

**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-)	
)	MAGISTRATE PATRICIA A. HIMELRIGH
KISLING NESTICO & REDICK LLC, et al.)	
)	
Defendants)	<u>MAGISTRATE’S ORDER</u>
)	

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On April 23, 2019, at approximately 3:00 p.m., the undersigned Magistrate participated in a conference call with counsel concerning the impending deposition of Julie Ghoubrial, (scheduled for April 24, 2019 at 9:30 a.m.). Attorneys Pattakos, Barmen, Popson, Rosen, and Best participated in the call.

The Court, through Judge Brogan, previously participated in a conference call with counsel on April 18, 2019, and made several orders concerning certain depositions of parties and non-parties to this lawsuit. A specific issue of law was raised regarding non-party Julie Ghoubrial’s deposition – as Defendant Dr. Ghoubrial is asserting spousal immunity/spousal privilege concerning that deposition. The Court has since determined that it misspoke on the issue, specifically in reference to the mentioned *Zolin* case.¹ Accordingly, the Court VACATES AND HOLDS FOR NAUGHT any prior oral Orders it made during the conference call on April 18, 2019. In the future, the Court will speak only through its written orders on the docket. Although Ms. Ghoubrial has since been re-subpoenaed to appear for deposition tomorrow at 9:30, the Court postpones the deposition until the parties have had sufficient opportunity to brief all of the legal issues (spousal privilege, crime-fraud exception and waiver) surrounding this specific witness.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the oral Orders issued on April 18, 2019 are VACATED AND HELD FOR NAUGHT. The Court will speak only through its written orders filed on the docket.

Further, Defendants have filed for reconsideration of some of the oral Orders – those briefs will be treated as bench briefs regarding the legal issues raised – and counsel have leave to file any supplemental briefs on the issue.

¹ *United States v. Zolin*, 491 U.S. 554 (1989).

Finally, the Court GRANTS Plaintiffs' motion for extension of time to file their Class Certification brief. Plaintiffs shall file their class-certification brief on **May 15, 2019**.

It is so ordered.

A handwritten signature in blue ink that reads "Patricia A. Himelrich". The signature is written in a cursive style and is positioned above a horizontal line.

MAGISTRATE PATRICIA A. HIMELRIGH

CC: JUDGE JAMES A. BROGAN
ALL COUNSEL AND ATTORNEYS OF RECORD

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