

**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 style="text-align: center;">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 for a 14-day Extension of the Deadline for Filing Motion for Class- Action Certification</p>
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Plaintiffs hereby seek an extension of 14 days, to May 15, 2019 from the current deadline of May 1, in which to file their Rule 23 motion for class-action certification. The KNR Defendants and Defendant Ghoubril have stated that they intend to oppose this motion, so a more detailed explanation of its grounds than would normally be necessary for such a request follows below.

Plaintiffs request this extension in order to prepare a Rule 23 motion that is both comprehensive and concise as to the 5 putative classes and 17 causes of action alleged. The requested extension is further warranted by the fact that the earliest Defendant Ghoubril would appear for his deposition, despite the pending discovery deadline of April 15 and Plaintiffs' repeated requests to schedule the deposition on earlier dates, was April 9. *See* counsels' correspondence attached as **Exhibit 1**. Defendants further delayed the continued deposition of Dr. Gunning until April 9 in the same manner, and Defendants have also insisted on the postponement of Julie Ghoubril's deposition until April 18, 2019, three days after the expiration of the discovery deadline. *See* **Ex. 1** and counsels' correspondence attached as **Exhibit 2**. Plaintiffs had been trying to schedule these depositions since late-January and early-February, and their requests went ignored by Defendants until mid-March. **Ex. 1**. Further, even after these depositions were finally scheduled, Defendants lodged a late demand to reschedule both of the Ghoubril depositions, and offered to extend the discovery and class-

certification deadlines by a week in doing so. *See* **Ex. 2**. Plaintiffs accommodated this late demand as well, agreeing to take Defendant Ghoumbrial's deposition on the same day as Gunning's, two days earlier than originally (and belatedly) scheduled, so as to avoid further delays, and get these depositions completed as they were on April 9.¹ *Id.*

Notably, Plaintiffs are not seeking to extend the April 15 discovery deadline. Rather, they only seek an extra two weeks to finish their class-certification motion, which will incorporate, *inter alia*, recent deposition testimony from eleven witnesses, including the critical testimony of Defendant Ghoumbrial that was just given two days ago, and Julie's testimony that won't be provided until April 18. It is not Plaintiffs' fault that Defendants insisted on jamming these depositions up against and past the discovery deadline, and Plaintiffs should not be forced to complete such important briefing on such a compressed timeline.

Defendants purport to base their opposition to the request on separate grounds: First, the KNR Defendants have stated that they will not consent to the requested extension because Plaintiffs are resisting Defendants' claimed entitlement to reopen the depositions of Plaintiffs Thera Reid and Monique Norris, each of whom has already endured a full day of extremely contentious questioning by defense counsel and answered every possibly relevant question that Defendants posed. *See* counsels' correspondence attached as **Exhibit 3**. Additionally, Defendant Ghoumbrial claims to oppose the extension on grounds that the Court "was explicit in grant[ing] the last extension that no further extensions would be granted." *Id.*

Other than to point out that (1) the parties' dispute over the Plaintiffs' depositions is a separate matter that in no event justifies a tit-for-tat denial of a routine request for an extension, and, (2) that the Court in fact has never said, as Defendant Ghoumbrial's attorney represented, "that no

¹ Plaintiffs agreed to proceed with Defendant Ghoumbrial's deposition on April 9 even despite the fact that it was not until April 1 that Ghoumbrial provided any of the voluminous discovery responses and documents required by the Court's Feb. 5 order granting Plaintiffs' motion to compel discovery.

further extensions [of deadlines] would be granted,”² Plaintiffs only wish to add that they have never denied any of Defendants’ many requests for extensions of deadlines in this case. *See* Defendants’ stipulated or unopposed requests for extensions filed on 03/07/2019, 02/26/2019, 01/23/2019, 12/27/2018, 12/17/2018, 11/07/2018, 11/05/2018, and 03/15/2018. This has been true even when Defendants’ requested extension would potentially jeopardize Plaintiffs’ ability to obtain requested discovery within the April 15 deadline. *See* Defendants’ 03/07/2019 stipulated request for extension of the deadline to respond to Plaintiffs’ motion to compel Defendant Nestico’s continued deposition.

Thus, the Court should permit Plaintiffs a two-week extension of the May 1 deadline to file their motion to certify, regardless of Defendants’ refusal to consent.

Respectfully submitted,

/s/ Peter Pattakos

Peter Pattakos (0082884)

Dean Williams (0079785)

Rachel Hazelet (0097855)

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Attorneys for Plaintiffs

² The Court’s two most recent orders regarding the class-discovery and class-certification deadlines are attached as **Exhibit 4** and **Exhibit 5**. Neither order prohibits a request for further extensions and Plaintiffs are not aware of any such prohibition imposed by the Court.

Certificate of Service

The foregoing document was filed on April 11, 2019 using the Court's e-filing system, which will serve copies on all necessary parties.

/s/ Peter Pattakos

Attorney for Plaintiffs



Peter Pattakos <peter@pattakoslaw.com>

Williams v. KNR: Ghoubrial, Gunning, Floros depositions

Peter Pattakos <peter@pattakoslaw.com>

Tue, Mar 12, 2019 at 4:32 PM

To: "Mannion, Tom" <Tom.Mannion@lewisbrisbois.com>

Cc: "Barmen, Brad" <Brad.Barmen@lewisbrisbois.com>, "James M. Popson" <jpopson@sutter-law.com>, Shaun Kedir <shaunkedir@kedirlaw.com>, Rachel Hazelet <rhaelet@pattakoslaw.com>, Joshua Cohen <jcohen@crklaw.com>, John Myers <johnmyerscolpa@gmail.com>

An amended notice of depositions is attached. Thanks.

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On Tue, Mar 12, 2019 at 2:15 PM Peter Pattakos <peter@pattakoslaw.com> wrote:

We would prefer to avoid an extension if at all possible. We'll go ahead and do Gunning on 4/9, Ghoubrial on 4/11, and Redick on 4/12 then. Keep 4/15 open for Julie Ghoubrial. Thank you.

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On Tue, Mar 12, 2019 at 1:06 PM Mannion, Tom <Tom.Mannion@lewisbrisbois.com> wrote:

We already knew you would try to get an extension no matter what. You noticed him for 4/12. And then, after telling you it works for us and the witness, you unilaterally cancel it. That hardly gives you the right for an extension. Mr. Redick is not available next week, and neither am I. He is having surgery 4/15. You have no valid reason to move his deposition from 4/12, the date you noticed him and the date we told you he is available and we are available.

From: Peter Pattakos [mailto:peter@pattakoslaw.com]**Sent:** Tuesday, March 12, 2019 1:02 PM**To:** Mannion, Tom <Tom.Mannion@lewisbrisbois.com>**Cc:** Barmen, Brad <Brad.Barmen@lewisbrisbois.com>; James M. Popson <jpopson@sutter-law.com>; Shaun Kedir <shaunkedir@kedirlaw.com>; Rachel Hazelet <rhaelet@pattakoslaw.com>; Joshua Cohen <jcohen@crklaw.com>**Subject:** Re: [EXT] Re: Williams v. KNR: Ghoubrial, Gunning, Floros depositions

If the weeks of 3/25 and 4/1 are completely out then please confirm Mr. Redick's availability for next Thursday, next Friday, or April 15, or we'll have to get another extension.

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On Tue, Mar 12, 2019 at 12:57 PM Mannion, Tom <Tom.Mannion@lewisbrisbois.com> wrote:

What don't you understand about the fact I'm in trial March 25th and it will last two weeks. Neither Brad nor I are available those two weeks.

You noticed Redick for April 12th, and he is available.

If you push for depositions the weeks of 3/25 and 4/1 of Redick we will not only file a MPO, we will file the strongest of sanctions motions possible given your absolute disregard for the civil rules.

From: Peter Pattakos [mailto:peter@pattakoslaw.com]
Sent: Tuesday, March 12, 2019 12:55 PM
To: Mannion, Tom <Tom.Mannion@lewisbrisbois.com>
Cc: Barmen, Brad <Brad.Barmen@lewisbrisbois.com>; James M. Popson <jpopson@sutter-law.com>; Shaun Kedir <shaunkedir@kedirlaw.com>; Rachel Hazelet <rhazelet@pattakoslaw.com>; Joshua Cohen <jcohen@crklaw.com>
Subject: Re: [EXT] Re: Williams v. KNR: Ghoubrial, Gunning, Floros depositions

I'm not taking Redick's and Ghoubrial's deposition on the same day. Please provide an alternative date during the weeks of March 25 or April 1. Thank you.

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On Tue, Mar 12, 2019 at 12:51 PM Mannion, Tom <Tom.Mannion@lewisbrisbois.com> wrote:

You already know 3/29 and 4/4 are not good. And no, he is not available and neither am I. You noticed him for 4/12 and he is available. If you only need an hour, let's do him and Ghoubrial on same day.

From: Peter Pattakos [mailto:peter@pattakoslaw.com]

Sent: Tuesday, March 12, 2019 10:13 AM

To: Barmen, Brad <Brad.Barmen@lewisbrisbois.com>

Cc: Mannion, Tom <Tom.Mannion@lewisbrisbois.com>; James M. Popson <jpopson@sutter-law.com>; Shaun Kedir <shaunkedir@kedirlaw.com>; John Myers <johnmyerscolpa@gmail.com>; Rachel Hazelet <rhazelet@pattakoslaw.com>; Joshua Cohen <jcohen@crklaw.com>

Subject: Re: [EXT] Re: Williams v. KNR: Ghoubrial, Gunning, Floros depositions

OK, we can do Gunning on 4/10 and Ghoubrial on 4/12, then. I will issue an amended notice. Tom, is Mr. Redick available on 3/29 or 4/4? Otherwise, please provide alternative dates for him.

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On Tue, Mar 12, 2019 at 9:56 AM Barmen, Brad <Brad.Barmen@lewisbrisbois.com> wrote:

Inexcusable? You mean like a plaintiff's lawyer refusing to produce his plaintiffs for deposition? Or making up evidence? Or misrepresenting the case to the public as the Court found? I could go on...

Tom is correct, you knew about this trial and you intentionally noticed the depositions during trial in an effort to create issues where they don't exist. I anticipate being done with trial no later than 4/8. I can make anytime the rest of that week work.

Regards

Brad

From: Peter Pattakos [mailto:peter@pattakoslaw.com]

Sent: Tuesday, March 12, 2019 9:43 AM

To: Mannion, Tom

Cc: Barmen, Brad; James M. Popson; Shaun Kadir; John Myers; Rachel Hazelet; Joshua Cohen

Subject: Re: [EXT] Re: Williams v. KNR: Ghoubrial, Gunning, Floros depositions

Brad, please provide dates for Gunning and Ghoubrial immediately. If you have a trial scheduled that's going to knock you out for 2 of the 4 weeks that we have left, as Tom suggests below, that makes your delay in getting these on the calendar all the more inexcusable.

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On Tue, Mar 12, 2019 at 9:12 AM Mannion, Tom <Tom.Mannion@lewisbrisbois.com> wrote:

Everyone already confirmed for the 20th for Floros, so not sure why you are making baseless threats re: his deposition. I also told you April 12th worked for Mr. Redick, so that's another baseless threat. Redick will NOT be deposed at your office, per our prior agreement. As far as Dr. Ghoubrial and Dr. Gunning, you can address that with Brad. However, you already have been told he has trial March 25th, which means he will not be available March 29th (or April 4th for that matter). You obviously chose those dates on purpose. I am also not available those 2 dates.

If you don't give us dates for Ms. Halsey, Norris, Williams, Reid, and Norris's boyfriend/friend (Marcus), then we will also have "no choice" (as you put it), to file a Motion to Compel and/or just Notice them and/or just subpoena them.

Also - provide alternative dates you are available for Amanda Lantz or we will move forward as scheduled.



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From: Peter Pattakos [mailto:peter@pattakoslaw.com]

Sent: Monday, March 11, 2019 5:34 PM

To: Barmen, Brad <Brad.Barmen@lewisbrisbois.com>; James M. Popson <jpopson@sutter-law.com>; Mannion, Tom <Tom.Mannion@lewisbrisbois.com>; Shaun Kedir <shaunkedir@kedirlaw.com>; John Myers <johnmyerscolpa@gmail.com>

Cc: Rachel Hazelet <rhazelet@pattakoslaw.com>; Joshua Cohen <jcohen@crklaw.com>

Subject: [EXT] Re: Williams v. KNR: Ghoubril, Gunning, Floros depositions

Counsel:

Please see attached notice of depositions that I just filed for Floros (Mar. 20), Gunning (Mar. 29), Ghoubril (Apr. 4), and Redick (Apr. 12). I have made every reasonable effort to confer with you on scheduling these. If I do not get confirmation of these dates, or workable alternatives, by the end of the day Wednesday I will have no choice but to file a motion to compel.

Thank you.

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On Fri, Mar 8, 2019 at 4:59 PM Peter Pattakos <peter@pattakoslaw.com> wrote:

I'm still waiting for dates for Gunning and Ghoubrial. We can go forward with Floros on March 20 assuming our Feb. 15 written discovery requests are timely and fully answered. Tom, you mentioned an April date for Mr. Redick? I should be able to keep my questioning of him to about an hour. Please advise ASAP.

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On Fri, Feb 22, 2019 at 7:47 AM Peter Pattakos <peter@pattakoslaw.com> wrote:

Counsel:

It has been more than three weeks since the Court ordered Dr. Gunning to return to his deposition and you have still not provided dates. Please comply immediately or we will seek a court order and sanctions. I propose we schedule Dr. Gunning's resumed deposition for March 20, as well as the conclusion of Ms. Reid's deposition, since you all are available.

Also, please provide dates for Ghoubrial, Floros, and Redick, as I have requested many times.

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On Thu, Feb 14, 2019 at 11:53 AM Barmen, Brad <Brad.Barmen@lewisbrisbois.com> wrote:

Works for me as well.

Thanks

Brad



Brad J. Barmen

Partner

Brad.Barmen@lewisbrisbois.com

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From: James M. Popson [<mailto:jpopson@sutter-law.com>]

Sent: Thursday, February 14, 2019 11:52 AM

To: Shaun Kedir

Cc: Peter Pattakos; Barmen, Brad; Mannion, Tom; John Myers; Joshua Cohen; Rachel Hazelet

Subject: [EXT] Re: Williams v. KNR: Ghoubril, Gunning, Floros depositions

External Email

March 20 is good for me too.

Sent from my iPhone

James M. Popson

Sutter O'Connell Co.
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Mobile: 216.570.7356

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On Feb 14, 2019, at 11:46 AM, Shaun Kedir <shaunkedir@kedirlaw.com<<mailto:shaunkedir@kedirlaw.com>>> wrote:

Peter, let me know if March 20th or April 3rd works for Floros' deposition. I will also have a response by tomorrow (or earlier) to your pending discovery requests. Thank you.

Shaun

Shaun H. Kedir
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From: Peter Pattakos<<mailto:peter@pattakoslaw.com>>

Sent: Tuesday, February 12, 2019 7:40 PM

To: Barmen, Brad<<mailto:Brad.Barmen@lewisbrisbois.com>>; Mannion, Tom<<mailto:Tom.Mannion@lewisbrisbois.com>>; James M. Popson<<mailto:jpopson@sutter-law.com>>; Shaun Kedir<<mailto:shaunkedir@kedirlaw.com>>; John Myers<<mailto:johnmyerscolpa@gmail.com>>

Cc: Joshua Cohen<<mailto:jcohen@crklaw.com>>; Rachel Hazelet<<mailto:rhazelet@pattakoslaw.com>>

Subject: Williams v. KNR: Ghoubril, Gunning, Floros depositions

Counsel,

We need to get these depositions on the calendar ASAP.

- 1) It's been almost two weeks since I asked you for dates to resume Dr. Gunning's deposition as ordered by the Court. Please provide dates immediately.
- 2) Brad, please let us know when you expect Dr. Ghoubril to come into compliance with last week's Court order granting our motion to compel so that we can set a date for Dr. Ghoubril's deposition that gives us some time to seek Court intervention on the amended responses as necessary.
- 3) Shaun, please advise as to our pending requests, as clarified in our motion to compel, and also provide dates for Dr. Floros's deposition.

Thank you.

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Peter Pattakos <peter@pattakoslaw.com>

Willaims v. KNR

Barmen, Brad <Brad.Barmen@lewisbrisbois.com>

Mon, Apr 1, 2019 at 9:03 AM

To: Peter Pattakos <peter@pattakoslaw.com>

Cc: "Mannion, Tom" <Tom.Mannion@lewisbrisbois.com>, "James M. Popson" <jpopson@sutter-law.com>, David Best <dmb@dmbestlaw.com>, Shaun Kedir <shaunkedir@kedirlaw.com>, "Szucs, Helen" <Helen.Szucs@lewisbrisbois.com>, Joshua Cohen <jcohen@crklaw.com>, Rachel Hazelet <rhazelet@pattakoslaw.com>

Peter:

I greatly appreciate your willingness to be accommodating (assuming it's not an April Fool's Joke). I will check with Best on 4/17-4/19 and get back to you as soon as I can.

We will proceed with Dr. Gunning at 8am on 4/9 and then start Sam at 10am on 4/9.

Thanks

Brad

From: Peter Pattakos [mailto:peter@pattakoslaw.com]**Sent:** Monday, April 01, 2019 8:54 AM**To:** Barmen, Brad**Cc:** Mannion, Tom; James M. Popson; David Best; Shaun Kedir; Szucs, Helen; Joshua Cohen; Rachel Hazelet**Subject:** Re: [EXT] Re: Willaims v. KNR

Brad,

Yes, we can start Dr. Gunning's deposition at 8AM on 4/9, and we can proceed with Dr. Ghoubril's deposition immediately afterwards on that date to accommodate Mr. Best's travel schedule, per your request below. Plan on a 10AM start for Ghoubril, and plan to stay until 7PM, if necessary, to complete the deposition on that date.

If Julie's deposition can be completed later in the week of 4/15, we would be OK with that, but not with any extensions of the discovery deadline and not with pushing this any further out than that week. If Mr. Best gets back on 4/16, I assume we can proceed on either 4/17, 4/18, or 4/19.

Please confirm. Thanks.

Peter Pattakos

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On Sat, Mar 30, 2019 at 11:01 AM Barmen, Brad <Brad.Barmen@lewisbrisbois.com> wrote:

Peter:

I am not imposing demands, I am informing you two of the defense lawyers in this matter are not available on 4/11 and 4/15. As for David Best being available and present for Dr. Ghoumbrial's deposition, it is not about my ability to defend the depo as you suggest below. It is simply about the fact that attorney Best represents Dr. Ghoumbrial's corporate interests, your allegations impact the corporations and Dr. Ghoumbrial wants his corporate attorney there. It's reasonable and proper and you know this although you'd never admit it.

I'm not going to argue about it with you now. Are you available to start Dr. Gunning's deposition on 4/9 at 8am? An earlier start works better for Dr. Gunning so he doesn't have to cancel his patients in the afternoon. Again this is a reasonable request to accommodate a non-party witness.

Please advise.

Thanks

Brad

From: Peter Pattakos [mailto:peter@pattakoslaw.com]

Sent: Saturday, March 30, 2019 10:00 AM

To: Barmen, Brad

Cc: Mannion, Tom; James M. Popson; David Best; Shaun Kedir; Szucs, Helen; Joshua Cohen; Rachel Hazelet

Subject: [EXT] Re: Willaims v. KNR

External Email

Brad,

I'm sorry, but nothing you are proposing below will work, and it's not legitimate for you to impose such demands on us under the circumstances. We had been asking you for dates for these depositions since last fall, again in January, and again in early February. It was only a couple of weeks ago, on March 12, that you bothered to engage us at all to provide dates, and you did so in a manner that slotted these depositions immediately prior to the expiration of the discovery deadline. We wanted to do them earlier, but you insisted they had to be done on these, the latest possible dates, because both you and Tom were otherwise in trial for weeks at a time. We agreed to accommodate you despite our rights and reasonable preferences to do otherwise, because we wanted to avoid taking yet another dispute to the Court, and we want to get our class-certification motion before the Court by the established May 1 deadline.

Now, two weeks before these depositions and the expiration of the discovery deadline, you are trying to change the extremely tight schedule that you yourselves are solely responsible for having jammed us into, and you are doing so on grounds that (A) one of the dozen-plus attorneys who represents the KNR Defendants can't be there, and (B) that you, Mr. Barmen, are somehow incapable of representing Ghoubril at these depositions without Mr. Best being there with you?

We simply can't keep bending over backwards for you guys like this, and there's no reason for it.

Additionally, you still, for 53 days now and counting, have not provided the voluminous discovery responses that Ghoubril owes under the Court's February 5 order (not to mention that such responses never should have been withheld in the first place), which at this point will leave us less than two weeks to process all of this information in advance of Ghoubril's April 11 deposition (an extreme accommodation that we've already made for you). And you are in no position to tell us we have to limit Gunning's continued deposition to "4 specific issues" and "90 minutes" when our motion that the Court granted requires Gunning "to reappear to answer the questions that defense counsel instructed him not to answer, *and any follow-up questions that Plaintiffs deem necessary*" (not to mention that we'd have been done with this deposition last fall had you not unlawfully obstructed the first time around).

Finally, I have a jury trial that is definitely going to go on May 6, and a long overdue family vacation set for the week after that, so it wouldn't do to extend deadlines by a week in any event.

We do not believe it is necessary or warranted to change any deadlines, or to move any of the currently scheduled dates. You are more than capable of representing Ghoubril's interests at these depositions without having Mr. Best there with you, and any of the KNR Defendants' many attorneys are capable of doing the same for them. We would oppose any efforts to change the schedule at this point, and in the event the Court does determine it is necessary to extend the May 1 deadline (which seems extremely doubtful), we would ask, in the alternative, for it to be extended by a full month, to June 1.

Peter Pattakos

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On Fri, Mar 29, 2019 at 8:50 AM Barmen, Brad <Brad.Barmen@lewisbrisbois.com> wrote:

Peter:

As discussed yesterday, please confirm Mrs. Lantz's availability to complete her deposition in Springfield, Ohio on Wednesday April 3, 2019. As you and all other counsel have indicated availability to complete the depo on 4/3, we are just waiting on Mrs. Lantz to confirm her availability. As indicated, we can do this after hours if need be.

If Mrs. Lantz is not available on 4/3, please advise of available dates before 4/15 to complete the deposition as agreed yesterday.

Also, let me know when you have a few minutes to talk today. There is a scheduling issues as it relates to Julie and Sam Ghoubrial's discovery depositions. David and Tom are not available on 4/11 or 4/15. As David represents Sam's and Julie's corporate interests he must be present at both of their depositions.

As for Sam, I propose completing his deposition on 4/9, after you complete Gunning's depo. Considering you're limited to 4 specific issues with Gunning I cannot imagine completing his depo would take more than an hour to 90 minutes tops. You would then have the balance of the day to complete Sam. If you wanted to start the day at 8 to make sure there was sufficient time we could do that.

As for Julie we can talk about what makes sense. We would need to loop in Gary Rosen. If necessary, we would consider extending the 4/15 discovery deadline (and the class certification briefing deadline) by 1 week by agreement. Hopefully that will not be necessary but if it is we can work that out.

I have a couple of TCs this morning and a meeting at 10 but I can be free to talk after 12.

Thanks

Brad

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Brad J. Barmen
Partner
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32K



Peter Pattakos <peter@pattakoslaw.com>

Williams v. KNR

Mannion, Tom <Tom.Mannion@lewisbrisbois.com>

Wed, Apr 10, 2019 at 3:39 PM

To: Peter Pattakos <peter@pattakoslaw.com>, "James M. Popson" <jpopson@sutter-law.com>, "Barmen, Brad"

<Brad.Barmen@lewisbrisbois.com>, Shaun Kedir <shaunkedir@kedirlaw.com>

Cc: Joshua Cohen <jcohen@crklaw.com>, Rachel Hazelet <rhazelet@pattakoslaw.com>

Absolutely not. You won't even agree to produce witnesses. And you want an extension?

By the way - you directed me to communicate only through you re: Holsey:

Tom,

I've told you Ms. Holsey would agree to appear for a deposition on one of her days off work on the understanding that it wouldn't take more than 2 hours. Please direct all communications to her through me.

I've asked and asked for a deposition date for her.



Thomas P. Mannion
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From: Peter Pattakos [mailto:peter@pattakoslaw.com]

Sent: Wednesday, April 10, 2019 3:36 PM

To: Mannion, Tom <Tom.Mannion@lewisbrisbois.com>; James M. Popson <jpopson@sutter-law.com>; Barmen, Brad <Brad.Barmen@lewisbrisbois.com>; Shaun Kedir <shaunkedir@kedirlaw.com>

Cc: Joshua Cohen <jcohen@crklaw.com>; Rachel Hazelet <rhazelet@pattakoslaw.com>

Subject: [EXT] Williams v. KNR

External Email

Counsel:

We intend to ask the Court for an extension of 2 weeks, from May 1 to May 15, to file our class certification brief. Please advise as to whether we may indicate that this motion is unopposed.

Thank you.

Peter Pattakos

The Pattakos Law Firm LLC

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Peter Pattakos <peter@pattakoslaw.com>

Williams v. KNR

Mannion, Tom <Tom.Mannion@lewisbrisbois.com>

Thu, Apr 11, 2019 at 8:57 AM

To: Peter Pattakos <peter@pattakoslaw.com>, "Barmen, Brad" <Brad.Barmen@lewisbrisbois.com>

Cc: "James M. Popson" <jpopson@sutter-law.com>, Shaun Kediri <shaunkedir@kedirlaw.com>, Joshua Cohen <jcohen@crklaw.com>, Rachel Hazelet <rhazelet@pattakoslaw.com>, "Szucs, Helen" <Helen.Szucs@lewisbrisbois.com>

Peter:

You apparently also missed the part where the Court said to work professionally toward scheduling depositions. Your bait and switch tactics and sandbagging will not work with this Judge. He will be able to see right through your play with Ms. Holsey. The most likely scenario is that you know full well Ms. Holsey will destroy Ms. Norris's credibility and case if she tells the truth, and you're just not sure if she'll play as fast and loose with a sworn oath as some of your clients in this case. Which, by the way, is probably why you don't want any of the Plaintiffs' continuation depositions to take place. Explain your actions re: Ms. Holsey to the Court. Should be interesting. As long as we abide by the local rules and Ohio Civil Rules, we'll be fine. It's only the RBPP that blurr things, and obviously the Court didn't follow the RBPP in ruling on contention interrogatories and Horton's deposition. By the way - where are those answers? Where is verification page for Norris? Where is the information Ms. Reid claimed she would get to you in her deposition for production?

Tom



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From: Peter Pattakos [mailto:peter@pattakoslaw.com]

Sent: Wednesday, April 10, 2019 3:55 PM

To: Barmen, Brad <Brad.Barmen@lewisbrisbois.com>

Cc: Mannion, Tom <Tom.Mannion@lewisbrisbois.com>; James M. Popson <jpopson@sutter-law.com>; Shaun Kediri <shaunkedir@kedirlaw.com>; Joshua Cohen <jcohen@crklaw.com>; Rachel Hazelet <rhazelet@pattakoslaw.com>; Szucs, Helen <Helen.Szucs@lewisbrisbois.com>

Subject: Re: [EXT] Williams v. KNR

If you want to oppose a reasonable request for a reasonable extension that's your business and have fun drafting those opposition briefs, I guess. But, Brad, please explain your statement that "Judge Brogan was explicit in grant[ing] the last extension that no further extensions would be granted." I am looking at the last two orders on the class-cert and discovery deadlines (attached here for your convenience) and I see no such statement from the Judge.

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On Wed, Apr 10, 2019 at 3:43 PM Barmen, Brad <Brad.Barmen@lewisbrisbois.com> wrote:

Be advised that I do not agree to any further extensions and I will oppose any motion you file seeking more time. Judge Brogan was explicit in granted the last extension that no further extensions would be granted.

Regards

Brad



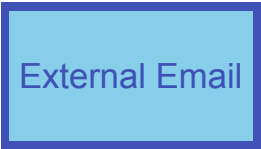
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Sent: Wednesday, April 10, 2019 3:36 PM
To: Mannion, Tom; James M. Popson; Barmen, Brad; Shaun Kedir
Cc: Joshua Cohen; Rachel Hazelet
Subject: [EXT] Williams v. KNR



Counsel:

We intend to ask the Court for an extension of 2 weeks, from May 1 to May 15, to file our class certification brief. Please advise as to whether we may indicate that this motion is unopposed.

Thank you.

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**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 LLC,)	<u>ORDER</u>
ET AL.)	
)	
Defendants)	

- - -

This matter is before the Court upon several pending motions. Upon due consideration of the issues raised in each, the Court makes the following rulings and orders:

- (1) Plaintiffs' December 6, 2018 Motion for Sanctions against Defendant Ghoubril is **OVERRULED**.¹
- (2) Plaintiffs' December 6, 2018 Motion to Strike the Confidentiality Designations regarding Brandy Gobrogge's Deposition Testimony is **GRANTED**. It is apparent from a review of the motion, brief in opposition, and reply brief that most of the information Defendants assert is "Confidential" has already been made public or is the subject of documents independently obtained by Plaintiffs. The remainder is general information that is not legitimately designated as "sensitive or proprietary" or protectable as a "trade secret."
- (3) Plaintiffs' December 6, 2018 Second Motion to Compel Discovery from KNR and Motion for Sanctions is **OVERRULED**. KNR should continue to make a good faith and comprehensive search of documents relevant in this case and supplement as necessary. However, as it stands there is no proof that KNR is not conducting its search for documents or supplementing discovery in good faith.

¹ The Court already issued a partial Entry & Order granting and compelling the deposition of Richard Gunning. M.D.

- (4) Defendants' (KNR, Nestico, Redick) December 12, 2018 Motion for Protective Order is OVERRULED. Counsel shall only ask questions about the underlying conduct at issue without making reference to the Ohio Rules of Professional Conduct.²
- (5) Defendant Floros' December 12, 2018 Motion to Dismiss is OVERRULED. The Court carefully considered the motion and brief in opposition and finds the issues raised premature as Plaintiffs' claims are sufficiently pleaded to withstand a Civ.R. 12(B)(6) Motion to Dismiss. Defendant Floros may renew his arguments on these issues at a later stage in these proceedings.
- (6) Plaintiffs' December 20, 2018 Motion for Protective Order Barring Speaking Objections is OVERRULED, however the Court admonishes counsel to avoid speaking objections suggesting answers to witnesses.
- (7) Plaintiffs' January 2, 2019 Motion for a Status Conference Regarding the Scheduling of Depositions and Extension for Class-Discovery is GRANTED IN PART. The Court extends the deadline for class certification to May 1, 2019. However, the Court is not inclined to conduct a status conference merely to order counsel to work together professionally in conducting discovery. The working relationship between counsel in completing the tasks at hand requires that counsel meet and confer to reach agreement on mutually available deposition dates/times, and to timely answer correspondence, etc., in order to complete discovery within this extended time-line.

IT IS SO ORDERED.



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

CC: ALL PARTIES OF RECORD

² Defendants' (KNR, Nestico, Redick) January 4, 2019 Motion for Leave to File *Instant* Reply Brief in Support of Motion for Protective Order is GRANTED. The Reply Brief is considered filed *Instant* with the Clerk of Court.

**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 LLC,)	<u>ORDER</u>
et al.)	
)	
Defendants)	

- - -

This matter is before the Court upon several pending motions. Upon due consideration of the issues raised in each, the Court makes the following rulings and orders:

- (1) Plaintiffs' Motion for Clarification of the Court's January 8, 2019 Order Extending Class-Discovery Deadline is GRANTED. To clarify, May 1, 2019 is the class-certification deadline (i.e., the date Plaintiffs' brief to certify the classes is due). To further clarify, April 15, 2019 shall be the discovery completion date for class-certification issues.
- (2) Plaintiffs' Motion to Compel the Continued Deposition of Richard Gunning, M.D. is GRANTED. The request for sanctions in conjunction with this Motion is OVERRULED.
- (3) Concerning the deposition of Robert Horton (scheduled for February 25, 2019) Plaintiffs filed a Motion for Protective Order and the KNR Defendants' responded by filing a Motion to Compel Deposition of Horton. Upon review of the motions and the issues presented, it is the Court's order that the KNR Defendants shall ask questions first during the deposition.¹ The following day, or whenever the continuation of the deposition is scheduled, Plaintiffs may inquire of the deponent. Accordingly, Plaintiffs' Motion for Protective Order is OVERRULED and the KNR Defendants' Motion to Compel is GRANTED. Mr. Horton is represented by counsel, who will be in attendance at the deposition, which should ensure that the

¹ The KNR Defendants subpoenaed Mr. Horton first on October 19, 2017.

parties will conduct the deposition in a professional manner and in accordance with the Rules of Civil Procedure.

The Court will issue rulings on the other recently filed motions in separate entries at a later date.

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