

**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

**DEFENDANT SAM GHOUBRIAL,
M.D.'S BRIEF IN OPPOSITION TO
PLAINTIFF'S MOTION FOR
CLARIFICATION OF THE COURT'S
FEBRUARY 25, 2019 ORDER**

Plaintiffs' request for clarification of this Court's February 25, 2019 Order is wholly unnecessary and should be denied. The entirety of the Court's February 25, 2019 is clear and unambiguous, including the holding that Plaintiffs' counsel's January 26, 2019 Facebook post is misleading. That Plaintiffs' counsel does not like the Order does not mean clarification is warranted. Moreover, Plaintiffs' counsel's concern of the potential ramifications of his misleading social media post should be of no consequence to this Court. Plaintiff's counsel made the decision to knowingly post misleading statements about Dr. Ghoubrial in the January 26, 2019 Facebook post, and others, in an effort to publicly defame and demean Dr. Ghoubrial, and to drum up more class members. Because he cannot now seek absolution from this Court for his wrongful conduct, Plaintiffs' Motion for Clarification should be denied.

That the Court did not grant the relief sought by Dr. Ghoubrial and the KNR Defendants relative to Plaintiffs' counsel's misleading Facebook post does not mean the January 25, 2019 Facebook post was not misleading. A plain reading of the January 25, 2019 Facebook demonstrates it is misleading as this Court properly found. Among other things, the Facebook post clearly and intentionally implies a conspiracy between Dr. Ghoubrial and KNR has already been proven. Considering the fact that Plaintiffs have yet to even move to certify this purported class action, Plaintiffs' counsel's statement regarding the alleged conspiracy is nothing but misleading.

Unfortunately, Plaintiffs' Counsel's intentionally misleading conduct is not limited to his shameless attempts to mislead and influence the public. The Motion to Clarify is yet another attempt to mislead this Court when he states "the Court appears to be specifically declining to decide whether the Facebook post at issue is misleading in the sentence beginning with the phrase, 'to the extent that the January 26, 2019 Facebook post is misleading...'. See Plaintiffs' Motion at pg. 1. It was no accident that Plaintiffs' counsel omitted the rest of the sentence he quoted that explains precisely why the Facebook post at issue is misleading. See 2/25/19 Order, at pg. 7. As this Court stated, a conspiracy between KNR and Dr. Ghoubrial has not been proven and the claims in the Fifth Amended Class-Action Complaint have not been certified for class action under Civ.R. 23 at this stage of the proceedings. *Id.*

Plaintiffs' counsel chose to publically post misleading statements about Dr. Ghoubrial, KNR, and the status of the case. Whatever his motivations, he must live with the potential consequences of his decision. This Court should not sanction his wrongful conduct by granting his request to "clarify" the February 25, 2019 Order. Because the Court's February 25, 2019 Order is clear and unambiguous, Plaintiffs' Motion must be denied.

Respectfully Submitted,

By: /s/ Bradley J. Barmen

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

CERTIFICATE OF SERVICE

The foregoing Defendant Sam Ghoubrial, M.D.'s Memorandum in Opposition to Plaintiffs' Motion to for Clarification of the Court's February 25, 2019 Order has been filed on the 4th day of March, 2019 using the Court's electronic filing system. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system.

/s/ Bradley J. Barmen

Bradley J. Barmen (0076515)

*Counsel for Defendant
Sam N. Ghoubrial, M.D.*