

**IN THE COURT OF COMMON PLEAS  
SUMMIT COUNTY, OHIO**

MEMBER WILLIAMS, et al.,

Plaintiffs,

v.

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

Defendant.

Case No.: 2016-09-3928

Judge: James Brogan

**ANSWER OF DEFENDANT SAM N.  
GHOUBRIAL, M.D. TO PLAINTIFF'S  
FIFTH AMENDED COMPLAINT**

**Jury Demand**

Now comes Defendant, Sam N. Ghoubrial, M.D., by and through undersigned counsel, and for his Answer to Plaintiffs' Fifth Amended Complaint, states as follows:

**I. NATURE OF THE ACTION**

1. Defendant can neither admit nor deny the allegations contained in Paragraph 1 of the Fifth Amended Complaint as they are directed to other Defendants.
2. To the extent the allegations in Paragraph 2 of the Fifth Amended Complaint are directed at this answering Defendant they are denied. Defendant can neither admit nor deny the remaining allegations in Paragraph 2 of the Fifth Amended Complaint as they are directed to other Defendants.
3. Defendant can neither admit nor deny the allegations contained in Paragraph 3 of the Fifth Amended Complaint as they are directed to other Defendants.
4. Defendant can neither admit nor deny the allegations contained in Paragraph 4 of the Fifth Amended Complaint as they are directed to other Defendants.
5. To the extent the allegations in Paragraph 5 of the Fifth Amended Complaint are directed to this answering Defendant they are denied. Specifically, Defendant Ghoubrial expressly denies any quid pro quo relationship or conspiracy with any other Defendant named

herein. Defendant can neither admit nor deny the remaining allegations in Paragraph 5 of the Fifth Amended Complaint as they are directed to other Defendants.

6. To the extent the allegations in Paragraph 6 of the Fifth Amended Complaint are directed to this answering Defendant they are denied. Specifically, Defendant Ghoubrial expressly denies overcharging any patient for any care provided and he maintains his treatment of all patients was guided solely by his professional judgment at all times and his treatment was always within the standard of care. Defendant also denies ever paying any "kickbacks" to KNR or any other person or entity. Defendant can neither admit nor deny the remaining allegations in Paragraph 6 of the Fifth Amended Complaint as they are directed to other Defendants.

7. Defendant denies all allegations contained in Paragraph 7 of the Fifth Amended Complaint.

8. Defendant can neither admit nor deny the allegations contained in Paragraph 8 of the Fifth Amended Complaint as they are directed to other Defendants.

9. To the extend the allegations in Paragraph 9 of the Fifth Amended Complaint are directed at this answering Defendant they are denied. Defendant can neither admit nor deny the remaining allegations in Paragraph 9 of the Fifth Amended Complaint as they are directed to other Defendants.

10. This answering Defendant admits Plaintiffs have alleged a purported class action under Ohio Civil Rule 23 alleging claims under Ohio law for fraud, breach of fiduciary duty, breach of contract, and unjust enrichment. However, this answering Defendant denies the validity of Plaintiffs' claims and further denies all allegations contained in Paragraph 10 of the Fifth Amended Complaint and further denies this case is properly a class action or that Plaintiffs have properly pled a class action.

11. To the extend the allegations in Paragraph 11 of the Fifth Amended Complaint are directed at this answering Defendant they are denied. Defendant can neither admit nor deny the remaining allegations in Paragraph 11 of the Fifth Amended Complaint as they are directed to other Defendants.

12. This answering Defendant is without sufficient information to admit or deny the allegations contained in Paragraph 12 of the Fifth Amended Complaint and therefore denies same for want of knowledge.

## II. PARTIES

13. This answering Defendant is without sufficient information to admit or deny the allegations contained in Paragraph 13 of the Fifth Amended Complaint and therefore denies same for want of knowledge.

14. This answering Defendant is without sufficient information to admit or deny the allegations contained in Paragraph 14 of the Fifth Amended Complaint and therefore denies same for want of knowledge.

15. Defendant admits he is a medical doctor. Defendant denies all other allegations contained in Paragraph 15 of the Fifth Amended Complaint.

16. This answering Defendant is without sufficient information to admit or deny the allegations contained in Paragraph 16 of the Fifth Amended Complaint and therefore denies same for want of knowledge.

17. This answering Defendant is without sufficient information to admit or deny the allegations contained in Paragraph 17 of the Fifth Amended Complaint and therefore denies same for want of knowledge.

18. Defendant denies he ever treated Plaintiff Monique Norris and denies he recommended and/or sold her a TENS Unit from Tritec. Further answering, documents in Plaintiffs' possession prior to the filing of the Fifth Amended Complaint unequivocally establish this Defendant never treated Plaintiff Norris and that her allegations to the contrary are demonstrably false. (See Affidavit of Dr. Richard Gunning, attached as Exhibit "A"). Despite this knowledge, Plaintiff Norris, through her counsel, continues to maintain this baseless and inappropriate allegation in violation of Civ. R. 11 and O.R.C. § 2323.51. Defendant can neither admit nor deny the remaining allegations contained in Paragraph 18 of the Fifth Amended Complaint as they are directed to other Defendants.

19. Defendant admits he provided medical treatment and care to Plaintiff Harbour at various times with the last treatment having been provided in 2012. Defendant denies he overcharged Plaintiff Harbour for trigger point injections, TENS Units, or any other treatment. Defendant's care and treatment of Plaintiff Harbour was always medically necessary and appropriate, was guided only by his professional judgment and within the standard of care at all times. Defendant can neither admit nor deny the remaining allegations contained in Paragraph of the Fifth Amended Complaint as they are directed to other Defendants.

20. This answering Defendant is without sufficient information to admit or deny the allegations contained in Paragraph 20 of the Fifth Amended Complaint and therefore denies same for want of knowledge.

### **III. JURISDICTION AND VENUE**

21. This answering Defendant states that Paragraph 21 of the Fifth Amended Complaint states a legal conclusion for which no response is necessary. To the extent an answer is required, Defendant is without sufficient information to admit or deny the allegations contained in Paragraph 21 of the Fifth Amended Complaint and therefore denies same for want of knowledge.

22. This answering Defendant states that Paragraph 22 of the Fifth Amended Complaint states a legal conclusion for which no response is necessary. To the extent an answer is required, Defendant is without sufficient information to admit or deny the allegations contained in Paragraph 22 of the Fifth Amended Complaint and therefore denies same for want of knowledge.

### **IV. FACTUAL ALLEGATIONS**

A. The Fifth Amended Complaint improperly contains headings with inflammatory and unsupported allegations, which is not in compliance with the Ohio Rules of Civil Procedure. To the extent the unsupported and inappropriate allegations contained in section IV A relate to this answering Defendant, they are denied.

23. This answering Defendant is without sufficient information to admit or deny the allegations contained in Paragraph 23 of the Fifth Amended Complaint and therefore denies same for want of knowledge.

24. This answering Defendant is without sufficient information to admit or deny the allegations contained in Paragraph 24 of the Fifth Amended Complaint and therefore denies same for want of knowledge.

25. This answering Defendant is without sufficient information to admit or deny the allegations contained in Paragraph 25 of the Fifth Amended Complaint and therefore denies same for want of knowledge.

26. This answering Defendant is without sufficient information to admit or deny the allegations contained in Paragraph 26 of the Fifth Amended Complaint and therefore denies same for want of knowledge.

27. To the extent the allegations in Paragraph 27 of the Fifth Amended Complaint are directed at this answering Defendant they are denied. Defendant expressly denies any quid pro quo relationship with any party to this action. Defendant can neither admit nor deny the remaining allegations in Paragraph 27 of the Fifth Amended Complaint as they are directed to other Defendants.

28. This answering Defendant is without sufficient information to admit or deny the allegations contained in Paragraph 28 of the Fifth Amended Complaint and therefore denies same for want of knowledge. Further answering, this Defendant denies that alleged violations of the Ohio Rules of Professional Conduct give rise to private causes of action.

29. This answering Defendant is without sufficient information to admit or deny the allegations contained in Paragraph 29 of the Fifth Amended Complaint and therefore denies same for want of knowledge.

30. As Paragraph 30 of the Fifth Amended Complaint is nothing more than a conclusory statement, no answer is required. To the extent an answer is required, this answering Defendant is without sufficient information to admit or deny the allegations contained in Paragraph 30 of the Fifth Amended Complaint and therefore denies same for want of knowledge. Further answering, this Defendant denies that alleged violations of the Ohio Rules of Professional Conduct give rise to private causes of action.

31. To the extent the allegations contained in Paragraph 31 of the Fifth Amended Complaint relate to this answering Defendant, the allegations are denied. This answering

Defendant is without sufficient information to admit or deny the remaining allegations contained in Paragraph 31 of the Fifth Amended Complaint and therefore denies same for want of knowledge.

B. The Fifth Amended Complaint improperly contains headings with inflammatory and unsupported allegations, which is not in compliance with the Ohio Rules of Civil Procedure. To the extent the unsupported and inappropriate allegations contained in section IV B relate to this answering Defendant, they are denied.

32. To the extend the allegations in Paragraph 32 of the Fifth Amended Complaint are directed at this answering Defendant they are denied. Defendant can neither admit nor deny the remaining allegations in Paragraph 32 of the Fifth Amended Complaint as they are directed to other Defendants.

33. To the extend the allegations in Paragraph 33 of the Fifth Amended Complaint are directed at this answering Defendant they are denied. Defendant can neither admit nor deny the remaining allegations in Paragraph 33 of the Fifth Amended Complaint as they are directed to other Defendants.

34. Defendant can neither admit nor deny the allegations in Paragraph 34 of the Fifth Amended Complaint as they are directed to other Defendants.

35. As Paragraph 35 of the Fifth Amended Complaint is nothing more than a conclusory statement, no answer is required. To the extent an answer is required, this answering Defendant is without sufficient information to admit or deny the allegations contained in Paragraph 35 of the Fifth Amended Complaint and therefore denies same for want of knowledge.

36. As Paragraph 36 of the Fifth Amended Complaint is nothing more than a conclusory statement, no answer is required. To the extent an answer is required, this answering Defendant is without sufficient information to admit or deny the allegations contained in Paragraph 36 of the Fifth Amended Complaint and therefore denies same for want of knowledge.

37. As Paragraph 37 of the Fifth Amended Complaint is nothing more than a conclusory statement, no answer is required. To the extent an answer is required, this answering Defendant is without sufficient information to admit or deny the allegations contained in Paragraph 37 of the Fifth Amended Complaint and therefore denies same for want of knowledge.

38. As Paragraph 38 of the Fifth Amended Complaint is nothing more than a conclusory statement, no answer is required. To the extent an answer is required, this answering Defendant is without sufficient information to admit or deny the allegations contained in Paragraph 38 of the Fifth Amended Complaint and therefore denies same for want of knowledge.

39. As Paragraph 39 of the Fifth Amended Complaint is nothing more than a conclusory statement, no answer is required. To the extent an answer is required, this answering Defendant is without sufficient information to admit or deny the allegations contained in Paragraph 39 of the Fifth Amended Complaint and therefore denies same for want of knowledge.

40. As Paragraph 40 of the Fifth Amended Complaint is nothing more than a conclusory statement, no answer is required. To the extent an answer is required, this answering Defendant is without sufficient information to admit or deny the allegations contained in Paragraph 40 of the Fifth Amended Complaint and therefore denies same for want of knowledge.

41. As Paragraph 41 of the Fifth Amended Complaint is nothing more than a conclusory statement, no answer is required. To the extent an answer is required, this answering Defendant is without sufficient information to admit or deny the allegations contained in Paragraph 41 of the Fifth Amended Complaint and therefore denies same for want of knowledge.

42. As Paragraph 42 of the Fifth Amended Complaint is nothing more than a conclusory statement, no answer is required. To the extent an answer is required, this answering



Defendant is without sufficient information to admit or deny the allegations contained in Paragraph 42 of the Fifth Amended Complaint and therefore denies same for want of knowledge.

43. As Paragraph 43 of the Fifth Amended Complaint is nothing more than a conclusory statement, no answer is required. To the extent an answer is required, this answering Defendant is without sufficient information to admit or deny the allegations contained in Paragraph 43 of the Fifth Amended Complaint and therefore denies same for want of knowledge.

44. Defendant can neither admit nor deny the allegations contained in Paragraph 44 of the Fifth Amended Complaint as they are directed to other Defendants.

45. Defendant can neither admit nor deny the allegations contained in Paragraph 45 of the Fifth Amended Complaint as they are directed to other Defendants.

46. Defendant can neither admit nor deny the allegations contained in Paragraph 46 of the Fifth Amended Complaint as they are directed to other Defendants.

47. As Paragraph 47 of the Fifth Amended Complaint is nothing more than a conclusory statement, no answer is required. To the extent an answer is required, this answering Defendant is without sufficient information to admit or deny the allegations contained in Paragraph 47 of the Fifth Amended Complaint and therefore denies same for want of knowledge.

48. As Paragraph 48 of the Fifth Amended Complaint is nothing more than a conclusory statement, no answer is required. To the extent an answer is required, this answering Defendant is without sufficient information to admit or deny the allegations contained in Paragraph 48 of the Fifth Amended Complaint and therefore denies same for want of knowledge.

49. Defendant can neither admit nor deny the allegations contained in Paragraph 49 of the Fifth Amended Complaint as they are directed to other Defendants.

50. Defendant can neither admit nor deny the allegations contained in Paragraph 46 of the Fifth Amended Complaint as they are directed to other Defendants.

51. To the extent the allegations in Paragraph 51 of the Fifth Amended Complaint related to this answering Defendant they are denied. Defendant can neither admit nor deny the remaining allegations contained in Paragraph 51 of the Fifth Amended Complaint as they are directed to other Defendants.

52. Defendant can neither admit nor deny the allegations contained in Paragraph 52 of the Fifth Amended Complaint as they are directed to other Defendants.

C. The Fifth Amended Complaint improperly contains headings with inflammatory and unsupported allegations, which is not in compliance with the Ohio Rules of Civil Procedure. To the extent the unsupported and inappropriate allegations contained in section IV C relate to this answering Defendant, they are denied.

53. To the extent the allegations contained in Paragraph 53 of the Fifth Amended Complaint relate to this answering Defendant they are denied. Defendant can neither admit nor deny the remaining allegations contained in Paragraph 53 of the Fifth Amended Complaint as they are directed to other Defendants.

54. Defendant can neither admit nor deny the allegations contained in Paragraph 54 of the Fifth Amended Complaint as they are directed to other Defendants.

55. Defendant can neither admit nor deny the allegations contained in Paragraph 55 of the Fifth Amended Complaint as they are directed to other Defendants.

56. Defendant can neither admit nor deny the allegations contained in Paragraph 56 of the Fifth Amended Complaint as they are directed to other Defendants.

57. Defendant can neither admit nor deny the allegations contained in Paragraph 57 of the Fifth Amended Complaint as they are directed to other Defendants.

58. Defendant can neither admit nor deny the allegations contained in Paragraph 58 of the Fifth Amended Complaint as they are directed to other Defendants.

D. The Fifth Amended Complaint improperly contains headings with inflammatory and unsupported allegations, which is not in compliance with the Ohio Rules of Civil Procedure. To the extent the unsupported and inappropriate allegations contained in section IV D relate to this answering Defendant, they are denied.

59. To the extent the allegations contained in Paragraph 59 of the Fifth Amended Complaint relate to this answering Defendant they are denied. Defendant can neither admit nor deny the remaining allegations contained in Paragraph 59 of the Fifth Amended Complaint as they are directed to other Defendants.

60. Defendant can neither admit nor deny the allegations contained in Paragraph 60 of the Fifth Amended Complaint as they are directed to other Defendants.

61. As Paragraph 61 of the Fifth Amended Complaint is nothing more than a conclusory statement, no answer is required. To the extent an answer is required, this answering Defendant is without sufficient information to admit or deny the allegations contained in Paragraph 61 of the Fifth Amended Complaint and therefore denies same for want of knowledge.

62. Defendant can neither admit nor deny the allegations contained in Paragraph 62 of the Fifth Amended Complaint as they are directed to other Defendants.

63. To the extent the allegations contained in Paragraph 63 of the Fifth Amended Complaint relate to this answering Defendant they are denied. Defendant can neither admit nor deny the remaining allegations contained in Paragraph 63 of the Fifth Amended Complaint as they are directed to other Defendants.

E. The Fifth Amended Complaint improperly contains headings with inflammatory and unsupported allegations, which is not in compliance with the Ohio Rules of Civil Procedure. To the extent the unsupported and inappropriate allegations contained in section IV E relate to this answering Defendant, they are denied.

64. Defendant can neither admit nor deny the allegations contained in Paragraph 64 of the Fifth Amended Complaint as they are directed to other Defendants.

65. Defendant can neither admit nor deny the allegations contained in Paragraph 65 of the Fifth Amended Complaint as they are directed to other Defendants.

66. Defendant can neither admit nor deny the allegations contained in Paragraph 66 of the Fifth Amended Complaint as they are directed to other Defendants.

67. As Paragraph 67 of the Fifth Amended Complaint is nothing more than a conclusory statement, no answer is required. To the extent an answer is required, this answering Defendant can neither admit nor deny the allegations contained in Paragraph 67 of the Fifth Amended Complaint as they are directed to other Defendants.

68. Defendant can neither admit nor deny the allegations contained in Paragraph 68 of the Fifth Amended Complaint as they are directed to other Defendants.

69. Defendant can neither admit nor deny the allegations contained in Paragraph 69 of the Fifth Amended Complaint as they are directed to other Defendants.

70. Defendant can neither admit nor deny the allegations contained in Paragraph 70 of the Fifth Amended Complaint as they are directed to other Defendants.

71. Defendant can neither admit nor deny the allegations contained in Paragraph 71 of the Fifth Amended Complaint as they are directed to other Defendants.

72. Defendant can neither admit nor deny the allegations contained in Paragraph 72 of the Fifth Amended Complaint as they are directed to other Defendants.

73. Defendant can neither admit nor deny the allegations contained in Paragraph 73 of the Fifth Amended Complaint as they are directed to other Defendants.

74. Defendant can neither admit nor deny the allegations contained in Paragraph 74 of the Fifth Amended Complaint as they are directed to other Defendants.

75. Defendant can neither admit nor deny the allegations contained in Paragraph 75 of the Fifth Amended Complaint as they are directed to other Defendants.

76. Defendant can neither admit nor deny the allegations contained in Paragraph 76 of the Fifth Amended Complaint as they are directed to other Defendants.

77. Defendant can neither admit nor deny the allegations contained in Paragraph 77 of the Fifth Amended Complaint as they are directed to other Defendants.

78. Defendant can neither admit nor deny the allegations contained in Paragraph 78 of the Fifth Amended Complaint as they are directed to other Defendants.

79. Defendant can neither admit nor deny the allegations contained in Paragraph 78 of the Fifth Amended Complaint as they are directed to other Defendants.

80. To the extent the allegations contained in Paragraph 80 of the Fifth Amended Complaint relate to this answering Defendant they are denied. Defendant can neither admit nor deny the remaining allegations contained in Paragraph 80 of the Fifth Amended Complaint as they are directed to other Defendants.

81. To the extent the allegations contained in Paragraph 81 of the Fifth Amended Complaint relate to this answering Defendant they are denied. Defendant can neither admit nor deny the remaining allegations contained in Paragraph 81 of the Fifth Amended Complaint as they are directed to other Defendants.

F. The Fifth Amended Complaint improperly contains headings with inflammatory and unsupported allegations, which is not in compliance with the Ohio Rules of Civil Procedure. To the extent the unsupported and inappropriate allegations contained in section IV F relate to this answering Defendant, they are denied.

82. Defendant is without sufficient information to admit or deny the allegations contained in Paragraph 82 of the Fifth Amended Complaint and therefore denies same for want of knowledge.

83. In response to the allegations contained in Paragraph 83 of the Fifth Amended Complaint, this answering Defendant states the filings in Summit County Court of Common Pleas Case No. CV-2013-08-4148 speak for themselves. Further answering, this answering Defendant states his care and treatment of all patients has always been guided only by his professional judgment and all care and treatment was reasonable, necessary, and within the standard of care.

84. In response to the allegations contained in Paragraph 84 of the Fifth Amended Complaint, this answering Defendant states the filings in Summit County Court of Common Pleas Case No. CV-2013-08-4148 speak for themselves. Further answering, this answering Defendant states his care and treatment of all patients has always been guided only by his professional judgment and all care and treatment was reasonable, necessary, and within the standard of care. Defendant denies all allegations contained in Paragraph 84 of the Fifth Amended Complaint not expressly admitted herein.

85. As Paragraph 85 of the Fifth Amended Complaint is nothing more than a conclusory statement, no answer is required. To the extent an answer is required, this answering Defendant denies the allegations contained in Paragraph 85 of the Fifth Amended Complaint and states his care and treatment of all patients has always been guided only by his professional judgment and all care and treatment was reasonable, necessary, and within the standard of care.

86. Defendant denies all allegations contained in Paragraph 86 of the Fifth Amended Complaint.

87. Defendant denies all allegations contained in Paragraph 87 of the Fifth Amended Complaint.

88. Defendant denies all allegations contained in Paragraph 87 of the Fifth Amended Complaint. Further answering, this answering Defendant states he does not accept insurance from any personal injury patient and his KNR patients are treated exactly the same as all other personal injury patients.

89. Defendant admits he would often administer multiple injections to patients in the same appointment consistent with the standard of care. Defendant denies all other allegations contained in Paragraph 89 of the Fifth Amended Complaint.

90. Defendant is without sufficient information to admit or deny the allegations contained in Paragraph 90 of the Fifth Amended Complaint and therefore denies same for want of knowledge.

91. Defendant denies he ever inflated any medical bills for services rendered. Further answering, Defendant is without sufficient information to admit or deny the remaining allegations contained in Paragraph 91 of the Fifth Amended Complaint and therefore denies same for want of knowledge.

92. As Paragraph 92 of the Fifth Amended Complaint is nothing more than a conclusory statement, no answer is required. To the extent an answer is required, this answering Defendant denies the allegations contained in Paragraph 92 of the Fifth Amended Complaint and states his care and treatment of all patients has always been guided only by his professional judgment and all care and treatment was reasonable, necessary, and within the standard of care.

93. Defendant denies all allegations contained in Paragraph 93 of the Fifth Amended Complaint. Further answering, Defendant states he never treated Plaintiff Norris and that

Plaintiff Norris and her counsel were aware of this fact prior to the filing of the Fifth Amended Complaint. Despite this knowledge, Plaintiff and her counsel maintain these baseless allegations against Defendant Ghoubrial in bad faith and in violation of Civ. R. 11 and O.R.C. ¶ 2323.51. (See Exhibit "A", attached).

94. Defendant is without sufficient information to admit or deny the allegations contained in Paragraph 94 of the Fifth Amended Complaint and therefore denies same for want of knowledge.

95. Defendant denies all allegations contained in Paragraph 95 of the Fifth Amended Complaint. Further answering, Defendant states he never treated Plaintiff Norris and that Plaintiff Norris and her counsel were aware of this fact prior to the filing of the Fifth Amended Complaint. Despite this knowledge, Plaintiff and her counsel maintain these baseless allegations against Defendant Ghoubrial in bad faith and in violation of Civ. R. 11 and O.R.C. ¶ 2323.51. (See Exhibit "A", attached).

96. Defendant denies all allegations contained in Paragraph 96 of the Fifth Amended Complaint.

97. Defendant denies all allegations contained in Paragraph 97 of the Fifth Amended Complaint. Further answering, Defendant states he never treated Plaintiff Norris and that Plaintiff Norris and her counsel were aware of this fact prior to the filing of the Fifth Amended Complaint. Despite this knowledge, Plaintiff and her counsel maintain these baseless allegations against Defendant Ghoubrial in bad faith and in violation of Civ. R. 11 and O.R.C. ¶ 2323.51. (See Exhibit "A", attached).

98. Defendant denies all allegations contained in Paragraph 98 of the Fifth Amended Complaint. Further answering, Defendant states he never treated Plaintiff Norris and that



Plaintiff Norris and her counsel were aware of this fact prior to the filing of the Fifth Amended Complaint. Despite this knowledge, Plaintiff and her counsel maintain these baseless allegations against Defendant Ghoubril in bad faith and in violation of Civ. R. 11 and O.R.C. ¶ 2323.51. (See Exhibit "A", attached).

99. In response to the allegations contained in Paragraph 99 of the Fifth Amended Complaint, this answering Defendant states the filings in Summit County Court of Common Pleas Case No. CV-2013-08-4148 speak for themselves. Further answering, Defendant states his care and treatment of all patients has always been guided only by his professional judgment and all care and treatment was reasonable, necessary, and within the standard of care. Defendant denies all allegations contained in Paragraph 99 of the Fifth Amended Complaint not expressly admitted herein.

100. In response to the allegations contained in Paragraph 100 of the Fifth Amended Complaint, this answering Defendant states the filings in Summit County Court of Common Pleas Case No. CV-2013-08-4148 speak for themselves. Defendant admits he has provided TENS Units and neck, knee and back braces to patients who were in need of such devices. Further answering, Defendant states his care and treatment of all patients has always been guided only by his professional judgment and all care and treatment was reasonable, necessary, and within the standard of care. Defendant denies all allegations contained in Paragraph 100 of the Fifth Amended Complaint not expressly admitted herein.

101. In response to the allegations contained in Paragraph 101 of the Fifth Amended Complaint, this answering Defendant states the filings in Summit County Court of Common Pleas Case No. CV-2013-08-4148 speak for themselves. Defendant admits he was represented by attorney David Best in the *Andrews* matter. Further answering, Defendant states his care and

treatment of all patients has always been guided only by his professional judgment and all care and treatment was reasonable, necessary, and within the standard of care. Defendant denies all allegations contained in Paragraph 101 of the Fifth Amended Complaint not expressly admitted herein.

102. Defendant denies all allegations contained in Paragraph 102 of the Fifth Amended Complaint. Defendant charges the same rates to all personal injury patients and those rates are fair, reasonable, and typically lower than most other providers who supply TENS Units. Further answering, Defendant states he never treated Plaintiff Norris and that Plaintiff Norris and her counsel were aware of this fact prior to the filing of the Fifth Amended Complaint. Despite this knowledge, Plaintiff and her counsel maintain these baseless allegations against Defendant Ghoubrial in bad faith and in violation of Civ. R. 11 and O.R.C. ¶ 2323.51. (See Exhibit "A", attached).

103. Defendant is without sufficient information to admit or deny the allegations contained in Paragraph 103 of the Fifth Amended Complaint and therefore denies same for want of knowledge.

104. In response to Paragraph 104 of the Fifth Amended Complaint, Defendant admits he first treated Plaintiff Harbour for injuries suffered in a motor vehicle accident in 2011. Defendant's care and treatment of Plaintiff Harbour included, among other things, trigger point injections and Plaintiff Harbour was given prescriptions, including, but not limited to, Flexeril. Further answering, Defendant states his care treatment of Plaintiff Harbour was reasonable and necessary and within the standard of care at all times. Defendant denies all other allegations contained in Paragraph 104 of the Fifth Amended Complaint not expressly admitted herein.

105. Defendant admits Plaintiff Harbour has cerebral palsy. Defendant denies all other allegations contained in Paragraph 105 of the Fifth Amended Complaint.

106. Defendant is without sufficient information to admit or deny the allegations contained in Paragraph 106 of the Fifth Amended Complaint and therefore denies same for want of knowledge.

107. Defendant admits he provided Plaintiff Harbour with a TENS Unit in 2011. Defendant denies all other allegations contained in Paragraph 107 of the Fifth Amended Complaint.

108. Defendant is without sufficient information to admit or deny the allegations contained in Paragraph 108 of the Fifth Amended Complaint and therefore denies same for want of knowledge.

109. In response to Paragraph 109 of the Fifth Amended Complaint, Defendant admits he treated Plaintiff Harbour for injuries suffered in a motor vehicle accident in 2012. Defendant's care and treatment of Plaintiff Harbour included, among other things, trigger point injections and Plaintiff Harbour was given prescriptions, including, but not limited to, Flexeril. Further answering, Defendant states his care treatment of Plaintiff Harbour was reasonable and necessary and within the standard of care at all times. Further answering, Defendant states Plaintiff Harbour never expressed any dissatisfaction with the care and treatment provided in 2011 when he returned for additional care and treatment in 2012. Defendant denies all other allegations contained in Paragraph 109 of the Fifth Amended Complaint not expressly admitted herein.

110. Defendant is without sufficient information to admit or deny the allegations contained in Paragraph 110 of the Fifth Amended Complaint and therefore denies same for want

of knowledge. Further answering, Defendant states Plaintiff Harbour never raised any concerns with the care and treatment provided, or for the cost of the care and treatment provided at any time while a patient of Defendant.

111. Defendant admits Plaintiff Harbour last treated with him in 2012. Defendant is without sufficient information to admit or deny the remaining allegations contained in Paragraph 111 of the Fifth Amended Complaint and therefore denies same for want of knowledge.

112. Plaintiff Harbour's settlement statements, which he voluntarily approved and signed, speak for themselves. Further answering, Defendant denies all other allegations contained in Paragraph 112 of the Fifth Amended Complaint.

113. Defendant denies all allegations contained in Paragraph 113 of the Fifth Amended Complaint that relate to this answering Defendant.

G. The Fifth Amended Complaint improperly contains headings with inflammatory and unsupported allegations, which is not in compliance with the Ohio Rules of Civil Procedure. To the extent the unsupported and inappropriate allegations contained in section IV G relate to this answering Defendant, they are denied.

114. Defendant can neither admit nor deny the allegations contained in Paragraph 114 of the Fifth Amended Complaint as they are directed to other Defendants.

115. Defendant can neither admit nor deny the allegations contained in Paragraph 115 of the Fifth Amended Complaint as they are directed to other Defendants.

116. Defendant can neither admit nor deny the allegations contained in Paragraph 116 of the Fifth Amended Complaint as they are directed to other Defendants.

117. Defendant can neither admit nor deny the allegations contained in Paragraph 117 of the Fifth Amended Complaint as they are directed to other Defendants.

118. Defendant can neither admit nor deny the allegations contained in Paragraph 118 of the Fifth Amended Complaint as they are directed to other Defendants.

119. Defendant can neither admit nor deny the allegations contained in Paragraph 119 of the Fifth Amended Complaint as they are directed to other Defendants.

120. Defendant can neither admit nor deny the allegations contained in Paragraph 120 of the Fifth Amended Complaint as they are directed to other Defendants.

121. Defendant can neither admit nor deny the allegations contained in Paragraph 121 of the Fifth Amended Complaint as they are directed to other Defendants.

122. Defendant can neither admit nor deny the allegations contained in Paragraph 122 of the Fifth Amended Complaint as they are directed to other Defendants.

123. Defendant can neither admit nor deny the allegations contained in Paragraph 123 of the Fifth Amended Complaint as they are directed to other Defendants.

124. Defendant can neither admit nor deny the allegations contained in Paragraph 124 of the Fifth Amended Complaint as they are directed to other Defendants.

125. Defendant can neither admit nor deny the allegations contained in Paragraph 125 of the Fifth Amended Complaint as they are directed to other Defendants.

126. Defendant can neither admit nor deny the allegations contained in Paragraph 126 of the Fifth Amended Complaint as they are directed to other Defendants.

127. Defendant can neither admit nor deny the allegations contained in Paragraph 127 of the Fifth Amended Complaint as they are directed to other Defendants.

128. Defendant can neither admit nor deny the allegations contained in Paragraph 128 of the Fifth Amended Complaint as they are directed to other Defendants.

129. Defendant can neither admit nor deny the allegations contained in Paragraph 129 of the Fifth Amended Complaint as they are directed to other Defendants.

130. Defendant can neither admit nor deny the allegations contained in Paragraph 130 of the Fifth Amended Complaint as they are directed to other Defendants.

131. Defendant can neither admit nor deny the allegations contained in Paragraph 131 of the Fifth Amended Complaint as they are directed to other Defendants.

132. Defendant can neither admit nor deny the allegations contained in Paragraph 132 of the Fifth Amended Complaint as they are directed to other Defendants.

133. Defendant can neither admit nor deny the allegations contained in Paragraph 133 of the Fifth Amended Complaint as they are directed to other Defendants.

134. Defendant can neither admit nor deny the allegations contained in Paragraph 134 of the Fifth Amended Complaint as they are directed to other Defendants.

135. Defendant can neither admit nor deny the allegations contained in Paragraph 135 of the Fifth Amended Complaint as they are directed to other Defendants.

136. Defendant can neither admit nor deny the allegations contained in Paragraph 136 of the Fifth Amended Complaint as they are directed to other Defendants.

137. Defendant can neither admit nor deny the allegations contained in Paragraph 137 of the Fifth Amended Complaint as they are directed to other Defendants.

138. Defendant can neither admit nor deny the allegations contained in Paragraph 138 of the Fifth Amended Complaint as they are directed to other Defendants.

G. The Fifth Amended Complaint improperly contains headings with inflammatory and unsupported allegations, which is not in compliance with the Ohio Rules of Civil Procedure. To the extent the unsupported and inappropriate allegations contained in section IV G relate to this answering Defendant, they are denied.

139. Defendant can neither admit nor deny the allegations contained in Paragraph 139 of the Fifth Amended Complaint as they are directed to other Defendants.

140. Defendant can neither admit nor deny the allegations contained in Paragraph 140 of the Fifth Amended Complaint as they are directed to other Defendants.

141. Defendant can neither admit nor deny the allegations contained in Paragraph 141 of the Fifth Amended Complaint as they are directed to other Defendants.

142. Defendant can neither admit nor deny the allegations contained in Paragraph 142 of the Fifth Amended Complaint as they are directed to other Defendants.

143. Defendant can neither admit nor deny the allegations contained in Paragraph 143 of the Fifth Amended Complaint as they are directed to other Defendants.

144. Defendant can neither admit nor deny the allegations contained in Paragraph 144 of the Fifth Amended Complaint as they are directed to other Defendants.

145. Defendant can neither admit nor deny the allegations contained in Paragraph 145 of the Fifth Amended Complaint as they are directed to other Defendants.

146. Defendant can neither admit nor deny the allegations contained in Paragraph 146 of the Fifth Amended Complaint as they are directed to other Defendants.

147. Defendant can neither admit nor deny the allegations contained in Paragraph 147 of the Fifth Amended Complaint as they are directed to other Defendants.

148. Defendant can neither admit nor deny the allegations contained in Paragraph 148 of the Fifth Amended Complaint as they are directed to other Defendants.

149. Defendant can neither admit nor deny the allegations contained in Paragraph 149 of the Fifth Amended Complaint as they are directed to other Defendants.

150. Defendant can neither admit nor deny the allegations contained in Paragraph 150 of the Fifth Amended Complaint as they are directed to other Defendants.

H. The Fifth Amended Complaint improperly contains headings with inflammatory and unsupported allegations, which is not in compliance with the Ohio Rules of Civil Procedure. To the extent the unsupported and inappropriate allegations contained in section IV H relate to this answering Defendant, they are denied.

151. Defendant can neither admit nor deny the allegations contained in Paragraph 151 of the Fifth Amended Complaint as they are directed to other Defendants.

152. Defendant can neither admit nor deny the allegations contained in Paragraph 152 of the Fifth Amended Complaint as they are directed to other Defendants.

153. Defendant can neither admit nor deny the allegations contained in Paragraph 153 of the Fifth Amended Complaint as they are directed to other Defendants.

154. Defendant can neither admit nor deny the allegations contained in Paragraph 154 of the Fifth Amended Complaint as they are directed to other Defendants.

155. Defendant can neither admit nor deny the allegations contained in Paragraph 155 of the Fifth Amended Complaint as they are directed to other Defendants.

156. Defendant can neither admit nor deny the allegations contained in Paragraph 156 of the Fifth Amended Complaint as they are directed to other Defendants.

157. Defendant can neither admit nor deny the allegations contained in Paragraph 157 of the Fifth Amended Complaint as they are directed to other Defendants.

158. Defendant can neither admit nor deny the allegations contained in Paragraph 158 of the Fifth Amended Complaint as they are directed to other Defendants.

159. Defendant can neither admit nor deny the allegations contained in Paragraph 159 of the Fifth Amended Complaint as they are directed to other Defendants.

160. Defendant can neither admit nor deny the allegations contained in Paragraph 160 of the Fifth Amended Complaint as they are directed to other Defendants.



161. Defendant can neither admit nor deny the allegations contained in Paragraph 161 of the Fifth Amended Complaint as they are directed to other Defendants.

162. Defendant can neither admit nor deny the allegations contained in Paragraph 162 of the Fifth Amended Complaint as they are directed to other Defendants.

163. Defendant can neither admit nor deny the allegations contained in Paragraph 163 of the Fifth Amended Complaint as they are directed to other Defendants.

164. Defendant can neither admit nor deny the allegations contained in Paragraph 164 of the Fifth Amended Complaint as they are directed to other Defendants.

165. Defendant can neither admit nor deny the allegations contained in Paragraph 165 of the Fifth Amended Complaint as they are directed to other Defendants.

166. Defendant can neither admit nor deny the allegations contained in Paragraph 166 of the Fifth Amended Complaint as they are directed to other Defendants.

167. Defendant can neither admit nor deny the allegations contained in Paragraph 167 of the Fifth Amended Complaint as they are directed to other Defendants.

168. Defendant can neither admit nor deny the allegations contained in Paragraph 168 of the Fifth Amended Complaint as they are directed to other Defendants.

169. Defendant can neither admit nor deny the allegations contained in Paragraph 169 of the Fifth Amended Complaint as they are directed to other Defendants.

170. Defendant can neither admit nor deny the allegations contained in Paragraph 170 of the Fifth Amended Complaint as they are directed to other Defendants.

171. Defendant can neither admit nor deny the allegations contained in Paragraph 171 of the Fifth Amended Complaint as they are directed to other Defendants.

172. Defendant can neither admit nor deny the allegations contained in Paragraph 172 of the Fifth Amended Complaint as they are directed to other Defendants.

173. Defendant can neither admit nor deny the allegations contained in Paragraph 173 of the Fifth Amended Complaint as they are directed to other Defendants.

174. Defendant can neither admit nor deny the allegations contained in Paragraph 174 of the Fifth Amended Complaint as they are directed to other Defendants.

175. Defendant can neither admit nor deny the allegations contained in Paragraph 175 of the Fifth Amended Complaint as they are directed to other Defendants.

176. Defendant can neither admit nor deny the allegations contained in Paragraph 176 of the Fifth Amended Complaint as they are directed to other Defendants.

177. Defendant can neither admit nor deny the allegations contained in Paragraph 177 of the Fifth Amended Complaint as they are directed to other Defendants.

#### **V. CLASS ALLEGATIONS**

178. This answering Defendant denies all allegations, inclusive of parts A-E, contained in Paragraph 178 of the Fifth Amended Complaint, except to admit Plaintiffs have brought this action under Ohio Civil Rules 23(A) and 23 (B) on behalf of Plaintiffs in five putative classes. However, this answering Defendant denies this is an appropriate class action and expressly denies any wrongful or fraudulent conduct on his part.

179. Defendant denies the allegations contained in Paragraph 179 of the Fifth Amended Complaint. Further answering, the allegations related to this answering Defendant arise out his medical care and treatment provided in his capacity as a physician and they are therefore "medical claims" under Ohio law. It is well-settled that medical claims are not

conducive to class certification as each patients care must be individually examined relative to the applicable standard of care.

180. To the extend the allegations in Paragraph 180 of the Fifth Amended Complaint are directed at this answering Defendant they are denied. Defendant expressly denies all allegations enumerated in Sub-Paragraphs D and E of Paragraph 180 of the Fifth Amended Complaint. Defendant can neither admit nor deny the remaining allegations in Paragraph 180 of the Fifth Amended Complaint as they are directed to other Defendants.

181. To the extend the allegations in Paragraph 181 of the Fifth Amended Complaint are directed at this answering Defendant they are denied. Further answering, this Defendant states it is well-settled that medical claims are not conducive to class actions due to the individualized requirements of proof relative to each patient.

182. Defendant denies the allegations contained in Paragraph 182 of the Fifth Amended Complaint.

183. Defendant denies the allegations contained in Paragraph 183 of the Fifth Amended Complaint.

184. Defendant denies the allegations contained in Paragraph 184 of the Fifth Amended Complaint. Further answering, this Defendant states it is well-settled that medical claims are not conducive to class certification due to the individualized requirements of proof relative to each patient.

## VI. CLASS-ACTION CLAIMS

### **Claim 1 – Fraud Investigation Fees Plaintiffs Williams, Norris, Harbour and Class A**

185. This Defendant hereby incorporates his responses in Paragraphs 1 through 184 of his Answer as if fully re-written herein.

186. Defendant can neither admit nor deny the allegations contained in Paragraph 186 of the Fifth Amended Complaint as they are directed to other Defendants.

187. Defendant can neither admit nor deny the allegations contained in Paragraph 187 of the Fifth Amended Complaint as they are directed to other Defendants.

188. Defendant can neither admit nor deny the allegations contained in Paragraph 188 of the Fifth Amended Complaint as they are directed to other Defendants.

189. Defendant can neither admit nor deny the allegations contained in Paragraph 189 of the Fifth Amended Complaint as they are directed to other Defendants.

190. Defendant can neither admit nor deny the allegations contained in Paragraph 190 of the Fifth Amended Complaint as they are directed to other Defendants.

191. Defendant can neither admit nor deny the allegations contained in Paragraph 191 of the Fifth Amended Complaint as they are directed to other Defendants.

192. Defendant can neither admit nor deny the allegations contained in Paragraph 192 of the Fifth Amended Complaint as they are directed to other Defendants.

193. Defendant can neither admit nor deny the allegations contained in Paragraph 193 of the Fifth Amended Complaint as they are directed to other Defendants.

194. Defendant can neither admit nor deny the allegations contained in Paragraph 194 of the Fifth Amended Complaint as they are directed to other Defendants.

195. Defendant can neither admit nor deny the allegations contained in Paragraph 195 of the Fifth Amended Complaint as they are directed to other Defendants.

196. Defendant can neither admit nor deny the allegations contained in Paragraph 196 of the Fifth Amended Complaint as they are directed to other Defendants.

197. Defendant can neither admit nor deny the allegations contained in Paragraph 197 of the Fifth Amended Complaint as they are directed to other Defendants.

198. Defendant can neither admit nor deny the allegations contained in Paragraph 198 of the Fifth Amended Complaint as they are directed to other Defendants.

199. Defendant can neither admit nor deny the allegations contained in Paragraph 199 of the Fifth Amended Complaint as they are directed to other Defendants.

**Claim 2 – Breach of Contract**  
**Investigation Fees**  
**Plaintiffs Williams, Norris, Harbour, and Class A**

200. This Defendant hereby incorporates his responses in Paragraphs 1 through 199 of his Answer as if fully re-written herein.

201. Defendant can neither admit nor deny the allegations contained in Paragraph 201 of the Fifth Amended Complaint as they are directed to other Defendants.

202. Defendant can neither admit nor deny the allegations contained in Paragraph 202 of the Fifth Amended Complaint as they are directed to other Defendants.

203. Defendant can neither admit nor deny the allegations contained in Paragraph 203 of the Fifth Amended Complaint as they are directed to other Defendants.

204. Defendant can neither admit nor deny the allegations contained in Paragraph 204 of the Fifth Amended Complaint as they are directed to other Defendants.

**Claim 3 – Breach of Fiduciary Duty  
Investigation Fees  
Plaintiffs Williams, Norris, Harbour, and Class A**

205. This Defendant hereby incorporates his responses in Paragraphs 1 through 204 of his Answer as if fully re-written herein.

206. Defendant can neither admit nor deny the allegations contained in Paragraph 206 of the Fifth Amended Complaint as they are directed to other Defendants.

207. Defendant can neither admit nor deny the allegations contained in Paragraph 207 of the Fifth Amended Complaint as they are directed to other Defendants.

208. Defendant can neither admit nor deny the allegations contained in Paragraph 208 of the Fifth Amended Complaint as they are directed to other Defendants.

209. Defendant can neither admit nor deny the allegations contained in Paragraph 209 of the Fifth Amended Complaint as they are directed to other Defendants.

210. Defendant can neither admit nor deny the allegations contained in Paragraph 210 of the Fifth Amended Complaint as they are directed to other Defendants.

211. Defendant can neither admit nor deny the allegations contained in Paragraph 211 of the Fifth Amended Complaint as they are directed to other Defendants.

**Claim 4 – Unjust Enrichment  
Investigation Fees  
Plaintiffs Williams, Norris, Harbour, and Class A**

212. This Defendant hereby incorporates his responses in Paragraphs 1 through 211 of his Answer as if fully re-written herein.

213. Defendant can neither admit nor deny the allegations contained in Paragraph 213 of the Fifth Amended Complaint as they are directed to other Defendants.

214. Defendant can neither admit nor deny the allegations contained in Paragraph 214 of the Fifth Amended Complaint as they are directed to other Defendants.

215. Defendant can neither admit nor deny the allegations contained in Paragraph 215 of the Fifth Amended Complaint as they are directed to other Defendants.

216. Defendant can neither admit nor deny the allegations contained in Paragraph 216 of the Fifth Amended Complaint as they are directed to other Defendants.

**Claim 5 – Breach of Fiduciary Duty  
Undisclosed Self-Dealing with Chiropractors-Narrative Fee  
Plaintiffs Reed and Norris and Class B**

217. This Defendant hereby incorporates his responses in Paragraphs 1 through 217 of his Answer as if fully re-written herein.

218. Defendant can neither admit nor deny the allegations contained in Paragraph 218 of the Fifth Amended Complaint as they are directed to other Defendants.

219. Defendant can neither admit nor deny the allegations contained in Paragraph 219 of the Fifth Amended Complaint as they are directed to other Defendants.

220. Defendant can neither admit nor deny the allegations contained in Paragraph 220 of the Fifth Amended Complaint as they are directed to other Defendants.

221. Defendant can neither admit nor deny the allegations contained in Paragraph 221 of the Fifth Amended Complaint as they are directed to other Defendants.

222. Defendant can neither admit nor deny the allegations contained in Paragraph 222 of the Fifth Amended Complaint as they are directed to other Defendants.

223. Defendant can neither admit nor deny the allegations contained in Paragraph 223 of the Fifth Amended Complaint as they are directed to other Defendants.

224. Defendant can neither admit nor deny the allegations contained in Paragraph 224 of the Fifth Amended Complaint as they are directed to other Defendants.

**Claim 6 – Unjust Enrichment  
Undisclosed Self-Dealing with Chiropractors-Narrative Fee  
Plaintiffs Reed and Norris and Class B**

225. This Defendant hereby incorporates his responses in Paragraphs 1 through 224 of his Answer as if fully re-written herein.

226. Defendant can neither admit nor deny the allegations contained in Paragraph 226 of the Fifth Amended Complaint as they are directed to other Defendants.

227. Defendant can neither admit nor deny the allegations contained in Paragraph 227 of the Fifth Amended Complaint as they are directed to other Defendants.

228. Defendant can neither admit nor deny the allegations contained in Paragraph 228 of the Fifth Amended Complaint as they are directed to other Defendants.

229. Defendant can neither admit nor deny the allegations contained in Paragraph 229 of the Fifth Amended Complaint as they are directed to other Defendants.

**Claim 7– Fraud  
Undisclosed Self-Dealing with Liberty Capital Funding, LLC  
Plaintiff Norris and Class C**

230. This Defendant hereby incorporates his responses in Paragraphs 1 through 229 of his Answer as if fully re-written herein.

231. Defendant can neither admit nor deny the allegations contained in Paragraph 231 of the Fifth Amended Complaint as they are directed to other Defendants.

232. Defendant can neither admit nor deny the allegations contained in Paragraph 232 of the Fifth Amended Complaint as they are directed to other Defendants.



233. Defendant can neither admit nor deny the allegations contained in Paragraph 233 of the Fifth Amended Complaint as they are directed to other Defendants.

234. Defendant can neither admit nor deny the allegations contained in Paragraph 234 of the Fifth Amended Complaint as they are directed to other Defendants.

235. Defendant can neither admit nor deny the allegations contained in Paragraph 235 of the Fifth Amended Complaint as they are directed to other Defendants.

236. Defendant can neither admit nor deny the allegations contained in Paragraph 236 of the Fifth Amended Complaint as they are directed to other Defendants.

237. Defendant can neither admit nor deny the allegations contained in Paragraph 237 of the Fifth Amended Complaint as they are directed to other Defendants.

238. Defendant can neither admit nor deny the allegations contained in Paragraph 238 of the Fifth Amended Complaint as they are directed to other Defendants.

239. Defendant can neither admit nor deny the allegations contained in Paragraph 239 of the Fifth Amended Complaint as they are directed to other Defendants.

240. Defendant can neither admit nor deny the allegations contained in Paragraph 240 of the Fifth Amended Complaint as they are directed to other Defendants.

241. Defendant can neither admit nor deny the allegations contained in Paragraph 241 of the Fifth Amended Complaint as they are directed to other Defendants.

242. Defendant can neither admit nor deny the allegations contained in Paragraph 242 of the Fifth Amended Complaint as they are directed to other Defendants.

243. Defendant can neither admit nor deny the allegations contained in Paragraph 243 of the Fifth Amended Complaint as they are directed to other Defendants.

244. Defendant can neither admit nor deny the allegations contained in Paragraph 244 of the Fifth Amended Complaint as they are directed to other Defendants.

**Claim 8 – Breach of Fiduciary Duty  
Undisclosed Self-Dealing with Liberty Capital Funding, LLC  
Plaintiff Norris and Class C**

245. This Defendant hereby incorporates his responses in Paragraphs 1 through 244 of his Answer as if fully re-written herein.

246. Defendant can neither admit nor deny the allegations contained in Paragraph 246 of the Fifth Amended Complaint as they are directed to other Defendants.

247. Defendant can neither admit nor deny the allegations contained in Paragraph 247 of the Fifth Amended Complaint as they are directed to other Defendants.

248. Defendant can neither admit nor deny the allegations contained in Paragraph 248 of the Fifth Amended Complaint as they are directed to other Defendants.

249. Defendant can neither admit nor deny the allegations contained in Paragraph 249 of the Fifth Amended Complaint as they are directed to other Defendants.

250. Defendant can neither admit nor deny the allegations contained in Paragraph 250 of the Fifth Amended Complaint as they are directed to other Defendants.

251. Defendant can neither admit nor deny the allegations contained in Paragraph 251 of the Fifth Amended Complaint as they are directed to other Defendants.

252. Defendant can neither admit nor deny the allegations contained in Paragraph 252 of the Fifth Amended Complaint as they are directed to other Defendants.

**Claim 9 – Unjust Enrichment**  
**Undisclosed Self-Dealing with Liberty Capital Funding, LLC**  
**Plaintiff Norris and Class C**

253. This Defendant hereby incorporates his responses in Paragraphs 1 through 252 of his Answer as if fully re-written herein.

254. Defendant can neither admit nor deny the allegations contained in Paragraph 254 of the Fifth Amended Complaint as they are directed to other Defendants.

255. Defendant can neither admit nor deny the allegations contained in Paragraph 255 of the Fifth Amended Complaint as they are directed to other Defendants.

256. Defendant can neither admit nor deny the allegations contained in Paragraph 256 of the Fifth Amended Complaint as they are directed to other Defendants.

257. Defendant can neither admit nor deny the allegations contained in Paragraph 257 of the Fifth Amended Complaint as they are directed to other Defendants.

**Claim 10 – Fraud**  
**Undisclosed Self-Dealing/Tritec Medical Supplies**  
**Plaintiffs Norris, Harbour and Class D**

258. This Defendant hereby incorporates his responses in Paragraphs 1 through 258 of his Answer as if fully re-written herein.

259. Defendant denies the allegations contained in Paragraph 259 of the Fifth Amended Complaint.

260. Defendant denies the allegations contained in Paragraph 260 of the Fifth Amended Complaint.

261. Defendant denies the allegations contained in Paragraph 261 of the Fifth Amended Complaint.

262. Defendant denies the allegations contained in Paragraph 262 of the Fifth Amended Complaint.

263. Defendant denies the allegations contained in Paragraph 263 of the Fifth Amended Complaint.

264. Defendant denies the allegations contained in Paragraph 264 of the Fifth Amended Complaint.

265. Defendant denies the allegations contained in Paragraph 265 of the Fifth Amended Complaint.

266. Defendant denies the allegations contained in Paragraph 266 of the Fifth Amended Complaint.

267. Defendant denies the allegations contained in Paragraph 267 of the Fifth Amended Complaint.

268. Defendant denies the allegations contained in Paragraph 268 of the Fifth Amended Complaint.

269. Defendant denies the allegations contained in Paragraph 269 of the Fifth Amended Complaint.

270. Defendant denies the allegations contained in Paragraph 270 of the Fifth Amended Complaint.

271. Defendant denies the allegations contained in Paragraph 271 of the Fifth Amended Complaint.

**Claim 11 – Breach of Fiduciary Duty  
Undisclosed Self-Dealing/Tritec Medical Supplies  
Plaintiffs Norris, Harobour and Class D**

272. This Defendant hereby incorporates his responses in Paragraphs 1 through 271 of his Answer as if fully re-written herein.

273. Defendant denies the allegations contained in Paragraph 273 of the Fifth Amended Complaint.

274. Defendant denies the allegations contained in Paragraph 274 of the Fifth Amended Complaint.

275. Defendant denies the allegations contained in Paragraph 275 of the Fifth Amended Complaint.

276. Defendant denies the allegations contained in Paragraph 276 of the Fifth Amended Complaint.

277. Defendant denies the allegations contained in Paragraph 277 of the Fifth Amended Complaint.

278. Defendant denies the allegations contained in Paragraph 278 of the Fifth Amended Complaint.

**Claim 12 – Unjust Enrichment  
Undisclosed Self-Dealing/Tritec Medical Supplies  
Plaintiffs Norris, Harbour and Class D**

279. This Defendant hereby incorporates his responses in Paragraphs 1 through 278 of his Answer as if fully re-written herein.

280. Defendant denies the allegations contained in Paragraph 280 of the Fifth Amended Complaint.

281. Defendant denies the allegations contained in Paragraph 281 of the Fifth Amended Complaint.

282. Defendant denies the allegations contained in Paragraph 282 of the Fifth Amended Complaint.

283. Defendant denies the allegations contained in Paragraph 283 of the Fifth Amended Complaint.

**Claim 13– Unconscionable Contract  
Undisclosed Self-Dealing/Tritect Medical Supplies  
Plaintiffs Norris, Harbour and Class D**

284. This Defendant hereby incorporates his responses in Paragraphs 1 through 283 of his Answer as if fully re-written herein.

285. Defendant denies the allegations contained in Paragraph 285 of the Fifth Amended Complaint.

286. Defendant denies the allegations contained in Paragraph 286 of the Fifth Amended Complaint.

287. Defendant denies the allegations contained in Paragraph 287 of the Fifth Amended Complaint.

288. Defendant denies the allegations contained in Paragraph 288 of the Fifth Amended Complaint.

**Claim 14 – Fraud  
Undisclosed Self-Dealing/Injections  
Plaintiff Harbour and Class E**

289. This Defendant hereby incorporates his responses in Paragraphs 1 through 288 of his Answer as if fully re-written herein.

290. Defendant denies the allegations contained in Paragraph 290 of the Fifth Amended Complaint.

291. Defendant denies the allegations contained in Paragraph 291 of the Fifth Amended Complaint.

292. Defendant denies the allegations contained in Paragraph 292 of the Fifth Amended Complaint.

293. Defendant denies the allegations contained in Paragraph 293 of the Fifth Amended Complaint.

294. Defendant denies the allegations contained in Paragraph 294 of the Fifth Amended Complaint.

295. Defendant denies the allegations contained in Paragraph 295 of the Fifth Amended Complaint.

296. Defendant denies the allegations contained in Paragraph 296 of the Fifth Amended Complaint.

297. Defendant denies the allegations contained in Paragraph 297 of the Fifth Amended Complaint.

298. Defendant denies the allegations contained in Paragraph 298 of the Fifth Amended Complaint.

299. Defendant denies the allegations contained in Paragraph 299 of the Fifth Amended Complaint.

300. Defendant denies the allegations contained in Paragraph 300 of the Fifth Amended Complaint.

301. Defendant denies the allegations contained in Paragraph 301 of the Fifth Amended Complaint.

302. Defendant denies the allegations contained in Paragraph 302 of the Fifth Amended Complaint.

303. Defendant denies the allegations contained in Paragraph 303 of the Fifth Amended Complaint.

**Claim 15 - Breach of Fiduciary Duty  
Undisclosed Self-Dealing/Injections  
Plaintiff Harbour and Class E**

304. This Defendant hereby incorporates his responses in Paragraphs 1 through 303 of his Answer as if fully re-written herein.

305. Defendant denies the allegations contained in Paragraph 305 of the Fifth Amended Complaint.

306. Defendant denies the allegations contained in Paragraph 306 of the Fifth Amended Complaint.

307. Defendant denies the allegations contained in Paragraph 307 of the Fifth Amended Complaint.

308. Defendant denies the allegations contained in Paragraph 308 of the Fifth Amended Complaint.

309. Defendant denies the allegations contained in Paragraph 309 of the Fifth Amended Complaint.

310. Defendant denies the allegations contained in Paragraph 310 of the Fifth Amended Complaint.



311. Defendant denies the allegations contained in Paragraph 311 of the Fifth Amended Complaint.

**Claim 16 – Unjust Enrichment  
Undisclosed Self-Dealing/Tritec Medical Supplies  
Plaintiff Harbour and Class E**

312. This Defendant hereby incorporates his responses in Paragraphs 1 through 311 of his Answer as if fully re-written herein.

313. Defendant denies the allegations contained in Paragraph 313 of the Fifth Amended Complaint.

314. Defendant denies the allegations contained in Paragraph 314 of the Fifth Amended Complaint.

315. Defendant denies the allegations contained in Paragraph 315 of the Fifth Amended Complaint.

316. Defendant denies the allegations contained in Paragraph 316 of the Fifth Amended Complaint.

**Claim 17 – Unconscionable Contract  
Undisclosed Self-Dealing/Tritec Medical Supplies  
Plaintiff Harbour and Class E**

317. This Defendant hereby incorporates his responses in Paragraphs 1 through 316 of his Answer as if fully re-written herein.

318. Defendant denies the allegations contained in Paragraph 318 of the Fifth Amended Complaint.

319. Defendant denies the allegations contained in Paragraph 319 of the Fifth Amended Complaint.

320. Defendant denies the allegations contained in Paragraph 320 of the Fifth Amended Complaint.

321. Defendant denies the allegations contained in Paragraph 321 of the Fifth Amended Complaint.

### **AFFIRMATIVE DEFENSES**

1. Plaintiffs failed to state a claim upon which relief may be granted and is barred from recovery.

2. Plaintiffs fail to satisfy all or part of the requirements set forth in Ohio R. Civ. P. 23(a)(1) through (4) inclusive.

3. Plaintiffs fail to satisfy all or part of the requirements set forth in Ohio R. Civ. P. 23(b)(1) through (3) inclusive.

4. Plaintiffs have failed to comply with the pleading requirements of Ohio R. Civ. P. 10(D)(2).

5. Plaintiffs have pled no set of facts sufficient to sustain their burden of proving that they are representative of any alleged class.

6. Plaintiffs lack standing to bring and maintain their claims on behalf of putative classes and standing to pursue, among other claims, their declaratory and injunctive relief.

7. The claims of Plaintiffs and some or all of the purported classes are bound and precluded, in whole or in part, by the doctrines of *res judicata*, collateral estoppel, judicial estoppel, and judicial approval.

8. Plaintiffs' claims are barred, in whole or in part, by the Due Process and Equal Protection Clauses of the Fifth and Fourteenth Amendments and the Seventh Amendments' guarantee of a jury trial under the United States Constitution to the extent Plaintiffs seek to

extrapolate liability, causation or damages on a class-wide basis, instead of proving liability, causation and damages for each individual class member.

9. Any award of punitive damages would constitute the imposition of a criminal penalty without the safeguards guaranteed by the Fifth, Sixth, Eighth, and Fourteenth Amendments of the United States Constitution and similar provisions of the Ohio Constitution.

10. The imposition of punitive or exemplary damages would constitute an excessive fine under the Eighth Amendment, would deny Defendant of equal protection of the laws under the Fourteenth Amendment and similar provisions of the Ohio Constitution, and would violate the Due Process clauses of the Ohio Constitution.

11. Plaintiffs' claim for punitive damages or exemplary damages against Defendant cannot be maintained unless the trial is bifurcated. Any award of punitive or exemplary damages without bifurcating the trial and trying all punitive damages issues only if and after liability on the merits has been found, would violate Defendant's due process rights guaranteed by the Fourteenth Amendment to the United States Constitution and the Ohio Constitution.

12. The imposition of punitive or exemplary damages in this case against Defendant would contravene the Commerce Clause of the United States Constitution in that such an award would constitute an undue and unreasonable burden on interstate commerce.

13. The imposition of punitive damages under applicable law would be unlawful and unauthorized, would be void for vagueness, both facially and as applied, as a result of, among other deficiencies, the absence of adequate notice of what conduct is subject to punishment, the absence of adequate notice of what punishment may be imposed, and the absence of a predetermined limit, such as a maximum multiple of compensatory damages or maximum amount, on the amount of punitive damages that jury may impose, all in violation of the Due

Process Clause of the Fourteenth Amendment to the United States Constitution , the Ohio Constitution, and the common law and public policy of the State of Ohio.

14. Plaintiffs' claim for punitive damages is subject to the limitations established by R.C. §§ 2307.80 and 2315.21.

15. Plaintiffs' claims are barred, in whole or in part, by the economic loss doctrine.

16. Plaintiffs' fraud claims are not pled with particularity as required by Ohio R. Civ. P. 9(b).

17. Plaintiffs and the classes have failed to satisfy conditions precedent, including, without limitation, privity of contract under the applicable agreements.

18. Plaintiffs Norris and Harbour both reviewed and approved the Settlement Memorandums authorizing dispersals to this Defendant for services rendered.

19. Plaintiffs' claims are barred, in whole or in part, by the doctrines of accord and satisfaction and novation.

20. Plaintiffs failed to join the necessary parties to this action pursuant to Ohio Rules of Civil Procedure 12(B)(7) and 19, and is, therefore, barred from recovery.

21. Plaintiffs failed to mitigate their damages, if any, and is barred from recovery.

22. Plaintiffs may have failed to commence these proceedings within the applicable statute of limitations and are therefore barred from recovery.

23. Plaintiff may have failed to commence these proceedings within the applicable statute of repose and are therefore barred from recovery.

24. Plaintiffs' claims are barred by the doctrines of laches, waiver, and/or estoppel.

25. Plaintiffs' injuries and damages, if any, which are specifically denied, were caused by persons, firms, corporations or entities over whom this Defendant had no control and no duty to control.

26. The damages sought by Plaintiffs are attributable to one or more persons from whom Plaintiffs do not seek recovery in this action.

27. Plaintiffs' claims are barred as Plaintiffs did not sustain any loss or damage as a proximate consequence of any alleged act or omission on the part of this Defendant.

28. Plaintiffs' claims are barred as any damages which Plaintiffs may have sustained were proximately caused by Plaintiffs' own acts, omissions, and/or negligence.

29. Defendant is entitled to an apportionment of liability to other parties and non-parties to this action pursuant to R.C. 2307.23.

30. Plaintiffs' claims are barred by the doctrines of comparative negligence and/or assumption of the risk.

31. Plaintiffs' Fifth Amended Complaint fails for insufficiency of process and/or service.

32. Venue may be improper.

33. Plaintiffs' Fifth Amended Complaint must be dismissed for lack of personal and/or subject matter jurisdiction.

34. Plaintiffs' Complaint is frivolous and factually and legally baseless and violates Ohio R. Civ. P. 11 and O.R.C. § 2323.51.

35. Defendant reserves the right to supplement additional affirmative defenses, if appropriate, after the completion of discovery and/or investigation.

WHEREFORE, Defendant prays Plaintiffs' Fifth Amended Complaint be dismissed with prejudice and that Plaintiffs be ordered to pay all costs and reasonable attorney's fees sustained by this Defendant and all other such relief as the Court deems just and equitable.

Respectfully Submitted,

By: /s/ Bradley J. Barmen

Bradley J. Barmen (0076515)  
LEWIS BRISBOIS BISGAARD & SMITH LLP  
1375 E. 9<sup>th</sup> Street, Suite 2250  
Cleveland, Ohio 44114  
Tel. 216.344.9422  
Fax 216.344.9421  
*Counsel for Defendant*  
*Sam N. Ghoubrial, M.D.*

#### **JURY DEMAND**

Defendant, Sam. N. Ghoubrial, M.D. hereby demands a trial by jury pursuant to Ohio Rules of Civil Procedure.

/s/ Bradley J. Barmen

Bradley J. Barmen (0076515)  
*Counsel for Defendant*  
*Sam N. Ghoubrial, M.D.*

**CERTIFICATE OF SERVICE**

Pursuant to Civ.R. 5(B)(2)(f), the undersigned certifies that a copy of the foregoing Answer of Defendant Sam N. Ghourbrial to Plaintiffs' Fifth Amended Complaint was filed electronically and sent via email to the below parties on this 12<sup>th</sup> day of December 2018. The parties, through counsel, may also access this document through the Court's electronic docket system:

Peter Pattakos, Esq.  
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Fairlawn, OH 44333  
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*Counsel for Plaintiff*

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*Counsel for Plaintiff*

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[gjonson@mrjlaw.com](mailto:gjonson@mrjlaw.com)  
*Counsel for Defendants Kisling, Nestico  
& Redick, LLC, Alberto R. Nestico and Robert Redick*

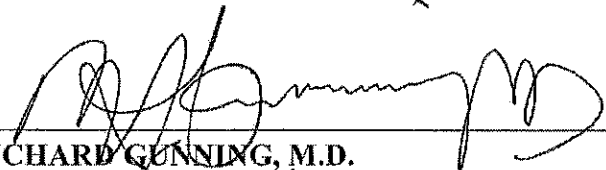
/s/ Bradley J. Barmen  
Bradley J. Barmen  
*Counsel for Defendant  
Sam N. Ghourbrial, M.D.*

STATE OF )  
 OHIO )  
 ) SS: AFFIDAVIT OF  
 COUNTY OF SUMMIT ) DR. RICHARD GUNNING

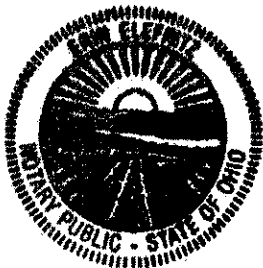
Affiant, **Richard Gunning, M.D.**, being duly sworn deposes and states:

1. I am a board-certified medical doctor, family physician, licensed in the State of Ohio.
2. I have been provided and read a copy of the motion to add Dr. Sam Ghoubril as a party defendant in Summit County Common Pleas case CV-2016-09-3928.
3. The Plaintiff is alleging that Dr. Ghoubril provided care and treatment to a patient named Monique Norris.
4. I have searched my patient care records for a patient named Monique Norris.
5. On August 2, 2013 I provided care and treatment to a patient named Monique Norris. The records are attached.
6. My office has never received a request for Monique Norris' medical records from the law offices of Attorney Peter Pattakos.
7. Had Attorney Pattakos requested the records from my office, he would have learned that I was Monique Norris' treating physician, NOT Dr. Ghoubril.

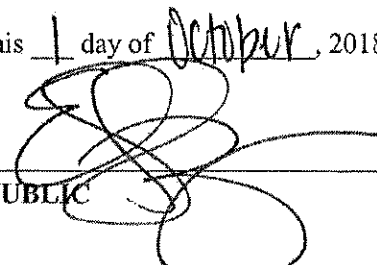
**FURTHER AFFIANT SAYETH NAUGHT.**

  
 \_\_\_\_\_  
 RICHARD GUNNING, M.D.  
 Affiant

Sworn to and subscribed in my presence on this 1 day of October, 2018.



**Erin Elefritz**  
 Notary Public  
 In and For the State of Ohio  
 My Commission Expires  
 16 January 2022

  
 \_\_\_\_\_  
 NOTARY PUBLIC

