

IN THE COURT OF COMMON PLEAS  
SUMMIT COUNTY, OHIO

MEMBER WILLIAMS, et al.,	)	CASE NO. CV-2016-09-3928
	)	
Plaintiffs,	)	JUDGE JAMES A. BROGAN
	)	
v.	)	
	)	
KISLING, NESTICO & REDICK, LLC, et al.,	)	<b><u>NOTICE OF SERVICE OF SUBPOENA ON</u></b>
	)	<b><u>BRITTANY HOLSEY</u></b>
Defendants.	)	
	)	

Defendants, Kisling, Nestico & Redick, LLC, Alberto R. Nestico and Robert Redick, hereby give notice that Defendants perfected service, under Civ.R. 45, of the attached subpoena on Brittany Holsey via Certified Mail on May 6, 2019 to Peter Pattakos, The Pattakos Law Firm, 101 Ghent Road, Fairlawn, Ohio 44333.

Respectfully submitted,


/s/ James M. Popson  
James M. Popson (0072773)  
Sutter O'Connell  
1301 East 9th Street  
3600 Erieview Tower  
Cleveland, OH 44114  
(216) 928-2200 phone  
(216) 928-4400 facsimile  
jpopson@sutter-law.com

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

**CERTIFICATE OF SERVICE**

I hereby certify that on the 15th day of May, 2019, the foregoing Notice of Service of Subpoena on Brittany Holsey was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. Mail. Parties may access this filing through the Court's electronic filing system.

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

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> <li>■ Complete items 1, 2, and 3.</li> <li>■ Print your name and address on the reverse so that we can return the card to you.</li> <li>■ Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>	<p>A. Signature  <input checked="" type="checkbox"/> <i>[Signature]</i> <input type="checkbox"/> Agent  <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) _____</p> <p>C. Date of Delivery            5-6-19</p>
<p>1. Article Addressed to:</p> <p><i>Peter Patakos            The Patakos Law Firm            101 Ghent Road            Fairlawn, OH 44333</i></p>  <p>9590 9402 4875 9032 1824 96</p>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes            If YES, enter delivery address below: <input type="checkbox"/> No</p> <p>3. Service Type</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Adult Signature</li> <li><input type="checkbox"/> Adult Signature Restricted Delivery</li> <li><input checked="" type="checkbox"/> Certified Mail®</li> <li><input type="checkbox"/> Certified Mail Restricted Delivery</li> <li><input type="checkbox"/> Collect on Delivery</li> <li><input type="checkbox"/> Collect on Delivery Restricted Delivery</li> <li><input type="checkbox"/> Priority Mail Express®</li> <li><input type="checkbox"/> Registered Mail™</li> <li><input type="checkbox"/> Registered Mail Restricted Delivery</li> <li><input type="checkbox"/> Return Receipt for Merchandise</li> <li><input type="checkbox"/> Signature Confirmation™</li> <li><input type="checkbox"/> Signature Confirmation Restricted Delivery</li> </ul>
<p>2. Article Number (Transfer from service label)</p> <p>7018 2290 10002 1534 16378</p>	<p>Restricted Delivery</p>

IN THE COURT OF COMMON PLEAS  
SUMMIT COUNTY, OHIO

MEMBER WILLIAMS, et al.,

Plaintiffs,

v.

KISLING, NESTICO & REDICK, LLC, et  
al.,

Defendants.

Case No. 2016 09 3928

Judge James A. Brogan

To: Ms. Brittany Holsey  
c/o Mr. Peter Pattakos, Esq.  
The Pattakos Law Firm LLC  
101 Ghent Road  
Fairlawn, Ohio 44333

**DEPOSITION SUBPOENA DUCES TECUM**

YOU ARE COMMANDED to appear to be deposed and to testify in the above case and to produce and permit inspection, copying, testing or sampling of the documents or objects identified on Exhibit A to this subpoena at the place, date, and time specified below. Said deposition will continue from day to day until completed.

PLACE OF DEPOSITION	DATE	TIME
Hilton Akron / Fairlawn Hotel and Suites, Portage Boardroom 3180 W. Market Street Akron, Ohio 44333	5/6/2019	8:00 A.M.

/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)

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](mailto:ekennedy@weismanlaw.com)  
[dgoetz@weismanlaw.com](mailto:dgoetz@weismanlaw.com)

Counsel for Defendants

## OHIO RULE 45

**(C) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS**

(1) A PARTY OR AN ATTORNEY RESPONSIBLE FOR THE ISSUANCE AND SERVICE OF A SUBPOENA SHALL TAKE REASONABLE STEPS TO AVOID IMPOSING UNDUE BURDEN OR EXPENSE ON A PERSON SUBJECT TO THAT SUBPOENA.

(2)(A) A PERSON COMMANDED TO PRODUCE UNDER DIVISIONS (A)(1)(B), (III), (IV), (V), OR (VI) OF THIS RULE NEED NOT APPEAR IN PERSON AT THE PLACE OF PRODUCTION OR INSPECTION UNLESS COMMANDED TO ATTEND AND GIVE TESTIMONY AT A DEPOSITION, HEARING, OR TRIAL.

(B) SUBJECT TO DIVISION (D)(2) OF THIS RULE, A PERSON COMMANDED TO PRODUCE UNDER DIVISIONS (A)(1)(B), (III), (IV), (V), OR (VI) OF THIS RULE MAY, WITHIN FOURTEEN DAYS AFTER SERVICE OF THE SUBPOENA OR BEFORE THE TIME SPECIFIED FOR COMPLIANCE IF SUCH TIME IS LESS THAN FOURTEEN DAYS AFTER SERVICE, SERVE UPON THE PARTY OR ATTORNEY DESIGNATED IN THE SUBPOENA WRITTEN OBJECTIONS TO PRODUCTION. IF OBJECTION IS MADE, THE PARTY SERVING THE SUBPOENA SHALL NOT BE ENTITLED TO PRODUCTION EXCEPT PURSUANT TO AN ORDER OF THE COURT BY WHICH THE SUBPOENA WAS ISSUED. IF OBJECTION HAS BEEN MADE, THE PARTY SERVING THE SUBPOENA, UPON NOTICE TO THE PERSON COMMANDED TO PRODUCE, MAY MOVE AT ANY TIME FOR AN ORDER TO COMPEL THE PRODUCTION. AN ORDER TO COMPEL PRODUCTION SHALL PROTECT ANY PERSON WHO IS NOT A PARTY OR AN OFFICER OF A PARTY FROM SIGNIFICANT EXPENSE RESULTING FROM THE PRODUCTION COMMANDED.

(3) ON TIMELY MOTION, THE COURT FROM WHICH THE SUBPOENA WAS ISSUED SHALL QUASH OR MODIFY THE SUBPOENA, OR ORDER APPEARANCE OR PRODUCTION ONLY UNDER SPECIFIED CONDITIONS, IF THE SUBPOENA DOES ANY OF THE FOLLOWING:

(A) FAILS TO ALLOW REASONABLE TIME TO COMPLY;

(B) REQUIRES DISCLOSURE OF PRIVILEGED OR OTHERWISE PROTECTED MATTER AND NO EXCEPTION OR WAIVER APPLIES;

(C) REQUIRES DISCLOSURE OF A FACT KNOWN OR OPINION HELD BY AN EXPERT NOT RETAINED OR SPECIALLY EMPLOYED BY ANY PARTY IN ANTICIPATION OF LITIGATION OR PREPARATION FOR TRIAL AS DESCRIBED BY CIV.R. 26(B)(5), IF THE FACT OR OPINION DOES NOT DESCRIBE SPECIFIC EVENTS OR OCCURRENCES IN DISPUTE AND RESULTS FROM STUDY BY THAT EXPERT THAT WAS NOT MADE AT THE REQUEST OF ANY PARTY;

(D) SUBJECTS A PERSON TO UNDUE BURDEN.

(4) BEFORE FILING A MOTION PURSUANT TO DIVISION (C)(3)(D) OF THIS RULE, A PERSON RESISTING DISCOVERY UNDER THIS RULE SHALL ATTEMPT TO RESOLVE ANY CLAIM OF UNDUE BURDEN THROUGH DISCUSSIONS WITH THE ISSUING ATTORNEY. A MOTION FILED PURSUANT TO DIVISION (C)(3)(D) OF THIS RULE SHALL BE SUPPORTED BY AN AFFIDAVIT OF THE SUBPOENAED PERSON OR A CERTIFICATE OF THAT PERSON'S ATTORNEY OF THE EFFORTS MADE TO RESOLVE ANY CLAIM OF UNDUE BURDEN.

(5) IF A MOTION IS MADE UNDER DIVISION (C)(3)(C) OR (C)(3)(D) OF THIS RULE, THE COURT SHALL QUASH OR MODIFY THE SUBPOENA UNLESS THE PARTY IN WHOSE BEHALF THE SUBPOENA IS ISSUED SHOWS A SUBSTANTIAL NEED FOR THE TESTIMONY OR MATERIAL THAT CANNOT BE OTHERWISE MET WITHOUT UNDUE HARDSHIP AND ASSURES THAT THE PERSON TO WHOM THE SUBPOENA IS ADDRESSED WILL BE REASONABLY COMPENSATED.

**(D) DUTIES IN RESPONDING TO SUBPOENA**

(1) A PERSON RESPONDING TO A SUBPOENA TO PRODUCE DOCUMENTS SHALL, AT THE PERSON'S OPTION, PRODUCE THEM AS THEY ARE KEPT IN THE USUAL COURSE OF BUSINESS OR ORGANIZED AND LABELED TO CORRESPOND WITH THE CATEGORIES IN THE SUBPOENA. A PERSON PRODUCING DOCUMENTS OR ELECTRONICALLY STORED INFORMATION PURSUANT TO A SUBPOENA FOR THEM SHALL PERMIT THEIR INSPECTION AND COPYING BY ALL PARTIES PRESENT AT THE TIME AND PLACE SET IN THE SUBPOENA FOR INSPECTION AND COPYING.

(2) IF A REQUEST DOES NOT SPECIFY THE FORM OR FORMS FOR PRODUCING ELECTRONICALLY STORED INFORMATION, A PERSON RESPONDING TO A SUBPOENA MAY PRODUCE THE INFORMATION IN A FORM OR FORMS IN WHICH THE INFORMATION IS ORDINARILY MAINTAINED IF THAT FORM IS REASONABLY USEABLE, OR IN ANY FORM THAT IS REASONABLY USEABLE. UNLESS ORDERED BY THE COURT OR AGREED TO BY THE PERSON SUBPOENAED, A PERSON RESPONDING TO A SUBPOENA NEED NOT PRODUCE THE SAME ELECTRONICALLY STORED INFORMATION IN MORE THAN ONE FORM.

(3) A PERSON NEED NOT PROVIDE DISCOVERY OF ELECTRONICALLY STORED INFORMATION WHEN THE PRODUCTION IMPOSES UNDUE BURDEN OR EXPENSE. ON MOTION TO COMPEL DISCOVERY OR FOR A PROTECTIVE ORDER, THE PERSON FROM WHOM ELECTRONICALLY STORED INFORMATION IS SOUGHT MUST SHOW THAT THE INFORMATION IS NOT REASONABLY ACCESSIBLE BECAUSE OF UNDUE BURDEN OR EXPENSE. IF A SHOWING OF UNDUE BURDEN OR EXPENSE IS MADE, THE COURT MAY NONETHELESS ORDER PRODUCTION OF ELECTRONICALLY STORED INFORMATION IF THE REQUESTING PARTY SHOWS GOOD CAUSE. THE COURT SHALL CONSIDER THE FACTORS IN CIV. R. 26(B)(4) WHEN DETERMINING IF GOOD CAUSE EXISTS. IN ORDERING PRODUCTION OF ELECTRONICALLY STORED INFORMATION, THE COURT MAY SPECIFY THE FORMAT, EXTENT, TIMING, ALLOCATION OF EXPENSES AND OTHER CONDITIONS FOR THE DISCOVERY OF THE ELECTRONICALLY STORED INFORMATION.

(4) WHEN INFORMATION SUBJECT TO A SUBPOENA IS WITHHELD ON A CLAIM THAT IT IS PRIVILEGED OR SUBJECT TO PROTECTION AS TRIAL PREPARATION MATERIALS, THE CLAIM SHALL BE MADE EXPRESSLY AND SHALL BE SUPPORTED BY A DESCRIPTION OF THE NATURE OF THE DOCUMENTS, COMMUNICATIONS, OR THINGS NOT PRODUCED THAT IS SUFFICIENT TO ENABLE THE DEMANDING PARTY TO CONTEST THE CLAIM.

(5) IF INFORMATION IS PRODUCED IN RESPONSE TO A SUBPOENA THAT IS SUBJECT TO A CLAIM OF PRIVILEGE OR OF PROTECTION AS TRIAL-PREPARATION MATERIAL, THE PERSON MAKING THE CLAIM MAY NOTIFY ANY PARTY THAT RECEIVED THE INFORMATION OF THE CLAIM AND THE BASIS FOR IT. AFTER BEING NOTIFIED, A RECEIVING PARTY MUST PROMPTLY RETURN, SEQUESTER, OR DESTROY THE SPECIFIED INFORMATION AND ANY COPIES WITHIN THE PARTY'S POSSESSION, CUSTODY OR CONTROL. A PARTY MAY NOT USE OR DISCLOSE THE INFORMATION UNTIL THE CLAIM IS RESOLVED. A RECEIVING PARTY MAY PROMPTLY PRESENT THE INFORMATION TO THE COURT UNDER SEAL FOR A DETERMINATION OF THE CLAIM OF PRIVILEGE OR OF PROTECTION AS TRIAL PREPARATION MATERIAL. IF THE RECEIVING PARTY DISCLOSED THE INFORMATION BEFORE BEING NOTIFIED, IT MUST TAKE REASONABLE STEPS TO RETRIEVE IT. THE PERSON WHO PRODUCED THE INFORMATION MUST PRESERVE THE INFORMATION UNTIL THE CLAIM IS RESOLVED.

## EXHIBIT A

### DEFINITIONS

- a. “KNR” means Defendant Kisling, Nestico & Redick, LLC, and all of its officers, directors, employees, agents, partners, members, shareholders, affiliates, representatives, and all other persons acting on its behalf.
- b. “Communications” means any written or oral statement or notation of any nature, including but not limited to conversations, correspondence, dialogue, discussions, electronic communication (including, without limitation, electronic mail, texting, Twitter, etc.), facsimile, interviews, consultations, meetings, telephone calls, letters, telecopies, telephone logs, diaries, agreements, gatherings, and other understandings between or among two or more persons, and all other forms of oral or written expression by which information may be conveyed.
- c. “Documents” means any and all records, statements, memoranda, reports, letters, notes, messages, written communications, written contacts, correspondence, emails, text messages, social media communications (e.g., Twitter and Facebook), contracts, forms, manuals, charts, graphs, data sheets, spreadsheets, bulletins, computer runs, journals, ledgers, books, bills, transcripts, checks, drafts, photographs, audio and/or video tape recordings, mechanical and/or electrical records, electronic documents, computer documents, punch cards, print-out sheets, notes, books of account, brochures, circulars, magazines, notebooks, diaries, calendars, appointment books, tables, papers, minutes of meetings of any kind, drafts of any documents, data processing disks or tapes or computer produced interpretations of the above, and any and all tangible items or written matter whatsoever of any kind or nature in your possession or control.
- d. “Person” means natural persons, firms, partnerships, associations, corporations, joint ventures, and any other entity or organization.
- e. “Relating to” or “relate to” shall include, without limitation, embodying, pertaining to, reflecting, referring to, regarding, referencing, concerning, constituting, comprising, discussing, or having any bearing upon or logical or factual connection with the subject matter in question.
- f. “Underlying Accident” means the July 29, 2013 motor vehicle accident within which KNR provided legal representation to Monique Norris and Brittany Holsey for personal injuries alleged.
- g. “Williams Lawsuit” means the lawsuit brought in the Summit County Court of Common Pleas, case no. CV-2016-09-3928, captioned *Member Williams, et al. v. Kisling, Nestico, & Redick, LLC, et al.*

### REQUESTS

1. Any and all documents or communications between Brittany Holsey and any current or former KNR attorneys or employees.

2. Any and all documents or communications between Brittany Holsey and Monique Norris relating to:
  - a. The underlying accident;
  - b. KNR's representation of Monique Norris for injuries sustained in the underlying accident;
  - c. KNR's representation of Brittany Holsey for injuries sustained in the underlying accident;
  - d. Dr. Ghoubrial;
  - e. Dr. Gunning;
  - f. Clearwater Billing;
  - g. Dr. Floros;
  - h. Akron Square Chiropractic;
  - i. Liberty Capital, Preferred Capital, Oasis Financial, or any other loan company or company that provides services similar to Liberty Capital, Preferred Capital, and/or Oasis Financial;
  - j. Settlement or resolution of the underlying accident;
  - k. The Williams lawsuit.
3. Any and all documents or communications between Brittany Holsey and Carolyn Holsey relating to any of the issues listed in 2(a) through 2(k), above.
4. Any and all documents or communications between Brittany Holsey and Dennis Baylor relating to any of the issues listed in 2(a) through 2(k), above.
5. Any and all documents or communications relating to Liberty Capital, Preferred Capital, Oasis Financial, or any other loan company or company that provides services similar to Liberty Capital, Preferred Capital, and/or Oasis Financial.
6. Any and all documents or communications relating to the underlying accident and/or KNR's representation relating to the underlying accident.



**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing was served this 1st day of May, 2019 to the following as indicated:

By U.S. Certified Mail and electronic mail:            Counsel for Plaintiff

Peter Pattakos  
The Pattakos Law Firm, LLC  
101 Ghent Road  
Fairlawn, Ohio 44333  
[peter@pattakoslaw.com](mailto:peter@pattakoslaw.com)

By electronic mail:    Counsel for Plaintiff

Joshua R. Cohen  
Cohen Rosenthal & Kramer LLP  
3208 Clinton Avenue  
1 Clinton Place  
Cleveland, Ohio 44113-2809  
[jcohen@crklaw.com](mailto:jcohen@crklaw.com)

By electronic mail:    Counsel for Defendant Minas Floros, D.C.

Shaun H. Kedir  
KEDIR LAW OFFICES LLC  
1400 Rockefeller Building  
614 West Superior Avenue  
Cleveland, Ohio 44113  
[shaunkedir@kedirlaw.com](mailto:shaunkedir@kedirlaw.com)

By electronic mail:    Counsel for Defendant Dr. Sam Ghoubrial

Bradley J. Barmen  
LEWIS BRISBOIS BISGAARD & SMITH  
LLP  
1375 E. 9th Street, Suite 2250  
Cleveland, Ohio 44114  
[Brad.barmen@lewisbrisbois.com](mailto:Brad.barmen@lewisbrisbois.com)

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