

**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  
COMPEL DEPOSITION OF  
EYEWITNESS BRITTANY HOLSEY**

Now come the KNR Defendants and hereby move this Honorable Court for an Order compelling the deposition of witness Brittany Holsey. Plaintiffs' Counsel and the Plaintiff both identified Ms. Holsey as a material witness. To wit, Ms. Holsey, who is Ms. Norris's cousin, was in the accident with Ms. Norris, participated in multiple telephone conferences with KNR and Ms. Norris, met with the investigator and Ms. Norris, and attended Ms. Norris's medical examination at Dr. Ghoumbrial's office. Defendants are confident Ms. Holsey's testimony will directly contradict Plaintiff Norris's claims, including the claims regarding Dr. Ghoumbrial and Liberty Capital.

Simply put, and in perhaps the kindest possible description of events, Plaintiffs' counsel outright sandbagged Defendants in an attempt to avoid having Ms. Holsey's testimony come to light. That is, he now claims it is "too late" to take Ms. Holsey's deposition despite representing numerous times he would present her for deposition.

Initially, Plaintiffs' Counsel not only denied Ms. Holsey possessed relevant testimony, he accused Defendants of engaging in a *prima facie* abuse of process by requesting the deposition. After Attorney Pattakos was reminded that he personally advised all counsel of the relevance of Ms. Holsey's knowledge several months previously, Plaintiffs' counsel then retracted his objection and said he would make Ms. Holsey available for deposition for a maximum of 90 minutes (later extended to two hours). Attorney Pattakos also directed defense counsel to communicate with the

witness exclusively through him. While Attorney Pattakos would not affirmatively agree he represented Ms. Holsey, Defendants' counsel agreed to Ms. Holsey's wishes as a matter of courtesy.

From January through April, Defendants repeatedly asked Attorney Pattakos to make good on his representation of producing Ms. Holsey for deposition. Rather than provide a date for the deposition, Plaintiffs' counsel continually dangled the carrot of Ms. Holsey's availability to avoid a subpoena or Motion to Compel. Plaintiffs' counsel repeatedly represented he would present Ms. Holsey for deposition. When push came to shove, however, Attorney Pattakos would not provide a specific date for the depositions, saying it would be easy to work her in at some point after one of the many other depositions being scheduled in the case. Now, however, after delaying for months, Plaintiffs' counsel claims it is "too late" to take Ms. Holsey's deposition. The egregiousness of Plaintiffs' counsel's position will be clear after reviewing the Statement of Facts below.

Defendants' counsel's only mistake was trusting Plaintiffs' counsel to follow this Court's Order for all sides to "work professionally" to get the depositions completed before the discovery deadline.

## **I. STATEMENT OF FACTS**

### **A. Relevancy of Brittany Holsey's Knowledge and Expected Testimony**

The relevance of Ms. Holsey's testimony is undisputed. First, Plaintiff's counsel affirmatively represented to all counsel as far back as September 27, 2018, that Ms. Holsey was an eyewitness supporting Ms. Norris's claim she was treated by Dr. Ghoumbrial, not Dr. Gunning:

First, Mr. Casey, you said the call that Monique Norris never treated with Dr. Ghoumbrial. I followed up with Ms. Norris after our call and she continues to insist that she did in fact treat with Dr. Ghoumbrial. Ms. Norris's cousin Brittany Holsey confirms the same. Ms. Holsey was in the auto-accident at issue, also was represented by KNR, was also directed to treat with Ghoumbrial, did so at the same time as Ms. Norris at the Brown Street facility, and apparently was also charged \$500 for a TENS unit.

(See 9/27/18 e-mail correspondence, attached hereto as Exh. A)

Second, Plaintiff Monique Norris identified Brittany Holsey as a witness in her written discovery responses. Specifically, Ms. Norris identified Ms. Holsey as an individual with knowledge regarding the facts surrounding the claim of Plaintiff Monique Norris. (See Norris' Amended Responses to Request for Admission No. 10, relevant portions attached hereto as Exh. B)

Third, Plaintiff Norris confirmed at her January 28, 2019, deposition that Ms. Holsey is a material witness in this matter. During her deposition, Plaintiff Norris testified:

1. Ms. Holsey spoke with Plaintiff and KNR during the initial phone call regarding representation;
2. Ms. Holsey met with Plaintiff and the KNR investigator at the time these former KNR clients signed the Contingency Fee Agreement with KNR;
3. Ms. Holsey was in the examination room when Plaintiff was treated by a physician at Dr. Ghoubrial's office; and
4. Ms. Holsey obtained a loan with Liberty Capital during her representation with KNR. (Plaintiff was mistaken as to the identity of the lending company, which is crucial for Defendants to prove with Ms. Holsey's testimony).

(See 1/28/19 Norris Tr., relevant portions attached hereto as Exh. C) In addition, Ms. Holsey was on a mutual phone conference with KNR and the Plaintiff where the former clients requested information from KNR concerning a lending company. (*Id.*)

Plaintiff Norris is a putative class representative to 4 of the 5 alleged classes. Defendants seek this deposition to explore the above issues, which are directly relevant to both the underlying claims AND whether Ms. Norris is qualified to be class representative AND whether Ms. Norris's claim would be typical of the classes described in the Fifth Amended Complaint.

## **II. Defendants' Efforts to Obtain the Testimony Without Court Intervention**

Defendants first sought Ms. Holsey's deposition in early January, 2019, following receipt of Plaintiff Norris's discovery responses. On January 6, 2019, Defendants' counsel forwarded

correspondence to Plaintiffs' counsel, Attorney Pattakos, requesting as follows:

**ADDITIONAL DEPOSITION REQUESTS**

Please provide dates for the depositions of the following witnesses identified by Ms. Norris:

- 1) Carolyn Holsey, as identified in Norris's response to Request for Admission No. 7; and
- 2) Ms. Reid's cousin, referenced in response to Norris's Answer to Request for Admission No. 10.

(See compilation of e-mail correspondence between counsel, chronologically attached hereto as Exh.

D). Three days later, on January 9, 2019, Defendants' counsel forwarded email correspondence to Plaintiffs' counsel, Attorney Pattakos, again requesting the deposition of Ms. Holsey:

Also, we requested dates for Norris's cousin and Aunt, as identified in discovery. Please provide dates for them as well. We will have greater flexibility with their dates, so if you get one or two potential dates, we should hopefully be able to make one of the two dates work. I would imagine an hour is enough for the Aunt and two hours for the cousin, absent something weird happening with answers/questioning.

(Id.)

Having not heard from Attorney Pattakos on this issue, Defendants' counsel sent the following email correspondence to Plaintiffs' counsel the following day, January 10, 2019:

6. Please provide propose dates for the cousin and aunt identified by Monique Norris. Please also provide the address for these witnesses.

(Id.)

As the Court is probably aware, counsel for the various parties communicate nearly every day. Yet, Plaintiffs' counsel simply refused to address Ms. Holsey's deposition at this time. On January 24, 2019, 18 days after the original request, Defendants' counsel sent another request to Plaintiffs' counsel:

Mr. Pattakos:

You still haven't provided dates for the individuals identified in Norris's discovery (aunt and cousin). Please provide full names and addresses (which should have been done in the discovery responses) so we can subpoena the witnesses for depositions since you won't cooperate. If you sent dates and I missed them, I apologize, resend please.

(*Id.*)

Finally, after this fourth request for Ms. Holsey's deposition, Attorney Pattakos responded. Unfortunately, he did not respond with proposed deposition dates. Rather, he accused Defendants of engaging in "*prima facie* abusive" tactics for requesting the deposition of an individual he and his client identified as a key witness allegedly supporting her claims. And, he threatened to move to quash any subpoena served on Ms. Holsey:

Taking depositions of the family members of a class-action Plaintiff who stands to recover less than \$1,000 in damages is *prima facie* abusive and we'd have to move to quash any subpoenas you serve in this regard unless you can explain why you really need these depositions. It might help if we revisit this issue after Norris herself testifies on Monday.

(*Id.*)

On behalf of the KNR defendants, Defendants' counsel again attempted to reason with Plaintiffs' Counsel and avoid court intervention:

Peter:

So, you are saying Monique Norris will settle for \$1000? Come on. Please be reasonable in your responses. More importantly, the value of Monique Norris's claim has zero to do with our request for their depositions. We're not asking them whether Monique needed a tens unit. These are witnesses that you identified as having knowledge, and we have a right to depose them. We are going to ask them about the items you indicated they have knowledge on. We also have legitimate questions on some of your allegations in the Fifth Amended Complaint, including factual allegations that go to class certification. We also asked you for the reasons you requested Steele and Phillips, who didn't represent any of the current Plaintiffs, and to date you have failed to articulate a valid basis.

You know, we didn't need to ask you for dates; we could have just contacted them directly to interview them or subpoena them if they wouldn't talk. But we gave you and your client the courtesy of asking. Again, the value of Monique's claim has nothing to do with requesting these depositions.

Please send me your case law as to what constitutes *prima facie* abusive tactics? These are legitimate requests to depose witnesses you identified. We don't need your permission to depose them. However, you do need to provide their address, since that was requested in discovery and you and your client have that information. We will then subpoena them and you can file whatever motion you want.

By the way, we asked for dates for the depositions several weeks ago. If this was going to be your response, you didn't need to waste weeks to tell us.

Do we have to file a Motion to Compel to get the addresses as well, or are you providing that?

Tom

(*Id.*)

Despite previously admitting Ms. Holsey's testimony was relevant, Plaintiffs' counsel responded with a threat of court intervention and an accusation that Defendants were simply attempting to "bother" Plaintiff's family members:

If you can't explain to us why you need to bother the family members of a lady who merely seeks to test the substantial evidence that she was taken advantage of by lawyers and a doctor who abused their position of influence to rip her off for a few hundred bucks then I suppose we have no choice but require you to explain it to Judge Brogan. *See, e.g., Gattozzi v. Sheehan*, 2016-Ohio-5230, 57 N.E.3d 1187, ¶ 18 (8th Dist.) quoting *Amchem Prods. v. Windsor*, 521 U.S. 591, 617, 117 S.Ct. 2231, 138 L.Ed.2d 689 (1997) ("The policy at the very core of the class action mechanism is to overcome the problem that small recoveries do not provide the incentive for any individual to bring a solo action prosecuting his or her rights."); *In re Cendant Corp. Litigation*, 264 F.3d 201, 270 (3d Cir. 2001), fn. 49 ("Courts must ... take care to prevent the use of discovery to harass presumptive lead plaintiffs."); *On the House Syndication, Inc. v. Fed. Express Corp.*, 203 F.R.D. 452, 455-456 (S.D.Cal. 2001) ("[A] compelling ... reason for not subjecting absent class members to discovery is

the fear that defendants will use burdensome discovery requests as a method of unfairly reducing the number of class members.”).

(*Id.*)

The Defendants were not attempting to bother anyone or randomly depose an “absent class member”. Rather, Defendants were attempting to obtain the deposition testimony of a witness whom: 1) Attorney Pattakos himself identified as an eyewitness to Ms. Norris’s medical examination; and 2) whom Plaintiff Norris identified as a witness in her discovery responses. The Defendants properly responded that same day, pointing out the cases cited by Attorney Pattakos were inapposite to the issue at hand and had nothing to do with witnesses who were eyewitnesses to the very claims being made by a class representative:

Mr. Pattakos:

First of all, not sure what "bother" family members means. Why are you bothering so many people asking for depositions? Because you want evidence. Same with us. And how can you possibly say "If you can't explain..". I DID EXPLAIN. I told you the topic areas we are going to ask questions on. I don't have to provide you a more detailed explanation. You provided me a lot less re: reasons for Steele/Phillips. YOU identified these two as witnesses, regarding the referral and other matters.

These cases say nothing about requesting the deposition of a witness identified by the Plaintiff as individuals with knowledge of discoverable information. YOU identified these witnesses.

Are you going to provide their addresses or not? Are you going to provide a name for the cousin?

Tom

(*Id.*)

The following day, on January 25, 2019, Defendants’ counsel reminded Attorney Pattakos that he is the one who put Ms. Holsey front and center as a pertinent witness:

Peter:

You claimed it is a prima facie abuse of process for Defendants to request the deposition of Monique Norris's cousin, whom she identified as a witness in her discovery responses. Is this the same cousin you referred to in prior emails as Brittany Holsey?

In looking at past emails, I see that the above claim is quite disingenuous. On September 28, 2018, you sent an email to various counsel holding out Ms. Norris's cousin as a substantive witness:

First, Mr. Casey, you said the call that Monique Norris never treated with Dr. Ghoumbrial. I followed up with Ms. Norris after our call and she continues to insist that she did in fact treat with Dr. Ghoumbrial. Ms. Norris's cousin Brittany Holsey confirms the same. Ms. Holsey was in the auto-accident at issue, also was represented by KNR, was also directed to treat with Ghoumbrial, did so at the same time as Ms. Norris at the Brown Street facility, and apparently was also charged \$500 for a TENS unit.

So, you make an outrageous accusation against me but upon further review of emails: and it was YOU that claimed the cousin can support Ms. Norris's fabrication relating to whether Dr. Gunning or Dr. Ghoumbrial treated her.

Do you still stand by your ridiculous refusal to produce Ms. Holsey for deposition? I assume having been reminded of your email, you might now reconsider.

In addition to KNR wanting her deposition, I assume counsel for Dr. Ghoumbrial will want her deposition as well.

Please also provide the address and phone number for Ms. Norri's mom and Ms. Holsey.

*(Id.)*

Finally, Attorney Pattakos agreed to at least consider the possibility of producing the witness:

Ms. Norris indicated this morning that Brittany might be willing to give testimony prior to class certification. She is going to check on that and we'll get back to you hopefully on Monday.



(*Id.*)

Plaintiff Norris was deposed three days later, on January 28, 2019, and further highlighted the fact that Ms. Holsey is a material witness. However, Plaintiffs' counsel continued to ignore the requests for dates for Ms. Holsey's deposition.

On February 5, 2019, Defendants' counsel again requested the deposition of Ms. Holsey:

Halsey and Aunt: Depo dates? Reid: Depo dates?

(*Id.*)

Attorney Pattakos finally agreed Ms. Holsey would present for deposition but only if the deposition was limited to 90 minutes:

Also, I understand that Monique's cousin Brittany would not object to providing testimony if you would be willing to limit your examination to 90 minutes.

(*Id.*) Defendants' counsel responded as follows:

Peter:

We need to finish Monique and Thera. As you know, Monique is class rep in 4 classes. We did not finish. As far as Thera, we might be able to get her done in an hour. I am confident we can get her done within 2-3 hours. We would agree to limit it to 2 hours - but we would have to have some assurances that it only includes actual testimony not breaks. With Monique, we would agree to limit to 3 hours.

As far as Brittany, what possible standing does she have to say her deposition should be limited to 90 minutes or less. It probably will be, but I have no idea how she is going to answer. Or how long your speaking objections will be. But you have admitted her testimony is relevant. And even if you now try to claim contrary, that would be quite amusing given the fact:

1. Norris admits meeting the investigator with Brittany;
2. Norris testified Brittany was IN THE EXAM ROOM with her on Brown Street when seeing Gunning/Ghoubrial;
3. Norris testified Brittany obtained a loan with Liberty Capital; and
4. Norris testified Brittany was involved in phone calls with KNR and Monique.

Either Brittany agrees to be deposed, or we will subpoena her. We are attempting to be cordial, and will continued to do so, but Brittany is not going to limit our time in this regard.

*(Id.)*

A week later, on February 12, 2019, Attorney Pattakos finally responded, again agreeing to Ms. Holsey's deposition:

Brittany Holsey's address is 684 Callis Oval, Apt. B, Akron OH 44311. She is available on Mondays and weekends and will agree to appear voluntarily on the understanding that the deposition will be limited to 2 hours or less. Anything else would be unduly burdensome under the circumstances.

*(Id.)* While he agreed to the deposition, Attorney Pattakos would not provide a deposition date for Ms. Holsey (or even a date he was available for the deposition). On February 13, 2019, Defendants' counsel responded to these refusals as follows:

1. Do you represent Ms. Norris's cousin (Halsey)?
2. Do you agree to produce the cousin for deposition without the 90-minute time limitation?
3. Will you supplement your client's Interrogatory response to include Ms. Halsey's address, as requested in discovery and multiple follow up emails?
4. If you refuse to produce Ms. Halsey, will you provide dates of your availability for her deposition. We will set the deposition far enough out that you have time to move for a Protective Order.
5. Since you have admitted Ms. Halsey is a witness and identified her in discovery, what is your basis for not providing any of the above?
6. Do you represent Ms. Norris's Aunt (whom was identified in discovery responses)?

(Id.)

Attorney Pattakos responded, indicating he would accept service of a subpoena on Ms. Holsey and suggesting he would schedule Thera Reid and Ms. Holsey “concurrently with scheduling the remaining depositions”:

1) I emailed you about Brittany Holsey yesterday, including with her address. I'll accept service of the subpoena on her behalf.

4) It does not make sense for us to produce dates for depositions that we're not sure will go forward. As for Ms. Reid and Ms. Holsey, their schedules are flexible and we can schedule those concurrently with scheduling the remaining depositions we need to get on the calendar for Ghoubrial, Floros, and Redick, and the resumed Gunning and Nestico depositions. Please provide dates for those and we can fill in with Reid and Holsey as they are more flexible (though Holsey can only do Mondays and weekends).

(Id.)

On February 14, 2019, Defendants' counsel reminded Plaintiffs' counsel as follows:

You STILL haven't provided dates for these witnesses. What dates? We do not agree to a 2-hour limitation, but will try our best to get the deposition done in that time frame. Without long speaking objections like you did with Harbour and Norris, we can probably finish in less than two hours. This is true for both witnesses.

(Id.)

Dates were not forthcoming. Thus, when previously scheduled depositions set for February 19, 2019, were canceled, Defendants' counsel attempted to use that date for Ms. Holsey's deposition: "Why don't we use Thursday for Norris and Halsey then?" Plaintiffs' Counsel refused.

(Id.)

On February 22, 2019, Defendants' counsel sent the following to Plaintiffs' counsel:

Please provide dates for Halsey, Williams, Norris, and Norris's Aunt, as we have requested just as often [as depositions Plaintiffs requested] or more.

(Id.)

On February 24, 2019, Defendants' counsel again requested dates:

Do you represent B Holsey or not? If you don't represent her, I am going to attempt to interview her. If you do represent her, then give me a mutually convenient date or she will be noticed. If you don't answer the question, I will assume you do not represent her. But the first question to her after introducing myself will be to ask her if she is represented.

(Id.) Plaintiffs' counsel responded on February 28, 2019, at which time agreed to produce Ms.

Holsey for deposition, but failed to provide a date. Moreover, **Plaintiffs' counsel directed that all communication regarding Ms. Holsey's go through him:**

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.

(*Id.*) Plaintiffs' counsel also stated Ms. Holsey's had "relative flexibility" with respect to her deposition date:

submitted his affidavit), and Nestico's continued deposition, and then fill in the rest given Ms. Reid's and Ms. Holsey's relative flexibility (though Ms. Holsey is only available on Mondays unless you want to proceed with her on a weekend).

(*Id.*)

Since Plaintiffs' counsel still would not give a specific date, and since he would not even confirm whether he represented Ms. Holsey or not, Defendants' counsel responded as follows:

The question is simple: do you represent her or not? You are saying direct all communications through you but you refuse to say whether you represent her for some reason. If you don't represent her, I can contact her myself. If you represent her, I will go through you. If you refuse to tell me, I'll contact her and ask her. Why are you playing games? It's a yes or no. You told me she is available Mondays or a Saturday. BUT WHICH ONE? When are you and her available?

Although Plaintiffs' Counsel would not confirm he represented Ms. Holsey, Defendants agreed to abide by the direction to arrange the deposition through Plaintiffs' Counsel. (*Id.*).

Defendants' counsel also requested dates for Ms. Holsey at least half a dozen times during in-person meetings at various depositions being completed in this case. Attorney Pattakos consistently indicated Ms. Holsey would present for deposition, but continually refused to provide a date for the deposition.

On April 8, 2019, Defendants' counsel reminded Plaintiffs' counsel that a date was still required. And, since the parties agreed to 4 hours of depositions to take place April 12, 2019, anyway, and since all counsel were available that day, Defendants' counsel suggested April 12, 2019, for Ms. Holsey's deposition:

We still need date for Holsey. We can probably finish in 90 minutes – present her Friday?"

(*Id.*)

Having received no response, despite other emails being exchanged amongst counsel, Defendants' counsel followed up the following day, April 9, 2019:

Are you producing Holsey on Friday or providing another date; we've been asking for months.

(*Id.*) That same day, during the depositions of Dr. Gunning and Dr. Ghoubrial, Plaintiffs' Counsel told Defense Counsel James Popson to tell Defense Counsel Tom Mannion that Plaintiffs' counsel did not forget the April 8<sup>th</sup> and April 9<sup>th</sup> emails and that he would respond "later" to them.

On April 10, 2019, Plaintiffs' counsel's response was sent to Defendants' counsel. No, Ms. Holsey would not present for deposition on April 12, 2019. In fact, she would not present on any date for deposition. And, if Defendants subpoenaed Ms. Holsey, Attorney Pattakos would object because Ms. Holsey would have inadequate notice to be deposed before the April 15, 2018 discovery deadline.

As I thought, you never sent her a subpoena and now you are too late, as the due date for her objections would be past the discovery deadline. Of course, you have no real need for her testimony for class certification in any event. You'll have another chance to send her a subpoena if and when the class is certified.

(*Id.*)

After refusing to provide available dates for Ms. Holsey for more than two months, Plaintiffs' counsel unilaterally declared that defense counsel would not be permitted to depose this witness who obviously has discoverable information relevant to the issue of class certification. Obviously, if Ms. Norris did not treat with Dr. Ghoubrial, she has no claim and could not be certified as a class representative. Likewise, if Ms. Norris was provided two loan companies to choose from, she would also not be similarly situated as those putative class members identified in the Fifth Amended Complaint.

Discovery is a two-way street. Although depositions have been contentious at times in this case, Defendants have produced each and every witness requested by Plaintiffs' counsel and done so in a timely fashion. Defendants move this Court to compel the deposition of Brittany Holsey, even if that deposition must occur beyond the current discovery deadline of April 15, 2019. Defendants were directed by Plaintiffs' counsel to communicate with this witness only through Plaintiffs' counsel. Defense counsel attempted to comply with Plaintiffs' counsel's requests, and it would be unjust to allow Plaintiffs' counsel to obstruct the taking of this deposition by simply refusing to provide dates while simultaneously directing defense counsel not to communicate with the witness.

Defendants have now issued a subpoena to Ms. Holsey for April 17, 2019, and/or April 18, 2019. Attorney Pattakos accepted service of the subpoena on Ms. Holsey's behalf, but we suspect he will file a Motion to Quash based on his representation of April 10, 2019. Plaintiffs' counsel is deposing Julie Ghoubril on April 18, 2019 (also past the discovery deadline), and thus Defendants know all counsel are available that day for Ms. Holsey's deposition.

For good cause shown, Defendants respectfully request that this Court issue an Order compelling the deposition of Brittany Holsey as soon as reasonably practicable.

Respectfully submitted,

/s/ James M. Popson

James M. Popson (0072773)

SUTTER O'CONNELL CO.

1301 East 9th Street

3600 Erieview Tower

Cleveland, Ohio 44114

(216) 928-2200 phone

(216) 928-4400 facsimile

[jpopson@sutter-law.com](mailto:jpopson@sutter-law.com)

Thomas P. Mannion (0062551)  
Lewis Brisbois  
1375 E. 9<sup>th</sup> Street, Suite 2250  
Cleveland, Ohio 44114  
(216) 344-9467 phone  
(216) 344-9241 facsimile  
[Tom.mannion@lewisbrisbois.com](mailto:Tom.mannion@lewisbrisbois.com)

Counsel for Defendants

**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing Motion to Compel the Deposition of Brittany Holsey was filed electronically with the Court on this 11th day of April, 2019. The parties may access this document through the Court's electronic docket system.

/s/ James M. Popson  
James M. Popson (0072773)



From: Peter Pattakos <[peter@pattakoslaw.com](mailto:peter@pattakoslaw.com)<<mailto:peter@pattakoslaw.com>>>  
Date: September 27, 2018 at 7:53:14 PM EDT  
To: "[jcasey@dlcfirm.com](mailto:jcasey@dlcfirm.com)<<mailto:jcasey@dlcfirm.com>>"  
<[jcasey@dlcfirm.com](mailto:jcasey@dlcfirm.com)<<mailto:jcasey@dlcfirm.com>>>, "James M. Popson" <[jpopson@sutter-law.com](mailto:jpopson@sutter-law.com)<<mailto:jpopson@sutter-law.com>>>  
Cc: Joshua Cohen <[jcohen@crklaw.com](mailto:jcohen@crklaw.com)<<mailto:jcohen@crklaw.com>>>  
Subject: KNR/Ghoubrial/Monique Norris

Jim and Jim:

We need to right away straighten out some issues that came up on our phone call with Judge Brogan today.

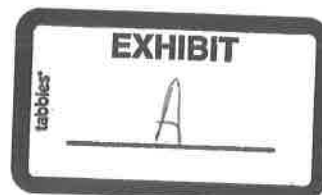
First, Mr. Casey, you said the call that Monique Norris never treated with Dr. Ghoubrial. I followed up with Ms. Norris after our call and she continues to insist that she did in fact treat with Dr. Ghoubrial. Ms. Norris's cousin Brittany Holsey confirms the same. Ms. Holsey was in the auto-accident at issue, also was represented by KNR, was also directed to treat with Ghoubrial, did so at the same time as Ms. Norris at the Brown Street facility, and apparently was also charged \$500 for a TENS unit.

If either of you have documents showing that Ms. Norris was treated by someone else, we would be glad to consider them and consider withdrawing Ms. Norris's claims against Dr. Ghoubrial. First, however, we would need to be convinced as to who actually treated her, why she was charged medical bills paid to Clearwater Billing, and what the relationships are among and between between Clearwater Billing, the doctor who (you claim) actually treated Ms. Norris, the Brown Street facility, where Ms. Norris was treated, and Dr. Ghoubrial.

Mr. Casey also said on our phone call today that KNR has copies of the same medical records that he claims show Ms. Norris was not treated by Dr. Ghoubrial. This is interesting to us as well because Ms. Norris visited KNR's Akron office early this year to request a copy of her file, and all she was given in response was 13 pages, including her settlement memorandum, release forms, a power of attorney form, and copies of a few checks that were cut in connection with her case. None of her medical records were provided to her by KNR, despite Ms. Norris's request for her entire file. If KNR really has these documents, they should be produced immediately, along with any other documents KNR, Ghoubrial, or Ghoubrial's partners or affiliates have regarding Ms. Norris's KNR case or treatment by Ghoubrial or his partners and affiliates. The duty to immediately produce these documents arises from the professional relationships with Ms. Norris, independent from the pending legal matters. Also, please explain why KNR did not provide these documents to Ms. Norris when she first asked for them.

Obviously, given Judge Brogan's instructions on the call today, we need to resolve these questions 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](mailto:peter@pattakoslaw.com)<<mailto:peter.pattakos@chandralaw.com>>  
[www.pattakoslaw.com](http://www.pattakoslaw.com)<<http://www.pattakoslaw.com/>>

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IN THE COURT OF COMMON PLEAS  
SUMMIT COUNTY, OHIO

MEMBER WILLIAMS et al.,  Plaintiffs,  vs.  KISLING, NESTICO & REDICK, LLC, <i>et al.</i> ,  Defendants.	Case No. 2016-CV-09-3928  Judge James A. Brogan  Monique Norris's Amended Responses to Defendant Nestico's Interrogatories, Requests for Admission, and Requests for Production of Documents
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Monique Norris, by and through counsel, hereby responds to the above-referenced discovery requests as follows:

**General Objections**

1. Ms. Norris's specific objections to each interrogatory or request are in addition to the General Objections set forth in this section. These General Objections form a part of the response to each and every request and are set forth here to avoid duplication. The absence of a reference to a General Objection in each response to a particular request does not constitute a waiver of any General Objection with respect to that request. All responses are made subject to and without waiver of Ms. Norris's general and specific objections.

2. To the extent that Defendant's requests are inconsistent with each other, Ms. Norris objects to such requests.

3. To the extent that Defendant's requests exceed the scope of permissible inquiry under the Ohio Rules of Civil Procedure, Ms. Norris objects to such requests. To the extent that responses to such requests are provided herein, it is in an effort to expedite discovery in this action.



relating to facts or evidence supporting your answer to Interrogatory No. 1.

RESPONSE: N/A.

**II. DISCOVERY CONCERNING CONTINGENCY FEE AGREEMENT**

**REQUEST FOR ADMISSION NO. 9:** Admit the Contingency Fee Agreement, attached hereto as Exhibit "A", is a true and accurate copy of the Contingency Fee Agreement entered into between Plaintiff Monique Norris and the law firm of Kisling, Nestico & Redick, LLC.

ANSWER: Admit.

**REQUEST FOR ADMISSION NO. 10:** Admit Plaintiff Monique Norris spoke with a KNR attorney on the telephone before meeting an investigator and/or KNR employee or attorney.

ANSWER: Ms. Norris admits that she spoke with someone representing himself to be a KNR attorney, who told her that he was sending an investigator to meet her at her cousin's home.

**REQUEST FOR ADMISSION NO. 11:** Admit during the call between Monique Norris and a KNR attorney on July 30, 2013, the KNR attorney advised Plaintiff Monique Norris of KNR's terms and conditions of legal representation.

ANSWER: Ms. Norris admits that this person spoke generally with her about a contingency fee arrangement but otherwise denies that any of the self-dealing alleged in the complaint was disclosed to her.

**REQUEST FOR ADMISSION NO. 12:** Admit Plaintiff Monique Norris never expressed any confusion or misunderstanding regarding the terms and conditions of the Contingency Fee Agreement to anyone at KNR at any time during KNR's representation of her.

ANSWER: Admit.

**REQUEST FOR ADMISSION NO. 13:** Admit Attorney Robert Horton explained the

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Page 1	Page 3
<p>1 COMMON PLEAS COURT OF THE STATE OF OHIO 2 IN AND FOR THE COUNTY OF SUMMIT 3 4 MEMBER WILLIAMS, et al., 5 Plaintiffs, 6 vs. JUDGE JAMES A. BROGAN 7 CASE NO. CV-2016-09-3928 8 9 KISLING, NESTICO &amp; REDICK 10 LLC, et al., 11 Defendants. 12 13 VIDEOTAPED DEPOSITION OF MONIQUE NORRIS 14 MONDAY, JANUARY 28, 2019 15 9:52 A.M. 16 DoubleTree by Hilton Hotel 17 3150 West Market Street 18 Fairlawn, Ohio 19 20 21 REPORTED BY: 22 Sarah R. Drown 23 24 25</p>	<p>1 For Defendant Rob A. Nestico, Esq.: 2 DAVID M. BEST CO., LPA 3 DAVID M. BEST, ESQ. 4 4900 West Bath Road 5 Akron, Ohio 44333 6 (330) 665-1855 7 dmb@dmbestlaw.com 8 9 For the Defendant Robert W. Redick, Esq.: 10 WEISMAN, KENNEDY &amp; BERRIS CO., LPA 11 DANIEL P. GOETZ, ESQ. 12 1600 Midland Building 13 101 West Prospect Avenue 14 Cleveland, Ohio 44115 15 (216) 781-1111 16 dgoetz@weismanlaw.com 17 18 For the Defendant Sam N. Ghoubril, M.D.: 19 LEWIS BRISBOIS BISGAARD &amp; SMITH LLP 20 BRADLEY J. BARMEN, ESQ. 21 1375 East 9th Street, Suite 2250 22 Cleveland, Ohio 44114 23 (216) 344-9422 24 brad.barmen@lewisbrisbois.com 25</p>
Page 2	Page 4
<p>1 APPEARANCES: 2 3 For Plaintiffs: 4 PATTAKOS LAW FIRM LLC 5 PETER PATTAKOS, ESQ. 6 101 Ghent Road 7 Fairlawn, Ohio 44333 8 (330) 836-8533 9 peter@pattakoslaw.com 10 11 For Defendant Kisling, Nestico &amp; Redick LLC: 12 LEWIS BRISBOIS BISGAARD &amp; SMITH LLP 13 THOMAS P. MANNION, ESQ. 14 1375 East 9th Street, Suite 2250 15 Cleveland, Ohio 44114 16 (216) 344-9422 17 tom.mannion@lewisbrisbois.com 18 - and - 19 SUTTER O'CONNELL CO. 20 JAMES M. POPSON, ESQ. 21 3600 Erieview Tower 22 1301 East 9th Street 23 Cleveland, Ohio 44114 24 (216) 928-4504 25 jpopson@sutter-law.com</p>	<p>1 ALSO PRESENT: 2 3 IVAN BERCIAN, VIDEOGRAPHER 4 ROB A. NESTICO, ESQ. 5 JOHN J. REAGAN, ESQ. 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>

EXHIBIT

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Sandra Kurt, Summit County Clerk of Courts

Pages 1 to 4

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1 calling you up and trying to settle quick with  
2 you?  
3 **A No.**  
4 Q Okay. Have you --  
5 **A Because they had called me, actually.**  
6 Q When did they call you?  
7 **A The insurance called the next day.**  
8 Q Okay.  
9 **A So that's what made us start looking for a**  
10 **lawyer.**  
11 Q Very good. Okay.  
12 So insurance called you before you ever  
13 talked to KNR and thought about calling a  
14 lawyer?  
15 **A Correct.**  
16 Q Were you at your cousin's house when you were  
17 talking about this?  
18 **A No. We were on the phone.**  
19 Q Okay. And then how is it that her mom came --  
20 your aunt -- came to recommend KNR?  
21 **A Honestly, I don't know.**  
22 Q Have you ever asked her?  
23 **A No.**  
24 Q Have you ever asked your cousin?  
25 **A No.**

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1 there.  
2 **A No, she wasn't at my house when I called.**  
3 Q Okay. When you called KNR, it was just you and  
4 KNR talking?  
5 **A Yes.**  
6 Q Okay. Then when did your cousin call, do you  
7 know?  
8 **A No.**  
9 Q Did you ask her about it at all?  
10 **A No.**  
11 Q Did you guys ever compare what was happening  
12 during the representation?  
13 **A No.**  
14 Q You know, "How's your case going?" How my's  
15 case going?  
16 **A No. The only thing we did was went to our**  
17 **appointments together because I was her**  
18 **transportation.**  
19 Q By that you mean medical appointments?  
20 **A Yes.**  
21 Q Did you ever go to KNR together?  
22 **A No.**  
23 Q Did you ever talk to your cousin about whether  
24 she ever got a loan?  
25 **A Yes.**

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1 Q So you're on your phone with the cousin. And  
2 tell me about, you know, what's said and how  
3 KNR comes up.  
4 **A We were talking about different -- looking into**  
5 **talking and calling different attorneys to see**  
6 **who would be best to represent us in our**  
7 **accident, and my aunt recommended us to call**  
8 **KNR.**  
9 Q Was she on the phone as well?  
10 **A My auntie?**  
11 Q Yeah.  
12 **A Well, she was in the background, but yes.**  
13 Q The background.  
14 **A Yes.**  
15 Q Okay. Did you call KNR together or separate,  
16 you and your cousin?  
17 **A I called, and then -- she was there. I told**  
18 **them she wanted them to represent her as well.**  
19 Q Okay.  
20 **A If we decided to go forth with them**  
21 **representing us.**  
22 Q Okay. Carolyn was with you when you called  
23 KNR?  
24 **A No.**  
25 Q Okay. I just thought you said that she was

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1 Q Okay. And we'll talk about that later.  
2 Did you ever talk to your cousin about  
3 the narrative reports?  
4 **A No.**  
5 Q The investigator?  
6 **A Yes. Well, we were at her -- at my auntie's**  
7 **house and her house when we did the -- that's**  
8 **where we met the investigator.**  
9 Q Okay.  
10  
11 (Mr. Reagan now present.)  
12  
13 MR. MANNION: Just for the  
14 record, John Reagan of KNR arrived.  
15 Q And we'll get to that in one second.  
16 So did you ever talk to your cousin  
17 relating to the TENS unit?  
18 **A Yes. She was there, actually, when they gave**  
19 **it to me.**  
20 Q With you or --  
21 **A Yes, at the appointment.**  
22 Q -- she had an appointment of her own?  
23 **A No. We -- actually, we both had appointments**  
24 **and we were -- they were supposed to be hers**  
25 **and then mine was supposed to be right behind**

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- 1       **hers, but he actually took us together in the**  
2       **office.**  
3       Q Oh.  
4       **A In the same room. Which I didn't understand**  
5       **that either, but ...**  
6       Q Okay. But he examined you separately from her?  
7       **A Yes.**  
8       Q Okay.  
9       **A She was sitting in the chair. And then once I**  
10       **finished, she got in the chair.**  
11       Q You guys wanted to be in the same room --  
12       **A Not in the chair --**  
13       Q -- together?  
14       **A No. They didn't ask us.**  
15       Q Were you uncomfortable with that?  
16       **A No.**  
17       Q Okay.  
18       **A Because it was my cousin and me.**  
19       Q I mean you didn't ask to be separate, right?  
20       **A No.**  
21       Q And so at that time there was the discussion  
22       about your treatment, your pain, and her  
23       treatment and her pain. You both heard each  
24       other?  
25       **A Yes.**

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- 1       correct?  
2       **A No.**  
3       Q That didn't happen?  
4       **A No.**  
5       Q Okay.  
6       **A The doctor, after he examined me, he walked out**  
7       **of the room. He came back in the room and he**  
8       **was like, "Here, I'm going to give this to you**  
9       **to use it."**  
10       **And I'm like, "What is this?"**  
11       **And he was like, "A TENS unit."**  
12       **I said, "What is that for?"**  
13       **He was like, "It just basically -- you**  
14       **put it on your body and it sends shocks through**  
15       **your body to kind of help release those muscles**  
16       **that you're having the pains in."**  
17       **And my cousin was like, "I'll show you**  
18       **how to use it."**  
19       **I said, "Okay."**  
20       **He said, "I'll be right back. Here you**  
21       **are." He walked out of the room, walked back**  
22       **in, and he asked me what kind of medicine did I**  
23       **want.**  
24       Q Okay. And what did you say?  
25       **A I said, "What do you mean?"**

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- 1       Q Okay. And the discussion regarding the TENS  
2       unit, was that to you separately and her  
3       separately or to both of you together?  
4       **A To both of us together. She didn't take one**  
5       **because she said she had one. I didn't know**  
6       **what it was at the time, and she told me she**  
7       **would show me how to use it.**  
8       Q Did she tell you that it worked for her?  
9       **A No, not really.**  
10       Q Okay. Why was she going to show you how to use  
11       it if it didn't work for her?  
12       **A Because she knew how to use it. She's been in**  
13       **an accident before. She said her boyfriend had**  
14       **gave her one. But I didn't know.**  
15       Q Okay. She used it in the past?  
16       **A Yes.**  
17       Q Did she tell you whether it helped or didn't  
18       help?  
19       **A No.**  
20       Q Did you ask her what she thought of it?  
21       **A No. I just went off the word of the doctor,**  
22       **that it would help release the pain that I was**  
23       **having.**  
24       Q And then a nurse came in and talked to you  
25       about it as well and showed you how to use it,

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- 1       **He said, "Well, what do you want me to**  
2       **write you a prescription for?"**  
3       **I said, "I've never taken anything other**  
4       **than ibuprofen." That's all I ever take. So**  
5       **that's all I wanted.**  
6       **He was like, "Are you sure?"**  
7       **I'm like, "Yes."**  
8       **He said, "Okay."**  
9       **And then that was it.**  
10       Q Did you tell him you had any allergies to any  
11       of those medications?  
12       **A No, because I don't have any allergies.**  
13       Q Okay.  
14       **A It was -- we had filled out our papers and it**  
15       **was on our papers. I don't have any allergies**  
16       **to medication.**  
17       Q How long total did you spend with this  
18       physician?  
19       **A At the office?**  
20       Q Uh-huh.  
21       **A Maybe 30 minutes. I don't even think 30**  
22       **minutes fully.**  
23       Q Okay. Describe him. What did he look like?  
24       I'm assuming it was a him.  
25       **A Yes.**

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- 1 Q Describe him.  
2 **A He was foreign. A taller man. A little bit**  
3 **taller than myself.**  
4 Q Okay.  
5 **A Pretty clean-cut.**  
6 Q Do you agree that it was Dr. Gunning who saw  
7 you?  
8 **A No.**  
9 Q You want to say it's Dr. Ghoubrial?  
10 **A It was Dr. Ghoubrial. I don't know who**  
11 **Dr. Gunning is.**  
12 Q Okay. Now, do you think maybe you talked with  
13 KNR and used the name Ghoubrial and that's  
14 where you get that from?  
15 **A No.**  
16 Q The doctor introduced himself as Dr. Ghoubrial?  
17 **A Yes.**  
18 Q To you and your cousin?  
19 **A Yes.**  
20 Q Describe him as best as you can.  
21 **A Who?**  
22 Q The doctor. His looks. You did a little bit,  
23 but describe as best as you can what he looks  
24 like.  
25 **A He has dark hair. Like I stated, he's a little**

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- 1 **A No.**  
2 Q Okay. Have you talked to your cousin since  
3 that visit about whether it was Dr. Gunning or  
4 Dr. Ghoubrial that you saw?  
5 **A No.**  
6 Q Have you told your cousin there's a dispute in  
7 this case as to which doctor it is?  
8 **A As to which doctor saw us?**  
9 Q Yeah.  
10 **A No.**  
11 Q Are you aware --  
12 **A I've asked her who she did she, and then --**  
13 Q Who did she say?  
14 **A She said Dr. Ghoubrial as well.**  
15 Q Okay.  
16 **A Because she kept going. I didn't know if she**  
17 **had saw someone else other than from when we**  
18 **went.**  
19 Q Have you ever seen a picture of Dr. Ghoubrial?  
20 **A No.**  
21 Q No one's ever showed you one?  
22 **A No.**  
23 Q You've never looked one up?  
24 **A No.**  
25 Q Have you ever seen a picture of Dr. Gunning?

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- 1 **bit taller than myself. And he wasn't -- he's**  
2 **more -- he's not fat. He wasn't skinny either.**  
3 **He was more slim, fit.**  
4 Q Okay. How tall are you?  
5 **A I'm five-nine.**  
6 Q So you think he was somewhere around 6 foot --  
7 **A Yes.**  
8 Q -- or right around that area?  
9 **A Well, probably like six-foot, six-one.**  
10 **Something like that, yes.**  
11 Q About how old?  
12 **A I don't know. Maybe his 30 or 40s.**  
13 Q When you say "foreign," what nationality?  
14 **A Maybe like Arabic or Indian, or something of**  
15 **that sort.**  
16 Q Okay.  
17 **A I don't exactly know.**  
18 Q Any accent?  
19 **A A little. Not much.**  
20 Q What type of accent?  
21 **A I don't know. Like, I don't know, like, what**  
22 **his language in. I don't know what his**  
23 **heritage is, so I'm not able to tell you**  
24 **exactly what it would be.**  
25 Q Did he give you a card or anything?

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- 1 **A No.**  
2 Q Ever looked one up or ever been shown one?  
3 **A No.**  
4 Q Okay. Have you seen the video of Dr. Gunning  
5 when he was deposed like you are?  
6 **A No.**  
7 Q Did you know he was deposed?  
8 **A Yes.**  
9 Q And you know that one of the disputes in this  
10 case is whether it was Dr. Gunning or  
11 Dr. Ghoubrial who treated you, correct?  
12 **A Yes.**  
13 Q You didn't go look at the video to see if you  
14 recognized the gentleman?  
15 **A No.**  
16 Q Why not?  
17 **A Because I knew who I was saw by at the time.**  
18 Q You're here as allegedly a class representative  
19 for four different classes, right?  
20 **A Yes.**  
21 Q Okay. Well, let me just ask you, then -- I'll  
22 go back to some of these other conversations.  
23 Tell me what your understanding is of  
24 these four classes that you are a what's called  
25 a punitive class representative, meaning that



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- 1 **A No. I actually hadn't talked to her.**  
2 Q Did you ever get on the phone with your cousin  
3 and KNR at the same time?  
4 **A No.**  
5 Q So before you went on this trip, you called KNR  
6 yourself to ask them about money?  
7 **A Yeah. I told them I wanted to settle my case.**  
8 Q Okay. When did you call them, right around  
9 this October 30 time frame?  
10 **A Yeah, somewhere in there. Probably like maybe**  
11 **a week or two before that.**  
12 Q Okay. Who did you talk to?  
13 **A I don't remember who.**  
14 Q Man? Woman?  
15 **A It was a man.**  
16 Q Okay. Was it --  
17 **A Because a secretary -- it was a lady that**  
18 **answered the phone.**  
19 Q And then she transferred it to somebody?  
20 **A Yes.**  
21 Q Was it Rob Horton?  
22 **A I believe so.**  
23 Q Okay. Have you ever --  
24 **A Yeah, because she said -- she was like, "I'll**  
25 **get your attorney on the phone" is what she**

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- 1 **said.**  
2 Q Because you've never met or talked to  
3 Mr. Nestico, have you?  
4 **A No.**  
5 Q You've never met or talked to Mr. Redick, have  
6 you, Attorney Redick?  
7 **A No.**  
8 Q They've never given you -- personally told you  
9 to do anything or not do anything, have they?  
10 **A No.**  
11 Q Okay. And do you know whether your cousin ever  
12 took out a loan?  
13 **A Yeah. Well, now, I do. She told me she did.**  
14 Q Who did she take it out with?  
15 **A Liberty.**  
16 Q She did?  
17 **A Yes.**  
18 Q Okay.  
19 **A She said that's who they told her to go through**  
20 **as well.**  
21 Q Okay. What if you found out that actually she  
22 took out a loan with ABC Loan Company and it  
23 wasn't Liberty? Would that change your  
24 opinion?  
25 **A No. Like, I just literally -- she just told me**

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- 1 **that she took that out, a loan out with them, a**  
2 **couple days ago.**  
3 Q Just a couple days ago?  
4 **A Uh-huh.**  
5 Q Oh, she told you a couple days ago, not that  
6 she took the loan a couple days ago?  
7 **A Yes --**  
8 Q Okay.  
9 **A -- she told me.**  
10 Q When did she take the loan out, do you  
11 remember?  
12 **A No, she didn't tell me when she took the loan**  
13 **out. I know it was while we were going through**  
14 **our case.**  
15 Q And you two didn't talk at all --  
16 **A No.**  
17 Q -- about that issue during your case?  
18 **A No. Because, I mean, her situation was her**  
19 **situation and mine's was mine's. Yes,**  
20 **unfortunately it happened at the same time, we**  
21 **were in the car together. But I didn't focus**  
22 **on trying to see, "Hey, what are you being**  
23 **charged for? Hey, I'm being charged for this."**  
24 **No, I wasn't -- that wasn't my concern.**  
25 Q Were you two going to Michigan together?

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- 1 **A No.**  
2 Q Okay.  
3 **A I was going with my children and my boyfriend.**  
4 Q Did you ever ask her why she wanted a loan or  
5 why she was asking for a loan at the time?  
6 **A No. I didn't -- as I stated, I didn't know she**  
7 **took the loan out at the time.**  
8 Q The first time you heard about that ever was  
9 when, a couple days ago?  
10 **A Yes. Of her taking out the loan?**  
11 Q Yes.  
12 **A Yes.**  
13 Q Okay. And you were never on the phone with  
14 somebody from KNR and your cousin at the same  
15 time ever?  
16 **A Ever, like throughout the whole thing?**  
17 Q Yes.  
18 **A Well, we initially were calling about finding**  
19 **lawyers. But as far as their agreement, what**  
20 **they decide upon, no, I don't know anything**  
21 **regarding that.**  
22 Q Okay. I thought you said when you called KNR  
23 initially you were alone at your house and she  
24 was at her home.  
25 **A I was. When I talked to them about my case,**

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1       **yes, but when we called to see if they would**  
2       **represent us.**  
3       Q Okay.  
4       **A Is when -- if they would -- if they would --**  
5       **well, not necessarily represent us, to see**  
6       **about if we wanted them to represent us. I**  
7       **asked them, "Well, what would it consist of?"**  
8       **They were like, "Well, we would have to**  
9       **send an investigator to your home." So we both**  
10       **said okay. And that was it.**  
11       Q Okay.  
12       **A They were like we can't go into details**  
13       **regarding your case unless you talk to someone,**  
14       **that we have to send someone. We can't do it**  
15       **over the phone.**  
16       Q So when was it that you were on the phone with  
17       KNR and your cousin at the same time?  
18       **A I never was on the phone except for that part**  
19       **right there. That was it. Other than that,**  
20       **when I called them to see about for them --**  
21       **"Hey, well, can we see if we want you guys to**  
22       **represent us," that was it.**  
23       Q So --  
24       **A Other than that, no.**  
25       Q So you talked to KNR at your house, then you

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1       your cousin were on a three-way phone call with  
2       them?  
3       **A Yes. Other than that --**  
4       Q Any other time -- I'm sorry. Go ahead.  
5       **A No. Other than that, no. As far as my case,**  
6       **what went on with my case, anything of that**  
7       **sort, no.**  
8       Q And if there is a note in your file that says  
9       KNR was on the phone with you and your cousin  
10       at the same time to talk about a loan, would  
11       that be inaccurate?  
12       **A Yes.**  
13       Q Any idea why somebody would put that in there?  
14       **A No. I didn't know that was there until just**  
15       **now.**  
16       Q Does that maybe refresh your recollection a  
17       little?  
18       **A No.**  
19       Q Okay.  
20       **A You just telling me that, I didn't know that**  
21       **that was in my file.**  
22       Q Okay.  
23       **A That we talked together on the phone about a**  
24       **loan.**  
25       Q Well, I want you to -- just for purposes of

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1       went to your cousin's and talked to her and you  
2       called KNR --  
3       **A No.**  
4       Q -- and she was there?  
5       **A I was on my phone.**  
6       Q Yes.  
7       **A My cousin was on her phone. We were on**  
8       **three-way and we told them we were both in the**  
9       **car accident and that we wanted them to see**  
10       **about representing us. We didn't know if we**  
11       **wanted them for sure. We told them we were**  
12       **calling around to see different offices about**  
13       **who -- trying to find an attorney who will**  
14       **represent us.**  
15       **And they were like, "Okay. Well, we**  
16       **would have to come to you guys. We'll send**  
17       **someone out from our office to come talk to**  
18       **you, an investigator."**  
19       **So we said, "Okay." And then that was**  
20       **the end of the conversation.**  
21       Q Okay. Then I guess I'm completely confused  
22       from before. I just want to make sure I have  
23       this right.  
24       **A That was it.**  
25       Q The first time you ever called KNR, you and

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1       this question, if that's true, does that help  
2       refresh your recollection at all?  
3       **A I'm not understanding.**  
4       Q Okay. Just me mentioning that, that doesn't  
5       ring any bells or refresh any recollection?  
6       **A No.**  
7       Q Okay.  
8       **A As I stated, this was the first time that I've**  
9       **heard that that was in my file, that we were on**  
10       **the phone together about a loan. We were never**  
11       **on the phone together about a loan.**  
12       Q Okay. Or any other time after that first time?  
13       **A No.**  
14       Q So with the Liberty Capital, what makes you say  
15       that there's money going back to KNR, a  
16       kickback?  
17       **A Because why would they just keep saying that's**  
18       **where we send all of our clients? Any lawyer**  
19       **that you're dealing with and they want you to**  
20       **go some place, they'll say, hey, we want you to**  
21       **go here because of this. Excuse me.**  
22       **They don't -- they don't sit there and**  
23       **ask you. They don't say, "Hey, well, do you**  
24       **have any other place in mind?" Or if you come**  
25       **up with an idea, like, "Hey, well, I've looked**

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- 1 **A Yes, that's what I'm saying.**  
 2 Q And you didn't even know it was a loan?  
 3 **A No. That's -- no, I did not.**  
 4 Q When did you first find out this was a loan?  
 5 **A When I spoke with my attorney.**  
 6 Q So why would you go speak to an attorney if you  
 7 didn't know it was a loan? Did you go to speak  
 8 to them about something else?  
 9 **A I've been trying to speak to someone about the**  
 10 **whole experience in general, because I knew --**  
 11 **I felt something was wrong. I wanted someone**  
 12 **to look over my papers, but I didn't have**  
 13 **anyone to look over them.**  
 14 Q When did you first start that process?  
 15 **A What do you mean?**  
 16 Q Where you wanted somebody to look over the  
 17 papers.  
 18 **A Probably like a month or so after I settled my**  
 19 **case.**  
 20 Q So --  
 21 **A Because I originally -- honestly, I talked to**  
 22 **my pharmacist at my job about it and asked her**  
 23 **if she had been in any accidents, if it was**  
 24 **normal for certain things to take happen -- to**  
 25 **take place.**

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- 1 **And I also spoke with an investigator**  
 2 **from -- that was actually a police officer that**  
 3 **deals with this type of stuff, dealing with bad**  
 4 **doctors' offices, people writing off bad**  
 5 **prescriptions and things of that sort.**  
 6 Q Okay.  
 7 **A And when I told him about what was going on, he**  
 8 **asked me what happened. I told him what**  
 9 **happened. And then a couple months later, he**  
 10 **came back into our office and told me that the**  
 11 **office was closed down.**  
 12 Q Okay. And what is it that you told him  
 13 happened?  
 14 **A About Dr. Ghoubril asking me what medications**  
 15 **I wanted him to write me a prescriptions for,**  
 16 **and I told him I don't take anything other than**  
 17 **ibuprofen, so that's all I wanted.**  
 18 **And he asked me, "Are you sure you don't**  
 19 **need a prescription for anything else? I can**  
 20 **write you for whatever you want."**  
 21 Q Dr. Ghoubril said that to you?  
 22 **A Yes.**  
 23 Q Do you realize that Dr. Ghoubril has a strong  
 24 policy against opiates?  
 25 **A No. But that's what he --**

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- 1 Q He was pushing drugs on you?  
 2 **A That's what he asked me, what I wanted.**  
 3 Q Did you feel like he was pushing drugs on you?  
 4 **A Yes.**  
 5 Q Any kind you wanted?  
 6 **A Any kind I wanted.**  
 7 **When I pulled up to the doctor's office,**  
 8 **it was -- the grass was really high. It hadn't**  
 9 **been cut. There were known drug dealers**  
 10 **outside in the parking lot. When I went in, it**  
 11 **was like it was deserted. You walk in, you**  
 12 **went to the left, the office was on the right.**  
 13 **I walk in. There was a bunch of African**  
 14 **Americans in the office. It looked like a hole**  
 15 **in the wall doctor's office.**  
 16 **When I went into the room, the room had,**  
 17 **like, a bathroom sink literally, and then there**  
 18 **was a table and a chair. So it looked a little**  
 19 **weird to me from the beginning. But when he**  
 20 **came in, yes.**  
 21 Q What did your cousin say?  
 22 **A She felt the same way. Because she was like --**  
 23 **I was like, "Don't this seem off?"**  
 24 **She was like, "Yeah." She was like, "It**  
 25 **feels really uncomfortable."**

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- 1 Q So, like, how did you know that the people that  
 2 were there were drug dealers? You said there  
 3 were drug dealers there.  
 4 **A They were known community drug dealers, yes.**  
 5 Q Sitting, what, in office chairs, or where were  
 6 they?  
 7 **A Their girlfriends were inside and the**  
 8 **boyfriends were outside in the parking lot in**  
 9 **their cars and outside of their cars drinking**  
 10 **and smoking.**  
 11 Q Well, I mean do you think -- are you trying to  
 12 say that those illegal drug dealers were there  
 13 to get drugs from Dr. Ghoubril? Is that what  
 14 you're saying?  
 15 **A False prescriptions, yes.**  
 16 Q I see. Okay.  
 17 So I just want to make sure I'm  
 18 absolutely clear on this, because -- I'm just  
 19 having a hard time understanding.  
 20 Other than the first time you talked with  
 21 Rob Horton and he told you that "If you want a  
 22 cash advance, we use Liberty Capital," the  
 23 words "Liberty Capital," you don't remember  
 24 them ever being used again with you your entire  
 25 time you were represented by them?

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1 communicating -- when I was communicating with  
2 KNR, it was only through -- it was through  
3 Gmail.  
4 Q How many emails did you have with KNR?  
5 A Just the one.  
6 Q Okay.  
7 A And that should have been -- that's where I got  
8 the email that I gave my attorney.  
9 Q Okay.  
10 A Was from the ms.moniquemarie269@gmail.com.  
11 Q That was in May of 2014, long after the loan,  
12 right?  
13 A Yes.  
14 Q Let me ask you this, do you have any documents  
15 relating to communications between you and  
16 anybody other than KNR, and I'm going to list  
17 off a number of people. Okay?  
18 A Okay.  
19 Q Any with Rob Nestico?  
20 A No. The only thing that I have for KNR is what  
21 I submitted.  
22 Q Okay. So --  
23 A That was the only thing that I have at all.  
24 Q So none with Robert Redick either?  
25 A No.

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1 And you told us before that the only thing you  
2 reviewed were those notes from Mr. Pattakos?  
3 A Yes.  
4 Q Okay. And they helped to refresh your  
5 recollection about what was going on in this  
6 case and what the claims were and the defenses?  
7 A Yes.  
8 Q And absent those, it would have been a little  
9 more difficult to testify today on the facts?  
10 A Excuse me?  
11 Q Without your memory being refreshed on some of  
12 those claims and defenses, it would have been a  
13 little more difficult to talk about them here  
14 today?  
15 A No.  
16 Q Okay. But they did refresh your recollection  
17 as to what was going on in the case, what the  
18 allegations were, defenses, facts, things like  
19 that?  
20 A Yes, some.  
21 Q Okay. So back when the investigator came to  
22 your house, do you remember -- or to your  
23 cousin's house, right?  
24 A Yes.  
25 Q Approximately what time was that that they got

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1 Q Any with Dr. Floros?  
2 A No.  
3 Q Dr. Ghoubril?  
4 A No.  
5 Q Dr. Gunning?  
6 A No.  
7 Q Akron Square?  
8 A No.  
9 Q Okay.  
10 A They didn't even ask for an email. But I  
11 usually don't put emails down.  
12 Q And you don't believe you have any between you  
13 and Liberty Capital either?  
14 A No. It's possible, I just -- I don't believe I  
15 do. When I looked, no.  
16 Q And the first one we asked about were tax  
17 returns, and I understand there's been an  
18 objection to that one. So I'm not going to ask  
19 you for that.  
20 MR. MANNION: I assume that  
21 objection is still on, Peter.  
22 MR. PATTAKOS: It sure is.  
23 MR. MANNION: Okay.  
24 Q The number 10 was "Any and all documents you  
25 reviewed in preparation for your deposition."

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1 there?  
2 A It was in the evening. It was dark. So it  
3 could have been anywhere from 5 or 6:00, 7:00,  
4 8:00. Somewhere in there. It was between  
5 those time frames.  
6 Q Okay. And how did you get to your cousin's  
7 house? Was your car still operable?  
8 A No.  
9 Q Okay.  
10 A I had a rental car.  
11 Q Where was your car at?  
12 A My car actually was -- they took it and they  
13 took it to the impound place.  
14 Q Okay. Do you know where that was?  
15 A No. They were totaling my car out.  
16 Q Okay. How did you get over to your cousin's  
17 then?  
18 A A rental car.  
19 Q A rental. I'm sorry.  
20 So when the investigator came out, you  
21 and your cousin both talked to him?  
22 A Yes.  
23 Q Do you remember his name?  
24 A No.  
25 Q Tell me everything you remember about the

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1 conversation.  
2 **A As far as what?**  
3 Q What you guys said, what he said.  
4 **A Well, he came and he sat at the table, me and**  
5 **my cousin sat at the table, and my aunt sat at**  
6 **the table. And he told us before we could**  
7 **discuss anything that happened during our**  
8 **accident, that we had to sign the paperwork for**  
9 **KNR to become our representation.**  
10 Q Before he would discuss it with you?  
11 **A Yes.**  
12 Q Okay. Your aunt was there too?  
13 **A Yes.**  
14 Q Okay. And then you signed it?  
15 **A Yes. We did everything on the computer.**  
16 Q What do you mean you did everything on the  
17 computer? On his iPad?  
18 **A Yes.**  
19 Q Okay. I gotcha.  
20 **A Nothing was by -- nothing was by paper.**  
21 Q Okay.  
22 **A Like physical paper.**  
23 Q So he had an iPad with the contingency fee  
24 agreement?  
25 **A No. He didn't. He just said this was the**

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1 **A He didn't read what it was.**  
2 Q Okay. When you talked to Rob Horton, it was  
3 the same day the investigator came out?  
4 **A Before he came out, yes. Earlier that day.**  
5 Q A couple hours before or so?  
6 **A Yeah.**  
7 Q Okay. And Mr. Horton actually discussed with  
8 you what the terms of the representation would  
9 be with respect to their fee and expenses and  
10 things of that nature, true?  
11 **A No.**  
12 Q He didn't talk to you about that at all?  
13 **A He didn't tell me what -- the fee or anything**  
14 **like that, he just said this is so that way**  
15 **we'll be able to represent you. So we're going**  
16 **to -- you know, he didn't tell us we had to**  
17 **sign anything.**  
18 Q Oh, you mean Mr. Horton didn't?  
19 **A No. Yes, Mr. Horton did not tell us that.**  
20 Q Okay. I unfortunately am going to have to go  
21 back, because I think that this changed or I  
22 misheard you.  
23 I heard earlier in your testimony that  
24 when you were talking with Rob Horton, that you  
25 had agreed you wanted to be represented by KNR,

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1 **paperwork that we needed to sign as a release.**  
2 **He didn't say what it was.**  
3 Q Okay.  
4 - - - - -  
5 (Defendants' Exhibit G was marked.)  
6 - - - - -  
7 Q Pull open, if you would, to Exhibit G.  
8 **A So if it was in there, then yeah, but he didn't**  
9 **say, hey, this is what we're charging you for**  
10 **this.**  
11 Q Are you at G? It says "Contingency Fee  
12 Agreement."  
13 **A Yes.**  
14 Q Okay. Do you recognize this?  
15 **A Yeah, kind of.**  
16 Q Is this what the investigator showed you on the  
17 iPad and had you sign?  
18 **A Yeah.**  
19 Q Yes? I'm sorry?  
20 **A Yes.**  
21 Q Okay. And Rob Horton, when you talked --  
22 **A This doesn't look --**  
23 **Q -- with him --**  
24 **A -- right.**  
25 Q I'm sorry. Go ahead.

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1 and then later I heard you say -- and I might  
2 be wrong. I might have misheard. Later I  
3 heard you say that no, I hadn't decided yet and  
4 Rob Horton said the investigator would be out  
5 there to talk with me about it. Is that second  
6 part the right one?  
7 MR. PATAKOS: Objection.  
8 **A What do you mean?**  
9 Q Well, I'm just -- I'm a little confused as to  
10 your conversation with Rob Horton.  
11 **A Okay. You told me -- you asked me did I tell**  
12 **them that I wanted them to represent me.**  
13 Q Yes.  
14 **A I said I wasn't sure. I was looking around for**  
15 **different attorneys, but I wanted to talk to**  
16 **someone to see if I had a case or what was**  
17 **going on with our case.**  
18 Q Okay.  
19 **A And he said, "Well, we'll send an investigator**  
20 **out to your home to discuss it."**  
21 **And when the investigator came, he told**  
22 **us that he couldn't discuss anything regarding**  
23 **our case until we sign their paperwork. So**  
24 **yes, we were under the assumption he was from**  
25 **KNR.**

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1 Q It's not about where he was from. That's not  
2 what I asked.  
3 **A I know. I just was telling you.**  
4 Q Okay. I know, you've said that many times.  
5 Why don't you just tell me everything  
6 you, your cousin, and Rob Horton talked about  
7 in that phone call because I must be missing  
8 something.  
9 You call him up. You tell him about this  
10 accident and you're interested in being  
11 represented and you wanted to talk to him about  
12 that. Is that how it started? Or how did it  
13 start?  
14 **A I told him that my aunt gave us the number to**  
15 **call them. We were calling around for**  
16 **attorneys and she said to call them and talk to**  
17 **them and see what they say.**  
18 **We said okay. We called them and talked**  
19 **to them.**  
20 **He said, "Well, I'll set up for somebody**  
21 **to come out and talk to you guys in regards to**  
22 **your case."**  
23 **And we said okay. And that was the end**  
24 **of the conversation.**  
25 **Well, he told us the time that he would**

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1 said took 30 seconds to say.  
2 **A Well, because I can't tell you exactly**  
3 **everything word for word as the conversation**  
4 **went.**  
5 Q Okay. Well, 10 minutes is, you know, somewhat  
6 of a lengthy time.  
7 Is there anything else about that  
8 conversation you remember?  
9 **A As far as details? Like exactly word for word**  
10 **what we were saying, no. But as I stated, that**  
11 **basically summed up what we talked about.**  
12 **He was like, well, what I'll do is we'll**  
13 **pull the accident reports and get everything**  
14 **like that. But they didn't say -- I'm like**  
15 **okay.**  
16 **But we never, like, discussed, "Yes, hey,**  
17 **I want you to represent me."**  
18 Q Okay. So after you talked to him, he said  
19 "We'll pull the accident reports?"  
20 **A Yes.**  
21 Q And he --  
22 **A Because he asked me had I seen them. And I was**  
23 **like no, I hadn't seen them yet.**  
24 Q What, the accident report?  
25 **A Correct.**

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1 **be coming and where would be a good place to**  
2 **meet us. So we said at my aunt's house. And**  
3 **that was it.**  
4 Q There was nothing else talked about between you  
5 Mr. Horton?  
6 **A No.**  
7 Q When you first called KNR, did it go through  
8 somebody else and then to Mr. Horton, or did he  
9 answer directly?  
10 **A No, it went through one of his secretaries or**  
11 **something maybe. They said they would have a**  
12 **lawyer contact us. So --**  
13 Q He called back?  
14 **A Yes.**  
15 Q Okay. You didn't give the first secretary  
16 really any information, whoever it was?  
17 **A No.**  
18 Q Just your name and number?  
19 **A Yes.**  
20 Q Okay. So when you talked to Rob Horton when he  
21 called you, approximately how long was that  
22 conversation?  
23 **A I don't know. Not long. Maybe like 10**  
24 **minutes, if that.**  
25 Q Okay. Well, I mean, what you just told me was

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1 Q Okay. And he also -- you said you weren't sure  
2 yet. He said he would send somebody out to  
3 talk.  
4 What else did you all talk about? Did he  
5 talk to you at all about the fact that you had  
6 something to sign?  
7 **A No.**  
8 Q Did he talk to you at all about they take  
9 one-third of the recovery?  
10 **A No.**  
11 Q Could it be that you talked about that and  
12 you're not remembering it?  
13 **A No.**  
14 Q You're sure you didn't talk about that?  
15 **A I'm positive. As I stated, everything that we**  
16 **talked about, as far as anything as far as**  
17 **signing any papers or anything, everything was**  
18 **done with the investigator. And he told us**  
19 **this is what we had to do in order for them to**  
20 **even talk to us about our case.**  
21 Q I'm interested in, then, if you could fill in  
22 for me the rest of the 10 minutes of what you  
23 and Rob Horton talked about.  
24 **A What do you mean?**  
25 Q You've given me --

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1 do that at the break.  
2 BY MR. MANNION:  
3 Q I guess what I'm trying to understand, ma'am,  
4 is you're saying even if I could prove to you  
5 for 100 percent certainty that Dr. Ghoubrial  
6 was in Columbus at the time you were treated,  
7 then you still wouldn't agree to drop the claim  
8 against him?  
9 **A No, because then who's the doctor that I saw**  
10 **then? Because that's what they told me his**  
11 **name was. So --**  
12 Q Okay.  
13 **A -- of course I'm going to believe that. I'm**  
14 **going to believe that's who I saw.**  
15 Q And the doctor you saw looks exactly like the  
16 picture?  
17 **A Yes.**  
18 Q So it would have to be somebody who looked  
19 exactly like Ghoubrial and said they were  
20 Ghoubrial but Ghoubrial was in Columbus?  
21 **A Okay. Can you show me documentation saying**  
22 **that he was in Columbus?**  
23 Q Who told you the name, that it was Ghoubrial?  
24 **A Nobody told me the name.**  
25 Q You said they told me it was Dr. Ghoubrial.

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1 Q Okay. And you went to this chiropractor  
2 because Mr. Horton recommended them?  
3 **A Yes.**  
4 Q You didn't have a primary care and you were  
5 looking for a chiro. We talked about that  
6 earlier?  
7 **A Yes.**  
8 Q What all did Mr. Horton tell you about  
9 Dr. Floros and/or Akron Square?  
10 **A Nothing. That that's who they use.**  
11 Q Okay.  
12 **A That's where they send all of their clients to.**  
13 **I mean, he didn't say -- he didn't run down his**  
14 **credentials or how the appointments would go.**  
15 **Like, they didn't tell me anything else. I**  
16 **didn't write anything else down.**  
17 Q He told you it was a chiropractor, though?  
18 **A Yes.**  
19 Q It was actually Dr. Floros who then recommended  
20 that you go and treat with who you say was  
21 Dr. Ghoubrial?  
22 **A Yes.**  
23 Q KNR did not tell you to go treat with  
24 Dr. Ghoubrial, did they?  
25 **A They both did.**

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1 **A Who told me it was Dr. Ghoubrial?**  
2 Q That's what I'm asking.  
3 **A I didn't say "They told me it was**  
4 **Dr. Ghoubrial."**  
5 Q It is "Who's on First?" now. Dr. Gunning's on  
6 second. Okay.  
7 Well, if that prescription is in  
8 Dr. Gunning's handwriting and Dr. Ghoubrial was  
9 in Columbus, would you agree it was probably  
10 Dr. Gunning?  
11 **A If that's who I seen. But no, when I see the**  
12 **person, that's not who I saw.**  
13 Q What time was your appointment, do you know?  
14 **A I don't remember.**  
15 Q And you went there with your cousin?  
16 **A Yes.**  
17 Q Anybody else?  
18 **A No.**  
19 Q Who drove?  
20 **A I did.**  
21 Q In the rental car?  
22 **A Yes.**  
23 Q Do you remember if it was morning, afternoon,  
24 anything?  
25 **A No. I don't remember.**

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1 Q When did KNR tell you that?  
2 **A When I called them and told them, that's who**  
3 **they told me to go to. They're like, "Yeah,**  
4 **he's the pain management doctor that we like to**  
5 **use also."**  
6 **I was like, "Oh, okay."**  
7 Q But you were told to go there and referred  
8 there --  
9 **A Yes.**  
10 Q -- by the chiropractor?  
11 **A Yes, by the chiropractor.**  
12 Q Okay.  
13 MR. PATTAKOS: Do you want to  
14 take a break now, Tom? It's been about an  
15 hour.  
16 MR. MANNION: That's good.  
17 THE VIDEOGRAPHER: We're off the  
18 record. The time is now 2:44.  
19  
20 (Recess taken.)  
21  
22 THE VIDEOGRAPHER: We're back on  
23 the record. The time is now 3:00.  
24 MR. MANNION: Thank you.  
25 BY MR. MANNION:

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- 1 What else was on his clipboard?
- 2 **A I don't know.**
- 3 Q But he had a clipboard?
- 4 **A Yes.**
- 5 Q Do you think the only thing on the clipboard
- 6 was a prescription pad?
- 7 **A No. But he had other papers. But what the**
- 8 **papers were, I don't know.**
- 9 Q He wasn't marking any notes that you saw the
- 10 entire time you were with him?
- 11 **A No.**
- 12 Q How long were you in the office with the
- 13 doctor?
- 14 **A Maybe a half hour between me and myself and my**
- 15 **cousin.**
- 16 Q Did you get seen or treated first or second?
- 17 **A First. I was first.**
- 18 Q So you go in with your cousin, right?
- 19 **A Yes. Yes.**
- 20 Q The doctor comes in and examines you?
- 21 **A Yes.**
- 22 Q And your cousin's just sitting in the room
- 23 observing?
- 24 **A Yes.**
- 25 Q And then when he's done with you, you sit down

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- 1 The point is you knew you could refuse
- 2 any type of treatment that he recommended,
- 3 fair?
- 4 **A Yes.**
- 5 Q You could have said no to the TENS unit, true?
- 6 **A Yes.**
- 7 Q You chose to take it because you thought it
- 8 might help you, right?
- 9 **A No. He said, "Here. Take this. This will**
- 10 **help you." He didn't say it's a possibility.**
- 11 **He didn't say it won't help me. He said, "It**
- 12 **will help you."**
- 13 Q Okay. You could have refused it. We agree on
- 14 that, right?
- 15 **A Yeah.**
- 16 Q You didn't ask him at the time what it cost,
- 17 did you?
- 18 **A No.**
- 19 Q You didn't ask him a single question about it,
- 20 did you?
- 21 **A No. But he didn't tell me either.**
- 22 Q Do you typically, when you go see any physician
- 23 for treatment, ask what any particular part of
- 24 the treatment cost?
- 25 **A No.**

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- 1 and he examines your cousin?
- 2 **A That is correct.**
- 3 Q The doctor did offer you trigger point
- 4 injections, correct?
- 5 **A Yes.**
- 6 Q And you declined those?
- 7 **A Yes.**
- 8 Q You understood you had a right not to receive
- 9 any treatment you didn't want, fair?
- 10 **A Yes.**
- 11 Q Okay. He also offered you a TENS unit,
- 12 correct?
- 13 **A No. He said, "Here. Take this." He didn't**
- 14 **offer me. Those were his exact words. "Here.**
- 15 **Take this. This will help you."**
- 16 Q You could have refused it, couldn't you have?
- 17 **A Yeah. I don't know what it was. I thought it**
- 18 **was -- I assumed it was supposed to help me.**
- 19 Q Well, he offered you trigger point injections
- 20 because he thought it would help you and you
- 21 refused --
- 22 **A I don't like needles.**
- 23 Q -- it, correct?
- 24 **A Yes, I did. I don't like needles. So yes.**
- 25 Q And that's fine. I don't either.

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- 1 Q Have you ever done that with any doctor?
- 2 **A Yes, my OB.**
- 3 Q Okay. What kind of treatment did you ask what
- 4 the costs were?
- 5 **A Well, I would ask, like, how much it costs to**
- 6 **do, like, ultrasounds. I've asked him how much**
- 7 **it costs to do, like, lab work. Things of that**
- 8 **nature.**
- 9 Q Who's your OB?
- 10 **A Dr. Drake.**
- 11 Q I'm sorry?
- 12 **A George Drake.**
- 13 Q George --
- 14 **A Yes.**
- 15 Q -- Drake.
- 16 Where's he practice?
- 17 **A Well, now he's at Akron General.**
- 18 Q Where was he in 2013?
- 19 **A Right down here. At the bottom of the hill off**
- 20 **of Ghent Road. Yellow Creek. I believe that**
- 21 **was the name of it.**
- 22 Q When this doctor when you went in August of '13
- 23 prescribed you ibuprofen, did you ask him how
- 24 much it was going to cost?
- 25 **A No.**



**Barb Day**

---

**From:** Mannion, Tom <Tom.Mannion@lewisbrisbois.com>  
**Sent:** Sunday, January 06, 2019 7:53 PM  
**To:** peter@pattakoslaw.com; jcohen@crklaw.com  
**Cc:** James M. Popson; dmb@dmbestlaw.com; Nathan F. Studeny  
**Subject:** Williams v KNR: deficiencies in Norris discovery responses  
**Attachments:** 1.6.19 Correspondence to Pattakos re discovery to Norris.pdf



**Thomas P. Mannion**  
**Attorney | Cleveland Managing Partner**  
[Tom.Mannion@lewisbrisbois.com](mailto:Tom.Mannion@lewisbrisbois.com)

**T: 216.344.9467 F: 216.344.9421 M: 216.870.3780**

1375 E. 9th Street, Suite 2250, Cleveland, OH 44114 | [LewisBrisbois.com](http://LewisBrisbois.com)

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Thomas P. Mannion  
[Tom.Mannion@lewisbrisbois.com](mailto:Tom.Mannion@lewisbrisbois.com)  
Phone: 216.344.9422  
Cell: 216.870.3780

January 6, 2019

Peter Pattakos  
The Pattakos Law Firm LLC  
101 Ghent Road  
Fairlawn, OH 44333

In re: Williams, et al. vs. KNR, et al.  
Monique Norris' discovery responses

Dear Mr. Pattakos:

This correspondence addresses the discovery responses of Monique Norris and requests depositions of witnesses identified by Ms. Norris. Some of the discovery responses are insufficient and/or nonresponsive. This correspondence is an attempt to resolve this without court intervention. The issues below are relatively simple, so we ask you to please provide proper responses and to respond to the below requests.

**ADDITIONAL DEPOSITION REQUESTS**

Please provide dates for the depositions of the following witnesses identified by Ms. Norris:

- 1) Carolyn Holsey, as identified in Norris's response to Request for Admission No. 7; and
- 2) Ms. Reid's cousin, referenced in response to Norris's Answer to Request for Admission No. 10.

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January 6, 2019  
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### **DISCOVERY RESPONSES**

#### **1. Request for Admission No. 16**

Request for Admission No. 16 requested Plaintiff Monique Norris to admit she agreed to the terms and conditions of the Contingency Fee Agreement. Rather than admit or deny, Ms. Norris responded that she signed the agreement and the agreement speaks for itself. However, that does not answer the request. Does she admit she agreed to the terms and conditions of the contingency fee agreement? If she admits this request, then please amend accordingly. If the Answer is a denial or a qualified admission, then the Answer to Interrogatory No. 2 and Request for Production No. 4 and 5 will need to be amended as well.

#### **2. Interrogatory No. 3**

The words "Please identify" were left off the beginning of this sentence. A simply email asking for clarification would have sufficed if you were unsure what we meant. With this clarification, please have your client answer Interrogatory No. 3. This will also entail an amended answer to Request for Production No. 6.

#### **3. Request for Production No. 7**

Ms. Norris's Response to Request for Production No. 7 is: N/A, which we take to mean "not applicable". We don't understand the Answer. The Request for Production is certainly applicable to this case, and the Request is not premised on answers to other discovery requests. The request asks for all documents relating to conversations with KNR attorneys, etc. regarding the fee agreement or KNR's legal representation of her. If by "N/A", Ms. Norris means "No such documents are in possession of Ms. Norris or her attorneys", then we are okay with the response. Please advise.

#### **4. Request for Admission No. 24, Interrogatory No. 5**

In Request for Admission No. 24, Ms. Norris admits the investigator came to her house to obtain her signature. In answer to Request for Admission No. 10, however, Ms. Norris indicated the investigator was being sent to her cousin's house to meet her. Please provide a proper answer or supplement the Answer to Interrogatory No. 5.

#### **5. Request for Admission No. 26 B, Interrogatory No. 5**

In her Answer to Request for Admission NO. 26 B, Ms. Norris stated: "Member Williams was charged an investigation fee where no work was done by the investigators.." However, as you well know, Ms. Williams' testimony is directly contrary to this statement. Ms. Williams asked about the investigator fee and was told (as she admitted on multiple occasions during her depositions) that, among other things, the investigator obtained the police report. Please provide a

Peter Pattakos  
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proper answer or supplement the Answer to Interrogatory No. 5.

**6. Request for Admission 27 C, Interrogatory No. 5**

In response to Request for Admission 27 C, Ms. Norris denied the following request as it related to Wright, Williams, and Reid: Admit KNR's "investigators" did not "chase down" the following at their home or other locations, as alleged in Paragraph 6 of the Fourth Amended Complaint.

As you know, Member Williams was previously represented by Attorney Horton, and she had a relative who worked at KNR, which is why she called KNR herself, as opposed to being "chased down". The Answers are wrong as to Reid and Wright as well, but blatantly wrong as it relates to Member Williams, and we would ask the Answer be amended. This would be true for her answer to Request for Admission No. 27 D as well. Please provide a proper answer or supplement the Answer to Interrogatory No. 5.

**7. Request for Admission No. 27 F, Interrogatory No. 5**

In her response to Request for Admission No. 27 F, Ms. Norris denied the following: Admit KNR did not "aggressively pursue" the following during the class period:

1. Monique Norris;
2. Member Williams;
3. Matthew Johnson;
4. Naomi Wright;
5. Thera Reid; and
6. Any other former client of KNR during the class period.

This denial is blatantly false as it relates to Ms. Norris, Mr. Johnson, and Ms. Williams. Please revise or explain, as all 3 called KNR on their own, not as a result of KNR aggressively pursuing them. Please provide a proper answer or supplement the Answer to Interrogatory No. 5.

**8. Request for Admission Nos. 27 H and 27 I, Interrogatory No. 5**

In response to Request for Admission No. 27 H, Ms. Norris denied she was charged for "having been solicited" as described in Paragraph 6 of the Fourth Amended Complaint. This denial makes no sense since Ms. Norris called KNR, not the other way around. She was not "solicited" but voluntarily called. Please review and revise this Answer and the Answer to Request for Admission 27 I, which deals with the same subject, or supplement the answer to Interrogatory No. 5.

**9. Request for Admission No. 27 M; Interrogatory No. 5**

Ms. Norris denied she cannot identify evidence to support the claims of Paragraph 110 of the Fourth Amended Complaint. However, the Request for Admission No. 27 M but fails to identify such

Peter Pattakos  
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Page 4

evidence. Please either revise the answer to this Request for Admission, and Request for Admission No. 27 N, which is likewise inaccurate, or supplement the answer to Interrogatory No. 5.

**10. Request for Admission No. 27 P, Interrogatory No. 5**

Your objection to Request for Admission No. 27 P is baseless. We asked Ms. Norris to admit that HER allegations in Paragraph 111 do not apply to another fellow class member, Member Williams. You objected to "discovery as to Member Williams' case on Ms. Norris." This is not the nature of the Request for Admission. Ms. Norris and Ms. Williams are both putative class representatives or class members for the allegations contained in Paragraph 111. Please provide a proper response to this or supplement the answer to Interrogatory No. 5.

**11. Request for Admission No. 27 V, Interrogatory No. 5**

Based on Ms. Norris' answer to Request for Admission No. 27 V, Ms. Norris is representing she has evidence that the majority of time, investigators "never performed any task at all in connection with the client". That is, that she has facts or evidence showing the number of times an investigator performed no task at all exceeded the number of times an investigator performed some task. If she sticks by this Answer, please produce this evidence and revise your answer to Interrogatory No. 5.

**12. Request for Admission No. 27 W, Interrogatory No. 5**

Ms. Norris represents by her Answer to Request for Admission No. W that she has evidence KNR "never" obtained their clients' consent for the investigation fee. If she sticks by this Answer, please produce this evidence and revise your answer to Interrogatory No. 5.

**13. Request for Admission Nos. 27 X, Interrogatory No. 5**

Ms. Norris denies that the Fourth Amended Complaint only identifies two types of Class "A" members. This makes no sense given the allegations in the Complaint, which state the investigators either performed no work at all or only obtained the signed Contingency Fee Agreement (along with perhaps obtaining documents from the client). If another type of Class "A" member other than the two identified (and referenced in the Request for Admission) exists, please identify by supplementing this answer or the answer to Interrogatory No. 5.

**14. Request for Admission Nos. 27 Y and 27 Z, Interrogatory No. 5**

Even if you believe another class type exists, other than those identified in 27 X, how can you deny Member Williams and Monique Norris do not meet the criteria for class members set forth in those two types of Class A members? This is especially true of Member Williams who has already testified the investigator did more than just sign her up or obtain documents from her. Please provide an explanation for the denial to Request for Admissions No. 27 Y and 27 Z or supplement the Answer to Interrogatory No. 5.

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Page 5

**15. Request for Admission No. 27 AA, Interrogatory No. 5**

Please explain the basis for Ms. Norris' denial of Request for Admission No. 27 AA or supplement the Answer to Interrogatory No. 5 to explain the denial.

**16. Request for Admission No. 27 BB, Interrogatory No. 5**

You did not answer this Request for Admission. The objection is wholly inappropriate. The words "authorized" or "consented" are words you used in the complaints, and thus cannot be vague in this context. Please provide a proper answer to this or supplement the Answer to Interrogatory No. 5.

**17. Request for Admission No. 27 EE and 27 FF, Interrogatory No. 5**

With the denial to this request, you claim Redick and Nestico made a specific "false representation of fact" to Ms. Norris. We did not ask about his "culpability for fraud", we asked Ms. Norris to admit Mr. Redick and Mr. Nestico never made any "false representations of fact" to Ms. Norris re: the purpose of the investigation fee. As you well know, he made zero representations to her, so please revise this answer or supplement the Answer to Interrogatory No. 5.

**18. Request for Admission No. 27 GG**

This request relates to Mr. Horton's representations to Ms. Norris. You are in receipt of his affidavit, which directly contradicts the answer to this Request. Moreover, you have produced no evidence that Mr. Nestico or Mr. Redick instructed Mr. Horton to conceal the "true nature of the fee". Please reconsider the response to this request and have your client answer truthfully or at least state she cannot admit or deny. This is an improper unqualified denial. Please provide a proper answer or supplement the Answer to Interrogatory No. 5.

**19. Request for Admission Nos. 27 II and JJ**

Ohio Rule of Civil Procedure 36(A)(2) provides:

A denial shall fairly meet the substance of the requested admission, and when good faith requires that a party qualify his or her answer, or deny only a part of the matter of which an admission is requested, the party shall specify so much of it as is true and qualify or deny the remainder.

Rather than comply with the rules, you allowed your client to provide an unqualified denial to Request for Admission Nos. II as it relates to Redick and Nestico. However, the request asked your client to admit she never had any communications with those two regarding the investigation fees. Are you saying she did have such conversations or communications? If so, please explain. This

Peter Pattakos  
January 6, 2019  
Page 6

answer was not submitted in good faith. Please provide a proper answer or supplement the Answer to Interrogatory No. 5.

**20. Interrogatory No. 7**

You again object to providing an answer to a "contention interrogatory", claiming it is inappropriate at this stage of proceedings. When you originally raised this objection earlier in this litigation, perhaps you had a misunderstanding of the local rules. However, we reminded you this past November of your misunderstanding of Ohio law. Ohio Rule 33(B) states, in pertinent part:

An interrogatory otherwise proper is **not objectionable merely because an answer to the interrogatory involves an opinion, contention, or legal conclusion**, but the court may order that such an interrogatory be answered at a later time, or after designated discovery has been completed, or at a pretrial conference. (Emphasis added).

You have never obtained leave of court to answer these at a later time. Moreover, we are entitled to know "every piece of evidence" in possession of you or Ms. Norris re: her claims. That is the entire purpose of discovery – to DISCOVER the claims and evidence supporting the claims (or defenses) of the other party. See also the attached correspondence sent to you on November 14, 2018, which outlines the case law supporting our position and refuting your position. This is blatant and knowing disregard for the Ohio Rules of Civil Procedure.

**21. Request for Production No. 12**

Monique Norris states all documents supporting her contention that KNR directed her to enter into a loan agreement with Liberty Capital has already been produced. Please identify which documents you are referring to, as Monique Norris did not provide any such responsive documents other than the Settlement Memorandum, which mentioned Liberty Capital. Please produce the bank statement showing the deposit of a Liberty Capital check into Ms. Norris' bank account if such exists, as that would certainly be evidence of this. Also – Ms. Norris should be in possession of documents from Liberty Capital.

**22. Request for Admission No. 68, Interrogatory No. 8**

Ms. Norris denied that her initial on page 8 of Exhibit "F" was an acknowledgment that Robert Horton did not endorse or recommend the transaction between her and Liberty Capital. Yet, you did not explain the basis of this denial in Interrogatory No. 8. Please supplement.

Peter Pattakos  
January 6, 2019  
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**23. Interrogatory No. 8**

You raised improper objections to a “contention interrogatory”, which is improper as addressed above and addressed multiple times with you in the past. Please supplement with the evidence to support the allegations at issue.

**24. Request for Admission Nos. 69 through 113**

To the extent Ms. Norris admitted any of these requests, we have no dispute. However, many of her answers were denials or qualified admissions/denials, which require an explanation in the answer to the Request for Admission or in her answer to Interrogatory No. 9. More specifically, Ms. Norris cannot rely on saying she does not recall if she read the document in response to many of the requests asking her to admit her signature or initials acknowledged the terms and conditions. Whether she remembers reading it or not is immaterial to the effect of the initials and signature. As you are well aware, Ohio law requires a party entering a contract to learn the terms of the contract before agreeing to its terms. *Cheap Escape Co. v. Crystal Windows*, 8th Dist. No. 93739, 2010-Ohio-5002, para. 17. Moreover, a party to a contract is presumed to have read and understood the terms and is bound by a contract the party signed. *Preferred Capital v. Power Eng. Group*, 112 Ohio St. 3d 429. This law is even in standard jury instructions. Please reconsider Ms. Norris’s response to these Requests for Admissions and answer accordingly.

**25. Interrogatory No. 9**

Please refer above to improper “contention interrogatory” objection. Also, in light of our dispute with any answer other than an unqualified admission to Request for Admissions Nos. through 113, please supplement, as described above.

**26. Interrogatory Nos. 11, 15, 16, 17, 18, 22, 24, 25, 26, 27, 28, 29, 30**

Again, improper “contention interrogatory” objection. Please revise or obtain a court order giving you more time to answer. We will oppose any such Motion given how long this case has been pending. You have a duty to provide the evidence you currently have, and you can supplement later. But you are not permitted to withhold evidence.

**27. Request for Admissions Nos. 126 through 129**

These requests relate to the fact Ms. Norris was treated by Dr. Gunning, not Dr. Ghoubrial. Having taken Dr. Gunning’s deposition and seeing the medical records, which Dr. Gunning testified he wrote contemporaneously at the time he evaluated and treated Ms. Norris, we would ask you please revise these responses.



Peter Pattakos  
January 6, 2019  
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**28. 134 through 139, Interrogatory No. 18**

Ms. Norris did not admit or deny these requests because she claims she is “without sufficient information to admit or deny this request” because she is not in possession of the Clearwater bill. Ohio Civil Rule of Procedure does not allow this answer unless the party “has made reasonable inquiry and that the information known or readily obtainable by the party is insufficient to enable the party to admit or deny.” What “reasonable inquiry” did the Plaintiff make in this regard? We will send you a copy of the bill, however, and ask that the Answers be revised and/or the Answer to Interrogatory No. 18 be supplemented.

**29. Request for Admission No. 140**

Ms. Norris again states she has insufficient information to admit or deny this request (that Ohio permits physicians to charge a patient more for a TENS unit that the physician paid for the TENS unit). Insufficient knowledge of the law is not an appropriate objection. Ms. Norris does not need to have this independent knowledge, it also goes to your knowledge, and you have a duty to reasonably inquire, as does your client. You know this is an accurate statement of the law, and we would ask that you please comply with your duties under the Ohio Rules of Civil Procedure. Or, indicate what reasonable inquiry you undertook but were still unable to answer.

**30. Request for Admission No. 148**

This request reads:

Admit the allegations contained in Paragraph 3 of the Fourth Amended Complaint are not accurate as it relates to KNR's representation of Monique Norris.

Ms. Norris answered:

Deny. The allegations of Paragraph 3 are accurate. Whether or not they pertain to Ms. Norris is a separate question.

In her answer, Ms. Norris acknowledges that whether the allegations in Paragraph 3 pertain to her is a separate question as to whether the allegations are true as to other KNR clients. However, she doesn't answer that separate question. The Request specifically states “as it relates to KNR's representation of Monique Norris.” This is yet another “end around” by you in an attempt to admit the obvious. Please revise.

**31. Request for Admission No. 153**

Ms. Norris objected to the term “Ohio's prohibition against direct-client solicitation” as being “unintelligible.” However, these were Ms. Norris's own words, through you, in the Fourth

Peter Pattakos  
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Page 9

Amended Complaint and Paragraph 3 of the Fifth Amended Complaint. While she admits the Request for Admission, we ask you either withdraw the objection or withdraw this claim from the Fifth Amended Complaint.

**32. Request for Admission No. 159**

Again, you made no reasonable inquiry before using lack of information to neither admit nor deny. We will forward the Narrative Report and ask that this answer be revised accordingly.

**33. Interrogatory No. 21**

Ms. Norris is claiming she is seeking "disgorgement of the allegedly unlawful fees in the amount of those fees." Is she referring to the narrative fees, interest on loans, and investigation fee? Any other fees she is referring to?

**34. Request for Admission Nos. 169 and 170, Interrogatory 24**

Ms. Norris admits that she did not have a fee agreement or contract with Attorney Redick or Attorney Nestico (see her answers to Request for Admissions Nos. 166 and 167) and further admits an individual cannot breach a contract to which that individual is not a party (see answer to Request for Admission No. 168). She also admits Robert Horton did not breach a fee agreement with her (he was the attorney who represented her). However, she then denies the request to admit that Redick and Nestico did not breach a fee agreement with her.

If she had no fee agreement with them and if an individual cannot breach an agreement he or she is not a party to, as admitted by her, then obviously they did not breach a fee agreement with her. This obvious inconsistency was not explained in the Request for Admission response or in answer to Interrogatory No. 24. Please provide a proper explanation for the denials.

**35. Interrogatory No. 25**

This Interrogatory asks for the identity of every "false representation of fact", omission of fact, "misrepresentation", or any false, misleading, incomplete, or incorrect statement or communication of any KNR attorney or employee that Plaintiff Monique or any Class "A" members relied on. Ms. Norris did not provide a single date, witness, name of a person, or any other substantive response other than a regurgitation of your theory.

We know what you are claiming, despite the lack of evidence. We are not asking for your theory. We are asking for the actual facts and evidence you claim supports the claim. When were the false representations made? Who made them? What was the substance of the representations on those specific dates? Who were the witnesses? Moreover, this is again an improper objection to a "contention interrogatory", when the Ohio Civil Rules specifically state you cannot object on that basis. Please supplement the Answer to this Interrogatory.

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Page 10

**36. Numerous Requests for Production**

In most of the responses to Requests for Production of Documents, Ms. Norris responded: "All responsive documents in Ms. Norris's possession have been produced." If this refers to all responsive documents in possession of Ms. Norris AND you, then the answer is fine. But you cannot avoid providing responsive documents because you have copies but your client doesn't. This is basic Ohio discovery law. We are not asking for spreadsheets, tables, summaries, letters outlining your legal impressions, or any other items prepared by you. We are asking for documentary evidence. If you have it, it doesn't matter whether it is in Ms. Norris's possession. Please advise accordingly if you are referring to all documents in your possession as well.

Thank you for your anticipated cooperation. We look forward to your response.

Sincerely,

*Thomas P. Mannion*

Thomas P. Mannion

**Barb Day**

---

**From:** Mannion, Tom <Tom.Mannion@lewisbrisbois.com>  
**Sent:** Wednesday, January 09, 2019 12:25 PM  
**To:** Peter Pattakos  
**Cc:** dmb@dmbestlaw.com; Barmen, Brad; James M. Popson  
**Subject:** Williams v KNR

Peter:

With discovery moved to 4/1, we obviously have a bit more time, but we still need these dates on the book.

Please advise as to the following, which we've asked about many, many times:

1. Confirmation for Harbour on the 29th;
2. Dates for Reid and Williams
3. Date for Petti

Also, we requested dates for Norris's cousin and Aunt, as identified in discovery. Please provide dates for them as well. We will have greater flexibility with their dates, so if you get one or two potential dates, we should hopefully be able to make one of the two dates work. I would imagine an hour is enough for the Aunt and two hours for the cousin, absent something weird happening with answers/questioning.

Please also let me know re: Horton and the neutral location. We are okay with deposing the cousin, Aunt, Petti, Steele, and Phillips at your office.

Thanks,

Tom



**Thomas P. Mannion**  
Attorney | Cleveland Managing Partner  
[Tom.Mannion@lewisbrisbois.com](mailto:Tom.Mannion@lewisbrisbois.com)

**T: 216.344.9467 F: 216.344.9421 M: 216.870.3780**

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**Barb Day**

---

**From:** Peter Pattakos <peter@pattakoslaw.com>  
**Sent:** Thursday, January 10, 2019 11:32 AM  
**To:** Mannion, Tom  
**Subject:** [EXT] Re: Williams v KNR

External Email

Just got word this morning that the 29th is good for Harbour and we're not going to reopen Ms. Williams' deposition without a court order, as I've said repeatedly. Will get you responses on the rest shortly.

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@pattakoslaw.com)  
[www.pattakoslaw.com](http://www.pattakoslaw.com)

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On Thu, Jan 10, 2019 at 8:51 AM Mannion, Tom <[Tom.Mannion@lewisbrisbois.com](mailto:Tom.Mannion@lewisbrisbois.com)> wrote:  
Mr. Pattakos:

You never seem to lack time to write writing emails. Unless, of course, It is in response to one of my request to usually work out discovery issues. Please advise as follows:

1. Do you agree with my proposal on Horton? If not, I will simply do all of my questioning first and not turn it over after an hour, or we can both address the issue with the court.
2. Do you agree as it relates to a neutral, mutually agreed-upon location for the depositions of witnesses who do not feel comfortable being deposed at your office or KNR's office? And, do you have a proposed location? I will send some proposed locations as well.
3. Have you confirmed Harbour?
4. Please provide dates for Reid and Williams.
5. Do you have a proposed date for Gary Petti?
6. Please provide propose dates for the cousin and aunt identified by Monique Norris. Please also provide the address for these witnesses.
7. Do you continue to stand by your objection to contention interrogatories, even though the Ohio Civil Rules

specifically state that's not a valid objection? You need to seek leave of court if you need extra time for contention interrogatories. You have not done so. In addition, you have a duty to provide the information that you have, and then supplement later.

Thank you,

Tom

Thomas P. Mannion  
Attorney | Cleveland Managing Partner  
[Tom.Mannion@lewisbrisbois.com](mailto:Tom.Mannion@lewisbrisbois.com)  
Lewis Brisbois Bisgaard & Smith LLP  
1375 E. 9th Street, Suite 2250  
Cleveland, OH 44114  
T:216.344.9467 F: 216.344.9421 M: 216.870.3780

[www.LewisBrisbois.com](http://www.LewisBrisbois.com)

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**Barb Day**

---

**From:** Peter Pattakos <peter@pattakoslaw.com>  
**Sent:** Friday, January 18, 2019 1:46 PM  
**To:** Mannion, Tom; Barmen, Brad; Shaun Kedir  
**Cc:** James M. Popson; Joshua Cohen; Rachel Hazelet  
**Subject:** [EXT] Re: Williams v KNR

External Email

Counsel,

While we have addressed all of the issues raised in Tom's email below, I want to be clear about the fact that the discovery deadline is not 4/1 as Tom states below, it is 5/1, as made clear by the Court's January 8 order "extend[ing] the deadline for class certification to May 1, 2019" and ordering the parties to "work professionally ..., etc., in order to complete discovery within this extended time-line."

Please let us know if you intend to dispute this plain reading of the Court's order in which case we'll seek clarification.

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@pattakoslaw.com)  
[www.pattakoslaw.com](http://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 Wed, Jan 9, 2019 at 12:26 PM Mannion, Tom <[Tom.Mannion@lewisbrisbois.com](mailto:Tom.Mannion@lewisbrisbois.com)> wrote:

Peter:

With discovery moved to 4/1, we obviously have a bit more time, but we still need these dates on the book.

Please advise as to the following, which we've asked about many, many times:

1. Confirmation for Harbour on the 29th;

2. Dates for Reid and Williams

3. Date for Petti

Also, we requested dates for Norris's cousin and Aunt, as identified in discovery. Please provide dates for them as well. We will have greater flexibility with their dates, so if you get one or two potential dates, we should hopefully be able to make one of the two dates work. I would imagine an hour is enough for the Aunt and two hours for the cousin, absent something weird happening with answers/questioning.

Please also let me know re: Horton and the neutral location. We are okay with deposing the cousin, Aunt, Petti, Steele, and Phillips at your office.

Thanks,

Tom



**Thomas P. Mannion**  
Attorney | Cleveland Managing Partner  
[Tom.Mannion@lewisbrisbois.com](mailto:Tom.Mannion@lewisbrisbois.com)

**T: 216.344.9467 F: 216.344.9421 M: 216.870.3780**

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**Barb Day**

---

**From:** Peter Pattakos <peter@pattakoslaw.com>  
**Sent:** Thursday, January 24, 2019 2:14 PM  
**To:** Mannion, Tom  
**Cc:** James M. Popson; Nathan F. Studeny; dmb@dmbestlaw.com; Barmen, Brad; Joshua Cohen  
**Subject:** [EXT] Re: Depositions - Williams v KNR

External Email

Taking depositions of the family members of a class-action Plaintiff who stands to recover less than \$1,000 in damages is *prima facie* abusive and we'd have to move to quash any subpoenas you serve in this regard unless you can explain why you really need these depositions. It might help if we revisit this issue after Norris herself testifies on Monday.

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@pattakoslaw.com)  
[www.pattakoslaw.com](http://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 Thu, Jan 24, 2019 at 11:59 AM Mannion, Tom <[Tom.Mannion@lewisbrisbois.com](mailto:Tom.Mannion@lewisbrisbois.com)> wrote:

Mr. Pattakos:

You still haven't provided dates for the individuals identified in Norris's discovery (aunt and cousin). Please provide full names and addresses (which should have been done in the discovery responses) so we can subpoena the witnesses for depositions since you won't cooperate. If you sent dates and I missed them, I apologize, resend please.

Tom



**Thomas P. Mannion**  
**Attorney | Cleveland Managing Partner**  
[Tom.Mannion@lewisbrisbois.com](mailto:Tom.Mannion@lewisbrisbois.com)

**T: 216.344.9467 F: 216.344.9421 M: 216.870.3780**

1375 E. 9th Street, Suite 2250, Cleveland, OH 44114 | [LewisBrisbois.com](http://LewisBrisbois.com)

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**Barb Day**

---

**From:** Peter Pattakos <peter@pattakoslaw.com>  
**Sent:** Thursday, January 24, 2019 3:40 PM  
**To:** Mannion, Tom  
**Cc:** James M. Popson; Nathan F. Studeny; dmb@dmbestlaw.com; Barmen, Brad; Joshua Cohen  
**Subject:** Re: [EXT] Re: Depositions - Williams v KNR

If you can't explain to us why you need to bother the family members of a lady who merely seeks to test the substantial evidence that she was taken advantage of by lawyers and a doctor who abused their position of influence to rip her off for a few hundred bucks then I suppose we have no choice but require you to explain it to Judge Brogan. *See, e.g., Gattozzi v. Sheehan*, 2016-Ohio-5230, 57 N.E.3d 1187, ¶ 18 (8th Dist.) quoting *Amchem Prods. v. Windsor*, 521 U.S. 591, 617, 117 S.Ct. 2231, 138 L.Ed.2d 689 (1997) ("The policy at the very core of the class action mechanism is to overcome the problem that small recoveries do not provide the incentive for any individual to bring a solo action prosecuting his or her rights."); *In re Cendant Corp. Litigation*, 264 F.3d 201, 270 (3d Cir. 2001), fn. 49 ("Courts must ... take care to prevent the use of discovery to harass presumptive lead plaintiffs."); *On the House Syndication, Inc. v. Fed. Express Corp.*, 203 F.R.D. 452, 455-456 (S.D.Cal. 2001) ("[A] compelling ... reason for not subjecting absent class members to discovery is the fear that defendants will use burdensome discovery requests as a method of unfairly reducing the number of class members.").

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101 Ghent Road  
Fairlawn, OH 44333  
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[www.pattakoslaw.com](http://www.pattakoslaw.com)

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On Thu, Jan 24, 2019 at 3:29 PM Mannion, Tom <[Tom.Mannion@lewisbrisbois.com](mailto:Tom.Mannion@lewisbrisbois.com)> wrote:

Peter:

So, you are saying Monique Norris will settle for \$1000? Come on. Please be reasonable in your responses. More importantly, the value of Monique Norris's claim has zero to do with our request for their depositions. We're not asking them whether Monique needed a tens unit. These are witnesses that you identified as having knowledge, and we have a right to depose them. We are going to ask them about the items you indicated they have knowledge on. We also have legitimate questions on some of your allegations in the Fifth Amended Complaint, including factual allegations that go to class certification. We also asked you for the reasons you requested Steele and Phillips, who didn't represent any of the current Plaintiffs, and to date you have failed to articulate a valid basis.

You know, we didn't need to ask you for dates; we could have just contacted them directly to interview them or subpoena them if they wouldn't talk. But we gave you and your client the courtesy of asking. Again, the value of Monique's claim has nothing to do with requesting these depositions.

Please send me your case law as to what constitutes *prima facie* abusive tactics? These are legitimate requests to depose witnesses you identified. We don't need your permission to depose them. However, you do need to provide their address, since that was requested in discovery and you and your client have that information. We will then subpoena them and you can file whatever motion you want.

By the way, we asked for dates for the depositions several weeks ago. If this was going to be your response, you didn't need to waste weeks to tell us.

Do we have to file a Motion to Compel to get the addresses as well, or are you providing that?

Tom

---

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

**Sent:** Thursday, January 24, 2019 2:14 PM

**To:** Mannion, Tom <[Tom.Mannion@lewisbrisbois.com](mailto:Tom.Mannion@lewisbrisbois.com)>

**Cc:** James M. Popson <[jpopson@sutter-law.com](mailto:jpopson@sutter-law.com)>; Nathan F. Studeny <[nstudeny@sutter-law.com](mailto:nstudeny@sutter-law.com)>;  
[dmb@dmbestlaw.com](mailto:dmb@dmbestlaw.com); Barmen, Brad <[Brad.Barmen@lewisbrisbois.com](mailto:Brad.Barmen@lewisbrisbois.com)>; Joshua Cohen <[jcohen@crklaw.com](mailto:jcohen@crklaw.com)>

**Subject:** [EXT] Re: Depositions - Williams v KNR

External Email

Taking depositions of the family members of a class-action Plaintiff who stands to recover less than \$1,000 in damages is *prima facie* abusive and we'd have to move to quash any subpoenas you serve in this regard unless you can explain why you really need these depositions. It might help if we revisit this issue after Norris herself testifies on Monday.

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@pattakoslaw.com)

[www.pattakoslaw.com](http://www.pattakoslaw.com)

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On Thu, Jan 24, 2019 at 11:59 AM Mannion, Tom <[Tom.Mannion@lewisbrisbois.com](mailto:Tom.Mannion@lewisbrisbois.com)> wrote:

Mr. Pattakos:

You still haven't provided dates for the individuals identified in Norris's discovery (aunt and cousin). Please provide full names and addresses (which should have been done in the discovery responses) so we can subpoena the witnesses for depositions since you won't cooperate. If you sent dates and I missed them, I apologize, resend please.

Tom



**Thomas P. Mannion**  
Attorney | Cleveland Managing Partner  
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**Barb Day**

---

**From:** Peter Pattakos <peter@pattakoslaw.com>  
**Sent:** Friday, January 25, 2019 8:08 AM  
**To:** Mannion, Tom  
**Cc:** James M. Popson; Nathan F. Studeny; dmb@dmbestlaw.com; Barmen, Brad; Joshua Cohen  
**Subject:** Re: [EXT] Re: Depositions - Williams v KNR

It's ridiculous to compare Phillips and Steele to Ms. Norris's relatives, Tom. And you have not explained what information you think they have that justifies the burden of deposing them. Thus you leave us with the inference that you are only trying to harass Ms. Norris.

Peter Pattakos  
The Pattakos Law Firm LLC  
101 Ghent Road  
Fairlawn, OH 44333  
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[www.pattakoslaw.com](http://www.pattakoslaw.com)

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On Thu, Jan 24, 2019 at 3:42 PM Mannion, Tom <[Tom.Mannion@lewisbrisbois.com](mailto:Tom.Mannion@lewisbrisbois.com)> wrote:

Mr. Pattakos:

First of all, not sure what "bother" family members means. Why are you bothering so many people asking for depositions? Because you want evidence. Same with us. And how can you possibly say "If you can't explain..". I DID EXPLAIN. I told you the topic areas we are going to ask questions on. I don't have to provide you a more detailed explanation. You provided me a lot less re: reasons for Steele/Phillips. YOU identified these two as witnesses, regarding the referral and other matters.

These cases say nothing about requesting the deposition of a witness identified by the Plaintiff as individuals with knowledge of discoverable information. YOU identified these witnesses.

Are you going to provide their addresses or not? Are you going to provide a name for the cousin?

Tom

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

**Sent:** Thursday, January 24, 2019 3:40 PM

**To:** Mannion, Tom <[Tom.Mannion@lewisbrisbois.com](mailto:Tom.Mannion@lewisbrisbois.com)>

**Cc:** James M. Popson <[jpopson@sutter-law.com](mailto:jpopson@sutter-law.com)>; Nathan F. Studeny <[nstudeny@sutter-law.com](mailto:nstudeny@sutter-law.com)>;

[dmb@dmbestlaw.com](mailto:dmb@dmbestlaw.com); Barmen, Brad <[Brad.Barmen@lewisbrisbois.com](mailto:Brad.Barmen@lewisbrisbois.com)>; Joshua Cohen <[jcohen@crklaw.com](mailto:jcohen@crklaw.com)>

**Subject:** Re: [EXT] Re: Depositions - Williams v KNR

If you can't explain to us why you need to bother the family members of a lady who merely seeks to test the substantial evidence that she was taken advantage of by lawyers and a doctor who abused their position of influence to rip her off for a few hundred bucks then I suppose we have no choice but require you to explain it to Judge Brogan. *See, e.g., Gattozzi v. Sheehan*, 2016-Ohio-5230, 57 N.E.3d 1187, ¶ 18 (8th Dist.) quoting *Amchem Prods. v. Windsor*, 521 U.S. 591, 617, 117 S.Ct. 2231, 138 L.Ed.2d 689 (1997) ("The policy at the very core of the class action mechanism is to overcome the problem that small recoveries do not provide the incentive for any individual to bring a solo action prosecuting his or her rights."); *In re Cendant Corp. Litigation*, 264 F.3d 201, 270 (3d Cir. 2001), fn. 49 ("Courts must ... take care to prevent the use of discovery to harass presumptive lead plaintiffs."); *On the House Syndication, Inc. v. Fed. Express Corp.*, 203 F.R.D. 452, 455-456 (S.D.Cal. 2001) ("[A] compelling ... reason for not subjecting absent class members to discovery is the fear that defendants will use burdensome discovery requests as a method of unfairly reducing the number of class members.").

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Do we have to file a Motion to Compel to get the addresses as well, or are you providing that?

Tom

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

**Sent:** Thursday, January 24, 2019 2:14 PM

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

**Cc:** James M. Popson <[jpopson@sutter-law.com](mailto:jpopson@sutter-law.com)>; Nathan F. Studeny <[nstudeny@sutter-law.com](mailto:nstudeny@sutter-law.com)>;



[dmb@dmbestlaw.com](mailto:dmb@dmbestlaw.com); Barmen, Brad <[Brad.Barmen@lewisbrisbois.com](mailto:Brad.Barmen@lewisbrisbois.com)>; Joshua Cohen <[jcohen@crklaw.com](mailto:jcohen@crklaw.com)>  
**Subject:** [EXT] Re: Depositions - Williams v KNR

External Email

Taking depositions of the family members of a class-action Plaintiff who stands to recover less than \$1,000 in damages is *prima facie* abusive and we'd have to move to quash any subpoenas you serve in this regard unless you can explain why you really need these depositions. It might help if we revisit this issue after Norris herself testifies on Monday.

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101 Ghent Road

Fairlawn, OH 44333

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On Thu, Jan 24, 2019 at 11:59 AM Mannion, Tom <[Tom.Mannion@lewisbrisbois.com](mailto:Tom.Mannion@lewisbrisbois.com)> wrote:

Mr. Pattakos:

You still haven't provided dates for the individuals identified in Norris's discovery (aunt and cousin). Please provide full names and addresses (which should have been done in the discovery responses) so we can subpoena the witnesses for depositions since you won't cooperate. If you sent dates and I missed them, I apologize, resend please.

Tom



**Thomas P. Mannion**  
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**Barb Day**

---

**From:** Peter Pattakos <peter@pattakoslaw.com>  
**Sent:** Wednesday, February 13, 2019 1:09 PM  
**To:** Mannion, Tom  
**Cc:** Joshua Cohen; David Best; James M. Popson; Barmen, Brad; Shaun Kedir; Stephen P. Griffin  
**Subject:** [EXT] Re: Norris v KNR, et al.

External Email

- 1) I emailed you about Brittany Holsey yesterday, including with her address. I'll accept service of the subpoena on her behalf.
- 2) We object to you bothering Ms. Norris's aunt about a deposition when she has nothing to do with this case. It's unduly burdensome.
- 3) You had a full day with Ms. Norris and she answered every one of your questions about all four classes of claims, including about the absurd 70+ pages of written discovery you served on her. As I asked you yesterday, what legitimate need do you have to reopen her deposition?
- 4) It does not make sense for us to produce dates for depositions that we're not sure will go forward. As for Ms. Reid and Ms. Holsey, their schedules are flexible and we can schedule those concurrently with scheduling the remaining depositions we need to get on the calendar for Ghoubrial, Floros, and Redick, and the resumed Gunning and Nestico depositions. Please provide dates for those and we can fill in with Reid and Holsey as they are more flexible (though Holsey can only do Mondays and weekends).

Thanks.

Peter Pattakos  
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[peter@pattakoslaw.com](mailto:peter@pattakoslaw.com)  
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On Wed, Feb 13, 2019 at 10:39 AM Mannion, Tom <[Tom.Mannion@lewisbrisbois.com](mailto:Tom.Mannion@lewisbrisbois.com)> wrote:

Mr. Cohen and Mr. Pattakos:

The deposition of Ms. Norris was not concluded, as Mr. Pattakos stopped it at approximately 6 p.m. Please provide some proposed dates for this to be continued. Please also provide dates for the conclusion of Ms. Reid's and Ms. Williams' depositions. If you refuse to produce Ms. Williams and/or Ms. Norris (since Mr. Pattakos agreed at Nestico's deposition that he would provide dates for Ms. Reid), please at least produce dates - and we can address it with the Court.

Also, you have outright refused to provide deposition dates for Ms. Norris's cousin (Halsey) or Aunt. You have also refused to provide their addresses or whether you represent those individuals. Your refusal is beyond explanation. Before we seek court intervention, we will try one more time, and we would ask for at least the courtesy of an answer:

1. Do you represent Ms. Norris's cousin (Halsey)?
2. Do you agree to produce the cousin for deposition without the 90-minute time limitation?
3. Will you supplement your client's Interrogatory response to include Ms. Halsey's address, as requested in discovery and multiple follow up emails?
4. If you refuse to produce Ms. Halsey, will you provide dates of your availability for her deposition. We will set the deposition far enough out that you have time to move for a Protective Order.
5. Since you have admitted Ms. Halsey is a witness and identified her in discovery, what is your basis for not providing any of the above?
6. Do you represent Ms. Norris's Aunt (whom was identified in discovery responses)?
7. Do you agree to produce your client's Aunt for deposition?
8. Will you supplement your client's Interrogatory response to include the Aunt's address, as requested in discovery and multiple follow up emails?

9. If you refuse to produce the Aunt for deposition, will you provide dates of your availability for her deposition. We will set the deposition far enough out that you have time to move for a Protective Order.

10. What is your basis for not providing any of the above as it relates to your client's Aunt?

If we do not hear from you by the end of the day tomorrow (given numerous requests in the past), we will simply subpoena them for a date we are available, since you have refused to cooperate despite our numerous attempts to schedule these at mutually convenient times.

Tom



**Thomas P. Mannion**  
Attorney | Cleveland Managing Partner  
[Tom.Mannion@lewisbrisbois.com](mailto:Tom.Mannion@lewisbrisbois.com)

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**Barb Day**

---

**From:** Peter Pattakos <peter@pattakoslaw.com>  
**Sent:** Wednesday, February 20, 2019 7:06 PM  
**To:** Mannion, Tom  
**Cc:** Barmen, Brad; Shaun Kedir; James M. Popson  
**Subject:** Re: [EXT] Re: Paul Steele deposition  
**Attachments:** image001.jpg; LB-Logo\_7c9c5bd0-0a1e-47b8-a3b1-a4b5cdfed8fa.png; image002.png

Because they have to work. I've repeatedly asked that we schedule all the remaining depositions that need to be completed globally, or at least that you provide dates for them. Am still waiting to hear back on that.

On Tue, Feb 19, 2019, 5:08 PM Mannion, Tom <[Tom.Mannion@lewisbrisbois.com](mailto:Tom.Mannion@lewisbrisbois.com)> wrote:

Why don't we use Thursday for Norris and Halsey then?

**Thomas P. Mannion**  
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**From:** Peter Pattakos [mailto:[peter@pattakoslaw.com](mailto:peter@pattakoslaw.com)]  
**Sent:** Tuesday, February 19, 2019 4:27 PM  
**To:** Charles J. Kettlewell <[charles@legalethics.pro](mailto:charles@legalethics.pro)>  
**Cc:** Mannion, Tom <[Tom.Mannion@lewisbrisbois.com](mailto:Tom.Mannion@lewisbrisbois.com)>; Barmen, Brad <[Brad.Barmen@lewisbrisbois.com](mailto:Brad.Barmen@lewisbrisbois.com)>; Shaun Kedir <[shaunkedir@kedirlaw.com](mailto:shaunkedir@kedirlaw.com)>  
**Subject:** [EXT] Re: Paul Steele deposition

External Email

Hi Charles,

We intend to postpone Mr. Steele's deposition until we can get an order clarifying the scope of KNR's confidentiality agreements as applied to this litigation.

Tom, et al., we still intend to proceed with the Phillips and Horton depositions as scheduled, though we will insist on reopening Mr. Horton's deposition if the information regarding KNR's settlement agreement with him is not produced in advance of next week's proceedings and the Court eventually orders it produced.

Thanks.

Peter Pattakos

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101 Ghent Road

Fairlawn, OH 44333

330.836.8533 office; 330.285.2998 mobile

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On Tue, Feb 19, 2019 at 9:43 AM Charles J. Kettlewell <[charles@legalethics.pro](mailto:charles@legalethics.pro)> wrote:

Peter,

Are we still a go for Paul's deposition this Thursday? I confess I did not bother to fully read the email exchange that went around last week so I don't know where things stand. Please advise.

*Charles*

**Charles J. Kettlewell LLC**

445 Hutchinson Avenue, Suite 100

Columbus, Ohio 43235-8630

Phone 614-436-2750

Fax 614-436-2865

[www.legalethics.pro](http://www.legalethics.pro)

Of Counsel:

Kitrick Lewis & Harris Co., LPA &

Robert J. Wagoner Co., LLC



**Barb Day**

---

**From:** Peter Pattakos <peter@pattakoslaw.com>  
**Sent:** Thursday, February 28, 2019 8:39 AM  
**To:** Mannion, Tom  
**Subject:** [EXT] Re: Norris

External Email

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 also told you that we'd consider re-opening Ms. Norris's deposition for a limited period of time if you could explain why you need to talk to her again when you spent all day with her and covered every topic at issue.

You also know that the only notes Ms. Norris reviewed to prepare her deposition were my own notes to her, which are privileged.

If you want any other documents to be produced, you should serve a request for them.

Thanks.

Peter Pattakos  
The Pattakos Law Firm LLC  
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On Sun, Feb 24, 2019 at 9:01 AM Mannion, Tom <[Tom.Mannion@lewisbrisbois.com](mailto:Tom.Mannion@lewisbrisbois.com)> wrote:  
Peter:

Do you represent B Holsey or not? If you don't represent her, I am going to attempt to interview her. If you do represent her, then give me a mutually convenient date or she will be noticed. If you don't answer the question, I will assume you do not represent her. But the first question to her after introducing myself will be to ask her if she is represented.

Where is Norris verification page? It was due months ago.

Are you really going to have your client waffle on her signature and initials on the loan documents? If we

have to get forensics involved, we will certainly seek reimbursement from you for having her testify directly contrary to her Request for Admission Answers and completely opposite of the truth.

Are you producing the Norris bank information re Liberty Capital money?

Are you providing the dates for her trip to Michigan?

Are you providing contact information and/or deposition dates for Mr. House and/or Norris's aunt? Do you represent them?

Are you producing the Norris emails - from both her accounts - regarding any communications with KNR, Liberty, Oasis, or with anyone about the accident or KNR's representation of her (other than any privileged communications with non-KNR lawyers)?

Are you producing the notes which Norris reviewed to prepare for her deposition and which refreshed her recollection?

Are you providing a date for us to finish Norris's deposition?

Are you producing the prescription or providing a release to obtain same from the pharmacy?

Tom

Thomas P. Mannion  
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**From:** Peter Pattakos <peter@pattakoslaw.com>  
**Sent:** Thursday, February 28, 2019 9:00 AM  
**To:** Mannion, Tom  
**Cc:** Barmen, Brad; James M. Popson; Shaun Kedir; John Myers; Joshua Cohen; Rachel Hazelet  
**Subject:** Re: [EXT] Re: Williams v. KNR: Ghoubrial, Gunning, Floros depositions

Tom,

Do you remember the last time we had to ask the Court to extend the discovery deadline because you kept trying to engage us in a bizarre waltz where (1) every time we asked for deposition dates, you would (2) ignore our request, and instead respond with your own specious discovery demands, and then (3) when we informed you that we'd be glad to schedule any necessary depositions of Plaintiffs as you requested, but that it made sense to do so as part of a global scheduling conference given that Plaintiffs' and Plaintiffs' counsel's schedules are more flexible than Defendants and the other third-party witnesses, you would (4) respond by accusing us of refusing to provide dates for depositions?

Why are you doing the very same thing all over again? Please stop with the nonsense. Let's get all the remaining dates on the calendar ASAP. I'd be glad to set up a call to do this, but it any event makes sense to agree on dates for Gunning, Floros, Ghoubrial, and Redick first, as well as now John Lynett (since you've submitted his affidavit), and Nestico's continued deposition, and then fill in the rest given Ms. Reid's and Ms. Holsey's relative flexibility (though Ms. Holsey is only available on Mondays unless you want to proceed with her on a weekend).

If this doesn't get buttoned up soon we will have to ask for another extension.

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](mailto:peter@pattakoslaw.com)  
[www.pattakoslaw.com](http://www.pattakoslaw.com)

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On Tue, Feb 26, 2019 at 9:12 AM Mannion, Tom <[Tom.Mannion@lewisbrisbois.com](mailto:Tom.Mannion@lewisbrisbois.com)> wrote:

Please respond.

**From:** Mannion, Tom  
**Sent:** Friday, February 22, 2019 8:30 AM  
**To:** Peter Pattakos <[peter@pattakoslaw.com](mailto:peter@pattakoslaw.com)>  
**Cc:** Barmen, Brad <[Brad.Barmen@lewisbrisbois.com](mailto:Brad.Barmen@lewisbrisbois.com)>; James M. Popson <[jpopson@sutter-law.com](mailto:jpopson@sutter-law.com)>; Shaun Kedir <[shaunkedir@kedirlaw.com](mailto:shaunkedir@kedirlaw.com)>; John Myers <[johnmyerscolpa@gmail.com](mailto:johnmyerscolpa@gmail.com)>; Joshua Cohen <[jcohen@crklaw.com](mailto:jcohen@crklaw.com)>; Rachel Hazelet <[rhazelet@pattakoslaw.com](mailto:rhazelet@pattakoslaw.com)>  
**Subject:** Re: [EXT] Re: Williams v. KNR: Ghoumbrial, Gunning, Floros depositions

Please provide dates for Halsey, Williams, Norris, and Norris's Aunt, as we have requested just as often or more.

Sent from my iPhone



**Thomas P. Mannion**  
Attorney | Cleveland Managing Partner  
[Tom.Mannion@lewisbrisbois.com](mailto:Tom.Mannion@lewisbrisbois.com)

**T: 216.344.9467 F: 216.344.9421 M: 216.870.3780**

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On Feb 22, 2019, at 7:47 AM, Peter Pattakos <[peter@pattakoslaw.com](mailto: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 Ghoumbrial, Floros, and Redick, as I have requested many times.

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@pattakoslaw.com)

[www.pattakoslaw.com](http://www.pattakoslaw.com)

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

Works for me as well.

Thanks

Brad

<LB-Logo\_7c9c5bd0-0a1e-47b8-a3b1-a4b5cdfed8fa.png>

**Brad J. Barmen**

**Partner**

[Brad.Barmen@lewisbrisbois.com](mailto:Brad.Barmen@lewisbrisbois.com)

**T: 216.586.8810 F: 216.344.9421**

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---

**From:** James M. Popson [mailto:[jpopson@sutter-law.com](mailto:jpopson@sutter-law.com)]

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

**To:** Shaun Kadir

**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.

Direct: 216.928.4504

Mobile: 216.570.7356

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On Feb 14, 2019, at 11:46 AM, Shaun Kadir

[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. Kadir

KEDIR LAW OFFICES LLC

Rockefeller Building 1400

614 West Superior Avenue

Cleveland, OH 44113

Office Phone: 216 (696)-1080 ext. 268

Direct Dial: 216-696-2852  
Office Fax: 216-696-3177

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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: Ghoubrial, 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. Ghoubrial to come into compliance with last week's Court order granting our motion to compel so that we can set a date for Dr. Ghoubrial'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.

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@pattakoslaw.com)<<mailto:peter.pattakos@chandralaw.com>>  
[www.pattakoslaw.com](http://www.pattakoslaw.com)<<http://www.pattakoslaw.com/>>

---

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**Barb Day**

---

**From:** Peter Pattakos <peter@pattakoslaw.com>  
**Sent:** Thursday, February 28, 2019 10:43 AM  
**To:** Mannion, Tom  
**Subject:** Re: [EXT] Re: Norris

We haven't reached an agreement as to a formal representation but I've been advised that she wants you to communicate with her through me. Please see my previous correspondence re: scheduling.

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@pattakoslaw.com)  
[www.pattakoslaw.com](http://www.pattakoslaw.com)

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On Thu, Feb 28, 2019 at 10:05 AM Mannion, Tom <[Tom.Mannion@lewisbrisbois.com](mailto:Tom.Mannion@lewisbrisbois.com)> wrote:

Peter:

The question is simple: do you represent her or not? You are saying direct all communications through you but you refuse to say whether you represent her for some reason. If you don't represent her, I can contact her myself. If you represent her, I will go through you. If you refuse to tell me, I'll contact her and ask her. Why are you playing games? It's a yes or no. You told me she is available Mondays or a Saturday. BUT WHICH ONE? When are you and her available?



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**From:** Peter Pattakos [mailto:[peter@pattakoslaw.com](mailto:peter@pattakoslaw.com)]  
**Sent:** Thursday, February 28, 2019 8:39 AM  
**To:** Mannion, Tom <[Tom.Mannion@lewisbrisbois.com](mailto:Tom.Mannion@lewisbrisbois.com)>  
**Subject:** [EXT] Re: Norris

External Email

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 also told you that we'd consider re-opening Ms. Norris's deposition for a limited period of time if you could explain why you need to talk to her again when you spent all day with her and covered every topic at issue.

You also know that the only notes Ms. Norris reviewed to prepare her deposition were my own notes to her, which are privileged.

If you want any other documents to be produced, you should serve a request for them.

Thanks,

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@pattakoslaw.com)

[www.pattakoslaw.com](http://www.pattakoslaw.com)

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On Sun, Feb 24, 2019 at 9:01 AM Mannion, Tom <[Tom.Mannion@lewisbrisbois.com](mailto:Tom.Mannion@lewisbrisbois.com)> wrote:

Peter:

Do you represent B Holsey or not? If you don't represent her, I am going to attempt to interview her. If you do represent her, then give me a mutually convenient date or she will be noticed. If you don't answer the question, I will assume you do not represent her. But the first question to her after introducing myself will be to ask her if she is represented.

Where is Norris verification page? It was due months ago.

Are you really going to have your client waffle on her signature and initials on the loan documents? If we have to get forensics involved, we will certainly seek reimbursement from you for having her testify directly contrary to her Request for Admission Answers and completely opposite of the truth.

Are you producing the Norris bank information re Liberty Capital money?

Are you providing the dates for her trip to Michigan?

Are you providing contact information and/or deposition dates for Mr. House and/or Norris's aunt? Do you represent them?

Are you producing the Norris emails - from both her accounts - regarding any communications with KNR, Liberty, Oasis, or with anyone about the accident or KNR's representation of her (other than any privileged communications with non-KNR lawyers)?

Are you producing the notes which Norris reviewed to prepare for her deposition and which refreshed her recollection?

Are you providing a date for us to finish Norris's deposition?

Are you producing the prescription or providing a release to obtain same from the pharmacy?

Tom

Thomas P. Mannion  
Attorney | Cleveland Managing Partner  
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Lewis Brisbois Bisgaard & Smith LLP  
1375 E. 9th Street, Suite 2250  
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**Barb Day**

---

**From:** Peter Pattakos <peter@pattakoslaw.com>  
**Sent:** Thursday, February 28, 2019 10:53 AM  
**To:** Mannion, Tom  
**Subject:** Re: [EXT] Re: Norris

Thanks, Tom.

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@pattakoslaw.com)  
[www.pattakoslaw.com](http://www.pattakoslaw.com)

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On Thu, Feb 28, 2019 at 10:47 AM Mannion, Tom <[Tom.Mannion@lewisbrisbois.com](mailto:Tom.Mannion@lewisbrisbois.com)> wrote:

So that's a no? You don't represent her. However, I will honor her wishes.

---

**From:** Peter Pattakos [mailto:[peter@pattakoslaw.com](mailto:peter@pattakoslaw.com)]  
**Sent:** Thursday, February 28, 2019 10:43 AM  
**To:** Mannion, Tom <[Tom.Mannion@lewisbrisbois.com](mailto:Tom.Mannion@lewisbrisbois.com)>  
**Subject:** Re: [EXT] Re: Norris

We haven't reached an agreement as to a formal representation but I've been advised that she wants you to communicate with her through me. Please see my previous correspondence re: scheduling.

Peter Pattakos  
  
The Pattakos Law Firm LLC  
  
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**Thomas P. Mannion**  
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**From:** Peter Pattakos [mailto:[peter@pattakoslaw.com](mailto:peter@pattakoslaw.com)]  
**Sent:** Thursday, February 28, 2019 8:39 AM  
**To:** Mannion, Tom <[Tom.Mannion@lewisbrisbois.com](mailto:Tom.Mannion@lewisbrisbois.com)>  
**Subject:** [EXT] Re: Norris

External Email

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Peter Pattakos

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On Sun, Feb 24, 2019 at 9:01 AM Mannion, Tom <[Tom.Mannion@lewisbrisbois.com](mailto:Tom.Mannion@lewisbrisbois.com)> wrote:

Peter:

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Are you providing the dates for her trip to Michigan?

Are you providing contact information and/or deposition dates for Mr. House and/or Norris's aunt? Do you represent them?

Are you producing the Norris emails - from both her accounts - regarding any communications with KNR, Liberty, Oasis, or with anyone about the accident or KNR's representation of her (other than any privileged communications with non-KNR lawyers)?

Are you producing the notes which Norris reviewed to prepare for her deposition and which refreshed her recollection?

Are you providing a date for us to finish Norris's deposition?

Are you producing the prescription or providing a release to obtain same from the pharmacy?

Tom

Thomas P. Mannion  
Attorney | Cleveland Managing Partner  
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1375 E. 9th Street, Suite 2250  
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**Barb Day**

---

**From:** Mannion, Tom <Tom.Mannion@lewisbrisbois.com>  
**Sent:** Monday, April 08, 2019 7:57 PM  
**To:** Peter Pattakos; Joshua Cohen  
**Cc:** James M. Popson; Nathan F. Studeny; Dmb@dmbestlaw.com; Barmen, Brad  
**Subject:** Williams v KNR

Peter:

We still need a date for Holsey. We can probably finish her in 90 minutes. If you want to present her after the second deposition on Friday, we're good to go that day. Otherwise, please get us a date as soon as possible.

We're also still waiting for the contention discovery answers, which we obviously want prior to the continuation depositions of Reid and Norris.

Thanks,

Tom



**Thomas P. Mannion**  
Attorney | Cleveland Managing Partner  
[Tom.Mannion@lewisbrisbois.com](mailto:Tom.Mannion@lewisbrisbois.com)

**T: 216.344.9467 F: 216.344.9421 M: 216.870.3780**

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**Barb Day**

---

**From:** Mannion, Tom <Tom.Mannion@lewisbrisbois.com>  
**Sent:** Tuesday, April 09, 2019 1:42 PM  
**To:** Peter Pattakos  
**Cc:** James M. Popson; Dmb@dmbestlaw.com; Barmen, Brad  
**Subject:** Williams v KNR

Peter:

You are again withholding evidence. Dr. Gunning was deposed on December 12th. In three days, it will have been FOUR months since his deposition. Yet, you apparently have known of a witness you believe has knowledge of discoverable information. A pizza worker next door to your office. Yet, you failed to supplement any of your discovery responses despite having 119 days to do so.

Also, are you producing Holsey on Friday or providing another date? We've been asking for months and you have yet to provide a single date.

If you don't provide a date, we will get her served in the next day or so for a date next week. We've been more than patient on this.

Also - you have had ample time to provide the responses to contention discovery. We again ask for these responses - and verification pages - prior to Friday's depositions.

Thanks,

Tom



**Thomas P. Mannion**  
Attorney | Cleveland Managing Partner  
[Tom.Mannion@lewisbrisbois.com](mailto:Tom.Mannion@lewisbrisbois.com)

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**From:** Peter Pattakos <[peter@pattakoslaw.com](mailto:peter@pattakoslaw.com)>  
**Date:** April 10, 2019 at 3:27:31 PM EDT  
**To:** "Mannion, Tom" <[Tom.Mannion@lewisbrisbois.com](mailto:Tom.Mannion@lewisbrisbois.com)>  
**Cc:** "[jpopson@sutter-law.com](mailto:jpopson@sutter-law.com)" <[jpopson@sutter-law.com](mailto:jpopson@sutter-law.com)>, "[dmb@dmbestlaw.com](mailto:dmb@dmbestlaw.com)" <[dmb@dmbestlaw.com](mailto:dmb@dmbestlaw.com)>, "Barmen, Brad" <[Brad.Barmen@lewisbrisbois.com](mailto:Brad.Barmen@lewisbrisbois.com)>, "[shaunkedir@kedirlaw.com](mailto:shaunkedir@kedirlaw.com)" <[shaunkedir@kedirlaw.com](mailto:shaunkedir@kedirlaw.com)>  
**Subject:** Re: [EXT] Re: Holsey

As I thought, you never sent her a subpoena and now you are too late, as the due date for her objections would be past the discovery deadline. Of course, you have no real need for her testimony for class certification in any event. You'll have another chance to send her a subpoena if and when the class is certified.

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@pattakoslaw.com)  
[www.pattakoslaw.com](http://www.pattakoslaw.com)

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On Wed, Apr 10, 2019 at 3:19 PM Mannion, Tom <[Tom.Mannion@lewisbrisbois.com](mailto:Tom.Mannion@lewisbrisbois.com)> wrote:

Today, you asked about Holsey: Did you ever send her a subpoena?

Well, Peter, you agreed to accept a subpoena on her behalf. Before we send one, we want a mutually convenient date.

You have refused to provide one.

If you again try to claim you didn't agree to accept a subpoena on her behalf, review your 2/13 email:

1) I emailed you about Brittany Holsey yesterday, including with her address. I'll accept service of the subpoena on her behalf.

---

**From:** Peter Pattakos [mailto:[peter@pattakoslaw.com](mailto:peter@pattakoslaw.com)]  
**Sent:** Wednesday, April 10, 2019 3:14 PM  
**To:** Mannion, Tom <[Tom.Mannion@lewisbrisbois.com](mailto:Tom.Mannion@lewisbrisbois.com)>  
**Cc:** [jpopson@sutter-law.com](mailto:jpopson@sutter-law.com); [dmb@dmbestlaw.com](mailto:dmb@dmbestlaw.com); Barmen, Brad <[Brad.Barmen@lewisbrisbois.com](mailto:Brad.Barmen@lewisbrisbois.com)>; [shaunkedir@kedirlaw.com](mailto:shaunkedir@kedirlaw.com)  
**Subject:** Re: [EXT] Re: Holsey

Did you send a subpoena? Where is it?

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@pattakoslaw.com)

[www.pattakoslaw.com](http://www.pattakoslaw.com)

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On Wed, Apr 10, 2019 at 3:10 PM Mannion, Tom <[Tom.Mannion@lewisbrisbois.com](mailto:Tom.Mannion@lewisbrisbois.com)> wrote:

You CLEARLY told us you would accept a subpoena for her. And promised to produce her.



**Thomas P. Mannion**  
Attorney | Cleveland Managing Partner  
[Tom.Mannion@lewisbrisbois.com](mailto:Tom.Mannion@lewisbrisbois.com)

T: 216.344.9467 F: 216.344.9421 M: 216.870.3780

1375 E. 9th Street, Suite 2250, Cleveland, OH 44114 | [LewisBrisbois.com](http://LewisBrisbois.com)

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

**Sent:** Wednesday, April 10, 2019 3:00 PM

**To:** Mannion, Tom <[Tom.Mannion@lewisbrisbois.com](mailto:Tom.Mannion@lewisbrisbois.com)>

**Cc:** [jpopson@sutter-law.com](mailto:jpopson@sutter-law.com); [dmb@dmbestlaw.com](mailto:dmb@dmbestlaw.com); Barmen, Brad <[Brad.Barmen@lewisbrisbois.com](mailto:Brad.Barmen@lewisbrisbois.com)>; [shaunkedir@kedirlaw.com](mailto:shaunkedir@kedirlaw.com)

**Subject:** [EXT] Re: Holsey

**External Email**

Tom, I told you that I don't represent Ms. Holsey so I obviously could not have possibly "promised to produce her," though she did tell me a couple months ago that she would be willing to sit for a deposition if there were a reasonable timeframe agreed upon, and I passed that message along to you. Did you ever send her a subpoena? I haven't seen one so I assume not. Otherwise, I'm not sure what there is for Ms. Holsey or me to respond to.

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Fairlawn, OH 44333

330.836.8533 office; 330.285.2998 mobile

[peter@pattakoslaw.com](mailto:peter@pattakoslaw.com)

[www.pattakoslaw.com](http://www.pattakoslaw.com)

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On Wed, Apr 10, 2019 at 2:38 PM Mannion, Tom <[Tom.Mannion@lewisbrisbois.com](mailto:Tom.Mannion@lewisbrisbois.com)> wrote:

Pattakos:

Your have refused to provide a deposition date for Holsey or to even acknowledge my emails regarding same. We requested her deposition over a dozen times We did not have her served personally with a subpoena because you promised to produce her and accept a subpoena for her for a mutually convenient date. However,. we have waited patiently for months and, despite your promises, you have refused to produce her. Please advise by the end of the day.

Mannion

Thomas P. Mannion  
Attorney | Cleveland Managing Partner  
[Tom.Mannion@lewisbrisbois.com](mailto:Tom.Mannion@lewisbrisbois.com)  
Lewis Brisbois Bisgaard & Smith LLP  
1375 E. 9th Street, Suite 2250  
Cleveland, OH 44114  
T:216.344.9467 F: 216.344.9421 M: 216.870.3780

[www.LewisBrisbois.com](http://www.LewisBrisbois.com)

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