

**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' JOINDER IN
DEFENDANT SAM GHOUBRIAL,
M.D.'S MOTION TO SET ASIDE AND
STAY MAGISTRATE'S ORDER**

Defendants, Kisling, Nestico & Redick, LLC, Alberto R. Nestico, and Robert Redick, hereby join and adopt, as if fully rewritten herein, the following motions of Defendant. Sam Ghoubrial, M.D., which were electronically filed with this Court on April 29, 2019:

1. Dr. Sam Ghoubrial's Motion to Set Aside Magistrate Order; and
2. Dr. Ghoubrial's Motion to Stay April 26, 2019 Magistrate's Order.

Plaintiffs have finally agreed with Defendants that the evidence at issue is not necessary for class certification. Plaintiffs are improperly asking the Court to conduct an independent investigation and to draw its own conclusions. Essentially, Plaintiffs suggest that the Court can review this deposition testimony and actually use the information learned in determining class certification. It is improper for a Court to consider evidence or testimony that is outside the record in determining any substantive issue in the case. Plaintiffs are attempting to put information in front of the Court that is outside the record and unknown to the KNR Defendants, and have invited the Court to use that information in determining class certification. Plaintiffs are attempting to influence the Court's decision on class certification with personal and private information regarding Dr. Ghoubrial that they have conceded is not necessary for class certification.

Therefore, the KNR Defendants respectfully request that this Court Set Aside the Magistrate's Order regarding Julie Ghoubril, and to stay enforcement of the Magistrate's order pending ruling on the instant motions.

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

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

R. Eric Kennedy (0006174)
Daniel P. Goetz (0065549)
Weisman Kennedy & Berris Co LPA
101 W. Prospect Avenue
1600 Midland Building
Cleveland, OH 44115
(216) 781-1111 phone
(216) 781-6747 facsimile
ekennedy@weismanlaw.com
dgoetz@weismanlaw.com

Counsel for Defendants

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was filed electronically with the Court on this 6th day of May, 2019. The parties may access this document through the Court's electronic docket system.

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