

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

MEMBER WILLIAMS, et al.)	CASE NO.: CV-2016-09-3928
)	
Plaintiffs)	JUDGE JAMES A. BROGAN
-vs-)	
)	
KISLING NESTICO & REDICK)	<u>ORDER</u>
LLC, et al.)	
)	
Defendants)	

- - -

This matter comes before the Court upon (1) Plaintiffs' Motion to Compel discovery from Defendant Minas Floros and (2) Plaintiffs' Motion to Compel discovery from Defendant Sam Ghoubrial, M.D.

(1) Plaintiffs' Motion to Compel Discovery from Defendant Minas Floros

Plaintiffs' Motion to Compel Discovery from Defendant Minas Floros is OVERRULED because Plaintiffs failed to comply with Civ.R. 37(A)'s requirement to make a good faith attempt to confer with opposing counsel prior to asking for Court action. The purpose of this requirement is to endorse and enforce the view that, in general discovery is self-regulating and should require court intervention only as a last resort. See Staff Note, Civ.R. 37.

(2) Plaintiffs' Motion to Compel Discovery from Defendant Sam Ghoubrial, M.D.

Plaintiffs' Motion to Compel Discovery from Defendant Sam Ghoubrial, M.D. is GRANTED as Plaintiffs have demonstrated compliance with Civ.R. 37 in bringing the motion to the Court's attention after attempting to confer with opposing counsel over the issues raised. Further, the motion is granted to the extent that the Court order and requires Defendant Ghoubrial to provide complete answers to Plaintiffs' discovery requests, subject to the following Court rulings on the objections posed by Defendant Ghoubrial in response to each discovery request:

Rulings on Objections to Plaintiff Norris's First Set of Requests for Admission:

Objections in RFA 4, 9, 17 and 18 are overruled.

Rulings on Objections to Plaintiff Norris's First Set of Interrogatories:

Interrogatory 1 – objection overruled

Interrogatory 2 – objection overruled

Interrogatory 3 – objection overruled

Interrogatory 4 – objection overruled

Interrogatory 5 – objection overruled

Interrogatory 6 – objection overruled

Interrogatory 7 – objection overruled

Interrogatory 8 – objection overruled (the information sought is not covered by the attorney-client privilege because the KNR attorneys do not represent Dr. Ghoubrial)

Interrogatory 9 – objection overruled

Interrogatory 10 – objection sustained

Interrogatory 11 – objection sustained

Interrogatory 12 – objection sustained

Interrogatory 13 – objection overruled

Interrogatory 14 – objection overruled

Interrogatory 15 – objection sustained

Interrogatory 16 – objection overruled (you need not identify the patient name)

Interrogatory 17 – objection overruled (you need not identify the patient name)

Interrogatory 18 – objection overruled

Interrogatory 19 – objection overruled

Interrogatory 20 – objection overruled

Interrogatory 21 – objection sustained in part (you need to provide information only for the years 2015 and 2016 without revealing any patient names)

Interrogatory 22 – objection sustained in part (you need to provide information only for the years 2015 and 2016 without revealing patient names)

Interrogatory 23 – objection overruled

Interrogatory 24 – objection sustained in part (limit the answer to injections to KNR clients in 2015 and 2016 without reference to patient names)

Interrogatory 25 – objection sustained in part (limit the answer to injections between 2015 and 2016 without reference to patient names)

Interrogatory 26 – objection overruled

Interrogatory 27 – objection overruled

Interrogatory 28 – objection overruled

Interrogatory 29 – objection overruled

Interrogatory 30 – objection sustained

Interrogatory 31 – objection overruled

Interrogatory 32 – objection overruled

Interrogatory 33 – objection overruled (do not identify patient names)

Interrogatory 34 – objection overruled

Interrogatory 35 – objection overruled

Interrogatory 36 – objection overruled

Interrogatory 37 – objection overruled

Interrogatory 38 – objection overruled

Interrogatory 39 – objection overruled

Interrogatory 40 – objection sustained

Interrogatory 41 – objection sustained (with leave of Court granted for seeking the additional information outside of Civ.R. 33(A) limit of forty (40) interrogatories)

Interrogatory 42 – objection overruled (with leave of Court granted for seeking the additional information outside of Civ.R. 33(A) limit of forty (40) interrogatories)

Interrogatory 43 – objection sustained (with leave of Court granted for seeking the additional information outside of Civ.R. 33(A) limit of forty (40) interrogatories)

Interrogatory 44 – objection sustained (with leave of Court granted for seeking the additional information outside of Civ.R. 33(A) limit of forty (40) interrogatories)

Interrogatory 45 – objection sustained (with leave of Court granted for seeking the additional information outside of Civ.R. 33(A) limit of forty (40) interrogatories)

Interrogatory 46 – objection sustained (with leave of Court granted for seeking the additional information outside of Civ.R. 33(A) limit of forty (40) interrogatories)

Interrogatory 47 – objection sustained (with leave of Court granted for seeking the additional information outside of Civ.R. 33(A) limit of forty (40) interrogatories)

Rulings on Objections to Plaintiff Norris's First Set of Requests for Production of Documents:

RFP 1 – objection sustained

RFP 2 – objection overruled

RFP 3 – objection overruled

RFP 4 – objection sustained

RFP 5 – objection overruled

RFP 6 – objection overruled

RFP 7 – objection overruled

RFP 8 – objection overruled

RFP 9 – objection overruled

RFP 10 – objection sustained

RFP 11 – objection overruled

RFP 12 – objection overruled

RFP 13 – objection overruled

RFP 14 – objection overruled

RFP 15 – objection overruled

RFP 16 – objection sustained

RFP 17 – objection overruled

RFP 18 – objection overruled

RFP 19 – objection overruled

RFP 20 – objection sustained

RFP 21 – objection sustained

RFP 22 – objection overruled

RFP 23 – objection sustained

RFP 24 – objection overruled

RFP 25 – objection overruled

RFP 26 – objection overruled

RFP 27 – objection overruled

RFP 28 – objection overruled

Rulings on Objections to Plaintiffs' Second Set of Requests for Production of Documents:

Plaintiffs seek a portion of the transcript of Julie Ghoumbrial's deposition taken in Domestic Relations Court Case No. DR2018-04-1027, wherein Julie Ghoumbrial was questioned about the allegations relating to this lawsuit. Plaintiffs seek only a portion of the transcript, indicating they have reliable information that Attorney David Best posed questions to Julie Ghoumbrial about the allegations in the instant lawsuit.

Defendant Ghoumbrial objected to production of the transcript because there is a Confidentiality Order in place by Judge Quinn in Domestic Relations Court.

Upon review of the exhibits filed by Plaintiffs' it appears Mr. Ghoumbrial moved the Domestic Relations Court to deem the entire deposition transcript confidential because the testimony contained "confidential business information." That order was granted over Julie Ghoumbrial's objections. The Order states the transcript "shall only be used for the limited purposes of the within divorce case and for no other purpose of any kind or nature."

Plaintiffs cite *Grantz v. Discovery for Youth*, 12th Dist. Butler Nos. CA2004-09-216, CA2004-09-217, 2005 Ohio 680, for the proposition that a court may order disclosure of information (covered by another court's confidentiality order) when pertinent to pending civil and criminal actions. Plaintiffs ask this Court to compel a copy of the transcript for *in camera* review pursuant to the *Grantz* case. Plaintiffs argue there is no legitimate argument for shielding Julie Ghoumbrial's deposition testimony from these proceedings particularly as related to the veracity of Plaintiffs' allegations against Dr. Ghoumbrial in this lawsuit.

Defendant Ghoumbrial objects to production of the deposition transcript because it is protected by a confidentiality designation by the Domestic Relations Court. Defendant further distinguishes the *Grantz* case as it dealt exclusively with the release of a juvenile's records only after the juvenile and his parents executed waivers authorizing the release pursuant to R.C. 1347.08. Defendant Ghoumbrial also argues the three-part test *Grantz* utilized for *in camera* inspection of such records is only applicable to confidential juvenile records and *Grantz* is wholly inapplicable to getting confidential records from a Domestic Relations court.

The Court agrees that *Grantz* is distinguishable and inapposite to the issues raised herein. There are principles of comity and courtesy between separate divisions of courts and courts respect the separate jurisdiction of each separate division of court. The proper method to obtain discovery under such circumstances is intervention in the proceedings. For example, a third-party (such as Plaintiffs' counsel) may intervene in the Domestic Relations Court

proceedings for the limited purpose of either challenging the Confidentiality Order already in place or compelling only a portion of the transcript for *in camera* inspection.

Under the circumstances, and upon Plaintiffs' representation that Julie Ghoumbrial was in fact questioned about allegations in this lawsuit, the Court finds the information inquired into during Julie Ghoumbrial's deposition testimony is highly relevant, probative, and subject to discovery in this case. However, it is well-settled that different divisions of the Common Pleas Court maintain separate and distinct jurisdiction over their own statutorily assigned matters and this Court is not inclined to compel the deposition for an *in camera* inspection without Plaintiffs having exhausting the usual routes to legitimately obtain the deposition transcript (via intervention in the Domestic Relations Court). Accordingly, the objection is sustained regarding Request for Production of Documents 1.

Rulings on Objections to Plaintiffs' Second set of Interrogatories:
Interrogatory 1 – objection overruled

Rulings on Objections to Plaintiffs Second Set of Requests for Admission:
Objections in RFA 1- 4 are overruled

Finally, Defendant Ghoumbrial's sur-reply brief sought sanctions against Plaintiffs' counsel under Civ.R. 11 and R.C. 2323.51. This separate request for sanctions is
OVERRULED.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that Plaintiffs' Motion to Compel Discovery from Defendant Minas Floros is **OVERRULED.**

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Plaintiffs' Motion to Compel Discovery from Defendant Ghoumbrial is **GRANTED** subject to the separate rulings on the objections in the body of the Decision.

IT IS SO ORDERED.



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

CC: ALL COUNSEL/PARTIES OF RECORD