

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

<p>MEMBER WILLIAMS, <i>et al.</i>,</p> <p style="text-align: center;">Plaintiffs,</p> <p style="text-align: center;">vs.</p> <p>KISLING, NESTICO & REDICK, LLC, <i>et al.</i>,</p> <p style="text-align: center;">Defendants.</p>	<p>Case No. 2016-CV-09-3928</p> <p>Judge James Brogan</p> <p>Reply in Support of Plaintiffs' Motion to Compel Discovery from Defendant Sam Ghoumbrial, M.D.</p>
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Plaintiffs wish to briefly make three points in reply to Defendant Ghoumbrial's brief in opposition to Plaintiffs' motion to compel discovery:

First, Ghoumbrial makes no excuse for his failure to provide a response to any of Plaintiffs' forty-seven interrogatories other than to point out (Opp. at 2) that he has at least purported to answer a single one of these interrogatories (No. 1), albeit over a series of boilerplate objections, and with a response by which he claims not only that there are no "agreements" between his office and KNR's pertaining to his treatment of thousands¹ of KNR clients since 2010, but also that no "arrangements," even "informal" ones, exist as to this relationship either. Perhaps it is Ghoumbrial's prerogative to maintain that these thousands of KNR clients have materialized in his offices at random, but this is no excuse for his failure to provide *any* answer to *any* of the additional forty-six interrogatories beyond a few references to his evasive answer to Interrogatory No. 1. The Court should require Ghoumbrial to answer all of the interrogatories, and overrule his baseless boilerplate

¹ Among the interrogatories that Ghoumbrial completely refuses to answer is one (No. 11) requesting that he identify the number of KNR clients his practice has treated. Ghoumbrial has objected to this interrogatory on grounds that it is "not reasonably calculated to lead to the discovery of admissible evidence, contains vague and undefined terms, ... is not related to class certification [and does not] 'overlap' with any issues related to class certification ..., is overly broad, unduly burdensome, and directed at the wrong Defendant." *See* Motion to Compel, **Ex. 1**, page 6 of Ghoumbrial's interrogatory responses.

objections to both these interrogatories and Plaintiffs' requests for admission. *See Liguria Foods, Inc. v. Griffith Lab., Inc.*, 320 F.R.D. 168, 187, 189 (N.D. Iowa 2017) (“[Purporting to respond to discovery requests] ‘subject to or without waiving [boilerplate objections]’ ... serves only to waste the time and resources of both the Parties and the Court. Further, such practice leaves the requesting Party uncertain as to whether the question has actually been fully answered or whether only a portion of the question has been answered ... demonstrates the parties’ obstructionist attitude toward discovery and would further confirm suspicions that the responses were interposed for improper purpose.”).

Second, Ghoubrial does not deny that his wife Julie provided testimony in their currently pending divorce proceedings—in response to questions about specific allegations made in the Fourth Amended Complaint that were asked at Julie’s deposition by Ghoubrial’s attorney David Best, who represents the KNR Defendants in this case—verifying the truth of these allegations. Instead, Ghoubrial misleads the Court (Opp. at 4–5) by misrepresenting Plaintiffs’ motion as seeking the entire transcript, including “highly personal and private information re: Dr. Ghoubrial, his wife, his children, and his marriage,” when the truth is that Plaintiffs only seek the portions of Julie’s testimony pertaining to the allegations in this case. *See* Motion to Compel at 5–6, **Ex. 3** (document request No. 1 for “portions of the transcript ... where Julie was questioned about any allegation relating to this lawsuit”). Ghoubrial also suggests that Plaintiffs’ motion should be denied because the court reporter hasn’t made a formal transcript of this testimony (Opp. at 5),² but this testimony has been recorded and could be transcribed to a formal transcript upon request. Plaintiffs will pay the fees for this transcription if necessary, but this documented information is under Ghoubrial’s custody and control, it is highly relevant and probative to this matter, and Ghoubrial should be ordered to obtain it from the court reporter and produce it. *See* Motion to Compel at 5–7,

² One may properly infer that Attorney Best specifically requested that Julie’s deposition transcript not be ordered from the court reporter in an effort to justify Ghoubrial’s refusal to produce this highly relevant and probative testimony.

citing, *inter alia*, *Grantz v. Discovery for Youth*, 12th Dist. Butler Nos. CA2004-09- 216, CA2004-09-217, 2005-Ohio-680, ¶ 11-19 (“courts, other than [domestic relations] courts, may order disclosure of [confidential domestic relations] records when pertinent to pending civil and criminal actions.”).

Finally, while Ghoubril claims for the first time in his opposition brief (at 4) that he has made a good faith search for responsive documents and “has produced everything in his possession that was requested and was not protected by privilege,”³ he has not withdrawn his serial boilerplate objections to these requests, and he has not specifically identified or described any of the documents that he is withholding as privileged as required by Civil Rule 26(B)(6)(a). Moreover, by stating (at 4) that he does not have “separate and distinct policies and procedures in place for the treatment of KNR clients,” Ghoubril suggests that such documents exist relating to his office’s treatment of patients as a whole (as they must), which would be responsive to Plaintiffs requests and must be produced.

Thus, as set forth fully in Plaintiffs’ motion to compel, the Court should issue an order overruling Ghoubril’s objections and requiring him to provide complete responses to Plaintiffs’ discovery requests.

Respectfully submitted,

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³ The only documents that Ghoubril has produced to date are medical records for Plaintiff Norris.

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Certificate of Service

The foregoing document was filed on January 14, 2019, using the Court's electronic-filing system, which will serve copies on all necessary parties.

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