNR firm was breaching its duties to its clients by continuing to refer them to Defendant Ghoumbrial for medical treatment knowing that the insurance companies viewed Ghoumbrial’s treatment as worthless. *See* Oct. 16, 2014 email exchange between Phillips and

² By the July 24 order, the Court temporarily overruled Plaintiffs’ request, in their Feb. 28, 2018 motion to compel, for an order requiring Defendants to perform a comprehensive electronic search of their files for all responsive documents in their possession. *See* Feb. 28 motion to compel at 20–24. In the July 24 order, the Court specifically stated that it “will at this time overrule the Plaintiffs’ request to compel Defendants to search its computer records for the information requested.” This order did not excuse Plaintiffs from otherwise making a reasonable search for responsive documents, including by locating and producing documents of which they are aware, as was clarified by the Court’s July 30 order overruling Defendants’ objections to more than 140 of Plaintiffs’ requests.

Nestico, attached as **Exhibit 3**. This highly relevant and probative exchange is plainly responsive to Plaintiffs' request that was served a year and a half ago, for documents "containing or reflecting policies and procedures regarding the referral of KNR clients to ... Medical Service Providers." *See* Defendants' second amended responses to Plaintiffs' third set of document requests, attached as **Exhibit 4**, at request no. 46. The Defendants have only finally produced this email in response to yet another later-served discovery request that required its production, and only did so after Plaintiffs served a subpoena on Mr. Phillips (*see* notice of service filed Oct. 17, 2018), and included specific reference to this email in the Fifth Amended Complaint (at ¶¶ 90–91). In other words, the KNR Defendants only produced this document after it became clear that they could not get away with withholding it because evidence of its existence would be entered by other means.³

The KNR Defendants' amended responses to other specific requests further demonstrate the need for the requested order. For example:

- RFP 3-28 requests documents reflecting KNR's basis for believing that narrative reports provide a benefit to their clients. *See* **Ex. 4**, pp. 10–11. In their amended responses, Defendants only reference Plaintiff Thera Reid's medical records as if this benefit were self evident, and do not produce any additional documents nor confirm that they are not aware of any additional documents that would be responsive.
- RFPs 3-37, 3-46, and 3-47 request documents reflecting efforts to direct intake attorneys to steer clients to health care providers, as well as documents reflecting policies and procedures on referrals between KNR and health-care providers. *See* **Ex. 4**, pp. 12, 15. The Second through Fifth Amended Complaints are loaded with quotes from precisely such documents from KNR, and KNR's operations manager Brandy Gobrogge was deposed on many of them. *See, e.g.*, emails attached as **Exhibit 5**. Yet, while Defendants acknowledge that these documents exist (as they must), they simply make no effort to produce any despite the fact that the Court overruled their objections to this request.
- RFP 3–48 requests documents reflecting policies and procedures regarding when a narrative fee should be charged and how to determine whether a charge is reasonable. *See* **Ex. 4**, p. 15. Here, the Defendants direct Plaintiffs to a single document (KNR03278), despite the existence of many others (*see, e.g.*, emails attached as **Exhibit 6**), and again do not confirm

³ KNR terminated Mr. Phillips' by early December of 2014, less than two months after he sent this email. The notion that Nestico or his partners would have forgotten about this exchange in responding to Plaintiffs' discovery requests is simply incredible.

that they have made a complete search and produced all responsive documents from the search.

- RFP 3–2 requests all documents reflecting communications with Liberty Capital representative Ciro Cerrato that do not relate to a particular client file. *See* **Ex. 4**, p. 4. After the Court overruled Defendants’ objections to this request, the Defendants did not supplement their document production, but only rather explained that they have already produced documents from Defendant Nestico’s and Defendant Redick’s files and apparently feel no obligation to produce any others notwithstanding the July 30 order.

It is bad enough that Defendants’ obstruction, combined with their simultaneous insistence on expediting the class discovery deadline, has forced Plaintiffs to proceed with depositions of key witnesses (including Ms. Gobrogge’s as well as Mr. Nestico’s scheduled for December 18 and 19) without the benefit of complete responses to their written requests. If the Court does not order Defendants to confirm the completeness of their searches and responses to Plaintiffs’ requests, including by confirming that all documents of which they are aware have been identified and produced, it will only invite further gamesmanship and obstruction, including efforts to disadvantage Plaintiffs by the late disclosure of relevant evidence.

2. The Court should not countenance Defendants’ misrepresentations about the existence of certain categories of responsive documents.

Still worse, the KNR Defendants have simply denied that certain categories of responsive documents exist at all despite clear evidence to the contrary. For example:

RFPs 3-41 and 3-45, respectively, request documents containing or reflecting policies and procedures regarding when the “investigation fee” should be charged, and when and how a “narrative report” should be requested from chiropractors. *See* **Ex. 4**, pp. 14–15. The Defendants’ claim that no such documents exist is not only contradicted by documents that have already been produced in this lawsuit (*see, e.g.*, emails attached as **Ex. 6** and **Exhibit 7**), it is otherwise incredible by its nature. It is beyond dispute that the Defendants have charged the investigation fee and narrative fee to thousands of clients since 2010, and there can be no question that documents exist stating or referencing their reasons for doing so and the terms on which these fees were charged. *See*,

e.g., **Ex. 6**, **Ex. 7**. The legitimacy of these fees is at the very heart of this lawsuit and related documents should be produced.

RFP 4–2 requests documents relating to KNR’s referral of its clients to Plambeck-owned chiropractic clinics. *See* Defendants’ responses to Plaintiffs’ fourth set of document requests, attached as **Exhibit 8**, at pp. 4–5. In response, not only do the Defendants falsely state that “there are no responsive documents reflecting any changes in or analysis of [this referral] policy taken in response to lawsuits by insurance companies against [these] clinics [alleging a conspiracy with law firms to inflate damages]” (*see* May 30, 2013 email exchange attached as **Exhibit 9**),⁴ Defendants do not produce any documents at all relating to these referrals. Again, documents relating to Plambeck referrals go to the very heart of this lawsuit—particularly as ASC is a Plambeck-owned clinic, to whom KNR continued to refer its clients without advising them of the skepticism with which insurance companies viewed this treatment—and all such documents that Defendants are aware of or can locate on a reasonable search should be produced.

Additionally, RFP 3–4 requests documents reflecting business or financial benefits that the KNR Defendants’ received from their relationship with the Liberty Capital loan company. *See* **Ex. 4** at p. 5. Similarly, Defendants’ claim that no such documents exist is again contradicted by documents that have already been produced in this lawsuit—specifically, those showing that Liberty Capital routinely wrote down the amounts owed to it by KNR clients so that the clients’ matters could be resolved. *See* emails attached as **Exhibit 10**. Each such document reflecting such a write-off, or lack thereof, is relevant and responsive to this request, and all such document that Defendants are aware of or can locate on a reasonable search should be produced.

⁴ *See also* Defs’ answer to Interrogatory No. 2-17 (“Defendants likely found out about these [fraud lawsuits against Plambeck] in or around the beginning of 2012.”).

3. Defendants should be ordered to provide complete responses to Interrogatory Nos. 2–9, 2–26, and 3–6.

Finally, Defendants should be ordered to provide complete responses to three interrogatories that they have refused to fully answer even after the Court ordered them to on July 30.

Interrogatory No. 2–26 requests all facts, policies, procedures, determinations that led to the termination of key witness Gary Petti. *See* Defendants’ first amended responses to Plaintiffs’ second set of interrogatories, attached as **Exhibit 11**, p. 10. In response, Defendants only provided a partial list of reasons and qualified this list by stating it was provided “by example only.” Plaintiffs requested and the court ordered a complete response to this Interrogatory and the Defendants should be ordered to provide it.

Interrogatory No. 2–9 requests identification of every Medical Service Provider with whom any Defendant has agreed that the Provider may prepare a narrative report or charge a narrative fee without first obtaining authorization from the KNR attorney on the case. *See* **Ex. 11**, p. 6. Here, the KNR Defendants answer the Interrogatory as to Akron Square Chiropractic, but does not identify the other chiropractors to whom the narrative fees were automatically paid. *See* **Ex. 6**. A full response to this interrogatory is required.

Similarly, the Defendants provided an incomplete response to Interrogatory No. 3–6, requesting identification of all work performed for the Defendants by investigators that did not relate to a pass-through investigation expense that was charged to KNR clients. *See* Defendants’ first amended answers to Plaintiffs’ third set of interrogatories, attached as **Exhibit 12**, at 7. Again, a complete response was requested and is required.

Conclusion

There is no excuse for the KNR Defendants’ disregard of their discovery obligations and the July 30 order as detailed above. Thus, Defendants should be ordered to provide complete responses

to Plaintiffs' discovery requests, and also to pay Plaintiffs' attorneys fees necessitated by Defendants' failure to comply with the July 30 order.⁵ Civ.R. 37(B)(3) and Civ.R. 37(A)(5)(a).

Respectfully submitted,

/s/ Peter Pattakos

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Attorneys for Plaintiffs

Certificate of Service

The foregoing document was filed on December 6, 2018, using the Court's electronic-filing system, which will serve copies on all necessary parties.

/s/ Peter Pattakos

Attorney for Plaintiffs

⁵ So far, the fees unnecessarily incurred by Plaintiffs as a result of the misconduct set forth herein amount to \$2,365.50, for 8 hours and 24 minutes drafting this motion (including the review and compilation of evidence), at Attorney Pattakos's hourly rate of \$285. To the extent a reply brief is necessary Plaintiffs will update their requested fee amount in that brief.

SANDRA KURT

2018 JUL 30 AM 10: 20

SUMMIT COUNTY
CLERK OF THE COURT OF COMMON PLEAS

COUNTY OF SUMMIT

MEMBER WILLIAMS, et al.)	CASE NO. CV 2016 09 3928
)	
Plaintiffs)	JUDGE JAMES A. BROGAN
)	(Sitting by Assignment #18JA1214
-VS-)	
)	
KISLING, NESTICO & REDICK,)	<u>DECISION</u>
LLC, et al.)	
)	
Defendants)	

- - -

On February 28, 2018, the Defendants filed their objections and answers to Plaintiffs' first request for inspection, third set of interrogatories, third request for admissions, and fifth set of requests for production of documents.

The Court will defer ruling on the Plaintiffs' request to inspect and test all systems or databases in Defendants' custody on which their emails are stored until Plaintiffs complete their depositions of the Defendants. The Defendants' objections to interrogatories 2 and 3 are sustained until this case has been certified as a class action. The Court sustains the Defendants' objections to interrogatories 4 and 5, but overrules Defendants' objection to interrogatory 6. The Court overrules the Defendants' objections to Plaintiffs' request for admissions 1, 2 and 4. The Court overrules the Defendants' objection to request for production no. 1, but sustains the Defendant's objection to Plaintiffs' request no. 2 because lawsuits are a matter of public record. The Defendants' objection to Plaintiffs' third and fourth request for production of documents is sustained.

EXHIBIT 1

On February 28, 2018, the Defendants filed their responses to Plaintiffs' second set of interrogatories. The Defendants' objections to interrogatories 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 15, 16, 18, 24, 26, 27, 30, 31, 32, 33, 34, 35, 42, 46 and 47 are overruled. The remaining objections to the 47 interrogatories propounded are sustained.

On February 28, 2018, the Defendants filed their responses to Plaintiffs' third set of request for production of documents to all Defendants. The Defendants' objections to requests 1, 2, 3, 4, 5, 6, 7, 9, 14, 20, 27, 28, 29, 30, 35, 37, 38, 41, 43, 44, 45, 46, 47, 48, 62 and 63 are all overruled. The remaining objections are sustained.


On the same day, February 28, 2018, the Defendants filed their amended responses to Plaintiffs' first set of requests for production of documents to all Defendants. The Defendants' objection to request 1 is overruled. The Defendants' objections to requests 2, 3, 4, 5, 6, 8, 9 and 11 are sustained. The Defendants' objections to interrogatories 7 and 10 are overruled. On March 30, 2018, the Defendants filed their amended answers to Plaintiffs' first set of interrogatories to all Defendants. The Defendants' objections to interrogatories 1, 2, 3, 4, 5, 6, 7, 8, 12 and 16 are overruled. The other objections to the other interrogatories are sustained.

On February 28, 2018, the Defendants filed their first amended responses to Plaintiffs' fourth set of requests for production of documents to all Defendants. The Defendants' objections to requests 1, 3 and 4 are sustained. The objection to request 2 is overruled.

On April 5, 2018, the Defendants' filed their amended answers to Plaintiffs' first set of interrogatories to all Defendants. The Court overrules the Defendants' objections to the following interrogatories: 1, 2, 6, 7, 8, 9, 10, 12 and 16. The remaining objections of the Defendants are sustained.

On April 5, 2018, the Defendants filed their responses to Plaintiffs' second set of request for admissions. The Plaintiffs requested that the Defendants make eighty-eight separate admissions. The Court overrules all of the Defendants' objections except those to the following requests: 4, 5, 6, 9, 11, 15, 56, 58, 59, 60, 82, 85, 86, 87 and 88.

IT IS SO ORDERED.


JUDGE JAMES A. BROGAN
Sitting by Assignment #18JA1214
Pursuant to Art. IV, Sec. 6
Ohio Constitution

The Clerk of Courts shall serve all parties of record.

JAB:lcb
16-3928d



Peter Pattakos <peter@pattakoslaw.com>

Williams v. KNR: Defendants' amended responses to Plaintiffs' document requests under July 30 Court order

Peter Pattakos <peter@pattakoslaw.com>

Tue, Oct 30, 2018 at 10:28 PM

To: "James M. Popson" <jpopson@sutter-law.com>

Cc: "Mannion, Tom" <Tom.Mannion@lewisbrisbois.com>, Joshua Cohen <jcohen@crklaw.com>, Rachel Hazelet <rhazelet@pattakoslaw.com>

Jim and Tom:

It has been almost three weeks since we asked for follow-up on the responses to our document requests, per the below, and we still have received no substantive response. Do you intend to provide one or will it be necessary for us to seek a Court order?

Peter Pattakos
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peter@pattakoslaw.com
www.pattakoslaw.com

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On Mon, Oct 22, 2018 at 10:38 AM Peter Pattakos <peter@pattakoslaw.com> wrote:

Jim and Tom:

We are still waiting for a response to the below. Please let us know if your clients intend to supplement their responses or if it will be necessary for us to seek Court's intervention. If we do not get these documents within the next few days we will have to re-open Mr. Nestico's deposition and potentially others if and when we receive them.

Thank you.

Peter Pattakos
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On Fri, Oct 12, 2018 at 4:44 PM Peter Pattakos <peter@pattakoslaw.com> wrote:

Sorry, those refer to the third set of RFPs, I believe it was your second amended response. Thanks.

On Fri, Oct 12, 2018, 4:10 PM James M. Popson <jpopson@sutter-law.com> wrote:

The second set of RFP has only one request. What set are you referring to regarding "RFP Nos. 2, 3, 4, 5, 20, 28, 29, 30, 37, 41, 43, 44, 45, 46, 47, and 48"?

From: Peter Pattakos [mailto:peter@pattakoslaw.com]

Sent: Friday, October 12, 2018 3:49 PM

To: James M. Popson

Cc: Mannion, Tom; Joshua Cohen; Rachel Hazelet

Subject: Williams v. KNR: Defendants' amended responses to Plaintiffs' document requests under July 30 Court order

Jim,

I've reviewed the KNR Defendants' amended responses to Plaintiffs' requests for production of documents that were required by the Court's July 30 order overruling Defendants' objections to 28 of the requests.

These amended responses reflect an extreme disregard for the July 30 order. You have produced additional documents in response to only two of the 28 requests at issue, with these new documents only consisting of client files for the named plaintiffs. For most of the rest of these requests—which go to subjects as basic as the firm's practices regarding chiropractic referrals, when and how to use an investigator or charge an investigation fee, and when and how to request a narrative report or charge a narrative fee—you have either falsely claimed that no responsive documents exist when they obviously do (as many, of course, were attached to and are quoted in the Complaint, and many others were produced as part of Defendants' initial incomplete responses to the requests), and/or have offered self-serving excuses as to why certain categories of documents are not responsive to these requests when they obviously are.

Thus, I request that you please immediately amend your responses, and produce documents responsive to, the following requests: Second Set of RFP Nos. 2, 3, 4, 5, 20, 28, 29, 30, 37, 41, 43, 44, 45, 46, 47, and 48; Fourth Set of RFP No 2.

Please let us know if you intend to amend your response to comply with the July 30 order or whether it will be necessary for us to seek another order requiring the same, as well as sanctions under Civ.R. 37(B)(1) and (B)(3).

Thank you.

Peter Pattakos

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peter@pattakoslaw.com

Williams v. KNR: Defendants' amended responses to Plaintiffs' document requests under July 30 Court order

Peter Pattakos <peter@pattakoslaw.com>

Wed, Nov 7, 2018 at 11:57 AM

To: "James M. Popson" <jpopson@sutter-law.com>

Cc: "Nathan F. Studeny" <nstudeny@sutter-law.com>, Barb Day <bday@sutter-law.com>

Jim,

It is not clear at all that that is what was done. For example, with respect to several of the requests at issue you state that "there are no responsive documents" when there obviously are, because some of them are attached to and quoted in the Complaint or were used as exhibits in Gobrogge's deposition. See, for example, your responses to requests No. 37, 41, 43, 44, 45, 46, 47, and 48.

In addition, we need complete responses to the following interrogatories, as ordered by the Court in the July 30 Order:

No. 6 from Plaintiffs' Third Set, requesting identification of all work performed for the Defendants by investigators that did not relate to a pass-through investigation expenset that was charged to KNR clients. We need a complete response to this, not just the partial response that was provided.

No. 9 from Plaintiffs' Second Set, requesting identification of every Medical Service Provider with whom any Defendant has agreed that the Provider may prepare a narrative report or charge a narrative fee without first obtaining authorization from the KNR attorney on the case. Again, we need a complete response to this, not just the partial response that was provided.

No. 26 from Plaintiffs' Second Set, requesting all facts, policies, procedures, determinations that led to Petti's termination. Here, you only provided a partial list and qualified it with "by example only." We requested and the court ordered a complete response listing all such items. Please provide it.

Thank you.

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On Fri, Nov 2, 2018 at 8:54 PM James M. Popson <jpopson@sutter-law.com> wrote:

Peter,

I think we did that. But I am clarifying some of these responses to be more detailed and explanatory - even where I am not aware that any responsive documents exist. I am starting trial Monday so I will try to get you something over the weekend.

Sent from my iPhone

On Nov 2, 2018, at 7:25 PM, Peter Pattakos <peter@pattakoslaw.com<mailto:peter@pattakoslaw.com>> wrote:

Jim, please let me know when you expect to have these supplemental responses to us. It has been almost a month since I asked you about this. Your clients are the ones who insisted on such a tight discovery timeline so continued delay is simply not acceptable without another extension of the deadline. Again, we need complete responses. If the KNR Defendants are aware that responsive documents exist, the documents must be produced. If the KNR Defendants are not aware of any such documents that exist, they must say so.

Please advise. Thank you.

Peter Pattakos
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On Thu, Nov 1, 2018 at 3:23 PM Peter Pattakos <peter@pattakoslaw.com<mailto:peter@pattakoslaw.com>> wrote:
Jim,

Please let me know when you expect to provide these supplemental responses.

Thanks.

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On Wed, Oct 31, 2018 at 12:16 PM Peter Pattakos <peter@pattakoslaw.com<mailto:peter@pattakoslaw.com>> wrote:

Jim, when do you expect to send out supplemental responses? We can't afford delay on this and we need complete responses. If the KNR Defendants are aware that responsive documents exist, the documents must be produced. If the KNR Defendants are not aware of any such documents that exist, they must say so.

Tom, please refer to my previous correspondence on Mr. Johnson and Ms. Reid (attached here for your convenience), and also review the docket for confirmation that Mr. Johnson has moved to withdraw as a Plaintiff.

Thank you.

Brandy R. Gobrogge

From: Rob Nestico
Sent: Thursday, October 16, 2014 2:41 PM
To: Kelly Phillips
Cc: Paul W. Steele; John Reagan; Brandy Brewer
Subject: Re: Clearwater

No the e-mail was well received and like I said good to know what is being said but don't let them push you or your clients around with a bunch of BS. If you run into those problems this is why we have a litigation department. Sue them EVERY TIME!!!!

Sent from Attorney Rob Nestico

On Oct 16, 2014, at 1:56 PM, Kelly Phillips <kphillips@knrlegal.com> wrote:

Well clearly my e-mail was not received in the manner it was intended. You have my apologies for that. Was just trying to let you know what I was seeing. Lesson learned. Have a great afternoon!

Kelly Phillips

Kisling, Nestico & Redick

<image001.jpg>

Attorney

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Locations: Akron,

Canton,

Cleveland,

Cincinnati,

Columbus,

Dayton, Toledo &

Youngstown

<image002.gif><image003.png><image004.gif><image005.gif><image

From: Rob Nestico
Sent: Thursday, October 16, 2014 1:48 PM
To: Kelly Phillips; Paul W. Steele
Cc: John Reagan; Brandy Brewer
Subject: RE: Clearwater

Kelly:

I appreciate the concern but we have considered this issue. I am glad you are thinking about these issues however, that is all the defense perspective. Are we not considering our client's interest when they have signed an LOP and could get sued by Clearwater or Dryfuss, or any other dr the ins. Co. does not agree with their bill? Are we not negotiating with EVERY provider not just Clearwater to help the

client and us get paid. Clearwater is treated no differently than any other provider we deal with that has an LOP.

If it wasn't for MD's willing to do this work who would care for these victims? The Ins. Co. would just find some other excuse not to pay bills and increase their bottom line.

I have taken down Natlonwide before and we will do it again if necessary. [REDACTED]

In fact, ask yourself why ALL of these companies have paid the Dr either directly his full bill when there is no lawyer or MP has paid us his bill and others in full, but yet on a 3rd party case they raise this BS.

You need to argue the necessity of the treatment and the Dr's credentials, the facts of your case. You were hired to be an ADVOCATE not a puppet for the insurance company. Any discussion of not considering a Dr's bill will result in litigation even if that means EVERY nationwide case. These are MY directives.

You can't fear them and anytime they want to bring litigation my way I will be happy to take that task on.

Ask yourself these questions and ask any of the litigators in your office when have these bills not been awarded by Jurors. If your case is good on facts i.e. impact, ER, Chiro and MD with a good witness then we litigate the case. PERIOD.

Rest assured you are not the first person to come from the Insurance Defense side, including myself and John Reagan to mention a few. As discussed in our interview you can either make the mental shift or you can't and that is left to be seen. I and plenty of others have made the shift and realize how poorly Insurance Companies as a whole treat people. Anything to increase their bottom line they will say. Speak to Carla Cornicelli in our office, former HEAD of ALLSTATE SIU or Jimmylee Hoover also from Allstate.

A bigger question you should ask your self is, are these people all lying? Are the ER Dr's lying, chiro's lying, Medical Dr's lying, and are we lying? If you answer an of these questions YES then you need to reconsider your choice of employment.

I hope this answers your questions and if not we can discuss this further.

<Image001.jpg> Alberto R. Nestico
Kisling, Nestico & Redick
Attorney
3412 W. Market St., Akron, Ohio 44333
Main: 330-869-9007 | Fax: 330-869-9008 | Outside Ohio: 800-978-9007
*Locations: Akron, Canton, Cleveland,
Cincinnati, Columbus, Dayton, Toledo &
Youngstown*

<image002.gif><image003.png><Image004.gif>

<image008.jpg><image009.jpg> <image010.png>

From: Kelly Phillips
Sent: Thursday, October 16, 2014 12:53 PM
To: Rob Nestico; Paul W. Steele
Subject: Clearwater

Gentlemen,

Please know that I am not questioning what is going on here, nor am I trying to overstep my bounds. I fully understand my place in the organization. This e-mail is for informational purposes only.

I am now 5 for my last 5 with Nationwide cases where they are flat out refusing to consider anything related to Clearwater. At least when Progressive refuses, they offset with generosity in the general damages. Nationwide is not. Basically, I was told that if I am going to file on the case I was discussing then I better be prepared to file a whole lot of lawsuits. Clearly the Nationwide adjusters have received some form of a directive.

This brings about some concern. In some cases, it makes settlement a near financial impossibility. At the very least, it is taking money out of our client's pocket, and ours. I am a bit concerned with the ethical dilemma this creates. It is not difficult to make an argument that we are treating Clearwater's interests as equal to our clients. If we get a savvy client, we could find ourselves in some trouble. We are playing awful close to the fire. This is especially true when you factor in what Grange is trying to accomplish. Don't make the mistake of assuming that Nationwide and Grange are not in a coordinated effort, or at least having discussions regarding their individual approaches. On the insurance side, I was intimately involved in a coordinated effort to take down a large KY Chiropractic Operation and the firms that were heavily involved with said operation. FYI, Atty. Rob Roby played a bit of a role as well. His role was large enough that he was at least able to garner a blueprint as to how to attack such an operation. It is kind of like a "Raptor" approach....One works the head while the other works the body.

In my experience, when you are running an organization that continues to grow at unprecedented rates, you must regularly stop and take stock in what is happening around you. I am not suggesting that you are not. I am simply saying that given my experience, I am seeing some things that are bringing about concern.

Let me make myself clear, I am a member of your team. I am simply trying to protect you. That is the only reason I am bringing this to your attention. I can only assume you hired me largely because of my Insurance/SIU experience. I am simply trying to convey some of my concerns based on that experience.

Please feel free to disregard this e-mail if you'd like, or call should you want to discuss further.

Respectfully,

Kelly Phillips

Kisling, Nestico & Redick

<image001.jpg> Attorney

2550 Corporate Exchange Drive, Columbus, Ohio 43231

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

Locations: Akron,

Canton,

<image002.gif><image003.png><image004.gif><image005.gif><image

IN THE COURT OF COMMON PLEAS
SUMMIT COUNTY, OHIO

MEMBER WILLIAMS, <i>et al.</i> , Plaintiffs, vs. KISLING, NESTICO & REDICK, LLC, <i>et al.</i> , Defendants.	Case No. 2016-CV-09-3928 Judge James A. Brogan
DEFENDANTS' SECOND AMENDED RESPONSES TO PLAINTIFFS' THIRD SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS TO ALL DEFENDANTS	

Pursuant to Rule 34 of the Ohio Rules of Civil Procedure, Defendants Kisling, Nestico & Redick, LLC ("KNR"), Alberto R. Nestico, and Robert Redick (collectively "Defendants") object and respond as follows to Plaintiffs' Third Set of Requests for Production of Documents ("Document Requests"):

GENERAL OBJECTIONS

1. Defendants object to Plaintiffs' Document Requests to the extent that they seek information protected by the attorney-client privilege, work product doctrine, the joint defense and common interest privilege, and other applicable privileges and rules. Specifically, some requests of Plaintiffs' Document Requests seek information and communications between Plaintiffs and KNR and between putative class members and KNR that are protected by the attorney-client privilege, work product doctrine, ethical and professional rules governing attorneys, or other applicable privileges. By filing this

lawsuit and attaching the Settlement Statement to her Class Action Complaint, Plaintiffs have waived the attorney-client privilege and all other applicable privileges, as those privileges apply to only them, and not to putative class members.

2. Defendants object to the "Instructions" and "Definitions" preceding Plaintiffs' Document Requests on the grounds that they are vague, ambiguous, seek irrelevant information not reasonably calculated to lead to the discovery of admissible evidence, and seek to impose obligations on Defendants that are greater than, or inconsistent with, those obligations imposed by the Ohio Rules of Civil Procedure. Defendants will respond to these Document Requests in accordance with its obligations under the Ohio Rules of Civil Procedure.

3. Defendants object as overly broad and unduly burdensome to the extent that a request for documents seeks information relating to Medical Service Providers or Chiropractors other than Akron Square Chiropractic ("ASC").

4. Defendants object as overly broad and unduly burdensome to the extent a request for documents seeks information relating to Litigation Finance Companies other than Liberty Capital Funding, LLC ("Liberty Capital").

5. Defendants object that there are no date limitations on these requests, which makes them overly broad and unduly burdensome.

6. Defendants object to the extent that requests are based on illegally obtained documents. Plaintiff should not be able to take advantage of the illegally obtained documents. *See Raymond v. Spirit AeroSystems Holdings, Inc.*, Case No. 16-1282-JTM-GEB, 2017 U.S. Dist. LEXIS 101926 (D. Kan. June 30, 2017).

7. Defendants object that the terms "investigation fee," "investigative fee," and "investigatory fee" are vague, ambiguous, and undefined. Defendants will interpret these terms to mean the flat fee paid to investigators by KNR that are similar to the \$50 fee paid to MRS Investigations, Inc. in Plaintiff Williams' case. All of Defendants' answers to requests involving these terms are based on Defendants' definition of those terms as outlined above.

8. Defendants state that they and the firm's IT vendor cannot conduct Boolean searches.

9. Defendants object that the Document Requests are overly broad and unduly burdensome in that there are no date limitations on the requests.

10. Defendants reserve their right to amend their responses to these Document Requests.

11. Defendants deny all allegations or statements in the Document Requests, except as expressly admitted below.

12. These "General Objections" are applicable to and incorporated in each of Defendants' responses to the Document Requests. Moreover, Defendants' responses are made subject to and without waiving these objections. Failing to state a specific objection to a particular Document Request should not be construed as a waiver of these General Objections.

13. Defendants' discovery responses are made without a waiver of, and with preservation of:

- a. All questions as to competency, relevancy, materiality, privilege, and admissibility of the responses and the subject matter thereof as evidence for any purpose in any further proceedings in this action and in any other action;

- b. The right to object to the use of any such responses or the subject matter thereof, on any ground in any further proceedings of this action and in any other action;
- c. The right to object on any ground at any time to a demand or request for a further response to the requests or other discovery involving or relating to the subject matter of the Document Requests herein responded to;
- d. The right at any time to revise, correct, add to, supplement, or clarify any of the responses contained herein and to provide information and produce evidence of any subsequently discovered facts;
- e. The right to assert additional privileges; and
- f. The right to assert the attorney-client privilege, attorney work product doctrine, or other such privilege as to the discovery produced or the information obtained therefrom, for any purpose in any further proceedings in this action and in any other action.

REQUESTS FOR PRODUCTION OF DOCUMENTS

Please produce the following documents:

1. All documents completing all of the "chain[s] of email" you repeatedly identify in your Answer to the Second Amended Complaint, or supplying the "context" to which emails have been "taken out of" as you repeatedly allege in your Answer. Please organize your response to this request by identifying the paragraph of the Second Amended Complaint to which each document pertains.

RESPONSE: See documents bates stamped KNR03342-KNR03396.

2. All documents reflecting communications between any Defendant or KNR employee and Ciro Cerrato or Liberty Capital Funding not related to a specific client matter.

RESPONSE: Defendants have produced documents generated from searches of Rob Nestico's and Robert Redick's electronic mail for "Ciro" or "Cerrato," see documents bates stamped KNR03433-03650.

3. All documents reflecting any financial interest any Defendant or employee of KNR might have had in Liberty Capital Funding.

RESPONSE: There are no responsive documents.

4. All documents reflecting any business or financial benefit Defendants derived from their relationship with Liberty Capital Funding or Ciro Cerrato.

RESPONSE: There are no responsive documents.

5. All documents reflecting Defendants' process or policies for selecting a Litigation Finance Company (including Liberty Capital Funding) to refer to clients for the provision of advances to clients, including but not limited to any internal discussions or discussions with Litigation Finance Companies.

RESPONSE: There are no responsive documents.

6. All documents reflecting efforts by Defendants to assure that the Litigation Finance Company to which they referred clients at any given time was the company providing the most competitive terms and most reliable service.

RESPONSE: There are no responsive documents.

7. All documents reflecting any efforts to determine the financial stability or general quality of Liberty Capital Funding prior to Defendant Nestico asking that his employees recommend them exclusively.

RESPONSE: There are no responsive documents.

8. All documents reflecting payments withheld from client settlements for purposes of satisfying loans made by Liberty Capital Funding, including but not limited to settlement memoranda.

RESPONSE: Objection. Defendants object that this request seeks documents relating to putative class members when the case has yet to be certified as a class action. Plaintiffs are not entitled to documents and information related to putative class members until the case has been certified as a class action. Defendants also object that this request seeks documents that may be subject to the attorney-client privilege, work product doctrine, ethical and professional rules governing attorneys, or other applicable privileges. Defendants further object that this information seeks confidential and proprietary information. In addition, Defendants object that the request is unduly burdensome and overly broad to the extent that it seeks documents relating to other clients that Plaintiffs' counsel

does not represent. Responding further, to the extent that this request is needed to establish numerosity, Defendants are not contesting numerosity for the Liberty Capital Funding Class (Class C).

9. All documents reflecting how and by whom Liberty Capital Funding obtained the capital necessary to make loans to your client.

RESPONSE: There are no responsive documents.

10. All documents reflecting any payments received from Liberty Capital Funding not specific to any KNR client.

RESPONSE: There are no responsive documents.

11. All documents reflecting both the amount borrowed and the amount repaid for any loan made to a KNR client by Liberty Capital Funding.

RESPONSE: Objection. Defendants object that this request seeks documents relating to putative class members when the case has yet to be certified as a class action. Plaintiffs are not entitled to documents and information related to putative class members until the case has been certified as a class action. Defendants object that this request seeks documents that may be subject to the attorney-client privilege, work product doctrine, ethical and professional rules governing attorneys, or other applicable privileges. Defendants further object that this information seeks confidential and proprietary information. In addition, Defendants object that the request is unduly burdensome and overly broad to the extent that it seeks documents relating to other clients that Plaintiffs' counsel does not represent. Responding further, to the extent that this request is needed to establish numerosity, Defendants are not contesting numerosity for the Liberty Capital Funding Class (Class C).

12. All documents reflecting any audit, risk analysis modeling or other analytic assessment of Liberty Capital Funding and whether their rates were accordant with the risk of the loans they were making.

RESPONSE: Objection. Defendants object that the terms "audit," "risk analysis modeling," and "analytic assessment" are vague, ambiguous, and undefined. Defendants also object to the extent the request assumes a duty or creates a legal or professional obligation to compare Litigation Finance Companies. Subject to and without waiving these objections, there are no responsive documents.

13. All documents, including e-mails and other communications not officially in the client's "file," regarding or mentioning the named Plaintiffs in this lawsuit.

RESPONSE: Objection. Defendants object that this request seeks documents protected by the attorney-client privilege and work product doctrine. In addition, Defendants object that this request may seek documents that are confidential and proprietary. Subject to and without waiving these objections, Defendants will produce documents based on the search of emails of the assigned attorneys and paralegals using the different iterations of the four named Plaintiffs. Defendants will also produce the client files for each of the four named Plaintiffs. See Documents bates stamped KNR00023-00743 (Plaintiff Williams); KNR00761-01427 (Plaintiff Wright); KNR01428-01682 (Plaintiff Johnson); KNR01683-02199 (Plaintiff Reid); and KNR03279.

14. All schematics, data maps, documentation, user's manuals, or other documents intended to describe the function, content and functionality of Needles as employed by KNR, KNR's EDMS, KNR's accounting system, and KNR's e-mail system.

RESPONSE: See Documents bates stamped KNR02200-03192, the manual for Needles.

15. All documents reflecting a comparison or discussion of the number of referrals made by KNR to a given chiropractor(s) and referrals made by that chiropractor to KNR over any period of time.

RESPONSE: Objection. Defendants object that the term "referrals" is vague, ambiguous, and undefined. Defendants further object as overly broad and unduly burdensome to the extent that this request for documents seeks information relating to Chiropractors other than ASC. In addition, this request is overly broad and unduly burdensome.

16. All emails sent by KNR's intake department containing a chart of each day's intakes, including which investigator was paid on each intake, with client names, addresses, and phone numbers redacted.

RESPONSE: Objection. Defendants object that this request seeks documents relating to putative class members when the case has yet to be certified as a class action. Plaintiffs are not entitled to documents and information related to putative class members until the case has been certified as a class action. Defendants object that the term "intake department" is vague, ambiguous, and undefined. Defendants further object that this request seeks documents that

may be subject to the attorney-client privilege, work product doctrine, ethical and professional rules governing attorneys, or other applicable privileges. In addition, Defendants object that this request is overly broad and unduly burdensome.

17. All documents stating or reflecting the reasons why KNR does not pay narrative fees on any minor patient, as set forth in the email cited in Paragraph 60 of the Second Amended Complaint.

RESPONSE: Defendants state that there are no responsive documents.

18. All documents reflecting communications from Defendants to any chiropractor or chiropractor's office where such communications *do not* relate or refer to a specific client/patient.

RESPONSE: Objection. Defendants object as overly broad and unduly burdensome to the extent that this request for documents seeks information relating to Chiropractors other than ASC. In addition, this request generally is overly broad and unduly burdensome.

19. All documents reflecting communication with any referring chiropractor(s) regarding trips, retreats, meetings or other occurrences intend to allow for interaction between chiropractors and KNR employees or Defendants.

RESPONSE: Objection. Defendants object that the terms "referring chiropractor(s)" and "other occurrences" are vague, ambiguous, and undefined. Defendants further object as overly broad and unduly burdensome to the extent that this request for documents seeks information relating to Chiropractors other than ASC. In addition, this request is generally unduly burdensome and overly broad.

20. All documents reflecting an agreement, formal or otherwise, to refer clients to a particular chiropractor or for a particular chiropractor to refer patients to KNR.

RESPONSE: There are no responsive documents.

21. All documents reflecting negotiations with any Chiropractor over referrals.

RESPONSE: Objection. Defendants object that the terms "negotiations" and "referrals" are vague, ambiguous, and undefined. Defendants object as overly broad and unduly burdensome to the extent that this request for documents

seeks information relating to Chiropractors other than ASC. In addition, this request is generally unduly burdensome and overly broad. Subject to and without waiving any objections, there are no responsive documents.

22. All documents reflecting negotiations with any Chiropractor over narrative fees.

RESPONSE: Objection. Defendants object that the term "negotiations" and "narrative fees" are vague, ambiguous, and undefined. Defendants object as overly broad and unduly burdensome to the extent that this request for documents seeks information relating to Chiropractors other than ASC. In addition, this request is generally unduly burdensome and overly broad. Subject to and without waiving these objections, there are no responsive documents.

23. All documents, including but not limited to spreadsheets, quantifying the number of referrals to and from specific Chiropractor(s) over time.

RESPONSE: Objection. Defendants object that the term "referrals" is vague, ambiguous, and undefined. Defendants further object as overly broad and unduly burdensome to the extent that this request for documents seeks information relating to Chiropractors other than ASC. In addition, this request is generally unduly burdensome and overly broad. Subject to and without waiving these objections, Defendants state the following for 2012-2017:

	2012	2013	2014	2015	2016	2017
ASC	440	517	544	584	721	459
KNR	175	231	289	296	316	188

Prior to that date range, it is unduly burdensome to provide the information.

24. All documents reflecting any payment made to any Defendant by any chiropractor.

RESPONSE: Objection. Defendants object that this request incorrectly assumes that there were payments from any Chiropractor to any Defendant. Defendants deny that such payments occurred. Defendants further object as overly broad and unduly burdensome to the extent that this request for documents seeks information relating to Chiropractors other than ASC. Subject to and without waiving these objections, Defendants reimburse ASC for the care of the patient and reimbursement of Dr. Floros for the narrative report (including the medical records) and deposition.

25. All documents reflecting any payment made by any Defendant to any

chiropractor *not associated* with medical services or narrative reports provided to/for a *specific* KNR client.

RESPONSE: Objection. Defendants object that this request incorrectly assumes that there were payments from Any Defendant to any Chiropractor not associated with medical services or narrative reports provided to/for as specific KNR client. Defendants deny such payments occurred. In addition, Defendants object that the term "narrative reports" is vague, ambiguous, and undefined. Defendants further object as overly broad and unduly burdensome to the extent that this request for documents seeks information relating to Chiropractors other than ASC. Subject to and without waiving these objections, there are no responsive documents.

26. All documents reflecting joint advertising or marketing agreements with any chiropractor(s), including but not limited to any agreement regarding the funding of the "Red Bags" placed on the doors of potential clients.

RESPONSE: Objection. Defendants object that this request incorrectly assumes that there were joint advertising or marketing agreements with Chiropractors. Defendants deny such an assumption. In addition, Defendants object that the terms "joint advertising or marketing agreements" and "Red Bags" is vague, ambiguous, and undefined. Defendants further object as overly broad and unduly burdensome to the extent that this request for documents seeks information relating to Chiropractors other than ASC. Defendants object that the term "business or financial benefit" are vague, ambiguous, and undefined. Defendants further object that this request is based on illegally obtained documents. Plaintiff should not be able to take advantage of the illegally obtained documents. *See Raymond v. Spirit AeroSystems Holdings, Inc.*, Case No. 16-1282-JTM-GEB, 2017 U.S. Dist. LEXIS 101926 (D. Kan. June 30, 2017). Subject to and without waiving these objections, Defendants state that there are no responsive documents relating to ASC.

27. All documents reflecting KNR's requirements for the content of narrative reports from chiropractors.

RESPONSE: There are no responsive documents. The content of narrative reports varies from case to case and is determined by the attorney handling the file. There is no uniform manner in which narrative reports are requested, as each case is unique and the circumstance may vary depending on nature of injuries, age of client, etc.

28. All documents reflecting KNR's basis for believing that narrative reports from chiropractors provide a benefit to their clients in excess of the fee for such

reports.

RESPONSE: Defendants refer Plaintiffs to Plaintiff Reid's narrative report and ASC records, which are bates stamped KNR03193-03225.

29. All documents reflecting discussions, communications or assessments on the value of narrative reports in pursuing personal injury settlements.

RESPONSE: There are no responsive documents. To the extent Plaintiffs construe the illegally obtained documents, including those attached as exhibits to Plaintiffs' Motion for Leave to File Second Amended Complaint, as responsive to this request, Plaintiffs are already in possession of said documents.

30. All documents reflecting solicitations to Chiropractors asking, suggesting, urging or incentivizing them to refer clients to KNR.

RESPONSE: There are no responsive documents.

31. All documents reflecting contracts or payments made by KNR for services in obtaining contact information for individuals recently involved in auto accidents.

RESPONSE: Objection. Defendants object that the term "services" is vague, ambiguous, and undefined. Defendants also object that this request is overly broad and unduly burdensome. Defendants further object that this request seeks irrelevant documents not likely to lead to the discovery of admissible evidence.

32. All documents reflecting contracts or payments made by KNR, directly or indirectly, for any advertising, including but not limited to mailings and material left on potential clients' doors, that did not bear the name of KNR or any Defendant.

RESPONSE: Objection. Defendants object that this request seeks irrelevant documents not likely to lead to the discovery of admissible evidence. Defendants also object that this request is overly broad and unduly burdensome. Subject to and without waiving these objections, there are no responsive documents.

33. All job descriptions, policies, or procedures related to the obtaining of contact information for individuals recently involved in auto accidents.

RESPONSE: Objection. Defendants object that the terms "job descriptions,"

"policies, and "procedures" are vague, ambiguous, and undefined. Defendants further object that this request seeks irrelevant documents not likely to lead to the discovery of admissible evidence.

34. All documents reflecting payments made by any Defendant for postage or materials used in mailings sent by any Chiropractor.

RESPONSE: Objection. Defendants object that this request incorrectly assumes that Defendants paid for postage or other materials used in Chiropractor mailings. Defendants deny such an assumption. Defendants further object as overly broad and unduly burdensome to the extent that this request for documents seeks information relating to Chiropractors other than ASC. Subject to and without waiving these objections, Defendants state that there are no responsive documents.

35. All documents reflecting any input provided by any Defendant into the content or design of any mailing sent by any Chiropractor.

RESPONSE: Defendants state that there are no responsive documents.

36. All e-mails sent or received by Defendants Nestico or Redick regarding intake procedures or referrals.

RESPONSE: Objection. Defendants object that the terms "intake procedures" and "intake referrals" are vague, ambiguous, and undefined. Defendants further object that this request is overly broad and unduly burdensome to the extent that it has no date limitation. In addition, Defendants object that the request is generally overly broad and unduly burdensome.

37. All documents directing intake attorneys to steer clients to a particular Chiropractor.

RESPONSE: Periodically, KNR intake attorneys received email correspondence directing them to refer clients to particular chiropractors in various geographic areas based upon numerous factors. The same information was posted on the "whiteboard" for attorney reference. Typically the email communication contained the subject line of "Chiro Referrals" and came from the email box of Brandy Brewer. Defendants have searched the email box of Brandy Brewer for communications with the subject line "Chiro Referrals" and will produce all responsive documents. Defendants further refer Plaintiffs' to Defendants' First Amended Responses to Plaintiffs' Second Set of Interrogatories, Interrogatory Nos. 6 and 7.

38. All documents advising intake attorneys to tell KNR clients or potential clients that going to a medical provider other than the one being suggested by KNR will negatively impact the client or potential client's case.

RESPONSE: There are no responsive documents. To the extent Plaintiffs construe the illegally obtained documents, including those attached as exhibits to Plaintiffs' Motion for Leave to File Second Amended Complaint, as responsive to this request, Plaintiffs are already in possession of said documents.

39. All documents reflecting KNR's employment (whether as a provider or contractor) at any time of an "investigator" or individual whose job involved going to the homes or workplaces of prospective clients to obtaining signatures or documents.

RESPONSE: RESPONSE: Objection. Defendants object that the terms "provider" and "employment" are vague, ambiguous, and undefined. Defendants further object as overly broad and unduly burdensome to the extent that this request for documents seeks information relating to investigators other than MRS Investigations, Inc. and AMC Investigations, Inc., which are independent contractors. In addition, Defendants object that this request is overly broad and unduly burdensome to the extent that it has no date limitation. In addition, this request is generally unduly burdensome and overly broad. Subject to and without waiving these objections, Defendants will produce documents. See documents bates stamped KNR03226-03277. Client names and identifying information have been redacted in these documents.

40. All documents reflecting KNR payments to contract investigators for work done on prospective client matters that do not result in the client signing a contract with KNR.

RESPONSE: Defendants object that this request seeks documents that may be subject to the attorney-client privilege, work product doctrine, ethical and professional rules governing attorneys, or other applicable privileges. Defendants further object that this information seeks confidential and proprietary information. In addition, Defendants object that the request is unduly burdensome and overly broad to the extent that it seeks documents relating to other clients. Subject to and without waiving these objections, there are no responsive documents. Responding further, investigators do not investigate claims of individuals who are not clients of the firm.

41. All documents containing or reflecting policies and procedures regarding when an "investigation fee" should be charged.

RESPONSE: There are no responsive documents. To the extent Plaintiffs construe the illegally obtained documents, including those attached as exhibits to Plaintiffs' Motion for Leave to File Second Amended Complaint, as responsive to this request, Plaintiffs are already in possession of said documents.

42. All versions of fee agreements that KNR has used with its clients since the firm's inception.

RESPONSE: Objection. Defendants object that this request is overly broad and unduly burdensome in that it requests documents dating back to the inception of KNR. Defendants also object that this request seeks confidential and proprietary information. Defendants object that the term "business or financial benefit" are vague, ambiguous, and undefined. Defendants further object that this request is based on illegally obtained documents. Subject to and without waiving these objections, Defendants have previously produced sample versions of fee agreements after 2009. See documents bates stamped KNR00001-00020.

43. All documents containing or reflecting policies and procedures on when and how to use an "investigator" on a client or potential client matter.

RESPONSE: There are no responsive documents. To the extent Plaintiffs construe the illegally obtained documents, including those attached as exhibits to Plaintiffs' Motion for Leave to File Second Amended Complaint, as responsive to this request, Plaintiffs are already in possession of said documents.

44. All documents relating or referring to "sign up" fees or "SU" fees including all policies and procedures regarding when a "sign up" fee or "SU" fee should be charged.

RESPONSE: Defendants have produced non-privileged documents generated from electronic searches using the terms "Sign up fee" and "SU fee," see documents bates stamped KNR03228-KNR03329.

45. All documents containing or reflecting policies and procedures on when and how to request a "narrative" report from a Chiropractor.

RESPONSE: There are no responsive documents. To the extent Plaintiffs construe the illegally obtained documents, including those attached as exhibits to

Plaintiffs' Motion for Leave to File Second Amended Complaint, as responsive to this request, Plaintiffs are already in possession of said documents. Defendants further state there is no uniform manner in which narrative reports are requested, as each case is unique and the circumstance may vary depending on nature of injures, age of client, etc.

46. All documents containing or reflecting policies and procedures regarding the referral of KNR clients to chiropractors or other Medical Service Providers.

RESPONSE: See response to request number 37. Further answering, to the extent Plaintiffs construe the illegally obtained documents, including those attached as exhibits to Plaintiffs' Motion for Leave to File Second Amended Complaint, as responsive to this request, Plaintiffs are already in possession of said documents. Defendants further refer Plaintiffs' to Defendants' First Amended Responses to Plaintiffs' Second Set of Interrogatories, Interrogatory Nos. 6 and 7.

47. All documents containing or reflecting policies and procedures regarding obtaining referrals of clients from chiropractors or other Medical Service Providers.

RESPONSE: See response to request number 37. Further answering, to the extent Plaintiffs construe the illegally obtained documents, including those attached as exhibits to Plaintiffs' Motion for Leave to File Second Amended Complaint, as responsive to this request, Plaintiffs are already in possession of said documents. Defendants further refer Plaintiffs' to Defendants' First Amended Responses to Plaintiffs' Second Set of Interrogatories, Interrogatory Nos. 6 and 7.

48. All documents containing or reflecting policies and procedures regarding when a narrative fee should be charged and how to determine if a particular charge is reasonable.

RESPONSE: See document bates stamped KNR03278 (attorney's eyes only). To the extent Plaintiffs construe the illegally obtained documents, including those attached as exhibits to Plaintiffs' Motion for Leave to File Second Amended Complaint, as responsive to this request, Plaintiffs are already in possession of said documents.

49. All documents containing or reflecting policies and procedures relating to handling calls from potential new clients.

RESPONSE: Objection. Defendants object that the terms "policies," "procedures," and "handling" are vague, ambiguous, and undefined. Defendant further objects that this request is overly broad and unduly burdensome in that it has no date limitation. Also, this request is generally unduly burdensome and overly broad. In addition, Defendants object that this request seeks a training manual that is proprietary and confidential information. Defendants will not produce this document.

50. All documents containing or reflecting policies and procedures related to new case intake.

RESPONSE: Objection. Defendants object that the terms "policies," "procedures," and "intake" are vague, ambiguous, and undefined. Defendant further objects that this request is overly broad and unduly burdensome in that it has no date limitation. Also, this request is generally unduly burdensome and overly broad. In addition, Defendants object that this request seeks a training manual that is proprietary and confidential information. Defendants will not produce this document.

51. All documents containing or reflecting policies and procedures identified in your response to any Interrogatory served by Plaintiffs in this lawsuit.

RESPONSE: Objection. Defendants object that this request does not identify the specific policy or procedure. In addition, Defendants object that this request is overly broad and unduly burdensome.

52. All documents supporting the truth of your response to any Interrogatory served by Plaintiffs in this lawsuit.

RESPONSE: Objection. Defendants object that this request does not identify the specific policy or procedure. In addition, Defendants object that this request is overly broad and unduly burdensome. Defendants will supplement if appropriate.

53. All documents supporting the truth of your denial of any Request for Admission served by Plaintiffs in this lawsuit.

RESPONSE: Objection. Defendants object that this request is overly broad and unduly burdensome. Defendants will supplement if appropriate.

54. All documents regarding "quotas" of any type.

RESPONSE: Objection. Defendants object that this request is confusing and unintelligible. Defendants further object that the phrase "quotas of any type" is vague, ambiguous, and undefined.

55. Gary Petti's employment file, including all documents reflecting evaluations of Petti's performance and all documents relating to the reasons for KNR's termination of Petti's employment.

RESPONSE: Objection. Defendants object that this request seeks irrelevant documents that are not likely to lead to the discovery of admissible evidence. Defendants further object that to produce the responsive documents will require written approval of Gary Petti.

56. Rob Horton's employment file, including all documents reflecting evaluations of Horton's performance and all documents relating to the reasons for KNR's termination of Horton's employment.

RESPONSE: Objection. Defendants object that this request seeks irrelevant documents that are not likely to lead to the discovery of admissible evidence. Defendants further object that to produce the responsive documents will require written approval of Robert Horton.

57. All documents, including but not limited to job descriptions, describing the responsibilities and means of assessment for KNR's "Intake Manager."

RESPONSE: There are no responsive documents.

58. All documents, including but not limited to job descriptions, describing the responsibilities and means of assessment for KNR's "Executive Assistant to Attorney Nestico."

RESPONSE: There are no responsive documents.

59. All documents, including but not limited to job descriptions, describing the responsibilities and means of assessment for KNR's "Director of Operations."

RESPONSE: There are no responsive documents.

60. All discovery requests and written discovery responses served by all parties to

the lawsuit *Kisling Nestico & Redick, LLC v. James E. Fonner*, Franklin County Common Pleas Case No. 15-CV-003216.

RESPONSE: Objection. Defendants object that this request seeks irrelevant documents that are not reasonably calculated to lead to the discovery of admissible evidence.

61. All documents, including emails, text messages, or demand letters, reflecting or containing threats of litigation, or the suggestion of the possibility of litigation, by any Defendant against any Medical Service Provider or other attorney or law firm, including attorneys who work or worked for KNR.

RESPONSE: Objection. Defendants object that this request seeks irrelevant documents that are not reasonably calculated to lead to the discovery of admissible evidence.

62. All documents relating to Naomi Wright, including relating to any disclosures made to Wright regarding KNR's ongoing business/referral relationship with Akron Square Chiropractic.

RESPONSE: See response to Request No. 13, above. See documents bates stamped KNR00761-01427 (Plaintiff Wright).

63. All documents relating to Matthew Johnson, including relating to any disclosures made to Johnson regarding KNR's ongoing business/referral relationship with Liberty Capital Funding.

RESPONSE: Objection. Defendants object that this request seeks confidential and proprietary information. Subject to and without waiving these objections, see response to Request No. 13. See documents bates stamped KNR01428-01682 (Plaintiff Johnson).

64. All documents reflecting communications with "Attorney at Law Magazine."

RESPONSE: Objection. Defendants object that this request seeks irrelevant documents that are not likely to lead to the discovery of admissible evidence.

65. All documents reflecting payments of any kind to "Attorney at Law Magazine."

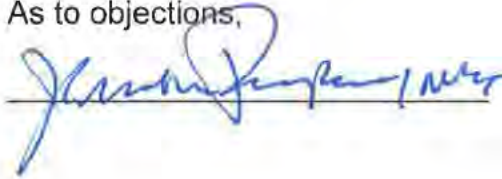
RESPONSE: Objection. Defendants object that this request seeks irrelevant

documents that are not likely to lead to the discovery of admissible evidence.

66. All documents reflecting or containing policies and procedures regarding reviews on Google, Facebook, and other websites, including all documents reflecting any instructions or suggestions to employees regarding these reviews.

RESPONSE: Objection. Defendants object that this request seeks irrelevant documents that are not likely to lead to the discovery of admissible evidence.

As to objections,



Respectfully submitted,



James M. Popson (0072773)
Sutter O'Connell
1301 East 9th Street
3600 Erieview Tower
Cleveland, OH 44114
(216) 928-2200 phone
(216) 928-4400 facsimile
jpopson@sutter-law.com

/s/ R. Eric Kennedy
R. Eric Kennedy (0006174)
Daniel P. Goetz (0065549)
Weisman Kennedy & Berris Co LPA
101 W. Prospect Avenue
1600 Midland Building
Cleveland, OH 44115
(216) 781-1111 phone
(216) 781-6747 facsimile
ekennedy@weismanlaw.com
dgoetz@weismanlaw.com

/s/ Thomas P. Mannion
Thomas P. Mannion (0062551)
Lewis Brisbois
1375 E. 9th Street, Suite 2250
Cleveland, Ohio 44114
(216) 344-9467 phone
(216) 344-9241 facsimile
Tom.mannion@lewisbrisbois.com

Counsel for Defendants

CERTIFICATE OF SERVICE

A copy of the foregoing Defendants' Second Amended Responses to Plaintiffs' Third Set of Requests for Production of Documents to All Defendants was sent this 17th day of September, 2018 to the following via electronic Mail:

Peter Pattakos
Daniel Frech
The Pattakos Law Firm, LLC
101 Ghent Road
Fairlawn, Ohio 44333
peter@pattakoslaw.com
dfrech@pattakoslaw.com

Counsel for Plaintiff

Joshua R. Cohen
Cohen Rosenthal & Kramer LLP
3208 Clinton Avenue
1 Clinton Place
Cleveland, Ohio 44113-2809
jcohen@crklaw.com

Shaun H. Kedir
KEDIR LAW OFFICES LLC
1400 Rockefeller Building
614 West Superior Avenue
Cleveland, Ohio 44113
Phone: (216) 696-2852
Fax: (216) 696-3177
shaunkedir@kedirlaw.com

Counsel for Defendant Minas Floros, D.C.


James M. Popson (0072773)

From: **Brandy Lamtman** brandy@knrlegal.com
Subject: Chiro Referrals
Date: May 1, 2013 at 3:39 PM
To: **Prelit Attorney** PrelitAttorney@knrlegal.com
Cc: **Rob Nestico** nestico@knrlegal.com

BL

This happens frequently so we wanted to address this with all of you. When doing an intake, just bc they tell you they are treating with pcp, doesn't mean you shouldn't refer to a chiro. Always refer to a Chiro bc they can do both.

This is especially an issue in Youngstown.

Sent from my iPhone



WILLIAMS000164

EXHIBIT 5

From: Brandy Lamtman <brandy@knrlegal.com>
Sent: Wednesday, July 24, 2013 10:08 AM
To: Prelit Attorney
Cc: Sarah Rucker
Subject: RE: Chiro Referrals

We need to get one case to Rolling Acres and Summit Injury. Please email me once you've sent a case to them so I can update the rest of the attorneys. Please make sure you do not send a delivery referral to them though...these only go to ASC.

Thank you



Brandy Lamtman

Executive Assistant to Attorney Nestico
Kisling, Nestico, & Redick, LLC
3412 W. Market Street
Akron, Ohio 44333
Phone: 330-869-9007
Fax: 330-869-9008

brandy@knrlegal.com



From: Brandy Lamtman
Sent: Wednesday, July 24, 2013 9:29 AM
To: Prelit Attorney
Cc: Sarah Rucker
Subject: Chiro Referrals
Importance: High

Akron	ASC
Canton	WTC
Cleveland	DSC and NorthCoast Rehab
Toledo	Glass City
Cincinnati	Vernon Place & Werkmore
Columbus	Town & Country
Dayton	Pike Chiropractic
Youngstown	Mahoning Chiropractic



Brandy Lamtman

Executive Assistant to Attorney Nestico
Kisling, Nestico, & Redick, LLC
3412 W. Market Street
Akron, Ohio 44333
Phone: 330-869-9007
Fax: 330-869-9008



From: Brandy Brewer <brandy@knrlegal.com>
Sent: Tuesday, March 18, 2014 2:25 PM
To: Attorneys
Cc: Holly Tusko
Subject: Lorain Delivery

Importance: High

We are trying out red bag deliveries in Lorain. All chiro referrals go to Xcell Chiropractic. Please make note of this. Thank you.



Brandy Brewer

Kisling, Nestico & Redick

Director of Operations

3412 W. Market St., Akron, Ohio 44333

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

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



From: Brandy Brewer <brandy@knrlegal.com>
Sent: Thursday, November 20, 2014 11:58 AM
To: Staff
Subject: MD in CLE

Importance: High

Several months ago I met with Dr. Hochman. He is an MD and does PT in his office. He is located in Bedford. If you have someone that doesn't want chiropractic treatment, please send there. Keep in mind Ghoubril is now working with Shaker Square though so that is always the first option.

Jenna will add to Needles.



Brandy Brewer

Kisling, Nestico & Redick

Director of Operations

3412 W. Market St., Akron, Ohio 44333

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

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



1
1

WILLIAMS000373

Monday, May 4, 2015 at 8:54:56 PM Eastern Daylight Time

Subject: Plambeck Report Fees \$150

Date: Wednesday, April 2, 2014 at 12:34:06 PM Eastern Daylight Time

From: Brandy Brewer

To: Prelit Support, Prelit Attorney

Nothing has changed except the amount for narratives and....

NO NARRATIVES ARE TO BE PAID ON ANY MINOR PATIENT!

***Narrative Report Fees are paid to Dr. Patrice Lee-Seyon via MedReports (Toledo Spine) for **\$150.00**, Dr. Minas Floros (Akron Square) **\$150.00**, Dr. Eric Cawley (Canton Injury/West Tusc) **\$150.00**, Dr. Jason Maurer (Vernon/Werkmore) for **\$150.00**, Dr. Sirikul Thunijinda (Youngstown Chiropractic) **\$150.00** and Dr. Kyle Schneider (Detroit Shoreway) **\$150.00** to the doctor personally (all doctors are in needles)



WILLIAMS000211 Page 1 of 1

EXHIBIT 6

From: Brandy Brewer
Sent: Monday, January 23, 2012 1:31 PM
To: Staff; Rob Nestico
Subject: Until Further Notice.....

NO narrative fee checks to any of the Plambeck chiros EXCEPT Floros & Patrice.



Brandy Brewer

Kisling, Nestico & Redick

Executive Assistant to Attorney Nestico

3412 W. Market St., Akron, Ohio 44333

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



From: Brandy Brewer
Sent: Thursday, March 01, 2012 10:34 AM
To: Alyssa Kirk; Jodi Miller; Jenna Sanzone; Amber Vince; Marti Dunlavy; Nicole Holland; Katy Newton; Megan Jennings; Courtney Warner; Matt Stewart; Deidra Lopez
Cc: Rob Nestico; Robert Redick
Subject: Narrative Report Fees

We are paying narrative fees to the following:

Dr. Lee-Seyon	Toledo Spine
Dr. Schober	Shaker Square
Dr. Floros	Akron Square
Dr. Tassi	West Tusc
Dr. Maurer	Vernon Place and Werkmore



Brandy Brewer

Kisling, Nestico & Redick

Executive Assistant to Attorney Nestico

3412 W. Market St., Akron, Ohio 44333

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

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



From: **Brandy Lamtman** brandy@knrlegal.com
Subject: Chiropractor Referrals
Date: May 6, 2013 at 6:14 PM
To: Prelit Attorney PrelitAttorney@knrlegal.com
Cc: Rob Nestico nestico@knrlegal.com

We MUST send an investigator to sign up clients!! We cannot refer to Chiro and have them sign forms there. This is why we have investigators. We are losing too many cases doing this!!!!!!

If a client is already at the chiro's office then of course it is ok. Other than that send an investigator.

No faxing or emailing forms unless it is approved by Rob, Robert or I.

Sent from my iPhone



WILLIAMS000001

EXHIBIT 7

10/20/2017

Sign Ups

Sign Ups

Holly Tusko

Sent: Tuesday, June 10, 2014 10:26 AM

To: Wes Steele; Paul Hillenbrand; Tom [tfish878@insight.ru.com]; David French; Gary Monto; JUDANJUDO@aol.com; James Smith; Dennis Rees; Gary Krebs; Glenn Jones; Aaron Czetli; Mike Simpson; Chuck DeRemer

Cc: Predit Attorney; Brandy Brewer; Rob Nestico

Importance: High

Good Morning KNR Investigators. In an effort to get everyone on the same page please and to ensure that we are servicing our clients to be best of our ability please see the below criteria for doing sign ups. Please note that if this criteria is not met you will not be paid. When doing a sign up the following steps need to be taken...

- 1.) The subject line of your email should always contain the client(s) name
- 2.) The contingency fee agreement, patient authorization and proof of representation forms needs to be signed and dated as well as a discharge letter, if applicable. Keep in mind that we do have 1/3 and 1/4 fee agreements as well as 1/3 and 1/4 Spanish fee agreements. Should you need any of these emailed to you please let me know. The attorney will always advise you if we need 1/4 fee agreements signed, otherwise it will always be 1/3
- 3.) Photo(s) of insurance cards
- 4.) Photo of client (from the chest up)
- 5.) Photo(s) of ANY visible injuries (cuts, red marks, bruises, scratches, stitches, braces, casts, etc)
- 6.) Photo(s) of the vehicle
- 7.) Photo of police report (we send out direct mailers so a lot of the time the client will have the police report there with them).

You can use the above numeric format to add to the body of your email when sending the forms. If for any reason these items are not available then just note it accordingly in the body of your email. Again, this must be done by all investigators for all sign ups.

Please contact me with any questions / concerns.

Best Regards,

*Holly Tusko*

Kisling, Nestico & Redick

Intake Manager

3412 W. Market St., Akron, Ohio 44333

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

Locations: Akron, Canton, Cleveland, Cincinnati,

Columbus, Dayton, Toledo & Youngstown



KNR03226

8/4/2017

ALL SIGN UPS

ALL SIGN UPS**Holly Tusko****Sent:** Wednesday, June 03, 2015 5:03 PM**To:** Paul Hiltbrand; Tom Fisher; Wes Steele; David French; Gary Morton; Dennis Rees; Gary Krebs; Chuck Shorkwiler [cshorkwiler@gmail.com]; Michael Tsagats; Glenn Jones; Aaron Crell; Mike Simpson; Shane Miller; Chuck Deremer**Cc:** signups; Brandy Brewer; Rob Nesico; Paul W. Steele; Thomas M. Vasari**Importance:** High**Attachments:** Patient Authorization Sample.PDF (39 KB); Proof of Rep Sample.PDF (30 KB); Fee Agreement Sample.PDF (48 KB); Fire Letter Sample.PDF (18 KB)

Attached you will find the following form examples of EXACTLY how EVERY form needs to be filled out when completing a sign up.

- Fee Agreement
- Patient Authorization
- Proof of Representation
- Discharge Letter (if applicable)

Photos are to be provided with EVERY sign up, NO EXCEPTIONS. Here is a checklist for you.

- Car
- Visible injuries
- Medicare/Medicaid cards
- Auto Insurance cards
- Any other paperwork the client may have

Email forms to signups@knlegal.com as follows:

- Monday - Friday
8:30 AM - 5:15 PM

Email forms to intake@knlegal.com as follows:

- Monday - Friday
5:15 PM - 8:30 PM
- All day Saturday and Sunday

Should all of the above listed criteria not be met you will NOT receive payment on the signup(s).

Please reply "received" to this email to confirm that you received this email.

Thanks.



Holly Tusko
Kistling, Nestico & Redick
Intake Manager
3412 W. Market St., Akron, Ohio 44333
Main: 330-869-9007 | Fax: 330-869-9008 | Outside Ohio: 800-978-9007

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



CONFIDENTIAL: ATTORNEY'S EYES ONLY - SUBJECT TO PROTECTIVE ORDER

KNR00756



11/12/2017

Re: Suggested EMail to the staff

Re: Suggested EMail to the staff

Brandy Lamtman

Sent: Friday, December 07, 2012 3:54 PM

To: Robert Redick

Cc: Rob Nestico; Robert Redick

Agree

Sent from my iPhone

On Dec 7, 2012, at 3:33 PM, "Robert Redick" <redick@knrlegal.com> wrote:

Please be advised that if the attorney on the case requests any investigator – WHO IS NOT MIKE OR AARON – to do something for a case that has already been opened.

I.E. – Pick up records – knock on the door to verify address – they CAN be paid on a case by case basis depending on the task performed.

However, no checks for anything other than the SU fee should ever be requested without getting in-writing approval from the handling attorney, myself and/or Brandy.

Under no circumstances should any additional checks to MRS or AMC be requested other than at the time the case is set-up.

Please see me if you have any questions

I think we should send this to the staff today. There were only 5 for Aaron and 2 for Mike and they have been corrected but we need to make sure this does not happen Any more going forward.

<[image001.jpg](#)>

Robert W. Redick

Kisling, Nestico & Redick

Attorney At Law

3412 W. Market St., Akron, Ohio 44333

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

Locations: <[image002.jpg](#)><[image003.jpg](#)> <[image004.jpg](#)> <[image005.jpg](#)>

Akron,

Canton,

Cleveland,

Cincinnati,

Columbus,

Dayton,

Toledo &

Youngstown



IN THE COURT OF COMMON PLEAS
SUMMIT COUNTY, OHIO

MEMBER WILLIAMS, <i>et al.</i> , Plaintiffs, vs. KISLING, NESTICO & REDICK, LLC, <i>et al.</i> , Defendants.	Case No. 2016-CV-09-3928 Judge James A. Brogan
DEFENDANTS' SECOND AMENDED RESPONSES TO PLAINTIFFS' FOURTH SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS TO ALL DEFENDANTS	

Pursuant to Rule 34 of the Ohio Rules of Civil Procedure, Defendants Kisling, Nestico & Redick, LLC ("KNR"), Alberto R. Nestico, and Robert Redick (collectively "Defendants") object and respond as follows to Plaintiffs' Fourth Set of Requests for Production of Documents ("Document Requests"):

GENERAL OBJECTIONS

1. Defendants object to Plaintiffs' Document Requests to the extent that they seek information protected by the attorney-client privilege, work product doctrine, the joint defense and common interest privilege, and other applicable privileges and rules. Specifically, some requests of Plaintiffs' Document Requests seek information and communications between Plaintiffs and KNR and between putative class members and KNR that are protected by the attorney-client privilege, work product doctrine, ethical and professional rules governing attorneys, or other applicable privileges. By filing this lawsuit and attaching the Settlement Statement to her Class Action Complaint, Plaintiffs

have waived the attorney-client privilege and all other applicable privileges, as those privileges apply to only them, and not to putative class members.

2. Defendants object to the "Instructions" and "Definitions" preceding Plaintiffs' Document Requests on the grounds that they are vague, ambiguous, seek irrelevant information not reasonably calculated to lead to the discovery of admissible evidence, and seek to impose obligations on Defendants that are greater than, or inconsistent with, those obligations imposed by the Ohio Rules of Civil Procedure. Defendants will respond to these Document Requests in accordance with its obligations under the Ohio Rules of Civil Procedure.

3. Defendants object as overly broad and unduly burdensome to the extent that a request for documents seeks information relating to Medical Service Providers or Chiropractors other than Akron Square Chiropractic ("ASC").

4. Defendants object as overly broad and unduly burdensome to the extent a request for documents seeks information relating to Litigation Finance Companies other than Liberty Capital Funding, LLC ("Liberty Capital").

5. Defendants object that there are no date limitations on these requests, which makes them overly broad and unduly burdensome.

6. Defendants object to the extent that requests are based on illegally obtained documents. Plaintiff should not be able to take advantage of the illegally obtained documents. See *Raymond v. Spirit AeroSystems Holdings, Inc.*, Case No. 16-1282-JTM-GEB, 2017 U.S. Dist. LEXIS 101926 (D. Kan. June 30, 2017).

7. Defendants object to the extent that a request for production pertains to the class claims in the Second Amended Complaint, which are subject to a Motion to

Strike. Requiring responses to these requests for documents when the Motion to Strike may be granted is unduly burdensome and overly broad.

8. Defendants object to the extent that the request seeks documents relating to other clients it is unduly burdensome, overly broad, and premature.

9. Defendants state that they and the firm's IT vendor cannot conduct Boolean searches.

10. Defendants object that the Document Requests are overly broad and unduly burdensome in that there are no date limitations on the requests.

11. Defendants reserve their right to amend their responses to these Document Requests.

12. Defendants deny all allegations or statements in the Document Requests, except as expressly admitted below.

13. These "General Objections" are applicable to and incorporated in each of Defendants' responses to the Document Requests. Moreover, Defendants' responses are made subject to and without waiving these objections. Failing to state a specific objection to a particular Document Request should not be construed as a waiver of these General Objections.

14. Defendants' discovery responses are made without a waiver of, and with preservation of:

- a. All questions as to competency, relevancy, materiality, privilege, and admissibility of the responses and the subject matter thereof as evidence for any purpose in any further proceedings in this action and in any other action;
- b. The right to object to the use of any such responses or the subject matter thereof, on any ground in any further proceedings of this action and in any other action;

- c. The right to object on any ground at any time to a demand or request for a further response to the requests or other discovery involving or relating to the subject matter of the Document Requests herein responded to;
- d. The right at any time to revise, correct, add to, supplement, or clarify any of the responses contained herein and to provide information and produce evidence of any subsequently discovered facts;
- e. The right to assert additional privileges; and
- f. The right to assert the attorney-client privilege, attorney work product doctrine, or other such privilege as to the discovery produced or the information obtained therefrom, for any purpose in any further proceedings in this action and in any other action.

REQUESTS FOR PRODUCTION OF DOCUMENTS

Please produce the following documents:

1. All documents relating to "sign ups," or sending an "investigator" or any other person or company to "sign" or "sign up" a client, including all documents relating to "sign up" fees.

RESPONSE: Objection. Defendants object that this request seeks documents relating to putative class members when the case has yet to be certified as a class action. Plaintiffs are not entitled to documents and information related to putative class members until the case has been certified as a class action. In addition, Defendants object that the terms "sign up fees," "sign" and "sign up" are vague, ambiguous and undefined. Defendants also object that this request is overly broad and unduly burdensome in that there is no date restriction. Defendants finally object that this request is generally overly broad and unduly burdensome.

2. All documents relating to the referral of KNR clients to Plambeck-owned chiropractic clinics, including documents reflecting any changes in or analysis of this policy taken in response to lawsuits by insurance companies against Plambeck-owned clinics, and any disclosures to clients regarding the same (See Paragraph 36 of the Second Amended Complaint).

RESPONSE: There are no responsive documents reflecting any changes in or analysis of this policy taken in response to lawsuits by insurance companies against Plambeck-owned clinics. Also see Response to Request No. 37 in Defendants' Second Amended Responses to Plaintiffs' Third Set of Request for

Production of Documents regarding direction of referrals to chiropractors.

3. For the daily intake summary emails requested in No. 16 of Plaintiffs' third set of requests for production, please provide the emails reflecting the intakes for plaintiffs Williams, Johnson, and Wright with all information pertaining to plaintiffs, including their names, unredacted.

RESPONSE: Objection. Defendants object that this request is overly broad and unduly burdensome.

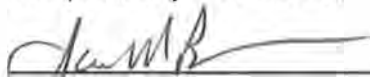
4. All documents showing or reflecting that AMC Investigations, MRS Investigations, or either company's employees, or Gary Monto, Wes Steele, Paul Hillenbrand, Jon Thomas, Jeff Allen, Tom Fisher, Dave French, Glenn Jones, Gary Krebs, James Smith, Steven Tobias, Ayan Noor, or David Hogan ever performed any actual investigative work whatsoever on behalf of KNR clients (as opposed to signing up clients or obtaining client signatures on documents).

RESPONSE: Objection. Defendants object that this request seeks documents relating to putative class members when the case has yet to be certified as a class action. Plaintiffs are not entitled to documents and information related to putative class members until the case has been certified as a class action. Defendants object that this request seeks documents that may be subject to the attorney-client privilege, work product doctrine, ethical and professional rules governing attorneys, or other applicable privileges. Defendants object that the phrase "any actual investigative work whatsoever" is vague, ambiguous, and undefined. Defendants object that this request is generally unduly burdensome and overly broad.

As to objections,



Respectfully submitted,



James M. Popson (0072773)

Sutter O'Connell

1301 East 9th Street

3600 Erievue Tower

Cleveland, OH 44114

(216) 928-2200 phone

(216) 928-4400 facsimile

jpopson@sutter-law.com

/s/ R. Eric Kennedy

R. Eric Kennedy (0006174)

Daniel P. Goetz (0065549)

Weisman Kennedy & Berris Co LPA

101 W. Prospect Avenue

1600 Midland Building

Cleveland, OH 44115

(216) 781-1111 phone

(216) 781-6747 facsimile

ekennedy@weismanlaw.com

dgoetz@weismanlaw.com

/s/ Thomas P. Mannion

Thomas P. Mannion (0062551)

Lewis Brisbois

1375 E. 9th Street, Suite 2250

Cleveland, Ohio 44114

(216) 344-9467 phone

(216) 344-9241 facsimile

Tom.mannion@lewisbrisbois.com

Counsel for Defendants

CERTIFICATE OF SERVICE

A copy of the foregoing Defendants' Second Amended Responses to Plaintiffs' Fourth Set of Requests for Production of Documents to All Defendants was sent this 30th 27th day of August 2018, to the following via electronic Mail:

Peter Pattakos
Daniel Frech
The Pattakos Law Firm, LLC
101 Ghent Road
Fairlawn, Ohio 44333
peter@pattakoslaw.com
dfrech@pattakoslaw.com

Counsel for Plaintiff

Joshua R. Cohen
Cohen Rosenthal & Kramer LLP
The Hoyt Block Building, Suite 400
700 West St. Clair Avenue
Cleveland, Ohio 44114
jcohen@crklaw.com

Shaun H. Kedir
KEDIR LAW OFFICES LLC
1400 Rockefeller Building
614 West Superior Avenue
Cleveland, Ohio 44113
Phone: (216) 696-2852
Fax: (216) 696-3177
shaunkedir@kedirlaw.com

Counsel for Defendant Minas Floros, D.C.


James M. Popson (0072773)

From: Rob Nestico nestico@knrlegal.com
Subject: Re: New Allstate request...
Date: May 30, 2013 at 1:01 PM
To: Joshua Angelotta jangelotta@knrlegal.com
Cc: Ken Zerrusen zerrusen@knrlegal.com, Rob Horton rhorton@knrlegal.com, Attorneys Attorneys@knrlegal.com

I agree we need to file all these Allstate files. Please send John and I a list of your Allstate Plambeck cases.

Sent from iPhone of Rob Nestico

On May 30, 2013, at 12:48 PM, "Joshua Angelotta" <jangelotta@knrlegal.com> wrote:

I think a lot of us made a deal with the devil by allowing them to have recorded statements because the result would usually be a workable offer. I'm inclined to stop doing this because now we're wasting our time, along with the client's time, and delaying the inevitable; which is filing suit on all of these claims.

Joshua R. Angelotta

Kisling, Nestico & Redick

Attorney At Law

3412 W. Market St., Akron, Ohio 44333

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

Locations: Akron, Canton, [<image001.jpg><image002.jpg> <image003.jpg> <image004.jpg>](#)
Cleveland, Cincinnati, Columbus,
Dayton, Toledo & Youngstown

From: Ken Zerrusen
Sent: Thursday, May 30, 2013 12:44 PM
To: Joshua Angelotta; Rob Horton; Attorneys
Subject: RE: New Allstate request...

Me too. they have tightened the screws even more. I just got a pair of \$1500 offers on ER/Plambeck claims both having approx. 7k in bills

From: Joshua Angelotta
Sent: Thursday, May 30, 2013 12:40 PM
To: Rob Horton; Attorneys
Subject: RE: New Allstate request...

I'm getting unusually low Allstate offers on Plambeck cases. Allstate has obviously always made lousy offers with MIST claims. These new offers are really bad even on moderate-heavy impact collisions.

Joshua R. Angelotta

Kisling, Nestico & Redick

Attorney At Law

3412 W. Market St., Akron, Ohio 44333

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

Locations: Akron, Canton, [<image001.jpg><image002.jpg> <image003.jpg> <image004.jpg>](#)
Cleveland, Cincinnati, Columbus,
Dayton, Toledo & Youngstown

From: Rob Horton
Sent: Thursday, May 30, 2013 12:34 PM
To: Attorneys
Subject: New Allstate request...

David Stephas from Allstate just requested ³consent for deposition of doctor, all xray films, and all paperwork signed by the client from the chiro² on a third party claim. Said it is their new prelit procedure

It is an Akron Square case

Regards,

<image005.jpg>

Robert P. Horton

Kisling, Nestico & Redick

Attorney At Law

3412 W. Market St., Akron, Ohio 44333

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

Locations: Akron, <image001.jpg><image002.jpg> <image003.jpg> <image004.jpg>

Canton, Cleveland,

Cincinnati,

Columbus, Dayton,

Toledo &

Youngstown



From: Robert Redick
Sent: Tuesday, July 02, 2013 2:35 PM
To: Hillary Kornas
Subject: RE: -Liberty Capital

I spoke to him about this.
These were MP cut ups and withdraw – he is lucky he got anything at all

Call him and refresh his memory.



Robert W. Redick
Kisling, Nestico & Redick
Attorney At Law
3412 W. Market St., Akron, Ohio 44333
Main: 330-869-9007 | Fax: 330-869-9008 | Outside Ohio: 800-978-9007
Locations: Akron, Canton, Cleveland, Cincinnati,
Columbus, Dayton, Toledo & Youngstown



From: Hillary Kornas
Sent: Tuesday, July 02, 2013 9:40 AM
To: Robert Redick
Subject: FW: - Liberty Capital

There's a reduction to 800 shown in the value screen, but Ciro wants 950 (see below)



Hillary Kornas
Kisling, Nestico & Redick
Paralegal
3412 W. Market St., Akron, Ohio 44333
Main: 330-869-9007 | Fax: 330-869-9008 | Outside Ohio: 800-978-9007
Locations: Akron, Canton, Cleveland, Cincinnati,
Columbus, Dayton, Toledo & Youngstown



From: Ciro Cerrato [<mailto:lcfunding1@gmail.com>]
Sent: Tuesday, July 02, 2013 9:36 AM
To: Hillary Kornas
Subject: Re:

No, Amount due was \$1585. (see email trail)

His advance was over a year old.

Any way you guys can send \$150 to close the case?

KNR03588

Sandra Kurt, Summit County Clerk of Courts

REDACTED
EXHIBIT 10

On Tue, Jul 2, 2013 at 9:09 AM, Hillary Kornas <hkornas@knrlegal.com> wrote:

Okay. That was the right amount, correct?



Hillary Kornas

Kisling, Nestico & Redick

Paralegal

3412 W. Market St., Akron, Ohio 44333

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

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



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

Sent: Monday, July 01, 2013 5:32 PM

To: Hillary Kornas

Subject: Re:

I received check for from KNR \$800.00

On Fri, Jun 7, 2013 at 4:26 PM, Hillary Kornas <hkornas@knrlegal.com> wrote:

Okay I'll let Robert know. Thanks!



Hillary Kornas

Kisling, Nestico & Redick

Paralegal

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Columbus, Dayton, Toledo & Youngstown



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

Sent: Friday, June 07, 2013 4:26 PM

To: Hillary Kornas

Subject: Re:

Hillary,

I made a mistake. I just realized he is over 12 months.

Total due is \$1585.00

On Fri, Jun 7, 2013 at 3:01 PM, Hillary Kornas <hkornas@knrlegal.com> wrote:

Hi Ciro,

I need to find out how much (DOI 1/20/12) owes for his first (and I believe only) advance.

Thanks,

KNR03590

REDACTED

From: Rob Nestico
Sent: Wednesday, November 27, 2013 1:53 PM
To: Paul W. Steele
Subject: Re: Case with child support lien

No reduce chiro and us to cover loan original amount no interest tell ciro

Sent from Rob Nestico

On Nov 27, 2013, at 1:51 PM, "Paul W. Steele" <steele@knrlegal.com> wrote:

That is what I am trying to figure out

Should we just tell ciro he has to write it off as a loss?
Child support down here in Franklin County is horrible to deal with.

From: Rob Nestico
Sent: Wednesday, November 27, 2013 1:45 PM
To: Paul W. Steele
Subject: Re: Case with child support lien

Who is paying cash advance

Sent from Rob Nestico

On Nov 27, 2013, at 1:33 PM, "Paul W. Steele" <steele@knrlegal.com> wrote:

Yes T&C in full
From T&C

From: Rob Nestico
Sent: Wednesday, November 27, 2013 1:32 PM
To: Paul W. Steele
Cc: Paul W. Steele
Subject: Re: Case with child support lien

Is t & c paid in full

Sent from Rob Nestico

On Nov 27, 2013, at 1:20 PM, "Paul W. Steele" <steele@knrlegal.com> wrote:

Convinced child support supervisor to let us pay the bills and our fee –
at first they wanted the whole \$11k

Issue – client had cash advance – liberty capital for \$250 – owing \$398

KNR03475

Client understands he is not getting any money – all going to his kid – they will not allow him to receive any money

We are paying everyone in full on this – hospitals and all
Settled \$11k
T&C \$2138
Ghoub \$2060
KNR \$2750 25%
\$2615.88 to Child support

I do not want to bring up to child support the cash advance and screw up the deal with us getting our fee and bills being paid

Should I tell ciro – tough luck – add child support liens to your questionnaire?

Should I pay him the principal \$250 from our fee from business account since we are taking full fee?

Could we cut Ghoub \$250 and pay ciro indirectly?

Not sure how to handle it.

KNR03476

IN THE COURT OF COMMON PLEAS
SUMMIT COUNTY, OHIO

MEMBER WILLIAMS, <i>et al.</i> , Plaintiffs, vs. KISLING, NESTICO & REDICK, LLC, <i>et al.</i> , Defendants.	Case No. 2016-CV-09-3928 Judge James A. Brogan
DEFENDANTS' FIRST AMENDED RESPONSES TO PLAINTIFFS' SECOND SET OF INTERROGATORIES	

Pursuant to Rule 33 of the Ohio Rules of Civil Procedure, Defendants Kisling, Nestico & Redick, LLC ("KNR"), Alberto R. Nestico, and Robert Nestico (collectively "Defendants") object and respond as follows to Plaintiffs' Second Set of Interrogatories ("Interrogatories"):

GENERAL OBJECTIONS

1. Defendants object to Plaintiffs' Interrogatories to the extent that they seek information protected by the attorney-client privilege, work product doctrine, the joint defense and common interest privilege, and other applicable privileges and rules. Specifically, some requests of Plaintiffs' Interrogatories seek information and communications between Plaintiffs and KNR and between putative class members and KNR that are protected by the attorney-client privilege, work product doctrine, ethical and professional rules governing attorneys, or other applicable privileges. By filing this

lawsuit and attaching the Settlement Statement to the Class Action Complaint, Plaintiffs have waived the attorney-client privilege and all other applicable privileges, as those privileges apply to only them, and not to putative class members.

2. Defendants object to the "Instructions" and "Definitions" preceding Plaintiffs' Interrogatories on the grounds that they are vague, ambiguous, seek irrelevant information not reasonably calculated to lead to the discovery of admissible evidence, and seek to impose obligations on Defendants that are greater than, or inconsistent with, those obligations imposed by the Ohio Rules of Civil Procedure. Defendants will respond to these Interrogatories in accordance with its obligations under the Ohio Rules of Civil Procedure.

3. Defendants object as overly broad and unduly burdensome to the extent that an interrogatory seeks information and documents relating to Medical Service Providers or Chiropractors other than Akron Square Chiropractic ("ASC").

4. Defendants object as overly broad and unduly burdensome to the extent an interrogatory seeks information and documents relating to Litigation Finance Companies other than Liberty Capital Funding, LLC ("Liberty Capital").

5. Defendants object that there are no date limitations on these interrogatories, which makes them overly broad and unduly burdensome.

6. Defendants object to the extent that interrogatories are based on illegally obtained documents. Plaintiff should not be able to take advantage of the illegally obtained documents. *See Raymond v. Spirit AeroSystems Holdings, Inc.*, Case No. 16-1282-JTM-GEB, 2017 U.S. Dist. LEXIS 101926 (D. Kan. June 30, 2017).

7. Defendants object that the terms "investigation fee," "investigative fee," and "investigatory fee" are vague, ambiguous, and undefined. Defendants will interpret these terms to mean the flat fee paid to investigators by KNR that are similar to the \$50 fee paid to MRS Investigations, Inc. in Plaintiff Williams' case. All of Defendants' answers to interrogatories involving these terms are based on Defendants' definition of those terms as outlined above.

8. Defendants object to the extent that the interrogatory seeks information relating to other clients it is unduly burdensome, overly broad, and premature.

9. Defendants reserve their right to amend their responses to these Interrogatories.

10. Defendants deny all allegations or statements in the Interrogatories, except as expressly admitted below.

11. These "General Objections" are applicable to and incorporated in each of Defendants' responses to the Interrogatories. Moreover, Defendants' responses are made subject to and without waiving these objections. Failing to state a specific objection to a particular Interrogatory should not be construed as a waiver of these General Objections.

12. Defendants' discovery responses are made without a waiver of, and with preservation of:

- a. All questions as to competency, relevancy, materiality, privilege, and admissibility of the responses and the subject matter thereof as evidence for any purpose in any further proceedings in this action and in any other action;
- b. The right to object to the use of any such responses or the subject matter thereof, on any ground in any further proceedings of this action and in any other action;

- c. The right to object on any ground at any time to a demand or request for a further response to the requests or other discovery involving or relating to the subject matter of the Interrogatories herein responded to;
- d. The right at any time to revise, correct, add to, supplement, or clarify any of the responses contained herein and to provide information and produce evidence of any subsequently discovered facts;
- e. The right to assert additional privileges; and
- f. The right to assert the attorney-client privilege, attorney work product doctrine, or other such privilege as to the discovery produced or the information obtained therefrom, for any purpose in any further proceedings in this action and in any other action.

ANSWERS TO MEMBER WILLIAMS' INTERROGATORIES

1. Identify all of the "documents" on which Chuck DeRemer sought to obtain Member Williams' "required signatures" as described in Defendants' response to Interrogatory No. 2 in Plaintiff Williams' First Set of Interrogatories.

RESPONSE: Defendants identify the Contingency-Fee Agreement and the Patient Authorization Form, and proof of representation for Medicare if necessary.

2. Identify all of the "additional documents, and photographs" that Chuck DeRemer sought to obtain from Member Williams as described in Defendants' response to Interrogatory No. 2 in Plaintiff Williams' First Set of Interrogatories.

RESPONSE: Defendants state that Mr. De Remer would have sought to take photographs of the damaged car and injuries to Ms. Williams, if any. In addition, Mr. DeRemer would have sought insurance information (e.g. medical insurance card, auto insurance card, other paperwork the client may have) and documents (e.g., Contingency-Fee Agreement, Proof of Representation (Medicare), and Patient Authorization Form).

3. Identify all of the "information" that Chuck DeRemer sought to obtain from Member Williams as described in Defendants' response to Interrogatory No. 5 in Plaintiff Williams' First Set of Interrogatories.

RESPONSE: Defendants refer Plaintiffs to their response to Interrogatory No. 2, above. In addition, after reviewing the intake, Chuck DeRemer may have sought the Social Security number, date of birth, and date of loss, if missing from the intake.

4. Identify whether any of the "documents" and "information" that Chuck DeRemer sought to obtain from Member Williams as described in Defendants' response to Interrogatories No. 2 and 5 in Plaintiff Williams' First Set of Interrogatories were otherwise obtained by KNR by other means, and identify the means by which such "documents" and "information" were obtained.

RESPONSE: Defendants state that they obtained the photographs of the damage to the car and Patient Authorization Form from Ms. Williams through Jill Gardner.

ANSWERS TO NAOMI WRIGHT'S INTERROGATORIES

5. Identify any training, policy or procedure provided to KNR intake lawyers as to how and when to refer new clients to Medical Service Providers.

RESPONSE: Defendants state that there are no specific training, policies, or procedures regarding how and when to refer new clients to a Medical Service Provider. Such decisions are made by the handling lawyer on a case-by-case basis after evaluating the client's injury. In all probability, most referrals are done verbally at or near the time of the initial contact.

6. Identify any training, policy or procedure provided to KNR intake lawyers regarding how to decide what Medical Service Provider, if any, a new client should be referred to.

RESPONSE: Defendants state that there are no specific training, policies, or procedures regarding how to decide what Medical Service Provider, if any, a new client should be referred to. Referrals to Chiropractors for soft tissue injuries are generally made based upon the proximity of the Chiropractor to the residence of the client. Referrals for other injuries are generally made by the client's primary care physician. KNR when possible vetted Chiropractors individually by questioning (including, but not limited to, do they negotiate rates, do they sue patients, do they accept letters of protection, will they testify at trial, will they author medical reports, the existence of other medical providers depending on the type and severity of the injury, client's desires, etc.) the Chiropractors in a face-to-face meeting. In addition, Defendants state that referrals are monitored for marketing purposes, business development, and to ensure compliance with ethical obligations prohibiting a quid pro quo relationship.

7. Identify the process, including any request for proposal ("RFP") process, by which KNR has determined which Medical Service Providers best suit its clients' needs.

RESPONSE: Defendants state they are unaware of the existence of any "request for proposal" process as contemplated by this request. See also the answer to Interrogatory Nos. 5 and 6, above.

8. Identify every Medical Service Provider with whom any Defendant has a reciprocal referral agreement.

RESPONSE: Defendants state that they have no agreement, including a "reciprocal referral agreement" with any Medical Service Provider. Responding further and by way of explanation, Defendants state that referrals are monitored for marketing purposes, business development, and to ensure compliance with ethical obligations prohibiting a quid pro quo relationship.

9. Identify every Medical Service Provider with whom any Defendant has agreed that the Medical Service Provider may prepare a narrative report and/or charge a narrative fee without first obtaining authorization from the KNR attorney on the case.

RESPONSE: Defendants state that KNR paralegals or attorneys will automatically request narrative reports from ASC, with exceptions. Defendants further state that the decision not to obtain a narrative report from ASC depends on various factors, including without limitation, the nature of the injuries involved, the value of the case, whether the injury is to a minor under 12, local court rules, cost of report, and the specific needs and requirements of the adjuster handling the case.

10. Identify every Medical Service Provider to whom KNR guarantees payment for services rendered on any cases referred.

RESPONSE: Defendants state that KNR does not make such guarantees to any Medical Service Provider.

11. Identify any policy, procedure, training or other criteria provided to KNR attorneys to use in determining whether or not to solicit a narrative report from a chiropractor.

RESPONSE See answer to No. 9. Defendants further state that the decision not to obtain a narrative report from ASC depends on various factors, including without limitation, the nature of the injuries involved, the value of the case, whether the injury is to a minor under 12, local court rules, cost of report, and the specific needs and requirements of the adjuster handling the case.

12. Identify any client complaints regarding KNR's relationship with any Medical Service Provider including the nature of the complaint, the date of the complaint and the Medical Service Provider relationship to which the complaint related.

RESPONSE: Objection. Defendants object that the terms "complaints" and "relationship" are vague, ambiguous, and undefined. Defendants further object that this interrogatory is overly broad and unduly burdensome in that it seeks documents relating to Medical Service Providers other than ASC. Subject to and without waiving these objections, Defendants state that it is not aware of any complaints described above.

13. Identify every Medical Service Provider to or for whom any Defendant has paid any non-case-related expense including, but not limited to, travel, lodging, meals or entertainment.

RESPONSE: Objection. Defendants object that the term "non-case-related expense" is vague, ambiguous, and undefined. Defendants further object that this interrogatory is overly broad and unduly burdensome in that it seeks information and documents relating to Medical Service Providers other than ASC. Subject to and without waiving these objections, Defendants have on a few occasions paid for group meals and drink that involve ASC representatives. Any travel and lodging expenses paid by KNR were reimbursed by ASC.

14. Identify any payment - including the payee, the amount, the purpose and the date of such payment - made to any Medical Service Provider for any non-case related expense.

RESPONSE: Objection. Defendants object that the term "non-case-related expense" is vague, ambiguous, and undefined. Defendants further object that this interrogatory is overly broad and unduly burdensome in that it seeks information and documents relating to Medical Service Providers other than ASC. Subject to and without waiving these objections, Defendants state that KNR never made such payments.

15. Identify all persons—including their true, full and correct names, employers, positions, supervisors, and present addresses and phone numbers—who is now or at any time was responsible for developing or maintaining KNR's relationships with chiropractors

RESPONSE: Defendants state that Mr. Nestico, Holly Wilson, Brandy Gobroggi, and Alex Van Allen are, or have been, responsible for working with Chiropractors.

16. Identify all disclosures made to Naomi Wright regarding KNR's ongoing business/referral relationship with Akron Square Chiropractic.

RESPONSE: Defendants state that conversations with clients regarding ASC vary greatly. Defendants further state that it is more likely than not that there was some discussions with Naomi Wright of a relationship between KNR and ASC.

17. Identify the date on which you became aware of the lawsuits by insurance companies against Plambeck-owned chiropractic clinics discussed in Paragraph 36 of the Second Amended Complaint.

RESPONSE: Defendants likely found out about these cases in or around the beginning of 2012.

18. Identify the criteria by which KNR or Nestico selected the attendees of the trip to Cancun discussed in Paragraph 43 of the Second Amended Complaint.

RESPONSE: Defendants state this was a firm trip for the benefit of the attorneys. Some medical providers were asked to attend, while other medical providers asked to attend. There was no criteria.

19. State, with as much particularity as possible, what percentage of KNR's client representations ultimately result in all the client's medical bills related to the subject of the representation being repaid in full.

RESPONSE: Objection. Defendants object that the phrases "as much particularity as possible" and "repaid in full" are vague, ambiguous, and undefined. Defendants object that this interrogatory is overly broad and unduly burdensome in that it seeks information and documents relating to Medical Service Providers other than ASC. Defendants further object that this interrogatory is unduly burdensome and overly broad in asking for a calculation that goes back years and requires a review of thousands of files. Subject to and without waiving these objections, Defendants state that there are no means by which to reasonably calculate the requested percentage. In addition, KNR, with respect to all healthcare providers, generally negotiates a reduction in a client's medical bills whenever possible and feasible.

20. State, with this much particularity as possible, what percentage of KNR's client representations that result from a referral from a Medical Service Provider ultimately result in the referring Medical Service Provider's bills being paid in full.

RESPONSE: Objection. Defendants object that the phrases "this much particularity as possible" and "paid in full" are vague, ambiguous, and undefined. Defendants also object that this interrogatory is overly broad and unduly burdensome in that it seeks information and documents relating to Medical Service Providers other than ASC. Defendants further object that this interrogatory is unduly burdensome and overly broad in asking for a calculation that goes back years and requires a review of thousands of files. Subject to and without waiving these objections, Defendants state that there are no means by which to reasonably calculate the requested percentage. In addition, KNR, with respect to all healthcare providers, generally negotiates a reduction in a client's medical bills whenever possible and feasible.

21. State, with as much particularity as possible, what percentage of medical services provided to KNR clients by ACS for injuries related to the representation are ultimately paid in full.

RESPONSE: Objection. Defendants object that the phrases "as much particularity as possible" and "paid in full" are vague, ambiguous, and undefined. Defendants also object that this interrogatory is overly broad and unduly burdensome in that

it seeks information and documents relating to Medical Service Providers other than ASC. Defendants object that this interrogatory is unduly burdensome and overly broad in asking for a calculation that goes back years and requires the review of hundreds of files. Subject to and without waiving these objections, Defendants state that there are no means by which to reasonably calculate the requested percentage. In addition, KNR generally negotiates a reduction in a client's medical bills whenever possible and feasible.

22. Identify all Medical Service Providers with whom any Defendant has entered a confidentiality agreement.

RESPONSE: Objection. Defendants object that the term "confidentiality agreement" is vague, ambiguous, and undefined. Defendants also object that this interrogatory is overly broad and unduly burdensome in that it seeks information and documents relating to Medical Service Providers other than ASC. Subject to and without waiving this objection, Defendants state that, other than the confidentiality agreement in the resolution of the Fonner lawsuit, that it has not entered into any confidentiality agreement with any Medical Service Providers, including ASC.

23. Identify all civil lawsuits to which any Defendant has been party against any Medical Service Provider or other attorney or law firm, including attorneys who work or worked for KNR.

RESPONSE: Objection. Defendants object that this interrogatory seeks irrelevant information that is not likely to lead to the discovery of admissible evidence. Subject to and without waiving this objection, Defendants identify the following cases: (1) *Kisling Nestico & Redick, LLC v. James E. Fonner*, Franklin County Common Pleas Case No. 15-CV-003216 and KNR's lawsuit against Robert Horton in Summit County; (2) a KNR lawsuit against Jay Linnen in Summit County Court of Common Pleas, Case No. CV-2014-04-1937; (3) *Eshelman Legal Group v. Kisling Legal Group*, Case No. CV-2005-03-1717; and (4) the KNR lawsuit against Robert Horton.

24. Identify all persons—including their true, full and correct names, employers, positions, supervisors, and present addresses and phone numbers—who were paid for or performed any "investigations" relating to Naomi Wright as described in Defendants' responses to Interrogatories No. 2–5 in Plaintiff Williams' First Set of Interrogatories.

RESPONSE: Defendants state AMC Investigations, Inc. performed investigative services relating to Ms. Wright.

25. Identify every topic and objective of any such investigation relating to your response to the immediately preceding Interrogatory, including all tasks performed by the investigator, every piece of information that was sought or discovered in the investigation, and every document for which any investigator

sought Ms. Williams' signature.

RESPONSE: Objection. Defendants object that this interrogatory seeks information relating to a putative class member about Class A (the Investigation Fee Class). Ms. Wright is not the class representative of Class A, but rather a putative class member and Defendants are not required to provide discovery regarding putative class members until there is a certified class.

26. Identify all facts, policies, procedures or determinations that led to KNR terminating the employment of Gary Petti.

RESPONSE: Defendants state that Mr. Petti's performance did not meet the high standard of KNR. By way of example only, Mr. Petti did not return client calls, did not handle afterhours intake, was often absent without notification, and had a poor work attitude.

27. Identify all facts, policies, procedures or determinations that led to KNR terminating the employment of Robert Horton.

RESPONSE: Defendants state that Mr. Horton stole documents and breached his confidentiality agreement. In addition, Mr. Horton tried to set up a competitive firm and recruit KNR attorneys.

28. Identify all payments of any kind made to "Attorney at Law Magazine," including by payment amount and the service received for any payment, including advertising.

RESPONSE: Objection. Defendants object that this interrogatory seeks irrelevant information that is not likely to lead to the discovery of admissible evidence.

29. Identify all conversations that led to KNR having been featured as "Law Firm of the Month" in Volume 3, Section 6 of "Attorney at Law Magazine," including by identifying who initiated the conversations, the dates of any such conversations, and who took part in them.

RESPONSE: Objection. Defendants object that this interrogatory seeks irrelevant information that is not likely to lead to the discovery of admissible evidence.

Answers to MATTHEW JOHNSON'S INTERROGATORIES

30. Identify all disclosures made to Matthew Johnson regarding KNR's ongoing business/referral relationship with Liberty Capital Funding.

RESPONSE: Defendants state that in response to Mr. Johnson's request for contact information regarding a potential lender, KNR provided him with information regarding Preferred Capital Funding ("PCF"). Defendants are not aware that Mr. Johnson followed up on this information. Subsequently when Mr. Johnson inquired regarding a loan, he was provided Liberty Capital's contact

information. Defendants further state that Liberty Capital was one of multiple lenders referred by KNR at various times.

31. Identify the process, including any request for proposal ("RFP") process, by which KNR has determined which Litigation Finance Company's products best suit its clients' needs.

RESPONSE: Defendants state they are unaware of the existence of any "request for proposal" process as contemplated by this request. Defendants further state the Litigation Finance Companies have made presentations to KNR attorneys regarding their companies. In addition, KNR's decision to provide information on a Litigation Finance Company depended on the specific facts of the matter or case and was based on KNR's experience with the Litigation Finance Company.

32. Please identify the criteria considered in any RFP or similar process identified in response to the Interrogatory above.

RESPONSE: Defendants state they are unaware of the existence of any "request for proposal" process as contemplated by this request. Defendants further state that there is no set criteria. In addition, depending on the facts of the case, KNR attorneys consider the following factors, among others: (1) the amount of money at issue in the case; (2) amount of money sought for the loan; (3) ability to negotiate a reduction in the repayment of the loan; and (4) standards and underwriting criteria of the loan company.

33. Identify by name and business address every Litigation Finance Company Defendants have instructed their lawyers or other employees to recommend to clients at any point in time.

RESPONSE: Defendants identify the following companies: Oasis Financial (9525 W. Bryn Mawr Ave Suite 900, Rosemont, IL, 60018), Preferred Capital (200 Public Square Suite 160, Cleveland, OH 44114), Liberty Capital (address previously disclosed).

34. Identify any financial or business benefit to any Defendant—beyond the service provided to KNR's clients—of KNR's relationship with any Litigation Finance Company including the type of benefit, the amount of the benefit and from what Litigation Finance Company it was received.

RESPONSE: Defendants state that they have received no financial, business, or any other form of benefit from any Litigation Finance Company.

35. Identify any payments made to or from any Defendant by Liberty Capital Funding or Ciro Cerrato that were not directly associated with a specific client matter.

RESPONSE: Defendants state that there were no such payments.

36. Identify any payments made to or from any Defendant to any Litigation Finance Company that were not directly associated with a specific client matter.

RESPONSE: Objection. Defendants object as overly broad and unduly burdensome in that this interrogatory seeks information and documents relating to Litigation Finance Companies other than Liberty Capital Funding. Defendants also object that this interrogatory assumes that defendants made payments to Litigation Finance Companies that were not directly associated with a specific client matter. Defendants deny such an assumption. In addition, Defendants object that "not directly associated with as specific client matter" is vague and ambiguous. Subject to and without waiving this objection, Defendants state that there were no such payments.

37. Identify all client complaints regarding Liberty Capital Funding.

RESPONSE: Objection. Defendants object that the term "complaints" is vague, ambiguous, and undefined. Subject to and without waiving these objections, Defendants state that they are unaware of any formal or specific client complaints regarding Liberty Capital Funding.

38. State, with as much particularity as possible, what percentage of KNR's client representations ultimately result in a settlement.

RESPONSE: Objection. Defendants object that the phrase "as much particularity as possible" is vague, ambiguous, and undefined. Defendants further object that this interrogatory seeks irrelevant information that is not likely to lead to the discovery of admissible evidence. Subject to and without waiving these objections, Defendants roughly estimate that around 80% of matters result in settlement. This is not an exact calculation.

39. State, with this much particularity as possible, what percentage of KNR's client representations ultimately result in all advances from Litigation Funding Companies being repaid in full.

RESPONSE: Objection. Defendants object that the phrases "this much particularity as possible" and "repaid in full" is vague, ambiguous, and undefined. Defendants also object as overly broad and unduly burdensome in that this interrogatory seeks information and documents relating to Litigation Finance Companies other than Liberty Capital Funding. Defendants further object that this interrogatory is unduly burdensome and overly broad in asking for a calculation that goes back years and requires the review of hundreds of files. Subject to and without waiving these objections, Defendants state that there are no means to reasonably calculate the requested percentage.

40. State, with this much particularity as possible, what percentage of litigation funding advances provided to KNR clients is ultimately repaid.

RESPONSE: Objection. Defendants object that the term “litigation funding advances” and the phrases “this much particularity as possible” and “ultimately repaid” are vague, ambiguous, and undefined. Defendants also object as overly broad and unduly burdensome in that this interrogatory seeks information and documents relating to Litigation Finance Companies other than Liberty Capital Funding. Defendants further object that this interrogatory is unduly burdensome and overly broad in asking for a calculation that goes back years and requires the review of hundreds of files. Subject to and without waiving these objections, Defendants state that there are no means to reasonably calculate the requested percentage.

41. State, with this much particularly as possible, what percentage of litigation funding advances provided to KNR clients by Liberty Capital Funding was ultimately repaid.

RESPONSE: Objection. Defendants object that the term “litigation funding advances” and the phrases “this much particularity as possible” and “ultimately repaid” are vague, ambiguous, and undefined. Defendants further object that this interrogatory is unduly burdensome and overly broad in asking for a calculation that goes back years. Subject to and without waiving these objections, Defendants state that there are no means to reasonably calculate the requested percentage.

42. Identify all persons—including their true, full and correct names, employers, positions, supervisors, and present addresses and phone numbers—with knowledge of the facts, claims, counterclaims, or defenses alleged in this case and identify the relevant subject matter of each person’s relevant knowledge known to you.

RESPONSE: Defendants identify the following individuals: Rob Nestico, Ciro Cerrato, Mark Lindsey, Brandy Gobroggi, Holly Tusko, Kimberly Lubrani, Jill Gardner, Aaron Czetli, Michael Simpson, Johnson, Paul Steele, Robert Horton, Jenna Wiley Wright, Divin Oddo. In addition, attorneys and paralegals over the years would have knowledge of some of the facts and allegations in this case. These individuals are employees of KNR, who are represented by counsel. Please contact these individuals through KNR’s counsel.

43. Identify every current or former KNR attorney or employee who raised questions or made complaints about the practices that are the subject of the Second Amended Complaint, including those relating to payments to investigators, Medical Service Provider referrals, or Litigation Finance Company referrals, including but not limited to questions conveyed orally, documented within electronic or hard-copy correspondence, fee-disputes through bar associations, or civil lawsuits filed against any Defendant.

RESPONSE: Objection. Defendants object that the terms “raised questions” and “complaints,” “Medical Service Provider referrals,” and “Litigation Finance

Company referrals" are vague, ambiguous, and undefined. Subject to and without waiving these objections, Defendants state that they are unaware of any formal or specific complaint relating to investigators, Medical Service Provider referrals, or Litigation Finance Company referrals.

44. Identify every non-KNR attorney or employee, including any current or former clients, or third parties, who raised questions or made complaints about the practices that are the subject of the Second Amended Complaint, including those relating to payments to investigators, Medical Service Provider referrals, or Litigation Finance Company referrals, including but not limited to questions conveyed orally, documented within electronic or hard-copy correspondence, fee-disputes through bar associations, or civil lawsuits filed against any Defendant.

RESPONSE: Objection. Defendants object that the terms "raised questions" and "complaints" "Medical Service Provider referrals," and "Litigation Finance Company referrals" are vague, ambiguous, and undefined. Subject to and without waiving these objections, Defendants state that they are unaware of any formal or specific complaint relating to investigators, Medical Service Provider referrals, or Litigation Finance Company referrals. The one exception would be the Cunningham lawsuit. Responding further, there may be informal and unspecified questions or complaints about the allegations in the Second Amended Complaint that were published on various online formats.

45. Identify all civil lawsuits to which any Defendant has been party against any Litigation Finance Company or other attorney or law firm, including attorneys who work or worked for KNR.

RESPONSE: Objection. Defendants object that this interrogatory seeks irrelevant information that is not likely to lead to the discovery of admissible evidence. Defendants further object that this Interrogatory is compound. Subject to and without waiving this objection, Defendants refer Plaintiffs to Defendants' Response to Interrogatory No. 23.

46. Identify all persons – including their true, full and correct names, employers, positions, supervisors, and present addresses and phone numbers—who were paid for or performed any "investigations" relating to Matthew Johnson as described in Defendants' responses to Interrogatories No. 2–5 in Plaintiff Williams' First Set of Interrogatories.

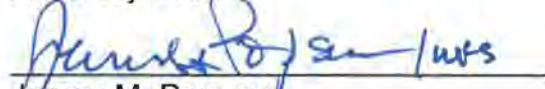
RESPONSE: Defendants state MRS Investigations, Inc. performed investigative services relating to Mr. Johnson.

47. Identify every topic and objective of any such investigation relating to your response to the immediately preceding Interrogatory, including all tasks performed by the investigator, every piece of information that was sought or discovered in the investigation, and every document for which any investigator

sought Mr. Johnson's signature.

RESPONSE: Defendants state that, among other things, the services and work performed by MRS Investigations, Inc. ("MRS") for Mr. Johnson included, without limitation, having a MRS representative meet with Mr. Johnson on February 19, 2012 to obtain required signatures on documents, including a fee agreement and medical authorizations. MRS additionally obtained medical records from Summa Health and obtained and reviewed the police report from the Summit County Sheriff's office. This list may not be exhaustive, as it is often the case that not all tasks performed by investigators are noted in the client file. Depending on the case or matter, MRS and other investigators provide other services, including, without limitation: pick up police reports, addendums and photos; take accident scene photos; take or obtain property damage photos at body shops; take or obtain photos of client injuries; obtain medical records and bills; obtain regular and/or certified copies from courts and agencies; locate witnesses and obtained statements; deliver and obtain execution of documents including but not limited to medical authorizations, IRS authorizations, powers of attorney, and settlement agreements and releases after the client's consultation with his attorney; pick up and drop off settlement checks; perform "door knocks" at the suspected residence of clients who have failed to respond to KNR's attempts to contact them by phone, email and/or mail; serve 180-day letters and subpoenas; file pleadings and briefs as needed; and perform other litigation-related investigations.

As to objections,


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Respectfully submitted,


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CERTIFICATE OF SERVICE

A copy of the foregoing Defendants' First Amended Responses to Plaintiffs' Second Set of Interrogatories was sent this 31st day of August, 2018 to the following via electronic Mail:

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IN THE COURT OF COMMON PLEAS
SUMMIT COUNTY, OHIO

MEMBER WILLIAMS, <i>et al.</i> , Plaintiffs, vs. KISLING, NESTICO & REDICK, LLC, <i>et al.</i> , Defendants.	Case No. 2016-CV-09-3928 Judge James A. Brogan
DEFENDANTS' FIRST AMENDED OBJECTIONS AND ANSWERS TO PLAINTIFFS' FIRST REQUEST FOR INSPECTION, THIRD SET OF INTERROGATORIES, THIRD SET OF REQUESTS FOR ADMISSION, AND FIFTH SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS	

Pursuant to Rules 33, 34 and 36 of the Ohio Rules of Civil Procedure, Defendants Kisling, Nestico & Redick, LLC ("KNR"), Alberto R. Nestico, and Robert Redick (collectively "Defendants") object and respond as follows to Plaintiffs' First Request for Inspection, Third Set of Interrogatories, Third Set of Requests for Admission, and Fifth Set of Requests for Production of Documents ("Discovery Requests"):

GENERAL OBJECTIONS

1. Defendants object to Plaintiffs' Discovery Requests to the extent that they seek information protected by the attorney-client privilege, work product doctrine, the joint defense and common interest privilege, and other applicable privileges and rules. Specifically, some requests of Plaintiffs' Discovery Requests seek information and

communications between Plaintiffs and KNR and between putative class members and KNR that are protected by the attorney-client privilege, work product doctrine, ethical and professional rules governing attorneys, or other applicable privileges. By filing this lawsuit, Plaintiffs have waived the attorney-client privilege and all other applicable privileges, as those privileges apply to only them, and not to putative class members.

2. Defendants object to the "Instructions" and "Definitions" preceding Plaintiffs' Discovery Requests on the grounds that they are vague, ambiguous, seek irrelevant information not reasonably calculated to lead to the discovery of admissible evidence, and seek to impose obligations on Defendants that are greater than, or inconsistent with, those obligations imposed by the Ohio Rules of Civil Procedure. Defendants will respond to these Discovery Requests in accordance with its obligations under the Ohio Rules of Civil Procedure.

3. Defendants object as overly broad and unduly burdensome to the extent that a discovery request seeks information relating to Medical Service Providers or Chiropractors other than Akron Square Chiropractic ("ASC").

4. Defendants object as overly broad and unduly burdensome to the extent a discovery request seeks information relating to Litigation Finance Companies other than Liberty Capital Funding, LLC ("Liberty Capital").

5. Defendants object as overly broad and unduly burdensome to the extent a discovery request seeks information relating to investigators other than Aaron Czetli and his company AMC Investigations and Michael Simpson and his company MRS Investigations.

6. Defendants object to the extent that requests are based on illegally obtained documents. Plaintiff should not be able to take advantage of the illegally obtained documents. See *Raymond v. Spirit AeroSystems Holdings, Inc.*, Case No. 16-1282-JTM-GEB, 2017 U.S. Dist. LEXIS 101926 (D. Kan. June 30, 2017).

7. Defendants object that the terms "investigation fee," "investigative fee," and "investigatory fee" are vague, ambiguous, and undefined. Defendants will interpret these terms to mean the flat fee paid to investigators by KNR that are similar to the \$50 fee paid to MRS Investigations, Inc. in Plaintiff Williams' case. All of Defendants' answers to requests involving these terms are based on Defendants' definition of those terms as outlined above.

8. Defendants state that they and the firm's IT vendor cannot conduct Boolean searches.

9. Defendants object that the Discovery Requests are overly broad and unduly burdensome in that there are no date limitations on the requests.

10. Defendants reserve their right to amend their responses to these Discovery Requests.

11. Defendants deny all allegations or statements in the Discovery Requests, except as expressly admitted below.

12. These "General Objections" are applicable to and incorporated in each of Defendants' responses to the Discovery Requests. Moreover, Defendants' responses are made subject to and without waiving these objections. Failing to state a specific objection to a particular Discovery Request should not be construed as a waiver of these General Objections.

13. Defendants' discovery responses are made without a waiver of, and with preservation of:

- a. All questions as to competency, relevancy, materiality, privilege, and admissibility of the responses and the subject matter thereof as evidence for any purpose in any further proceedings in this action and in any other action;
- b. The right to object to the use of any such responses or the subject matter thereof, on any ground in any further proceedings of this action and in any other action;
- c. The right to object on any ground at any time to a demand or request for a further response to the requests or other discovery involving or relating to the subject matter of the Discovery Requests herein responded to;
- d. The right at any time to revise, correct, add to, supplement, or clarify any of the responses contained herein and to provide information and produce evidence of any subsequently discovered facts;
- e. The right to assert additional privileges; and
- f. The right to assert the attorney-client privilege, attorney work product doctrine, or other such privilege as to the discovery produced or the information obtained therefrom, for any purpose in any further proceedings in this action and in any other action.

REQUEST FOR INSPECTION (KNR DEFENDANTS ONLY)

1. Under Civ.R. 34, Plaintiffs request to inspect and test all systems or databases in Defendants' custody or control on which any and all of the KNR Defendants' emails are stored. This includes any internet-based or cloud-based system or database to which the KNR Defendants have access through a third-party vendor and any storage system or database to which emails have been moved for any reason, including for preservation or searching. The purposes of this inspection and test are as follows: 1) to determine the search functionality of the systems or databases on which the KNR Defendants' emails are stored; 2) to determine the veracity of the KNR Defendants' repeated claims—including at the November 2 meet and confer between counsel, and in Brian Roof's November 15, 2017 letter—that routine email searches including essential terms at issue in this lawsuit would somehow "crash the system" used by the KNR Defendants to store emails (see Nov. 15 Roof letter at 2); 3) to determine the veracity of the KNR Defendants' other representations relating to email searches it has performed in

response to Plaintiffs' requests; and 4) more broadly, to further documentary discovery in this case consistent with the Civil Rules. This inspection and test may take place at the KNR Defendants' offices, or any place of Defendants' choosing where such systems or databases may be accessed and searched. This inspection and test shall take place at the same time as the 30(b)(5) deposition that Plaintiffs noticed on September 7, 2017 and shall be recorded by a qualified Notary Public by video and stenographic means.

RESPONSE: Objection. Defendants object to this request as unduly burdensome, disproportionate to the needs of the case, and completely unnecessary. They further object that the request is only being asked to harass Defendants. Defendants also object that this request seeks proprietary and confidential information that even the protective order is not sufficient to protect. This is especially true since Plaintiffs' law firm is a newly formed law firm that competes directly with KNR and granting Plaintiffs' attorneys access to KNR's document system and database would be unfairly prejudicial and detrimental to its business. In addition, this request would allow for the review of information and documents protected by the attorney-client privilege and work product. The Rule 30(B)(5) deposition should be sufficient to answer all of Plaintiffs' questions outlined above (1-4) regarding KNR's document system and database.

INTERROGATORIES (ALL DEFENDANTS)

1. Identify all bank accounts that you use or have used for any purpose whatsoever since 2008, business or personal, whether or not the account is in your name, including by the name of the account holder, the type of account, the purpose of the account, the account number, and the bank name and address. This includes all accounts to which you have deposited or from which you have withdrawn funds, or to or from which anyone has done so on your behalf.

RESPONSE: Objection. Defendants object that this interrogatory seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence, especially the request regarding the personal bank accounts. Defendants further object that this interrogatory is simply being posed to harass Defendants, especially the request regarding the personal bank accounts. In addition, Defendants object that this interrogatory is overly broad and unduly burdensome in that it requests information dating back to 2008 and requests the identity for bank accounts "used for any purpose whatsoever." The request is not even limited to the lawsuit. Defendants also object that this request seeks confidential and proprietary information that not even the protective order is sufficient to protect.

INTERROGATORIES (KNR DEFENDANTS ONLY)

2. Identify all bank accounts from which you paid "investigators" (including Aaron Czetli or AMC Investigations, Michael Simpson or MRS Investigations, Chuck Deremer, and the "investigators" identified in your third amended response to Plaintiffs' Interrogatory No. 1-8), including the name of the account holder, the type of account, the purpose of the account, the account number, and the bank name and address.

RESPONSE: Objection. Defendants object that this interrogatory generally seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence. Defendants also object that this interrogatory seeks information on investigators other than MRS and AMC. Defendants further object that this interrogatory is simply being posed to harass Defendants. In addition, Defendants object that this interrogatory is overly broad and unduly burdensome in that there is no date range. Defendants further object that this request seeks information relating to putative class members. As Defendants have previously stated, Plaintiffs are not entitled to discovery relating to putative class members until the case has been certified as a class action. Defendants also object that this request seeks confidential and proprietary information. Subject to and without waiving this objection, see document bates stamped KNR00021 for the check paid to MRS in Plaintiff Williams' case.

3. Identify all bank accounts (including the name of the account holder, the type of account, the purpose of the account, the account number, and the bank name and address) from which you paid "narrative fees" to any chiropractor or Medical Service Provider, including the narrative fees identified in your response to RFA No. 32, in Brian Roof's letter of November 15, 2017 at page 2, and in the KNR emails attached to Plaintiffs' motion for leave to file the Second Amended Complaint.

RESPONSE: Objection. Defendants object that this interrogatory generally seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence. Defendants also object that this interrogatory seeks information on Medical Service Providers other than ASC. Defendants further object that this interrogatory is simply being posed to harass Defendants. In addition, Defendants object that this interrogatory is overly broad and unduly burdensome in that it has no date range. Defendants further object that this request seeks information relating to putative class members. As Defendants have previously stated, Plaintiffs are not entitled to discovery relating to putative class members until the case has been certified as a class action. Defendants also object that this request seeks confidential and proprietary information.

4. Identify all changes in KNR's policies, procedures, or practices relating to the lawsuits by insurance companies against Plambeck-owned chiropractic clinics

discussed in Paragraph 38 of the Third Amended Complaint (See also Defendants' Response to Interrogatory 2-17).

RESPONSE: Objection. Defendants have already answered this interrogatory in its amended response to Plaintiffs' Fourth Set of Requests for Production No. 4. In addition, Defendants object that the terms "policies, procedures, or practices" are vague, ambiguous, and undefined. Subject to and without waiving these objections, Defendants, based on the information known to date, do not recall making any changes to its policies, procedures, or practices relating to the lawsuits by insurance companies against Plambeck-owned chiropractic clinics discussed in Paragraph 38 of the Third Amended Complaint.

5. Identify all steps taken to search for documents responsive to Plaintiffs' Request for Production No. 4-2 and reach the determination—as stated in Defendants' amended response to the request and Brian Roof's Nov. 15, 2017 letter—that "there are no responsive documents" to this Request, including the names and positions of all persons who participated and their specific roles in conducting this search and reaching this determination.

RESPONSE: Objection. Defendants object that this request seeks information protected by the attorney-client privilege and work product doctrine. Plaintiffs can ask a factual question at the deposition of any of KNR's witnesses about whether he or she searched for such documents, but the interrogatory as phrased seeks privileged information.

6. Identify all work performed for Defendants by investigators (including Aaron Czetli, Michael Simpson, Chuck Deremer, and those identified in your third amended response to Plaintiffs' Interrogatory No. 1-8) that did not relate to the pass-through "investigation" expense that was charged to KNR clients, and did not relate to any specific client file, such as stuffing promotional envelopes, decorating the office for the holidays, and running errands for Rob Nestico and other KNR personnel.

RESPONSE: Certain investigators, as independent contractors, have previously performed non-investigative work (such as stuffing envelopes, running errands, dropping off mailers, and picking up mail) for KNR that was unrelated to a specific client file. They performed this work when they were not acting as investigators on behalf of KNR's clients and were paid separately for these non-investigative activities. Payments for such activities were not charged to any KNR client.

REQUESTS FOR ADMISSION (KNR DEFENDANTS ONLY)

1. Admit that KNR did not make any changes to its policies, procedures, or practices regarding chiropractic referrals relating to the lawsuits by insurance companies against Plambeck-owned chiropractic clinics discussed in Paragraph 38 of the Third Amended Complaint (*See also* Defendants' Response to Interrogatory 2-17).

RESPONSE: Defendants admit this request to the extent that they are unaware of changes to KNR policies, procedures, or practices regarding chiropractic referrals relating to any lawsuit by an insurance company against Plambeck-owned chiropractic clinics discussed in Paragraph 38 of the Third Amended Complaint.

2. Admit that no Defendant is in possession of any documents reflecting, discussing, or considering changes (or the consideration or discussion of such changes) to KNR policies, procedures, or practices regarding chiropractic referrals relating to the lawsuits by insurance companies against Plambeck-owned chiropractic clinics discussed in Paragraph 38 of the Third Amended Complaint (*See also* Defendants' Response to Interrogatory 2-17).

RESPONSE: Based on currently available information, Defendants admit this request to the extent that they are unaware of possessing any documents reflecting, discussing, or considering changes to KNR policies, procedures, or practices regarding chiropractic referrals relating to the lawsuits by insurance companies against Plambeck-owned chiropractic clinics discussed in Paragraph 38 of the Third Amended Complaint *See also* Response to RFA No. 1, above.

3. Admit that Defendants' representation that "there are no responsive documents" to Plaintiffs' Request for Production of Documents No. 4-2—including in Plaintiffs' Amended Response to that Request and in Brian Roof's November 15, 2017 letter—is false.

RESPONSE: Deny. Defendants do not recall any documents responsive to Request for Production of Documents No. 4-2. *See* Response RFA Nos. 1 and 2.

4. Admit that some of the investigators (including Aaron Czetli, Michael Simpson, Chuck Deremer, and those identified in your third amended response to Plaintiffs' Interrogatory No. 1-8) regularly performed work for Defendants that did not relate to the pass-through "investigation" expense that was charged to KNR clients, and did not relate to any specific client file, such as stuffing promotional envelopes, decorating the office for the holidays, and running errands for Rob Nestico and other KNR personnel.

RESPONSE: Defendants admit this request to the extent that certain investigators, as independent contractors, have previously performed non-investigative work (such as stuffing envelopes, and running errands, dropping off mailers, and picking up mail) for KNR that was unrelated to a specific client file, but deny the remainder of this request as phrased. See also response to Interrogatory No. 6, above.

REQUESTS FOR PRODUCTION OF DOCUMENTS (ALL DEFENDANTS)

Please produce the following documents:

1. All insurance policies that do or could conceivably provide coverage for the defense or payment of the claims at issue in this lawsuit, and documents sufficient to determine the full extent of any such coverage.

RESPONSE: See documents produced herewith, bates nos. KNR03970-KNR04000.

REQUESTS FOR PRODUCTION OF DOCUMENTS (KNR DEFENDANTS ONLY)

Please produce the following documents:

2. All documents relating to the lawsuits by insurance companies against Plambeck-owned chiropractic clinics discussed in Paragraph 38 of the Third Amended Complaint (See *also* Defendants' Response to Interrogatory 2-17) including all documents in which these lawsuits are discussed or mentioned in any way.

RESPONSE: Objection. This request seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence. In addition, this request is overly broad and unduly burdensome as the Plambeck lawsuits go back to 2012. Subject to and without waiving any objections, see Response to RFA Nos. 1-3. In addition, Defendants are currently unaware of any responsive documents and that searching for any unlikely potential email is unduly burdensome and overly broad.

3. All letters or documents by which KNR asserted liens on the proceeds of lawsuits of clients whose representation with KNR had ended, with any privileged information redacted (the name and address of any person receiving the lien letter cannot in any case be privileged, nor can the amount of the lien).

RESPONSE: Objection. Defendants object that this request seeks information relating to putative class members. As Defendants have previously stated, Plaintiffs are not entitled to discovery relating to putative class members until the case has been certified as a class action. In addition, this request seeks information outside the scope of Class B (Naomi Wright's class), which is specifically limited to cases referred to or from ASC. Subject to and without waiving these objections, Defendants will produce the seven letters for the seven potential clients who fall within Class B. KNR did not send a lien letter on one of the potential Class B members.

4. All documents consisting of, referring to, or reflecting any instance where Defendants advised a client as to the purpose of the investigation fee in writing (not including engagement agreements or settlement statements).

RESPONSE: Objection. Defendants object that this request seeks information relating to putative class members. As Defendants have previously stated, Plaintiffs are not entitled to discovery relating to putative class members until the case has been certified as a class action. Defendants also object that this request is overly broad and unduly burdensome, and disproportionate to the needs of the case in that it would require a search of over 50,000 files. Subject to and without waiving these objections, Defendants are currently unaware of any responsive documents based on the information known to date.

As to objections,



Respectfully submitted,



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CERTIFICATE OF SERVICE

A copy of the foregoing Defendants' First Amended Answer to Plaintiffs' First Request for Inspection, Third Set of Interrogatories, Third Set of Requests for Admission, and Fifth Set of Requests for Production of Documents was sent this 17th day of September, 2018 to the following via electronic Mail:

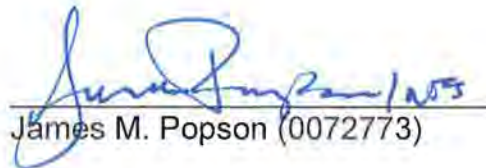
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