

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

<p>MEMBER WILLIAMS, <i>et al.</i>,</p> <p style="text-align: center;">Plaintiff,</p> <p>vs.</p> <p>KISLING, NESTICO & REDICK, LLC, <i>et al.</i>,</p> <p style="text-align: center;">Defendants.</p>	<p>Case No. CV-2016-09-3928</p> <p>Judge James A. Brogan</p> <p>Plaintiffs' Motion to Compel the KNR Defendants to Produce Files Requested by Former KNR Clients</p>
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In response to Plaintiffs recent public communications about this case, nine former KNR clients who are not Named Plaintiffs in this case have requested that Plaintiffs' counsel obtain and review their KNR-related files to determine whether and to what extent they were subject to any of the fraudulent practices alleged. To obtain these files, these former clients executed HIPAA-compliant waivers requesting and authorizing the release of all medical and legal files in the possession of the Defendants in this case to Plaintiffs' counsel, who attached and incorporated these waivers into formal document requests recently issued to the Defendants. *See* waiver forms attached as **Exhibit 1**.¹

While Defendant Floros has produced the requested files, and Defendant Ghoubril has stated that he intends to do so, the KNR Defendants have refused, claiming that because these former clients "are not parties to this case and counsel for Plaintiffs has not confirmed representation of these individuals ... their client files and the work done on these files are subject to

¹ This motion pertains only to 7 of the 9 former KNR clients whose requests and waiver forms were submitted to the Defendants on February 15, 2019. The waiver forms specifically authorize and request that the Defendants produce all medical records for the former clients to Plaintiffs' counsel for use in this litigation, as well as "any and all documents, including but not limited to pleadings, correspondence, notes, investigative reports, and all other information written or otherwise recorded, contained in my legal file or relating to any past legal case involving [the former client], including confidential attorney-client communications." *See* **Ex. 1**.

privilege.” *See* 2/15/19 discovery requests, attached as **Exhibit 2**, at page 4, Request for Production No. 1.

Upon receipt of this objection on Friday, March 15, Plaintiffs’ counsel immediately requested an explanation as to what privilege could apply, and how, where the clients have specifically authorized and requested the release of the information at issue. *See* emails between counsel attached as **Exhibit 3**. Defense counsel replied by stating that he would consult with the KNR Defendants on Monday, March 18 as to whether they were willing to reconsider their position. *Id.* Plaintiffs’ counsel followed up with an email on that day, explaining the need to receive these documents in advance of Defendant Floros’s March 20 deposition (as three of the seven clients at issue treated with Floros), and another email on Tuesday, March 19, both of which have been ignored by the Defendants. *Id.*

Rather than even try to explain why they are not producing these discrete client files, which were duly requested and plainly relevant and probative to this case, the KNR Defendants are content to require Plaintiffs to file yet another motion to compel, knowing that Plaintiffs have little choice but to proceed with Floros’s deposition without the files of three additional clients who have treated with him. Not only is such baseless obstruction contrary to the Civil Rules, it violates Prof.Cond.R. 1.16(D)’s requirement that a lawyer “promptly” release all “client papers and property” in accordance with the client’s wishes. *See also Sacksteder v. Senney*, 2d Dist. Montgomery No. 25892, 2014-Ohio-2678, ¶ 11 (“A client has the right to any original paper or document that is reasonably necessary to the client’s representation.”). Thus, the KNR Defendants should be immediately ordered to release the files of the seven former KNR clients identified in **Exhibits 1 and 2** to Plaintiffs’ counsel, as requested and authorized pursuant to the waiver forms attached as **Exhibit 1**.

Respectfully submitted,

/s/ Peter Pattakos

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Rachel Hazelet (0097855)
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Cleveland, Ohio 44113
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Fax: 216.781.8061
jcohen@crklaw.com

Attorneys for Plaintiffs

Certificate of Service

The foregoing document was filed on March 19, 2019, using the Court's e-filing system, which will serve copies on all necessary parties.

/s/ Peter Pattakos

Attorney for Plaintiffs

**HIPAA COMPLIANT AUTHORIZATION FOR THE RELEASE OF PATIENT
AND INFORMATION PURSUANT TO 45 CFR 164.508**

TO: Sam Ghoubril, M.D. and all entities owned or controlled by Ghoubril or physicians employed by him; and/or Minas Floros D.C., Akron Square Chiropractic, and all related entities and chiropractors, the law firm of Kisling, Nestico and Redick and all attorneys and employees of that firm, and all medical professionals and any other person or entity to whom payment was made on the undersigned's behalf from the proceeds of settlements obtained by KNR.

Name of Healthcare Provider/Physician/Facility/Medicare Contractor

RE: Patient Name: JAIJUAN V. CARTER
Date of Birth: [REDACTED] Social Security Number: [REDACTED]

I authorize and request the disclosure of all protected information for the purpose of review and evaluation in connection with a legal claim. I expressly request that the designated record custodian of all covered entities under HIPAA identified above disclose full and complete protected medical information including the following:

- All medical records, meaning every page in my record, including but not limited to: office notes, face sheets, history and physical, consultation notes, inpatient, outpatient and emergency room treatment, all clinical charts, reports, order sheets, progress notes, nurse's notes, social worker records, clinic records, treatment plans, admission records, discharge summaries, requests for and reports of consultations, documents, correspondence, test results, statements, questionnaires/histories, correspondence, photographs, videotapes, telephone messages, and records received by other medical providers.
- All physical, occupational and rehab requests, consultations and progress notes.
- All disability, Medicaid or Medicare records including claim forms and record of denial of benefits.
- All employment, personnel or wage records.
- All autopsy, laboratory, histology, cytology, pathology, immunohistochemistry records and specimens; radiology records and films including CT scan, MRI, MRA, EMG, bone scan, myelogram; nerve conduction study, echocardiogram and cardiac catheterization results, videos/CDS/films/reels and reports.
- All pharmacy/prescription records including NDC numbers and drug information handouts/monographs.
- All billing records including all statements, insurance claim forms, itemized bills, and records of billing to third party payers and payment or denial of benefits for the period 2009 to present.

I understand the information to be released or disclosed may include information relating to sexually transmitted diseases, acquired immunodeficiency syndrome (AIDS), or human

immunodeficiency virus (HIV), and alcohol and drug abuse. I authorize the release or disclosure of this type of information. I also specifically authorize the release of any and all documents, including but not limited to pleadings, correspondence, notes, investigative reports, and all other information written or otherwise recorded, contained in my legal file or relating to any past legal case involving me, including confidential attorney-client communications.

This protected health information is disclosed for the following purposes: _____

For use in litigation - Williams et al. v. KNR et al. Summit County CV-2016-09-3928

This authorization is given in compliance with the federal consent requirements for release of alcohol or substance abuse records of 42 CFR 2.31, the restrictions of which have been specifically considered and expressly waived.

You are authorized to release the above records to the following representatives of defendants in the above-entitled matter who have agreed to pay reasonable charges made by you to supply copies of such records:

The Pattakos Law Firm and all attorneys or representatives of that firm

Name of Representative

Attorney

Representative Capacity (e.g. attorney, records requestor, agent, etc.)

101 Ghent Road

Street Address

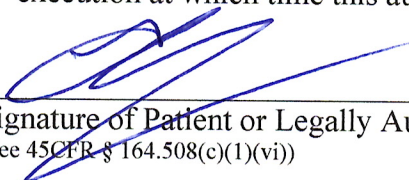
Fairlawn, OH 44333

City, State and Zip Code

I understand the following: See CFR §164.508(c)(2)(i-iii)

- a. I have a right to revoke this authorization in writing at any time, except to the extent information has been released in reliance upon this authorization.
- b. The information released in response to this authorization may be re-disclosed to other parties.
- c. My treatment or payment for my treatment cannot be conditioned on the signing of this authorization.

Any facsimile, copy or photocopy of the authorization shall authorize you to release the records requested herein. This authorization shall be in force and effect until two years from date of execution at which time this authorization expires.


Signature of Patient or Legally Authorized Representative
(See 45CFR § 164.508(c)(1)(vi))

1/28/19
Date

Name and Relationship of Legally Authorized Representative to Patient
(See 45CFR §164.508(c)(1)(iv))

Witness Signature

Date

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Name of Healthcare Provider/Physician/Facility/Medicare Contractor

RE: Patient Name: Chetouki Beasley

Date of Birth: [REDACTED] Social Security Number [REDACTED]

I authorize and request the disclosure of all protected information for the purpose of review and evaluation in connection with a legal claim. I expressly request that the designated record custodian of all covered entities under HIPAA identified above disclose full and complete protected medical information including the following:

- All medical records, meaning every page in my record, including but not limited to: office notes, face sheets, history and physical, consultation notes, inpatient, outpatient and emergency room treatment, all clinical charts, r ports, order sheets, progress notes, nurse's notes, social worker records, clinic records, treatment plans, admission records, discharge summaries, requests for and reports of consultations, documents, correspondence, test results, statements, questionnaires/histories, correspondence, photographs, videotapes, telephone messages, and records received by other medical providers.
- All physical, occupational and rehab requests, consultations and progress notes.
- All disability, Medicaid or Medicare records including claim forms and record of denial of benefits.
- All employment, personnel or wage records.
- All autopsy, laboratory, histology, cytology, pathology, immunohistochemistry records and specimens; radiology records and films including CT scan, MRI, MRA, EMG, bone scan, myleogram; nerve conduction study, echocardiogram and cardiac catheterization results, videos/CDs/films/reels and reports.
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Name of Representative

Attorney
Representative Capacity (e.g. attorney, records requestor, agent, etc.)

101 Ghent Road
Street Address

Fairlawn, OH 44333
City, State and Zip Code

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[Signature]
Signature of Patient or Legally Authorized Representative
(See 45CFR § 164.508(c)(1)(vi))

1-25-19
Date

Name and Relationship of Legally Authorized Representative to Patient
(See 45CFR §164.508(c)(1)(iv))

[Signature]
Witness Signature

1-29-19
Date

**HIPAA COMPLIANT AUTHORIZATION FOR THE RELEASE OF PATIENT
AND INFORMATION PURSUANT TO 45 CFR 164.508**

TO: Sam Ghoubrial, M.D. and all entities owned or controlled by Ghoubrial or physicians employed by him; and/or Minas Floros D.C., Akron Square Chiropractic, and all related entities and chiropractors, the law firm of Kisling, Nestico and Redick and all attorneys and employees of that firm, and all medical professionals and any other person or entity to whom payment was made on the undersigned's behalf from the proceeds of settlements obtained by KNR.

Name of Healthcare Provider/Physician/Facility/Medicare Contractor

RE: Patient Name: Kimberly Fields

Date of Birth [REDACTED] Social Security Number [REDACTED]

I authorize and request the disclosure of all protected information for the purpose of review and evaluation in connection with a legal claim. I expressly request that the designated record custodian of all covered entities under HIPAA identified above disclose full and complete protected medical information including the following:

- All medical records, meaning every page in my record, including but not limited to: office notes, face sheets, history and physical, consultation notes, inpatient, outpatient and emergency room treatment, all clinical charts, r ports, order sheets, progress notes, nurse's notes, social worker records, clinic records, treatment plans, admission records, discharge summaries, requests for and reports of consultations, documents, correspondence, test results, statements, questionnaires/histories, correspondence, photographs, videotapes, telephone messages, and records received by other medical providers.
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- All disability, Medicaid or Medicare records including claim forms and record of denial of benefits.
- All employment, personnel or wage records.
- All autopsy, laboratory, histology, cytology, pathology, immunohistochemistry records and specimens; radiology records and films including CT scan, MRI, MRA, EMG, bone scan, myelogram; nerve conduction study, echocardiogram and cardiac catheterization results, videos/CDs/films/reels and reports.
- All pharmacy/prescription records including NDC numbers and drug information handouts/monographs.
- All billing records including all statements, insurance claim forms, itemized bills, and records of billing to third party payers and payment or denial of benefits for the period 2009 to present.

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immunodeficiency virus (HIV), and alcohol and drug abuse. I authorize the release or disclosure of this type of information. I also specifically authorize the release of any and all documents, including but not limited to pleadings, correspondence, notes, investigative reports, and all other information written or otherwise recorded, contained in my legal file or relating to any past legal case involving me, including confidential attorney-client communications.

This protected health information is disclosed for the following purposes: _____

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The Pattakos Law Firm and all attorneys or representatives of that firm

Name of Representative

Attorney

Representative Capacity (e.g. attorney, records requestor, agent, etc.)

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Street Address

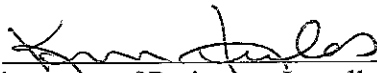
Fairlawn, OH 44333

City, State and Zip Code

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(See 45CFR § 164.508(c)(1)(vi))

1-28-19

Date

Name and Relationship of Legally Authorized Representative to Patient
(See 45CFR §164.508(c)(1)(iv))

Witness Signature

Date

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Name of Healthcare Provider/Physician/Facility/Medicare Contractor

RE: Patient Name: Ronnia Fort

Date of Birth: [REDACTED] Social Security Number: [REDACTED]

I authorize and request the disclosure of all protected information for the purpose of review and evaluation in connection with a legal claim. I expressly request that the designated record custodian of all covered entities under HIPAA identified above disclose full and complete protected medical information including the following:

- All medical records, meaning every page in my record, including but not limited to: office notes, face sheets, history and physical, consultation notes, inpatient, outpatient and emergency room treatment, all clinical charts, r ports, order sheets, progress notes, nurse's notes, social worker records, clinic records, treatment plans, admission records, discharge summaries, requests for and reports of consultations, documents, correspondence, test results, statements, questionnaires/histories, correspondence, photographs, videotapes, telephone messages, and records received by other medical providers.
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This protected health information is disclosed for the following purposes: _____

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Name of Representative

_____ Attorney _____
Representative Capacity (e.g. attorney, records requestor, agent, etc.)

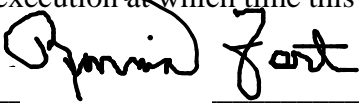
_____ 101 Ghent Road _____
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_____ Fairlawn, OH 44333 _____
City, State and Zip Code

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_____  _____
Signature of Patient or Legally Authorized Representative Date 01/29/19
(See 45CFR § 164.508(c)(1)(vi))

Name and Relationship of Legally Authorized Representative to Patient
(See 45CFR §164.508(c)(1)(iv))

Witness Signature Date

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Name of Healthcare Provider/Physician/Facility/Medicare Contractor

RE: Patient Name: Michael Booker

Date of Birth [REDACTED] Social Security Number [REDACTED]

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Name of Representative

Attorney

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101 Ghent Road

Street Address

Fairlawn, OH 44333

City, State and Zip Code

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Michael Booker

Signature of Patient or Legally Authorized Representative
(See 45CFR § 164.508(c)(1)(vi))

2-1-2019

Date

Name and Relationship of Legally Authorized Representative to Patient
(See 45CFR §164.508(c)(1)(iv))

Witness Signature

Date

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Name of Healthcare Provider/Physician/Facility/Medicare Contractor

RE: Patient Name: Brittany D. Justice

Date of Birth [REDACTED] Social Security Number [REDACTED]

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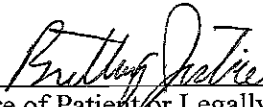
Fairlawn, OH 44333

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(See 45CFR § 164.508(c)(1)(vi))

2/5/2019
Date

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(See 45CFR §164.508(c)(1)(iv))

Witness Signature

Date

**HIPAA COMPLIANT AUTHORIZATION FOR THE RELEASE OF PATIENT
AND INFORMATION PURSUANT TO 45 CFR 164.508**

TO: Sam Ghoubril, M.D. and all entities owned or controlled by Ghoubril or physicians employed by him; and/or Minas Floros D.C., Akron Square Chiropractic, and all related entities and chiropractors, the law firm of Kisling, Nestico and Redick and all attorneys and employees of that firm, and all medical professionals and any other person or entity to whom payment was made on the undersigned's behalf from the proceeds of settlements obtained by KNR.

Name of Healthcare Provider/Physician/Facility/Medicare Contractor

RE: Patient Name: Shardo Denking
Date of Birth: [REDACTED] Social Security Number: [REDACTED]

I authorize and request the disclosure of all protected information for the purpose of review and evaluation in connection with a legal claim. I expressly request that the designated record custodian of all covered entities under HIPAA identified above disclose full and complete protected medical information including the following:

- All medical records, meaning every page in my record, including but not limited to: office notes, face sheets, history and physical, consultation notes, inpatient, outpatient and emergency room treatment, all clinical charts, reports, order sheets, progress notes, nurse's notes, social worker records, clinic records, treatment plans, admission records, discharge summaries, requests for and reports of consultations, documents, correspondence, test results, statements, questionnaires/histories, correspondence, photographs, videotapes, telephone messages, and records received by other medical providers.
- All physical, occupational and rehab requests, consultations and progress notes.
- All disability, Medicaid or Medicare records including claim forms and record of denial of benefits.
- All employment, personnel or wage records.
- All autopsy, laboratory, histology, cytology, pathology, immunohistochemistry records and specimens; radiology records and films including CT scan, MRI, MRA, EMG, bone scan, myelogram; nerve conduction study, echocardiogram and cardiac catheterization results, videos/CDS/films/reels and reports.
- All pharmacy/prescription records including NDC numbers and drug information handouts/monographs.
- All billing records including all statements, insurance claim forms, itemized bills, and records of billing to third party payers and payment or denial of benefits for the period 2009 to present.

I understand the information to be released or disclosed may include information relating to sexually transmitted diseases, acquired immunodeficiency syndrome (AIDS), or human

immunodeficiency virus (HIV), and alcohol and drug abuse. I authorize the release or disclosure of this type of information. I also specifically authorize the release of any and all documents, including but not limited to pleadings, correspondence, notes, investigative reports, and all other information written or otherwise recorded, contained in my legal file or relating to any past legal case involving me, including confidential attorney-client communications.

This protected health information is disclosed for the following purposes: _____

For use in litigation - Williams et al. v. KNR et al. Summit County CV-2016-09-3928

This authorization is given in compliance with the federal consent requirements for release of alcohol or substance abuse records of 42 CFR 2.31, the restrictions of which have been specifically considered and expressly waived.

You are authorized to release the above records to the following representatives of defendants in the above-entitled matter who have agreed to pay reasonable charges made by you to supply copies of such records:

The Pattakos Law Firm and all attorneys or representatives of that firm

Name of Representative

Attorney

Representative Capacity (e.g. attorney, records requestor, agent, etc.)

101 Ghent Road

Street Address

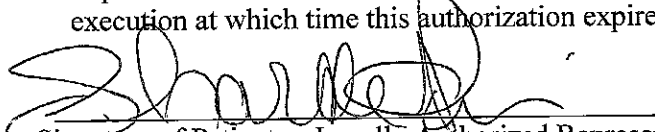
Fairlawn, OH 44333

City, State and Zip Code

I understand the following: See CFR §164.508(c)(2)(i-iii)

- a. I have a right to revoke this authorization in writing at any time, except to the extent information has been released in reliance upon this authorization.
- b. The information released in response to this authorization may be re-disclosed to other parties.
- c. My treatment or payment for my treatment cannot be conditioned on the signing of this authorization.

Any facsimile, copy or photocopy of the authorization shall authorize you to release the records requested herein. This authorization shall be in force and effect until two years from date of execution at which time this authorization expires.



 Signature of Patient or Legally Authorized Representative
 (See 45CFR § 164.508(c)(1)(vi))

2/16/2019

 Date

Name and Relationship of Legally Authorized Representative to Patient
(See 45CFR §164.508(c)(1)(iv))

Witness Signature

Date

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>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 A. Brogan</p> <p>Responses and Objections to Plaintiffs’ Seventh Set of Interrogatories, Eighth Set of Requests for Production of Documents, and Seventh Set of Requests for Admission to the KNR Defendants</p>
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Under Ohio Rule of Civil Procedure 33 and 36, Defendants Alberto R. Nestico, Robert Redick, and Kisling, Nestico, and Redick respond to Plaintiffs’ Seventh Set of Interrogatories, Eighth Set of Requests for Production of Documents, and Seventh Set of Requests for Admission as follows.

Answers to Interrogatories

1. For the following former KNR clients—Michael Booker, Chetoiri Beasley, Taijuan Carter, Kimberly Fields, Ronnia Fort, Brittany Justice, Sharde Perkins, Richard Harbour, and Monique Norris—please identify (A) each and every task performed by an “investigator” for whose work the investigation fee was deducted from the client’s settlement, and (B) every service performed and every medical supply provided by Medical Service Providers to the client for which payment was made from the client’s KNR settlement; and (C) each and every disclosure that was made to the client about the firm’s relationships with the Medical Service Providers with whom these clients treated.

ANSWER: Objection. Michael Booker, Chetoiri Beasley, Taijuan Carter, Kimberly Fields, Ronnia Fort, Brittany Justice, and Sharde Perkins are not parties to this case and counsel for Plaintiffs has not confirmed representation of these individuals. Thus, their client files and the work done on these files are subject to privilege. Further, KNR does not keep records in a manner suitable to determining “each and every task performed” by the investigator assigned to any particular matter.

Without waiving these objections, defendant identifies the following tasks – at minimum that appear to have been completed by the assigned investigator at it relates to Plaintiff

EXHIBIT 2

Richard Harbour:

April 18, 2011 incident: AMC obtained and reviewed Bath Police Department report and picked up medical records. If available, the investigator also obtained Mr. Harbour's hospital discharge paperwork and health insurance card.

May 11, 2012 incident: MRS obtained and reviewed Bath Police Department report and picked up medical records. If available, the investigator also obtained Mr. Harbour's hospital discharge paperwork and health insurance card.

April 12, 2015 incident: AMC obtained and reviewed Norton Police Department report and picked up medical records. If available, the investigator also obtained Mr. Harbour's hospital discharge paperwork and health insurance card.

May 13, 2016 incident: AMC met with client at his residence to sign forms. The investigator also obtained and reviewed Wadsworth PD report, took photos and picked up medical records. If available, the investigator also obtained Mr. Harbour's hospital discharge paperwork and health insurance card.

Without waiving these objections, defendant identifies the following tasks – at minimum - that appear to have been completed by the assigned investigator at it relates to Plaintiff Monique Norris:

MRS met with Ms. Norris at her residence. The investigator also obtained and reviewed the Akron Police Department report and took photos. If available, he also obtained copies of her hospital discharge paperwork and health insurance card.

2. Identify the precise means by which you determined, as stated in your offered stipulation of facts submitted to Plaintiffs counsel on December 20, 2017, that "Since 2009, KNR has settled between 40,000 to 45,000 cases in which investigators were used and the investigation fee was charged."

ANSWER: The estimate is based upon a percentage of the number of cases opened in the Akron office between 2009 and 2016.

3. Identify the amount the firm has spent on advertising for each year from 2005 to the present.

ANSWER: Objection. This request is not reasonably calculated to lead to the discovery of admissible evidence, is unduly burdensome, disproportionate to the needs of the case, and is not reasonably related to the issue of class certification or any of the five claims made by Plaintiffs: (1) the client expense of an investigator fee, (2) the client expense of a narrative report from a medical provider, (3) client loans to Liberty Capital Funding, (4) the cost of TENs units charged by Defendant Ghoubrial, or (5) the prescription of cortisone injections by Dr. Ghoubrial. The cost of advertising will not tend to make any fact related to any claim

more or less likely to be true, and constitutes harassment in the form of an unwarranted and unjustified intrusion into KNR's finances and confidential and proprietary business decisions.

4. Identify the account numbers for the KNR firm's cost account, operating account, and IOLTA account as identified by Defendant Nestico at his deposition for each year from 2005 to the present and identify the bank where each account was held.

ANSWER: Objection. This request is not reasonably calculated to lead to the discovery of admissible evidence, is disproportionate to the needs of the case, and is not reasonably related to the issue of class certification or any of the five claims made by Plaintiffs: (1) the client expense of an investigator fee, (2) the client expense of a narrative report from a medical provider, (3) client loans to Liberty Capital Funding, (4) the cost of TENs units charged by Defendant Ghoubrial, or (5) the prescription of cortisone injections by Dr. Ghoubrial. The requested account numbers will not tend to make any fact related to any claim more or less likely to be true, and constitutes harassment in the form of an unwarranted and unjustified intrusion into KNR's finances.

5. (To Defendant Nestico only): Identify the purpose of your affiliation with Panatha Holdings, LLC, and the Effin Good Company, including by listing the purpose of each company, all known employees and owners of each entity, and the percentage of ownership of each owner identified.

ANSWER: As it relates to Panatha Holdings, see letter from Mr. Brenner attached as an exhibit to KNR DEFENDANTS' SUPPLEMENTAL RESPONSE TO PLAINTIFFS' MOTION FOR LEAVE TO FILE SUR-REPLY IN OPPOSITION TO THE KNR DEFENDANTS' MOTION TO COMPEL ANSWERS TO CONTENTION INTERROGATORIES.

As it relates to Effin Good Company, the entity was formed for purposes of a micro-brewery that never materialized. The owners of the company were Ethan Whitaker, Aaron Czetli, and Rob Nestico. Mr. Nestico was also a director, representative, and the statutory agent. The company had no employees and no income.

6. (To each KNR Defendant, individually): Identify the total amount of your net worth, and provide a summary of the assets that comprise this amount, including by identifying every privately held corporation in which you retain an ownership interest, the purpose of each such corporation, any co-owners of each such corporation, and the percentage of ownership of each owner.

ANSWER: Objection. This request is not reasonably calculated to lead to the discovery of admissible evidence, is unduly burdensome and disproportionate to the needs of the case, and is not reasonably related to the issue of class certification or any of the five claims made by Plaintiffs: (1) the client expense of an investigator fee, (2) the client expense of a narrative report from a medical provider, (3) client loans to Liberty Capital Funding, (4) the cost of

TENs units charged by Defendant Ghoubrial, or (5) the prescription of cortisone injections by Dr. Ghoubrial. The net worth of the named defendants will not tend to make any fact related to any claim more or less likely to be true, and constitutes harassment in the form of an unwarranted and unjustified intrusion into Defendants' personal finances.

7. Identify all benchmarks or quotas suggested or imposed on KNR attorneys, including all such benchmarks or quotas on which bonus payments are determined.

ANSWER:

Objection. This request is not reasonably calculated to lead to the discovery of admissible evidence, is disproportionate to the needs of the case, and is not reasonably related to the issue of class certification or any of the five claims made by Plaintiffs: (1) the client expense of an investigator fee, (2) the client expense of a narrative report from a medical provider, (3) client loans to Liberty Capital Funding, (4) the cost of TENs units charged by Defendant Ghoubrial, or (5) the prescription of cortisone injections by Dr. Ghoubrial. The bonus structure for attorneys will not tend to make any fact related to any claim more or less likely to be true, and constitutes harassment in the form of an unwarranted and unjustified intrusion into Defendants' business decisions.

Without waiving this objection, the response is *none*. KNR attorneys are not provided "benchmarks or quotas." Bonuses are paid to all attorneys on every case they resolve based upon a percentage of the attorney fee collected by KNR. The amount of each bonus paid to attorneys is generally based upon a formula scaled with higher percentages for fees collected above certain goals established for the attorneys. The attorneys' goals and percentages paid for bonuses have varied over the years.

Responses to Requests for Production

1. Please produce all documents relating to the following former KNR clients— Michael Booker, Chetoiri Beasley, Taijuan Carter, Kimberly Fields, Ronnia Fort, Brittany Justice, Sharde Perkins, Richard Harbour, and Monique Norris—including all settlement memoranda, Needles notes, bills and medical records from any Medical Service Providers, including hospitals or emergency rooms, and any medical reports, including narrative reports from chiropractors.

ANSWER: Objection. Michael Booker, Chetoiri Beasley, Taijuan Carter, Kimberly Fields, Ronnia Fort, Brittany Justice, and Sharde Perkins are not parties to this case and counsel for Plaintiffs has not confirmed representation of these of these individuals. Thus, their client files and the work done on these files are subject to privilege.

Without waiving these objections, Defendants will produce Plaintiff Richard Harbour's client files and needles notes and Plaintiff Monique Norris's client file and needles notes. The files have been retrieved from storage and will produced immediately as they are

reviewed and Bates stamped.

2. Please produce all documents relating to or reflecting a decision by Ciro Cerrato or Liberty Capital to deny a requested loan or cash advance to a KNR client.

Objection: this request is unduly burdensome, disproportionate to the needs of the case, and not reasonably calculated to lead to the discovery of admissible evidence. The request is not related to the issue of class certification, not does the request “overlap” any issue of liability.

Plaintiffs’ lawsuit claims that KNR or some employee of KNR had an ownership interest Liberty Capital Funding. A loan denial by Liberty Capital Funding could not make it more or less likely whether any disputed fact is true.

Defendants do not keep records of instances where a client sought a loan from a third party and the loan was denied or rejected. Defendants provide clients with contact information for lending companies, and may or may not be notified if a client contacts a particular lender. Even if Defendants are contacted, KNR *only keeps records of loans that were accepted by a client* – not those that were denied by the lender or rejected by the client. Defendants would have to search each and manually every file and review all electronic (or “needles” note) for every KNR client file (approximately 50,000 files) to determine if the client was provided contact information for Liberty Capital, and then either received a loan elsewhere or received no loan. Even if such a project were undertaken, it would likely be uncertain whether Liberty Capital actually denied the loan or the client chose not to accept a loan from that company.

3. Please produce all documents showing or reflecting any instance where KNR (or a KNR attorney) did not order a narrative report for a client who was treated by Dr. Floros or any of the other chiropractors listed in KNR03769, WILLIAMS000570-WILLIAMS000571, KNR03278.

Objection: this request is unduly burdensome, disproportionate to the needs of the case, and not reasonably calculated to lead to the discovery of admissible evidence. The request is not related to the issue of class certification, not does the request “overlap” any issue of liability.

KNR does not keep records of cases where a report *is not* ordered, nor should there be any reasonable expectation that such information would be documented and identifiable. Defendants only document payment for a report that *is ordered*. KNR generally does not order reports for minors unless ordered to do so by a probate court. In order to accurately comply with this request, Defendants would be required to manually review each and every client file and all electronic (or “needles”) notes in the history of the law firm to identify every medical provider who treated every client.

4. Please produce all documents showing or reflecting an effort by KNR (or a KNR attorney) to advise a client that an insurance company or insurance company representative took a negative view of a Medical Service Provider with whom the client was treating or had treated.

Objection: this request is privileged to the extent it directly seeks advice provided by counsel, is unduly burdensome, disproportionate to the needs of the case, and not reasonably calculated to lead to the discovery of admissible evidence. The request is not related to the issue of class certification, not does the request “overlap” any issue of liability.

KNR does not keep records of attorneys “advising clients that an insurance company or insurance company representative took a negative view of a Medical Service Provider,” nor should there be any reasonable expectation that such information would be documented and identifiable. In order to accurately comply with this request, Defendants would be required to manually review each and every client file in the history of the law firm and all electronic (or “needles”) notes to discern the views of each individual insurance representative who communicated with KNR attorneys.

Responses to Requests for Admission

1. Admit that Monique Norris took out a \$500 loan with Liberty Capital on terms reflected by the document marked as Exhibit N to Defendants’ deposition of Ms. Norris.

RESPONSE: Admit.

2. Admit that \$800 was deducted from the settlement of the case that KNR handled for Ms. Norris to repay the Liberty Capital loan identified in Request No. 1 above.

RESPONSE: Admit.

As to objections,


James M. Popson

Respectfully submitted,


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Tom.mannion@lewisbrisbois.com

Counsel for Defendants

CERTIFICATE OF SERVICE

A copy of the foregoing Defendants' Responses to Plaintiffs' Seventh Set of Interrogatories, Eighth Requests for Production of Documents and Seventh Set of Requests for Admission to the KNR Defendants were sent this 15th day of March, 2019 to the following via electronic and Regular U.S. Mail:

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Counsel for Plaintiff


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Bradley J. Barmen
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Counsel for Defendant Dr. Sam Ghoubrial


James M. Popson (0072773)



Peter Pattakos <peter@pattakoslaw.com>

Williams, et al. v. KNR, et al.

Peter Pattakos <peter@pattakoslaw.com>

Tue, Mar 19, 2019 at 9:07 AM

To: "James M. Popson" <jpopson@sutter-law.com>

Cc: "Nathan F. Studeny" <nstudeny@sutter-law.com>, "Mannion, Tom" <Tom.Mannion@lewisbrisbois.com>

I assume from your silence that KNR does not intend to produce these documents so we will go ahead with our motion unless I hear otherwise immediately.

Thank you.

Peter Pattakos
The Pattakos Law Firm LLC
101 Ghent Road
Fairlawn, OH 44333
330.836.8533 office; 330.285.2998 mobile
peter@pattakoslaw.com
www.pattakoslaw.com

This email might contain confidential or privileged information. If you are not the intended recipient, please delete it and alert us.

On Mon, Mar 18, 2019 at 9:01 AM Peter Pattakos <peter@pattakoslaw.com> wrote:

Jim,

There is no conceivable excuse for not producing these documents. These are files that belong to former clients of the firm who have specifically asked you to release them to me. I need to have them for Floros's deposition on Wednesday. If I don't have them by the end of the day I will file a motion to compel tomorrow.

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On Fri, Mar 15, 2019 at 10:13 PM James M. Popson <jpopson@sutter-law.com> wrote:

Peter,

EXHIBIT 3

I will consult with KNR Monday and let you know if we are willing to reconsider.

Jim

Sent from my iPhone

James M. Popson
Attorney
Sutter O'Connell Co.
Direct: 216.928.4504
Mobile: 216.570.7356

This is a privileged and confidential communication. If you are not the intended recipient, you must: (1) notify the sender of the error; (2) destroy this communication entirely, including deletion of all associated attachment files from all individual and network storage devices; and (3) refrain from copying or disseminating this communication by any means.

> On Mar 15, 2019, at 6:54 PM, Peter Pattakos <peter@pattakoslaw.com> wrote:

>

> Jim,

>

> How is it that you're withholding the requested information about the former KNR clients who executed waiver forms based on a claim that they are "subject to privilege"? What privilege? These former KNR clients specifically requested that you turn all information about their case over to my firm. The waiver forms (which I am attaching again for your convenience) are specifically addressed to KNR and its attorneys, and specifically request and authorize the release of all legal files or any documents related to a legal case, including confidential communications.

>

> If KNR continues to withhold this information they are breaching duties owed to former clients. Please produce this information immediately.

>

> Peter Pattakos

> The Pattakos Law Firm LLC

> 101 Ghent Road

> Fairlawn, OH 44333

> 330.836.8533 office; 330.285.2998 mobile

> peter@pattakoslaw.com<<mailto:peter.pattakos@chandralaw.com>>

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> This email might contain confidential or privileged information. If you are not the intended recipient, please delete it and alert us.

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> On Fri, Mar 15, 2019 at 3:35 PM Barb Day <bday@sutter-law.com<<mailto:bday@sutter-law.com>>> wrote:

> Mr. Pattakos,

>

> Attached please find Responses and Objections to Plaintiffs' Seventh Set of Interrogatories, Eighth Set of Requests for Production of Documents, and Seventh Set of Requests for Admission to the KNR Defendants, along with a Notice of Service.

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> <Executed waiver forms.pdf>