

IN THE COURT OF COMMON PLEAS  
SUMMIT COUNTY, OHIO

MEMBER WILLIAMS, et al.,	:	Case No. CV-2016-09-3928
	:	
Plaintiffs,	:	Judge James A. Brogan
	:	
vs.	:	<b>NOTICE OF FILING AFFIDAVITS</b>
	:	<b>OF THOMAS P. MANNION AND</b>
KISLING, NESTICO & REDICK, LLC, et	:	<b>BRADLEY J. BARMEN IN</b>
al.	:	<b>SUPPORT OF KNR</b>
	:	<b>DEFENDANTS' MEMORANDUM</b>
Defendants	:	<b>IN OPPOSITION TO PLAINTIFFS'</b>
	:	<b>MOTION TO COMPEL</b>

The KNR Defendants hereby give notice of filing the Affidavits of Thomas P. Mannion and Bradley J. Barmen in support of their Memorandum in Opposition to Plaintiffs' Motion to Compel. The Affidavits are attached hereto as Exhibits A and B, respectively.

Respectfully submitted,

/s/ George D. Jonson  
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*Counsel for Defendants Kisling, Nestico & Redick, LLC, Alberto R. Nestico, and Robert W. Redick*

**CERTIFICATE OF SERVICE**

I hereby certify that on March 20, 2019, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all attorneys of record.

/s/ George D. Jonson  
GEORGE D. JONSON

STATE OF OHIO                    )  
   ) SS:       AFFIDAVIT  
 COUNTY OF CUYAHOGA)

Now comes Affiant, Thomas P. Mannion, first being duly sworn according to law, deposes and states as follows:

1. I, Thomas P. Mannion, am an equity partner in the law firm of Lewis, Brisbois, Bisgaard and Smith. I am currently licensed to practice in the States of Ohio and West Virginia and will be sworn in soon in the State of Michigan. I am in good standing in Ohio where I have been licensed to practice since 1993 and in West Virginia, where I have been licensed to practice since 1995.

2. I am over the age of 18 and I make this affidavit based on personal knowledge.

3. I am counsel for Defendant Kisling Nestico & Redick, LLC, Alberto Nestico, Esq., and Robert Redick, Esq. in Summit County Case Number CV-2016-09-3928.

4. Plaintiff's counsel, Peter Pattakos, conducted the discovery deposition of Defendant Alberto (Rob) Nestico on February 7<sup>th</sup> and 8<sup>th</sup>, 2019. The deposition lasted the full two days and I attended the entirety of both days defending my client, Mr. Nestico.

6. During the afternoon of the second day of the deposition, on February 8, 2019, Plaintiffs' counsel Peter Pattakos began a line of questioning that was clearly designed to smear Mr. Nestico's reputation and unfairly and untruthfully.

7. Specifically, Mr. Pattakos began questioning Mr. Nestico concerning his opinions relative to race in general and to African Americans in particular. He then began an extremely accusatory and wholly inappropriate and offensive line of questioning, essentially accusing Mr. Nestico of being a racist.

8. Mr. Pattakos then proceeded, despite nearly all counsel expressing their disapproval and objections to such unprofessional behavior, to read into the record an article about the origins of the "fried chicken stereotype" - without even asking the witness questions. This designed to harass Mr. Nestico and paint him in a bad light to the Court and any potential fact finder.

9. Even worse, on break, Mr. Pattakos told me he believes Mr. Nestico is a good person and is not a racist but that he "has clients to represent." He then refused to retract his racist accusations or curb his inappropriate behavior.

12. In other words, even though he did not have a good faith basis to believe Mr. Nestico was racist, he chose to pursue that line of questioning to falsely paint him in a bad light and to unfairly prejudice him before any finder of fact or law.

13. I asked Mr. Pattakos to retract his statements and to strike the inappropriate line of questioning based on his admissions while we were on break. Attorney Pattakos refused.

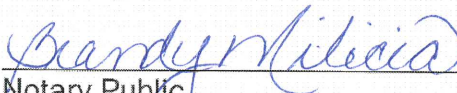
14. Attorney Pattakos was again confronted with this issue at the deposition of Gary Petti. Attorney Pattakos states we are "misconstruing" his admissions, but his words were clear. He specifically told me, with others nearby, that he does not believe Mr. Nestico is a racist but he was asking the questions because he has "clients to represent."

Further affiant sayeth naught.

  
Thomas P. Mannion

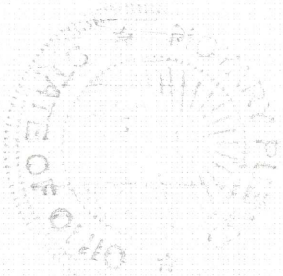
SWORN TO BEFORE ME and subscribed in my presence this \_\_\_\_\_

day of March 19, 2019.

  
Notary Public

My Commission expires:

BRANDY MILICIA  
Notary Public, State of Ohio  
My Commission Exp. 7-25-19



STATE OF OHIO                    )  
   ) SS:       AFFIDAVIT  
 COUNTY OF CUYAHOGA)

Now comes Affiant, Bradley J. Barmen, first being duly sworn according to law,  
 deposes and states as follows:

1. I, Bradley J. Barmen, am a partner in the law firm of Lewis, Brisbois, Bisgaard and Smith. I am currently licensed to practice in the State of Ohio. I am in good standing and have been licensed to practice since 2003.

2. I am over the age of 18 and I make this affidavit based on personal knowledge.

3. I am counsel for Defendant Dr. Sam Ghoubril in the case of Member Williams, et al v. Kisling Nestico & Redick, LLC, et al, Summit County Case Number CV-2016-09-3928.

4. I am not, nor have I ever been, counsel for Kisling Nestico & Redick, LLC (KNR) and I have no affiliation whatsoever with KNR, its ownership, or any individual attorney, agent or employee of KNR.

5. Plaintiff conducted the discovery deposition of Defendant Alberto (Rob) Nestico on February 7<sup>th</sup> and 8<sup>th</sup>, 2019. The deposition lasted the full two days and I attended the entirety of both days on behalf of my client, Dr. Ghoubril.

6. During the afternoon of the second day of the deposition, on February 8, 2019, Plaintiffs' counsel Peter Pattakos began a line of questioning that was clearly designed for no other reason than to malign, demean and harass Mr. Nestico, a fellow member of the Bar.

7. Specifically, Mr. Pattakos began questioning Mr. Nestico about his opinions relative to race in general and to African Americans in particular. The line of questioning was highly accusatory and wholly inappropriate. I was highly offended by the unprofessional and inappropriate conduct of Mr. Pattakos during this irrelevant and inflammatory line of questioning.

8. Mr. Pattakos went as far as to start reading an article about the origins of the "fried chicken stereotype" into the record. He was not questioning the witness when doing this. He was merely grandstanding while strongly inferring, with no evidentiary support or good faith basis, that Mr. Nestico is a racist.

9. I was very uncomfortable with what Mr. Pattakos was doing. In nearly fifteen years of litigation practice I have never seen anything as offensive and

inappropriate as Mr. Pattakos' conduct towards Mr. Nestico. It was obvious to me that Mr. Nestico was offended and upset by the inappropriate line of questioning and the unwarranted accusations.


10. Due to the highly offensive conduct of Mr. Pattakos, and the fact that Mr. Nestico was obviously upset, Mr. Nestico's attorney, Thomas Mannion, insisted on a break in the deposition. The break was necessary to allow everyone in the room to calm down.

11. During the break, which lasted approximately 10 to 15 minutes, Mr. Mannion strongly expressed his disapproval to Mr. Pattakos regarding his treatment of Mr. Nestico. I was present in the room when this occurred. In response to Mr. Mannion, Mr. Pattakos said that after spending two days questioning Mr. Nestico he thought Mr. Nestico was a good guy and he did not believe he was a racist. He then said he only asked those questions accusing Mr. Nestico of racism "because he has clients to represent." I was completely shocked by Mr. Pattakos' statement.

12. It was clear from Mr. Pattakos' statements to Mr. Mannion that he did not believe Mr. Nestico was a racist but he questioned him and accused him of being a racist on the record anyway to embarrass him and to gain an advantage in the litigation. Mr. Pattakos' statements appeared to me to be an admission that he knowingly and intentionally accused a fellow member of the Bar of being a racist on the record without a good faith basis for doing so.

13. Once we went back on the record after the break Mr. Mannion asked Mr. Pattakos to retract his statements and to strike the inappropriate line of questioning based on Mr. Pattakos' admissions while we were still on the break. Despite having admitted he did not believe Mr. Nestico was a racist, Mr. Pattakos refused to correct the record.

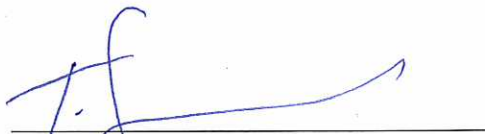
Further affiant sayeth naught.

  
\_\_\_\_\_  
Brad J. Barmen

SWORN TO BEFORE ME and subscribed in my presence this 19<sup>th</sup>  
day of March, 2019.



**THERESA SHERMAN**  
Attorney At Law  
NOTARY PUBLIC  
STATE OF OHIO  
My Commission Has  
No Expiration Date  
Section 147.03 O.R.C.

  
\_\_\_\_\_  
Notary Public

My Commission expires:  
no expiration