

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

<p>MEMBER WILLIAMS, <i>et al.</i>,</p> <p style="text-align: center;">Plaintiffs,</p> <p style="text-align: center;">vs.</p> <p>KISLING, NESTICO & REDICK, LLC, <i>et al.</i>,</p> <p style="text-align: center;">Defendants.</p>	<p>Case No. CV-2016-09-3928</p> <p>Judge James A. Brogan</p> <p>Motion to Quash, Motion for Protective Order, and Brief in Opposition to the KNR Defendants' Motion to Compel regarding the Subpoena Served on Brittany Holsey</p>
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I. Introduction

Only a few undeniable facts need be noted to resolve the KNR Defendants' motion to compel the deposition of third-party witness Brittany Holsey. Namely, that,

1. Ms. Holsey, a relative of Named Plaintiff Monique Norris, is not a party to this case, and was not represented by counsel until yesterday, April 16; and,
2. Defendants only served Ms. Holsey with a subpoena on April 11, the same day they filed their motion to compel, four days before the expiration of the April 15 discovery deadline, noticing a deposition for April 17.

Because Defendants' subpoena fails to allow a reasonable time in which to comply, and requests a deposition on a date past the discovery deadline, it is void for that reason alone. *See Exhibit 1*, 01/29/2019 Court Order at 1 ("April 15, 2019 shall be the discovery *completion* date for class certification issues.") (Emphasis supplied); *McWreath v. Cortland Bank*, 11th Dist. Trumbull No. 2010-T-0023, 2012-Ohio-3013, ¶ 93 (upholding trial court's denial of discovery pursuant to written requests served one day before the discovery deadline, "not[ing] that the trial court's order directed that discovery be completed and not merely solicited by the ... deadline.").

Defendants try to excuse their failure to timely serve Ms. Holsey by misrepresenting both Plaintiffs' counsel's relationship with her, as well as the parties' course of communication about her. In

sum, as explained fully below, Defendants have engaged in an apparently calculated effort to take advantage of Plaintiffs' and Ms. Holsey's earlier and conditional willingness to cooperate with their dubious request for this deposition to now impose unreasonable last-minute burdens on both Plaintiffs and the witness. Of course, if Defendants had served their subpoena in a timely manner and failed to agree to a reasonable date and timeframe for the deposition, Plaintiffs and Ms. Holsey would have had the opportunity to object, and the dispute could have properly been resolved by the Court, within the discovery deadline.

Of course, if Defendants had any real need for Ms. Holsey's deposition, they could and would have served her with a subpoena months ago when they first began claiming that her deposition was necessary. *See* Defs' Mot. at 2–3. The truth, however, as set forth fully below, is that Ms. Holsey's testimony has no bearing on class-certification. Thus, even if the Court were to find that Defendants' subpoena on her is timely and otherwise proper, there are independent grounds to deny the motion as unduly burdensome.

For these reasons, explained more fully below, Plaintiffs and Ms. Holsey hereby jointly oppose Defendants' 04/11/2019 motion to compel, Ms. Holsey¹ hereby moves to quash the subpoena under Civ.R.45(C)(3), and Plaintiffs hereby move for a protective order under Civ.R. 26(C) providing that Ms. Holsey's deposition take place, if at all, only after class-certification is determined.

II. Facts, Law, and Argument

A. Defendants subpoena on Ms. Holsey is untimely.

As noted above, there is no dispute that Ms. Holsey is a third-party witness on whom Defendants did not serve a subpoena until April 11, 2019. Thus, the subpoena was served too late to be

¹The undersigned first confirmed representation of Ms. Holsey yesterday, after defense counsel confirmed their intent to disregard Ms. Holsey's request not to communicate directly with her. *See Exhibit 2*, counsel's 04/17/2019 correspondence. Pursuant to Civ.R. 26(C) and 45(C)(4), the undersigned certifies that the attached correspondence, as summarized below, reflects Plaintiffs' and Ms. Holsey's good-faith and reasonable efforts to avoid the need for the instant motions.

in compliance with the April 15 deadline for class discovery. *See* **Ex. 1**, 01/29/2019 Court Order at 1 (“April 15, 2019 shall be the discovery *completion* date for class certification issues.”) (Emphasis supplied); *McWreath v. Cortland Bank*, 11th Dist. Trumbull No. 2010-T-0023, 2012-Ohio-3013, ¶ 93 (upholding trial court’s denial of discovery pursuant to written requests served one day before the discovery deadline, “not[ing] that the trial court’s order directed that discovery be completed and not merely solicited by the ... deadline.”). Additionally, Civil Rules 45(C)(3) and 26(C) permit Ms. Holsey and the Plaintiffs a reasonable time in which to object to Defendants’ subpoena, with any such period also falling outside of the expiration of the April 15 discovery deadline.

As discussed further below, there is no excuse for Defendants’ late service, and no reason for the Court to compel Ms. Holsey’s deposition at this stage of the proceedings.

B. Defendants misrepresent Plaintiffs’ counsel’s relationship with Ms. Holsey, and the limits of Plaintiffs’ and Ms. Holsey’s willingness to cooperate regarding her deposition.

Defendants try to excuse the tardiness of their subpoena by claiming that Plaintiffs’ counsel “represented numerous times he would present [Ms. Holsey] for deposition.” *See* Defs’ Mot. at 1. This misrepresents the course of communication between the parties, and reflects an apparently calculated effort to take advantage of Plaintiffs’ and Ms. Holsey’s earlier and conditional willingness to cooperate with Defendants’ dubious request for this deposition to now impose unreasonable last-minute burdens on both Plaintiffs and the witness.

Indeed, as Defendants note in their motion to compel (at 5–6), Plaintiffs were clear from the outset about their position that there was no legitimate need for Defendants to take Ms. Holsey’s deposition, and that Defendants’ efforts to the contrary were an apparent attempt to intimidate and abuse a class-action plaintiff and her family members. *See* **Exhibit 3**, counsel’s 01/24–25/2019 correspondence, citing *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.”).

Plaintiffs did, however, in an effort to de-escalate the dispute and avoid Court intervention, relay Ms. Holsey’s and their willingness to cooperate with Defendants and agree to her deposition if reasonable limitations could be negotiated. *See Exhibit 4*, 02/05/2019 email from Pattakos to Mannion. This was after Defendants renewed their specious demands for Ms. Holsey’s deposition once her cousin (Plaintiff Norris) had sat for a full day of extremely hostile questioning² by defense counsel herself, and Ms. Norris informed the undersigned of Ms. Holsey’s preference that Defendants communicate with her through Plaintiffs’ counsel. *See Exhibit 5*, counsel’s 02/24–29/2019 correspondence. The undersigned repeatedly relayed that request to Defendants, as well as Ms. Holsey’s message that she would consider making herself available for a deposition without objection if a workable date and limited timeframe could be negotiated. *See Ex. 4, Ex. 5*. Plaintiffs’ counsel also explicitly informed Defendants that they did not represent Ms. Holsey, but would accept a subpoena on her behalf, and even provided her home address to be included on the subpoena. *See* 02/28/2019 10:43 AM Pattakos email at **Ex. 5**; *See also Exhibit 6*, 02/12/2019 email from Pattakos to Mannion. No such subpoena was issued until April 11, as noted above.

It must also be noted—in response to Defendants’ accusations (at 1–2, 13–14) that Plaintiffs

² Notably, and contrary to Civ.R. 32(A), Defendants have not filed the transcript of Ms. Norris’s deposition in support of their motion to compel Ms. Holsey’s deposition, nor of their motion to reopen Ms. Norris’s deposition that they filed on Monday, 04/16/2019, and have only presented selected excerpts of this deposition to the Court.

have “sandbagged” and “dangled the carrot of Ms. Holsey’s availability”— that not only did Defendants fail to issue a timely subpoena, they also failed to confer reasonably about scheduling a date and timeframe for Ms. Holsey’s deposition. Instead, they used the prospect of her deposition—as well as their similarly specious claims of entitlement to reopen Plaintiff Norris’s and Plaintiff Reid’s deposition—as a stick to justify their refusal to provide dates for the depositions of Defendant Ghoubrial, Defendant Floros, and Dr. Gunning. Thusly, Defendants engaged in the same bizarre waltz that gave rise to Plaintiffs’ need to move to extend the discovery deadline back in January, whereby,

1. Every time Plaintiffs requested deposition dates for these key witnesses,
2. Defendants would ignore Plaintiffs’ request, and instead respond with their own specious discovery demands (this time regarding the Holsey, Norris, and Reid depositions), and then,
3. when Plaintiffs respond by informing Defendants that they would be willing to participate in a scheduling conference where dates for all such depositions could be negotiated,
4. Defendants refuse to participate and instead respond by accusing Plaintiffs of refusing to comply with their demands.

See Exhibit 7, counsel’s 02/12–28/2019 correspondence; *See also* Plaintiffs’ 01/02/2019 Motion for Extension at p. 5, Ex. 6–7.

As the record shows, Defendants had every reasonable opportunity to negotiate with Ms. Holsey about her appearance for a deposition without a Court order, as they were expressly invited to do on February 13 and February 28, 2019, long before the expiration of the class-discovery deadline. *See Exhibit 8*, 02/13/2019, 1:08 P.M. Pattakos email (“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”); 02/28/2019 9:00 AM Pattakos email at **Ex. 7** (“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 ..., and Nestico’s continued deposition, and then fill in the rest given Ms. Reid’s and Ms. Holsey’s relative flexibility.”). Defendants declined this opportunity (*See*,

e.g., **Exhibit 9**, 02/13/2019 Mannion email), and after February 28, with the exception of an offhanded tit-for-tat threat on March 12, did not make a single communication about their purported need for Ms. Holsey's deposition until April 8, the day before Defendant Ghoubrial's deposition.³

Notably, even by April 8, Defendants had still not issued a subpoena for Ms. Holsey's deposition, let alone negotiated in good faith about a mutually agreeable date and timeframe for it. In light of these failures, and with the class-discovery deadline looming, Plaintiffs and Ms. Holsey concluded that it was necessary to protect themselves against an apparently abusive and unnecessary effort to conduct her deposition prior to the class-certification deadline. Thus, Plaintiffs and Ms. Holsey advised defense counsel that they did not intend to cooperate regarding their late-issued subpoena. *See Exhibit 11*, counsel's 04/10/2019 correspondence.

Of course, if Defendants had any legitimate need for Ms. Holsey's testimony prior to class certification, they would not have risked waiting until the eve of the discovery deadline to serve her with a subpoena. The fact that they did so only strengthens the inference that they are engaged in a calculated effort to create unnecessary burden for Plaintiffs, their attorneys, and their family members, and keep Plaintiffs and the Court from focusing on what is actually at issue in this case. That Defendants have simultaneously withheld consent for Plaintiffs' requested two-week extension of the deadline to file their class-certification motion further strengthens this inference. *See* Plaintiffs' 04/11/2019 motion for extension. The Court need not, however, draw this inference to find, as explained below, that Ms. Holsey's testimony has no direct bearing on class-certification issues, and quash or modify the subpoena for that reason alone.

³ Plaintiffs were finally able to confirm dates for the Floros, Ghoubrial, and Gunning depositions on March 12, after making clear that they would seek Court intervention if dates were not immediately confirmed. *See Exhibit 10*, counsel's 02/12/2019–03/12/2019 correspondence. Defense counsel made a passing threat re: Ms. Holsey during this exchange (*See Id.* at 03/12/2019, 9:12 AM Mannion email), and did not mention her again until April 8.

II. Even if Defendants were proceeding in good faith and in compliance with the Civil Rules, the irrelevance of Ms. Holsey's testimony to the determination of class-certification does not justify the burden on the witness or the Plaintiffs at this stage of the proceedings.

Defendants hardly try to explain how Ms. Holsey's testimony is relevant to this case in a manner that would impact class certification. The brief explanations that Defendants do offer fail to justify the burden on the witness and Plaintiffs in complying with Defendants late-issued subpoena.

First, Defendants claim (at 2–3) that Ms. Holsey will contradict Ms. Norris's claim that she was treated by Dr. Ghoumbrial as opposed to Dr. Gunning at Ghoumbrial's office, and (at 14) that "if Ms. Norris did not treat with Dr. Ghoumbrial, she has no claim and could not be certified as a class-representative." But regardless of what Ms. Holsey's testimony would be on this point, there is no dispute that Dr. Gunning is Dr. Ghoumbrial's employee, and that Ghoumbrial collects and profits from all the bills paid for Gunning's treatment. *See* Gunning Tr. at 13:11–14:4; *See also* **Exhibit 12**, Ghoumbrial responses to Requests for Admission at Nos. 8–10, 22. Thus, regardless of which doctor provided the treatment, there is no question that Ghoumbrial is ultimately responsible for the allegedly fraudulent scheme by which Ms. Norris was distributed and overcharged for the TENS unit at issue.

Second, Defendants claim (at 3) that Ms. Holsey—who was in the same car-accident with Ms. Norris and was also represented by KNR, and treated by Defendants Floros and Ghoumbrial—was on the same initial phone call with KNR as Ms. Norris, was at the same meeting with the KNR investigator, the same appointment with Defendant Ghoumbrial, and also received a loan from Liberty Capital. But regardless of Ms. Holsey's testimony about this series of events (which would, in fact, only confirm Ms. Norris's account), there is no dispute about the essential facts that are legitimately at issue on class-certification: Namely, that Ms. Norris was charged the allegedly fraudulent \$50 investigation fee from her KNR settlement, the allegedly fraudulent \$200 narrative fee to Defendant Floros, and the

allegedly fraudulent interest and fees for a loan from Liberty Capital.⁴ Given these facts, and that it is almost entirely Defendants' conduct that will constitute proof of the fraudulent nature of these charges, Ms. Holsey's testimony could at most go to Ms. Norris's credibility, and not in a manner that would be salient to the determination of class-certification. *See, e.g., Streeter v. Sheriff of Cook Cty.*, 256 F.R.D. 609, 613 (N.D. Ill. 2009) ("Credibility is not a requirement of a class representative"); *Seawell v. Universal Fidelity Corp.*, 235 F.R.D. 64, 66 (E.D. Pa. 2006) ("[Rule 23's] two-prong test [for adequacy of a class representative] invites inquiry into potential conflicts of interest between a class representative and other class members, not an inquiry into the credibility of the class representative."); *Cheney v. Cyberguard Corp.*, 213 F.R.D. 484, 496 (S.D. Fla. 2004) ("[A]ny inquiry concerning a Plaintiff's credibility is an impermissible examination of the merits of the case. Accordingly, the Court finds that it is inappropriate to determine the credibility of named Plaintiffs ... at this stage of the litigation. Any credibility concerns may be appropriately raised and addressed at a later phase of litigation or at trial upon consideration of the merits of Plaintiff's claims.") (internal citations and quotations omitted).

Like Ms. Norris, Ms. Holsey is a working mother with full-time job and child-care responsibilities. Unlike Ms. Norris, she is not a class-representative, and her testimony is of no relevance to the determination of whether any of the classes should be certified here. Thus, there is no justification for the burden of her appearance at a deposition at this stage of the proceedings, particularly given Defendants' failure to timely serve her with a subpoena.

⁴ Defendants also claim (at 14), without citation to any authority, that "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" as to the Liberty Capital class. This, also, does not follow. If the KNR Defendants had an improper ownership interest in Liberty Capital, and Ms. Norris obtained her Liberty Capital loan at Defendants' recommendation, Ms. Norris's claims will not conflict in any way with those of the putative class members regardless of whether KNR recommended two loan companies to her or just one. *See Thompson v. Allianz Life Ins. Co.*, ___ F.R.D. ___, No. 17-96 (PAM/TNL), 2019 WL 337587 at *4 (D. Minn. Jan. 28, 2019) ("[Named Plaintiff] is willing to prosecute this action on behalf of the class, her interests are not antagonistic to those of the class, and she is an adequate class representative. [Named Plaintiff] has established the threshold Rule 23(a) criteria.").

III. Conclusion

The Defendants had every opportunity to serve Ms. Holsey with a subpoena to obtain her deposition, and negotiate for her voluntary appearance, before the expiration of the class-discovery deadline that Defendants themselves insisted should be imposed. There is no excuse for their failure to have done so, and the Court has every bit of discretion, in regulating discovery, to declare their subpoena void for that reason alone.

Additionally, given that Ms. Holsey's testimony has no bearing on any issues relating to class-certification, the subpoena would properly be quashed on those alternative grounds. Should Ms. Holsey elect to join any class that is certified in this action, Defendants will have the opportunity to take her deposition at that point, subject to Court orders governing discovery of non-representative class members.

Respectfully submitted,

/s/ Peter Pattakos

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Attorneys for Plaintiffs

Certificate of Service

The foregoing document was filed on April 17, 2019 using the Court's e-filing system, which will serve copies on all necessary parties.

/s/ Peter Pattakos
Attorney for Plaintiffs

IN THE COURT OF COMMON PLEAS
COUNTY OF SUMMIT

MEMBER WILLIAMS, et al..) CASE NO.: CV-2016-09-3928
)
Plaintiffs) JUDGE JAMES A. BROGAN
-vs-)
)
KISLING NESTICO & REDICK LLC,) ORDER
et al.)
)
Defendants)

- - -

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

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

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

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

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

IT IS SO ORDERED.



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

CC: ALL COUNSEL/PARTIES OF RECORD



Peter Pattakos <peter@pattakoslaw.com>

Williams v KNR - Brittany Holsey Subpoena

Peter Pattakos <peter@pattakoslaw.com>

Tue, Apr 16, 2019 at 10:04 PM

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

Cc: "Nathan F. Studeny" <nstudeny@sutter-law.com>, "Joshua Cohen (jcohen@crklaw.com)" <jcohen@crklaw.com>, "shaunkedir@kedirlaw.com" <shaunkedir@kedirlaw.com>, "Barmen, Brad" <Brad.Barmen@lewisbrisbois.com>, "James M. Popson" <jpopson@sutter-law.com>, Barb Day <bday@sutter-law.com>

As of this evening, I do represent Ms. Holsey. She has the right to object to your subpoena under Rule 45(C)(3)(d), as do the Plaintiffs, and you have been notified of both Ms. Holsey's and Plaintiffs' objections and intent to file motions to quash. There will be no deposition tomorrow or any day until the Court orders otherwise or everyone otherwise agrees. Thanks.

Peter Pattakos
The Pattakos Law Firm LLC
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On Tue, Apr 16, 2019 at 4:20 PM Mannion, Tom <Tom.Mannion@lewisbrisbois.com> wrote:

Peter:

Do you represent her or not represent her? If you don't represent her, you cannot put any limitations on us contacting her.

Hopefully, you have told her that her objection does not remove her obligation to attend tomorrow (or Thursday if she prefers). We will immediately attempt to advise her of same so she can avoid violating a subpoena, unless you advise us you represent her.

Tom



Thomas P. Mannion
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T: 216.344.9467 F: 216.344.9421 M: 216.870.3780

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

Sent: Tuesday, April 16, 2019 4:12 PM

To: Nathan F. Studeny <nstudeny@sutter-law.com>

Cc: Joshua Cohen (jcohen@crklaw.com) <jcohen@crklaw.com>; shaunkedir@kedirlaw.com; Barmen, Brad <Brad.Barmen@lewisbrisbois.com>; James M. Popson <jpopson@sutter-law.com>; Mannion, Tom <Tom.Mannion@lewisbrisbois.com>; Barb Day <bday@sutter-law.com>

Subject: [EXT] Re: Williams v KNR - Brittany Holsey Subpoena

External Email

Counsel:

Ms. Holsey has asked me to forward you the attached objection to the subpoena you served on her, and reiterate her request that all communications to her go through me.

Thank you.

Peter Pattakos

The Pattakos Law Firm LLC

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Peter Pattakos <peter@pattakoslaw.com>

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

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

Tue, Apr 16, 2019 at 6:51 PM

To: "peter@pattakoslaw.com" <peter@pattakoslaw.com>

Cc: "jpopson@sutter-law.com" <jpopson@sutter-law.com>, "dmb@dmbestlaw.com" <dmb@dmbestlaw.com>, "Barmen, Brad" <Brad.Barmen@lewisbrisbois.com>

The phone numbers we have from Brittany Halsey are no longer valid. You and your client have never provided her phone number despite being under a months-long obligation to do so. Please provide me her phone number.

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

Sent: Tuesday, February 12, 2019 7:03 PM

[Quoted text hidden]

[Quoted text hidden]

[Quoted text hidden]

[Quoted text hidden]



Thomas P. Mannion
Attorney | Cleveland Managing Partner
Tom.Mannion@lewisbrisbois.com

T: 216.344.9467 F: 216.344.9421 M: 216.870.3780

[Quoted text hidden]



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32K



Peter Pattakos <peter@pattakoslaw.com>

Depositions - Williams v KNR

Peter Pattakos <peter@pattakoslaw.com>

Fri, Jan 25, 2019 at 8:08 AM

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

Cc: "James M. Popson" <jpopson@sutter-law.com>, "Nathan F. Studeny" <nstudeny@sutter-law.com>, "dmb@dmbestlaw.com" <dmb@dmbestlaw.com>, "Barmen, Brad" <Brad.Barmen@lewisbrisbois.com>, Joshua Cohen <jcohen@crklaw.com>

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.

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On Thu, Jan 24, 2019 at 3:42 PM Mannion, Tom <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]

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

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

Cc: James M. Popson <jpopson@sutter-law.com>; Nathan F. Studeny <nstudeny@sutter-law.com>; dmb@dmbestlaw.com; Barmen, Brad <Brad.Barmen@lewisbrisbois.com>; Joshua Cohen <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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On Thu, Jan 24, 2019 at 3:29 PM Mannion, Tom <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]

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

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

Cc: James M. Popson <jpopson@sutter-law.com>; Nathan F. Studeny <nstudeny@sutter-law.com>;
dmb@dmbestlaw.com; Barmen, Brad <Brad.Barmen@lewisbrisbois.com>; Joshua Cohen <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

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330.836.8533 office; 330.285.2998 mobile

peter@pattakoslaw.com

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On Thu, Jan 24, 2019 at 11:59 AM Mannion, Tom <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

T: 216.344.9467 F: 216.344.9421 M: 216.870.3780

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Peter Pattakos <peter@pattakoslaw.com>

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

Peter Pattakos <peter@pattakoslaw.com>

Tue, Feb 5, 2019 at 5:32 PM

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

Tom,

You had a full day with Thera. To avoid a dispute with the Court we will make her available to you for another hour if you can agree to that.

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.

Is this OK?

Peter Pattakos
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peter@pattakoslaw.com
www.pattakoslaw.com

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On Tue, Feb 5, 2019 at 12:12 PM Mannion, Tom <Tom.Mannion@lewisbrisbois.com> wrote:

Sent from my iPhone

Thomas P. Mannion
Attorney | Cleveland Managing Partner
Tom.Mannion@lewisbrisbois.com
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Cleveland, OH 44114
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EXHIBIT 4



Peter Pattakos <peter@pattakoslaw.com>

Norris**Peter Pattakos** <peter@pattakoslaw.com>

Thu, Feb 28, 2019 at 10:52 AM

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

Thanks, Tom.

Peter Pattakos
The Pattakos Law Firm LLC
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Fairlawn, OH 44333
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peter@pattakoslaw.com
www.pattakoslaw.com

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On Thu, Feb 28, 2019 at 10:47 AM Mannion, Tom <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]
Sent: Thursday, February 28, 2019 10:43 AM
To: Mannion, Tom <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
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On Thu, Feb 28, 2019 at 10:05 AM Mannion, Tom <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?



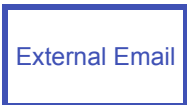
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From: Peter Pattakos [mailto:peter@pattakoslaw.com]
Sent: Thursday, February 28, 2019 8:39 AM
To: Mannion, Tom <Tom.Mannion@lewisbrisbois.com>
Subject: [EXT] Re: Norris



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

www.pattakoslaw.com

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On Sun, Feb 24, 2019 at 9:01 AM Mannion, Tom <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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Tom.Mannion@lewisbrisbois.com
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Peter Pattakos <peter@pattakoslaw.com>

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

Peter Pattakos <peter@pattakoslaw.com>

Tue, Feb 12, 2019 at 7:02 PM

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

Cc: "James M. Popson" <jpopson@sutter-law.com>, David Best <dmb@dmbestlaw.com>, "Barmen, Brad"

<Brad.Barmen@lewisbrisbois.com>

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.

2 more hours with Thera is fine.

As for Monique, she was there for a full day and answered all of your questions. What is the reason for reopening her deposition?

Peter Pattakos

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On Tue, Feb 5, 2019 at 6:27 PM Mannion, Tom <Tom.Mannion@lewisbrisbois.com> wrote:

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.

Please provide some dates YOU are available so we can schedule for a mutually convenient time for the deposition. Please also provide dates for the Aunt's deposition.

Also - you haven't provided Brittany's address or Monique's Aunt's address. We have asked several times and you outright ignore.

Tom



Thomas P. Mannion
Attorney | Cleveland Managing Partner
Tom.Mannion@lewisbrisbois.com

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From: Peter Pattakos [mailto:peter@pattakoslaw.com]
Sent: Tuesday, February 05, 2019 5:32 PM
To: Mannion, Tom <Tom.Mannion@lewisbrisbois.com>
Subject: [EXT] Re: Halsey and Aunt: Depo dates? Reid: Depo dates?

External Email

Tom,

You had a full day with Thera. To avoid a dispute with the Court we will make her available to you for another hour if you can agree to that.

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.

Is this OK?

Peter Pattakos

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peter@pattakoslaw.com

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On Tue, Feb 5, 2019 at 12:12 PM Mannion, Tom <Tom.Mannion@lewisbrisbois.com> wrote:

Sent from my iPhone

Thomas P. Mannion

Attorney | Cleveland Managing Partner

Tom.Mannion@lewisbrisbois.com

Lewis Brisbois Bisgaard & Smith LLP

1375 E. 9th Street, Suite 2250

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Peter Pattakos <peter@pattakoslaw.com>

Williams v. KNR: Ghoubrial, Gunning, Floros depositions

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

Thu, Feb 28, 2019 at 9:24 AM

To: Peter Pattakos <peter@pattakoslaw.com>

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

I don't remember the Court making any such finding the way you describe it. You are refusing to provide dates or even tell me whether you represent certain witnesses. Do you represent Holsey? Where is Norris's verification page? I think the ONLY date you are looking for from the KNR Defendants relates to Robert Redick. So, we have 1 witness outstanding and you have multiple. As far as Lynette, I didn't produce his affidavit. The affidavit was produced by counsel for Floros. We also don't control the depositions of Ghoubrial, Floros, or Gunning. You, however, certainly control Norris, Williams, and Reid, along with Holsey apparently (although you won't tell us whether you represent her), Norris's aunt (although you also won't tell us whether you represent her), and the other individual identified by Norris at her deposition (Marcus House or whomever, I have to look back). You owe us dates for at least 6 depositions. You have provided ZERO dates. You haven't provided documents or discovery answers that are responsive. Please provide some proposed dates for your witnesses. Even if you are going to file a MPO on Norris and Williams, at least provide proposed dates. We will get you a proposed date for Redick.

From: Peter Pattakos [mailto:peter@pattakoslaw.com]**Sent:** Thursday, February 28, 2019 9:00 AM**To:** Mannion, Tom <Tom.Mannion@lewisbrisbois.com>**Cc:** Barmen, Brad <Brad.Barmen@lewisbrisbois.com>; James M. Popson <jpopson@sutter-law.com>; Shaun Kedir <shaunkedir@kedirlaw.com>; John Myers <johnmyerscolpa@gmail.com>; Joshua Cohen <jcohen@crklaw.com>; Rachel Hazelet <rhazelet@pattakoslaw.com>**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

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Fairlawn, OH 44333

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peter@pattakoslaw.com

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

Please respond.

From: Mannion, Tom

Sent: Friday, February 22, 2019 8:30 AM

To: Peter Pattakos <peter@pattakoslaw.com>

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

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

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

Counsel:

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

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

Peter Pattakos

The Pattakos Law Firm LLC

101 Ghent Road

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330.836.8533 office; 330.285.2998 mobile

peter@pattakoslaw.com

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

Works for me as well.

Thanks

Brad

<LB-Logo_7c9c5bd0-0a1e-47b8-a3b1-a4b5cdfed8fa.png>

Brad J. Barmen

Partner

Brad.Barmen@lewisbrisbois.com

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From: James M. Popson [mailto:jpopson@sutter-law.com]
Sent: Thursday, February 14, 2019 11:52 AM
To: Shaun Kedir
Cc: Peter Pattakos; Barmen, Brad; Mannion, Tom; John Myers; Joshua Cohen; Rachel Hazelet
Subject: [EXT] Re: Williams v. KNR: Ghoubrial, 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 Kedir <shaunkedir@kedirlaw.com<mailto:shaunkedir@kedirlaw.com>> wrote:

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

Shaun

Shaun H. Kedir
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.pattakos@chandraalaw.com>>
www.pattakoslaw.com<<http://www.pattakoslaw.com/>>

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32K



Peter Pattakos <peter@pattakoslaw.com>

Norris v KNR, et al.

Peter Pattakos <peter@pattakoslaw.com>

Wed, Feb 13, 2019 at 1:08 PM

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

Cc: Joshua Cohen <jcohen@crklaw.com>, David Best <dmb@dmbestlaw.com>, "James M. Popson" <jpopson@sutter-law.com>, "Barmen, Brad" <Brad.Barmen@lewisbrisbois.com>, Shaun Kedir <shaunkedir@kedirlaw.com>, "Stephen P. Griffin" <sgriffin@griff-law.com>

- 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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On Wed, Feb 13, 2019 at 10:39 AM Mannion, Tom <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 address 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
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Peter Pattakos <peter@pattakoslaw.com>

Norris v KNR, et al.

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

Wed, Feb 13, 2019 at 2:08 PM

To: Peter Pattakos <peter@pattakoslaw.com>

Cc: Joshua Cohen <jcohen@crklaw.com>, David Best <dmb@dmbestlaw.com>, "James M. Popson" <jpopson@sutter-law.com>, "Barmen, Brad" <Brad.Barmen@lewisbrisbois.com>, Shaun Kedir <shaunkedir@kedirlaw.com>, "Stephen P. Griffin" <sgriffin@griff-law.com>

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

Sent: Wednesday, February 13, 2019 1:09 PM

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

Cc: Joshua Cohen <jcohen@crklaw.com>; David Best <dmb@dmbestlaw.com>; James M. Popson <jpopson@sutter-law.com>; Barmen, Brad <Brad.Barmen@lewisbrisbois.com>; Shaun Kedir <shaunkedir@kedirlaw.com>; Stephen P. Griffin <sgriffin@griff-law.com>

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.

Thank you. I will review yesterday's email and respond.

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. **Do you represent the Aunt? What is her address?**

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 to you have to reopen her deposition? **We did not finish Ms. Norris. You stated we had to leave. So, she started late due to no fault of ours and you ended the deposition before we were done. We have multiple issues that were not yet fully addressed with Ms. Norris. If the deposition was closed, we would have to give you those topics. The deposition was left open, however, and we have no such obligation. Are you refusing to produce her?**

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). **This makes COMPLETE sense. And you have no right to withhold deposition dates. Nor are we required to wait for you to finish your discovery before we complete out discovery. The dates for Ghoubrial should be addressed to Mr. Barmen, not**

me. The dates for Mr. Floros should be addressed to Mr. Kedir, not me. Other than to see if I'm available on their proposed dates. As far as Mr. Redick, you unilaterally decided to cancel his deposition last Fall. Jim Popson is coordinating any potential dates for him, and you know there are health concerns in that regard. I will leave Jim to address Mr. Redick's deposition. However, those issues do not impact your ability to give me a few dates in which YOU are available. If you refuse to do so, then you refuse.

Thanks.

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On Wed, Feb 13, 2019 at 10:39 AM Mannion, Tom <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 address 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



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Peter Pattakos <peter@pattakoslaw.com>

Williams v. KNR: Ghoubrial, Gunning, Floros depositions

Peter Pattakos <peter@pattakoslaw.com>

Tue, Mar 12, 2019 at 4:32 PM

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

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

An amended notice of depositions is attached. Thanks.

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

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

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

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

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

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

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

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

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

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

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

Sent: Tuesday, March 12, 2019 12:55 PM

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

Cc: Barmen, Brad <Brad.Barmen@lewisbrisbois.com>; James M. Popson <jpopson@sutter-law.com>; Shaun Kedir <shaunkedir@kedirlaw.com>; Rachel Hazelet <rhazelet@pattakoslaw.com>; Joshua Cohen <jcohen@crklaw.com>

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

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

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

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

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

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

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

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

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

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

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

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

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

Regards

Brad

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

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

To: Mannion, Tom

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

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

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

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

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

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

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



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From: Peter Pattakos [<mailto:peter@pattakoslaw.com>]
Sent: Monday, March 11, 2019 5:34 PM
To: Barmen, Brad <Brad.Barmen@lewisbrisbois.com>; James M. Popson <jpopson@sutter-law.com>; Mannion, Tom <Tom.Mannion@lewisbrisbois.com>; Shaun Kedir <shaunkedir@kedirlaw.com>; John Myers <johnmyerscolpa@gmail.com>
Cc: Rachel Hazelet <rhazelet@pattakoslaw.com>; Joshua Cohen <jcohen@crklaw.com>
Subject: [EXT] Re: Williams v. KNR: Ghoubrial, Gunning, Floros depositions

Counsel:

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

Thank you.

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

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

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

Counsel:

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

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

Peter Pattakos

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www.pattakoslaw.com

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

Works for me as well.

Thanks

Brad



Brad J. Barmen
Partner
Brad.Barmen@lewisbrisbois.com

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

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

To: Shaun Kedir

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

Subject: [EXT] Re: Williams v. KNR: Ghoubrial, 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 Kedir <shaunkedir@kedirlaw.com<<mailto:shaunkedir@kedirlaw.com>>> wrote:

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

Shaun

Shaun H. Kedir
KEDIR LAW OFFICES LLC
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614 West Superior Avenue
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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
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2019-03-12 Amended Notice of Deposition Floros, Gunning, Ghoubrial, Redick, Ghoubrial.pdf

83K



Peter Pattakos <peter@pattakoslaw.com>

Holsey**Peter Pattakos** <peter@pattakoslaw.com>

Wed, Apr 10, 2019 at 3:27 PM

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

Cc: "jpopson@sutter-law.com" <jpopson@sutter-law.com>, "dmb@dmbestlaw.com" <dmb@dmbestlaw.com>, "Barmen, Brad" <Brad.Barmen@lewisbrisbois.com>, "shaunkedir@kedirlaw.com" <shaunkedir@kedirlaw.com>

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.

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On Wed, Apr 10, 2019 at 3:19 PM Mannion, Tom <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]**Sent:** Wednesday, April 10, 2019 3:14 PM

To: Mannion, Tom <Tom.Mannion@lewisbrisbois.com>
Cc: jpopson@sutter-law.com; dmb@dmbestlaw.com; Barmen, Brad <Brad.Barmen@lewisbrisbois.com>; shaunkedir@kedirlaw.com
Subject: Re: [EXT] Re: Holsey

Did you send a subpoena? Where is it?

Peter Pattakos

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On Wed, Apr 10, 2019 at 3:10 PM Mannion, Tom <Tom.Mannion@lewisbrisbois.com> wrote:

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



Thomas P. Mannion
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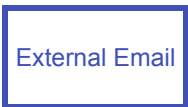
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From: Peter Pattakos [mailto:peter@pattakoslaw.com]
Sent: Wednesday, April 10, 2019 3:00 PM
To: Mannion, Tom <Tom.Mannion@lewisbrisbois.com>
Cc: jpopson@sutter-law.com; dmb@dmbestlaw.com; Barmen, Brad <Brad.Barmen@lewisbrisbois.com>; shaunkedir@kedirlaw.com
Subject: [EXT] Re: Holsey



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.

Peter Pattakos
The Pattakos Law Firm LLC
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On Wed, Apr 10, 2019 at 2:38 PM Mannion, Tom <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
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IN THE COURT OF COMMON PLEAS
SUMMIT COUNTY, OHIO

<p>MEMBER WILLIAMS, <i>et al.</i>,</p> <p style="text-align: center;">Plaintiffs,</p> <p>vs.</p> <p>KISLING, NESTICO & REDICK, LLC, <i>et al.</i>,</p> <p style="text-align: center;">Defendants.</p>	<p>Case No. 2016-CV-09-3928</p> <p>Judge James A. Brogan</p> <p>DEFENDANT SAM N. GHOUBRIAL, M.D.'S ANSWERS TO PLAINTIFF MONIQUE NORRIS'S FIRST SET OF REQUESTS FOR ADMISSION</p>
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Now comes Defendant, Sam N. Ghoubrial, M.D., by and through counsel, and for his Responses to Plaintiff Monique Norris's First Set of Requests for Admission, states as follows:

Requests for Admission

1. Admit that you entered into an agreement with KNR relating to referrals.

RESPONSE:

Deny

2. Admit that you do not accept payment from any health-insurance organization for the work you perform on behalf of KNR clients.

RESPONSE:

Defendant Admits he does not accept payment from health-insurance organizations for any patient injured in a motor vehicle accident. This is practice-wide and not limited to KNR clients.

3. Admit that you accept payment from health-insurance organizations for the work you perform on behalf of patients who are not KNR clients.

RESPONSE:

Deny. Defendant does not accept payment form health-insurance organizations for any patient injured in a motor vehicle accident.

4. Admit that you purchased TENS units from Tritec for a price of \$27.50 per TENS unit.

RESPONSE:

Objection. Can neither admit nor deny. Request for Admission No. 4 seeks proprietary business information protected from disclosure.

5. Admit that you sold the TENS units described in Request for Admission #4 to KNR clients for a price of \$500 per TENS unit.

RESPONSE:

Defendant admits the charge to all patients injured in motor vehicle accidents for a TENS unit is \$500. This is the standard charge and is not limited to KNR clients who are charged the same amount as all other motor vehicle accident patients.

6. Admit that when you provided TENS units to KNR clients, you never disclosed the amount of the profit that you would receive for each TENS unit for which a KNR client was ultimately charged from their lawsuit proceeds.

RESPONSE:

Deny as written.

7. Admit that when you provided TENS units to KNR clients, you never disclosed that the client could obtain the same device at a lower price than what you would ultimately collect from the KNR clients' lawsuit proceeds.

RESPONSE:

Deny as written.

8. Admit that you own Clearwater Billing Services, LLC.

RESPONSE:

Admit.

9. Admit that you operate, control, and direct the operations of Clearwater Billing Services, LLC.

RESPONSE:

Objection. Request for Admission No. 9 seeks a legal conclusion. Without waiving said objection, admit.

10. Admit that you billed KNR clients through Clearwater Billing Services, LLC.

RESPONSE:

Defendant admits he billed all patients injured in motor vehicle accidents trough Clearwater Billing Services, LLC.

11. Admit that you own Hanchrist, LLC.

RESPONSE:

Deny.

12. Admit that you operate, control, and direct the operations of Hanchrist, LLC.

RESPONSE:

Deny.

13. Admit that you billed or treated KNR clients through Hanchrist, LLC.

RESPONSE:

Deny.

14. Admit that you own TPI Airways, LLC

RESPONSE:

Deny.

15. Admit that you operate, control, and direct the operations of TPI Airways, LLC.

RESPONSE:

Deny.

16. Admit that you have retained the records of your treatment and billing of every KNR client that you have treated since 2010.

RESPONSE:

Defendant admits he has retained records of treatment and billing of all patients consistent with his professional requirements.

17. Admit that you are required by Ohio law to have retained the records of your treatment and billing of every KNR client that you have treated since 2010.

RESPONSE:

Objection. Request for Admission No. 17 seeks a legal conclusion. Further answering, and without waiving said objection, Defendant admits he has retained records of treatment and billing of all patients consistent with his professional requirements.

18. Admit that you are required by federal law to have retained the records of your treatment and billing of every KNR client that you have treated since 2010.

RESPONSE:

Objection. Request for Admission No. 18 seeks a legal conclusion. Further answering, and without waiving said objection, Defendant admits he has retained records of treatment and billing of all patients consistent with his professional requirements.

19. Admit that you traveled by airplanes owned by TPI Airways, LLC to treat KNR clients at various locations throughout the state of Ohio, including at the locations identified in your response to Interrogatory No. 13.

RESPONSE:

Deny.

20. Admit that you do not receive compensation for services rendered to KNR clients if KNR does not obtain a settlement, verdict, or judgment on the particular client's behalf.

RESPONSE:

Deny as written. All such situations are handled on a case-by-case basis and there is no separate policy for KNR clients.

21. Admit that you obtained, procured, or assisted in obtaining or procuring insurance coverage on behalf of Tritec.

RESPONSE:

Deny.

22. Admit that Richard Gunning and Lisa Esterle are your employees who are employed on an at-will basis.

RESPONSE:

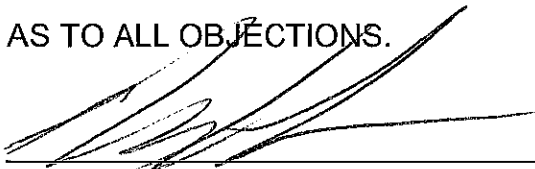
Admit that Richard Gunning and Lisa Esterle are employees. Deny that Lisa Esterle is an employee at will.

23. Admit that you have never used the Ohio Automated RX Reporting System (OARRS) to assess whether a KNR client had previously been prescribed controlled substances.

RESPONSE:

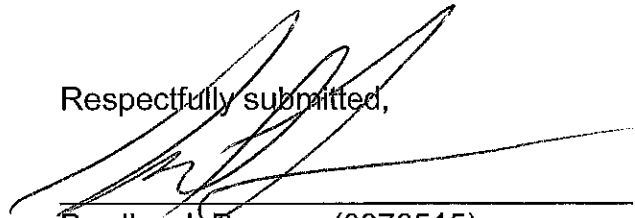
Deny.

AS TO ALL OBJECTIONS.



Bradley J. Barmen

Respectfully submitted,



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Attorney for Defendant
Sam N. Ghoubrial, M.D.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Responses to Plaintiff's First Set of Requests for Admission, has been served this 4th day of December, 2018 upon the following:

Peter Pattakos, Esq.
The Pattakos Law Firm, LLC
101 Ghent Road
Fairlawn, OH 44333
peter@pattakoslaw.com
Counsel for Plaintiff

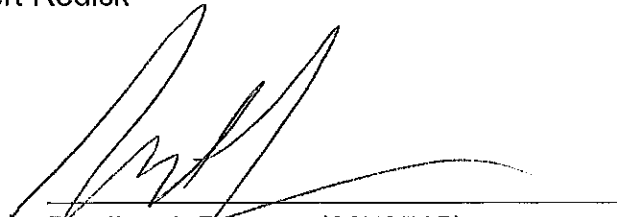
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Counsel for Defendants Kisling, Nestico
& Redick, LLC, Alberto R. Nestico and Robert Redick

A handwritten signature in black ink, appearing to read 'Bradley J. Barmen', is written over a horizontal line. The signature is stylized and cursive.

Bradley J. Barmen (0076515)
Attorney for Defendant
Sam N. Ghoubrial, M.D.