

**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

**KNR DEFENDANTS' MOTION TO
STAY CONSIDERATION OF
PLAINTIFFS' MOTION FOR
SANCTIONS PENDING
RESOLUTION OF CLASS
CERTIFICATION AND FURTHER
DISCOVERY**

Plaintiffs have moved for sanctions against the KNR Defendants under R.C. 2323.51 surrounding counterclaims that have since been voluntarily dismissed by Defendants. Viewing that all of the discovery taken in this case to date has involved the question of whether Plaintiffs' class action claims can be certified under Civ.R. 23, no discovery had been conducted on the merits of the counterclaims previously sought by Defendants whatsoever, and Defendants are prejudiced in now responding to Plaintiffs' Motion without the benefit of such discovery. This Court has previously ruled the same when confronted with Defendants' Motion for Summary Judgment on the merits of Plaintiffs' Liberty Capital claims before further discovery is conducted and issues of class certification are resolved. (*See* 4/6/18 Order) Moreover, Plaintiffs admit they will not be prejudiced by any such delay, conceding that "they would have preferred to wait to file this motion until the conclusion of this case . . . but Ohio Courts are split as to whether the 30-day deadline for filing a motion under R.C. 2323.51(B)(1) tolls from the date of voluntary dismissal of the subject claims or upon final disposition of the entire case." (*See* Motion, p. 3, fn. 2).

Based on the foregoing, the KNR Defendants respectfully request that this Court staying briefing on and consideration of Plaintiffs' Motion for Sanctions until issues of class certification are

resolved and Defendants are afforded the opportunity to investigate the merits of Plaintiffs' contentions.

Respectfully submitted,

/s/ James M. Popson

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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was filed electronically with the Court on this 15th day of March, 2019. The parties may access this document through the Court's electronic docket system.

/s/ James M. Popson

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