

CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

| | |
|---|--|
| <p style="text-align: right;">Page 102</p> <p>1 his discretion -- or hers on how the client got 2 signed up. 3 Q. Okay. But I just want to -- 4 MR. MANNION: Well, please stop 5 laughing at the witness. Please stop laughing 6 at the witness's answer. 7 MR. PATTAKOS: Tom, I'm not 8 laughing at the witness. 9 MR. MANNION: Yes, you were. 10 What were you laughing at? 11 MR. PATTAKOS: I wasn't laughing 12 at anything. 13 MR. MANNION: Yes, you were. 14 MR. PATTAKOS: Boy, oh, boy. 15 MR. MANNION: You clearly were 16 laughing. 17 MR. PATTAKOS: Boy, oh, boy. Tom, 18 if I was laughing, I think it would show up on 19 the microphone. 20 MR. MANNION: Wow, we're going to 21 have to get a video camera and put it on you, 22 during these depositions. 23 MR. PATTAKOS: Maybe we can do 24 that, Tom. 25 MR. MANNION: We probably should.</p> | <p style="text-align: right;">Page 104</p> <p>1 A. What -- can you say that again, 2 please? 3 MR. PATTAKOS: Tracy, will you, 4 please, read that question back. 5 (Record was read.) 6 A. Yeah. 7 Q. And that fee would come out of the 8 client's settlement? 9 A. Yes. 10 Q. And it was called an, 11 "Investigation fee"? 12 A. Yes. 13 Q. And it was also sometimes called a, 14 "Signup fee"? 15 MR. MANNION: Objection. Do you 16 mean for the client? Is that what you're 17 asking? because you're talking about what it's 18 called. I'm trying to find out what you mean. 19 Called by whom? Called where? 20 MR. PATTAKOS: Called within the 21 firm, referred to within the firm as a, "Signup 22 fee," that very same fee. 23 MR. MANNION: I'm going to object. 24 Go ahead. 25 A. I mean, it's an investigative fee.</p> |
| <p style="text-align: right;">Page 103</p> <p>1 MR. PATTAKOS: I think maybe that 2 would keep you from injecting inappropriate, 3 false accusations. 4 MR. MANNION: You clearly were 5 just doing that. 6 MR. PATTAKOS: Okay. 7 BY MR. PATTAKOS: 8 Q. Ms. Gobrogge, I'm trying to 9 understand -- I think -- let me ask it this 10 way: Would you agree that KNR employees were 11 instructed to send an investigator to sign up 12 clients on every single intake that came into 13 the firm? 14 MR. MANNION: Objection. 15 Go ahead. 16 A. No, I don't -- I -- no, because the 17 attorney is actually speaking to the client. 18 So how the case got signed up on these intakes 19 was ultimately up to him or her. 20 Q. Okay. Would you agree that when an 21 investigator was sent to sign up the client, 22 that the investigator was generally paid a fee 23 for that work? 24 MR. MANNION: Objection. 25 Go ahead.</p> | <p style="text-align: right;">Page 105</p> <p>1 So I don't know if it was referred to in 2 another way, I guess -- 3 Q. Okay. 4 A. -- I don't know where. 5 Q. Okay. I guess we'll just have to 6 look at some documents. 7 MR. MANNION: Move to strike. 8 - - - - - 9 (Thereupon, Deposition Exhibit 4, 10 5/6/2013 Email To Prelit Attorney 11 From Brandy Lamtman, Bates Number 12 000001, was marked for purposes of 13 identification.) 14 - - - - - 15 MR. MANNION: Rob, we're referring 16 to May 6, 2013, email from Brandy to the prelit 17 attorneys that you're copied on, since you're 18 on the phone. 19 Q. Please review this email and let me 20 know when you're finished. 21 MR. NESTICO: I'm sorry. Tom, did 22 you say, "2013"? 23 MR. MANNION: Yes. May 6, 2013. 24 A. Okay. I've read it. 25 Q. Okay. This is a May 6, 2013, email</p> |

EXHIBIT 12

27 (Pages 102 - 105)

Veritext Legal Solutions

www.veritext.com

Sandra Kurt, Summit County Clerk of Courts

888-391-3376

CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

| | |
|--|--|
| <p style="text-align: right;">Page 106</p> <p>1 that you sent to pre-litigation attorneys</p> <p>2 copying Mr. Nestico, correct?</p> <p>3 A. Correct.</p> <p>4 Q. Did you send this email?</p> <p>5 A. Yes.</p> <p>6 Q. And it says, "We MUST" -- and,</p> <p>7 "Must," is in all capital letters -- "send an</p> <p>8 investigator to sign up clients," with two</p> <p>9 exclamation marks. "We cannot refer to Chiro</p> <p>10 and have them sign forms there. This is why we</p> <p>11 have investigators. We are losing too many</p> <p>12 cases doing this," one, two, three, four, five,</p> <p>13 six, seven, eight exclamation points. Am I</p> <p>14 reading that correctly?</p> <p>15 A. Yes.</p> <p>16 Q. So here you are instructing KNR</p> <p>17 pre-litigation attorneys that when a new</p> <p>18 potential client calls, it is important to send</p> <p>19 the investigator to meet them right away to</p> <p>20 sign them up, correct?</p> <p>21 MR. MANNION: Objection to the</p> <p>22 characterization.</p> <p>23 But go ahead.</p> <p>24 A. Correct.</p> <p>25 Q. Specifically you are saying that</p> | <p style="text-align: right;">Page 108</p> <p>1 the two options, the preference would be the</p> <p>2 investigator.</p> <p>3 Q. Okay. So some of the chiropractors</p> <p>4 to whom the firm refers clients keep KNR</p> <p>5 paperwork at their offices then. That's part</p> <p>6 of why you wrote this, correct?</p> <p>7 MR. MANNION: Objection. Assumes</p> <p>8 facts not in evidence and it's not what she</p> <p>9 testified to.</p> <p>10 But go ahead.</p> <p>11 MR. PATTAKOS: Tom, those aren't</p> <p>12 appropriate objections for a deposition.</p> <p>13 MR. MANNION: Have you looked at</p> <p>14 your objections?</p> <p>15 MR. PATTAKOS: Tom.</p> <p>16 MR. MANNION: Have you looked at</p> <p>17 your objections? You're completely</p> <p>18 misconstruing things. Don't do that.</p> <p>19 MR. PATTAKOS: Tom, you can object</p> <p>20 to the form of a question and you can --</p> <p>21 MR. MANNION: Have you looked at</p> <p>22 your objections?</p> <p>23 MR. PATTAKOS: -- and you can</p> <p>24 object.</p> <p>25 MR. MANNION: Have you looked at</p> |
| <p style="text-align: right;">Page 107</p> <p>1 KNR employees should not simply refer clients</p> <p>2 to a chiropractor and expect the clients to</p> <p>3 sign forms at the chiropractor's office, but</p> <p>4 rather they should send an investigator to meet</p> <p>5 the client even before the clients go to the</p> <p>6 chiropractor's office, correct?</p> <p>7 MR. MANNION: Objection to form.</p> <p>8 Go ahead.</p> <p>9 A. I mean, I believe I was -- my email</p> <p>10 said to send an investigator to sign up</p> <p>11 clients.</p> <p>12 Q. So it wouldn't matter -- so if they</p> <p>13 were sending them to the chiropractor's office,</p> <p>14 that would be fine, too, as long as they sent</p> <p>15 the investigator, correct?</p> <p>16 MR. MANNION: Excuse me. I missed</p> <p>17 the question. Can you repeat that?</p> <p>18 MR. PATTAKOS: Tracy, can you repeat</p> <p>19 that.</p> <p>20 (Record was read.)</p> <p>21 A. So the preference would be for the</p> <p>22 investigator to meet with the client versus the</p> <p>23 forms just being signed at the doctor's office,</p> <p>24 because they gather all of the other</p> <p>25 documentation and they take photos. So given</p> | <p style="text-align: right;">Page 109</p> <p>1 your objections?</p> <p>2 MR. PATTAKOS: -- and you can</p> <p>3 object based on privilege.</p> <p>4 MR. MANNION: Peter, have you</p> <p>5 looked at your objections? You testified more</p> <p>6 than the witness at times.</p> <p>7 MR. PATTAKOS: Tom, whatever I'm</p> <p>8 doing --</p> <p>9 MR. MANNION: Is improper.</p> <p>10 MR. PATTAKOS: -- has nothing to do</p> <p>11 with this right now.</p> <p>12 MR. MANNION: Well, when you</p> <p>13 misconstrue things, it's not right and it's not</p> <p>14 fair to twist things.</p> <p>15 MR. PATTAKOS: Tom, I'm going to</p> <p>16 ask you again to stop making your speaking</p> <p>17 objections and your improper objections.</p> <p>18 MR. MANNION: I am not making</p> <p>19 speaking objections. I am not making speaking</p> <p>20 objections.</p> <p>21 MR. PATTAKOS: Tracy, please read</p> <p>22 the last question back to the witness.</p> <p>23 (Record was read.)</p> <p>24 MR. MANNION: I'm going to object</p> <p>25 again. And obviously, there's an entire email</p> |

28 (Pages 106 - 109)

CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

| | |
|---|---|
| <p style="text-align: right;">Page 130</p> <p>1 Q. Where else would it be?</p> <p>2 A. Well, we refer clients to all sorts</p> <p>3 of doctors, not just chiropractors.</p> <p>4 Q. But would you agree it's probably</p> <p>5 some kind of doctor or healthcare provider</p> <p>6 then?</p> <p>7 A. I mean, I don't want to speculate</p> <p>8 on what someone redacted out. That's kind of</p> <p>9 unfair. I don't --</p> <p>10 Q. Okay.</p> <p>11 A. -- I don't know what that says.</p> <p>12 Q. Okay. But you write, "We need to</p> <p>13 send the investigator to sign her up today</p> <p>14 then. RememberS..ALL signups must be same day,</p> <p>15 unless approved."</p> <p>16 A. Correct.</p> <p>17 Q. And you wrote that because it was</p> <p>18 the firm's policy for all signups to be on the</p> <p>19 same day, correct?</p> <p>20 A. I'm never going to tell you that</p> <p>21 it's the firm's policy, because it was not a</p> <p>22 policy. It's a preference, which is why I say,</p> <p>23 "Unless approved" --</p> <p>24 Q. Okay.</p> <p>25 A. -- so I'm giving --</p> | <p style="text-align: right;">Page 132</p> <p>1 A. I mean, sure.</p> <p>2 Q. Okay. And despite that this wasn't</p> <p>3 a policy but a preference, KNR employees still</p> <p>4 had to obtain approval from either you,</p> <p>5 Mr. Nestico or Mr. Redick to deviate from this</p> <p>6 preference, correct?</p> <p>7 A. I wouldn't say that they -- they</p> <p>8 didn't have to ask permission. It would go</p> <p>9 something like, Hey, this person can't sign up</p> <p>10 because they're sick. They're going to sign</p> <p>11 tomorrow. And the answer would be, Okay,</p> <p>12 because how do you dispute something like that?</p> <p>13 You don't. So the attorney would just inform</p> <p>14 of why.</p> <p>15 Q. Okay. How would you know, if a</p> <p>16 signup didn't happen on the same day?</p> <p>17 A. Well, I would -- again, Holly could</p> <p>18 tell me. The attorney could tell me. I could</p> <p>19 overhear something. I could go in and look at</p> <p>20 the intakes. I mean, there's a variety of</p> <p>21 different ways.</p> <p>22 Q. Isn't it true that you received an</p> <p>23 email every time an intake came in providing</p> <p>24 information about the referral and how the case</p> <p>25 was getting signed up?</p> |
| <p style="text-align: right;">Page 131</p> <p>1 Q. Okay. And how would -- how would</p> <p>2 that preference -- how would -- how would --</p> <p>3 how would you get approval to do a signup not</p> <p>4 on the same day?</p> <p>5 Let me ask you this: Who would be the</p> <p>6 one to approve a signup that happened not on</p> <p>7 the same day?</p> <p>8 A. I believe in one of the other</p> <p>9 emails it said, "Rob, Robert or Brandy."</p> <p>10 Q. Meaning you?</p> <p>11 A. No. Rob, Robert or Brandy.</p> <p>12 Q. Right. "Brandy," meaning you?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. So under what circumstances,</p> <p>15 would you approve a signup not being on the</p> <p>16 same day?</p> <p>17 A. I mean, it could be a variety of</p> <p>18 reasons. The client is unavailable. The</p> <p>19 client was at work. The client is sick. The</p> <p>20 client -- I mean, they're human beings. People</p> <p>21 have appointments or things that they can and</p> <p>22 cannot do. I can't speak for the client.</p> <p>23 Q. Right. But you can speak for the</p> <p>24 circumstances under which you would approve a</p> <p>25 signup not being on the same day.</p> | <p style="text-align: right;">Page 133</p> <p>1 MR. MANNION: Objection to</p> <p>2 timeframe.</p> <p>3 A. That was my question, timeframe,</p> <p>4 because I didn't always get those emails and --</p> <p>5 Q. At some point you did, though,</p> <p>6 correct?</p> <p>7 A. There was a time. And --</p> <p>8 Q. Does that still happen?</p> <p>9 A. No.</p> <p>10 Q. Why not?</p> <p>11 A. I don't get those emails.</p> <p>12 Q. Why did you stop getting those</p> <p>13 emails?</p> <p>14 A. I -- I actually don't remember.</p> <p>15 Q. Okay. But there was a time that</p> <p>16 every time an intake came in, you received an</p> <p>17 email listing what the referral was, if the</p> <p>18 patient -- if the client was referred out for</p> <p>19 treatment and also how the client was being</p> <p>20 signed up, correct?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. And this was reflected in</p> <p>23 this document, which I will ask Tracy to mark</p> <p>24 as Exhibit 8.</p> <p>25 - - - - -</p> |

34 (Pages 130 - 133)

CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

| | |
|---|---|
| <p style="text-align: right;">Page 134</p> <p>1 (Thereupon, Deposition Exhibit 8, 2 2/13/2013 Email To Attorneys From 3 Brandy Lamtman, Bates Number 4 Williams000560, was marked for 5 purposes of identification.) 6 - - - - - 7 MR. MANNION: February 13, 2013, 8 at 5:55 from Brandy to intake. 9 MR. PATTAKOS: Sorry. Can you read 10 the last question, please? 11 (Record was read, Page 133, Lines 15-24.) 12 Q. So you know what? Strike that as a 13 separate question. This is an email from you 14 to KNR attorneys copying Mr. Nestico and 15 Ms. Tusko dated February 13, 2013, correct? 16 A. Yes. 17 Q. And you write, "Every time you do 18 an intake you need to send an email to Rob, 19 Robert, Holly, Sarah and I. EVERYONE," in all 20 capital, "needs to do this," exclamation mark, 21 exclamation mark. "The email should list what 22 the referral is, if you referred out for 23 treatment and how it is getting signed up." 24 "No exceptions," exclamation mark. 25 Am I reading that correctly?</p> | <p style="text-align: right;">Page 136</p> <p>1 and we can finish, so it will be fast. 2 Q. So how was it determined which 3 investigator would do which signup? 4 MR. MANNION: Wait a minute. That 5 has nothing to do with that email. 6 MR. PATTAKOS: I have two more 7 emails. 8 MR. MANNION: Okay. Well, if 9 you're going to get into a different line of 10 questioning, we're going to take our lunch 11 break. 12 MR. PATTAKOS: Tom -- 13 MR. MANNION: You said you had two 14 more emails along this line and then you 15 switched over to something different. 16 MR. PATTAKOS: Tom, we are going to 17 have two more emails along this line. 18 MR. MANNION: Okay. Then we're 19 going to take our lunch break now then, if 20 you're going to -- 21 MR. PATTAKOS: There's a question 22 pending. 23 MR. MANNION: No. We said we were 24 going to take a lunch break and you said you 25 had to more emails on this line.</p> |
| <p style="text-align: right;">Page 135</p> <p>1 A. Yes. 2 Q. What was the reason for you sending 3 this email? 4 A. Because I wanted them to send the 5 information over. 6 Q. Why? 7 A. There's a variety of reasons. For 8 marketing purposes, so, you know, TV, phone 9 book, Internet. We have a variety of different 10 ways that we market. Also, if it was referred 11 to a doctor, I would let that doctor know so 12 that they could call the client to schedule the 13 appointment. 14 Q. Okay. Why did you stop doing this? 15 A. I -- I believe this is still being 16 done today. I -- it's just not part of my job. 17 Q. Okay. Who handles this now? 18 A. Her name is Alex. 19 Q. What's her last name? 20 A. VanAllen. 21 MR. MANNION: It is 20 to 1. So 22 after you finish up with this email, let's take 23 a lunch break. 24 MR. PATTAKOS: I'll tell you what, 25 I have two more emails that are along this line</p> | <p style="text-align: right;">Page 137</p> <p>1 MR. PATTAKOS: Well, I'm asking for 2 the basic courtesy. Yes, this is a line of 3 questions that I want to finish before we 4 break. 5 MR. MANNION: Well, I asked for a 6 lunch break. 7 MR. PATTAKOS: Tom, it won't take 8 more than 10 minutes. 9 MR. MANNION: You just 10 specifically misrepresented to me what you were 11 going to do. You said -- 12 MR. PATTAKOS: No, I didn't. 13 MR. MANNION: Yeah, you did. Now 14 you switched into an investigator question. 15 MR. PATTAKOS: This is all about 16 investigators and signups, Tom, so I'd like 17 to -- 18 MR. MANNION: That's not at all -- 19 MR. PATTAKOS: -- ask about -- 20 MR. MANNION: That's not at all 21 what that email had to say at all. It just 22 talked about listing the referral and we were 23 going to take a lunch break. You said you had 24 two more emails on this issue. 25 MR. PATTAKOS: Tom, I'm asking you</p> |

35 (Pages 134 - 137)

CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

| | |
|---|--|
| <p style="text-align: right;">Page 202</p> <p>1 discuss that with the attorney who is 2 representing that client on that particular 3 case -- 4 Q. That's not -- 5 A. -- I can't testify to that. 6 Q. That's not my question. My 7 question is -- 8 MR. MANNION: It was. 9 Q. -- do you believe that Mike and 10 Aaron performed investigative work on every one 11 of these 22 cases as of the date that this 12 email was sent? 13 A. I cannot answer that question. You 14 would have to talk to the attorneys on these 22 15 cases to find out what investigative work Mike 16 and Aaron did. 17 Q. So you don't know? 18 A. Correct. I cannot answer that 19 question. You'd have to speak to those 20 attorneys. 21 Q. So as far as you know, Mike and 22 Aaron were paid an investigative fee, even if 23 they didn't do any work on any of these cases? 24 MR. MANNION: Objection. Come on. 25 A. That's not what I said at all. I</p> | <p style="text-align: right;">Page 204</p> <p>1 MR. MANNION: Objection. 2 A. I'm saying you would have to ask 3 the attorney that worked -- that handled these 4 cases. I don't have an answer for you for 5 that. 6 Q. Because you don't know, correct? 7 A. I'm saying, I don't have an answer. 8 Q. Why don't you have an answer? 9 A. Because Mike and Aaron did not 10 report to me. 11 Q. Right. Okay. We can leave it at 12 that. 13 MR. MANNION: You can ignore the 14 eye rolling. 15 THE WITNESS: Okay. 16 - - - - - 17 (Thereupon, Deposition Exhibit 14, 18 12/7/2012 Email To Robert Redick 19 From Brandy Lamtman, Bates Number 20 KNR003327, was marked for purposes 21 of identification.) 22 - - - - - 23 MR. MANNION: Date is December 7, 24 2012. 25 Q. Please let me know, once you've</p> |
| <p style="text-align: right;">Page 203</p> <p>1 said that I don't know what work they did. 2 You'd have to speak with the attorney. 3 Q. But you agree that they wouldn't 4 have been paid on this day, unless they had 5 done some work -- 6 MR. MANNION: Objection. 7 Q. -- on the case, at least sign the 8 client up? 9 MR. MANNION: Objection. 10 A. I do not agree to that. 11 Q. Okay. 12 MR. MANNION: She said she doesn't 13 know. 14 Q. It's got to be one or the other. 15 MR. MANNION: Objection. 16 MR. PATTAKOS: Tom, just please 17 keep it to yourself. Your interruptions are 18 constant and they're inappropriate. 19 MR. MANNION: I objected without 20 giving a basis. I thought that's what you 21 wanted me to do. 22 Q. You're saying on one hand that you 23 don't know whether Mike and Aaron did work on 24 all 22 of these cases as of October 14. Is 25 that correct?</p> | <p style="text-align: right;">Page 205</p> <p>1 reviewed this email. 2 MR. NESTICO: December 7, 2012? 3 MR. MANNION: Yes. 4 MR. NESTICO: Thank you. 5 BY MR. PATTAKOS: 6 Q. Okay. So this is an email chain of 7 December 7, 2012, where you, Mr. Redick and 8 Mr. Nestico are participating, correct? 9 A. I think, "Participating," is a 10 strong word. Robert sent an email to Rob and 11 I, a suggested email. 12 Q. Okay. So Mr. Redick first emails 13 you and Mr. Nestico and says, "I think we 14 should send this to..." -- he suggests an 15 email. And at the bottom he says, "I think we 16 should send this to the staff today." 17 In that email, he writes -- the suggested 18 email he writes, "Please be advised that if the 19 attorney on the case requests any 20 investigator" -- now all caps -- "WHO IS NOT 21 MIKE OR AARON, to do something for a case that 22 has already been opened, i.e. pick up 23 records--knock on the door to verify 24 address--they CAN be paid on a case by case 25 basis depending on the task performed."</p> |

CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

| | |
|--|---|
| <p style="text-align: right;">Page 206</p> <p>1 "However, no checks for anything other 2 than the SU fee should ever be requested 3 without getting in-writing approval from the 4 handling attorney, myself and/or Brandy." 5 Am I reading this correctly so far? 6 A. Yes. 7 Q. Okay. "Under no circumstances" -- 8 he continues, "Under no circumstances should 9 any additional checks to MRS or AMC be 10 requested other than at the time the case is 11 set-up." 12 "Please see me if you have any 13 questions." Am I reading that correctly? 14 A. Yes. 15 Q. Okay. And you did receive these 16 emails -- this email? 17 A. Yes. 18 Q. Okay. And you responded, "Agree," 19 with Mr. Redick's suggestion that this email be 20 sent to the staff, correct? 21 A. Yes. 22 Q. Okay. Do you agree that the SU fee 23 Mr. Redick was referring to here was in fact, 24 he meant the signup fee? 25 A. So, "Signup fee," and,</p> | <p style="text-align: right;">Page 208</p> <p>1 records or taking photographs or doing a whole 2 plethora of other things that they could be 3 doing. 4 Q. Okay. And this is -- in this 5 column on page 13 listing the investigators and 6 the fee amount, this is the same thing as the 7 signup fee, correct? 8 A. Yes. 9 Q. Okay. Thank you. And the signup 10 fee was always at least \$50, was it not? 11 MR. MANNION: You can take a look 12 at the exhibit, if you need to. 13 A. Yeah, I don't -- this? 14 Q. (Nodding.) 15 A. So there's one on here for \$25. 16 Q. Okay. Do you have any idea why 17 that would be a \$25 -- 18 A. I don't. 19 Q. Okay. Could that be because it was 20 a companion from the same accident where the 21 investigator simply only had to go to one place 22 to do a signup and it was two people that were 23 in the same accident? That would be a reason 24 that an investigation fee would be less 25 than 50, correct?</p> |
| <p style="text-align: right;">Page 207</p> <p>1 "Investigator fee," I feel like we go back -- 2 we go round and round about that. They're the 3 same thing like in -- 4 Q. Sure. Okay. I'm glad we are clear 5 on that. You hadn't said that yet today. 6 A. -- so like here he's referring to 7 it as a, "Signup fee." It could be referred to 8 as that or it could be, "Investigator fee." 9 He's calling this a signup fee in here for 10 doing other work, like it's -- 11 Q. Okay. 12 A. -- tomato, tomato like they're -- 13 Q. The same thing? 14 A. Yeah. 15 Q. Thank you. Here, back to 16 Exhibit 13, in this column with the 17 investigators and the fee amount, this is the 18 same thing; this is the signup fee, correct? 19 MR. MANNION: Objection. Asked and 20 answered. 21 Go ahead. 22 A. Yeah, I just said that. Signup and 23 investigator fee -- "Signup," didn't have to 24 mean they were actually signing up the case. 25 That fee could be that they're picking up</p> | <p style="text-align: right;">Page 209</p> <p>1 A. I'm not sure. 2 Q. But does that make sense to you? 3 A. I mean, I don't know if that makes 4 sense or not. 5 Q. Okay. But would you agree that if 6 the investigation fee was greater than \$50, 7 that that would mean it had to do with the 8 investigator having to travel a certain amount 9 and that this fee was dependent to some degree 10 on the miles that the investigator had to 11 travel? 12 MR. MANNION: Objection. 13 A. I don't know. 14 Q. Okay. Do you have any reason to 15 believe that's not the case? 16 MR. MANNION: Objection. 17 A. I don't know. 18 Q. Okay. Okay. Back to Exhibit 14 19 here. So you agree that this email was 20 intended to make clear that the firm's policy 21 was that any task beyond the basic signup could 22 be charged separately and paid to the 23 investigator on a case-by-case basis, depending 24 on the task performed, unless it was Aaron or 25 Mike who performed the task?</p> |

CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

| | |
|--|---|
| <p style="text-align: right;">Page 222</p> <p>1 MR. PATTAKOS: -- you began 2 scoffing at my question before the witness had 3 answered and I'm going to ask you not to do 4 that. 5 MR. MANNION: Completely untrue. 6 You weren't even looking. You were looking at 7 your computer, so I'm not sure how you would 8 know that. 9 MR. PATTAKOS: I can hear you, Tom. 10 That's -- I have ears and it's on the 11 microphone, so. There's a recording of this. 12 MR. MANNION: Well, Peter, you 13 were trying to take a question you had from 14 before -- 15 MR. PATTAKOS: Tom, I'm not 16 interested in your opinion on what I'm doing. 17 MR. MANNION: Well -- 18 MR. PATTAKOS: I'm just asking you 19 to stop. 20 MR. MANNION: -- I'll tell you why 21 I objected. 22 MR. PATTAKOS: I'm asking you to 23 stop -- 24 MR. MANNION: Well, I'm asking you 25 to stop with the faces that you make at the</p> | <p style="text-align: right;">Page 224</p> <p>1 A. No. I've never seen it before. 2 Q. Okay. If I told you that this was 3 in the firm's handbook, would you have any 4 reason to disagree with that? 5 A. Yes. 6 Q. Why is that? 7 A. I just think it would be odd, how 8 to request a check, that would be in our 9 handbook. 10 Q. Why? 11 A. Because our handbook is, You must 12 arrive to work on time or things like that. 13 Q. This would be -- you don't believe 14 this would be in any training manual or 15 anything for any of the firm's employees? 16 MR. MANNION: Objection. Different 17 question. 18 Go ahead. 19 A. Well, training manual and handbook 20 are different. 21 Q. Okay. So do you have any reason to 22 believe that this wasn't in a training manual? 23 A. No. 24 Q. Is there any reason why that you're 25 aware of that there would be a different</p> |
| <p style="text-align: right;">Page 223</p> <p>1 witnesses and everything else. 2 MR. PATTAKOS: -- coaching. 3 MR. MANNION: I'm not coaching 4 her. 5 MR. PATTAKOS: Okay. 6 MR. MANNION: I said the word, 7 "Objection." 8 Did you feel like I was telling you how 9 to testify by saying, "Objection"? 10 MR. PATTAKOS: You said, "Uh." 11 THE WITNESS: No, no. 12 MR. PATTAKOS: Okay. That's great. 13 - - - - - 14 (Thereupon, Deposition Exhibit 16, 15 How To Add an Investigator Check, 16 Bates Number KNR03337, was marked 17 for purposes of identification.) 18 - - - - - 19 Q. Okay. Let's take a look at 20 Exhibit 16. 21 MR. MANNION: This is entitled, 22 "How to add an investigator check," KNR03337, 23 no date. 24 Q. Are you familiar with this 25 document?</p> | <p style="text-align: right;">Page 225</p> <p>1 procedure for adding an investigator check as 2 opposed to any other check that the firm would 3 cut in connection with a case? 4 A. I would think they would probably 5 be the same. 6 - - - - - 7 (Thereupon, Deposition Exhibit 17, 8 1/14/2014 Email To Intake From Holly 9 Tusko, Bates Number Williams000168, 10 was marked for purposes of 11 identification.) 12 - - - - - 13 Q. Okay. This is Exhibit 17. 14 MR. MANNION: January 14, 2014, 15 from Holly Tusko to intake and attorneys. 16 Q. You ready? 17 A. Yes. 18 Q. Okay. This is an email sent by 19 Holly Tusko on January 14, 2014, correct? 20 A. Yes. 21 Q. And it was sent to the intake 22 department, all attorneys and you separately, 23 correct? 24 A. Correct. 25 Q. Okay. And Ms. Tusko writes, "If a</p> |

57 (Pages 222 - 225)

CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

| | |
|--|---|
| <p style="text-align: right;">Page 226</p> <p>1 doctor calls in" -- sorry. The subject line 2 is, "Chiro Referrals," and she writes, "If a 3 doctor calls in and asks for a specific 4 attorney you RING THIS out to the attorney 5 intake button. They do not get sent to any 6 specific attorney. PERIOD, NO EXCEPTIONS 7 unless Brandy, Rob or myself tell you 8 differently." What does this mean? 9 A. It means if a doctor calls with a 10 new client to do an intake to ring it out on 11 the intake button instead of allowing the 12 doctor to ask for a specific attorney. 13 Q. And why is that? 14 A. Just to make things easier. It's 15 difficult to track down -- if someone calls in 16 and asks for Joe Schmoe, our attorney, it would 17 be -- it could be difficult to track him down 18 versus all of the prelit attorneys who are on 19 that attorney intake button; just easier. 20 Q. Why would you, Brandy or Rob -- or 21 why would you, Rob or Holly ever tell a lawyer 22 differently? 23 A. Well, I didn't read it as she was 24 directing it to the attorneys. I read it as 25 she was directing it to the intake team.</p> | <p style="text-align: right;">Page 228</p> <p>1 firm's relationship with chiropractors? 2 A. No. 3 Q. No. That is part of your job, 4 though. 5 A. No, not anymore. 6 Q. It was part of your job. 7 A. My job was never to manage 8 relationships with doctors. That wouldn't be 9 the way -- the words that I would choose to 10 describe. 11 Q. What are the words you would 12 choose? 13 A. Well, for example, when we opened 14 an office in Columbus, I would set up meetings 15 with doctors so that we could find good doctors 16 to refer our clients to in specific areas. 17 Q. What made a good doctor, in your 18 opinion? 19 A. Someone who had a good bedside 20 manner; treated our clients fairly; 21 communicated with them well; a doctor that 22 provided transportation, if the clients needed 23 it; they were open, if necessary, to 24 negotiating their bill; they had flexible 25 office hours; they had a decent turnaround time</p> |
| <p style="text-align: right;">Page 227</p> <p>1 Q. Well, still, why did she write, "NO 2 Exceptions unless Brandy, Rob or myself tell 3 you differently"? I'm asking, what would an 4 exception be? 5 A. There wouldn't be. I don't know 6 why she said that. It's kind of odd. I think 7 maybe she was just using my name and Rob's name 8 to like enforce it. 9 Q. Okay. She writes at the end of the 10 second paragraph there, "When the doctor calls 11 and the patient is there with them, THAT is 12 when the intake gets completed by the attorney 13 that will get the case." Is that something 14 that happened frequently, the doctor calling 15 the firm with the patient there with them? 16 MR. MANNION: Objection to form. 17 Go ahead. 18 A. Can you ask me that again? I'm 19 sorry. 20 (Record was read.) 21 A. I mean, sure. Doctors called while 22 the client was there to speak with the 23 attorney. 24 Q. Okay. Would you agree that one of 25 the big parts of your job is to help manage the</p> | <p style="text-align: right;">Page 229</p> <p>1 on getting records and bills. I'm sure there 2 are other things, but those are kind of what 3 sticks out in my mind. 4 Q. Would you agree that you worked 5 hard to maintain a close relationship with 6 chiropractors? 7 MR. MANNION: Objection to form. 8 Go ahead. 9 A. I wouldn't say -- I mean, I just 10 said earlier when you asked me, I wouldn't say 11 that I was maintaining a close relationship. I 12 feel like those are strong words. 13 - - - - - 14 (Thereupon, Deposition Exhibit 18, 15 5/22/2013 Email To Prelit Attorney 16 From Brandy Lamtman, Bates Number 17 Williams000301, was marked for 18 purposes of identification.) 19 - - - - - 20 Q. Okay. Let's look at Exhibit 18. 21 MR. MANNION: May 22, 2013. 22 Q. This is an email from you to the 23 prelit attorneys copying Mr. Nestico and 24 Ms. Tusko, correct? 25 A. Yes.</p> |

58 (Pages 226 - 229)

CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

| | |
|---|---|
| <p style="text-align: right;">Page 230</p> <p>1 Q. Subject line, "Referrals," correct?</p> <p>2 A. Yes.</p> <p>3 Q. In the first paragraph, you write,</p> <p>4 "I work hard to maintain a close relationship</p> <p>5 with chiropractors and I am in contact with</p> <p>6 most of them several times a day," correct?</p> <p>7 A. I said that, yes.</p> <p>8 Q. You said that because it's true,</p> <p>9 correct?</p> <p>10 A. No. I feel like that's a sentence</p> <p>11 that I used five years ago in an email. It's</p> <p>12 not the way that I would explain my job duties.</p> <p>13 Q. Was this not the case at the time</p> <p>14 you sent this email?</p> <p>15 A. I feel like it was the words that I</p> <p>16 chose in this email, but it wasn't -- it</p> <p>17 wouldn't be words that I would use to describe</p> <p>18 my job as a whole.</p> <p>19 Q. Well, was it true or not at the</p> <p>20 time you sent this email, that you worked hard</p> <p>21 to maintain a close relationship with</p> <p>22 chiropractors and you were in contact with most</p> <p>23 of them several times a day?</p> <p>24 A. So I was in contact with them to</p> <p>25 let them know when clients were being referred</p> | <p style="text-align: right;">Page 232</p> <p>1 "...in contact with most of," the chiropractors,</p> <p>2 "several times a day." Are you telling me now</p> <p>3 that that actually was not the case?</p> <p>4 A. That's not what I said. I said</p> <p>5 that I am in contact with the chiropractors</p> <p>6 that we referred places to, or if there's any</p> <p>7 kind of customer service-type issues. I can't</p> <p>8 tell you how many on any given day I would have</p> <p>9 been in contact with, but, I mean, yeah,</p> <p>10 there's a lot.</p> <p>11 Q. You agree that would be a lot of</p> <p>12 conversations with chiropractors, if you were</p> <p>13 in touch with most of them several times a day?</p> <p>14 A. It was a lot. It was a lot.</p> <p>15 Q. Okay. What is a referral mistake</p> <p>16 that you refer to in this email?</p> <p>17 A. Referral mistake. So if they</p> <p>18 referred a client to a doctor -- and it doesn't</p> <p>19 have to be a chiropractor. We refer to all</p> <p>20 other kinds of doctors -- that would mean that</p> <p>21 they didn't fill in the box.</p> <p>22 Q. As to who the attorneys referred</p> <p>23 the case to?</p> <p>24 A. Yeah.</p> <p>25 Q. Could it also be a referral mistake</p> |
| <p style="text-align: right;">Page 231</p> <p>1 to them so they could schedule the</p> <p>2 appointments. And also, you know, working on</p> <p>3 customer service issues, that was a large part</p> <p>4 of it. "Close relationship," I guess that was</p> <p>5 the words I used on that day.</p> <p>6 Q. Okay. So when you say you were,</p> <p>7 "...in contact with most of," the</p> <p>8 chiropractors, "Several times a day," who are</p> <p>9 the chiropractors?</p> <p>10 A. So any doctors that we would have</p> <p>11 referred clients to.</p> <p>12 Q. How many of those were there at the</p> <p>13 time?</p> <p>14 A. I would say, a couple hundred;</p> <p>15 maybe more, maybe a little less.</p> <p>16 Q. So it couldn't be true then that</p> <p>17 you were in contact with most of those couple</p> <p>18 hundred several times a day?</p> <p>19 A. So it would depend on, you know --</p> <p>20 it goes by geographical location. So if</p> <p>21 someone came in and they were referred to a</p> <p>22 chiropractor, I mean, there's no way for me to</p> <p>23 know like exactly which chiropractor it was on</p> <p>24 any given day. I would just let them know.</p> <p>25 Q. It says in this email that you are,</p> | <p style="text-align: right;">Page 233</p> <p>1 as to -- a mistake as to where the referral</p> <p>2 came from?</p> <p>3 A. "PLEASE make sure" --</p> <p>4 MR. MANNION: Just so I understand</p> <p>5 your question, Peter, are you saying somebody</p> <p>6 wrote down the wrong name in the referral box?</p> <p>7 Is that what you were asking?</p> <p>8 MR. PATTAKOS: Yeah.</p> <p>9 Q. Whether it was a referred to or</p> <p>10 referred from.</p> <p>11 A. I believe in this email, I was</p> <p>12 referring to the referred to --</p> <p>13 Q. Sure.</p> <p>14 A. -- I actually say, "Regarding the</p> <p>15 referred to's" --</p> <p>16 Q. I see that. Okay. Okay.</p> <p>17 A. -- and I think relationship -- when</p> <p>18 you're working with someone, you know, you're</p> <p>19 friendly with them, I guess.</p> <p>20 Q. Uh-huh. So what would the reason</p> <p>21 be to talk with chiropractors several times a</p> <p>22 day?</p> <p>23 A. To let them know that a client was</p> <p>24 referred to them. So give them the client's</p> <p>25 name and phone number, so that they could call</p> |

CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

| | |
|--|---|
| <p style="text-align: right;">Page 238</p> <p>1 6/9/2014 Email To Prelit Attorney 2 From Brandy Brewer, Bates Number 3 Williams000165, was marked for 4 purposes of identification.) 5 - - - - - 6 Q. Okay. So this is an email from you 7 on June 9, 2014, with the subject line, "Chiro 8 Referrals," to prelit attorneys where you 9 write, "Please make sure you are using the 10 chiro boards. When I left on Wednesday I 11 switch Akron to Akron Injury and you sent ZERO 12 cases there and 4 to ASC, I also added Tru 13 Health and removed Shaker Square and you sent 3 14 cases to Shaker Square and ZERO to Tru Health." 15 "Core was removed as well and you sent a 16 case there!" 17 So what is the purpose of this email? 18 A. To make sure that the referrals 19 were being spread out. 20 Q. Okay. And you would agree that the 21 referrals were managed very strictly by the 22 firm, correct? 23 MR. MANNION: Objection to 24 characterization. 25 Go ahead.</p> | <p style="text-align: right;">Page 240</p> <p>1 attorney, is she? 2 A. No. 3 Q. And here you're telling the 4 attorneys that referrals -- the referrals that 5 you and Sarah dictate are not up for 6 negotiation, are you not? 7 A. That's what I wrote in the email. 8 That's not entirely what I meant. 9 Q. What did you mean? 10 A. So Rob Horton, for example, he 11 doesn't know all of the other cases in the 12 firm, where they're being referred to. Neither 13 do any of the other prelit attorneys, so. I 14 do. That's part of my job. So I was making 15 sure that the referrals are spread out. And 16 ultimately I say on here, "If you have an 17 issue, please let me know," so that doesn't -- 18 that means that's up for negotiation, that we 19 should talk about it or they should let me know 20 if they're sending it somewhere else. 21 Q. You also write here, "I spend a lot 22 of time tracking referrals and working with 23 doctors" -- 24 A. Yes. 25 Q. -- and that was true, correct?</p> |
| <p style="text-align: right;">Page 239</p> <p>1 A. I wouldn't say, "Managed strictly." 2 I saw the big picture, so I saw where the 3 cases -- all the cases were going, but 4 ultimately the attorney was the person who was 5 speaking to the client and making the referral. 6 Q. Okay. Let's mark Exhibit 20. 7 - - - - - 8 (Thereupon, Deposition Exhibit 20, 9 6/23/2014 Email To Prelit Attorney 10 From Brandy Brewer, Bates Number 11 Williams000455, was marked for 12 purposes of identification.) 13 - - - - - 14 MR. MANNION: June 23, 2014. 15 Q. Here is an email June 23, 2014, 16 where you write to prelit attorneys in the 17 second paragraph -- well, you write in the 18 first paragraph, "I have sent this email 19 several times. Please pay attention to the 20 chiro referral email Sarah or I send out and 21 also, the board." 22 "Referrals are not up for negotiation." 23 Did you send this email? 24 A. Yes. 25 Q. Okay. Well, Sarah is not an</p> | <p style="text-align: right;">Page 241</p> <p>1 A. Yes. 2 Q. Is it still true? 3 A. No. 4 Q. Okay. Who does that now? 5 A. Sarah actually had a baby so she 6 works from home. She does all of the referral 7 reports -- 8 Q. Sarah Knoch? 9 A. Uh-huh. 10 Q. Okay. 11 A. -- and as far as working with the 12 doctors, I think I said that earlier, Alex 13 VanAllen. 14 Q. Okay. 15 - - - - - 16 (Thereupon, Deposition Exhibit 21, 17 1/17/2014 Email Trail Between 18 Courtney Warner, Brandy Brewer and 19 Kimberly Lubrani, Bates Number 20 KNR03385, was marked for purposes of 21 identification.) 22 - - - - - 23 Q. Okay. Take a look at Exhibit 21. 24 MR. MANNION: January 17, 2014. 25 Q. So this shows several emails, but</p> |

61 (Pages 238 - 241)

CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

| | |
|---|---|
| <p style="text-align: right;">Page 242</p> <p>1 I'm looking at the one which looks like the 2 second one from the bottom where you write on 3 January 17, 2014, to Courtney Warner, Sarah 4 Knoch and staff, "Nobody releases ANY 5 information regarding referrals to anyone other 6 than me," exclamation mark. 7 Why did you write that? 8 A. Courtney sent an email that said 9 that a chiropractor from Deaconess called and 10 wanted us to email the names of all clients we 11 referred in January and going forward email the 12 clients we refer every time we refer. 13 Q. And you didn't want to do that? 14 A. No, that's not what -- I said that 15 I didn't want them doing that. 16 Q. Who is, "Them"? 17 A. Well, I emailed it to Courtney and 18 copied the staff. So I didn't want the staff, 19 the paralegals emailing doctors with referrals. 20 That would be something that was part of my 21 job. I had previously told you that I would 22 let the doctors know when we referred the 23 client so they could schedule the appointment. 24 Q. Why would the Deaconess chiro want 25 you to email them the names of all the clients</p> | <p style="text-align: right;">Page 244</p> <p>1 scheduled? 2 MR. MANNION: I'm going to object. 3 You mixed and matched there. 4 But go ahead. 5 A. I agree. I didn't think it was 6 funny. 7 Q. Okay. Did you end up sending 8 Deaconess chiro this info? 9 A. Oh, boy, I don't remember. 10 Q. Is there any reason why you 11 wouldn't have? 12 A. I don't know. 13 Q. Okay. Why would they need you to 14 email them the names of clients referred to 15 schedule appointments? 16 A. Well, I mean, I was just at my 17 doctor and got referred for a nerve conduction 18 test and they scheduled that for me. So just 19 make it easier for the client. 20 Q. Okay. 21 MR. MANNION: While there's a 22 little pause, it's 3:47. Do you know when the 23 next time you need to -- 24 THE WITNESS: So I would say, like 25 between now and -- before 4:30, between now and</p> |
| <p style="text-align: right;">Page 243</p> <p>1 that the firm referred to the chiro in January 2 and going forward? 3 A. Well, I can't speak on their 4 behalf, but probably to schedule the 5 appointments. 6 Q. To schedule the appointments? 7 A. Um-hum. 8 Q. Why would it have mattered whether 9 anyone else at the firm did that? What was the 10 point of controlling that information? 11 MR. MANNION: Objection. 12 Go ahead. 13 A. Well, Courtney was a paralegal. 14 She had her paralegal work, just like I had my 15 job to do, so that is my job. 16 Q. Why is -- what's so funny in Kim 17 Lubrani's email when she says, "So they want us 18 to keep track of their referrals for 19 them...LOL"? 20 A. I have no idea. You would have to 21 ask Kim Lubrani that. 22 Q. Okay. Do you agree that there 23 would be nothing really funny about that; that 24 it would be natural for a chiropractor to want 25 to be called so that appointments could be</p> | <p style="text-align: right;">Page 245</p> <p>1 4:30, so. 2 MR. MANNION: Okay. 3 When we get to a good spot, let's take 4 one in a few minutes, a little break here. 5 MR. PATTAKOS: We can stop right 6 now. 7 MR. MANNION: Want to do that? 8 Okay. 9 VIDEOGRAPHER: Off the record 3:47. 10 (Recess taken.) 11 VIDEOGRAPHER: On the record at 12 4:07. 13 BY MR. PATTAKOS: 14 Q. Okay. Back to the firm's 15 relationships with chiropractors. So you deny 16 that the firm's practice is to trade referrals 17 in exchange for referrals, correct? 18 A. Correct. 19 MR. MANNION: Objection to form. 20 But go ahead. 21 Q. And you say that the main reason 22 that the firm manages its referrals so closely 23 is so that the referrals can be spread out 24 evenly, correct? 25 MR. MANNION: Objection. That</p> |

62 (Pages 242 - 245)

CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

| | |
|---|--|
| <p style="text-align: right;">Page 246</p> <p>1 mischaracterizes. 2 Go ahead. 3 A. Could you ask me that again? I'm 4 sorry. 5 THE WITNESS: Or could you repeat 6 it? 7 (Record was read.) 8 A. I didn't say that was the main 9 reason. I said that was a reason. 10 Q. What is the main reason then? 11 A. I don't know that there is a main 12 reason, other than -- so if a client comes to 13 us and is injured and doesn't have a doctor to 14 treat with, so they need to be treated by a 15 doctor, whether it's a chiropractor or any 16 other kind of doctor, we refer them to doctors 17 that we've met, that we've worked with. And I 18 definitely would think it's in the client's 19 best interest for us to, you know, work with 20 these doctors. 21 Q. Okay. But you will send clients to 22 chiropractors, even when they already have a 23 doctor to treat with, correct? 24 A. No. 25 Q. You won't?</p> | <p style="text-align: right;">Page 248</p> <p>1 doctor that they're treating with to make sure 2 that they're aware that there's a law firm 3 involved. Some doctors don't want to be 4 involved in that sort of thing. They don't 5 want to have to testify. They -- they don't 6 want to work on a letter of protection. I 7 mean, there could be a whole variety of 8 reasons -- 9 Q. Okay. 10 A. -- it could be a chiropractor that 11 doesn't want to work with our law firm. It 12 could be a chiropractor where -- I don't 13 know -- an attorney made a mistake and didn't 14 honor their lien and they're mad at us. There 15 could be like a whole variety of reasons. 16 Q. Okay. But it has nothing to do 17 with trading referrals for referrals, correct? 18 A. No, nothing to do with that. 19 Q. Okay. Exhibit 22, please. 20 - - - - - 21 (Thereupon, Deposition Exhibit 22, 22 10/17/2012 Email To Prelit Attorney 23 From Brandy Brewer, Bates Number 24 Williams000379, was marked for 25 purposes of identification.)</p> |
| <p style="text-align: right;">Page 247</p> <p>1 A. I mean, that's not -- so if they 2 have their own doctor, they can, you know, 3 treat with their own doctor. If they need a 4 different kind of doctor, they, you know, will 5 ask us for any kind of referral. 6 Q. So you're saying that if a client 7 already has a doctor to treat with, you will 8 not refer them to a chiropractor? 9 MR. MANNION: Objection. Not what 10 she said. 11 But go ahead. 12 A. I think it depends on the 13 circumstance. 14 Q. Okay. Under what circumstance -- 15 how does it depend on the circumstance? 16 A. Are you referencing a particular 17 email? 18 Q. Well, no, I'm not. I'm asking you 19 a question generally. 20 A. Okay. So what's the question? 21 Q. Well, under what circumstance would 22 you refer a client to a chiropractor, even when 23 they already had a doctor? 24 A. So I -- the attorney -- I may ask 25 the attorney to call the chiropractor or the</p> | <p style="text-align: right;">Page 249</p> <p>1 - - - - - 2 MR. MANNION: October 17, 2012. 3 Q. Okay. Would you agree that this is 4 an October 17, 2012, email that you sent to all 5 prelit attorneys with the subject, "Shaker 6 Square," and the importance level, high? 7 A. Yes. 8 Q. Okay. Did you send this email? 9 A. Yes. 10 Q. Okay. You said, "PLEASE," in 11 capital letters, "make sure you refer intakes 12 thereS," meaning to Shaker Square, correct? 13 A. Yes. 14 Q. And then you say, "I just noticed 15 that we've sent two cases to A Plus Accident & 16 Injury...when these cases could've gone to 17 Shaker, who sends us way more cases." 18 "I've sent this email three times now, 19 please note this so next time you are on a 20 Cleveland intake you remember this" -- 21 MR. MANNION: Is there a question? 22 Q. -- the question is: How does an 23 email like this reflect an intent to spread out 24 referrals? 25 A. So just because I didn't say that</p> |

63 (Pages 246 - 249)

CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

| | |
|---|--|
| <p style="text-align: right;">Page 250</p> <p>1 in the email doesn't mean that that wasn't an 2 intention of sending the email. 3 Q. So you're saying that your intent 4 in sending this email was to make sure that 5 referrals were fairly spread out so that you 6 were not trading referrals for referrals? 7 MR. MANNION: Objection. 8 Go ahead. 9 A. So I had two intentions in this 10 email -- 11 Q. Okay. 12 A. -- one is to make sure that they're 13 spread out. Two, as I said earlier, if given 14 the choice between a chiropractor that sends 15 clients to KNR versus a chiropractor who 16 doesn't and I have met both of them and they're 17 both good doctors, I would choose the one who 18 sent referrals to KNR. 19 Q. Why don't you ask the client where 20 the client wants to go? 21 A. I -- I would think that the 22 attorney does do that, when they're on the 23 intake. 24 Q. But you don't say anything about 25 that in this email, do you?</p> | <p style="text-align: right;">Page 252</p> <p>1 MR. MANNION: Objection. 2 Go ahead. 3 A. That's what Rob told me he 4 wanted -- 5 Q. Okay. 6 A. -- so that's what I was doing. 7 - - - - - 8 (Thereupon, Deposition Exhibit 23, 9 8/21//2013 Email To Prelit Attorney 10 From Brandy Lamtman, Bates Number 11 Williams000154, was marked for 12 purposes of identification.) 13 - - - - - 14 MR. MANNION: August 21, 2013. 15 Q. This is an email from you to prelit 16 attorneys that was sent on August 21, 2013, 17 correct? 18 A. Yes. 19 Q. And you did send this email? 20 A. Yes. 21 Q. And the subject heading is "A Plus 22 Injury," correct? 23 A. Yes. 24 Q. And that's a chiro clinic, correct? 25 A. Yes.</p> |
| <p style="text-align: right;">Page 251</p> <p>1 A. What the attorney discusses with 2 the client on the intake, that is up to the 3 attorney. This is only for clients that need a 4 doctor in a certain location. If the client 5 already has their own doctor and would like to 6 go somewhere else, that's up to them. 7 Q. Okay. How does this email show an 8 intent to spread referrals evenly? 9 MR. MANNION: Objection. You keep 10 throwing in, "Evenly." That was never said. 11 But go ahead. 12 MR. PATTAKOS: Well -- 13 A. I didn't always put every single 14 word in every single email that I sent, so 15 there is -- like I said, I saw the big picture 16 and I was just trying to ensure that we were 17 spreading things out. 18 Q. And why did you want to spread 19 things out? Tom just said that you never said 20 it was to spread things out evenly. Then what 21 was the intent in spreading things out? 22 A. To make sure that we weren't 23 sending everyone to one doctor. 24 Q. What would be wrong with sending 25 everything to one doctor?</p> | <p style="text-align: right;">Page 253</p> <p>1 Q. And where is that? 2 A. I believe somewhere in Cleveland. 3 Q. Okay. And you say, "Please do not 4 send any more clients there this month. We 5 are 6 to 1 on referrals." What do you mean by, 6 "We are 6 to 1 on referrals"? 7 A. That meant that we had 7 referrals 8 with 7 cases that were with that chiropractic 9 clinic. And either he sent us 6 or we sent 10 him 6 to 1. 11 Q. You don't know which is which 12 there? 13 A. No. I don't remember this. 14 Q. So is it possible that when you 15 say, "We are 6 to 1 on referrals," you mean 16 that the firm has sent A Plus Injury 6 17 referrals and he has only sent 1 back and 18 therefore, you should not be sending any more 19 clients there to him this month? 20 MR. MANNION: Objection. 21 Go ahead. 22 A. Well, I think it's possible that we 23 sent them 6 and he sent us 1 just as possible 24 as we sent them 1 and he sent us 6. 25 Q. Okay. And you're saying, don't</p> |

CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

| | |
|---|--|
| <p style="text-align: right;">Page 254</p> <p>1 send any more clients there because that 7 2 cases in one month and you think that's too 3 many? 4 A. I think that we should -- I 5 thought -- well, I can't really say what I 6 thought at the time. It was five years ago, 7 but in my mind, I would want to send some cases 8 over to a different chiropractor in that area. 9 Q. Okay. And this is because Rob 10 Nestico told you that you needed to spread 11 these out and not send too many to one chiro, 12 right? 13 A. Rob told me that I needed to spread 14 out referrals, correct. 15 Q. Okay. 16 - - - - - 17 (Thereupon, Deposition Exhibit 24, 18 5/29/2012 Email To Attorneys, Prelit 19 Support From Brandy Brewer, Bates 20 Number Williams000222, was marked 21 for purposes of identification.) 22 - - - - - 23 MR. MANNION: May 29, 2012. 24 Q. So here's an email where you are 25 emailing all attorneys and prelit support,</p> | <p style="text-align: right;">Page 256</p> <p>1 Q. And why would the number of cases 2 that a chiropractor sent you matter? 3 A. The number of cases didn't matter. 4 This email, and I think there were a couple 5 other where I had sent out emails regarding the 6 referred to's, was one of the reasons why I 7 wanted everyone to send the email that said the 8 referred by and the referred to and the 9 client's phone number. So that I could let the 10 doctors know when we were referring clients 11 there so that they could schedule the 12 appointment. So a lot of this is -- these 13 emails that I was sending, it was kind of 14 ironing out those issues. 15 Q. What in here refers to scheduling 16 appointments? Anything? Is there any sentence 17 in this that refers in any way to scheduling 18 appointments? 19 A. It's the premise of why I sent the 20 email, the referred to's. That's why I 21 communicated with the doctors to let them know 22 when we referred clients to them so that they 23 could call and schedule them. 24 Q. But why would you need to have the 25 information to tell a chiropractor how many</p> |
| <p style="text-align: right;">Page 255</p> <p>1 copying Ericka J. Schmidt with the subject 2 line, "Referred To....," correct? 3 A. Yes. 4 Q. And this is May 29, 2012, correct? 5 A. Yes. 6 Q. Who is Ericka Schmidt? 7 A. She's a former receptionist who for 8 a short period of time was my assistant. 9 Q. Okay. And you write, "I had a 10 chiropractor call me on Friday to review the 11 number of cases she sent to us and we sent to 12 her. I was unable to tell her how many we sent 13 to her because this information was not in the 14 referred to box in the case. I remembered that 15 we did send her a couple of cases, but I wasn't 16 sure of the details. This is why it is," all 17 capitals, "VERY important that this information 18 is properly entered on the intake sheet." 19 Again, all capitals, "Please make sure you," 20 are, "filling in," all capitals, "ALL 21 information on the intake sheet. Thank you." 22 Am I reading that correctly? 23 A. You read that correctly. 24 Q. And that's what you wrote? 25 A. Yes.</p> | <p style="text-align: right;">Page 257</p> <p>1 cases that you sent to that firm? 2 A. I didn't. I needed it so that the 3 doctor knew about the cases and the clients 4 that we were referring to them so that they 5 could schedule the appointments. That's the 6 whole reason why I started tracking the 7 referred to's, to make it easier. 8 Q. But here you say, "I was unable to 9 tell her how many we sent to her..." 10 A. I may have typed those specific 11 words, but I'm telling you the meaning behind 12 it -- 13 Q. Okay. 14 A. -- I'm telling you the meaning that 15 I think -- it's 2018 -- why I would have said 16 that in 2012, to the best of my ability. 17 Q. Okay. We saved some time. I'm 18 Xing out parts of my outline. We're making 19 progress here. Let's look at Exhibit 25. 20 - - - - - 21 (Thereupon, Deposition Exhibit 25, 22 4/8/2013 Email To Prelit Attorney 23 From Brandy Lamtman, Bates Number 24 Williams000306, was marked for 25 purposes of identification.)</p> |

65 (Pages 254 - 257)

CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

| | |
|---|--|
| <p style="text-align: right;">Page 258</p> <p>1 - - - - -</p> <p>2 MR. MANNION: April 8, 2013.</p> <p>3 MR. NESTICO: Sorry. Repeat that</p> <p>4 again, Tom.</p> <p>5 MR. MANNION: April 8, 2013.</p> <p>6 Q. So this is an email that you sent</p> <p>7 to the prelit attorneys, correct?</p> <p>8 A. Yes.</p> <p>9 Q. And it's dated April 8, 2013, and</p> <p>10 you write, "Please make sure you are paying</p> <p>11 attention to your referral board in your</p> <p>12 office. We sent 5 cases to Warrensville</p> <p>13 Physical Medicine last week..we need to get</p> <p>14 some cases to A Plus Injury since they sent</p> <p>15 us 10 cases last month and Warrensville</p> <p>16 Physical Medicine hasn't sent us ANY cases in</p> <p>17 2013," exclamation mark, exclamation mark,</p> <p>18 exclamation mark, exclamation mark. Am I</p> <p>19 reading that correctly?</p> <p>20 A. Yes.</p> <p>21 Q. Did you send that email?</p> <p>22 A. Yes.</p> <p>23 Q. And why did you send this email?</p> <p>24 A. I think I said a couple times</p> <p>25 before, given the option of two different</p> | <p style="text-align: right;">Page 260</p> <p>1 shouldn't have sent these cases to</p> <p>2 Warrensville." It doesn't say that.</p> <p>3 Q. So you're saying that when you say,</p> <p>4 "Please make sure you're paying attention to</p> <p>5 your referral board in your office," you're not</p> <p>6 saying that cases were sent to Warrensville</p> <p>7 when they shouldn't have been?</p> <p>8 A. I didn't say that at all.</p> <p>9 Q. So it's your testimony that in</p> <p>10 sending this email, you were not criticizing</p> <p>11 the prelit attorneys for sending cases to</p> <p>12 Warrensville?</p> <p>13 A. I was reminding them to look at</p> <p>14 their board. I was telling them, Hey, you</p> <p>15 already sent some cases over here. Let's send</p> <p>16 some cases over there --</p> <p>17 Q. Okay.</p> <p>18 A. -- my intention was not to</p> <p>19 criticize anybody.</p> <p>20 Q. Okay. And it didn't matter what</p> <p>21 the client -- whether the client wanted to go</p> <p>22 to Warrensville or A Plus there, did it?</p> <p>23 A. I didn't say that either.</p> <p>24 Q. You don't say anything about what</p> <p>25 the client -- what the client wants to do here</p> |
| <p style="text-align: right;">Page 259</p> <p>1 clinics who are in the same area, the</p> <p>2 preference would be to send to the doctor who</p> <p>3 we work with most and who sends us cases.</p> <p>4 Q. But you're not spreading things out</p> <p>5 here, per se.</p> <p>6 A. That's not how I read this --</p> <p>7 MR. MANNION: Right.</p> <p>8 A. -- I read it as we were. We</p> <p>9 already sent one chiropractic clinic cases.</p> <p>10 Let's get some over to the other.</p> <p>11 Q. Okay. And you're saying, We</p> <p>12 shouldn't have sent these cases to</p> <p>13 Warrensville, because Warrensville hasn't sent</p> <p>14 us any cases in 2013.</p> <p>15 A. That's not what I said.</p> <p>16 Q. Well, it says, "We sent 5 cases to</p> <p>17 Warrensville Physical Medicine last weekS..we</p> <p>18 need to," send, "some cases to A Plus Injury,"</p> <p>19 because "they sent us 10 cases last month and</p> <p>20 Warrensville Physical Medicine hasn't sent us</p> <p>21 ANY cases in 2013."</p> <p>22 MR. MANNION: I'm going to object.</p> <p>23 You did not read that correctly.</p> <p>24 But go ahead.</p> <p>25 A. But nowhere in here did I say, "You</p> | <p style="text-align: right;">Page 261</p> <p>1 in determining what the referral boards say, do</p> <p>2 you?</p> <p>3 A. That would be up to the attorney</p> <p>4 who is the one who is actually speaking to the</p> <p>5 client. I am not --</p> <p>6 Q. Okay.</p> <p>7 A. -- I'm sure that the client -- the</p> <p>8 attorney is looking out for the client's best</p> <p>9 interest. That's their job.</p> <p>10 Q. Well, it's their job to follow the</p> <p>11 instructions on the chiro boards, isn't it --</p> <p>12 MR. MANNION: Objection.</p> <p>13 Q. -- aren't you writing to attorneys</p> <p>14 to say, Please follow the instructions on the</p> <p>15 referral board?</p> <p>16 A. Are we talking about this email</p> <p>17 here? (Indicating.)</p> <p>18 Q. Yeah.</p> <p>19 A. Okay. What was the question?</p> <p>20 Q. Isn't that what you're telling --</p> <p>21 you are giving directions to attorneys --</p> <p>22 MR. MANNION: Don't raise your</p> <p>23 voice.</p> <p>24 Q. -- to follow instructions on the</p> <p>25 referral board, correct?</p> |

66 (Pages 258 - 261)

CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

| | |
|---|---|
| <p style="text-align: right;">Page 262</p> <p>1 A. I'm not giving instructions to the 2 attorneys. I'm simply telling the attorneys 3 what their options are. And I simply said, "We 4 sent 5 cases to one place. We need to get some 5 cases over to another place." 6 Q. So this isn't an instruction? 7 A. No. 8 Q. It's a suggestion? 9 A. Yes, absolutely. 10 Q. Okay. Let's look at Exhibit 26. 11 - - - - - 12 (Thereupon, Deposition Exhibit 26, 13 7/12/2013 Email To [Redacted] From 14 Brandy Lamtman, Bates Number 15 Williams000428, was marked for 16 purposes of identification.) 17 - - - - - 18 MR. MANNION: July 12, 2013. 19 Q. Okay. So I believe this is an 20 email exchange between you and Rob Horton. He 21 provided these documents to me redacted. I 22 believe he redacted his own name here -- 23 MR. MANNION: How do you know he 24 redacted his own name? 25 MR. PATTAKOS: Well, because that's</p> | <p style="text-align: right;">Page 264</p> <p>1 Q. Let's assume it was a KNR lawyer. 2 So it looks like maybe there's two clients at 3 issue, because he -- whoever this lawyer is 4 uses the term -- well, and, look, it says, 5 "Attorney At Law," at the bottom, so we can 6 assume it was an attorney in the signature who 7 sent it. 8 A. Um-hum. 9 Q. It says, "Web referrals," meaning 10 the clients came in from the web. "They 11 live 20 minutes from Cain chiro (ken's friend) 12 and 30 minutes from ASC or West Tusc. Holly 13 indicated they should go to ASC. Is that 14 correct, or do we want to send them to somebody 15 else closer to them?" 16 You say, "ASC if you can, I already told 17 Minas. Plus Cain doesn't send us shit." 18 Am I reading that correctly? 19 A. Yes. 20 Q. And did you write that? 21 A. Yes. 22 Q. And you received this email from 23 the attorney? 24 A. Yes. 25 Q. Do you remember who sent you this</p> |
| <p style="text-align: right;">Page 263</p> <p>1 what I believe. I believe this is an email 2 that he had. We can find out. In fact, you 3 know, your client can find this email and can 4 confirm. 5 Q. So let's just assume this is 6 between you and Horton. 7 MR. MANNION: Well, wait a minute. 8 Before she assumes something like that, it's 9 not what it says and I don't know why Rob would 10 black out his own name. So I don't know who 11 this is to. I don't have the emails memorized, 12 so. 13 MR. PATTAKOS: I don't either. We 14 can ask him. I don't have any other copy of 15 this email. It would be very -- 16 MR. MANNION: Does it matter for 17 your question that it's Rob Horton versus some 18 other lawyer? 19 MR. PATTAKOS: No -- 20 MR. MANNION: Okay. 21 MR. PATTAKOS: -- no, but, you 22 know, I think there's good reason to assume 23 it's Horton, so she can -- it doesn't really 24 matter. 25 BY MR. PATTAKOS:</p> | <p style="text-align: right;">Page 265</p> <p>1 email? 2 A. No. 3 Q. Okay. So why did you want to send 4 this case to ASC? 5 A. Because I know ASC. I've met with 6 him. I know that he -- we work with him. I've 7 never met Dr. Cain. I don't know anything 8 about him. So given the choice, I would choose 9 Akron Square. 10 Q. What about West Tusc? You know 11 West Tusc, right? 12 A. Yes, sure. 13 Q. And that's Philip Tassi, right? 14 A. I guess it depends on the 15 timeframe. 16 Q. Okay. So why wouldn't you send the 17 client to West Tusc? 18 A. I -- I probably would have. 19 Q. But you didn't. 20 A. I had already told Dr. Floros about 21 it. 22 Q. Why would that matter? 23 A. It wouldn't. He may have already 24 called the client. To me it wouldn't have 25 mattered if he would have gone to ASC or West</p> |

CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

| | |
|---|---|
| <p style="text-align: right;">Page 270</p> <p>1 THE WITNESS: Um-hum.</p> <p>2 BY MR. PATTAKOS:</p> <p>3 Q. So here's an email, Exhibit 28,</p> <p>4 that was sent on September 23, 2013, by you to</p> <p>5 prelit attorneys with the subject, "Chiro</p> <p>6 Referrals." And you list a number of -- you</p> <p>7 list a number of cities in Ohio and then you</p> <p>8 list a specific chiropractor that each referral</p> <p>9 needs to go to. Is that correct?</p> <p>10 A. Um-hum.</p> <p>11 Q. Okay. And this is you suggesting</p> <p>12 which chiropractor referral should go from each</p> <p>13 city, correct?</p> <p>14 A. Um-hum, yes. Sorry.</p> <p>15 Q. Okay. And at the bottom you say,</p> <p>16 "DO NOT SEND TO ROSENBERG." Who is Rosenberg?</p> <p>17 A. Dr. Rosenberg owns some clinics in</p> <p>18 the Cleveland area, like various clinics.</p> <p>19 Q. And why were you not sending to</p> <p>20 him?</p> <p>21 A. I don't remember.</p> <p>22 Q. No memory at all?</p> <p>23 A. No. It's not something -- he</p> <p>24 didn't creep me out about my feet, so it wasn't</p> <p>25 anything like that like stood out to me. I</p> | <p style="text-align: right;">Page 272</p> <p>1 Q. Okay. Moving on. Let's look at</p> <p>2 Exhibit 29.</p> <p>3 MR. MANNION: November 15, 2012.</p> <p>4 BY MR. PATTAKOS:</p> <p>5 Q. So here's an email that Rob --</p> <p>6 well, it looks like two different emails. It</p> <p>7 looks like the first one Rob Nestico is sending</p> <p>8 you an email on November 15, 2012, with the</p> <p>9 subject line, "Referrals," and then you went</p> <p>10 ahead and forwarded that email to the staff.</p> <p>11 Is that correct?</p> <p>12 A. Yes.</p> <p>13 Q. And it's Rob writing, "Please make</p> <p>14 sure to refer ALL Akron cases to ASC this</p> <p>15 month. We are 30-0." Why do you think he</p> <p>16 wrote that?</p> <p>17 A. I mean, you would have to ask Rob</p> <p>18 why he wrote that.</p> <p>19 Q. What do you think he meant by that?</p> <p>20 MR. MANNION: Objection.</p> <p>21 Go ahead.</p> <p>22 A. I don't -- I can't speak on Rob's</p> <p>23 behalf.</p> <p>24 Q. I'm not asking you to speak on his</p> <p>25 behalf. I'm asking you: What did you</p> |
| <p style="text-align: right;">Page 271</p> <p>1 really don't remember.</p> <p>2 Q. Well, what would it have been?</p> <p>3 A. I don't know.</p> <p>4 Q. Isn't it a big deal to say that a</p> <p>5 chiropractor is so substandard that you won't</p> <p>6 send your clients to them anymore?</p> <p>7 MR. MANNION: Well, I'm going to</p> <p>8 object. It doesn't say, "Anymore."</p> <p>9 A. Yeah, I didn't mean like ever</p> <p>10 again. Just I guess at the time. I don't</p> <p>11 remember --</p> <p>12 Q. Okay.</p> <p>13 A. -- he was kind of annoying, I</p> <p>14 guess. That kind of comes to my mind. I don't</p> <p>15 know why that would be why I wouldn't send to</p> <p>16 him, though.</p> <p>17 Q. Annoying in what way?</p> <p>18 A. He was always asking for referrals.</p> <p>19 - - - - -</p> <p>20 (Thereupon, Deposition Exhibit 29,</p> <p>21 11/15/2012 Email To Staff From</p> <p>22 Brandy Lamtman, Bates Number</p> <p>23 Williams000459, was marked for</p> <p>24 purposes of identification.)</p> <p>25 - - - - -</p> | <p style="text-align: right;">Page 273</p> <p>1 understand that to mean?</p> <p>2 MR. MANNION: Objection. Asked and</p> <p>3 answered.</p> <p>4 But go ahead.</p> <p>5 A. Well, it sounds like he wants -- it</p> <p>6 was on November 15 -- any cases that came in in</p> <p>7 Akron for the rest of that month, to go to</p> <p>8 Akron Square.</p> <p>9 Q. Why?</p> <p>10 A. Well, if we hadn't sent them any,</p> <p>11 then it could be assumed that they all went to</p> <p>12 different chiropractors in the area and he was</p> <p>13 trying to spread them out.</p> <p>14 Q. So you think, "We are 30-0," means</p> <p>15 that they had sent the firm 30 cases and the</p> <p>16 firm hadn't sent ASC any cases?</p> <p>17 A. Well, kind of just like the other</p> <p>18 email where those numbers were like that, it</p> <p>19 could have meant Akron Square sent us 30 cases</p> <p>20 or we sent them 30. It could go either way.</p> <p>21 It doesn't specify.</p> <p>22 Q. But if Akron Square had sent you 30</p> <p>23 cases, why would that mean that you should be</p> <p>24 sending them more cases?</p> <p>25 A. It doesn't --</p> |

CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

| | |
|---|--|
| <p style="text-align: right;">Page 290</p> <p>1 A. Yes. That's how it typically --</p> <p>2 Q. Okay. And that's on top of the</p> <p>3 chiropractor's bill, a separate narrative fee</p> <p>4 is paid, correct, to some chiros?</p> <p>5 A. Chiros, doctors, surgeons, yes --</p> <p>6 Q. Okay.</p> <p>7 A. -- not just chiropractors.</p> <p>8 Q. And at some points in the recent</p> <p>9 past, the firm would pay narrative fees to</p> <p>10 certain chiropractors as a matter of policy --</p> <p>11 MR. MANNION: Objection.</p> <p>12 Q. -- as soon as a case was signed up,</p> <p>13 correct?</p> <p>14 MR. MANNION: Objection.</p> <p>15 A. No, never --</p> <p>16 Q. Okay. Never. Okay.</p> <p>17 A. -- we would -- we wouldn't pay for</p> <p>18 a report that we didn't receive. And it</p> <p>19 wouldn't be as soon as the case is signed up,</p> <p>20 unless the doctor had already been treating and</p> <p>21 had already provided the report and the invoice</p> <p>22 was submitted, you know, it was an existing</p> <p>23 case, not a new case.</p> <p>24 Q. At some point, with respect to</p> <p>25 certain chiropractors, there was a policy of</p> | <p style="text-align: right;">Page 292</p> <p>1 A. Yes.</p> <p>2 Q. Okay. And you copy Mr. Nestico and</p> <p>3 Mr. Redick. And you say, "We are paying</p> <p>4 narrative fees to the following," and it says,</p> <p>5 "Dr. Floros," "Akron Square." This document</p> <p>6 has been redacted, so I assume that there were</p> <p>7 other doctors that are listed here who get</p> <p>8 narrative fees. Do you agree with that?</p> <p>9 A. Do I -- what's the question?</p> <p>10 Q. That there's likely a list of more</p> <p>11 doctors that has been redacted here.</p> <p>12 A. Yes.</p> <p>13 Q. Okay. So why would the firm pay</p> <p>14 narrative fees to certain doctors?</p> <p>15 A. Because they write narrative</p> <p>16 reports.</p> <p>17 Q. Okay. No other reason?</p> <p>18 A. No.</p> <p>19 Q. Weren't there some doctors who</p> <p>20 wrote narrative reports and they wouldn't get</p> <p>21 paid a narrative fee anyway?</p> <p>22 A. Not that I can remember.</p> <p>23 Q. Okay.</p> <p>24 A. There's a certain threshold of</p> <p>25 where the paralegal has to get permission to</p> |
| <p style="text-align: right;">Page 291</p> <p>1 paying the narrative when the case was signed</p> <p>2 up --</p> <p>3 A. No.</p> <p>4 Q. -- is that correct?</p> <p>5 A. No, not to my knowledge --</p> <p>6 Q. Okay.</p> <p>7 A. -- no, never.</p> <p>8 - - - - -</p> <p>9 (Thereupon, Deposition Exhibit 31,</p> <p>10 3/1/2012 Email To Katy Newton, Etc.</p> <p>11 From Brandy Brewer, Bates Number</p> <p>12 KNR03769, was marked for purposes of</p> <p>13 identification.)</p> <p>14 - - - - -</p> <p>15 Q. So this is Exhibit 31.</p> <p>16 MR. MANNION: March 1, 2012.</p> <p>17 Q. So this is an email that you wrote</p> <p>18 on March 1, 2012, to a number of people</p> <p>19 including Alyssa Kirk, Jodi Miller, Jenna</p> <p>20 Sanzone, Amber Vince, Marti Dunlavy, Nicole</p> <p>21 Holland, Katy Newton, Megan Jennings, Courtney</p> <p>22 Warner, Matt Stewart and Deidra Lopez. Are</p> <p>23 those paralegals?</p> <p>24 A. Yes.</p> <p>25 Q. Are they all paralegals?</p> | <p style="text-align: right;">Page 293</p> <p>1 spend an excessive amount for a report.</p> <p>2 Q. Okay. When you started working at</p> <p>3 the firm, was the firm always paying narrative</p> <p>4 fees?</p> <p>5 A. I don't remember.</p> <p>6 Q. You don't remember when this</p> <p>7 practice started?</p> <p>8 A. No.</p> <p>9 Q. Okay.</p> <p>10 - - - - -</p> <p>11 (Thereupon, Deposition Exhibit 32,</p> <p>12 10/2/2013 Email To Prelit Attorneys,</p> <p>13 Etc. From Brandt Lamtman, Bates</p> <p>14 Number Williams000570, was marked</p> <p>15 for purposes of identification.)</p> <p>16 - - - - -</p> <p>17 Q. Okay. Let's look at Exhibit 32.</p> <p>18 MR. MANNION: October 2, 2013.</p> <p>19 Q. So this is an email from you to</p> <p>20 various groups, including prelit support,</p> <p>21 prelit attorney, litigation support, litigation</p> <p>22 attorney dated October 2, 2013, with the</p> <p>23 subject, "Plambeck Clinics," correct?</p> <p>24 A. Yes.</p> <p>25 Q. What's a Plambeck Clinic?</p> |

74 (Pages 290 - 293)

CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

| | |
|--|---|
| <p style="text-align: right;">Page 294</p> <p>1 A. Clinics that used to be owned by 2 Kent Plambeck. 3 Q. Who are they owned by now? 4 A. I'm not really sure. I think some 5 of the doctors may have -- may own them now. 6 Or maybe they owned them then. I'm not -- 7 Q. Do you know that Kent Plambeck 8 doesn't own these clinics anymore? 9 A. I don't. I don't have any 10 knowledge of who owns what. I just remember 11 hearing that some of the doctors may have -- 12 Q. Okay. So this says, "These are the 13 only Narrative Fees that get paid in addition to 14 Dr. Alex Frantzis with NorthCoast Rehab 15 (\$200.00)((NOT PLAMBECK)." 16 So does this mean that all the other 17 chiropractors listed here worked for 18 Plambeck-owned clinics -- 19 MR. MANNION: Huh? 20 Q. -- in this list here from Akron 21 Square down to Youngstown? 22 A. Yes. 23 Q. Okay. And then it says that -- 24 well, let me say this: Why are these the only 25 chiropractors that got paid narrative fees?</p> | <p style="text-align: right;">Page 296</p> <p>1 a law firm and I'm -- 2 A. Like the bill, isn't that for the 3 medical charges? I don't think it would be 4 common for any doctor to put a report fee on 5 the client's medical bill. They're two 6 separate things. One is a case expense. One 7 is the client's medical expense. 8 Q. Okay. So in a sense, the 9 chiropractor is serving as an expert witness of 10 some type. Is that what you're saying? 11 A. If they needed to be, sure. 12 Q. Okay. But these doctors all wrote 13 the narrative reports automatically, correct? 14 A. They wrote narrative reports, yes. 15 Q. And you knew that any time you sent 16 a client to one of these chiros, they were 17 going to write a narrative and that they were 18 going to get paid a narrative fee, correct? 19 MR. MANNION: Objection to, "Any." 20 But go ahead. 21 A. If they wrote a narrative report, 22 they got paid a narrative fee. 23 Q. Okay. Why were -- what's with the 24 different prices here? 25 A. I don't know. I don't know that.</p> |
| <p style="text-align: right;">Page 295</p> <p>1 A. They're not. 2 Q. Why does it say, "These are the 3 only Narrative Fees that get paid" -- 4 A. So these chiropractors regularly 5 wrote -- refer -- I'm sorry -- narrative 6 reports, so that's what this meant. There's 7 tons of other chiropractors and doctors that 8 wrote narrative reports that we paid for. 9 Q. Tons? 10 A. I mean, I guess let me rephrase. 11 There are other doctors and chiropractors that 12 wrote narrative reports that were paid for. 13 Q. And why would you write, "These are 14 the only Narrative Fees that get paid..."? 15 A. These are chiropractic offices that 16 regularly wrote narrative reports. 17 Q. Why would people need to know that? 18 A. Because they would get the 19 narrative report and they would forget to 20 request a check for it. 21 Q. But why wouldn't that just be 22 included in the chiro's bill? 23 A. I don't know. You'd have to ask 24 the chiropractor that. 25 Q. Well, if I'm a law firm or running</p> | <p style="text-align: right;">Page 297</p> <p>1 Q. Okay. And why was the payment made 2 to the doctor personally? 3 MR. MANNION: Wait. I think 4 you're referring to one specific doctor. 5 MR. PATTAKOS: Okay. I don't know. 6 It's hard to say. 7 Q. It says, "...to the doctor 8 personally (all doctors are in needles)." 9 A. That would be up to the doctor, who 10 the check is made payable to. That would be at 11 their request. 12 Q. Okay. Why does it matter that 13 Dr. Alex Frantzis is not Plambeck? 14 A. I don't know -- 15 Q. Why did you write that? 16 A. -- it doesn't. 17 Q. Why did you write that? 18 A. I don't remember. 19 Q. And you have no idea why you might 20 have written that? 21 A. No. 22 Q. Okay. 23 - - - - - 24 (Thereupon, Deposition Exhibit 33, 25 Updated Narrative and WD Procedure</p> |

75 (Pages 294 - 297)

CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

| | |
|--|---|
| <p style="text-align: right;">Page 298</p> <p>1 for Plambec Clinics and Referring 2 Physicians, Bates Number KNR03278, 3 was marked for purposes of 4 identification.) 5 - - - - - 6 MR. MANNION: This is not an email, 7 Rob. KNR03278, "Updated Narrative and WD 8 Procedure For Plambec Clinics and Referring 9 Physicians." 10 Is that 33? 11 MR. PATTAKOS: 33. 12 MR. MANNION: When you're done with 13 this one, let's take another break. 14 MR. PATTAKOS: Tom, I have a lot to 15 go on this subject, so if you want to take a 16 break in the middle of this particular subject 17 of narrative fees and Plambeck Clinics, I would 18 ask you to not confer with your client at the 19 break. 20 MR. MANNION: Well, first of all, 21 if there's no question pending, I can confer 22 with my client, but we've been going for a 23 while. I say when you're done with this 24 document, let's take a break. 25 MR. PATTAKOS: Well, I'm going to</p> | <p style="text-align: right;">Page 300</p> <p>1 MR. MANNION: I'm not going to tell 2 you one way or another. Quite frankly, you're 3 not entitled to know. If I feel like talking 4 to her, I'll talk to her. But we're going to 5 take a break about every hour or so, just like 6 you did with your clients. 7 MR. PATTAKOS: That's fine, Tom. If 8 you would have asked me not to confer with my 9 clients -- 10 MR. MANNION: Yeah, right. 11 MR. PATTAKOS: -- and had a good 12 reason for it, then I would have agreed. 13 MR. MANNION: Well, you have no 14 basis to ask me. Quite frankly I didn't even 15 confer with her. Last time we talked about the 16 timing that she needed for the personal matter 17 we've been talking about, but I'm not going to 18 agree. I have no idea if a question will come 19 up or if she'll have a question. 20 MR. PATTAKOS: Why would that 21 matter? 22 MR. MANNION: Well, can you show me 23 one case that says during just a regular 24 discovery deposition and there's no question 25 pending, on a break, I can't talk to my client?</p> |
| <p style="text-align: right;">Page 299</p> <p>1 ask you during that break -- you can take a 2 break -- I'm going to ask you not to confer 3 with your client in the middle of the subject 4 matter. If we were at trial, she would have to 5 sit on the stand and answer questions. You 6 would not be permitted to confer with her. So 7 I'm asking you to preserve the integrity of her 8 testimony about these documents, to not confer 9 with her during the break. Will you agree to 10 do that? 11 MR. MANNION: Peter, you talked 12 with your clients at breaks. 13 MR. PATTAKOS: Yeah, but we took 14 breaks at specific times. There was no -- 15 MR. MANNION: That's what we're 16 doing. It's been about an hour, since the last 17 break. 18 MR. PATTAKOS: My client's conduct 19 isn't at issue in this lawsuit. 20 MR. MANNION: Yeah, it is. 21 MR. PATTAKOS: No. 22 MR. MANNION: What are you talking 23 about? 24 MR. PATTAKOS: No. Okay. Tom, are 25 you going to agree to my request to not --</p> | <p style="text-align: right;">Page 301</p> <p>1 MR. PATTAKOS: That's fine, Tom. It 2 will just go into the record that you insisted 3 on consulting with your client in the middle of 4 this questioning about a particular subject. 5 MR. MANNION: I have no idea what 6 you're talking about. 7 MR. PATTAKOS: Okay, Tom. 8 MR. MANNION: I told you, if you 9 want to finish this email, then we'll take a 10 break. 11 MR. PATTAKOS: That's fine, Tom. I 12 made a request. If you're going to deny the 13 request, you can deny the request. 14 MR. MANNION: No, I'm not denying 15 the request. What I'm telling you is, you have 16 no right to know whether I talk with her or not 17 or what we talk about. 18 MR. PATTAKOS: Well, okay. We'll 19 see about that. Let's -- 20 MR. MANNION: The rules by Peter 21 Pattakos, get your copy now. 22 MR. PATTAKOS: Okay, Tom. 23 BY MR. PATTAKOS: 24 Q. So do you recognize this document? 25 A. No.</p> |

CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

| | |
|--|---|
| <p style="text-align: right;">Page 302</p> <p>1 Q. You've never seen it before?</p> <p>2 A. Not this particular document, no.</p> <p>3 Q. If I told you that KNR produced it</p> <p>4 to me as a page from the firm's handbook or</p> <p>5 training manual, do you have any reason to</p> <p>6 disagree with that?</p> <p>7 A. No.</p> <p>8 Q. Okay. It says here in the middle</p> <p>9 within the highlighted section, "No cases are</p> <p>10 to be submitted without the narratives. If you</p> <p>11 need assistance obtaining, please let Jenna</p> <p>12 know." "Jenna," is Jenna Wiley, correct?</p> <p>13 A. Correct.</p> <p>14 Q. And that's your direct report,</p> <p>15 correct?</p> <p>16 A. Correct.</p> <p>17 Q. Okay. So this here says, "Those</p> <p>18 high" -- well, it says, "Updated Narrative and</p> <p>19 WD Procedure for Plambec Clinics and Referring</p> <p>20 Physicians." Do you know why the firm would</p> <p>21 have a separate procedure, with respect to</p> <p>22 Plambeck Clinics as opposed to any other</p> <p>23 clinic?</p> <p>24 A. No.</p> <p>25 Q. You have no idea?</p> | <p style="text-align: right;">Page 304</p> <p>1 and at the bottom where it says in parentheses,</p> <p>2 "(Not Plambec)," correct?</p> <p>3 A. Well, at the top it's Plambeck. In</p> <p>4 the middle, there are other chiropractors that</p> <p>5 are not Plambeck. I'm assume -- I can't speak</p> <p>6 on behalf of Jenna, but maybe it was just</p> <p>7 easier for her to reference them this way.</p> <p>8 Q. Okay. And, "WD procedure," means</p> <p>9 withdrawal procedure?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. Do you know why narratives</p> <p>12 are not to be paid for minors 12 and under?</p> <p>13 A. I mean, sometimes we get narratives</p> <p>14 for minors. Oftentimes if they go to a</p> <p>15 chiropractor -- they don't often go to</p> <p>16 chiropractors. If they did, it would probably</p> <p>17 just be a few visits. If they actually treated</p> <p>18 more than that at the chiropractor, there would</p> <p>19 be a narrative on the case.</p> <p>20 Q. But why would it say, "NO</p> <p>21 NARRATIVES ARE TO BE PAID FOR MINORS 12 AND</p> <p>22 UNDER!"?</p> <p>23 A. Because probably more often than</p> <p>24 not, they either don't treat at a chiropractor</p> <p>25 or they would only go a few times, but if they</p> |
| <p style="text-align: right;">Page 303</p> <p>1 A. No --</p> <p>2 Q. Okay.</p> <p>3 A. -- it looks like there are tons of</p> <p>4 other doctors on here that aren't Plambeck</p> <p>5 Clinics, though.</p> <p>6 Q. Okay. Who's that?</p> <p>7 A. Dr. Chonko, Dr. Bhaiji,</p> <p>8 Dr. Ghoubril, Dr. Markarian.</p> <p>9 Q. Those aren't chiros, are they?</p> <p>10 A. No.</p> <p>11 Q. Those are referring physicians. So</p> <p>12 up at the top, it says, "...Plambec Clinics and</p> <p>13 Referring Physicians."</p> <p>14 A. Okay. Dr. Frantziz, Dr. Waldron,</p> <p>15 Accident Injury of Akron, Accident Care &</p> <p>16 Wellness, Columbus Injury, those are all</p> <p>17 chiropractors that are not Plambeck --</p> <p>18 Q. Right.</p> <p>19 A. -- Northcoast Rehab --</p> <p>20 Q. And above there, it says, "In</p> <p>21 addition to," and, "(Not Plambec)," so.</p> <p>22 A. -- so in my mind, these are all</p> <p>23 Plambeck Clinics and then these are the others.</p> <p>24 (Indicating.)</p> <p>25 Q. At the top is all Plambeck Clinics</p> | <p style="text-align: right;">Page 305</p> <p>1 did, then there would be a narrative --</p> <p>2 Q. Okay.</p> <p>3 A. -- there would be no point in</p> <p>4 requesting a report for \$150 or \$200, if</p> <p>5 there's only a couple hundred dollars in</p> <p>6 billing.</p> <p>7 Q. So this says, "Those highlighted</p> <p>8 are the only Narrative Fees that get paid</p> <p>9 automatically..." --</p> <p>10 MR. MANNION: You didn't finish.</p> <p>11 "To the doctor personally..." "...paid</p> <p>12 automatically...to the doctor personally." You</p> <p>13 didn't read it all.</p> <p>14 Q. -- "(all doctors are in Needles)."</p> <p>15 So you agree then that some narrative fees do</p> <p>16 get paid automatically?</p> <p>17 MR. MANNION: Objection.</p> <p>18 A. No --</p> <p>19 MR. MANNION: Objection. You</p> <p>20 didn't finish the sentence. "...to the doctor</p> <p>21 personally..." You can't pick and choose. You</p> <p>22 have to read the whole sentence.</p> <p>23 A. -- so we only paid for narratives,</p> <p>24 if we got a narrative report.</p> <p>25 Q. Right. Okay. And so we go back to</p> |

77 (Pages 302 - 305)

CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

| | |
|--|--|
| <p style="text-align: right;">Page 306</p> <p>1 this -- let's go back to Exhibit 33 where it 2 says, "...to the doctor personally..." 3 MR. MANNION: This is 33. 4 MR. PATTAKOS: The other one -- oh. 5 A. 32? 6 Q. Right. Let's go back to 32. You 7 would agree that this probably refers to -- 8 this is an instruction to pay the doctors 9 personally on all of these narrative fees, 10 correct? 11 A. So if the doctor requested that the 12 check be made payable to themselves for their 13 narrative reports, then we would pay it -- just 14 like any other expert, we would pay them 15 however they requested it -- 16 Q. Okay. 17 A. -- and I think she's referring to 18 these as, "Plambeck Clinics." It's difficult 19 to remember all of these doctors. 20 Q. What do you mean by that? 21 A. I mean, there's probably -- I don't 22 know -- fifty doctors on here, twenty, thirty, 23 forty, fifty. It's difficult to remember them 24 all, so. 25 Q. I mean, why would you distinguish</p> | <p style="text-align: right;">Page 308</p> <p>1 A. Right, yes. 2 MR. MANNION: Okay. 3 Q. How do you know that? 4 A. Because she created the manual. 5 And I told you I didn't write this. 6 Q. When I first asked you if you knew 7 what this document was, you said you didn't 8 know what it was. 9 A. I said that I had never seen this. 10 Jenna created the training manual. 11 Q. Okay. So this is a page in the 12 training manual that -- 13 MR. MANNION: You told her that, 14 Peter. 15 A. You told me that it was in the 16 manual. 17 MR. MANNION: Jesus. 18 Q. And you're agreeing that it is now 19 and you're remembering that Jenna wrote this? 20 MR. MANNION: Wait, wait. You 21 asked her to assume it was in the manual. With 22 that assumption, she's telling you Jenna wrote 23 it. Please stop twisting things. 24 Q. So if this is in the manual, then 25 Jenna wrote it?</p> |
| <p style="text-align: right;">Page 307</p> <p>1 between Plambeck Clinics and not Plambeck 2 Clinics? 3 MR. MANNION: Well, I'm going to 4 object. She said this wasn't her document. 5 But go ahead. 6 You mean, why would this person 7 distinguish? 8 Q. Whoever wrote this training manual. 9 A. I can't speak on Jenna's behalf, 10 but -- 11 Q. You don't know that Jenna wrote 12 this. 13 MR. MANNION: Which one are you 14 referring to now? 15 MR. PATTAKOS: This document, 16 Exhibit 33. 17 MR. MANNION: Okay. Look, she was 18 looking at a different document at the time. 19 MR. PATTAKOS: Okay. 20 A. I do know that Jenna wrote this. 21 MR. MANNION: See, you're referring 22 to different documents, I think. 23 BY MR. PATTAKOS: 24 Q. You do know that Jenna wrote 25 Exhibit 33?</p> | <p style="text-align: right;">Page 309</p> <p>1 A. Yes. 2 Q. Okay. So you're saying that where 3 this document says, "Those highlighted are the 4 only Narrative Fees that get paid 5 automatically..." that that means -- 6 MR. MANNION: Wait a minute. You 7 have to read -- 8 MR. PATTAKOS: Stop testifying for 9 the witness. 10 MR. MANNION: No. You have to read 11 the entire sentence. You are not allowed -- 12 MR. PATTAKOS: I am asking her about 13 a particular part of this document. 14 MR. MANNION: No. You have to read 15 the whole sentence. 16 MR. PATTAKOS: Tom, stop 17 interrupting me. 18 MR. MANNION: That is crazy. You 19 are not allowed to read part of a sentence and 20 mislead a witness. That's not proper. 21 BY MR. PATTAKOS: 22 Q. So it's your testimony -- or your 23 lawyer's testimony -- 24 MR. MANNION: Stop it, stop it -- 25 Q. -- it's frankly hard to tell the</p> |

78 (Pages 306 - 309)

CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

| | |
|---|---|
| <p style="text-align: right;">Page 310</p> <p>1 difference at this point --</p> <p>2 MR. MANNION: -- stop it, stop it.</p> <p>3 Q. -- but is it your testimony that</p> <p>4 the word, "Automatically," modifies whether the</p> <p>5 doctor gets paid personally as opposed to</p> <p>6 simply the fee getting paid automatically? Is</p> <p>7 that what you're saying?</p> <p>8 MR. MANNION: Thank you.</p> <p>9 A. No.</p> <p>10 Q. No.</p> <p>11 A. I read this to say that these</p> <p>12 doctors regularly do narrative reports. So if</p> <p>13 you have a client that treated there, you're</p> <p>14 going to likely get a narrative, so you should</p> <p>15 pay that bill.</p> <p>16 Q. Automatically?</p> <p>17 A. Not automatically. It says on here</p> <p>18 that minors are a, no. If someone only goes</p> <p>19 there like a couple of times, they're not going</p> <p>20 to write a report. These doctors write</p> <p>21 reports. If they write a report, then we pay</p> <p>22 the fee.</p> <p>23 Q. So are there doctors who write</p> <p>24 reports then for which you don't pay a</p> <p>25 narrative fee?</p> | <p style="text-align: right;">Page 312</p> <p>1 Q. So every time a client treats with</p> <p>2 one of these doctors, the cases will have to be</p> <p>3 submitted with a narrative, according to this</p> <p>4 manual, correct?</p> <p>5 MR. MANNION: Objection.</p> <p>6 A. Well, this isn't a manual. And I</p> <p>7 just pointed out that if the clients only treat</p> <p>8 a couple of times, then the doctors don't</p> <p>9 all -- they don't always write a narrative --</p> <p>10 Q. Okay.</p> <p>11 A. -- there could be reasons why they</p> <p>12 didn't.</p> <p>13 Q. Okay. She writes -- whoever wrote</p> <p>14 this writes, "Any doctor that we regularly work</p> <p>15 with and/or have a lien on file with MUST be</p> <p>16 notified when we withdraw and note the file</p> <p>17 with a fax confirmation or copy of the email."</p> <p>18 Am I reading that correctly?</p> <p>19 A. Yes.</p> <p>20 Q. Why would that apply just to</p> <p>21 doctors that you regularly work with as opposed</p> <p>22 to any doctor?</p> <p>23 A. I think it probably does apply to</p> <p>24 any doctor.</p> <p>25 Q. But why doesn't it say so?</p> |
| <p style="text-align: right;">Page 311</p> <p>1 A. Not that I'm aware of.</p> <p>2 Q. So why the specific instruction?</p> <p>3 MR. MANNION: Please ask Jenna.</p> <p>4 A. This I actually told you --</p> <p>5 sorry -- that they would forget to request the</p> <p>6 check on it, so that's why she's reminding them</p> <p>7 of this.</p> <p>8 Q. Okay. The attorneys would forget</p> <p>9 to request a check?</p> <p>10 A. The paralegals actually physically</p> <p>11 request the check.</p> <p>12 Q. Okay. So -- and you have no idea</p> <p>13 why these prices are different, why some</p> <p>14 doctors get 200 and some get 150?</p> <p>15 A. I would have to say that the</p> <p>16 doctor -- that's the price that they charge for</p> <p>17 their time and their -- to write the report.</p> <p>18 Q. You see that it says here, "No</p> <p>19 cases are to be submitted without narratives,"</p> <p>20 right?</p> <p>21 A. Where does it say that?</p> <p>22 Q. Here in the black highlighted</p> <p>23 portion.</p> <p>24 A. "If you need assistance obtaining,</p> <p>25 please let Jenna know." Okay.</p> | <p style="text-align: right;">Page 313</p> <p>1 A. I mean, we don't have time to call</p> <p>2 every single doctor that every single one of</p> <p>3 our clients ever treated with. So if there's a</p> <p>4 lien on file, we try to notify them.</p> <p>5 Q. Okay. Did you ever discipline</p> <p>6 Jenna for writing this document?</p> <p>7 A. No.</p> <p>8 Q. Are you aware that anyone was ever</p> <p>9 criticized for creating this document?</p> <p>10 A. No.</p> <p>11 MR. PATTAKOS: Okay. We can take a</p> <p>12 break.</p> <p>13 VIDEOGRAPHER: Off the record 5:24.</p> <p>14 (Record was read.)</p> <p>15 VIDEOGRAPHER: Back on the record</p> <p>16 5:32.</p> <p>17 MR. PATTAKOS: So just to be clear,</p> <p>18 we're going to go for another half hour --</p> <p>19 MR. MANNION: Yeah.</p> <p>20 MR. PATTAKOS: -- and then we'll</p> <p>21 resume tomorrow at 9 a.m.</p> <p>22 MR. MANNION: Sounds good.</p> <p>23 MR. PATTAKOS: Okay.</p> <p>24 - - - - -</p> <p>25 (Thereupon, Deposition Exhibit 34,</p> |

79 (Pages 310 - 313)

CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

| | |
|---|---|
| <p style="text-align: right;">Page 350</p> <p>1 send the narrative checks to the chiropractors 2 that give us narratives"?</p> <p>3 MR. MANNION: Objection. Asked and 4 answered multiple times.</p> <p>5 Go ahead.</p> <p>6 A. I don't remember why I sent this 7 email.</p> <p>8 Q. Okay. So you have testified and a 9 lot of these documents reflect that the firm 10 would call the chiropractors to schedule the 11 appointments, call the chiropractor's offices 12 to schedule the appointments for the client, 13 correct?</p> <p>14 MR. MANNION: Objection to form. 15 Go ahead.</p> <p>16 A. Actually, I testified that there 17 were times that I would tell the doctors about 18 the appointment and they would call the clients 19 to schedule it. There are emails that state 20 that the attorneys were scheduling the 21 appoint -- I mean, it was -- the scheduling was 22 done different ways at different times.</p> <p>23 Q. I mean, was it -- do you mean that 24 the policy changed over the years or do you 25 just mean there was never any policy and it</p> | <p style="text-align: right;">Page 352</p> <p>1 is what I'm trying to say.</p> <p>2 Q. Are you saying there was never any 3 set way to do that or are you saying that there 4 at one time was a set way to do that and the 5 firm changed its practices?</p> <p>6 MR. MANNION: Objection to form. 7 Go ahead.</p> <p>8 A. So there was never a specific 9 policy or practice. We tried a variety of 10 different things back then. And then now 11 today, it's -- it's still the same, whatever is 12 easier and works best.</p> <p>13 Q. Okay. Well, let's take a look at 14 Exhibit 45.</p> <p>15 - - - - -</p> <p>16 (Thereupon, Deposition Exhibit 45, 17 3/12/2013 Email To Prelit Attorney 18 From Brandy Lamtman, Bates Number 19 Williams000442, was marked for 20 purposes of identification.)</p> <p>21 - - - - -</p> <p>22 MR. MANNION: March 12, 2013. 23 BY MR. PATTAKOS:</p> <p>24 Q. Okay. This is an email from you on 25 March 12, 2013, to prelit attorneys copying</p> |
| <p style="text-align: right;">Page 351</p> <p>1 just happened in random ways at different times 2 depending on the case?</p> <p>3 A. So it wasn't a policy, how the 4 appointments got scheduled. There never was a 5 policy on that --</p> <p>6 Q. Okay.</p> <p>7 A. -- the clients could schedule their 8 own appointments with the doctor. The doctor 9 could call the client and schedule the 10 appointment. The attorneys could call the 11 chiropractor and schedule the appointment. It 12 could happen a variety of ways.</p> <p>13 Q. And the firm didn't have any policy 14 or preference?</p> <p>15 A. We tried it different ways to kind 16 of see what worked and what worked better -- 17 really I guess at the end of the day, it 18 depended on what was in the best interest of 19 the client. If the client preferred to 20 schedule their own appointment, they would do 21 that. If it was easier to have the 22 chiropractor call or the attorney could call 23 based on, you know, their time limitations or 24 what the attorneys preference was. So there 25 was -- there was no set way to do that, I guess</p> | <p style="text-align: right;">Page 353</p> <p>1 Mr. Nestico where you write, "PLEASE," in all 2 capitals, "make sure you are calling the chiro 3 and scheduling the appointment. This has been 4 discussed before." How do you explain this -- 5 let me ask you first: Did you send this email?</p> <p>6 A. Yes.</p> <p>7 Q. So how do you explain this email, 8 in light of your testimony that there was never 9 a firm policy to call the chiropractors for the 10 clients?</p> <p>11 MR. MANNION: Objection to form. 12 Go ahead.</p> <p>13 A. Okay. So I'm asking them to call 14 the chiropractor and schedule the appointment. 15 I didn't say in here, "It's firm policy that 16 you call the chiropractor and schedule the 17 appointment." This is something that at that 18 time we were trying out that way of doing 19 things. And actually, I can tell you that 20 didn't really work out so well. The attorneys 21 didn't have time to schedule all of those 22 appointments.</p> <p>23 Q. So you're saying that you're asking 24 them to call the chiropractors here --</p> <p>25 A. Yes.</p> |

CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

| | |
|---|---|
| <p style="text-align: right;">Page 354</p> <p>1 Q. -- and not telling them to do so?</p> <p>2 A. Correct.</p> <p>3 Q. So when you write, "PLEASE make</p> <p>4 sure you are calling the chiro and scheduling</p> <p>5 the appointment," period, you were not giving a</p> <p>6 command there?</p> <p>7 MR. MANNION: Objection. That's</p> <p>8 ridiculous, Peter.</p> <p>9 Go ahead.</p> <p>10 A. Yeah, I don't read that as me</p> <p>11 giving a command.</p> <p>12 Q. Okay.</p> <p>13 MR. MANNION: These are lawyers</p> <p>14 she's talking to, Peter.</p> <p>15 Q. "This has been discussed before."</p> <p>16 What were these discussions?</p> <p>17 A. I don't remember the specific</p> <p>18 discussions. It was five years ago.</p> <p>19 MR. MANNION: Six and a half, five</p> <p>20 and a half.</p> <p>21 THE WITNESS: Right.</p> <p>22 MR. PATTAKOS: Okay.</p> <p>23 MR. MANNION: Move to strike the</p> <p>24 extraneous comments.</p> <p>25 BY MR. PATTAKOS:</p> | <p style="text-align: right;">Page 356</p> <p>1 MR. PATTAKOS: Tom, the Court --</p> <p>2 MR. MANNION: -- because that's</p> <p>3 what you've been doing --</p> <p>4 MR. PATTAKOS: -- is going to</p> <p>5 strike all of this from the record. The jury</p> <p>6 isn't going to see any of this. They're just</p> <p>7 going to see --</p> <p>8 MR. MANNION: I'm not talking to</p> <p>9 the jury. I'm trying to have you act</p> <p>10 professional with the witness.</p> <p>11 MR. PATTAKOS: Unless where we see</p> <p>12 that you are obviously trying to coach the</p> <p>13 witness and testify for her --</p> <p>14 MR. MANNION: Oh, my lord.</p> <p>15 MR. PATTAKOS: -- you know, then</p> <p>16 the jury will see that.</p> <p>17 MR. MANNION: Okay. All right.</p> <p>18 Okay, Peter. I'm sorry. The rules by Peter.</p> <p>19 Can you get me a copy of that rule book?</p> <p>20 BY MR. PATTAKOS:</p> <p>21 Q. So, Ms. Gobrogge, are you in this</p> <p>22 email referring to every case that comes into</p> <p>23 the firm? Are you instructing the attorneys to</p> <p>24 call a chiropractor and schedule the</p> <p>25 appointment?</p> |
| <p style="text-align: right;">Page 355</p> <p>1 Q. So on this document where you say,</p> <p>2 "PLEASE make sure you are calling the chiro and</p> <p>3 scheduling the appointment," this is for every</p> <p>4 referral, right --</p> <p>5 MR. MANNION: Objection.</p> <p>6 Q. -- this is for every case, right?</p> <p>7 MR. MANNION: Objection. Look at</p> <p>8 the subject. Stop it.</p> <p>9 MR. PATTAKOS: Stop testifying.</p> <p>10 MR. MANNION: No. You stop it.</p> <p>11 You're twisting things that you know aren't</p> <p>12 true and you're doing it on purpose. You can</p> <p>13 laugh all you want. What you're doing is a lie</p> <p>14 and you know it's a lie.</p> <p>15 MR. PATTAKOS: Tom, what you're</p> <p>16 doing is pathetic --</p> <p>17 MR. MANNION: No. It says,</p> <p>18 "Subject: Chiropractor Referrals" --</p> <p>19 MR. PATTAKOS: -- and</p> <p>20 unprofessional --</p> <p>21 MR. MANNION: -- and you've now</p> <p>22 turned it into every case.</p> <p>23 MR. PATTAKOS: You should stop.</p> <p>24 MR. MANNION: You should stop</p> <p>25 lying.</p> | <p style="text-align: right;">Page 357</p> <p>1 A. No. It doesn't say, "Every case in</p> <p>2 the firm."</p> <p>3 Q. Okay. So what's the qualifier</p> <p>4 here? What cases do you do this on, if it's</p> <p>5 just a certain set, if not every case?</p> <p>6 A. This is only for clients who needed</p> <p>7 a chiropractor referral --</p> <p>8 Q. Okay.</p> <p>9 A. -- and only for times that the</p> <p>10 client didn't schedule their own appointment or</p> <p>11 that the doctor didn't call them to schedule</p> <p>12 it.</p> <p>13 Q. Okay.</p> <p>14 MR. MANNION: He's basically</p> <p>15 trying to trick you, is what he's trying to do.</p> <p>16 MR. PATTAKOS: Tom, please, this is</p> <p>17 completely inappropriate for you to speak.</p> <p>18 MR. MANNION: So is your question.</p> <p>19 So is your question.</p> <p>20 MR. PATTAKOS: Tom, I know you</p> <p>21 don't like what these documents show --</p> <p>22 MR. MANNION: No. (Inaudible) --</p> <p>23 MR. PATTAKOS: -- I wouldn't like</p> <p>24 them either, if I had acted like you throughout</p> <p>25 the course of this litigation.</p> |

7 (Pages 354 - 357)

CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

| | |
|---|--|
| <p style="text-align: right;">Page 362</p> <p>1 the firm only -- I'm sorry. Strike that. You 2 just testified the firm does not direct its 3 clients to treat with chiropractors, but isn't 4 that exactly what's going on in this email? 5 MR. MANNION: Objection. It 6 completely mischaracterizes the testimony. 7 Stop doing that. 8 MR. PATTAKOS: Tom, stop -- 9 MR. MANNION: No. You stop it. 10 MR. PATTAKOS: -- your speaking 11 objections. 12 MR. MANNION: No. You're saying 13 for the record that she testified to something 14 that didn't happen. Ask her a question about 15 the document. Don't try to paraphrase her 16 testimony. 17 BY MR. PATTAKOS: 18 Q. Well, are you not saying in this 19 email that for every intake that comes in, the 20 attorneys or prelit support employees are 21 supposed to call the chiropractor's office and 22 set up an appointment with the client and that 23 it is imperative that this gets done? Are you 24 not saying that the firm should make an 25 appointment for every single intake with a</p> | <p style="text-align: right;">Page 364</p> <p>1 Q. But what if the client doesn't want 2 chiropractic treatment? 3 A. Well, then they wouldn't be 4 referred to a chiropractor. 5 Q. Okay. 6 - - - - - 7 (Thereupon, Deposition Exhibit 47, 8 3/26/2013 Email To Attorneys From 9 Brandy Lamtman, Bates Number 10 Williams000441, was marked for 11 purposes of identification.) 12 - - - - - 13 MR. NESTICO: Date, Tom? 14 MR. MANNION: Oh, I apologize. 15 March 26, 2013. 16 Q. Okay. So this is an email from you 17 to all KNR attorneys dated March 26, 2013, with 18 the subject heading, "Intakes." Did you send 19 this email? 20 A. Yes. 21 Q. Okay. In this email, you write, 22 "If you do an intake and the person already has 23 an appointment with a chiropractor we do not 24 work with, either pull it and send to one of 25 our doctors or call the chiropractor directly.</p> |
| <p style="text-align: right;">Page 363</p> <p>1 chiropractor? 2 A. I didn't say, "Every single," on 3 here at all. 4 Q. So what are you qualifying here? 5 Where's the qualification? 6 A. I said, "Please put the intake on 7 hold and call the chiropractor's office." So 8 that means intake, not every single intake. 9 Q. Well, which ones? 10 A. The clients that needed a referral 11 to the chiropractor. They needed a doctor. 12 MR. MANNION: Perhaps you could 13 look at the subject line, Peter. 14 Q. When you say at the bottom, 15 "Paralegals, when you do your first phone call 16 with the client after the case gets opened, 17 make sure the client went to see the 18 chiropractor," why did you write that? 19 A. Because clients don't realize that 20 the insurance company is going to use it 21 against them, if they're not consistently going 22 to the doctor and documenting their injuries. 23 So they may think it's okay to wait a week or 24 two, but then the insurance company is going to 25 turn around and use that against them.</p> | <p style="text-align: right;">Page 365</p> <p>1 You MUST do this on all intakes, otherwise the 2 chiropractor will pull and send to one of their 3 attorneys," exclamation mark. 4 What does it mean to say, "Pull it"? 5 A. That would mean that they would 6 send the client to a different attorney. 7 Q. When you are instructing the 8 attorneys to, "Pull it," here -- 9 A. No. I didn't tell the attorneys to 10 pull anything. I asked the attorneys to call 11 the doctor or send it to another doctor, but I 12 gave -- there's an option there to either call 13 that specific chiropractor. But it's better 14 for our clients to work with a doctor that we 15 know than a doctor that we don't know. 16 Q. Well, you write here, "If you do an 17 intake and the person already has an 18 appointment with a chiropractor we do not work 19 with, either pull it and send to one of our 20 doctors or call the chiropractor directly." 21 What does, "Pull" -- I'm asking what you mean 22 by, "Pull it," here. 23 A. So I'm sorry. When you asked me 24 the question the first time, I was reading it 25 and the last -- the doctor would pull it and</p> |

CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

| | |
|--|--|
| <p style="text-align: right;">Page 366</p> <p>1 send to one of their attorneys --</p> <p>2 Q. Okay.</p> <p>3 A. -- so either, "Pull it," means</p> <p>4 refer it to another doctor or call this other</p> <p>5 chiropractor.</p> <p>6 Q. What would you call the other</p> <p>7 chiropractor for?</p> <p>8 A. To let them know that we're</p> <p>9 representing the client and to make sure that</p> <p>10 they would sign a lien or they would wait to</p> <p>11 get paid until the case is settled; that they</p> <p>12 were okay with our firm representing them; they</p> <p>13 were okay with being involved in a potential</p> <p>14 lawsuit; that they would be open to negotiate</p> <p>15 their bill, if we needed that; that if the</p> <p>16 client needed transportation, they had that</p> <p>17 available. I mean, it could have been a</p> <p>18 variety of different thing.</p> <p>19 Q. What's this last part of this</p> <p>20 sentence, "...otherwise" -- the last part of</p> <p>21 the last sentence, you say, "You MUST do this</p> <p>22 on all intakes, otherwise the chiropractor will</p> <p>23 pull and send to one of their attorneys!" --</p> <p>24 MR. MANNION: Objection. Asked and</p> <p>25 answered.</p> | <p style="text-align: right;">Page 368</p> <p>1 mean by that?</p> <p>2 A. An attorney that they work with or</p> <p>3 that they may refer cases to.</p> <p>4 Q. So you're recognizing here that</p> <p>5 it's common for attorneys to have relationships</p> <p>6 with chiropractors, correct?</p> <p>7 MR. MANNION: Objection. That's</p> <p>8 not what she said.</p> <p>9 A. That's not what I said.</p> <p>10 Q. Well, then what do you mean then?</p> <p>11 MR. MANNION: She explained it</p> <p>12 already.</p> <p>13 MR. PATTAKOS: Tom.</p> <p>14 A. I just said, the chiropractors may</p> <p>15 have attorneys that they prefer to work with.</p> <p>16 Q. Okay. Okay. So you would refer</p> <p>17 clients to chiropractors, even if they already</p> <p>18 had their own doctor, correct?</p> <p>19 MR. MANNION: I'm going to object.</p> <p>20 Do you mean her --</p> <p>21 MR. PATTAKOS: The firm.</p> <p>22 MR. MANNION: -- or KNR? Okay.</p> <p>23 A. I'm sorry. What was the question?</p> <p>24 Q. The firm would refer clients to</p> <p>25 chiropractors, as a matter of policy, even when</p> |
| <p style="text-align: right;">Page 367</p> <p>1 Go ahead.</p> <p>2 Q. -- why are you concerned with that?</p> <p>3 A. Well, the client called us to</p> <p>4 represent them, so I wouldn't want the</p> <p>5 chiropractor to send it to another law firm --</p> <p>6 Q. Okay.</p> <p>7 A. -- that may not even be in the best</p> <p>8 interest of our client.</p> <p>9 Q. But you don't really know, do you?</p> <p>10 A. Well, no. I don't have a crystal</p> <p>11 ball.</p> <p>12 Q. Well, I mean, what if the</p> <p>13 attorneys -- or what if the client trusts that</p> <p>14 chiropractor and wants to go to another</p> <p>15 attorney?</p> <p>16 A. Then that would be up to the</p> <p>17 client.</p> <p>18 Q. Okay. Do chiropractors have</p> <p>19 attorneys?</p> <p>20 MR. MANNION: Objection to form.</p> <p>21 A. I mean, I wouldn't say they have</p> <p>22 attorneys.</p> <p>23 Q. Well, you said it here. You said,</p> <p>24 "...otherwise the chiropractor will pull and</p> <p>25 send to one of their attorneys!" What do you</p> | <p style="text-align: right;">Page 369</p> <p>1 the clients already had a doctor, correct?</p> <p>2 MR. MANNION: Objection, form.</p> <p>3 Go ahead.</p> <p>4 A. No, there is not a policy for that.</p> <p>5 Q. Okay. Let's look at Exhibit 48.</p> <p>6 - - - - -</p> <p>7 (Thereupon, Deposition Exhibit 48,</p> <p>8 5/1/2013 Email To Prelit Attorney</p> <p>9 From Brandy Lamtman, Bates Number</p> <p>10 Williams000164, was marked for</p> <p>11 purposes of identification.)</p> <p>12 - - - - -</p> <p>13 MR. MANNION: May 1, 2013.</p> <p>14 THE NOTARY: I'm sorry. I have</p> <p>15 to mark it. (Indicating.)</p> <p>16 THE WITNESS: Oh, sorry.</p> <p>17 (Handing.)</p> <p>18 MR. MANNION: Did I give you the</p> <p>19 date already? "Subject: Chiro Referrals,"</p> <p>20 date, May 1, 2013. Sorry, if I didn't.</p> <p>21 MR. NESTICO: Yes.</p> <p>22 BY MR. PATTAKOS:</p> <p>23 Q. So this is an email from you to all</p> <p>24 prelit attorneys copying Rob Nestico dated</p> <p>25 May 1, 2013, correct?</p> |

10 (Pages 366 - 369)

CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

| | |
|--|--|
| <p style="text-align: right;">Page 370</p> <p>1 A. Yes.</p> <p>2 Q. And did you send this email?</p> <p>3 A. Yes.</p> <p>4 Q. And you write, "This happens</p> <p>5 frequently so we wanted to address this with</p> <p>6 all of you. When doing an intake, just bc they</p> <p>7 tell you they are treating with pcp, doesn't</p> <p>8 mean you shouldn't refer to a chiro."</p> <p>9 "PCP" means primary care physician,</p> <p>10 correct?</p> <p>11 A. Yes.</p> <p>12 Q. You then say, "Always refer to a</p> <p>13 chiro bc they can do both."</p> <p>14 "This is especially an issue in</p> <p>15 Youngstown." Am I reading that correctly?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. When you say, "We," who are</p> <p>18 you referring to here? Where you say, "...we</p> <p>19 wanted to address this with all of you"?</p> <p>20 A. I don't know what I meant by, "We."</p> <p>21 Q. Do you think you meant you and Rob,</p> <p>22 since Rob is copied here?</p> <p>23 MR. MANNION: Objection. Asked</p> <p>24 and answered.</p> <p>25 A. Not necessarily.</p> | <p style="text-align: right;">Page 372</p> <p>1 Q. What I did you make this</p> <p>2 suggestion?</p> <p>3 A. Well, I don't remember sending this</p> <p>4 email specifically. I can infer that I was</p> <p>5 making a statement that they could treat with</p> <p>6 their family doctor and have chiropractic care</p> <p>7 at the same time.</p> <p>8 Q. And why is it so important for you</p> <p>9 to send the clients -- for the firm to send the</p> <p>10 clients to a chiropractor, even when they</p> <p>11 already -- even when the clients already tell</p> <p>12 you that they're treating with a doctor?</p> <p>13 MR. MANNION: Objection to form.</p> <p>14 Go ahead.</p> <p>15 A. Well, I wouldn't say that it's so</p> <p>16 important to me.</p> <p>17 Q. Well, why did you write,</p> <p>18 "Always..."? And why did you write, "This</p> <p>19 happens frequently..."? And that this is an</p> <p>20 issue you?</p> <p>21 MR. MANNION: Objection to form.</p> <p>22 Go ahead.</p> <p>23 A. I stated a minute ago that I don't</p> <p>24 specifically remember sending this email.</p> <p>25 Q. Wouldn't the client's doctor be in</p> |
| <p style="text-align: right;">Page 371</p> <p>1 Q. Okay. So when you write, "Always</p> <p>2 refer to a Chiro," even when they tell you they</p> <p>3 are treating with a primary care physician --</p> <p>4 MR. MANNION: Objection. You just</p> <p>5 misread that.</p> <p>6 Q. -- when you write that --</p> <p>7 MR. MANNION: Objection. You</p> <p>8 misread that.</p> <p>9 MR. PATTAKOS: Tom, your objection</p> <p>10 is noted for the record.</p> <p>11 Q. -- when you write, "Always refer to</p> <p>12 a Chiro," and you write that in the sentence</p> <p>13 after, you say to do this even when, "...they</p> <p>14 tell you they are treating with," a primary</p> <p>15 care physician, are you telling me that you are</p> <p>16 not communicating a firm policy by writing</p> <p>17 that?</p> <p>18 A. I am not communicating a firm</p> <p>19 policy by writing that.</p> <p>20 Q. And you're not communicating an</p> <p>21 instruction or a command there either?</p> <p>22 A. No.</p> <p>23 Q. It's just a suggestion. Is that</p> <p>24 your testimony?</p> <p>25 A. Yes.</p> | <p style="text-align: right;">Page 373</p> <p>1 a better position to know whether the client</p> <p>2 would benefit from chiropractic care?</p> <p>3 MR. MANNION: Objection. She</p> <p>4 didn't say otherwise.</p> <p>5 Go ahead.</p> <p>6 A. Yeah, I can't speak on behalf of</p> <p>7 the doctor. Maybe the doctor did refer them to</p> <p>8 chiropractic or physical therapy.</p> <p>9 Q. So why would the firm play any role</p> <p>10 there at all, if the client already has their</p> <p>11 doctor?</p> <p>12 MR. MANNION: Objection to form.</p> <p>13 Go ahead.</p> <p>14 A. Often it takes a while to get in</p> <p>15 with their family doctor --</p> <p>16 Q. Okay.</p> <p>17 A. -- I don't know -- I can't say that</p> <p>18 that's exactly why, but I know that's a common</p> <p>19 issue.</p> <p>20 Q. So you write, "This happens</p> <p>21 frequently..." What did you mean by that?</p> <p>22 What happens frequently?</p> <p>23 A. I don't know. I don't remember</p> <p>24 sending this email, so I don't remember the</p> <p>25 exact context --</p> |

11 (Pages 370 - 373)

CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

| | |
|--|--|
| <p style="text-align: right;">Page 378</p> <p>1 But go ahead.</p> <p>2 A. I know you have this idea in your</p> <p>3 head that there's some kind of policy, but</p> <p>4 there's not.</p> <p>5 Q. Okay. Okay. What is a red bag</p> <p>6 referral?</p> <p>7 A. A red bag is our mailer. It's a</p> <p>8 marketing piece that goes inside of a red bag;</p> <p>9 and instead of being mailed to a client's</p> <p>10 house, it's hand delivered.</p> <p>11 Q. What else do you remember about the</p> <p>12 red bags?</p> <p>13 MR. MANNION: Objection to form.</p> <p>14 Go ahead.</p> <p>15 A. What does that mean?</p> <p>16 Q. What else do you remember about</p> <p>17 them?</p> <p>18 MR. MANNION: Objection to form.</p> <p>19 Go ahead.</p> <p>20 A. They're a marketing piece that goes</p> <p>21 inside a red bag that's hand delivered. I</p> <p>22 mean, there's --</p> <p>23 Q. Didn't the firm make referrals</p> <p>24 based on whether the client came in through a</p> <p>25 red bag or not?</p> | <p style="text-align: right;">Page 380</p> <p>1 don't know what you're saying --</p> <p>2 Q. So you don't --</p> <p>3 A. -- I don't know the context around</p> <p>4 what you're asking.</p> <p>5 Q. Okay. But right now, without</p> <p>6 looking at an email, you can't tell me what a</p> <p>7 delivery referral is?</p> <p>8 MR. MANNION: Objection. Asked and</p> <p>9 answered.</p> <p>10 A. Correct.</p> <p>11 Q. Okay. So it's your testimony that</p> <p>12 you don't remember any policy that the firm had</p> <p>13 regarding sending red bag referrals to</p> <p>14 particular chiropractors?</p> <p>15 MR. MANNION: Objection to form.</p> <p>16 Go ahead.</p> <p>17 A. There was never a policy for that.</p> <p>18 Q. Okay. Let's take a look at</p> <p>19 Exhibit 50.</p> <p>20 - - - - -</p> <p>21 (Thereupon, Deposition Exhibit 50,</p> <p>22 6/4/2013 Email To Intake And</p> <p>23 Attorneys From Holly Tusko, Bates</p> <p>24 Number Williams000310, was marked</p> <p>25 for purposes of identification.)</p> |
| <p style="text-align: right;">Page 379</p> <p>1 A. Maybe at one point in time.</p> <p>2 Q. Okay. So you do remember that that</p> <p>3 is the case?</p> <p>4 MR. MANNION: Objection to form.</p> <p>5 Go ahead.</p> <p>6 A. I remember re -- sorry -- reviewing</p> <p>7 emails that said that. I don't remember that</p> <p>8 actually happening. It was a long time ago.</p> <p>9 Q. And you don't have any idea as to</p> <p>10 why, if a client came in on a red bag referral,</p> <p>11 that they would be sent to a particular</p> <p>12 chiropractor?</p> <p>13 A. I do not.</p> <p>14 Q. What is a delivery referral? Is</p> <p>15 that the same thing as a red bag referral?</p> <p>16 A. I don't know what a delivery</p> <p>17 referral is.</p> <p>18 Q. Well, the email refers to, "Red bag</p> <p>19 referrals," and, "Delivery referrals," and I'm</p> <p>20 wondering if those are the same thing or if</p> <p>21 they are two different things.</p> <p>22 MR. MANNION: Objection. Asked and</p> <p>23 answered.</p> <p>24 Go ahead.</p> <p>25 A. Could you show me an email? I</p> | <p style="text-align: right;">Page 381</p> <p>1 - - - - -</p> <p>2 MR. MANNION: June 4, 2013.</p> <p>3 Q. So this is an email that Holly</p> <p>4 Tusko sent to all intake employees, all</p> <p>5 attorneys as well as copying you and</p> <p>6 Mr. Nestico with the subject, "Referrals," and</p> <p>7 the importance level marked high. Did you</p> <p>8 receive this email from Holly Tusko?</p> <p>9 A. I mean, it says she sent it to me.</p> <p>10 I don't remember specifically receiving it.</p> <p>11 Q. Okay. And Holly writes, "I CANNOT</p> <p>12 express enough the importance of making sure</p> <p>13 that the referred by's are correct (regardless</p> <p>14 if it's chiros, directs, etc). I have been</p> <p>15 having to chase these down daily and correct A</p> <p>16 LOT of them."</p> <p>17 "If they received a direct mail YOU MUST</p> <p>18 ASK," and she writes, "You must ask," in all</p> <p>19 capital letters, underlined -- "if they</p> <p>20 received a red bag on their door or if they</p> <p>21 received a mailer in their mailbox. They all</p> <p>22 have DVD's, magnets, etc so you MUST" -- again,</p> <p>23 "Must," in all capitals -- "specify red bag or</p> <p>24 in the mailbox. There is a difference" --</p> <p>25 MR. MANNION: Is there a question?</p> |

13 (Pages 378 - 381)

CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

| | |
|---|--|
| <p style="text-align: right;">Page 382</p> <p>1 Q. -- am I reading that correctly?</p> <p>2 A. Yes.</p> <p>3 Q. Why would Holly Tusko have sent</p> <p>4 this email requiring intakes and attorneys to</p> <p>5 specify whether an intake came in through a red</p> <p>6 bag on their door or a mailer in their mailbox?</p> <p>7 MR. MANNION: Objection to form.</p> <p>8 Go ahead.</p> <p>9 A. Cost.</p> <p>10 Q. Cost. Okay. Explain that.</p> <p>11 A. Red bags are expensive. They have</p> <p>12 to be hand delivered versus mailed through the</p> <p>13 post office. So the postage could be anywhere</p> <p>14 between, I think \$1.50 range; and for the red</p> <p>15 bags, they're about \$7. That's an estimate.</p> <p>16 Q. Okay. So you're saying that the</p> <p>17 firm would measure the cost of the referrals</p> <p>18 that came in, whether it was \$7 or, you know,</p> <p>19 whatever you said the mailers cost?</p> <p>20 MR. MANNION: Objection to form.</p> <p>21 Go ahead.</p> <p>22 A. So Holly didn't measure anything.</p> <p>23 Holly's job was just to make sure that her team</p> <p>24 was getting the correct information. But of</p> <p>25 course, the firm spends money, again, on Yellow</p> | <p style="text-align: right;">Page 384</p> <p>1 Q. Then you write, "...please get the</p> <p>2 next Akron case to Dr. Holland at Akron Injury.</p> <p>3 Please just make sure it's not a red bag</p> <p>4 referral and not a current or former client</p> <p>5 that treated at ASC" --</p> <p>6 MR. MANNION: Is there a question?</p> <p>7 Q. -- why would it matter whether it</p> <p>8 were a red bag referral or not?</p> <p>9 A. I -- I don't have an answer for</p> <p>10 that. I don't remember.</p> <p>11 Q. Who's Dr. Holland?</p> <p>12 A. She was a doctor that worked at</p> <p>13 Akron Injury.</p> <p>14 Q. What's her first name?</p> <p>15 A. I don't know.</p> <p>16 Q. Anything you remember about her</p> <p>17 that made her different from any of the other</p> <p>18 chiros that the firm referred cases to?</p> <p>19 MR. MANNION: Objection to form.</p> <p>20 Go ahead.</p> <p>21 A. No.</p> <p>22 Q. And you can't think of any reason</p> <p>23 why you would not send a red bag referral to</p> <p>24 Dr. Holland?</p> <p>25 A. I don't know.</p> |
| <p style="text-align: right;">Page 383</p> <p>1 Pages, Internet, TV. We want to know what</p> <p>2 works and what caused the client to -- to call</p> <p>3 KNR --</p> <p>4 Q. Okay.</p> <p>5 A. -- what was -- what were they</p> <p>6 looking at.</p> <p>7 Q. Got it. Thank you.</p> <p>8 - - - - -</p> <p>9 (Thereupon, Deposition Exhibit 51,</p> <p>10 7/17/2013 Email To Prelit Attorneys</p> <p>11 From Brandy Lamtman, Bates Number</p> <p>12 Williams000157, was marked for</p> <p>13 purposes of identification.)</p> <p>14 - - - - -</p> <p>15 Q. Exhibit 51 --</p> <p>16 MR. MANNION: July 17, 2013.</p> <p>17 Q. -- so this is an email from you to</p> <p>18 all prelit attorneys with the subject, "Akron</p> <p>19 Injury," sent on July 17, 2013. Did you send</p> <p>20 this email?</p> <p>21 A. Yes.</p> <p>22 Q. And you write, "Today we sent 3 to</p> <p>23 ASC...." That means Akron Square Chiropractic,</p> <p>24 correct?</p> <p>25 A. Yes.</p> | <p style="text-align: right;">Page 385</p> <p>1 Q. Do you remember who instructed you</p> <p>2 to make this request, to make sure that</p> <p>3 Dr. Holland is not sent a red bag referral?</p> <p>4 MR. MANNION: Objection to form.</p> <p>5 Go ahead.</p> <p>6 A. I don't know that it was</p> <p>7 necessarily not to send red bags to</p> <p>8 Dr. Holland. That's --</p> <p>9 Q. Well, then what is it? If you're</p> <p>10 saying, "...please get the next Akron case to</p> <p>11 Dr. Holland... Please just make sure it's not</p> <p>12 a red bag referral....," what are you saying</p> <p>13 there if not to say, don't send Dr. Holland a</p> <p>14 red bag referral?</p> <p>15 A. The red bag referrals were sent to</p> <p>16 Akron Square.</p> <p>17 Q. They were?</p> <p>18 A. Yeah. That's in all of those</p> <p>19 emails for that.</p> <p>20 Q. So why was that the case?</p> <p>21 A. I don't know.</p> <p>22 Q. Who would know?</p> <p>23 A. Rob.</p> <p>24 Q. Nestico?</p> <p>25 A. Yes. I don't -- I don't know. If</p> |

14 (Pages 382 - 385)

Veritext Legal Solutions

CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

| | |
|---|--|
| <p style="text-align: right;">Page 386</p> <p>1 I did know at the time -- I don't know.</p> <p>2 Q. Okay. Well, that will save us some</p> <p>3 time on some of these documents.</p> <p>4 MR. MANNION: Before you ask the</p> <p>5 next question, just timing wise, I wanted to</p> <p>6 let you know as far as the personal issue,</p> <p>7 probably close to 11:00, if we can get that far</p> <p>8 before we take a break, is when she'll need a</p> <p>9 break for the personal issue --</p> <p>10 MR. PATTAKOS: Okay.</p> <p>11 MR. MANNION: -- Just wanted to</p> <p>12 let you know timing wise.</p> <p>13 MR. PATTAKOS: That's fine.</p> <p>14 Thanks.</p> <p>15 THE WITNESS: What time is it?</p> <p>16 MR. MANNION: 10:06. Will that be</p> <p>17 okay timing wise, somewhere in that frame?</p> <p>18 THE WITNESS: Yeah. My neck is</p> <p>19 just really bothering me.</p> <p>20 MR. REAGAN: Do you want to take</p> <p>21 a short break now?</p> <p>22 THE WITNESS: Is that okay?</p> <p>23 MR. MANNION: Take like a 2</p> <p>24 minute, 5 minute just to --</p> <p>25 MR. PATTAKOS: Fine.</p> | <p style="text-align: right;">Page 388</p> <p>1 Q. Why did you do that?</p> <p>2 A. I don't know.</p> <p>3 Q. Well, you marked it as important,</p> <p>4 because it was important, right?</p> <p>5 A. We get a lot of emails at KNR back</p> <p>6 and forth either interoffice or -- hundreds a</p> <p>7 day, so I wanted it to stand out.</p> <p>8 Q. Um-hum. Okay. And you write in</p> <p>9 all capital letters, "ALL RED BAG REFERRALS</p> <p>10 NEED TO GO TO AKRON SQUARE." This was</p> <p>11 December 19, 2012. Do you have any memory as</p> <p>12 to why you sent this email?</p> <p>13 A. I don't.</p> <p>14 Q. And you have no memory, no idea why</p> <p>15 all red bag referrals needed to go to Akron</p> <p>16 Square on December 19, 2012?</p> <p>17 A. I don't.</p> <p>18 Q. Okay.</p> <p>19 MR. PATTAKOS: Let's mark</p> <p>20 Exhibit 53.</p> <p>21 - - - - -</p> <p>22 (Thereupon, Deposition Exhibit 53,</p> <p>23 7/24/2013 Email Trail Between Prelit</p> <p>24 Attorney And Brandy Lamtman, Bates</p> <p>25 Number Williams000461, was marked</p> |
| <p style="text-align: right;">Page 387</p> <p>1 MR. MANNION: Yeah, let's take 5</p> <p>2 minutes then.</p> <p>3 VIDEOGRAPHER: Off the record</p> <p>4 10:07.</p> <p>5 (Recess taken.)</p> <p>6 - - - - -</p> <p>7 (Thereupon, Deposition Exhibit 52,</p> <p>8 12/19/2012 Email To Prelit Attorneys</p> <p>9 From Brandy Lamtman, Bates Number</p> <p>10 Williams000284, was marked for</p> <p>11 purposes of identification.)</p> <p>12 - - - - -</p> <p>13 MR. MANNION: December 19, 2012.</p> <p>14 VIDEOGRAPHER: On the record 10:13.</p> <p>15 BY MR. PATTAKOS:</p> <p>16 Q. Okay. So Exhibit 52 is an email</p> <p>17 that you sent to all prelit attorneys with the</p> <p>18 subject line, "REMINDER," and you mark it, high</p> <p>19 importance. What does it mean when you mark an</p> <p>20 email, high importance?</p> <p>21 A. That I want it to stand out.</p> <p>22 Q. You didn't mark every email as</p> <p>23 highly important, did you?</p> <p>24 A. Well, back then I marked a lot of</p> <p>25 emails, high importance.</p> | <p style="text-align: right;">Page 389</p> <p>1 for purposes of identification.)</p> <p>2 - - - - -</p> <p>3 MR. MANNION: July 24, 2013,</p> <p>4 "Subject: Chiro Referrals."</p> <p>5 Q. So this is an email that you sent</p> <p>6 to all prelit attorneys copying Sarah Rucker</p> <p>7 with the subject line, "Chiro Referrals," on</p> <p>8 July 24, 2013. Did you send this email?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. And you say, "We need to get</p> <p>11 one case to Rolling Acres and Summit Injury.</p> <p>12 Please email me once you've sent the case to</p> <p>13 them so I can update the rest of the attorneys.</p> <p>14 Please make sure you do not send a delivery</p> <p>15 referral to them thoughS...these only go to</p> <p>16 ASC." Does this refresh your memory as to</p> <p>17 whether a delivery referral is the same thing</p> <p>18 as a red bag referral?</p> <p>19 A. Yes, a delivery referral would be</p> <p>20 the same as a red bag.</p> <p>21 Q. Okay. So -- and that simply refers</p> <p>22 to the fact that the red bag is delivered</p> <p>23 personally to the potential client's home,</p> <p>24 correct?</p> <p>25 A. Yes.</p> |

15 (Pages 386 - 389)

5

1 MINAS FLOROS, of lawful age, called by the
2 Plaintiffs for the purpose of examination, as
3 provided by the Rules of Civil Procedure, being
4 by me first duly sworn, as hereinafter certified,
5 deposed and said as follows:

6 EXAMINATION OF MINAS FLOROS

7 BY MR. PATTAKOS:

8 Q. Good morning, Dr. Floros.
9 A. Good morning.
10 Q. I'm Peter Pattakos. I represent the Plaintiffs
11 in this lawsuit, Williams v. KNR, et al.
12 You understand that you're here to provide
13 testimony in that case today?
14 A. Yes.
15 Q. Will you please state your full name, for the
16 record.
17 A. Dr. Minas Floros.
18 Q. And your date of birth?
19 A. February 13, 1979.
20 Q. And where were you born?
21 A. Toronto. Ontario, Canada.
22 Q. Have you ingested any substances recently that
23 would impair your ability to remember events
24 accurately and testify truthfully today?
25 A. No.

6

1 Q. Is there any other reason you would not be able
2 to remember events accurately or testify
3 truthfully today?
4 A. No.
5 Q. Where did you go to high school?
6 A. Winston Churchill Collegiate Institute.
7 Q. And where is that?
8 A. It's in Scarborough Ontario.
9 Q. What year did you graduate?
10 A. High school? I don't remember. Nineteen ninety
11 -- I don't know, six maybe, five. I don't
12 remember.
13 Q. Where did you go to college?
14 A. York University in Toronto Ontario.
15 Q. And what year did you graduate from York?
16 A. I did three years and I got an early acceptance
17 into Logan College of chiropractic.
18 Q. So you didn't graduate from York?
19 A. No, I got my bachelor's of human biology at Logan
20 College of Chiropractic.
21 Q. Okay. And where is that?
22 A. In St. Louis, Missouri. In Chesterfield,
23 Missouri, just outside of St. Louis.
24 Q. I'm sorry, what's the degree that you obtained
25 there?

7

1 A. Bachelor's of the human biology.
2 Q. And that qualifies you to practice chiropractic?
3 A. No, then I got my doctorate of chiropractic in
4 2004 after I graduated from Logan College of
5 Chiropractic. I obtained my bachelor's of
6 science in the first three trimesters at Logan.
7 There was a ceremony and then the program
8 continued and that's when I got my doctorate of
9 chiropractic.
10 Q. I understand. Okay. And what year did you
11 obtain the doctorate of chiropractic degree?
12 A. 2004.
13 Q. When did you start working for Akron Square?
14 A. November 2004.
15 Q. So that was your first job?
16 A. Correct.
17 Q. Out of chiropractic school?
18 A. Correct.
19 Q. And you've never worked anywhere else?
20 A. No.
21 Q. Okay. What is Universal Reports Plus, LLC?
22 A. It's a company I opened maybe a year into
23 practicing chiropractic. It's to do depositions,
24 discovery depositions, when I'm asked upon,
25 narrative reports, and that's where I report

8

1 income to.
2 Q. You report income for the reports and litigation
3 work that you do through Universal Reports, LLC?
4 A. Correct.
5 Q. Okay. So if you're paid to testify in a case, it
6 will be reported through that?
7 A. Correct.
8 Q. Okay. So does Universal Report Plus, LLC, file
9 separate tax returns?
10 A. Oh, I don't know. My accountant does all of that
11 stuff. I have no idea.
12 Q. Okay. And it said in your discovery responses
13 that you're the sole owner and member of this
14 LLC?
15 A. Yes.
16 Q. There are no employees?
17 A. No.
18 Q. Can you please describe, generally, the services
19 that you as a chiropractor provide for your
20 patients?
21 A. All passive and active therapies, including, you
22 know, consultations, x-rays, spinal manipulation,
23 muscle stimulation, trigger point therapy,
24 intersegmental traction, dry hydrotherapy, active
25 release technique, passive stretching,

| | |
|--|--|
| <p style="text-align: right;">41</p> <p>1 the table. And again, most patients don't go to</p> <p>2 level four, five, six unless they have a very</p> <p>3 high pain threshold. I like four, five, six. A</p> <p>4 lot of patients don't.</p> <p>5 Q. Would you agree that a massage would always be</p> <p>6 more effective therapy than a mechanical traction</p> <p>7 table?</p> <p>8 MR. KEDIR: Objection.</p> <p>9 A. No. They're very -- very, very different.</p> <p>10 Q. How's that?</p> <p>11 A. Well, massage therapy doesn't put any sort of</p> <p>12 mobility in the joint as traction does. It's</p> <p>13 impossible. The amount of force that the</p> <p>14 traction puts into the spine to break up</p> <p>15 adhesions, break up scar tissue, increase</p> <p>16 circulation, is much different than what a</p> <p>17 massage does.</p> <p>18 Massage therapy works the muscles surrounding</p> <p>19 the spine. Traction directly works on the spine.</p> <p>20 It's very, very different.</p> <p>21 Q. But wouldn't a human being with their hands be</p> <p>22 able to touch the same parts of the spine with</p> <p>23 more individualized focus to the patient's</p> <p>24 injuries and parts of the spine than a mechanical</p> <p>25 table rolling a roller back and forth would be</p> | <p style="text-align: right;">43</p> <p>1 varies from one modality to usually five.</p> <p>2 Q. Why five?</p> <p>3 A. Well, because if you do therapeutic exercises,</p> <p>4 you do manipulation, muscle stimulation, heat,</p> <p>5 traction, exercise. Is that five? Yeah, that's</p> <p>6 five.</p> <p>7 Q. So those are the typical --</p> <p>8 A. Correct.</p> <p>9 Q. -- those are the typical modes that you use.</p> <p>10 Are there any others that you use in treating</p> <p>11 car accident victims?</p> <p>12 A. Usually that's it, one to five modalities.</p> <p>13 Q. Okay.</p> <p>14 A. I'd like to do more, but I just have no time.</p> <p>15 Q. How many patients do you see every day?</p> <p>16 A. Oh, it varies every single day. There's no set</p> <p>17 number.</p> <p>18 Q. What's --</p> <p>19 A. Throughout the years, it's varied.</p> <p>20 Q. What's a normal day?</p> <p>21 A. Oh, I don't -- again, every day is different.</p> <p>22 Q. What's a range? What's a busy day versus a slow</p> <p>23 day?</p> <p>24 A. It's hard to speculate because it can mean -- you</p> <p>25 know, busy can mean less patients but more time</p> |
| <p style="text-align: right;">42</p> <p>1 able to?</p> <p>2 MR. KEDIR: Objection.</p> <p>3 A. Yeah, so a massage therapist can touch the spine.</p> <p>4 Obviously, they touch the back. They touch every</p> <p>5 part of your back --</p> <p>6 Q. Sure.</p> <p>7 A. -- but the level of movement that a massage</p> <p>8 therapist can do compared to a traction device is</p> <p>9 completely different, they're completely</p> <p>10 different. Night and day.</p> <p>11 Q. Okay. So would you agree that it's typical for a</p> <p>12 patient in one appointment to get three or four</p> <p>13 -- strike that.</p> <p>14 Would you say that a patient who is being</p> <p>15 treated for injuries that were suffered in a car</p> <p>16 accident, that it would be typical for them to</p> <p>17 receive, approximately, two to four of these</p> <p>18 modes that are listed here in Monique and Thera's</p> <p>19 documents --</p> <p>20 MR. KEDIR: Objection.</p> <p>21 Q. -- in one appointment?</p> <p>22 A. It can be one to five. Like many times a patient</p> <p>23 will come in and I'll only manipulate their</p> <p>24 spine. Or a patient will come in and will only</p> <p>25 do muscle stimulation. It just depends. It</p> | <p style="text-align: right;">44</p> <p>1 with the patient. For example, Thera Reid</p> <p>2 required way more time than another patient</p> <p>3 because of the level of injury --</p> <p>4 Q. She had broken bones.</p> <p>5 MR. KEDIR: Objection.</p> <p>6 A. -- the level of injury is greater. So to me busy</p> <p>7 means spending more time with the patient as</p> <p>8 opposed to seeing more patients, because you have</p> <p>9 to put a lot more time with the patient. An</p> <p>10 example, Thera Reid. But there's no way to know.</p> <p>11 I don't know. I really don't know.</p> <p>12 Q. You don't get home and say, wow, I treated 30</p> <p>13 patients today, that was a lot, that was a busy</p> <p>14 day?</p> <p>15 MR. KEDIR: Objection.</p> <p>16 A. No, I don't -- I don't even know my patient</p> <p>17 count. I don't look at sign-in sheets, I don't</p> <p>18 keep stats of anything. I just -- I'm tired</p> <p>19 every day. When I work 12 hours, I'm tired.</p> <p>20 Q. It's typical for you to put in 12-hour days</p> <p>21 there?</p> <p>22 A. Ten to 12.</p> <p>23 Q. Ten to 12 hours?</p> <p>24 A. To 12 hours a day, yeah.</p> <p>25 Q. What are the hours of the clinic?</p> |

| | |
|--|---|
| <p style="text-align: right;">45</p> <p>1 A. I get there at 7:00, I usually leave at 7:00 --</p> <p>2 7:00 a.m. to 7:00 p.m. Most patients arrive</p> <p>3 around seven -- it depends, 7:15, 7:30.</p> <p>4 Q. Is the clinic open after 7:00 or it closes at</p> <p>5 7:00, typically?</p> <p>6 A. It depends. Sometimes patients will ask me to</p> <p>7 stay later if they can't make it and I'll stay.</p> <p>8 I don't say no.</p> <p>9 Q. Okay. If you are treating -- if you were</p> <p>10 providing this, say, treatment to Thera Reid,</p> <p>11 Thera Reid comes in for her appointment on, let's</p> <p>12 say, March 11th -- or May 11 on the first page</p> <p>13 here --</p> <p>14 A. Yep.</p> <p>15 Q. -- she receives electrical stimulation therapy</p> <p>16 and the hot and cold packs. That's administered</p> <p>17 by one of your assistants?</p> <p>18 A. Correct.</p> <p>19 Q. Okay.</p> <p>20 A. I'll assist, too. Like if we get really busy,</p> <p>21 I'll get in the therapy bay and hook patients up</p> <p>22 myself. I don't mind doing that.</p> <p>23 Q. Okay. But that's not necessary though?</p> <p>24 A. No, it's not necessary at all.</p> <p>25 Q. Okay. And then you will perform manipulation,</p> | <p style="text-align: right;">47</p> <p>1 kettle balls, they're just weighted six and eight</p> <p>2 pound balls that work a patient's shoulders and</p> <p>3 neck areas. There's all kinds of stuff that we</p> <p>4 do.</p> <p>5 Q. Do you encourage the patients to do these</p> <p>6 exercises at home?</p> <p>7 A. I do. Not those specific -- sometimes I give</p> <p>8 them different, just basic active range of motion</p> <p>9 stuff to do at home. Just basic -- if it's low</p> <p>10 back, trunk rotation, bending type of exercises.</p> <p>11 I don't expect them to start doing, you know,</p> <p>12 heavy-duty core plank work at home, I'd rather do</p> <p>13 them with me present.</p> <p>14 Q. Okay. What's heavy-duty plank work?</p> <p>15 A. Holding a plank in a bridge position for, let's</p> <p>16 say, 30 seconds.</p> <p>17 Q. Okay.</p> <p>18 A. If you have a hot disc and you're trying to do a</p> <p>19 side plank where you're literally on your side</p> <p>20 and you're raising your body up, I want to make</p> <p>21 sure their form is good so they don't blow out</p> <p>22 their disc or herniate the disc even more.</p> <p>23 In Thera Reid's case and Monique Norris'</p> <p>24 case, I don't think I performed any in-office</p> <p>25 therapeutic exercises.</p> |
| <p style="text-align: right;">46</p> <p>1 and then the trigger point therapy, if necessary.</p> <p>2 So that would take approximately, would you say</p> <p>3 you spend about 20 to 30 minutes?</p> <p>4 A. Yes. The patient typically is in our office</p> <p>5 between 15 minutes and 45 minutes. So when they</p> <p>6 leave the passive therapy bay -- usually they're</p> <p>7 in the therapy bay, like I said, from 12 to 20</p> <p>8 minutes. When they're done with their passive</p> <p>9 therapy, they wait to see me. They come into my</p> <p>10 room where I adjust the patient. It's just me</p> <p>11 and the patient or me and the patient and their</p> <p>12 spouse or kids. And that's when I'll do the</p> <p>13 manipulation and the trigger point work, and the</p> <p>14 therapeutic exercises when they're done in the</p> <p>15 room, which can take, again, up to, it can be</p> <p>16 three minutes, it can be 20 minutes. It depends</p> <p>17 on what I do.</p> <p>18 Q. Okay. But about three to 20 minutes, generally?</p> <p>19 A. Correct.</p> <p>20 Q. The exercises, can you describe those?</p> <p>21 A. There's all kinds of exercises. There's</p> <p>22 TheraBand stuff. There's range of motion type of</p> <p>23 exercises. There's core exercises. There's</p> <p>24 plank work. There's glut bridges. There's glut</p> <p>25 extensions. There's weighted balls, not like</p> | <p style="text-align: right;">48</p> <p>1 Q. But you would bill for that if you did, right?</p> <p>2 A. Of course, yeah.</p> <p>3 Q. Okay. You would agree that if the -- if you do</p> <p>4 recommend exercises to a patient that if they do</p> <p>5 those exercises at home, they'll be better off?</p> <p>6 MR. KEDIR: Objection.</p> <p>7 A. It will help get them better quicker, yes.</p> <p>8 Q. Okay. How did you come to be employed at Akron</p> <p>9 Square?</p> <p>10 A. Ah -- wow, in trimester eight or nine maybe</p> <p>11 another chiropractor recommended that I talk to</p> <p>12 CSG, Chiropractic Strategies Group. And I</p> <p>13 remember making the call out there and that was</p> <p>14 it.</p> <p>15 Q. Okay. And what is Chiropractic Strategies Group?</p> <p>16 A. It's a corporation, I believe, that owns multiple</p> <p>17 offices in the United States.</p> <p>18 Q. Chiropractic offices?</p> <p>19 A. I don't know. Maybe.</p> <p>20 Q. Okay.</p> <p>21 A. I think there's various offices that they own.</p> <p>22 Q. Who did you meet with at Chiropractic Strategies</p> <p>23 Group?</p> <p>24 A. Oh, a lot of people. When I actually flew out</p> <p>25 there, I met a ton of people back in '04.</p> |

| | |
|---|--|
| <p style="text-align: right;">85</p> <p>1 A. Yes.</p> <p>2 Q. -- you will recommend multiple law firms?</p> <p>3 A. Correct.</p> <p>4 Q. Why multiple?</p> <p>5 A. Because there's a lot of good attorneys out there</p> <p>6 and I don't -- I don't have no preference on a</p> <p>7 specific law firm. I don't -- I prefer my</p> <p>8 patients be represented by attorneys in these</p> <p>9 situations because I've seen patients been taken</p> <p>10 advantage of many, many times by insurance</p> <p>11 companies, so my preference is for them to be</p> <p>12 represented by somebody. Who they choose to be</p> <p>13 represented by though it doesn't matter to me, I</p> <p>14 don't really care.</p> <p>15 Q. You agree there's no short -- sorry. Go ahead.</p> <p>16 A. And in terms of the clients in question here, Ms.</p> <p>17 Reid and Ms. Norris, I didn't recommend or refer,</p> <p>18 to use your word, to any law firm.</p> <p>19 Q. You agree there's no shortage of good personal</p> <p>20 injury lawyers in --</p> <p>21 MR. KEDIR: Objection.</p> <p>22 Q. -- northeast Ohio?</p> <p>23 A. Oh, I would have no knowledge, but I would say</p> <p>24 there's probably plenty other good ones.</p> <p>25 Q. What are your criteria for choosing which law</p> | <p style="text-align: right;">87</p> <p>1 A. There are a lot more than seven. I remember</p> <p>2 doing the discovery and I just -- I can't</p> <p>3 remember in 15 years how many attorneys I've</p> <p>4 recommended. It's way more than seven.</p> <p>5 Q. Okay. Well, so you listed KNR, Slater & Zurz --</p> <p>6 A. Uh-huh.</p> <p>7 Q. -- Gary Himmel --</p> <p>8 A. Yep.</p> <p>9 Q. -- Alberto Pena --</p> <p>10 A. Yep.</p> <p>11 Q. -- Elk & Elk --</p> <p>12 A. Yes.</p> <p>13 Q. -- Amourgis & Associates --</p> <p>14 A. Uh-huh.</p> <p>15 Q. -- and Skolnick Weiser?</p> <p>16 A. Correct.</p> <p>17 Q. Who else?</p> <p>18 A. On 15 years?</p> <p>19 Q. Yes.</p> <p>20 A. Oh, there was Thomas Magliner [phonetic], there</p> <p>21 was Westfield, there was Dyer up in Kent.</p> <p>22 There's been Lisa Haywood -- geez, there's been a</p> <p>23 lot. I don't remember.</p> <p>24 Q. And you can't say whether you do more business</p> <p>25 with one of these firms than any other?</p> |
| <p style="text-align: right;">86</p> <p>1 firms you would recommend to your patients?</p> <p>2 MR. KEDIR: Objection.</p> <p>3 A. I have no criteria. It doesn't matter. Like I</p> <p>4 said, Peter, it doesn't matter who the attorney</p> <p>5 is, there's no criteria. You know, there have</p> <p>6 been attorneys that have come into my office, you</p> <p>7 know, soliciting business, give me business</p> <p>8 cards, and I utilize them.</p> <p>9 Q. Do you follow-up to check on whether those</p> <p>10 attorneys are any good?</p> <p>11 A. No. I mean, I ask my patients. Through</p> <p>12 interaction with my patients on a day-to-day</p> <p>13 basis like they'll -- they'll tell me, hey, this</p> <p>14 attorney sucks. Why isn't he calling me back?</p> <p>15 Well, I don't know. Call the paralegal, talk to</p> <p>16 the assistant. And many times a patient gets</p> <p>17 extremely frustrated or multiple patients and</p> <p>18 they fire their attorney or they get another</p> <p>19 attorney. So I hear it. You know, like I said,</p> <p>20 I've treated many patients injured in car</p> <p>21 accidents and I've heard it, I've heard</p> <p>22 everything.</p> <p>23 Q. You identified seven law firms in your discovery</p> <p>24 response as firms that you will recommend your</p> <p>25 clients to.</p> | <p style="text-align: right;">88</p> <p>1 A. No, it's hard to say.</p> <p>2 Q. And you can't even estimate?</p> <p>3 A. No.</p> <p>4 Q. How do you decide when a car accident victim with</p> <p>5 soft-tissue injury doesn't need treatment</p> <p>6 anymore?</p> <p>7 A. We assess their pain levels. We look at range of</p> <p>8 motion. Palpatory findings. Essentially see</p> <p>9 where their pain level is at compared to day one.</p> <p>10 See how their injury is affecting their</p> <p>11 activities of daily living. See if they're back</p> <p>12 to work. See if they're functional. If they're</p> <p>13 able to raise their kids, for example or if</p> <p>14 they're able to go for a walk.</p> <p>15 It's a subjective and objective thing as to</p> <p>16 when I decide the patient is to be released.</p> <p>17 Every patient is different and every patient is</p> <p>18 treated differently.</p> <p>19 Though we do whatever is in the best interest</p> <p>20 of the patient to get them back to pre-accident</p> <p>21 condition. Many times the patient is well when</p> <p>22 they're released and many times they're not.</p> <p>23 Q. You refer your personal injury clients to Dr.</p> <p>24 Ghoubrial, correct?</p> <p>25 A. Correct.</p> |

| | |
|---|--|
| <p style="text-align: right;">89</p> <p>1 Q. And what do you do that for?</p> <p>2 A. They're injured --</p> <p>3 Q. Uh-huh.</p> <p>4 A. -- they got high inflammatory levels. The</p> <p>5 patient advised me that their medication ran out</p> <p>6 from the hospital, they can't sleep, they're in</p> <p>7 high levels of pain. They hurt more when they're</p> <p>8 working. It helps me get the patient better</p> <p>9 faster. I'm not a medical doctor. I can't</p> <p>10 prescribe the medication, so, yeah, I refer a lot</p> <p>11 of patients to Dr. Ghoubrial, he's a great</p> <p>12 doctor.</p> <p>13 Q. Are there other doctors that you send your</p> <p>14 patients to for similar treatment?</p> <p>15 A. Oh, yeah. In the last 15 years I've worked with</p> <p>16 many doctors.</p> <p>17 Q. Who else besides Dr. Ghoubrial would provide</p> <p>18 similar services?</p> <p>19 A. Dr. Soni --</p> <p>20 MR. KEDIR: Objection.</p> <p>21 MR. POPSON: Objection.</p> <p>22 A. -- was one of the orthopedic surgeons I referred</p> <p>23 patients to for pain management.</p> <p>24 Q. Dr. Soni?</p> <p>25 A. Dr. Soni.</p> | <p style="text-align: right;">91</p> <p>1 doctor, I try to reach out to the doctor and see</p> <p>2 if he's willing to accept my patients or to see</p> <p>3 patients injured in car accidents or work</p> <p>4 injuries, and again, its extremely difficult to</p> <p>5 find medical doctors that will treat patients</p> <p>6 injured in car accidents, especially in my area.</p> <p>7 Q. In Akron?</p> <p>8 A. Yeah. I'll send them anywhere. I'll send them</p> <p>9 up to Cleveland, Medina, Fairlawn, Kent,</p> <p>10 Canton -- they've been down to Canton --</p> <p>11 Massillon. Anywhere.</p> <p>12 Q. Dr. Ghoubrial will sometimes treat patients at</p> <p>13 your office, correct?</p> <p>14 A. Yes.</p> <p>15 Q. So he'll set up a number of appointments on any</p> <p>16 given day and will come there and treat a number</p> <p>17 of patients on a particular day?</p> <p>18 A. Yeah, that's more recent. Again, I've been</p> <p>19 referring patients to Dr. Ghoubrial for many</p> <p>20 years. Him coming to the office is more of a</p> <p>21 recent thing. I don't remember when he started</p> <p>22 but he used to -- I used to refer patients out to</p> <p>23 Wadsworth, but it was difficult for the patients</p> <p>24 to get there. A lot of patients don't have money</p> <p>25 for gas. A lot of patients have not</p> |
| <p style="text-align: right;">90</p> <p>1 Q. S-o-n-i?</p> <p>2 A. Yes. Comprehensive Pain Management is another</p> <p>3 place I refer many patients to --</p> <p>4 Q. That's the Lababidi's?</p> <p>5 A. Yes. And they have -- they have a lot of pain</p> <p>6 management specialists there. Center of Neuro &</p> <p>7 Spine is another place I refer patients to. Dr.</p> <p>8 Chonko, Dr. Tharp, Dr. Pinkowski. There was Dr.</p> <p>9 Pogorelec back in the day that would see my</p> <p>10 patients.</p> <p>11 I'm willing to refer my patients to anybody</p> <p>12 who accepts patients injured in car accidents and</p> <p>13 sometimes that's very difficult to find.</p> <p>14 Q. How did you meet Dr. Ghoubrial?</p> <p>15 A. I don't remember.</p> <p>16 Q. Well, how did you come to first send your</p> <p>17 patients to him?</p> <p>18 A. He may have been a mutual treatment with one of</p> <p>19 the pain management facilities that have treated</p> <p>20 my patients. That's probably where I first saw</p> <p>21 his name pop up.</p> <p>22 Again, I'm willing to work with any medical</p> <p>23 doctor, any physician, that's willing to take on</p> <p>24 my patients. And I get new ones or once in a</p> <p>25 while I see a report of a patient with a medical</p> | <p style="text-align: right;">92</p> <p>1 transportation. And he set up an office</p> <p>2 somewhere in Akron --</p> <p>3 Q. On Brown Street?</p> <p>4 A. -- made it easier for my patients -- I think it</p> <p>5 was Brown Street -- made it a lot easier for my</p> <p>6 patients to get to. But I think ultimately it's</p> <p>7 better that he comes to my office.</p> <p>8 Q. And why is that?</p> <p>9 A. Just easier. It's just easier. The patients</p> <p>10 don't have to go anywhere. Again, my patients</p> <p>11 don't have the finances to go -- put gas in their</p> <p>12 car to go get an MRI. The place I refer for MRI</p> <p>13 up in Medina, they provide transportation to my</p> <p>14 patients. My patients can't get up there.</p> <p>15 Q. Do any other doctors come treat patients at your</p> <p>16 office?</p> <p>17 A. No. Actually, I should -- I'm sorry, just to go</p> <p>18 back. There are a few other doctors that have</p> <p>19 come to my office over the last 15 years to treat</p> <p>20 patients. Recently, no.</p> <p>21 Q. Okay. Who are those doctors that have come to</p> <p>22 your office?</p> <p>23 A. Dr. Soni was one of the doctors that would come</p> <p>24 to my office a few times. Again, he was located</p> <p>25 down in -- close to the downtown Canton area.</p> |

| | |
|---|--|
| <p style="text-align: right;">93</p> <p>1 And it just got difficult for patients to see him</p> <p>2 down there so he would come once in a while, once</p> <p>3 a month to see patients in my office. This is</p> <p>4 many years ago. Dr. Gunning is another physician</p> <p>5 that's come into the office to treat patients --</p> <p>6 Q. Dr. Gunning?</p> <p>7 A. Dr. Gunning.</p> <p>8 Q. Well, he works for Dr. Ghoubrial, correct?</p> <p>9 A. Yes. But I'm giving you specific names of</p> <p>10 doctors. And those are a couple other</p> <p>11 physicians. Dr. Wynn. Dr. -- I forgot the other</p> <p>12 gentleman's name. There's been a couple other</p> <p>13 ones.</p> <p>14 Q. Dr. Wynn?</p> <p>15 A. Yeah.</p> <p>16 Q. W-y-n-n?</p> <p>17 A. Correct.</p> <p>18 Q. What kind of doctor is Dr. Wynn?</p> <p>19 A. I think she's just a medical doctor. She may be</p> <p>20 part of the Dr. Ghoubrial group. I'm not too</p> <p>21 sure.</p> <p>22 Q. Okay.</p> <p>23 A. And just to go on record, I would welcome any</p> <p>24 physician that's willing to come to my office to</p> <p>25 see any patient. I wish there was one there</p> | <p style="text-align: right;">95</p> <p>1 to do whatever is possible. Whatever is best for</p> <p>2 the patient. If they ask me to bill an insurance</p> <p>3 company, I would do it.</p> <p>4 Q. Why don't you affiliate with a network?</p> <p>5 MR. KEDIR: Objection.</p> <p>6 A. I just haven't. I don't know. I don't know how</p> <p>7 to.</p> <p>8 Q. Have you ever asked anybody at your company to do</p> <p>9 -- to look into that?</p> <p>10 A. No. There was a network called Coventry Health</p> <p>11 Network that somehow I got affiliated with.</p> <p>12 Somebody filled out a document and we were</p> <p>13 affiliated with them. And the insurance</p> <p>14 companies would run our billing through Coventry</p> <p>15 Health Network, but I don't know if they'd review</p> <p>16 the bills and say, hey, it's an auto accident</p> <p>17 case, we're not paying. Or an insurance company</p> <p>18 would run it through that network and say, hey,</p> <p>19 we're only paying, you know, 70 percent of the</p> <p>20 bill, if they're not represented by an attorney.</p> <p>21 So it just varies patient to patient.</p> <p>22 Q. You treat many of your patients on a letter of</p> <p>23 protection, correct?</p> <p>24 A. Yes.</p> <p>25 Q. And why do you do that?</p> |
| <p style="text-align: right;">94</p> <p>1 every day.</p> <p>2 Q. So you typically do not accept health insurance</p> <p>3 payments from a patient who is involved in</p> <p>4 litigation, correct?</p> <p>5 MR. POPSON: Objection.</p> <p>6 A. I'll accept any forms of payment. It doesn't --</p> <p>7 I accept Med Pay. Any time they've asked me to</p> <p>8 bill their out of network -- I'm out of network</p> <p>9 with all insurance companies, many times they've</p> <p>10 asked me to bill their health insurance</p> <p>11 companies. We've done it, we don't get paid by</p> <p>12 them. We're out of network, so I'm not in</p> <p>13 network with anybody, but many times some</p> <p>14 providers will accept bills and records from us</p> <p>15 and then if the patient -- and again, I'm sorry,</p> <p>16 I don't know all the terminology in the medical</p> <p>17 insurance worlds.</p> <p>18 Many times they haven't met their deductible.</p> <p>19 Many times, like I said, I'm out of network, they</p> <p>20 don't even consider my billing. The same goes</p> <p>21 for MRI facilities. Like they need a</p> <p>22 preauthorization of some kind to get an MRI and,</p> <p>23 again, if they're not represented by a law firm,</p> <p>24 their personal health insurance will just deny</p> <p>25 it. The patient can't get an MRI. I try my best</p> | <p style="text-align: right;">96</p> <p>1 A. Just to get -- I don't really get involved with</p> <p>2 the paperwork. A letter of protection, from what</p> <p>3 I'm made aware of, it just protects to patient,</p> <p>4 the patient's bill, to ensure that we get payment</p> <p>5 somehow.</p> <p>6 Q. How does that protect the patient?</p> <p>7 MR. KEDIR: Objection.</p> <p>8 A. I don't know. I guess they want their bills to</p> <p>9 be paid. That's my understanding of it.</p> <p>10 Q. The patients want their bills to get paid?</p> <p>11 A. Oh, yeah. Patients main concern when they come</p> <p>12 into our office is who's going to pay this bill?</p> <p>13 Like, am I going to be left with any bills here?</p> <p>14 That's their main concern. So a letter of</p> <p>15 protection protects, I guess, myself, my bill,</p> <p>16 and the patient from not owing any money when the</p> <p>17 case settles. Again, whether the patient has an</p> <p>18 attorney or not, it's the same thing, they want</p> <p>19 to have protection, we want to have protection.</p> <p>20 And most physicians who treat patients injured in</p> <p>21 auto accidents including facilities that do MRI's</p> <p>22 and specialists and surgeons, they all want</p> <p>23 letter of protections. It's not just my office</p> <p>24 that wants a letter of protection in a patient</p> <p>25 injured in a motor vehicle accident.</p> |

97

1 We also have patients who are involved in
 2 work injuries sign letter of protections to make
 3 sure that the Bureau of Workers' Compensation
 4 pays the bill as well.
 5 Q. You wouldn't need a letter of protection if the
 6 patient's health insurance was on the hook for
 7 the treatment, correct?
 8 MR. KEDIR: Objection.
 9 A. Oh, we would -- I would always have the patient
 10 sign it. Again, Peter, I've talked to many
 11 patients, Med Pays of their insurance policies,
 12 adjusters that work at these insurance companies,
 13 they won't consider our bill, they won't pay the
 14 bill. They'll say go to the patient, we're not
 15 looking at it.
 16 Q. And why don't they pay your bill?
 17 MR. KEDIR: Objection.
 18 A. They just refuse to because it's in an auto
 19 accident case. You know, an insurance adjuster
 20 had told me in the past, we only pay for patients
 21 in a motor vehicle accident who are injured that
 22 went to the ER the first day. Anything after the
 23 first day, they're not paying the bills. It's a
 24 common thread, it's a common thing. I don't know
 25 why that happens, I don't know why they don't pay

98

1 the bill, but they just don't.
 2 Q. So you say you always have your patients sign the
 3 letter of protection?
 4 A. Correct. The paperwork is pretty standard in our
 5 office. Like even this paper that you gave me
 6 from Thera Reid, you know, Monique Norris may
 7 have -- may have received the same document --
 8 where is it? Exhibit number -- I'm sorry --
 9 Exhibit No. 6, Monique Norris may have been given
 10 the same document. She may have signed it.
 11 After reviewing the file I saw that KNR had
 12 referred me Monique Norris. She wasn't contacted
 13 by anybody, but she probably would have received
 14 it because the stack of papers that my staff
 15 gives to the patients and many times they'll sign
 16 it, many times they won't and that's it. So a
 17 letter of protection is just a standard paperwork
 18 in my file.
 19 Q. So you have all your clients sign letters of
 20 protection?
 21 A. I don't have anybody sign anything. They're just
 22 part of my file. Like they're just a bunch of
 23 documents that a patient will sign. Do you have
 24 an example of a letter of protection so I can see
 25 it?

99

1 Q. If they don't sign the letter of protection, you
 2 will treat them anyway?
 3 A. I will treat every single patient --
 4 MR. KEDIR: Objection.
 5 A. -- that comes into my office. Peter, many times
 6 a patient refuses to sign forms. I don't -- I
 7 don't care. I'm just an employee of Akron Square
 8 Chiropractic. I like getting patients well. If
 9 they sign a letter of protection, if they don't,
 10 it doesn't make any difference to me. I will
 11 treat them, I will give them the best possible
 12 care I can give them. And if we get paid on it,
 13 great, and if we don't, hey, it happens, what are
 14 you going to do? Mr. Carter, who you just
 15 presented me a bill, has never paid his bill from
 16 2015. Maybe he didn't sign his letter of
 17 protection. What am I going to do? He's
 18 injured, I'm going to treat him and we move on.
 19 Q. You've never sued any of your patients for not
 20 paying a bill, have you?
 21 MR. KEDIR: Objection.
 22 A. Oh, I don't know. I haven't sued anybody
 23 personally. I don't know if Akron Square
 24 Chiropractic has. I have no idea, I don't know
 25 what the billing does.

100

1 Q. You're not aware of any instance where that's
 2 happened, are you?
 3 A. No, I wouldn't know. I would have no idea. I
 4 would prefer not to sue any patients.
 5 Q. So if a client comes to Akron Square with
 6 injuries and wants to pay using his own health
 7 insurance, you will accept that form of payment
 8 if -- I mean, do you have a process where your
 9 staff will call the insurance company -- strike
 10 that.
 11 MR. POPSON: You saw me, didn't
 12 you?
 13 MR. PATTAKOS: I could feel you.
 14 Q. If a client comes to your office with injuries
 15 and wants to pay using their own health
 16 insurance, do you have a process by which your
 17 office will contact the insurance company to see
 18 if they will pay?
 19 MR. KEDIR: Objection.
 20 A. No, we don't have a process, but I can tell you
 21 if a patient comes to our office and is
 22 represented by an attorney, they will instruct us
 23 when they're done with therapy, hey, make sure my
 24 attorney gets the bills and the records as soon
 25 as you can.

| | |
|---|---|
| <p style="text-align: right;">101</p> <p>1 If the patient doesn't have an attorney, then</p> <p>2 we ask them, do you have Med Pay on your policy?</p> <p>3 Who's going to pay the bill? Have you talked to</p> <p>4 a third-party insurance company. Do you have</p> <p>5 health insurance? I'll ask them on their exit</p> <p>6 day to see if they have anything. And if they</p> <p>7 do, they provide it to us and then we send it out</p> <p>8 to the billing office and then they do whatever</p> <p>9 they do with it. Whether or not I get paid or</p> <p>10 not, I have no idea. I'll tell you this, nine</p> <p>11 times out of ten, I probably won't get paid on</p> <p>12 that case.</p> <p>13 Q. If the client wants to be -- wants to pay using</p> <p>14 their health insurance, you won't get paid on the</p> <p>15 case, is that what you're saying?</p> <p>16 A. I'm out of network. Most of the times they will</p> <p>17 not pay us.</p> <p>18 Q. Okay.</p> <p>19 A. Sometimes they do, actually sometimes they'll pay</p> <p>20 us, but mainly the -- my experience with this --</p> <p>21 and I don't have much experience with this, the</p> <p>22 patient's health care insurance will review the</p> <p>23 documents, see that it's a motor vehicle accident</p> <p>24 and say, hey, follow up with a third-party payer,</p> <p>25 here's the information, State Farm, claim number,</p> | <p style="text-align: right;">103</p> <p>1 Q. Let's talk about the narrative reports.</p> <p>2 A. Okay.</p> <p>3 Q. When did you first start making the narrative</p> <p>4 reports?</p> <p>5 A. Oh, I don't remember when they started being</p> <p>6 requested from me. I've been typing narrative</p> <p>7 reports since my first month in practice.</p> <p>8 Q. Let me understand that answer, you said, I don't</p> <p>9 remember when they first started requesting them</p> <p>10 from me. I've been typing them since I first</p> <p>11 came to practice?</p> <p>12 A. Yeah. So, to go back, I've been typing</p> <p>13 narratives since I started practicing. Probably</p> <p>14 the first month after I started practicing at</p> <p>15 Akron Square Chiropractic.</p> <p>16 Q. So attorneys were requesting them from you since</p> <p>17 then?</p> <p>18 A. Correct.</p> <p>19 Q. And when did you start charging separately for</p> <p>20 that?</p> <p>21 A. I haven't charged separate. My fee was initially</p> <p>22 \$200 for a narrative. That's what it was when I</p> <p>23 first started out.</p> <p>24 Q. And is that what it is now?</p> <p>25 A. I get paid anywhere between 150 and 200 for the</p> |
| <p style="text-align: right;">102</p> <p>1 date of accident, adjuster, phone number, facts,</p> <p>2 have a nice day. They won't pay it.</p> <p>3 I don't know if there's a law in Ohio that</p> <p>4 restricts insurance companies from paying bills</p> <p>5 with patients in auto accidents but that's my</p> <p>6 experience with it.</p> <p>7 Q. And what about Medicare or Medicaid, are you an</p> <p>8 approved provider for them?</p> <p>9 A. I'm out of network with everybody.</p> <p>10 Q. Okay. So you're not an approved provider for</p> <p>11 Medicare or Medicaid?</p> <p>12 A. Correct. I'm out of network with every insurance</p> <p>13 company.</p> <p>14 MR. PATTAKOS: Why don't we take a</p> <p>15 break.</p> <p>16 THE VIDEOGRAPHER: We're going off</p> <p>17 the record. This is the end of Tape No. 1.</p> <p>18 The time is 11:15.</p> <p>19 - - - -</p> <p>20 (Thereupon, a recess was had.)</p> <p>21 - - - -</p> <p>22 THE VIDEOGRAPHER: We're back on</p> <p>23 the record. This is the beginning of Tape</p> <p>24 No. 2. The time is 11:25.</p> <p>25 BY MR. PATTAKOS:</p> | <p style="text-align: right;">104</p> <p>1 narrative. It should be a lot more, just saying.</p> <p>2 Q. Why should it be a lot more?</p> <p>3 A. I spend a lot of time. A lot of weekend time, a</p> <p>4 lot of evening time. Time that I should be</p> <p>5 spending with my kids spending -- looking over</p> <p>6 records and preparing narratives.</p> <p>7 Q. How long does it take you to prepare one?</p> <p>8 A. Oh, it varies. You know, just looking at the two</p> <p>9 patients here, Ms. Reid's hours, hour and half,</p> <p>10 two hours to review everything. Ms. Reid -- or</p> <p>11 Ms. Norris -- I'm sorry -- probably less because</p> <p>12 I only treated her four or five times.</p> <p>13 Q. So it depends on the records that you would have</p> <p>14 to go through?</p> <p>15 A. Yeah. Like Ms. Reid's I had to review over a</p> <p>16 hundred documents before I prepared the</p> <p>17 narrative. And I had to make a pretty good -- or</p> <p>18 try to make the best estimation that I could make</p> <p>19 for future medical care. Because, again, Ms.</p> <p>20 Reid was ejected off a motorcycle in an accident.</p> <p>21 It's very different than Ms. Reid -- Ms. Norris,</p> <p>22 I'm sorry -- so definitely hers took a little bit</p> <p>23 longer just to make these -- cause -- you know,</p> <p>24 future medical expense predictions.</p> <p>25 Q. It's a range of time you would spend on the</p> |

113

1 or denying to that, I don't know.

2 Q. That's all I wanted to know. At what point

3 during the patient's course of treatment do you

4 typically prepare this report?

5 A. It's much after -- much later than the last date

6 of their treatment.

7 Q. Much later than the last date of their treatment?

8 A. So when I release a patient, the patient usually

9 calls their attorney within a week, I would say

10 it depends on the paralegal. I guess some are

11 quicker than others. Some will request a

12 narrative two weeks post treatment, some will

13 request a narrative 30 days post treatment, some

14 60, it just depends.

15 Like many times I'll release a patient, but

16 that patient may not be treating. They may be

17 doing -- they might not -- they might not be

18 finished treating at their physical therapist's

19 office, so many times I'll get a request for a

20 narrative four or five months post treatment. It

21 just depends.

22 Q. But it will typically be after the treatment?

23 A. It's not typically, it's always after treatment.

24 Nobody ever asks me for a narrative -- I mean, I

25 guess sometimes I've been asked for a pre-release

114

1 description of future medical costs, but that's

2 very infrequent. It's always after.

3 Q. Well after?

4 A. It can --

5 MR. KEDIR: Objection.

6 MR. POPSON: Objection.

7 A. -- it just varies, like I said.

8 Q. Can you describe the process of creating these

9 reports?

10 A. I think I've already stated that. I review the

11 records, review the documents, and I usually sit

12 at a desk and I review them and I have many, I

13 would say narrative that I use, I guess you call

14 them templates, if you want, and I input data

15 based on each patient, each individual patient's

16 care.

17 Q. How many templates do you have?

18 A. Oh, I don't know. Over 15 years, there's a

19 bunch. I don't know.

20 Q. What's a bunch, like 1,000?

21 A. Oh, there's a lot. There's just different ones,

22 I don't --

23 Q. Or a dozen?

24 A. I don't know, Peter. I have no idea.

25 Q. Closer to a dozen or closer to 1,000?

115

1 A. I don't know.

2 MR. KEDIR: Objection.

3 A. I don't know. They're very similar in nature.

4 There's a few words different on each template,

5 but they're -- generally the same information

6 goes into a narrative report.

7 Q. Okay. How do you -- where are these templates

8 stored?

9 MR. KEDIR: Objection.

10 A. On my computer -- you know, usually in the

11 computer.

12 Q. So there's a file somewhere in your computer

13 where all these templates are?

14 A. Yeah.

15 Q. And then you pull one up, you figure out which

16 one would --

17 A. No, I don't figure out, I just open up a template

18 and just open up one of my narrative reports and

19 I fill in the gaps. It's not -- I don't pick a

20 specific template --

21 Q. Why not?

22 A. -- it's --

23 MR. KEDIR: Objection.

24 A. It's just over the years they're very similar.

25 Like when I say template -- there's no -- there's

116

1 not much variation from one to the other.

2 They're very similar in nature.

3 Q. The templates?

4 A. Yeah, like I've changed a couple -- a little bit

5 of wording here and there on a few of the

6 templates over the years, but it's not -- there's

7 not a big difference between them.

8 Q. You don't use a computer to automatically

9 generate narrative reports, do you?

10 A. No.

11 MR. KEDIR: Objection.

12 A. I wish I did, but I don't.

13 Q. Why do you wish you did?

14 A. Make my life a lot easier.

15 Q. Why don't you do it then?

16 A. I just don't have a system in place for that. I

17 don't know how to do it. I have no idea. I

18 would spend a lot more time with my family if I

19 did, I'll tell you that much.

20 Q. Are you aware that other chiropractors do this?

21 A. I don't know. I've read some -- I've read a lot

22 of narratives over the years. I don't know if

23 they're computer generated or if they prepare

24 them at home. I have no idea. I don't know if

25 you can prepare a -- make an accurate statement

| | |
|--|---|
| <p style="text-align: right;">117</p> <p>1 about causation, about future medical care, using</p> <p>2 a file open print narrative on any case. I think</p> <p>3 it's wrong to do that.</p> <p>4 Q. Have you ever come back and told KNR that there</p> <p>5 was no causation on a case with one of their</p> <p>6 clients?</p> <p>7 A. I wouldn't say no causation. There's been times</p> <p>8 where the injury is an exacerbation of a previous</p> <p>9 problem. Most patients that come to my office,</p> <p>10 come with soft-tissue injuries. A lot of them</p> <p>11 just come for a basic examination and they have</p> <p>12 no pain.</p> <p>13 So I would say if they've treated at my</p> <p>14 office and I've reviewed the documents, I've</p> <p>15 already reviewed the crash report, you know, when</p> <p>16 they first started treating, I've already</p> <p>17 determined causation usually the first or second</p> <p>18 day after treating the patient. So there's</p> <p>19 usually causation.</p> <p>20 Now whether is it a direct result of the</p> <p>21 motor vehicle accident or is it an exacerbation</p> <p>22 of a preexisting problem, that will go in the</p> <p>23 narrative.</p> <p>24 So if a patient has a previous lumbar or</p> <p>25 cervical fusion and they're hit from behind at 40</p> | <p style="text-align: right;">119</p> <p>1 come -- I shouldn't say that, some patients come</p> <p>2 to my office and say, hey, doc, I want a free --</p> <p>3 I want a screen, can you tell me if anything is</p> <p>4 wrong with my neck or my shoulder is misaligned,</p> <p>5 there's no causation of an event there, it could</p> <p>6 be bad posture.</p> <p>7 But the patients that come in injured from</p> <p>8 something, there's a causation to something.</p> <p>9 There's some reason why they hurt. And the</p> <p>10 patients that are in a car accident -- you know,</p> <p>11 if you review the report and then gone to the ER,</p> <p>12 I review the records and I do an examination, at</p> <p>13 that point I've determined causation already. If</p> <p>14 I'm treating them, there's a reason why I'm</p> <p>15 treating them. I'm not just treating them just</p> <p>16 because. There's a diagnosis established from a</p> <p>17 trauma, like a car accident case.</p> <p>18 An example for Ms. Reid and Ms. Norris, they</p> <p>19 both presented to my office with very high levels</p> <p>20 of pain. I reviewed the crash report with them</p> <p>21 and causation was established, you know, after my</p> <p>22 initial examination.</p> <p>23 But when I prepare the narrative, I've got to</p> <p>24 go back and re-review it because I may have</p> <p>25 looked at the crash report, you know, in Thera</p> |
| <p style="text-align: right;">118</p> <p>1 miles an hour and they have back pain, well, the</p> <p>2 pain after the accident may be a nine out of ten,</p> <p>3 previous to the accident they've been in pain</p> <p>4 management all their life, their pain is a five</p> <p>5 out of ten, there's not a direct cause of injury</p> <p>6 to the low back from the accident, but there's an</p> <p>7 exacerbation or flare-up because they already</p> <p>8 have some preexisting problems, so that will go</p> <p>9 in the narrative as well.</p> <p>10 And in that case it's very difficult to</p> <p>11 predict future medical expenses because, you</p> <p>12 know, they've already had some back pain.</p> <p>13 Q. So you can't recall an instance where you ever</p> <p>14 come back and said to KNR there's no causation on</p> <p>15 this case?</p> <p>16 MR. KEDIR: Objection.</p> <p>17 A. I think if the patient -- like if the patient</p> <p>18 treats at my office for an injury and I've</p> <p>19 established -- if I've established causation on</p> <p>20 day one and I've decided to treat the patient,</p> <p>21 usually there's a causation there.</p> <p>22 The patient reports to my office with</p> <p>23 injuries from a motor vehicle accident or a work</p> <p>24 injury or they fell outside of, you know, Acme,</p> <p>25 there's a causation to an event. They just don't</p> | <p style="text-align: right;">120</p> <p>1 Reid's case five months prior to me preparing the</p> <p>2 narrative report, so I've got to go back and</p> <p>3 re-review it.</p> <p>4 So, sorry, to answer the question is, I would</p> <p>5 say the majority of patients who I treat who are</p> <p>6 injured, a causation has already been</p> <p>7 established. Now is the causation the direct</p> <p>8 result or is it an exacerbation, that goes into</p> <p>9 the report.</p> <p>10 Q. The causation has already been established by you</p> <p>11 after treating them on the first day or how else</p> <p>12 was it established?</p> <p>13 A. Well, yeah. Like the patient comes in</p> <p>14 complaining of neck pain. Doc, I was rear-ended</p> <p>15 at 30 miles an hour, my neck hurts, I went to the</p> <p>16 hospital, I have headaches. Well, I'd review the</p> <p>17 report, I do my examination, I find problems,</p> <p>18 causation is established.</p> <p>19 Q. Is this more likely than not that the accident</p> <p>20 caused those injuries?</p> <p>21 A. It depends. Every patient is very unique. If a</p> <p>22 patient comes in and tells me, doc, I have back</p> <p>23 pain. Okay. Do the examination, there's some</p> <p>24 problems there. What's your back pain today?</p> <p>25 Eight. Okay. Did you have back pain yesterday?</p> |

| | |
|--|---|
| <p style="text-align: right;">125</p> <p>1 tests are positive or range of motion is</p> <p>2 restricted, a treatment plan is formed.</p> <p>3 Causation hasn't been determined. We review the</p> <p>4 x-rays, we take the x-rays, we come up with a</p> <p>5 treatment plan, we have goals in place and</p> <p>6 causation at that point, yes, you were injured in</p> <p>7 the car accident. Treatment will commence. But</p> <p>8 just because they come into the office, doesn't</p> <p>9 mean there's causation.</p> <p>10 Q. Of course. I understand.</p> <p>11 A. Yeah.</p> <p>12 Q. I understand. Let's look at some narrative</p> <p>13 reports.</p> <p>14 MR. PATTAKOS: Mark the next four</p> <p>15 exhibits.</p> <p>16 - - - -</p> <p>17 (Thereupon, Plaintiff's Exhibits 8, 9, 10, 11</p> <p>18 were marked for purposes of identification.)</p> <p>19 - - - -</p> <p>20 Q. Will you agree that these are four narrative</p> <p>21 reports that you produced for KNR clients?</p> <p>22 A. I don't know who they're clients of, but these</p> <p>23 are my narrative reports.</p> <p>24 Q. Okay. So it looks like they take a different</p> <p>25 template. If you look at Exhibits 10 and 11,</p> | <p style="text-align: right;">127</p> <p>1 A. There's no template where like I push a button</p> <p>2 and it's produced, right? Like, so the patient's</p> <p>3 description of pain, you know, I type things out.</p> <p>4 Diagnosis, I go and I type in cervical sprain,</p> <p>5 lumbar sprain, thoracic sprain, right shoulder</p> <p>6 sprain. Treatment, you know, type that out.</p> <p>7 So there's no real -- I see "template", it</p> <p>8 just -- so I don't have to type the headings</p> <p>9 again.</p> <p>10 Q. Well, so I see on Exhibits 10 and 11 for Ms.</p> <p>11 Beasley and Ms. Fields you answered a series of</p> <p>12 questions at numbered points three through</p> <p>13 seven --</p> <p>14 A. Uh-huh.</p> <p>15 Q. -- it looks like you did not do the same with</p> <p>16 Norris and Reid. Why is that?</p> <p>17 A. I don't -- I don't know. I don't know, Peter.</p> <p>18 It's -- every report is a little bit different.</p> <p>19 It doesn't -- again, I could have used these</p> <p>20 points, Exhibit 10's points for Thera Reid. I</p> <p>21 don't really have an organized system as to which</p> <p>22 report I use. I just know I have to produce a</p> <p>23 narrative and that's pretty much it.</p> <p>24 Q. Okay.</p> <p>25 A. Like my charge doesn't change here. They're</p> |
| <p style="text-align: right;">126</p> <p>1 they're quite different in form from Exhibits 8</p> <p>2 and 9; is that fair?</p> <p>3 A. Yes, that's fair.</p> <p>4 Q. So why would you use one template in the case of</p> <p>5 No. 10 and 11 versus the templates used in --</p> <p>6 template or templates used in Exhibits 8 and 9?</p> <p>7 A. There's no reason. I could have pulled up any of</p> <p>8 them and produced a very similar report based on</p> <p>9 each specific patient's findings. So I could</p> <p>10 have used -- I could have used a system for Thera</p> <p>11 Reid, you know, from the Monique Norris style or</p> <p>12 I could have used the Chetoiri Beasley style. It</p> <p>13 doesn't matter. Just they're all -- they're all</p> <p>14 very similar in nature. There's not much</p> <p>15 difference here. You know, they all say very</p> <p>16 similar things.</p> <p>17 And when I say template, it's -- like the</p> <p>18 Thera -- let's look at Exhibit 9, my template is</p> <p>19 just so I don't have to retype patient's</p> <p>20 description of pain, diagnosis, treatment,</p> <p>21 prognosis. Like there's no --</p> <p>22 MR. MANNION: You're referring to</p> <p>23 the headings?</p> <p>24 THE WITNESS: Yeah, like the</p> <p>25 headings there.</p> | <p style="text-align: right;">128</p> <p>1 similar. And if I spend -- because this said two</p> <p>2 hours on the report, it doesn't matter if</p> <p>3 Kimberly Fields is -- or Monique Norris -- I</p> <p>4 shouldn't say it's less -- whatever looks less to</p> <p>5 you it doesn't mean there was less time put into</p> <p>6 it. Because what goes -- the typing portion of</p> <p>7 the narrative is not -- you know, it doesn't</p> <p>8 matter because it's the review of the chart that</p> <p>9 matters. It's coming up with these ideas and</p> <p>10 these conclusions and expert opinions that</p> <p>11 matter. The length of the narrative doesn't</p> <p>12 matter. Like I've seen narrative reports that</p> <p>13 are a paragraph long from, you know, orthopedic</p> <p>14 surgeons or I go to depositions, they show me</p> <p>15 opinions from other professionals and sometimes</p> <p>16 they're just a paragraph. And they charge</p> <p>17 hundreds and hundreds of dollars for these</p> <p>18 reports. So it doesn't matter on the style or</p> <p>19 the length of the report per se. And there's no</p> <p>20 reason to go back to your -- there's no reason</p> <p>21 why I use this particular report style for Ms.</p> <p>22 Reid. There really is no system.</p> <p>23 Q. If we look at Monique Norris' report -- well, let</p> <p>24 me ask you first, let me back up. Why don't you</p> <p>25 -- why don't you put a date on these reports when</p> |

| | |
|--|---|
| <p style="text-align: right;">165</p> <p>1 sometimes I don't.</p> <p>2 Q. Okay. When you describe the narrative report</p> <p>3 again as proving that chiropractors expert</p> <p>4 opinion on what treatment was necessary and maybe</p> <p>5 necessary in the future, you were talking about</p> <p>6 this before, you said you look at the pain levels</p> <p>7 and you make a prediction.</p> <p>8 Typically, would you agree, that if there is</p> <p>9 no objective injury, if it's a soft-tissue case,</p> <p>10 no disc issues, that a patient's injuries will</p> <p>11 resolve after a certain limited period of time?</p> <p>12 MR. KEDIR: Objection.</p> <p>13 MR. POPSON: Objection.</p> <p>14 A. That is so wrong. That is so false. If that was</p> <p>15 the case, no athlete would ever get care, right?</p> <p>16 They're just going to get better on their own.</p> <p>17 That just doesn't happen, right?</p> <p>18 When a person is injured, they need therapy.</p> <p>19 If they don't get therapy, they may suffer</p> <p>20 serious complications and problems down the road.</p> <p>21 You know, you're a sports fan you said,</p> <p>22 LeBron James sprains his ankle, he's not leaving</p> <p>23 the arena without do therapy on his ankle.</p> <p>24 So to say sprains and strains are</p> <p>25 self-limiting, there would be nobody with back</p> | <p style="text-align: right;">167</p> <p>1 know, low levels of pain when I discharge them,</p> <p>2 chances are they won't need much care. Like they</p> <p>3 might need, you know, 30 days up to a couple</p> <p>4 hundred dollars worth of care.</p> <p>5 In Ms. Reid's situation, like I said, I said</p> <p>6 she probably needs \$5,000 worth of care because</p> <p>7 of the level of injury and the level of pain that</p> <p>8 she had leaving my office and the complication of</p> <p>9 the injury that she had. Everybody is different.</p> <p>10 There's no situation where it's the exact same.</p> <p>11 Every patient is unique and its own</p> <p>12 circumstances.</p> <p>13 Q. Well, Ms. Reid had broken bones.</p> <p>14 A. She didn't only have broken bones, that was one</p> <p>15 of her major problems. Ms. Reid had a lot of</p> <p>16 problems, a lot of problems. A lot of damage to</p> <p>17 her ligament, a lot of trauma to her muscles,</p> <p>18 just a lot of trauma to her joints. It's not a</p> <p>19 typical situation. Her case is very unique and</p> <p>20 again, she's probably in pain today.</p> <p>21 Q. She would tell you that she is, I think.</p> <p>22 MR. PATTAKOS: Okay. We can break</p> <p>23 for lunch.</p> <p>24 THE VIDEOGRAPHER: We're going off</p> <p>25 the record. The time is 12:42.</p> |
| <p style="text-align: right;">166</p> <p>1 problems. Half of America has a back problem.</p> <p>2 If you're saying they're self-limiting, that's</p> <p>3 completely offside.</p> <p>4 Q. Well, what does self-limiting mean? I didn't use</p> <p>5 that term.</p> <p>6 A. No, it means -- you did use -- although you</p> <p>7 didn't use that word, but you intended to say</p> <p>8 that, you're saying that the injury is going to</p> <p>9 heal on it's own --</p> <p>10 Q. No, no, no, that is not what I said --</p> <p>11 A. That is what you said.</p> <p>12 Q. -- I asked you if you would agree that in most</p> <p>13 circumstances a soft-tissue injury will resolve</p> <p>14 after a limited period of time with treatment.</p> <p>15 A. With treatment?</p> <p>16 Q. Sure.</p> <p>17 A. Oh, yeah. The patient will get better with</p> <p>18 treatment, yes.</p> <p>19 Q. Okay. And it is easy enough for you to predict</p> <p>20 at a certain level what the soft tissue -- with a</p> <p>21 soft-tissue injury, how long it will take?</p> <p>22 MR. KEDIR: Objection.</p> <p>23 A. It's hard to do. It's not -- I don't do that</p> <p>24 with ease. It's very difficult to predict that.</p> <p>25 Again, it's based on -- if a patient has, you</p> | <p style="text-align: right;">168</p> <p>1 - - - -</p> <p>2 (Thereupon, a recess was had.)</p> <p>3 - - - -</p> <p>4 THE VIDEOGRAPHER: We're back on</p> <p>5 the record. This is the beginning of Tape</p> <p>6 No. 3. The time is 1:48 p.m.</p> <p>7 - - - -</p> <p>8 (Thereupon, court reporter Kurt Spencer continued</p> <p>9 deposition.)</p> <p>10 - - - -</p> <p>11 BY MR. PATTAKOS:</p> <p>12 Q. So, the attorneys for KNR just clarified on the</p> <p>13 break that their response to No. 23, request No.</p> <p>14 23, in Exhibit 7, that we were looking at, this</p> <p>15 chart reflects the referrals from -- so the top</p> <p>16 line that says <i>Akron Square</i> and <i>440</i>, that means</p> <p>17 there were 440 referrals from Akron Square to</p> <p>18 KNR?</p> <p>19 A. Correct.</p> <p>20 Q. And, then, 175 recommendations --</p> <p>21 A. Right.</p> <p>22 Q. -- from KNR to Dr. Floros, to Akron Square.</p> <p>23 A. Yeah, that's from KNR to ASC on the bottom.</p> <p>24 Q. Okay. Does that sound right to you?</p> <p>25 MR. KEDIR: Objection.</p> |

185

1 A. Motorcycle versus car. Motorcycle is going to
 2 lose all the time.
 3 Q. Okay. Sure.
 4 A. Unfortunately.
 5 Q. Right.
 6 A. Remember, these are just prognose and
 7 discussion-related questions. I know you asked
 8 me *where were these records*. This is just me
 9 thinking out loud on a document. This doesn't
 10 necessarily -- it's just a discussion that I'm
 11 having by reviewing the documents. It doesn't
 12 have to be in the records.
 13 Q. If we go down to the paragraph, it looks like the
 14 largest paragraph on this page, where it says *the*
 15 *time needed for injured soft tissue to heal is*
 16 *dependent upon numerous factors*. You, then, go
 17 on and cite the Quebec Task Force. And, then,
 18 even the paragraph following -- several studies
 19 have made it quite clear that many
 20 whiplash-injured patients have not fully
 21 recovered from their injury at three to six
 22 months. And, then, you go on and cite a few
 23 studies.
 24 This content in these two paragraphs, that is
 25 from a template; is it not?

186

1 A. I'm not too sure. I don't remember.
 2 Q. Okay.
 3 A. Like I said, I spent a lot of time on this
 4 particular narrative. So, I did some research.
 5 I looked at some things. I definitely got it
 6 from a research article. It looks like I got it
 7 from a research article.
 8 Q. Do you remember working on this particular
 9 report?
 10 A. I remember Thera Reid, pretty well. There are
 11 not many patients that I have that are like Thera
 12 Reid.
 13 Q. Why is that?
 14 A. Just, the level of trauma was very, very high.
 15 It was very high. I remember Thera Reid crying
 16 multiple times in the office. She was in a lot
 17 of pain.
 18 Q. And, you sent Thera Reid to Dr. Ghoubrial,
 19 correct?
 20 A. I don't remember if I did or not. If she saw
 21 Dr. Ghoubrial, I, probably, would have referred
 22 her to Dr. Ghoubrial.
 23 Q. If she treated with Dr. Ghoubrial, at your
 24 office, could you be sure that you referred her
 25 to Dr. Ghoubrial?

187

1 A. I'll say that if she saw Dr. Ghoubrial, I,
 2 probably, made the referral.
 3 Q. Okay. Would there be circumstances under which a
 4 patient would treat with Dr. Ghoubrial, at your
 5 office, if you didn't make the referral?
 6 A. There has been times, where other chiropractors
 7 have sent their patients to my office to see
 8 Dr. Ghoubrial.
 9 Q. But, what about one of your patients?
 10 A. Say that again.
 11 Q. What about one your patients? If one of your
 12 patients is treating with Dr. Ghoubrial, at your
 13 office, fair to assume that you referred that
 14 patient to Dr. Ghoubrial?
 15 MR. KEDIR: Objection.
 16 A. Yeah. If they were my patient, and they're
 17 seeing Dr. Ghoubrial --
 18 Q. At your office.
 19 A. -- at my office, I, probably, would have made the
 20 referral to Dr. Ghoubrial.
 21 Q. And, if they're your patient, and they're seeing
 22 Dr. Ghoubrial, at all, you also probably made the
 23 referral to Dr. Ghoubrial, correct?
 24 A. If they're my patient, and they're seeing
 25 Dr. Ghoubrial?

188

1 Q. Yes.
 2 A. Yes.
 3 - - - - -
 4 (Thereupon, Deposition Exhibit 14 was marked
 5 for purposes of identification.)
 6 - - - - -
 7 Q. So, these records reflect that Thera Reid saw
 8 Dr. Ghoubrial on April 27th, May 4th, May 10th,
 9 May 25th and June 1st. Five times. And those
 10 appointments appear to be almost all on the same
 11 day that she treated with you. And, we can look,
 12 and see that on April 27th, she, in fact,
 13 received treatment at your office, if we look
 14 back at page 2 and 3 of Exhibit 13; do you agree?
 15 A. Yeah, if you're saying that is accurate, I'm
 16 going to agree with you.
 17 MR. KEDIR: Objection.
 18 Q. And, if she treated with Dr. Ghoubrial on the
 19 same day that she treated with you, seven days
 20 after the accident, it's likely that she treated
 21 at your office, correct?
 22 A. Correct. I don't know if she saw Dr. Ghoubrial
 23 at my office. You would have to ask Ms. Reid.
 24 Q. And, on April 4th, she also received treatment at
 25 your office from you and Dr. Ghoubrial, well,

189

1 let's say that she received treatment from
 2 Dr. Ghoubrial on May 4th, and, also, received
 3 treatment from you, at your office. Do you
 4 agree?
 5 A. Sure, if that's what the record is saying.
 6 Q. And, it looks like on April 10th, she saw
 7 Dr. Ghoubrial, but -- oh, I'm sorry. This is a
 8 bit confusing, because -- oh, you know what, it
 9 looks like the No. 8 was cut off in the left-hand
 10 margin. It looks like a 10 in the writing, but,
 11 really, the typewritten says May 18th. So, it
 12 looks like she was back to treat with
 13 Dr. Ghoubrial on May 18th, which is another day
 14 that she received treatment at your office.
 15 And, then, on May 25th, she treated with Dr.
 16 Ghoubrial, which was another day she treated at
 17 your office. And, then, again, on June 1st, she
 18 treated with Dr. Ghoubrial, and, also, treated at
 19 your office. Does that sound typical to you?
 20 MR. KEDIR: Objection.
 21 MR. POPSON: Objection.
 22 A. It could happen. A lot of times, patients come
 23 to the office, and there are a lot of people
 24 waiting to see Dr. Ghoubrial. While they're
 25 waiting to see Dr. Ghoubrial, they'll get

190

1 treatment from us, if, in fact, it was -- if
 2 Dr. Ghoubrial was in my office that day. And you
 3 have to ask Ms. Reid about that.
 4 Q. If we look back at Exhibit 13, and the dates that
 5 Ms. Reid was in your office, her injury was on
 6 the 20th, and she was in your office on the 22nd,
 7 the 25th, the 27th, the 3rd, the 4th, the 5th,
 8 the 9th, the 11th, the 13th, is it common for a
 9 patient to have such frequent visits to your
 10 office, after suffering a car accident?
 11 A. She probably needed a lot more. Typical soft
 12 tissue injury cases, and people -- physicians
 13 treat patients three/four times a week,
 14 sometimes, daily on certain situations. Three
 15 times a week is very common.
 16 Q. Okay. Why did you stop treating Thera Reid on,
 17 apparently, on July 12, 2016?
 18 A. She had just reached maximum chiropractic
 19 improvement, at that point, I determined there
 20 was not much more I could do for her.
 21 Q. What was the improvement that she had achieved?
 22 A. Give me a second.
 23 MR. KEDIR: Objection.
 24 A. You said July 12th, correct? Well, her motion in
 25 her shoulder was a lot better. Her range of

191

1 motion in her neck, the pain levels had decreased
 2 quite significantly.
 3 Q. And where do you see -- what page are you on
 4 there for what date?
 5 A. Tuesday, July 12, 2016.
 6 Q. This is the last day of treatment?
 7 A. This is the last day I saw her.
 8 Q. It looks like you saw her on August 4th, no?
 9 A. Um --
 10 Q. Or, is this just when the record was made?
 11 A. August 4th --
 12 Q. If you look at the third to last page, or second
 13 to last page, it says *today's date, August 4th*,
 14 at the top. Is that just the date the record was
 15 made?
 16 A. It's possible. Let me see. Yeah, that's what it
 17 looks like. 'Cause, it looks like all the dates
 18 with her have August 4th. So that's the date the
 19 report was made, the records were printed. But,
 20 her last day was July the 12th.
 21 And, again, throughout the course of her
 22 treatment, getting back to your question, there
 23 was an improvement. It was a gradual slow
 24 improvement over, I think, it was five months, or
 25 so, of improvement. At some point, the patient

192

1 will plateau. That's what I determined at that
 2 point. I advised her, like, I advise a lot of my
 3 patients that suffer this level of trauma, to see
 4 me as needed, whenever they want, anytime they
 5 want. They know when I'm there. They can just
 6 come on in.
 7 Q. Did you tell Ms. Reid that you believe that she
 8 had reached maximum medical improvement?
 9 A. Yes, I had.
 10 Q. You told her on this appointment on July 12th,
 11 correct --
 12 A. Correct.
 13 Q. If it is reflected in the records, *it is my*
 14 *clinical opinion that the patient has reached*
 15 *maximum medical improvement?*
 16 A. I would have had a conversation with her that,
 17 "Look, I'm going to release your records, at this
 18 time, come see me as needed." And, I don't know
 19 if she got any care after that. She may have. I
 20 don't know.
 21 Q. And you can't explain why the treatment with
 22 Dr. Ghoubrial is not reflected anywhere in your
 23 records?
 24 A. A lot of times, I just ask the patient. I don't
 25 have to ask Dr. Ghoubrial for his records all the

225

- 1 Q. Is there any other real estate that you own any
2 interest in, besides your house, and these
3 companies that are -- these commercial properties
4 in Toronto?
5 A. No.
6 Q. And you have no idea what Panatha Holdings is?
7 A. No.
8 Q. You have no memory of it?
9 A. No. I don't know what it is.
10 Q. Do you ever recall asking Rob Nestico to help you
11 set up a real estate holding company?
12 MR. KEDIR: Objection.
13 A. No.
14 Q. Do you ever recall asking Rob Nestico to help you
15 set up any corporation?
16 A. No. My accountant set up my corporation for
17 Universal Reports Plus.
18 Q. Okay. Who is Douglas Friedman?
19 A. I believe he's employed at Chiropractic
20 Strategies Group.
21 Q. Do you know what he does there?
22 A. No. Strategy strategies.
23 Q. Have you ever interacted with Mr. Friedman?
24 A. A couple times over the past several years.
25 Q. What do you remember about those interactions?

226

- 1 MR. KEDIR: Objection.
2 A. I don't remember anything.
3 Q. You don't remember anything, at all, you don't
4 remember where they were?
5 A. No.
6 MR. KEDIR: Objection.
7 Q. Were they in Ohio?
8 A. No, they were not in Ohio.
9 Q. Where were they?
10 A. Might be a phone call conversation.
11 Q. Did you ever see them in Texas?
12 A. No.
13 Q. You never saw them in court in Texas, or during
14 litigation proceedings in Texas?
15 A. No. I've only been to Texas once.
16 Q. And that was to testify?
17 A. Correct.
18 Q. Describe that.
19 MR. KEDIR: I'm going to object
20 just if this involves anything -- if he's
21 had any attorney conversations with that,
22 involved in a separate case, don't talk
23 about that.
24 THE WITNESS: I have no problem
25 answering that.

227

- 1 A. I testified regarding a couple of X-rays that
2 were taken from previous chiropractors in Texas.
3 Q. And what did you testify about those X-rays?
4 A. Just the relevancy of the X-ray. What I saw on
5 the X-ray. That's what I remember. This was
6 back in 2007/2008, 2006. I don't remember.
7 Q. And, this was a case where Akron Square was named
8 as a Defendant --
9 MR. KEDIR: Objection.
10 A. Oh, I don't know. I was asked just to fly in, to
11 testify on a couple of records, and a couple of
12 X-rays.
13 Q. -- that were cases that you were involved with?
14 MR. KEDIR: Objection.
15 A. I don't remember which cases they were.
16 Q. Okay. You don't recall that Akron Square was
17 named as a Defendant in a fraud lawsuit --
18 MR. KEDIR: Objection.
19 Q. -- and alleged racketeering?
20 A. No. I don't know. I don't know anything about
21 it.
22 Q. And, you don't know that that's what the case was
23 that you testified in?
24 A. No. I was just told to fly in one day, testify
25 on records and X-rays, and that was it.

228

- 1 Q. And, you have no idea what the case is about?
2 A. No.
3 Q. Have you ever been asked to fly out of state to
4 testify in a case before, besides that occasion?
5 A. Not that I'm aware of.
6 Q. There's been some testimony, in this case, about
7 trips to Cancun, some other locations, Las Vegas,
8 Mississippi, Florida, where KNR employees and
9 providers, such as yourself, go on the trips
10 together for recreational purposes. Do you
11 recall anything about these trips?
12 MR. KEDIR: Objection.
13 A. There was one trip I went on with a couple
14 doctors. We were going to go to Mexico, and
15 instead of going alone, we found out KNR was
16 going. We asked if we can join them. They said
17 yes, and we just went along.
18 Q. And, that was the only trip that you ever took
19 with KNR employees?
20 A. Correct. That's the one remember, yes.
21 Q. That's the one you remember, but it may be that
22 you went on other trips, and you just don't
23 remember?
24 MR. KEDIR: Objection.
25 A. No. There hasn't been any other trips.

IN THE COURT OF COMMON PLEAS
SUMMIT COUNTY, OHIO

| | |
|--|--|
| MEMBER WILLIAMS, et al., Plaintiffs, vs. KISLING, NESTICO & REDICK, LLC, et al., Defendants. | Case No. CV-2016-09-3928 Judge James A. Brogan Affidavit of Richard Harbour |
|--|--|

I, Richard Harbour, having been duly sworn, am over 21 years of age, have personal knowledge of the following matters of fact, and testify as follows:

1. I was represented by the Akron, Ohio law firm of Kisling Nestico & Redick ("KNR") in connection with four separate cases involving four separate car accidents I was in between 2011 and 2016.
2. The first accident was an auto accident that occurred on April 15, 2011. When I signed the KNR fee agreement to have KNR represent me in connection with this accident, no one explained the fee agreement to me, including that I was authorizing KNR to deduct the costs of my medical care directly from my settlement by signing the fee agreement.
3. In the first case, I was instructed by KNR attorney Mark Lindsey to treat with chiropractors from Rolling Acres chiropractic, and Dr. Sam Ghoumbrial, who Mr. Lindsey referred to as "KNR's doctor," because the firm already had a relationship with him. Based on Mr. Lindsey's advice, I began treating with Dr. Ghoumbrial on April 27, 2011. Before he would treat me, Dr. Ghoumbrial required me to sign a medical lien, a true and accurate copy of which is attached as **Exhibit A**.
4. I saw Dr. Ghoumbrial several times in connection with this first accident over the course of only a few months. Each time I saw him, the appointment took approximately ten minutes, Dr. Ghoumbrial did

not check on any of my vital signs, he gave me an injection of some kind of medication, and he gave me a prescription for Flexeril, a muscle relaxer.

5. I have cerebral palsy, and I did not feel well when I first took the Flexeril that Dr. Ghoubrial prescribed me, so I stopped taking it after only having taken it once or twice. When I went back to Dr. Ghoubrial's office for my second appointment with him, he gave me another prescription for Flexeril. When I told him that I did not need this prescription because I still had a whole bottle of the medication at home, he did not respond, and indicated that I should take the prescription anyway.

6. I then asked my KNR attorneys about why Dr. Ghoubrial would give me this prescription when I told him I did not need it, and KNR attorney Robert Redick said in response that I should get the prescription filled even if I wasn't taking the pills, because it was important for my case that it looked like I was following the doctor's orders.

7. At one of my appointments with Dr. Ghoubrial in 2012, he gave me a TENS unit to take home with me. He never informed me that I would be charged for it, he never informed me that he would earn a profit from charging me for this device, and he never informed me or suggested that I could or should obtain a similar device for a lower price elsewhere.

8. When my case settled in April 2012, I received only \$6,490.89 of the \$20,000 that KNR recovered in connection with my accident after the deduction of all fees and expenses I incurred at KNR's direction. Before seeing the settlement memorandum that KNR presented to me, I was not aware that KNR would deduct an investigator fee for AMC Investigations. I had likewise never heard of Clearwater Billing Services, LLC. I assumed that all these charges, as well as the medical expenses taken out of my settlement, were legitimate and I did not ask questions about them because I trusted my KNR lawyers and the doctors with whom they had me treat. I further believed they would never deduct illegitimate charges from my settlement. A true and accurate copy of the settlement memorandum I signed is attached as **Exhibit B**.

9. My second accident during this timeframe occurred on May 10, 2012. When I signed the KNR fee agreement to have KNR represent me in connection with this accident, no one explained that I was authorizing KNR to deduct the costs of my medical care directly from my settlement by signing the fee agreement.

10. My KNR attorneys again directed me to treat with Dr. Ghoumbrial. Based on their direction, I began treating with Dr. Ghoumbrial on May 23, 2012. Again, Dr. Ghoumbrial required me to sign a medical lien, a true and accurate copy of which is attached as **Exhibit C**.

11. Dr. Ghoumbrial also gave me a second TENS unit to take home. When I told him that I still had my TENS unit from the 2011 accident, he simply told me I should take another one. Again, he never informed me that I would be charged for it, he never informed me that he would earn a profit from charging me for this device, and he never informed me or suggested that I could or should obtain a similar device for a lower price elsewhere.

12. As with my appointments with Dr. Ghoumbrial in connection with the 2011 accident, each time I saw him, the appointment took approximately ten minutes, Dr. Ghoumbrial did not check on any of my vital signs, he gave me an injection of some kind of medication, and he gave me a prescription for Flexeril.

13. Over the course of KNR's representation of me for this accident, my deposition was taken by the insurance company defending the claim. Before my deposition, my KNR lawyer advised me that the insurance company's lawyer, who would be asking me questions during the deposition, did not like Dr. Ghoumbrial and that my having treated with Dr. Ghoumbrial would be a "sticking point" throughout the deposition.

14. When my case settled in July 2015, I received only \$6,400.00 of the \$22,500.00 that KNR recovered in connection with my accident. Before seeing the settlement memorandum that KNR presented to me, I was not aware that KNR would deduct an investigator fee. As with my first KNR

settlement, I assumed that all these charges, as well as the medical expenses taken out of my settlement, were legitimate and I did not ask questions about them because I trusted my KNR lawyers and the doctors with whom they had me treat. I further believed they would never deduct illegitimate charges from my settlement. A true and accurate copy of the settlement memorandum I signed is attached as **Exhibit D**.

15. Throughout the entirety of my relationship with Dr. Ghoubrial, I was led to believe that I would not need to worry about covering the costs of my care and that the costs of my care would not hurt my settlements.

16. I trusted and assumed that KNR, as my attorneys, and Dr. Ghoubrial, as my doctor, would not charge me extreme markups for medical treatment or supplies, and would not sell me medical devices at a profit without informing me that I could obtain the same devices at a lower cost from alternative sources.

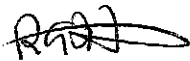
17. Approximately two days after one of my appointments with Dr. Ghoubrial in connection with the 2012 accident, I complained to my chiropractor Dr. Auck that I did not feel well. Dr. Auck checked my blood pressure in response to my complaint, found that it was extremely high, and recommended that I go immediately to a hospital. I then went immediately to the emergency room at Barberton Hospital where I was treated for high blood pressure. After this episode, I informed my KNR attorneys that I would no longer treat with Dr. Ghoubrial again for any reason.

18. During the entirety of KNR's representation of me, KNR never advised me of and I never otherwise became aware of any work, investigative or otherwise, performed by AMC Investigations or MRS Investigations or any outside investigator. Likewise, KNR did not explain to me why I was charged an investigator fee. I did not question the small charges to these companies on my settlement memoranda and trusted that KNR, as my attorneys, would not charge me illegitimate fees.

19. Each time KNR presented me with a settlement memorandum to sign, KNR did not explain to

me what the individual charges represented. I would have refused to sign each settlement memorandum had KNR accurately informed me about the true nature of the investigator fee and the amounts being paid to Dr. Ghoumbrial from my settlement.

I affirm the above to be true and accurate to the best of my knowledge under penalty of perjury.

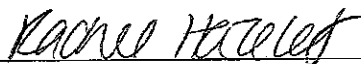


Signature of Affiant

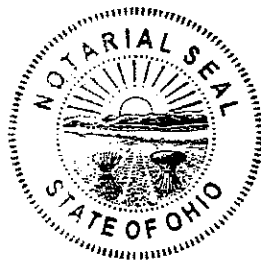
5/8/19

Date

Sworn to and subscribed before me on 5/8/19 at RHMAN, Ohio.



Notary Public, State of Ohio



Attorney Rachel L. Hazelet
Notary Public, State of Ohio
My Commission
Has No Expiration Date
Sec 147.03 RC

5/4/2011 12:13 PM FROM: Fax TO: 8 330 925 9030 PAGE: 22 OF 004

MAY-02-2011 00:13AM FROM: Sam Ghoubrial MD

3309250030

T-898 P.002/009 F-165

Sam N. Ghoubrial M.D.
Richard H. Gunning M.D.
MEDICAL ASSIGNMENT

Re: Patient Richie A Harbour

First date of service: 4/27/11

I hereby direct you to pay to Clearwater Billing Services, LLC from the net proceeds of any settlement, claim, judgment, verdict or award, for any and all services rendered as a result of an injury that I received on 4/15/2011.

Said amount being fair and reasonable price of medical services provided by Hancrist, LLC for me at the direction of my doctor or doctors. I authorize you to withhold said sums from the net proceeds of any settlement, claim, judgment, verdict, or awards as may be necessary to pay Clearwater Billing Services, LLC

I fully understand that I am directly and fully responsible to Clearwater Billing Services, LLC for the aforementioned account submitted to me by Clearwater Billing Services, LLC for services rendered to me, and that this agreement is made solely for its additional protection and in consideration of its awaiting payment. I further understand that such payment is not contingent on any settlement, claim, judgment, verdict or award by which I may eventually recover said fee.

Dated: 4/27/11

X RAA

The undersigned being attorney of record for the above patient does hereby agree to observe all terms of the above and agrees to withhold such claims from the net proceeds of any settlement, claim, judgment, verdict, or award as may be necessary to adequately protect Clearwater Billing Services, LLC provided that said lien is subordinate to attorney's lien herein.

Dated: _____

[Signature]
Kisling, Nestico & Redick, LLC
Attorneys at Law

Kisling, Nestico & Redick, LLC
3200 W. Market St., Suite 300
Akron, Ohio 44333
(330) 869-9007
(330) 869-9008 (fax)

1134 Brown Street Suite 1A Akron, Ohio 44301 (330) 925-1500

EXHIBIT A

4/25/2012

214858 / Richard A Harbour

Settlement Memorandum**Recovery:**

| | | |
|-----|----------------|--------------|
| REC | Erie Insurance | \$ 20,000.00 |
| | | <hr/> |
| | | \$ 20,000.00 |

DEDUCT AND RETAIN TO PAY:

| | |
|---|-----------|
| Kisling, Nestico & Redick, LLC | |
| Akron General Medical Center **; | \$ 31.23 |
| Akron General Medical Center **; Records/KN | \$ 34.38 |
| AMC Investigations; | \$ 50.00 |
| Clearwater Billing Services, LLC; | \$ 50.00 |
| Akron General Health System; | \$ 1.50 |
| | <hr/> |
| Total Due | \$ 167.11 |

DEDUCT AND RETAIN TO PAY TO OTHERS:

| | |
|--|------------------------|
| Akron General Medical Center ** | <u>RAH</u> \$ 2,470.00 |
| Akron General Medical Center ** | <u>RAH</u> \$ 342.00 |
| General Emergency Medical Specialists, Inc.* | <u>RAH</u> \$ 130.00 |
| Ghoubrial, M.D., Dr. Sam N. | \$ 2,000.00 |
| Kisling, Nestico & Redick, LLC | \$ 4,700.00 |
| Rolling Acres Chiropractic Inc | \$ 3,700.00 |
| | <hr/> |
| Total Due Others | \$ 13,342.00 |

| | |
|-----------------------------------|--------------|
| Total Deductions | \$ 13,509.11 |
| Total Amount Due to Client | \$ 6,490.89 |

I hereby approve the above settlement and distribution of proceeds. I have reviewed the above information and I acknowledge that it accurately reflects all outstanding expenses associated with my injury claim. I further understand that the itemized bills listed above will be deducted and paid from the gross amount of my settlement except as otherwise indicated. Finally, I understand that any bills not listed above, including but not limited to Health Insurance or Medical Payments Subrogation and/or those initiated by me to indicate that they are not being paid from the settlement are my responsibility and not the responsibility of Kisling, Nestico & Redick, LLC.

Date: X

4/25/12

Name: X

Richard A Harbour

Firm: X

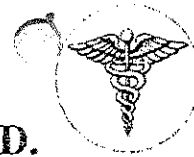
Kisling, Nestico & Redick, LLC

EXHIBIT B

KNR04589



Sam N. Ghoubril M.D.
Richard H. Gunning M.D.
MEDICAL ASSIGNMENT



Re: Patient Richie A Harbour

First date of service: 5/23/12

I hereby direct you to pay to Clearwater Billing Services, LLC from the net proceeds of any settlement, claim, judgment, verdict or award, for any and all services rendered as a result of an injury that I received on 5/10/12.

Said amount being fair and reasonable price of medical services provided by Hancrist, LLC for me at the direction of my doctor or doctors. I authorize you to withhold said sums from the net proceeds of any settlement, claim, judgment, verdict, or awards as may be necessary to pay Clearwater Billing Services, LLC

I fully understand that I am directly and fully responsible to Clearwater Billing Services, LLC for the aforementioned account submitted to me by Clearwater Billing Services, LLC for services rendered me, and that this agreement is made solely for its additional protection and in consideration of its awaiting payment. I further understand that such payment is not contingent on any settlement, claim, judgment, verdict or award by which I may eventually recover said fee.

Dated: 5/23/12 Y RGA

The undersigned being attorney of record for the above patient does hereby agree to observe all terms of the above and agrees to withhold such claims from the net proceeds of any settlement, claim, judgment, verdict, or award as may be necessary to adequately protect Clearwater Billing Services, LLC provided that said lien is subordinate to attorney's lien herein.

Dated: _____

Kisling, Nestico & Redick, LLC
Attorneys at Law

Kisling, Nestico & Redick, LLC
3200 W. Market St., Suite 300
Akron, Ohio 44333
(330) 869-9007
(330) 869-9008 (fax)

@5.24.12 DS

EXHIBIT C

1134 Brown Street Suite 1A Akron, Ohio 44301 (330) 925-1500

7/27/2015

221620 / Richard Harbour

Settlement Memorandum**Recovery:**

| | | |
|-----|------------------------|---------------------|
| MP | Progressive Insurance* | \$ 5,000.00 |
| REC | Erie Insurance | <u>\$ 17,500.00</u> |
| | | \$ 22,500.00 |

DEDUCT AND RETAIN TO PAY:

| | |
|--|----------------|
| Kisling, Nestico & Redick, LLC | |
| AMC Investigations; | \$ 40.00 |
| Clearwater Billing Services, LLC; | \$ 50.00 |
| First Healthcare**; dd | \$ 12.00 |
| HealthPort; dd | \$ 48.23 |
| Kisling, Nestico & Redick, LLC; Filing Fee/rjk | \$ 386.25 |
| Professional Receivables Control, Inc.*; | \$ 16.00 |
| Trisha Beban Yost, RPR; #6018/depo of Fischer | \$ 55.00 |
| Akron General Health System*; | <u>\$ 2.50</u> |
| Total Due | \$ 609.98 |

DEDUCT AND RETAIN TO PAY TO OTHERS:

| | |
|----------------------------------|--------------------|
| Bath Fire Department | \$ 450.00 |
| Clearwater Billing Services, LLC | \$ 1,900.00 |
| Kisling, Nestico & Redick, LLC | \$ 6,388.33 |
| Progressive Insurance* | \$ 3,335.00 |
| Radiology & Imaging Services | \$ 38.00 |
| Radiology & Imaging Services | \$ 47.01 |
| Rolling Acres Chiropractic Inc | <u>\$ 3,331.68</u> |
| Total Due Others | \$ 15,490.02 |

| | |
|--------------------------------|--------------|
| Total Deductions | \$ 16,100.00 |
| Total Amount Due to Client | \$ 6,400.00 |
| Less Previously Paid to Client | \$ 0.00 |
| Net Amount Due to Client | \$ 6,400.00 |

EXHIBIT D

KNR05022

I hereby approve the above settlement and distribution of proceeds. I have reviewed the above information and I acknowledge that it accurately reflects all outstanding expenses associated with my injury claim. I further understand that the itemized bills listed above will be deducted and paid from the gross amount of my settlement except as otherwise indicated. Finally, I understand that any bills not listed above, including but not limited to Health Insurance or Medical Payments Subrogation and/or those initialed by me to indicate that they are not being paid from the settlement are my responsibility and not the responsibility of Kisling, Nestico & Redick, LLC.

Date:

7/29/15

Name:

Richard Harbour

Firm:

Kisling, Nestico & Redick, LLC

KNR05023

IN THE COURT OF COMMON PLEAS
SUMMIT COUNTY, OHIO

| | |
|--|---|
| MEMBER WILLIAMS, et al., Plaintiffs, vs. KISLING, NESTICO & REDICK, LLC, et al., Defendants. | Case No. CV-2016-09-3928 Judge James A. Brogan Affidavit of Michael Walls, M.D. |
|--|---|

I, Michael Walls, M.D., having been duly sworn, have personal knowledge of the following matters of fact, and testify as follows:

1. I am 42 years of age, licensed to practice medicine in both the state of Ohio and Kentucky. I have been a licensed and practicing physician in the State of Kentucky since 2009, specializing in the area of Anesthesiology based Pain Management. My practice has been based in Northern Kentucky since 2009. I graduated from The Cleveland Clinic in 2008 for Anesthesiology and from The Cleveland Clinic in 2009 for Pain Management where I served as Chief Fellow of CCF Pain Management from 2008-2009. I am board certified in Anesthesiology and Pain Medicine. I have never been disciplined or sanctioned by any regulatory authority for my professional conduct. A copy of my c.v. is attached to this affidavit as Exhibit 1.
2. During the course of my practice over the past 10 years, I have treated thousands of patients from Ohio and Kentucky for back pain of all types, including patients suffering acute pain from work related injuries and car accidents.
3. There are numerous peer-reviewed and accredited medical studies to support that the large majority (>70%) of patients with acute (<4 weeks) and subacute (<12 weeks) pain resolves spontaneously with minimal treatment. Therefore, I rarely prescribe opioid based pain medication

to patients suffering from acute pain and only if the injury is severe enough to warrant such an action. Sprain and/or strain related to MVA would not meet that criteria. Because the large majority of acute back and/or neck pain tends to resolve with time and minimal treatment, more conservative methods of treatment should be considered first before proceeding with more invasive modalities. These include research-supported therapies with efficacy shown for "RICE" therapy (rest, ice, compression, and elevation), physical therapy, NSAIDs (non-steroidal anti-inflammatory drugs), and non-benzodiazapine muscle relaxants as first line treatments.

4. I do not administer and do not agree with the administration of Trigger Point Injections (TPIs) to a patient suffering from acute and/or widespread back pain, and more specifically pain related to a Motor Vehicle Accident (MVA). Administering TPIs for patients with acute injury pain and/or widespread pain goes against best practices based on Evidence Based Medicine (EBM). EBM is the conscientious, explicit, judicious and reasonable use of modern, best evidence in making decisions about the care of individual patients. EBM integrates clinical experience and patient values with the best available research information. There is no credible research that I have ever come across that supports administering TPIs for acute and/or widespread pain or as a first line therapy for the treatment thereof. There are numerous peer-reviewed and accredited research articles that list acute pain and/or widespread pain as contraindications for the administration of TPIs. These research articles only support and show evidence of efficacy of TPIs in the treatment of chronic pain related to such disorders as Myofascial Pain Syndrome (MPS).

5. If a patient suffering from acute back pain resulting from a car accident were to receive TPIs within weeks of the accident, while also simultaneously undergoing chiropractic care and/or physical therapy and/or medications for pain relief; there would be no way to determine whether any reduction in pain was the result of the injections or from any of the other modalities of treatment.

6. When I do administer TPIs in my practice for chronic pain related to such disorders as MPS, I can expect a typical reimbursement from an insurance carrier under codes 20552 (one-two muscles injected) and 20553 (>2 muscles injected) of approximately \$50-\$70 total per procedure/visit.

7. For an initial new patient office visit under billing code 99203 & 99204, I can expect a typical reimbursement from an insurance carrier for approximately \$100-\$170 and for follow-up visits under code 99213 & 99214, approximately \$70-\$110.

8. There is no credible peer-reviewed evidence in the literature to support the use of Transcutaneous Electrical Nerve Stimulation (TENS) for the treatment of acute low back pain. In addition to this, numerous TENS units of all types are available for purchase at medical supply stores or online for much less than \$500, the majority of which can be found for less than \$100. Failure to disclose this while administering a \$500 TENS unit without informing the patient of cost, risk, and alternatives is intentionally misleading. TENS unit has only been shown to be effective in the treatment of chronic low back pain, and only with minimal supporting evidence. I do not administer these at all in my clinic and only mention them to patients as a possible addition and/or alternative therapy which they can pursue on their own through outside purchase.

9. There is no credible peer-reviewed evidence in the literature to support the use of back bracing for the treatment of acute low back pain. In addition to this, numerous back braces of all types are available for purchase at medical supply stores or online for much less than \$1500, the majority of which can be found for approximately \$100 or less. Failure to disclose this while administering a \$1500 brace without informing the patient of cost, risk, and alternatives is intentionally misleading. Highly specialized braces are only occasionally used in the treatment of chronic low back pain and are indicated for the treatment and spinal stabilization of patients with such conditions as Lumbar Spondylolisthesis, Compression Fracture, Kyphosis/Osteoporosis,

spinal stabilization post implant/surgery, etc. These are authorized and covered under the patient's insurance for treatment of these specific conditions, none of which are related to sprain or strain.

10. In my practice, I accept payment from most major health-insurance companies. If a patient is covered by any of the insurance carriers for which I participate, I am required by law to bill said insurance for the patient's care. If a patient is not covered under one of the offered insurance providers and/or seeks treatment outside of their medical coverage, I am able to offer them a "self-pay" fee. However, under my ethical and professional obligations to the patient, that fee must be reasonably aligned for the typical reimbursement from an insurance carrier and/or not in extraordinary excess of reasonable expected overhead expense of the procedure. Cost, consent, along with risk/benefits/alternatives of said procedure should be discussed and agreed upon with patient prior to proceeding.

11. Physicians should follow a code of medical ethics as outlined by the American Medical Association when determining a course of action for their patient. The relationship between a patient and a physician is based on trust, which gives rise to physicians' ethical responsibility to place patients' welfare above the physician's own self-interest or obligations to others, to use sound medical judgment on patients' behalf, and to advocate for their patients' welfare. Patients have the right to receive information from their physicians and to have opportunity to discuss the benefits, risks, and costs of appropriate treatment alternatives, including the risks, benefits and costs of forgoing treatment. Patients should be able to expect that their physicians will provide guidance about what they consider the optimal course of action for the patient based on the physician's objective professional judgment. Patients also have the right to obtain a second opinion if so desired and to be advised of any conflicts of interest their physician may have in respect to their care.

12. Best practice supports all new patients presenting with pain should have a documented history and physical examination and an assessment that ultimately supports a chosen treatment

strategy. In addition to a history of current illness, the history should include (1) a review of available records/imaging, (2) medical history, (3) surgical history, (4) social history, including substance use or misuse, (5) family history, (6) history of allergies, (7) current medications, including use or misuse, and (8) a review of systems. The causes and the effects of the pain (e.g., MVA, change in occupational status, etc) and the impacts of previous treatment(s) if any should be evaluated and documented. The physical examination should include an appropriately directed neurologic and musculoskeletal evaluation, with attention to other systems as indicated. Findings from the patient history, physical examination, and diagnostic evaluation should be combined to provide the foundation for an individualized treatment plan focused on the optimization of the risk– benefit ratio with an appropriate progression of treatment from a lesser to greater degree of invasiveness.

13. Informed consent to medical treatment is fundamental in both ethics and law. Patients have the right to receive information and ask questions about recommended treatments so that they can make well considered decisions about care. The process of informed consent occurs when communication between a patient and physician results in the patient's authorization or agreement to undergo a specific medical intervention. The physician should include information about the diagnosis, the nature and purpose of recommended interventions, the burdens, risks, and expected benefits of all options, including forgoing treatment, and document the informed consent conversation and the patient's (or surrogate's) decision in the medical record in some manner.

14. Physicians are expected to conduct themselves as honest, responsible professionals. Physicians should not recommend, provide, or charge for unnecessary medical services. Nor should they make intentional misrepresentations to increase the level of payment they receive or to secure noncovered health benefits for their patients.

15. The documents I have reviewed in preparing this affidavit include the studies and summaries marked as Exhibits 2, 4, 37, 38, 41, 42, and 43 to the deposition of Sam Ghoubril, M.D. taken in

the above-captioned case, as well as the four studies attached to this affidavit as Exhibits 2-5, and the American Medical Association's Code of Medical Ethics.

I affirm the above to be true and accurate to the best of my knowledge under penalty of perjury.

Michael Walsh 5/13/19
Signature of Affiant Date

Sworn to and subscribed before me on May 13, 2019 at Crescent Springs, KY

Scott Best
Notary Public

SCOTT BEST
Notary Public, Kentucky State at Large
My Commission Expires Dec. 10, 2019
Notary ID# 547000

CONFIDENTIAL

| | |
|---|---|
| <p style="text-align: right;">Page 10</p> <p>1 A. Okay.</p> <p>2 Q. Now, your attorney here today</p> <p>3 may -- or attorneys may register objections to</p> <p>4 the questions that I ask you today, but that is</p> <p>5 only to preserve those objections for the</p> <p>6 record. And you are still required to answer</p> <p>7 my question, even when your attorney objects,</p> <p>8 unless your attorney specifically instructs you</p> <p>9 not to answer the question, in which case the</p> <p>10 Court will decide whether you have to answer</p> <p>11 the question. Do you understand?</p> <p>12 A. Yes, I do.</p> <p>13 Q. Okay. So you called my office on</p> <p>14 October 2, 2018, at 6:32 p.m., correct?</p> <p>15 A. I called your office that day. I</p> <p>16 don't recall the time, but, okay.</p> <p>17 Q. If my records reflect that it took</p> <p>18 place at 6:32 p.m., would you have any reason</p> <p>19 to doubt that?</p> <p>20 MR. BARMEN: Objection.</p> <p>21 Go ahead.</p> <p>22 A. I would not doubt it.</p> <p>23 Q. And you spoke with my receptionist</p> <p>24 first who then connected you with me, correct?</p> <p>25 A. That's correct.</p> | <p style="text-align: right;">Page 12</p> <p>1 that you were calling regarding a current case</p> <p>2 against Dr. Sam Ghoubril and a document that</p> <p>3 was sent to my office regarding that lawsuit</p> <p>4 that you signed against your will, correct?</p> <p>5 MR. BARMEN: Objection.</p> <p>6 Go ahead.</p> <p>7 A. I felt pressured to sign it. I did</p> <p>8 sign it. I didn't want to sign it, but I did</p> <p>9 sign it.</p> <p>10 Q. And that is what you told my</p> <p>11 receptionist, correct?</p> <p>12 A. That's correct.</p> <p>13 Q. And after you told my receptionist</p> <p>14 this, my receptionist then connected you with</p> <p>15 me and you told me the very same thing,</p> <p>16 correct?</p> <p>17 MR. BARMEN: Objection.</p> <p>18 Go ahead.</p> <p>19 A. I did.</p> <p>20 Q. About the document that you signed,</p> <p>21 but you did not want to sign, that you were</p> <p>22 pressured to sign it by Dr. Ghoubril, correct?</p> <p>23 MR. BARMEN: Objection.</p> <p>24 Go ahead.</p> <p>25 A. I felt pressured to sign the</p> |
| <p style="text-align: right;">Page 11</p> <p>1 Q. And we proceeded to speak on the</p> <p>2 phone for approximately two hours, correct?</p> <p>3 A. I don't recall how long the</p> <p>4 conversation was.</p> <p>5 Q. If I told you that my records of</p> <p>6 our conversation showed that we spoke for one</p> <p>7 hour, 54 minutes and 40 seconds, would you have</p> <p>8 any reason to doubt that was true?</p> <p>9 MR. BARMEN: Objection.</p> <p>10 Go ahead.</p> <p>11 A. No.</p> <p>12 Q. And the number that you called me</p> <p>13 from, that was 330-860-7215, correct?</p> <p>14 A. That's most likely true, yes.</p> <p>15 Q. And why is that, "Most likely,"</p> <p>16 true?</p> <p>17 A. I have two cell phones and that's</p> <p>18 one of the numbers.</p> <p>19 Q. Okay. And that's your personal</p> <p>20 mobile phone?</p> <p>21 A. Yes.</p> <p>22 Q. Who's the carrier for that account?</p> <p>23 A. Verizon, I think.</p> <p>24 Q. When you called and first spoke</p> <p>25 with my receptionist, you told the receptionist</p> | <p style="text-align: right;">Page 13</p> <p>1 document. I did not want to sign the</p> <p>2 document --</p> <p>3 Q. Okay.</p> <p>4 A. -- I was nervous. I was worried</p> <p>5 about signing it.</p> <p>6 Q. And from there, we had a</p> <p>7 conversation about Dr. Ghoubril's practice and</p> <p>8 more specifically his treatment of KNR clients,</p> <p>9 correct?</p> <p>10 A. That did come up.</p> <p>11 Q. You are Dr. Ghoubril's employee,</p> <p>12 correct?</p> <p>13 A. That's correct.</p> <p>14 Q. You are not his partner, correct?</p> <p>15 A. That's correct.</p> <p>16 Q. He may refer to you as his,</p> <p>17 "Partner," sometimes, but that does not mean</p> <p>18 you have an ownership interest in his business,</p> <p>19 correct?</p> <p>20 MR. BARMEN: Objection.</p> <p>21 Go ahead.</p> <p>22 A. I do not have any ownership in his</p> <p>23 business.</p> <p>24 Q. Do you have an employment contract?</p> <p>25 A. Actually, I don't.</p> |

4 (Pages 10 - 13)

EXHIBIT 16

Veritext Legal Solutions

www.veritext.com

Sandra Kurt, Summit County Clerk of Courts

888-391-3376

CONFIDENTIAL

| | |
|---|--|
| <p style="text-align: right;">Page 14</p> <p>1 Q. Are you an at-will employee?</p> <p>2 MR. BARMEN: Objection.</p> <p>3 Go ahead.</p> <p>4 A. Yes.</p> <p>5 Q. One of the things that you told me</p> <p>6 about Dr. Ghoubril's business of treating KNR</p> <p>7 clients was that at some point, he excluded you</p> <p>8 from that practice because you were not</p> <p>9 administering as many injections to these</p> <p>10 clients as he wanted you to administer,</p> <p>11 correct?</p> <p>12 MR. BARMEN: Objection.</p> <p>13 Go ahead.</p> <p>14 A. I don't know if that was the</p> <p>15 reason. I assumed that it was the reason, but</p> <p>16 it also turned out that that was right about</p> <p>17 the time that we lost one of our other</p> <p>18 physicians in our office and he came back in</p> <p>19 the office.</p> <p>20 Q. These KNR clients are treated as</p> <p>21 part of a separate practice that Dr. Ghoubril</p> <p>22 has set up, correct?</p> <p>23 MR. BARMEN: Objection.</p> <p>24 Go ahead.</p> <p>25 A. I understand that they are separate</p> | <p style="text-align: right;">Page 16</p> <p>1 clinic, rather than trunk them across town,</p> <p>2 they would just sit in the waiting room, see</p> <p>3 the chiropractor, sit in the waiting room and</p> <p>4 then see either Dr. Ghoubril or myself.</p> <p>5 Q. Now, when you would treat these</p> <p>6 clients in the Wadsworth office -- and I'll</p> <p>7 call that -- I'll refer to, "The personal</p> <p>8 injury practice," and, "The family practice,"</p> <p>9 to distinguish between the two, if --</p> <p>10 A. Okay --</p> <p>11 Q. -- that works.</p> <p>12 A. -- yeah.</p> <p>13 Q. When you treated the personal</p> <p>14 injury clients at the Wadsworth office, how did</p> <p>15 you know they were personal injury clients?</p> <p>16 A. They had a separate chart. That's</p> <p>17 my first indication.</p> <p>18 Q. What makes it separate?</p> <p>19 A. Patients who are not personal</p> <p>20 injury, there's a chart and it's hung outside</p> <p>21 the door in the little compartment. And when I</p> <p>22 see that, I automatically know it's a family</p> <p>23 practice patient. And I take that, if I need</p> <p>24 to order a lab or something, I'll obviously</p> <p>25 enter it in the computer, but I'll also check</p> |
| <p style="text-align: right;">Page 15</p> <p>1 from our office practice, yes.</p> <p>2 Q. And the KNR clients were treated at</p> <p>3 separate locations from the Wadsworth office</p> <p>4 where Dr. Ghoubril's family practice was set</p> <p>5 up, correct?</p> <p>6 A. Not always.</p> <p>7 Q. "Not always," can you explain?</p> <p>8 A. I did see patients at the other</p> <p>9 office where a lot of these clients were, but I</p> <p>10 also would see them in my own office at</p> <p>11 Wadsworth a lot. In fact, after he pulled me</p> <p>12 out of that office and brought me back to the</p> <p>13 Wadsworth office, I actually saw more personal</p> <p>14 injury clients in the Wadsworth office. And I</p> <p>15 still do. I'm just not going to the other</p> <p>16 office. On a rare occasion, I still do, if</p> <p>17 Ghoubril is out of town or something and he</p> <p>18 needs me to cover, but otherwise I stay</p> <p>19 primarily at our Wadsworth office.</p> <p>20 Q. When you say, "The other office,"</p> <p>21 what are you referring to?</p> <p>22 A. He had a room set up over at the</p> <p>23 chiropractor's office and if there were</p> <p>24 patients who were seeing the chiropractor who</p> <p>25 were also in Dr. Ghoubril's personal injury</p> | <p style="text-align: right;">Page 17</p> <p>1 something on the chart. And I'll leave that in</p> <p>2 the door after I'm done with the patient. And</p> <p>3 the nurse will come and take that and deal with</p> <p>4 it.</p> <p>5 If it's a personal injury patient,</p> <p>6 they're not in our family practice computer</p> <p>7 system. They actually have a separate chart</p> <p>8 and that chart would be in the little folder</p> <p>9 outside of the patient's door. And so my first</p> <p>10 indication is, oh, a personal injury client. I</p> <p>11 look and I'll see a charge slip, charge slip</p> <p>12 and then there's that chart hanging out of the</p> <p>13 door.</p> <p>14 Q. So it's a different format, the</p> <p>15 chart itself is a different format?</p> <p>16 A. Yes, it is.</p> <p>17 Q. Okay. What's different about it?</p> <p>18 A. It's a manila folder and you open</p> <p>19 it and on the right-hand side, there's the</p> <p>20 notes. They're typically typed by the</p> <p>21 transcriptionist and signed by the doctor and</p> <p>22 the history and physical will be there. And</p> <p>23 then on top of that will be any subsequent</p> <p>24 visits that they have. Behind those notes</p> <p>25 would be the copies of reported x-rays, MRIs,</p> |

5 (Pages 14 - 17)

CONFIDENTIAL

| | |
|--|---|
| <p style="text-align: right;">Page 22</p> <p>1 injury clients, he wanted you to administer as 2 many injections to these clients as was 3 possible, correct? 4 MR. BARMEN: Objection. 5 MR. MANNION: Objection. 6 MR. BARMEN: Go ahead. 7 A. He wanted to use trigger point 8 injections as a way to use less narcotics. I 9 gave trigger point injections. He gave more 10 than I did. And I had no objections to giving 11 trigger point injections, but if the patients 12 didn't want them, I wouldn't give them. And if 13 they did, I would. I think they're helpful and 14 they're part of the standard practice and part 15 of the standard of care for treating these car 16 accident patients. 17 Q. When we spoke on the phone on 18 October 2, you told me that Dr. Ghoubrial 19 instructed you when treating these patients to 20 sneak the needles into the client's back when 21 they weren't looking -- 22 MR. BARMEN: Objection. 23 Q. -- did you not, Dr. Gunning? 24 MR. BARMEN: Objection. 25 Go ahead.</p> | <p style="text-align: right;">Page 24</p> <p>1 MR. MANNION: Objection. 2 A. I don't know what your records are. 3 Q. That's not the question. 4 MR. MANNION: Objection. That was 5 the question. 6 Q. No, the question wasn't, what are 7 my records. The question is: If my records of 8 our conversation show that you did not ever say 9 anything about Dr. Ghoubrial worrying about a 10 patient being needle-phobic, would you have any 11 reason to doubt that? 12 MR. MANNION: Objection. 13 MR. BARMEN: Objection. 14 MR. BEST: Are you saying he 15 didn't write it down or -- 16 MR. MANNION: Are you a witness 17 now? 18 THE NOTARY: Are we all going to 19 talk at the same time? 20 MR. PATTAKOS: Please read the 21 question back to the witness, Tracy. 22 Your objections are noted. 23 THE NOTARY: Which question the 24 last one or -- 25 MR. PATTAKOS: Yes, the last one I</p> |
| <p style="text-align: right;">Page 23</p> <p>1 A. What I said was, he has his own way 2 of dealing with these clients, especially 3 people who might be needle-phobic. He would 4 say, "Don't necessarily say the word 'needle' 5 to them. Don't necessarily say, 'shot.' Tell 6 them that you want to put the medication right 7 where the pain is." And that was his approach 8 to informed consent. I tended to be more 9 likely to show the patient the needle. And of 10 course, as a result, some patients who 11 otherwise would have been helped by an 12 injection sometimes declined the shot. And 13 I'll admit, I'm not as good a salesperson in 14 getting people to take shots, whether it's 15 trigger point injections or diabetics who need 16 to start insulin or any of that. Some people 17 are just needle-phobic. 18 Q. You didn't mention anything about 19 the needle-phobic issue, when we spoke on the 20 phone, did you? 21 A. I don't recall. 22 Q. If my records of our conversation 23 showed that you didn't, would you have any 24 reason to doubt that? 25 MR. BARMEN: Objection.</p> | <p style="text-align: right;">Page 25</p> <p>1 asked. 2 (Record was read.) 3 THE NOTARY: I'm sorry. Oh, lord, 4 can you just read -- I'm sorry. 5 BY MR. PATTAKOS: 6 A. I'm sorry. I don't recall what 7 particular words I said. The phone call was 8 two months ago. We do have different 9 approaches toward treating patients. I never 10 administered any treatments that I thought was 11 unnecessary. I gave them whatever treatments I 12 thought was helpful, which included trigger 13 points, when I could convince the patients to 14 get the trigger point. Sam has a different 15 approach toward getting the patients to accept 16 trigger points than I do and I'll admit he was 17 more successful at it. 18 Q. If you -- 19 MR. MANNION: One moment before 20 your next question. If you're going to ask 21 questions about your notes, I request a copy of 22 those now, before you keep going. 23 MR. PATTAKOS: That's great, Tom. 24 MR. MANNION: I'm serious. You 25 can't ask questions about documents that you</p> |

7 (Pages 22 - 25)

CONFIDENTIAL

| | |
|--|---|
| <p style="text-align: right;">Page 30</p> <p>1 MR. PATTAKOS: Two things. Okay. 2 Number one, I'm not cross-examining him on the 3 notes. 4 MR. BARMEN: Clearly you are. 5 MR. PATTAKOS: No, I'm not. I'm 6 asking him to remember our conversation and to 7 remember what he said. That's number one. 8 Number two, he didn't answer the question and 9 I'm entitled to get a straight answer out of 10 him -- 11 A. Well, the answer is -- 12 MR. PATTAKOS: -- so if you don't 13 like it -- 14 MR. BARMEN: Wait. 15 MR. PATTAKOS: -- you can object, 16 but you can't tell him not to answer. And you 17 can't testify for the witness, because it's 18 inappropriate, and we will take this to the 19 Judge, if you keep it up. Okay? 20 MR. BARMEN: First off, I have 21 yet to instruct him not to answer a question. 22 MR. PATTAKOS: Well, you're 23 testifying for him, is what you're doing. 24 You're telling him that you don't -- that you 25 like the answer he gave, the nonanswer that he</p> | <p style="text-align: right;">Page 32</p> <p>1 A. I don't recall the actual words I 2 said that day. I was very anxious, upset, 3 angry. I had taken some Ativan, prior to 4 talking with you, and the conversation was two 5 months ago. I don't think I can recall the 6 actual quotations. 7 Q. That's an answer to the question, 8 so thank you. 9 MR. BARMEN: That's the second -- 10 MR. MANNION: Move to strike the 11 commentary. 12 Q. You also told me, when we spoke on 13 the phone on October 2, that Dr. Ghoumbrial lost 14 his temper at you, because you saw a certain 15 number of KNR clients in one day and you only 16 gave two shots -- 17 MR. BARMEN: Objection. 18 Q. -- did you not tell me that, 19 Dr. Gunning? 20 A. I don't recall those particular 21 words. 22 Q. Anything you do recall about that? 23 A. Same -- 24 MR. BARMEN: Wait a minute. 25 Objection. About what, because, again --</p> |
| <p style="text-align: right;">Page 31</p> <p>1 gave -- 2 MR. BARMEN: Peter -- 3 MR. PATTAKOS: -- and you're -- 4 MR. BARMEN: Peter -- 5 MR. PATTAKOS: -- keeping him from 6 telling the truth. 7 MR. BARMEN: Peter, don't -- 8 MR. MANNION: Oh, come on, stop 9 that. 10 MR. BARMEN: Peter, don't tell me 11 not to talk over you and then interrupt me 12 three words in. You asked a question. He gave 13 you his answer. You asked him again and 14 because you didn't like the answer -- 15 MR. PATTAKOS: He didn't answer the 16 question. I'm going to ask it one more time. 17 BY MR. PATTAKOS: 18 Q. Dr. Gunning, did you or did you 19 not, when we spoke on October 2, say that 20 Dr. Ghoumbrial constantly told you that the 21 practice didn't make money if you didn't 22 administer the shots? 23 MR. BARMEN: Objection. Asked and 24 answered. 25 Tell him again.</p> | <p style="text-align: right;">Page 33</p> <p>1 are you asking him the same question again? 2 MR. PATTAKOS: About the issue of 3 whether Dr. Ghoumbrial lost his temper at him, 4 because he only gave a certain number -- that 5 he saw a certain number of KNR clients in one 6 day and only gave two shots. 7 MR. BARMEN: Objection. Asked 8 and answered. 9 Go ahead. 10 A. Sam is a volatile person and can 11 lose his temper frequently, and has. He feels 12 bad about it afterwards. I don't recall having 13 said that particular comment. 14 MR. BARMEN: Next question. 15 Q. Dr. Gunning, you also told me over 16 the phone on October 2 that you have said to 17 Dr. Ghoumbrial a million times, "Sam, you can't 18 just be sneaking up on these people with 19 injections." Do you recall saying that? 20 MR. BARMEN: Objection. 21 Go ahead. 22 A. I don't recall saying that. I do 23 recall telling him about my practice of 24 informing patients of the medication being in 25 the form of a shot and a needle and showing</p> |

CONFIDENTIAL

| | |
|--|--|
| <p style="text-align: right;">Page 34</p> <p>1 them the needle; and that Dr. Ghoumbrial said, 2 "You sometimes need to realize, these people 3 are needle-phobic and" -- or not -- I don't 4 know if I said, "Needle-phobic," "but don't 5 like needles and sometimes you have to approach 6 these patients a different way." And -- 7 MR. BARMEN: You answered it. 8 THE WITNESS: Okay. 9 MR. PATTAKOS: Why are you 10 interrupting the witness, while he's giving 11 testimony, Brad? 12 MR. BARMEN: He answered your 13 question. 14 BY MR. PATTAKOS: 15 Q. What else were you going to say, 16 Dr. Gunning? 17 A. Well, what I was going to say was: 18 People who get their first shot know that 19 they're going to get a second and probably a 20 third and possibly a fourth shot. And the 21 first shot does enable them to realize that the 22 shots aren't all that bad and they're more 23 agreeable to getting subsequent shots, which is 24 what I was going to say. 25 Q. You also told me on October 2 that</p> | <p style="text-align: right;">Page 36</p> <p>1 A. I don't recall that. 2 Q. You don't recall telling me that? 3 A. I don't recall telling you that and 4 I don't recall advising anybody. 5 MR. BARMEN: Something funny, Pete? 6 Q. You told me that Ghoumbrial would 7 coerce the patient into accepting the 8 injections by threatening to withhold 9 prescriptions for pain pills. Specifically 10 that he would say, "If you're not in enough 11 pain to get a shot, you're not in enough pain 12 for narcotics." Isn't that correct? 13 MR. BARMEN: Objection. 14 MR. MANNION: Objection to form. 15 Q. Go ahead. 16 A. It was also true that patients who 17 said that they thought they had to choose 18 between one or the other -- I hate to say it -- 19 did tend to be drug seekers. We have a lot of 20 patients. Sometimes it's hard to tell who's 21 going to -- that's one of the reasons why 22 Ghoumbrial didn't like giving narcotics. It's 23 sometimes hard to tell who's a drug seeker and 24 who isn't. If you ask them, "What's your pain? 25 Rate your pain 1 to 10," and their pulse is</p> |
| <p style="text-align: right;">Page 35</p> <p>1 the personal injury clients would complain to 2 you about having these needles injected into 3 them against their will, correct? 4 MR. BARMEN: Objection. 5 MR. MANNION: Objection. 6 MR. BARMEN: Go ahead. 7 A. I think I had about six patients 8 during that time over the years who said that, 9 you know, they didn't want shots necessarily; 10 and the next thing I knew, was that they were 11 getting a shot. I also know that -- again, I 12 might not have said it during that 13 conversation, but every person who got one shot 14 most likely got another shot. It's rare that 15 we ever gave one shot. Most people got two, 16 four. There have been some who've had six 17 shots. And not only did they accept the 18 subsequent shots, but most of them, when they 19 came back two weeks later for a follow-up 20 visit, got more shots. 21 Q. When these clients would complain 22 to you, you told me that you would advise them 23 to report these incidents to the state medical 24 board. Isn't that correct? 25 MR. BARMEN: Objection.</p> | <p style="text-align: right;">Page 37</p> <p>1 normal and their blood pressure is low and they 2 say their pain is an 11, we have a problem with 3 that, but sometimes it's not quite so obvious. 4 And yet, typically people who didn't want shots 5 and wanted percocet were still demanding their 6 percocet and Sam did not want to give them 7 percocet. 8 Q. Are you aware, Dr. Gunning, that 9 perjury is a felony? 10 MR. BARMEN: Objection. 11 MR. MANNION: Objection. 12 A. Yes. 13 MR. MANNION: Stop trying to 14 intimidate the witness. 15 MR. PATTAKOS: Okay. 16 MR. MANNION: Peter, stop trying 17 to intimidate the witness. 18 MR. PATTAKOS: I'm concerned -- 19 MR. MANNION: You've raised your 20 voice. You're threatening criminal action now. 21 MR. PATTAKOS: I'm just concerned 22 at this point about the perjury -- I'm 23 concerned about knowingly false statements 24 being entered into these proceedings. I'm 25 going to read the perjury statute. "No person</p> |

CONFIDENTIAL

| | |
|--|--|
| <p style="text-align: right;">Page 58</p> <p>1 how you want to do this.</p> <p>2 MR. MANNION: What are you talking</p> <p>3 about? What's this have to do with Rob</p> <p>4 Nestico's deposition?</p> <p>5 MR. BARMEN: That's right. Look,</p> <p>6 you're looking for excuses to keep kicking Rob</p> <p>7 down the road, because you're grasping at</p> <p>8 straws you don't have is a different issue --</p> <p>9 MR. PATTAKOS: Uh-huh.</p> <p>10 MR. BARMEN: -- if you want to</p> <p>11 ask this witness about things relevant to the</p> <p>12 claims you have raised, do that.</p> <p>13 MR. PATTAKOS: I'm asking him about</p> <p>14 the fact that he's being --</p> <p>15 MR. BARMEN: If you want to sit</p> <p>16 here --</p> <p>17 MR. PATTAKOS: -- intimidated by</p> <p>18 his employer and that intimidation is impacting</p> <p>19 his testimony today.</p> <p>20 MR. BARMEN: Which you haven't</p> <p>21 asked that question. You're asking a bunch of</p> <p>22 ancillary stuff that's really so you can get</p> <p>23 some dirty sound-bytes so you can run to the</p> <p>24 press like you do --</p> <p>25 MR. PATTAKOS: I know --</p> | <p style="text-align: right;">Page 60</p> <p>1 A. What employee isn't to some extent</p> <p>2 intimidated by his employer? There were</p> <p>3 several reasons why I found it difficult to</p> <p>4 leave Sam. One, I was afraid that he could</p> <p>5 potentially retaliate, give a bad</p> <p>6 recommendation, et cetera. Also, I've had</p> <p>7 previous bosses and none of them have been</p> <p>8 angels. All of them have been problematic in</p> <p>9 some way or other. Sam is really no different</p> <p>10 than previous bosses I've had. And then</p> <p>11 finally, there are precious few opportunities</p> <p>12 available in Northeast Ohio.</p> <p>13 My cell phone is full of emails, Come to</p> <p>14 Missouri, \$400,000 a year, Vermont, \$300,000 a</p> <p>15 year, Oregon, same thing, over and over.</p> <p>16 Nothing is available in Northeast Ohio.</p> <p>17 University Hospitals of Cleveland invited me to</p> <p>18 be their hospitalist a couple of years ago. I</p> <p>19 don't see myself running codes at 2 a.m.</p> <p>20 That's not me, so I declined. Mercy Hospital</p> <p>21 offered me a position well over an hour away</p> <p>22 from my house. I declined that. So there are</p> <p>23 multiple reasons why I have stayed with Dr.</p> <p>24 Ghoubrial. He's sometimes a jerk. Sometimes</p> <p>25 he's very hard to work for, but he's no devil.</p> |
| <p style="text-align: right;">Page 59</p> <p>1 MR. BARMEN: -- and try and get</p> <p>2 some exposure to get people to pile in to this</p> <p>3 morass you've created. Ask a question that's</p> <p>4 relevant. I'll let him answer it. If you're</p> <p>5 just here to sling mud, you can take it up with</p> <p>6 the Court.</p> <p>7 MR. PATTAKOS: Tracy, read the</p> <p>8 question again.</p> <p>9 If you're going to instruct the witness</p> <p>10 not to answer, then do so.</p> <p>11 MR. BEST: Why don't you ask</p> <p>12 him if he's been intimidated by his employer.</p> <p>13 MR. PATTAKOS: This isn't your</p> <p>14 deposition, Brad.</p> <p>15 This isn't your deposition, please. This</p> <p>16 is ridiculous.</p> <p>17 MR. BARMEN: I'm trying to move</p> <p>18 it along. You're right; it is ridiculous.</p> <p>19 That's the one thing we agree upon.</p> <p>20 THE NOTARY: Everybody ready?</p> <p>21 It's going to be a minute.</p> <p>22 (Record was read.)</p> <p>23 MR. BARMEN: Same objection.</p> <p>24 Are you comfortable answering that</p> <p>25 question?</p> | <p style="text-align: right;">Page 61</p> <p>1 And sometimes he can be very, very good.</p> <p>2 Q. Dr. Gunning, you specifically used</p> <p>3 the word, "Terrorize," in describing the way</p> <p>4 Dr. Ghoubrial would sometimes treat you, did</p> <p>5 you not?</p> <p>6 MR. BARMEN: Objection.</p> <p>7 A. I don't recall the word.</p> <p>8 Q. You said that in 2011, you</p> <p>9 interviewed for a job with Walid Lababidi, but</p> <p>10 ultimately did not take that job because you</p> <p>11 believed that if you did, Ghoubrial would</p> <p>12 destroy both of you, both you and Dr. Lababidi.</p> <p>13 You used the word, "Destroy." Is that correct,</p> <p>14 Dr. Gunning?</p> <p>15 A. I --</p> <p>16 MR. BARMEN: Objection. Again,</p> <p>17 Peter, how is this relevant to the claims for</p> <p>18 class certification? Wait --</p> <p>19 MR. PATTAKOS: Are you instructing</p> <p>20 the witness not to answer the question?</p> <p>21 MR. BARMEN: I'm asking -- I'm</p> <p>22 trying to decide. I'm asking you to explain to</p> <p>23 me how this is in any way relevant to class</p> <p>24 certification or the claims against my client.</p> <p>25 MR. PATTAKOS: You can refer to my</p> |

16 (Pages 58 - 61)

CONFIDENTIAL

| | |
|---|--|
| <p style="text-align: right;">Page 62</p> <p>1 previous response to that question. This goes 2 to his credibility, the credibility of this 3 testimony today. 4 MR. MANNION: Well, I'm just going 5 to say, you're not attacking his credibility 6 with this. You're trying to attack 7 Ghoubrial's. 8 MR. PATTAKOS: Right. 9 Are you instructing the witness not to 10 answer the question, or not? 11 MR. BARMEN: And, again, you're 12 cross-examining him on notes from a 13 conversation you refuse to provide him. 14 THE WITNESS: Which was two months 15 ago. I was anxious. I was angry. I was 16 upset. I was nervous and I was under the 17 influence of some medication. 18 MR. BARMEN: I'll give you very 19 little leeway on this, but if you keep going 20 down this road then I am going to instruct him 21 because I just -- it's not relevant to 22 anything. You're just trying to create mud 23 here. 24 MR. PATTAKOS: Tracy -- 25 THE NOTARY: Can you just, if</p> | <p style="text-align: right;">Page 64</p> <p>1 of the reason you haven't left is that it has 2 been hard for you to find comparable employment 3 in the area, as you've just explained. And you 4 provided further detail by explaining that you 5 don't want to leave your home in Richfield, 6 which is a place where you've planted 460 7 trees, 800 bushes and 12,000 bulbs at the 8 property. Isn't that correct? 9 MR. BARMEN: Objection. 10 Go ahead. 11 A. That sounds accurate. 12 Q. And you told me that The Tree 13 Doctor told you that you had better diversity 14 of trees than they have at Stan Hywet Hall. 15 MR. BARMEN: Objection. 16 Go ahead. 17 A. That's probably true, because 18 I've -- I've known that and I've said that to 19 lots of people. 20 MR. BARMEN: Peter, are trees and 21 bulbs relevant to class certification and your 22 allegations in this case? 23 Q. You told me toward the end of our 24 conversation that our conversation was 25 cathartic for you, Dr. Gunning. Isn't that</p> |
| <p style="text-align: right;">Page 63</p> <p>1 it's okay. (Indicating.) 2 MR. PATTAKOS: Do you want me to 3 just read the question back? 4 THE NOTARY: If you could. 5 MR. PATTAKOS: Okay. That's fine. 6 BY MR. PATTAKOS: 7 Q. You told me on the phone that 8 in 2011, you interviewed for a job with Walid 9 Lababidi, but ultimately you did not take that 10 job because you believed that if you did, 11 Ghoubrial would destroy you. You said to 12 Dr. Lababidi that, "He -- you know, well, if I 13 take this job, he will destroy us both." Is it 14 not true that you said that to me, Dr. Gunning? 15 MR. BARMEN: Objection. 16 Go ahead. 17 A. I don't recall the very words I 18 said. I do know at the time our worry of 19 retaliation did cause us to shelve that 20 opportunity. I don't recall the specific words 21 I said. 22 Q. You did say that part of the reason 23 you hadn't left -- when we spoke on the 24 phone -- strike that. When we spoke on the 25 phone on October 2, you did tell me that part</p> | <p style="text-align: right;">Page 65</p> <p>1 correct? 2 MR. BARMEN: Objection. 3 Go ahead. 4 A. I don't recall, but it might have 5 been. I made the phone call, because I was 6 very afraid that I was going to be pulled into 7 this lawsuit. I made the phone call in an 8 attempt to make sure I wasn't pulled into this 9 lawsuit. 10 Q. Was the conversation -- was our 11 conversation in fact cathartic for you? 12 MR. BARMEN: Objection. 13 Go ahead. 14 A. I regretted the conversation, as 15 soon as I hung up. 16 Q. And you called Mr. Myers the next 17 day -- 18 MR. BARMEN: Objection. 19 Q. -- Attorney Myers? 20 MR. BARMEN: Objection. 21 You can tell him when you called Myers, 22 but that's as far as you're going to go 23 relative to the attorney-client issue. Go 24 ahead. 25 A. I did. I did call the next day.</p> |

17 (Pages 62 - 65)

CONFIDENTIAL

| | |
|---|---|
| <p style="text-align: right;">Page 78</p> <p>1 blah-blah-blah.</p> <p>2 And number 7, "Had Attorney Pattakos</p> <p>3 requested the records from my office, he would</p> <p>4 have learned that I was Monique Norris'</p> <p>5 treating physician, NOT Dr. Ghoubrial."</p> <p>6 I objected to that, because at that time</p> <p>7 no one had told me or given me reason to</p> <p>8 believe that number 6 was actually true. I</p> <p>9 didn't know until afterwards.</p> <p>10 And as far as number 7, the language</p> <p>11 appeared to me unnecessarily antagonistic and I</p> <p>12 didn't want to sign it, because I was afraid</p> <p>13 that signing that would drag me into a lawsuit.</p> <p>14 I was afraid that the antagonistic language in</p> <p>15 number 7 would be the equivalent of me waving a</p> <p>16 red cape in front of a bull and would basically</p> <p>17 instigate you including me in this situation,</p> <p>18 so I had reworded it.</p> <p>19 I had crossed out number 6, because at</p> <p>20 the time I didn't know it was accurate. And</p> <p>21 number 7, I had changed the words. I didn't</p> <p>22 make it sound as inflammatory. Instead of, Had</p> <p>23 you done your job, you would have know that I</p> <p>24 was, I just changed it to, "I was Monique</p> <p>25 Norris's treating physician, not</p> | <p style="text-align: right;">Page 80</p> <p>1 that work in that office, correct?</p> <p>2 A. There's thirty people who work in</p> <p>3 that office.</p> <p>4 Q. Okay. Well, who could it have been</p> <p>5 likely to be that was back in whatever area you</p> <p>6 were where this was happening?</p> <p>7 MR. BARMEN: Objection. Wait a</p> <p>8 minute. He's not going to guess or speculate.</p> <p>9 If he knows, he'll tell you what he knows. If</p> <p>10 he doesn't know, that's his answer. He's not</p> <p>11 going to guess.</p> <p>12 MR. PATTAKOS: He can narrow down</p> <p>13 probabilities for me, Brad.</p> <p>14 MR. BARMEN: He's not going to</p> <p>15 guess. He told you -- he answered the</p> <p>16 question. He told you he doesn't recall who</p> <p>17 was there, period. You want to depose Erin,</p> <p>18 maybe she knows. Talk to Erin. He's answered</p> <p>19 your question. Next question, please.</p> <p>20 BY MR. PATTAKOS:</p> <p>21 Q. Do you have any recollection at</p> <p>22 all, Dr. Gunning, of who else would have been</p> <p>23 there?</p> <p>24 MR. BARMEN: Objection. Asked</p> <p>25 and answered.</p> |
| <p style="text-align: right;">Page 79</p> <p>1 Dr. Ghoubrial." That was it. That became the</p> <p>2 new number 6. I signed that. Erin notarized</p> <p>3 it.</p> <p>4 Sam Ghoubrial got word of it and he</p> <p>5 objected. He wanted the affidavit left in its</p> <p>6 original form. And he told me that there was</p> <p>7 no reason I shouldn't sign it. And I'll admit,</p> <p>8 I felt a little bullied, a little pressured,</p> <p>9 because there were other people around in the</p> <p>10 office at the time, but they told me by then</p> <p>11 that number 6 actually was true. And even</p> <p>12 though I didn't like the language of number 7,</p> <p>13 I went ahead and signed it.</p> <p>14 Q. Who else was there in the office?</p> <p>15 A. Erin was there. I don't recall the</p> <p>16 other people, but I think at least two other</p> <p>17 staff people were there.</p> <p>18 Q. Who were they?</p> <p>19 A. I don't recall.</p> <p>20 Q. Who would it have been? Who could</p> <p>21 it have been?</p> <p>22 MR. BARMEN: Objection.</p> <p>23 Don't guess.</p> <p>24 He doesn't remember.</p> <p>25 Q. Well, there's only so many people</p> | <p style="text-align: right;">Page 81</p> <p>1 Tell him again.</p> <p>2 A. Erin was there. Dr. Ghoubrial was</p> <p>3 there. I can't -- like I said, I would be</p> <p>4 guessing --</p> <p>5 MR. BARMEN: Don't guess.</p> <p>6 A. -- so I won't, yeah. I mean --</p> <p>7 MR. BARMEN: That's it. You're</p> <p>8 done.</p> <p>9 THE WITNESS: Okay.</p> <p>10 MR. PATTAKOS: Okay.</p> <p>11 MR. BARMEN: Okay.</p> <p>12 BY MR. PATTAKOS:</p> <p>13 Q. When I asked you on the phone if it</p> <p>14 was possible that the medical records to which</p> <p>15 this affidavit refers were fraudulently altered</p> <p>16 to falsely portray that you treated Ms. Norris</p> <p>17 instead of Dr. Ghoubrial, you could not rule</p> <p>18 out that possibility, could you?</p> <p>19 MR. BARMEN: Objection.</p> <p>20 Don't answer that question.</p> <p>21 MR. MANNION: Unbelievable.</p> <p>22 MR. PATTAKOS: "Don't answer that</p> <p>23 question," why?</p> <p>24 MR. BARMEN: Don't answer that</p> <p>25 question.</p> |

21 (Pages 78 - 81)

CONFIDENTIAL

| | |
|---|--|
| <p style="text-align: right;">Page 106</p> <p>1 A. Thefing?</p> <p>2 Q. T-h-e-f-i-n-g.</p> <p>3 A. That's Thefing --</p> <p>4 Q. Ah, okay.</p> <p>5 A. -- and that's not Nicole. That's</p> <p>6 Samantha --</p> <p>7 Q. Okay.</p> <p>8 A. -- Samantha Thefing. She no longer</p> <p>9 works with us. She was associated with the</p> <p>10 billing side of things --</p> <p>11 Q. Okay.</p> <p>12 A. -- Samantha Thefing. I'm sorry.</p> <p>13 MR. BEST: Those notes must</p> <p>14 have been wrong, huh?</p> <p>15 MR. BARMEN: I was just thinking</p> <p>16 the same thing.</p> <p>17 MR. PATTAKOS: Um-hum.</p> <p>18 Q. Who else would go with you to the</p> <p>19 personal injury clinic?</p> <p>20 A. That's pretty much it. Sometimes</p> <p>21 they'd only be one woman in there, only one</p> <p>22 staff member but sometimes two.</p> <p>23 Q. Only Amber and Nicole, are the only</p> <p>24 two people that you've mentioned.</p> <p>25 A. Well, when I was at Brown Street,</p> | <p style="text-align: right;">Page 108</p> <p>1 facilities?</p> <p>2 A. No. I do know that we moved out of</p> <p>3 the Brown Street facility, when the owner of</p> <p>4 that building sold that building.</p> <p>5 Q. How did these clients for the</p> <p>6 personal injury practice end up coming to you?</p> <p>7 MR. BARMEN: Objection.</p> <p>8 Go ahead</p> <p>9 A. I have no idea. I don't know.</p> <p>10 Q. You have no idea how the clients</p> <p>11 knew to go to these facilities to meet with</p> <p>12 you?</p> <p>13 MR. BARMEN: Objection.</p> <p>14 Go ahead.</p> <p>15 A. No, I do not.</p> <p>16 Q. Are you aware that there was any</p> <p>17 advertising done for this separate practice?</p> <p>18 A. I'm not aware of any advertising --</p> <p>19 Q. Okay.</p> <p>20 A. -- I've not seen any.</p> <p>21 Q. Do you have any idea as to why</p> <p>22 these practices were kept separate?</p> <p>23 MR. BARMEN: Objection.</p> <p>24 Go ahead.</p> <p>25 A. Which practices?</p> |
| <p style="text-align: right;">Page 107</p> <p>1 if I recall, I think Elizabeth would accompany</p> <p>2 me. And Elizabeth -- and I don't remember her</p> <p>3 last name -- she used to be one of our two</p> <p>4 transcriptionists. Marshall, Elizabeth</p> <p>5 Marshall. I'm sorry. And, as I said, she used</p> <p>6 to be one of our two transcriptionists. She</p> <p>7 left our office, when she graduated from</p> <p>8 nursing school and now she's working as a nurse</p> <p>9 somewhere else, but she frequently was the one</p> <p>10 who would accompany me to -- not Brown</p> <p>11 Street -- Waterloo -- sorry -- Waterloo Road.</p> <p>12 Q. Which was first, Brown Street or</p> <p>13 Waterloo Road?</p> <p>14 A. Brown Street was first.</p> <p>15 Q. And you stopped treating -- the</p> <p>16 clinic stopped operating at Waterloo Road, as</p> <p>17 you said, in around the summer of 2017?</p> <p>18 A. No. That's when Sam finally pulled</p> <p>19 me out of the personal injury clinics</p> <p>20 altogether. And at that point I was still</p> <p>21 going to Floros's office. I don't recall when</p> <p>22 Waterloo Road stopped being used, but it was</p> <p>23 well before that. And I don't remember why it</p> <p>24 wasn't being used.</p> <p>25 Q. Okay. Do you know who owned these</p> | <p style="text-align: right;">Page 109</p> <p>1 Q. The personal injury and family</p> <p>2 practices.</p> <p>3 A. I don't understand it completely,</p> <p>4 no. I -- all I understand is that primary care</p> <p>5 doctors don't like to do personal injury cases</p> <p>6 and that's why some of these patients ended up</p> <p>7 coming to us, because their own primary care</p> <p>8 doctors weren't handling it. And I imagine</p> <p>9 that that may have something to do with why the</p> <p>10 primary care side of our practice was kept</p> <p>11 separate, but I don't know the details.</p> <p>12 Q. Apart from -- well, strike that.</p> <p>13 Are you aware of what proportion of the clients</p> <p>14 that you treated -- do you have any idea, I</p> <p>15 should say -- strike that. Do you have any</p> <p>16 idea what proportion of the personal injury</p> <p>17 clients came from the KNR firm?</p> <p>18 MR. BARMEN: Objection.</p> <p>19 Go ahead.</p> <p>20 A. The majority. I would venture,</p> <p>21 maybe between 60 and 70 percent, but that's a</p> <p>22 guess.</p> <p>23 MR. BARMEN: Don't guess.</p> <p>24 THE WITNESS: I'm sorry.</p> <p>25 MR. BARMEN: It's okay.</p> |

28 (Pages 106 - 109)

CONFIDENTIAL

| | |
|---|---|
| <p style="text-align: right;">Page 114</p> <p>1 chiropractor would let us use one of their 2 offices to see patients, I guess that 3 constitutes some kind of agreement. We don't 4 want to just barge into a chiropractor's office 5 and say, Hi, we're here, but as far as anything 6 beyond that, I'm not aware of anything. 7 Q. Okay. Are you aware of any other 8 cities where Dr. Ghoubrial would travel to 9 conduct the personal injury clinic, besides 10 Columbus and Akron? 11 MR. BARMEN: Wait. Are you 12 talking about at any point in time? 13 MR. PATTAKOS: Yeah. 14 MR. BARMEN: Go ahead. 15 A. Dayton, Youngstown, I think maybe 16 Warren, but I could be wrong. There was some 17 place up on the east side of Cleveland called, 18 I think Warrensville Heights. There was 19 St. John West Shore. I think that was up by 20 Cleveland somewhere, too -- 21 Q. Could that have been Toledo? 22 A. I have no idea. 23 Q. Okay. 24 A. -- those are the only ones I recall 25 hearing about. Oh, and Canton.</p> | <p style="text-align: right;">Page 116</p> <p>1 Q. Do you know who owns the plane? 2 MR. BARMEN: Objection. 3 Go ahead. 4 A. I understood that the plane had a 5 number of co-owners, Ghoubrial being one of 6 them. He owned a small part of the plane. I 7 don't know which part. Knowing him, it was the 8 right wing. I don't know. I don't know. 9 Q. Who else owned the plane? 10 A. That I don't know. 11 Q. Do you know if Rob Nestico owned 12 part of the plane? 13 A. I do not know that. He never told 14 me who else the other owners were. 15 Q. Okay. Apart from what we discussed 16 earlier about Dr. Ghoubrial's instructions to 17 administer more trigger point injections, were 18 there any other guidelines or instructions that 19 you were provided by Dr. Ghoubrial or the 20 practice in treating the personal injury 21 clients? 22 MR. BARMEN: Objection. 23 MR. MANNION: Objection to form. 24 MR. BARMEN: Objection, form. 25 Go ahead.</p> |
| <p style="text-align: right;">Page 115</p> <p>1 Q. How frequently would he go to these 2 places? 3 A. That I don't know. And what's more 4 is, it wasn't always him who went. I remember 5 that Josh Jones used to go to Canton. And I 6 think Esterle may have been the one to have to 7 go to Youngstown, but I don't recall, other 8 than that. 9 Q. Do you recall the dates when these 10 clinics would take place in these cities, the 11 time period? 12 A. Mid decade. That's the best I can 13 say. 14 Q. Are you aware if any of these 15 locations have been discontinued? 16 A. I don't know for sure. I don't 17 recall anyone going to Youngstown recently. I 18 don't think anybody goes to Dayton at this 19 point. The others, I don't know. 20 Q. Are you aware that Dr. Ghoubrial 21 would fly by private plane to go to these 22 clinics? 23 A. Yes. 24 Q. How do you know that? 25 A. It was common knowledge.</p> | <p style="text-align: right;">Page 117</p> <p>1 A. Well, the important thing was to 2 treat the patients, to try to not keep them on 3 too long, get them better, refer them off to 4 wherever they needed to go. If they needed 5 referrals be it orthopedic, neurosurgeons or 6 whether the patients were still having pain and 7 not getting better, he would instruct me to try 8 to get -- move them over to a chronic pain 9 management clinic. 10 He told me to not prescribe narcotics, if 11 I could help it. He encouraged me to use the 12 trigger points. He encouraged me to -- he 13 would specifically make sure that I mentioned 14 that they were in chiropractic care or not and 15 that we felt they should probably continue with 16 that, if I felt they should. And then of 17 course we had TENS units and back braces, which 18 were also available. 19 Q. Did he give you any instructions 20 about the distribution of the TENS units and 21 back braces? 22 MR. BARMEN: Objection. 23 Go ahead. 24 A. He wanted to make sure that we used 25 the back braces appropriately, that we used</p> |

| | |
|--|---|
| <p style="text-align: center;">5</p> <p>1 THE VIDEOGRAPHER: We're now</p> <p>2 ready to begin the deposition. Will the</p> <p>3 court reporter please swear in the doctor.</p> <p>4 <u>RICHARD GUNNING, MD</u>, of lawful age, called by the</p> <p>5 Plaintiffs for the purpose of examination, as</p> <p>6 provided by the Rules of Civil Procedure, being</p> <p>7 by me first duly sworn, as hereinafter certified,</p> <p>8 deposed and said as follows:</p> <p>9 <u>EXAMINATION OF RICHARD GUNNING, MD</u></p> <p>10 <u>BY MR. PATTAKOS:</u></p> <p>11 Q. Good morning, Dr. Gunning.</p> <p>12 A. Good morning.</p> <p>13 Q. As you know, my name is Peter Pattakos and I</p> <p>14 represent the Plaintiffs in this lawsuit in which</p> <p>15 you're here to provide additional testimony.</p> <p>16 A. Yes.</p> <p>17 Q. You understand that we are continuing your</p> <p>18 deposition that began last December, correct?</p> <p>19 A. That's right.</p> <p>20 Q. And you understand that there was a court order</p> <p>21 requiring you to return for your deposition?</p> <p>22 A. That's correct.</p> <p>23 THE REPORTER: You've got to keep</p> <p>24 your voice up.</p> <p>25 THE WITNESS: Okay. Sorry.</p> | <p style="text-align: center;">7</p> <p>1 is. I'm asking him --</p> <p>2 MR. BARMEN: Well, I'm going to</p> <p>3 hold you to --</p> <p>4 MR. PATTAKOS: I'm providing</p> <p>5 context, okay?</p> <p>6 MR. BARMEN: We don't need you to</p> <p>7 provide context. Ask questions that you're</p> <p>8 permitted to ask and get this man done.</p> <p>9 MR. PATTAKOS: The court order</p> <p>10 says that I'm permitted to ask about these</p> <p>11 four subject areas and any follow-up</p> <p>12 questions that Plaintiffs deem necessary.</p> <p>13 MR. BARMEN: Well, you're starting</p> <p>14 --</p> <p>15 MR. PATTAKOS: That's what our</p> <p>16 motion asked -- no, I'm not starting with</p> <p>17 questions for context. Brad, it's fine.</p> <p>18 Your objection is noted.</p> <p>19 MR. BARMEN: No, ask the questions</p> <p>20 that you're permitted to ask --</p> <p>21 MR. MANNION: Wait. I'd like to</p> <p>22 put an objection on the record as well.</p> <p>23 The court order says follow-up on those</p> <p>24 four areas, not follow-up on any other</p> <p>25 areas.</p> |
| <p style="text-align: center;">6</p> <p>1 Q. Have you taken any medication or ingested any</p> <p>2 substances of any kind that would impair your</p> <p>3 ability to remember events accurately or testify</p> <p>4 truthfully today?</p> <p>5 A. No, I have not.</p> <p>6 Q. Is there any other reason you would be unable to</p> <p>7 remember events accurately or testify truthfully</p> <p>8 today?</p> <p>9 A. Not that I can think of.</p> <p>10 Q. You testified at your deposition in December that</p> <p>11 the majority of patients that are treated through</p> <p>12 Dr. Ghoubrial's personal injury clinic are KNR</p> <p>13 clients. Do you recall that?</p> <p>14 MR. BARMEN: Objection. Wait a</p> <p>15 minute. Peter, you've got five areas of</p> <p>16 inquiry. We're not rehashing things so get</p> <p>17 to the issues that we're here for.</p> <p>18 MR. PATTAKOS: I'm not rehashing</p> <p>19 anything, this is my first question.</p> <p>20 MR. BARMEN: Your question should</p> <p>21 be related to these five things.</p> <p>22 MR. PATTAKOS: It is --</p> <p>23 MR. BARMEN: That one is a</p> <p>24 question that you've already asked.</p> <p>25 MR. PATTAKOS: -- it is, Brad. It</p> | <p style="text-align: center;">8</p> <p>1 MR. BARMEN: Right.</p> <p>2 MR. PATTAKOS: That's not what it</p> <p>3 says.</p> <p>4 MR. BARMEN: That is what it says.</p> <p>5 MR. PATTAKOS: Our motion</p> <p>6 requested -- our motion requested these</p> <p>7 four areas and any follow-up questions that</p> <p>8 Plaintiffs deem necessary --</p> <p>9 MR. BARMEN: Wrong.</p> <p>10 MR. PATTAKOS: -- okay? I'm</p> <p>11 trying to --</p> <p>12 MR. MANNION: That's totally --</p> <p>13 MR. PATTAKOS: -- I'm trying to</p> <p>14 move quickly.</p> <p>15 MR. MANNION: -- that's totally a</p> <p>16 misinterpretation --</p> <p>17 MR. PATTAKOS: I don't expect to</p> <p>18 be here for more than an hour.</p> <p>19 MR. MANNION: -- (unintelligible).</p> <p>20 MR. PATTAKOS: Okay.</p> <p>21 MR. BARMEN: You're here to ask</p> <p>22 him questions --</p> <p>23 BY MR. PATTAKOS:</p> <p>24 Q. Dr. Gunning, you told me when we spoke on the</p> <p>25 phone that Dr. Ghoubrial would refer to trigger</p> |

| | |
|--|---|
| <p style="text-align: right;">9</p> <p>1 point injections as "nigger point injections",</p> <p>2 n-i-g-g-e-r, didn't you?</p> <p>3 MR. BARMEN: Objection. Go ahead.</p> <p>4 A. Yes, I did.</p> <p>5 Q. And why did you tell me that?</p> <p>6 A. I -- at the time I was angry, I was upset, I</p> <p>7 didn't want to be dragged into this lawsuit. I</p> <p>8 felt like I was being dragged into it and I was</p> <p>9 venting.</p> <p>10 Q. And you told me that because it's true, correct?</p> <p>11 A. It's true.</p> <p>12 Q. And you understood that when Dr. Ghoubril used</p> <p>13 that term, he did so to refer to the racist slur</p> <p>14 for African Americans, correct?</p> <p>15 MR. BARMEN: Objection.</p> <p>16 A. He doesn't use it as a racist slur.</p> <p>17 Q. How does he use it then, sir?</p> <p>18 A. He uses it as part of casual conversation and</p> <p>19 frequently as a term of endearment. I've</p> <p>20 actually never heard him use the term directed</p> <p>21 toward people of color. Sam himself, if you</p> <p>22 know, is not white, he's not Caucasian. He</p> <p>23 considers himself African American. Possibly</p> <p>24 more legitimately than any of our patients since</p> <p>25 he was actually born in Africa. For an Egyptian,</p> | <p style="text-align: right;">11</p> <p>1 A. Yes, I did.</p> <p>2 Q. And --</p> <p>3 A. But he uses it in casual conversation.</p> <p>4 Q. The term "afro puncture"?</p> <p>5 A. And I may have heard him say that twice.</p> <p>6 Q. To describe the personal injury clinic?</p> <p>7 MR. BARMEN: Objection.</p> <p>8 A. Not to describe the clinic, but to describe a</p> <p>9 particular injection technique.</p> <p>10 Q. And did you understand this to refer to the fact</p> <p>11 that the personal injury clinic treats a large</p> <p>12 proportion of African Americans?</p> <p>13 MR. BARMEN: Objection.</p> <p>14 A. We do. Although I covered for that clinic two</p> <p>15 weeks ago when Sam was, I think, predisposed to</p> <p>16 something else, and on that particular day over</p> <p>17 60 percent of the patients were not African</p> <p>18 American but white.</p> <p>19 Q. So what do you understand the "afro puncture"</p> <p>20 reference to refer to?</p> <p>21 MR. BARMEN: Objection.</p> <p>22 A. Well, I think it was his colloquial way of using</p> <p>23 the term "acupuncture".</p> <p>24 Q. But he doesn't perform acupuncture, does he?</p> <p>25 A. No. But there was a time in that clinic when</p> |
| <p style="text-align: right;">10</p> <p>1 he's particularly dark skinned and he's moved to</p> <p>2 America and he feels that he has the right to use</p> <p>3 the term as legitimately as any black rapper and</p> <p>4 uses it in casual conversation. He has referred</p> <p>5 to me -- addressed me as the N word. A mutual</p> <p>6 friend in the gym, who is also white, he has</p> <p>7 addressed using the N word. And a mutual friend</p> <p>8 of ours who is a very white multimillionaire he</p> <p>9 has used that word to address him.</p> <p>10 So in Sam's world, it's probably not a</p> <p>11 stretch to think that choosing a word that might</p> <p>12 rhyme with trigger point, he might come up with</p> <p>13 that term as part of casual conversation, not</p> <p>14 with any malice.</p> <p>15 Q. So he used this term casually?</p> <p>16 A. Yes.</p> <p>17 Q. How many times have you heard him use this term?</p> <p>18 A. Maybe seven or eight times over the last eight or</p> <p>19 nine years.</p> <p>20 Q. You also told me when we spoke on the phone that</p> <p>21 Dr. Ghoubril would refer to his practice as</p> <p>22 "afro puncture", correct?</p> <p>23 A. Well, that is another rhyme of acupuncture.</p> <p>24 Q. Is it true, Dr. Gunning, that you did tell me</p> <p>25 that on the phone?</p> | <p style="text-align: right;">12</p> <p>1 acupuncture was available. In fact, I myself</p> <p>2 received acupuncture as part of my treatment.</p> <p>3 Q. What do you remember about when you heard Dr.</p> <p>4 Ghoubril use this term?</p> <p>5 MR. BARMEN: Objection. At any</p> <p>6 particular time, Peter? Can you be a</p> <p>7 little more specific on that one?</p> <p>8 MR. PATTAKOS: He said he only</p> <p>9 heard him use it twice, so I want him to</p> <p>10 tell me what he remembers about both</p> <p>11 instances.</p> <p>12 MR. BARMEN: Objection. Go ahead.</p> <p>13 A. I think one of those -- I don't recall all of the</p> <p>14 instances. I do remember one instance was at his</p> <p>15 house at a Christmas party.</p> <p>16 Q. Do you remember anything else about this?</p> <p>17 A. He thought it was a funny term or phrase.</p> <p>18 Q. Who did he say it to?</p> <p>19 A. I think he said it to -- well, I was there and</p> <p>20 his brother-in-law may have overheard that</p> <p>21 comment.</p> <p>22 Q. Julie's brother?</p> <p>23 A. I think so, yeah.</p> <p>24 Q. Do you remember the sentence it was used in or</p> <p>25 anything like that?</p> |

13

1 A. It was eight or so years ago, so, no, I don't.

2 Q. Okay. You don't recall why Dr. Ghoubrial would

3 have been referring to needles at this Christmas

4 party?

5 MR. BARMEN: Objection.

6 A. We frequently discuss office stuff sometimes out

7 of the office.

8 Q. Another subject that I asked you about at the

9 deposition in December was Dr. Ghoubrial's

10 actions concerning his divorce. Do you recall?

11 A. I think so.

12 Q. And one of the questions that you did not -- that

13 you were instructed not to answer related to what

14 you told me about Ghoubrial's actions regarding

15 his practice, regarding his medical practice,

16 both medical practices, vis-a-vis the divorce.

17 Do you remember that?

18 MR. BARMEN: Objection.

19 A. I'm not quite sure the context, but I know we

20 discussed something like that, yes.

21 Q. Do you recall what you told me on the phone about

22 Dr. Ghoubrial and his divorce?

23 MR. BARMEN: Objection. Can you

24 ask a specific question?

25 MR. PATTAKOS: That is a specific

14

1 question.

2 MR. BARMEN: Well, there are two

3 specific areas outlined.

4 A. Offhand I don't recall -- there's a lot of the

5 phone conversation that I don't recall. I do

6 recall that there was a lot of rumors going on in

7 the office as to how he and Julie were handling

8 the divorce.

9 Q. Do you recall telling me that you heard from

10 other employees of the practice that Dr.

11 Ghoubrial wanted to make sure that Julie's name

12 stays on their home mortgage so that her

13 debt-to-asset ratio stays so high that she has to

14 live in an apartment for the rest of her life?

15 MR. BARMEN: Objection.

16 A. The story sounds familiar. I remember hearing it

17 from a nurse who said she overheard another nurse

18 talk about a phone conversation that she heard

19 that involved Sam and some unknown individual on

20 the other end of the line. And her

21 interpretation of what she heard was that Sam

22 wanted to keep Julie's name on the mortgage. So

23 I sort of heard it third-hand.

24 MR. MANNION: Objection. Motion

25 to strike, triple hearsay.

15

1 MR. BARMEN: Join.

2 Q. Do you recall telling me those specific words,

3 that her debt-to-asset ratio stays so high that

4 she has to live in an apartment for the rest of

5 her life?

6 MR. BARMEN: Objection.

7 A. I don't recall those specific words, but that was

8 the gist of what I overheard.

9 Q. You said that you couldn't -- strike that.

10 Dr. Gunning, do you recall being extremely

11 upset after your deposition at my office last

12 December?

13 A. I was --

14 MR. BARMEN: Objection. Wait a

15 minute. How is that in any way related to

16 any of these issues that you're permitted

17 to question him about today?

18 Q. Please answer the question, sir.

19 MR. BARMEN: Don't answer that

20 question. How is it related to any of the

21 issues that you're permitted to question

22 him about today, Peter?

23 MR. PATTAKOS: It relates to his

24 testimony as a whole and the credibility of

25 it, okay?

16

1 MR. BARMEN: That's not on --

2 that's not at issue today.

3 MR. PATTAKOS: It absolutely is.

4 MR. BARMEN: It is not.

5 Don't answer the question. You

6 can go -- you can go back to the Court on

7 that one because that is completely off

8 base.

9 BY MR. PATTAKOS:

10 Q. Dr. Gunning, do you recall that after the

11 deposition you were near your car and an employee

12 of the pizza shop next door to my office said

13 "hello" to you?

14 MR. BARMEN: Objection. Don't

15 answer that question. How is that in any

16 way related to what you are permitted to

17 question him about today, Peter?

18 Q. Do you recall that, Dr. Gunning?

19 MR. BARMEN: Don't answer the

20 question. Move on.

21 Q. Do you recall that you were sobbing

22 uncontrollably after the deposition out in the

23 parking lot, Dr. Gunning?

24 MR. BARMEN: Objection. Don't

25 answer the question.

IN THE COURT OF COMMON PLEAS
SUMMIT COUNTY, OHIO

| | |
|---|---|
| <p>MEMBER WILLIAMS, et al.,</p> <p style="text-align: center;">Plaintiffs,</p> <p style="text-align: center;">vs.</p> <p>KISLING, NESTICO & REDICK, LLC, et al.,</p> <p style="text-align: center;">Defendants.</p> | <p>Case No. CV-2016-09-3928</p> <p>Judge James A. Brogan</p> <p>Affidavit of David C. George, D.C.</p> |
|---|---|

I, David C. George, D.C., having been duly sworn, have personal knowledge of the following matters of fact, and testify as follows:

1. I am 58 years of age. I have been a licensed and practicing chiropractor in the State of Ohio since August of 1985. My practice has been based in Cuyahoga Falls since October of 1985. I graduated from Logan College of Chiropractic in April of 1985. I have never been disciplined or sanctioned by any regulatory authority for my professional conduct.
2. During the course of my practice over the past 34 years, I have treated thousands of patients for back pain of all types, including patients suffering acute pain from work related injuries and car accidents.
3. During the course of my practice, I routinely refer my patients to physical therapists and physicians, primarily sports medicine physicians and orthopedic surgeons, for treatment of chronic and acute conditions. I typically make such referrals when surgery or other procedures are required to address a client's condition, when the client would benefit from a more active physical therapy or rehabilitation regimen, when a chronic condition requires medication to alleviate a patient's symptoms.



Attorney Peter G. Pattakos
Resident Summit County
Notary Public, State of Ohio
My Commission Has No Expiration Date
Sec 147.03 RC

David C. George

EXHIBIT 17

4. For the following reasons, I rarely if ever refer a patient suffering from acute back pain to a doctor for the purpose of that doctor prescribing pain medication, let alone injection procedures, to the patient: 1) acute back pain tends to resolve with time, and with more conservative methods of treatment, including "RICE" therapy (rest, ice, compression, and elevation), chiropractic care, and physical therapy; 2) typically, when these conservative methods fail, or more immediate pain relief is desired, over-the-counter nonsteroidal anti-inflammatory drugs are sufficient.

5. I have never and would never refer a patient suffering from acute or widespread back pain to a doctor to receive trigger point injections. According to all available peer-reviewed medical research, trigger-point injections are contraindicated for acute and widespread pain, and have only ever been proven effective in treating chronic pain resulting from Myofascial Pain Syndrome ("MPS").

6. In my chiropractic practice, I accept payment from most major health-insurance companies, approximately 400 of them by my estimation. If any of my patients want to pay me through their health-insurance providers, I will do whatever is practicable to accommodate them, regardless of the type of injuries suffered by the patient or the cause of those injuries. I am not aware of any reason why any chiropractor would refuse to accept payment from a patient's health insurance provider other than to be compensated at a higher level than the insurance provider would otherwise pay.

I affirm the above to be true and accurate to the best of my knowledge under penalty of perjury.

Michael D. C. 5-8-19
Signature of Affiant Date

Sworn to and subscribed before me on 5-8-19 at Fairlawn, Ohio.

[Signature]
Notary Public, State of Ohio



Attorney Peter G. Pattakos
Resident Summit County
Notary Public, State of Ohio
My Commission Has No Expiration Date
Sec 147.03 RC



Cybertech one size fits all brace



All

Shopping

Images

News

Videos

More

Settings

Tools

About 323,000 results (0.79 seconds)

See Cybertech one size fits all brace

Sponsored ⓘ



BraceAbility Official Site | Cybertech Back Braces | Shop Now

(Ad) www.braceability.com/Back_Braces

Back, Spine, LSO and Cervical Collars. All Cybertech Ships Free & Fast. We Have a Selection That Meets the Needs Of Our Extensive Range Of Customers. Friendly Product Experts.

Images for Cybertech one size fits all brace



→ More images for Cybertech one size fits all brace

Report images

Amazon.com: Ottobock The S.P.I.N.E. Adjustable Lower Back Brace ...

<https://www.amazon.com/S-P-I-N-Brace-Cybertech-Spine-Nylon/.../B00NSFEQJA>

★★★★★ Rating: 4.3 - 68 reviews

The Cybertech SPINE Brace is the first line of defense for the treatment of low ... Our back support belt for men and women of all ages is great for people who: ... Using a flexible tape measure, find the circumference around the narrow part of ...

Amazon.com: Cybertech Trimod back brace System - 10 inch: Health

...

<https://www.amazon.com/Cybertech-Trimod-back-brace-System/dp/B007BHBA4A>

Buy Cybertech Trimod back brace System - 10 inch on Amazon.com ✓ FREE ORTONYX Ankle

EXHIBIT 18

Ultima 3T TENS unit



All

Shopping

News

Images

Videos

More

Settings

Tools

About 30,300 results (0.57 seconds)

See Ultima 3T TENS unit

Sponsored ⓘ

Ultima 3T Tens
Unit by PMT...**\$25.00**

SourceOrtho.net

Ultima 3T Tens
Unit Dual...**\$19.96**

Save Rite Medi...

Pain
Management...**\$25.00**

Alimed.com

TENS 3000 -
Most Durable...**\$16.95**

TENSPros

Ultima 3t Analog
TENS Unit |...**\$32.50**

Tensunits.com

★★★★★ (4)



Ultima 3T TENS Unit at Amazon® | Amazon Official Site

www.amazon.com/ ▼

★★★★★ Rating for amazon.com: 4.7 - Average delivery time: 1-3 days

Shop Devices, Apparel, Books, Music & More. Free Shipping on Qualified Orders.

[Meet the Fire TV Family](#) · [Amazon Prime Benefits](#) · [Shop Kindle E-readers](#) · [Amazon Home & Kitc...](#)

The **Ultima 3T TENS machine** is a dual Channel **device** with three modes of operation (B, N, and M). Its pulse width and pulse frequency are adjustable. It is also equipped with a 30, 60, 90 minute timer, and has a protective cover over the controls.



Ultima 3t Analog TENS Unit | PMT-U3T

<https://www.tensunits.com/product/PMT-U3T.html>

About this result

Feedback

Ultima 3t Analog TENS Unit | PMT-U3T

<https://www.tensunits.com/product/PMT-U3T.html> ▼

★★★★★ Rating: 3.8 - 5 reviews - \$32.50

The **Ultima 3T TENS machine** is a dual Channel **device** with three modes of operation (B, N, and M). Its pulse width and pulse frequency are adjustable. It is also equipped with a 30, 60, 90 minute timer, and has a protective cover over the controls.

EXHIBIT 19

IN THE COURT OF COMMON PLEAS
SUMMIT COUNTY, OHIO

| | |
|--|---|
| MEMBER WILLIAMS, et al., Plaintiffs, vs. KISLING, NESTICO & REDICK, LLC, et al., Defendants. | Case No. CV-2016-09-3928 Judge James A. Brogan Affidavit of Ryan H. Fisher, Esq. |
|--|---|

I, Ryan H. Fisher, Esq., having been duly sworn, have personal knowledge of the following matters of fact, and testify as follows:

1. I am 54 years of age. I have been a licensed and practicing attorney in the State of Ohio since 1989. My practice has been based in Northeast Ohio since 1989. I graduated from Cleveland Marshall College Of Law. I have never been disciplined or sanctioned by any regulatory authority for my professional conduct.
2. My practice is focused on representing plaintiffs in personal injury cases. During the course of my career, I have represented thousands of car accident victims in cases seeking recovery for their injuries. Nearly all of these clients have received some type of medical or chiropractic care in connection with these cases for which they and/or their health insurers expect to be reimbursed in resolving their legal claims.
3. The great majority of these clients have some type of health insurance coverage, as required by federal law. In treating for injuries suffered in the related car accidents, most of these clients, as a matter of routine, treat with healthcare providers who accept payment from their health insurance providers. In the minority of instances where a client reports to me that they have no health insurance or they are unable to locate a healthcare provider who will accept payment from their

EXHIBIT 20

health insurance, or medpay, I am able to refer them to a medical provider who will do so or a medical provider who will provide treatment in the absence of health insurance.

4. Generally, the clients will always be better off paying for healthcare through their own health insurance, or a medpay provider, because the healthcare providers typically have negotiated discounted rates with the health-insurance providers that the healthcare providers are required to accept. Additionally payment from health insurance or medpay ensures that the medical providers are promptly paid irrespective of the length of the underlying injury claim or the ultimate outcome. It is an essential part of a personal-injury attorney's job to negotiate with his clients' healthcare providers and health-insurance providers to ensure that the healthcare and health-insurance providers have a legal interest in the settlement funds and so that the providers do not take more than their fair share of the clients' personal injury settlements or awards.

5. It is an essential part of a personal-injury attorney's job to require any alleged "lienholders" to prove their right to receive any proceeds whatsoever from a client's settlement or awards.

I affirm the above to be true and accurate to the best of my knowledge under penalty of perjury.

Ryan Fitch 5-13-19
Signature of Affiant Date

Sworn to and subscribed before me on May 13, 2019 at Cleveland, Ohio.

Judith DelNostro
Notary Public, State of Ohio



Judith DelNostro
Notary Public, State of Ohio
My commission expires
March 4, 2024

IN THE COURT OF COMMON PLEAS
SUMMIT COUNTY, OHIO

| | |
|--|--|
| MEMBER WILLIAMS, et al., Plaintiffs, vs. KISLING, NESTICO & REDICK, LLC, et al., Defendants. | Case No. CV-2016-09-3928 Judge James A. Brogan Affidavit of Larry Lee |
|--|--|

I, Larry Lee, having been duly sworn, have personal knowledge of the following matters of fact, and testify as follows:

1. I am 62 years of age. In 2016, I retired from Westfield Insurance Company working in Cincinnati, Ohio, where I was the Unit Leader of the Special Investigation Unit for the last 9 ½ years. I retired from Westfield Insurance in 2016 after 18 years. At Westfield, I worked to develop and implement up-to-date process and procedures to identify and combat insurance fraud. I managed an in-depth team of investigators focusing on questionable or suspicious insurance claims, as a result of industry research of potentially fraudulent trends and implementing internal processes to identify and combat insurance fraud. Prior to joining the insurance industry, I was a law enforcement officer for the Vienna, Wood County West Virginia Police Department from 1978-1998, where I was the Officer in Charge of Investigations which included financial and medical crime/fraud, retiring after 20 years of service. I have worked for combined 44 years in the law enforcement and insurance industries with the last 20 years has been spent investigating and preventing fraudulent insurance claims. I hold the following certified designations:

- CFE (Certified Fraud Examiner-ACFE)
- CFI (Certified Forensic Interviewer- Wicklander-Zulawski & Assoc.)
- CCCI (Certified Cyber Crime Investigator-International Association of Financial Crimes Investigators)

EXHIBIT 21

- CFCI (Certified Financial Crime Investigator-International Association of Financial Crimes Investigators)
- CCS (Certified Control Specialist (The Institute for Internal Controls)

I also hold the following designations:

- | | |
|--|------------------------------------|
| • SCLA: Senior Claim Law Assoc. | American Education Institute, Inc. |
| • FCLA: Fraud Claim Law Assoc. | American Education Institute, Inc. |
| • PCLA: Property Claim Law Assoc. | American Education Institute, Inc. |
| • CCLA: Casualty Claim Law Assoc. | American Education Institute, Inc. |
| • LPCS: Law Principal Claim Specialist | American Education Institute, Inc. |

2. During the course of my career in the insurance industry, I routinely investigated or managed the investigations of law firm, including Kisling Nestico & Redick ("KNR"), that heavily advertise and handle high-volume of personal injury claims, the great majority of which were low-damage cases focusing mainly on soft-tissue injuries. As part of these investigations, I also investigated and managed the investigations of these law firms with certain chiropractors and medical doctors who would treat a high volume of these firms' clients.

3. Based on my team's internal research and available industry-gained information I was able to readily infer that the firm had entered into a relationship with certain chiropractors who would solicit clients on the law firm's behalf, using information from publicly available car-accident reports, and in turn benefit from the law firm's direction and encouragement that the clients continue to treat with the chiropractors. I also supervised claims where these same law firms would direct persons who they had solicited through their own advertising to treat with these same chiropractors in the same manner.

4. It was clear from the documentations submitted during these insurance investigations the chiropractors, including Minas Floros of Akron Square, who would administer a similar identified pattern of care, including directing clients to treat with certain physicians, including Sam Ghoubrial,

M.D., who would administer a similar identified pattern of care which included injections for pain relief.

5. The medical necessity of these types of treatment was routinely investigated, as a great majority of soft tissue injuries are known to resolve in a matter of months, if not weeks, without any treatment. Further, a vast majority of the cases I investigated and supervised did not contain the necessary documentation to support the necessity of either the treatment or the length of treatment as stated necessary by the AMA Chiropractic Guidelines. My colleagues and I concluded, in processing these claims, that the routinized treatment provided by these chiropractors and physicians to the same law firm's clients, was undertaken not out of documented medical necessity, but to inflate medical bills in an effort to justify higher settlements of the claims.

6. Whether not this treatment was in fact fraudulent and/or not medically necessary, after seeing so the same chiropractors and physicians treating the same law firm's clients in the same manner, our job duties required us to examine whether an improper relationship between the law firm and these healthcare providers. Floros and Ghoumbrial were involved in so many cases in which they provided the same type of treatment that cases involving these providers were turned over to the Special Investigation Units, reviewed and scrutinized with inherent skepticism and investigated with increased scrutiny.

7. Representative of the insurance companies for whom I worked routinely and clearly communicated to these law firms, including KNR, that these identified cases would be viewed with inherent skepticism and increased scrutiny, and would be investigated by the Special Investigation Unit as a matter of company policy which included requested necessary in-person interviews of their clients. In the vast majority of these cases we would hear from the attorneys at these firms that they would not allow interviews and they would pursue these cases by filing suit and going to trial. We were aware that these tactics were not credible because these high-volume firms only filed lawsuits

in rare instances and would only be taken to trial in the rarest of times. Additionally, litigated actions by these firms, including KNR, would also allow for us to obtain discovery of relationship between the firm and the healthcare providers, which we knew that the law firms wanted to avoid.

8. During the course of my career in the insurance industry, I also became familiar with the "narrative reports" that certain chiropractors would provide in the settlement packages that the law firms, including KNR, would submit to the insurance companies, purportedly to summarize the clients' injuries and provide an opinion on causation. In or around 2012, we began to notice that a narrative report was provided on every case involving certain high-volume chiropractors, mostly those working for clinics owned by Michael Kent Plambeck, whose business was the subject of fraud investigations and lawsuits by several large insurance companies, including State Farm and Grange, and was well known in the insurance industry for suspected over-billing.

9. My colleagues and I inferred that these narrative reports were primarily a means for the law firms to divert more client funds to the chiropractors to sustain their quid pro relationships. We drew this conclusion from the following facts, among others: (A) that the reports were provided on every case from certain chiropractors, regardless of any apparent accident-related causation issues, (B) that the majority of cases handled (my estimation being greater than 95%) by these firms and submitted to both Insurance companies where I worked, that were investigated by the Special Investigation Unit never resulted in lawsuits being filed; (D) that the reports rarely contained supportive information to support the documented treatment that was to have been provided to the chiropractor's patient and the law firm's clients; (E) the narrative report submitted to the insurance companies could have easily been compiled by someone other than the chiropractor, including the attorney representing their client or their staff members.

I affirm the above to be true and accurate to the best of my knowledge under penalty of perjury.

Larry D Lee 05/09/2019
Signature of Affiant Date

Sworn to and subscribed before me on 5/9/19 at Columbus, Ohio.

Cheryl A Patterson
Notary Public, State of Ohio



CHERYL A PATTERSON
Notary Public
In and for the State of Ohio
My Commission Expires
June 10, 2021

From: Rob Nestico nestico@knrlegal.com
Subject: Re: New Allstate request
Date: May 30, 2013 at 1 01 PM
To: Joshua Angelotta jangelotta@knrlegal.com
Cc: Ken Zerrusen zerrusen@knrlegal.com, Rob Horton rhorton@knrlegal.com, Attorneys Attorneys@knrlegal.com



I agree we need to file all these Allstate files. Please send John and I a list of your Allstate Plambeck cases.

Sent from iPhone of Rob Nestico

On May 30, 2013, at 12:48 PM, "Joshua Angelotta" <jangelotta@knrlegal.com> wrote:

I think a lot of us made a deal with the devil by allowing them to have recorded statements because the result would usually be a workable offer. I'm inclined to stop doing this because now we're wasting our time, along with the client's time, and delaying the inevitable; which is filing suit on all of these claims.

Joshua R. Angelotta

Kisling, Nestico & Redick

Attorney At Law

3412 W. Market St., Akron, Ohio 44333

Main: 330-869-9007 | Fax: 330-869-9008 | Outside Ohio: 800-978-9007

Locations: Akron, Canton, [<image001.jpg><image002.jpg> <image003.jpg> <image004.jpg>](#)
 Cleveland, Cincinnati, Columbus,
 Dayton, Toledo & Youngstown

From: Ken Zerrusen
Sent: Thursday, May 30, 2013 12:44 PM
To: Joshua Angelotta; Rob Horton; Attorneys
Subject: RE: New Allstate request...

Me too. they have tightened the screws even more. I just got a pair of \$1500 offers on ER/Plambeck claims both having approx. 7k in bills

From: Joshua Angelotta
Sent: Thursday, May 30, 2013 12:40 PM
To: Rob Horton; Attorneys
Subject: RE: New Allstate request...

I'm getting unusually low Allstate offers on Plambeck cases. Allstate has obviously always made lousy offers with MIST claims. These new offers are really bad even on moderate-heavy impact collisions.

Joshua R. Angelotta

Kisling, Nestico & Redick

Attorney At Law

3412 W. Market St., Akron, Ohio 44333

Main: 330-869-9007 | Fax: 330-869-9008 | Outside Ohio: 800-978-9007

Locations: Akron, Canton, [<image001.jpg><image002.jpg> <image003.jpg> <image004.jpg>](#)
 Cleveland, Cincinnati, Columbus,
 Dayton, Toledo & Youngstown

From: Rob Horton
Sent: Thursday, May 30, 2013 12:34 PM
To: Attorneys
Subject: New Allstate request

WILLIAMS000589

EXHIBIT 22

Subject: New Allstate request...

David Stephas from Allstate just requested ³consent for deposition of doctor, all xray films, and all paperwork signed by the client from the chiro² on a third party claim. Said it is their new prelit procedure

It is an Akron Square case

Regards,

<image005.jpg>

Robert P. Horton

Kisling, Nestico & Redick

Attorney At Law

3412 W. Market St., Akron, Ohio 44333

Main: 330-869-9007 | Fax: 330-869-9008 | Outside Ohio: 800-978-9007

Locations: Akron, <image001.jpg><image002.jpg> <image003.jpg> <image004.jpg>

Canton, Cleveland,

Cincinnati,

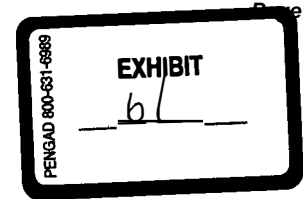
Columbus, Dayton,

Toledo &

Youngstown



WILLIAMS000590



Brandy R. Gobrogge

From: Rob Nestico
Sent: Thursday, October 16, 2014 2:41 PM
To: Kelly Phillips
Cc: Paul W. Steele; John Reagan; Brandy Brewer
Subject: Re: Clearwater

No the e-mail was well received and like I said good to know what is being said but don't let them push you or your clients around with a bunch of BS. If you run into those problems this is why we have a litigation department. Sue them EVERY TIME!!!!

Sent from Attorney Rob Nestico

On Oct 16, 2014, at 1:56 PM, Kelly Phillips <kphillips@knrlegal.com> wrote:

Well clearly my e-mail was not received in the manner it was intended. You have my apologies for that. Was just trying to let you know what I was seeing. Lesson learned. Have a great afternoon!

Kelly Phillips

Kisling, Nestico & Redick

<image001.jpg>

Attorney

2550 Corporate Exchange Drive, Columbus, Ohio 43231

Main: 330-869-9007 | Fax: 330-869-9008 | Outside Ohio: 800-978-9007

Locations: Akron,

Canton,

Cleveland,

Cincinnati,

Columbus,

Dayton, Toledo &

Youngstown

<image002.gif><image003.png><image004.gif><image005.gif><image

From: Rob Nestico
Sent: Thursday, October 16, 2014 1:48 PM
To: Kelly Phillips; Paul W. Steele
Cc: John Reagan; Brandy Brewer
Subject: RE: Clearwater

Kelly:

I appreciate the concern but we have considered this issue. I am glad you are thinking about these issues however, that is all the defense perspective. Are we not considering our client's interest when they have signed an LOP and could get sued by Clearwater or Dryfuss, or any other dr the ins. Co. does not agree with their bill? Are we not negotiating with EVERY provider not just Clearwater to help the

client and us get paid. Clearwater is treated no differently than any other provider we deal with that has an LOP.

If it wasn't for MD's willing to do this work who would care for these victims? The Ins. Co. would just find some other excuse not to pay bills and increase their bottom line.

I have taken down Nationwide before and we will do it again if necessary. [REDACTED]

In fact, ask yourself why ALL of these companies have paid the Dr either directly his full bill when there is no lawyer or MP has paid us his bill and others in full, but yet on a 3rd party case they raise this BS.

You need to argue the necessity of the treatment and the Dr's credentials, the facts of your case. You were hired to be an ADVOCATE not a puppet for the insurance company. Any discussion of not considering a Dr's bill will result in litigation even if that means EVERY nationwide case. These are MY directives.

You can't fear them and anytime they want to bring litigation my way I will be happy to take that task on.

Ask yourself these questions and ask any of the litigators in your office when have these bills not been awarded by Jurors. If your case is good on facts i.e. impact, ER, Chiro and MD with a good witness then we litigate the case. PERIOD.

Rest assured you are not the first person to come from the Insurance Defense side, including myself and John Reagan to mention a few. As discussed in our interview you can either make the mental shift or you can't and that is left to be seen. I and plenty of others have made the shift and realize how poorly Insurance Companies as a whole treat people. Anything to increase their bottom line they will say. Speak to Carla Cornicelli in our office, former HEAD of ALLSTATE SIU or Jimmylee Hoover also from Allstate.

A bigger question you should ask your self is, are these people all lying? Are the ER Dr's lying, chiro's lying, Medical Dr's lying, and are we lying? If you answer any of these questions YES then you need to reconsider your choice of employment.

I hope this answers your questions and if not we can discuss this further.

Alberto R. Nestico
Kisling, Nestico & Redick
<image001.jpg> Attorney
3412 W. Market St., Akron, Ohio 44333
Main: 330-869-9007 | Fax: 330-869-9008 | Outside Ohio: 800-978-9007
Locations: Akron, Canton, Cleveland,
Cincinnati, Columbus, Dayton, Toledo &
Youngstown

<image002.gif><image003.png><image004.gif>

<image008.jpg><image009.jpg> <image010.png>

From: Kelly Phillips
Sent: Thursday, October 16, 2014 12:53 PM
To: Rob Nestico; Paul W. Steele
Subject: Clearwater

Gentlemen,

Please know that I am not questioning what is going on here, nor am I trying to overstep my bounds. I fully understand my place in the organization. This e-mail is for informational purposes only.

I am now 5 for my last 5 with Nationwide cases where they are flat out refusing to consider anything related to Clearwater. At least when Progressive refuses, they offset with generosity in the general damages. Nationwide is not. Basically, I was told that if I am going to file on the case I was discussing then I better be prepared to file a whole lot of lawsuits. Clearly the Nationwide adjusters have received some form of a directive.

This brings about some concern. In some cases, it makes settlement a near financial impossibility. At the very least, it is taking money out of our client's pocket, and ours. I am a bit concerned with the ethical dilemma this creates. It is not difficult to make an argument that we are treating Clearwater's interests as equal to our clients. If we get a savvy client, we could find ourselves in some trouble. We are playing awful close to the fire. This is especially true when you factor in what Grange is trying to accomplish. Don't make the mistake of assuming that Nationwide and Grange are not in a coordinated effort, or at least having discussions regarding their individual approaches. On the insurance side, I was intimately involved in a coordinated effort to take down a large KY Chiropractic Operation and the firms that were heavily involved with said operation. FYI, Atty. Rob Roby played a bit of a role as well. His role was large enough that he was at least able to garner a blueprint as to how to attack such an operation. It is kind of like a "Raptor" approach....One works the head while the other works the body.

In my experience, when you are running an organization that continues to grow at unprecedented rates, you must regularly stop and take stock in what is happening around you. I am not suggesting that you are not. I am simply saying that given my experience, I am seeing some things that are bringing about concern.

Let me make myself clear, I am a member of your team. I am simply trying to protect you. That is the only reason I am bringing this to your attention. I can only assume you hired me largely because of my Insurance/SIU experience. I am simply trying to convey some of my concerns based on that experience.

Please feel free to disregard this e-mail if you'd like, or call should you want to discuss further.

Respectfully,

Kelly Phillips

Kisling, Nestico & Redick

<image001.jpg> **Attorney**

2550 Corporate Exchange Drive, Columbus, Ohio 43231

Main: 330-869-9007 | Fax: 330-869-9008 | Outside Ohio: 800-978-9007

Locations: Akron,

Canton,

<Image002.gif><image003.png><image004.gif><image005.gif><image

IN THE COURT OF COMMON PLEAS
SUMMIT COUNTY, OHIO

| | |
|---|--|
| <p>MEMBER WILLIAMS,</p> <p>Plaintiff,</p> <p>vs.</p> <p>KISLING, NESTICO & REDICK, LLC, <i>et al.</i>,</p> <p>Defendants.</p> | <p>Case No. CV-2016-09-3928</p> <p>Judge Alison Breaux</p> |
| <p>AFFIDAVIT OF GARY PETTI</p> | |

I, Gary Petti, having been duly sworn, have personal knowledge of the following matters of fact, and testify as follows:

1. In March of 2012, I became employed as a prelitigation attorney with the law firm of Kisling, Nestico & Redick, LLC ("KNR") in Akron, Ohio. Before my employment with KNR, I had worked since 1997 as a personal-injury lawyer with the Akron-based law firm of Slater & Zurz, primarily on behalf of insurance companies on the defense side, and car-accident victims on the plaintiffs' side. I resigned from my position at Slater & Zurz to join KNR because my practice at Slater & Zurz required me to travel frequently to Columbus, Ohio, and the KNR position would allow me to remain closer to my home in Wadsworth, Ohio while my wife went back to school to obtain her degree as a nurse-anesthetist. My wife and I have three children, who, at the time, were ages 6, 10, and 13. When I left Slater & Zurz to join KNR, I took

approximately 200 cases with me, and continued to represent these clients through KNR.

2. While I was working for Slater & Zurz, I first learned that KNR paid kickbacks to certain chiropractors in the form of a "narrative fee." When I spoke with certain chiropractors from Plambeck-owned clinics who would occasionally refer me cases, they told me that KNR paid them a narrative-report fee every time the chiropractors referred a case to KNR, and asked if I would do the same. I told them that I would not. I did not understand at the time that this was KNR's firm-wide policy, as opposed to a practice followed by certain KNR attorneys, and when I went to work for KNR, I assumed that I would not be required to charge my clients for unnecessary narrative-fee expenses.

3. When I began working at KNR, I primarily worked on the cases that I had brought to the firm, and when I closed these cases, no narrative fee was charged to these clients because I never ordered narrative reports for them. It was always my understanding that the decision as to whether a narrative report is worthwhile in a case is the attorney's to make, upon consultation with the client. I always understood that narrative reports were only properly used to allow a medical professional to explain why the plaintiff's injuries were different or more challenging than they might appear from the contents of the medical records, and in doing so, provide information that was not included in the records.

4. As I began to work on cases from KNR that had been taken in and previously worked on by other KNR attorneys, I would see the narrative fee appear on the client's settlement statement. I assumed that these fees were for narrative reports that were ordered by the previous KNR attorney who worked on the case. I soon learned that these narrative reports ordered by KNR were very different from the narrative reports that I was accustomed to using, and were essentially worthless, containing no information that was not already apparent from the client's medical records. The narrative reports provided by Dr. Minas Floros of Akron Square

\

Chiropractic, a Plambeck-owned clinic in Akron, were especially bad, and the worst narrative reports I had ever seen. They appeared to follow a basic formula of a few sentences where Floros merely filled in the blanks with information that was readily apparent from the medical records. It was clear that virtually no time or effort could have been expended on his worthless narratives—certainly no effort remotely justifiable by the narrative fees being paid.

5. As I continued to work at KNR, and continued to close the cases that I brought to the firm, I began working on KNR cases that I had taken in while at the firm. On several occasions while I was working at KNR, I took calls from chiropractors from Plambeck-owned clinics who were present on the line with a patient that the chiropractors sought to refer to KNR.

6. In approximately mid-to-late November of 2012, my paralegal Megan Jennings began to collect a package of documentation on a case that was to be submitted to the defendant's insurance company, including police reports, and medical records. When she submitted this package to me for my approval, I noticed a charge for a narrative report in the documents. I immediately expressed my surprise and disapproval that the narrative fee would be included in this package, and asked Jennings why this was the case. I also told her that I am the lawyer, so I'm the one who gets to advise the client as to whether the narrative report is a justifiable expense. In response, Jennings informed me that narrative fees are paid on every case that comes in from Akron Square Chiropractic and other Plambeck-owned clinics, and that the check is made out to the chiropractor personally and sent directly to the chiropractor's house. I then told her that I would not approve of any such fees being charged to my clients without my express approval.

7. Within a few days, I was working with Jennings on another case that was affiliated with Akron Square Chiropractic. On November 28, 2012; I emailed Jennings about this case to instruct her that no narrative fee was to be paid on it. I wrote, "Remember, no reports from

doktor flooroos,” deliberately misspelling his name in an effort to defuse tension with humor. I also wrote, as a follow-up to our previous conversation, “I’ve asked a number of adjusters about the importance of those reports and the most common response is nearly uncontrolled laughter.” This comment, while hyperbolic, referred to the fact that on the occasions when I attempted to refer to Plambeck narrative-reports in negotiating settlements on behalf of KNR clients, the insurance adjusters paid absolutely no regard to these reports.

8. Within approximately two weeks of having sent this email to Jennings, KNR terminated my employment. I was told by KNR attorney John Regan that I was “not a good fit” there. I could not disagree and little else was said in the meeting. I understood that by stating that I was “not a good fit” at KNR, Regan was only referring to my unwillingness to participate in KNR’s schemes to defraud their clients, like with the narrative fees, as there were no other issues of which I was made aware. At that point, I was glad to leave KNR and the practice of law, and have since been working in the construction business.

9. During my time working at KNR, I became aware of the firm’s so-called investigators, including Aaron Czetli and Michael Simpson. I would often witness Czetli and Simpson performing odd jobs around KNR’s Akron office, such as stuffing envelopes and putting up holiday lights. Although I had ample opportunity to observe their activities, comings, goings, and work-product, I never witnessed or became aware of these so-called investigators performing any actual investigations. To my knowledge, their only involvement with client matters was to meet potential clients and sign them to KNR fee agreements.

10. Within a few months before KNR terminated my employment, KNR Managing Partner Rob Nestico criticized me in front of other KNR attorneys for my unwillingness to be dishonest to potential KNR clients. This happened in a meeting where all KNR prelitigation attorneys were present, and Nestico played a recording of a phone call that I had over the firm’s phone line

with a potential client. On this call, a car-accident victim told me that he was an independent contractor and sub-contractor, and was concerned about recovering lost wages for work missed due to his car-accident injuries. I advised this potential client that his status as a contractor would make it more complicated to recover damages because he would have to prove not only that he did not work as a result of the accident, but also that he would have otherwise worked on certain jobs, for a certain amount of money during the same time period. After Nestico played the recording of the phone call for everyone in the room, he asked what I had done wrong on the call. The answer, according to Nestico, was that I was too honest with the client in advising him of the complications in recovering damages due to his status as an independent contractor, and that I did not tell the potential client "what he wanted to hear."

11. On March 23, 2017, I received a phone call from a man who identified himself as Attorney Brian Roof with the law firm of Sutter O'Connell, and said that he represents KNR and Nestico in the above-captioned lawsuit. He asked me if I was familiar with the lawsuit and the recently filed proposed Second Amended Complaint. I told him that I was, and had read a press release about the Second Amended Complaint. He asked me about my time at KNR and what documents I took with me when I left, and he said that it was his clients' position that all such documents were confidential. I interpreted this as a threat, and told Mr. Roof that as far as I'm concerned, everything in the press release is true, and that I was terminated by KNR because of my refusal to participate in their kickback schemes.

12. Every document I have disclosed and all information I have provided to Plaintiffs' counsel in this litigation was and is, to the best of my knowledge and understanding, evidence of fraud and illegal activity by KNR. I do not believe that any of it is confidential or subject to any confidentiality agreement. I can't imagine that my own emails mocking the fraud would be confidential.

I affirm the above to be true and accurate to the best of my knowledge under penalty of perjury.

Gary M. [Signature] 4/3/17
Signature of Affiant Date

State of Ohio

County of Summit

Sworn to and subscribed before me on 4-3-2017

at Sharon Center, Ohio.

[Signature]
(Signature of Notary Public)



Peter Pattakos
(Printed Name of Notary Public)

Notary Public, State of Ohio

My commission expires on N/A

Updated Narrative and WD Procedure for Plambec Clinics and Referring Physicians

****NO NARRATIVES ARE TO BE PAID FOR MINOR'S 12 AND UNDER!**

Those highlighted are the only Narrative Fees that get paid automatically (with the amount indicated) to the doctor personally (all doctors are in needles).

The following below are Plambec clinics:

- *Akron Square Chiropractic: Dr. Minas Floros
- *Cleveland Injury Center (Detroit Shoreway): Dr. Eric Cawley
- *Canton Injury Center (West Tusc): Dr. Zach Peterson (narrative to Dr. Phillip Tassi)
- East Broad Chiropractic: Dr. Heather Kight
- Old Town Chiropractic: Dr. Gregory Smith
- Shaker Square Chiropractic: Dr. Drew Schwartz
- *Timber Spine & Rehab (Toledo Spine): Dr. Patrice Lee-Seyon
- Valley Spine & Rehab: Dr. David Mullin
- *Cincinnati Spine & Rehab (Vernon Place/Werkmore): Dr. Jason Maurer
- *West Broad Spine & Rehab: Dr. Sean Neary

***Narrative Report Fees are paid to Dr. Patrice Lee-Seyon via MedReports (Timber Spine/Toledo Spine) for \$150.00, Dr. Minas Floros (Akron Square) \$150.00, Dr. Phillip Tassi (Canton Injury) \$150.00, Dr. Jason Maurer (Cincinnati Spine/Vernon Place/Werkmore) \$150.00, Dr. Eric Cawley (Cleveland Injury) \$150.00, Dr. Sean Neary (West Broad) \$150.00 to the doctor personally (all doctors are in needles).

In addition to:

- Akron/Cleveland Area ((NOT PLAMBEC))
 - Dr. Alex Frantzis/ Dr. Todd Waldron with NorthCoast Rehab, LLC (\$200.00) ((NOT PLAMBEC))
 - Accident Injury Center of Akron (P.O. Box 20770) \$200.00
- Columbus/Cincinnati Area ((NOT PLAMBEC))
 - Accident Care & Wellness Center (P.O. Box 20770) \$200.00
 - Columbus Injury & Rehab (P.O. Box 20770) \$200.00

~~1.4. No cases are to be submitted without the narrative. If you need assistance obtaining it, please let Jenna know.~~

WITHDRAW'S

ANY doctor that we regularly work with and/or have a lien on file with **MUST** be notified when we withdraw and note the file with a fax confirmation or copy of the email. Letters must be saved to the client folder. ie Dr. Ghoubril (Clearwater Billing), Dr. Bhalji, Comprehensive Pain Management, CNS (Dr. Markarian), North Star Orthopedic (Dr. Chonko), etc.

Plambec Clinic's- WD's must be emailed the corresponding billing lady below AND faxed to the clinic specifically.

denise@managedservices4u.com Denise: CANTON INJURY, CLEVELAND INJURY, EAST BROAD, OLD TOWN
timberspinecollections@gmail.com Denise: TIMBER SPINE AND REHAB
akronsquare2@gmail.com Katie: AKRON SQUARE
cincinnati spine and rehab2@gmail.com Katie: CINCINNATI SPINE AND REHAB
westbroadspineandrehab2@gmail.com Katie: WEST BROAD SPINE AND REHAB
maris@managedservices4u.com Mari: SHAKER BLVD, VALLEY SPINE

EXHIBIT 25

KNR03278

CONFIDENTIAL – ATTORNEY'S EYES ONLY



From: Brandy Lamtman brandy@knrlegal.com
Subject: Plambeck Clinics
Date: October 2, 2013 at 3:14 PM
To: Prelit Support PrelitSupport@knrlegal.com, Prelit Attorney PrelitAttorney@knrlegal.com, Litigation Support LitigationSupport@knrlegal.com, Litigation Attorney LitigationAttorney@knrlegal.com

BL

These are the only Narrative Fees that get paid in addition to Dr. Alex Frantzis with NorthCoast Rehab (\$200.00) ((NOT PLAMBECK))

*Akron Square Chiropractic: Dr. Minas Floros
*Detroit Shoreway Chiropractic: Dr. Kyle Schneider
East Broad Chiropractic: Dr. Heather Kight
Old Town Chiropractic: Dr. Gregory Smith
Raider Chiropractic: Dr. Michael Buczynaki
Shaker Square Chiropractic: Dr. Drew Schwartz
*Toledo Spine & Rehab: Dr. Patrice Lee-Seyon
Valley Spine & Rehab: Dr. Briggs
*Vernon Place Chiropractic: Dr. Jason Maurer
*Werkmore Chiropractic: Dr. Jason Maurer
Westgate Family Health: Dr. Michael Buczynaki
*West Tusc Chiropractic: Dr. Tassi and Dr. Eric Cawley
*Youngstown Chiropractic: Dr. Sirikul ³Ruth² Thunijinda

***Narrative Report Fees are paid to Dr. Patrice Lee-Seyon via MedReports (Toledo Spine) for \$200.00, Dr. Minas Floros (Akron Square) \$200.00, Dr. Philip Tassi for him and Dr. Eric Cawley (West Tusc) \$200.00, Dr. Sirikul Thunijinda (Youngstown Chiropractic) \$150.00 and Dr. Kyle Schneider (Detroit Shoreway) \$150.00 to the doctor personally (all doctors are in needles)

WD's must be faxed to Rebecca at (855) 267-9337 and an email sent to the billing ladies

franklind@csgonline.net- Denise, she has TOLEDO, OLD TOWN

Colbenson@csgonline.net - Annette, she has SHAKER SQUARE, EAST BROAD, WEST BROAD, RAIDER, VALLEY SPINE and YOUNGSTOWN

delattek@csgonline.net Katie, she has AKRON, VERNON PLACE/WERKMORE

bordelonk@csgonline.net Karla, she has WEST TUSC



Brandy Lamtman
Kisling, Nestico & Redick
Director of Operations
3412 W. Market St., Akron, Ohio 44333
Main: 330-869-9007 | Fax: 330-869-9008 | Outside Ohio: 800-978-9007

Locations: Akron, Canton, Cleveland, Cincinnati,
Columbus, Dayton, Toledo & Youngstown



WILLIAMS000570

EXHIBIT 26

From: **Brandy Lamtman** brandy@knrlegal.com
Subject: Chiropractor Referrals
Date: May 6, 2013 at 6:14 PM
To: Prelit Attorney PrelitAttorney@knrlegal.com
Cc: Rob Nestico nestico@knrlegal.com

We MUST send an investigator to sign up clients!! We cannot refer to Chiro and have them sign forms there. This is why we have investigators. We are losing too many cases doing this!!!!!!

If a client is already at the chiro's office then of course it is ok. Other than that send an investigator.

No faxing or emailing forms unless it is approved by Rob, Robert or I.

Sent from my iPhone

EXHIBIT 27



WILLIAMS000001

IN THE COURT OF COMMON PLEAS
SUMMIT COUNTY, OHIO

| | |
|--|---|
| <p>MEMBER WILLIAMS, et al.,</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>Affidavit of Amanda J. Lantz, Esq.</p> |
|--|---|

I, Amanda J. Lantz, Esq., having been duly sworn, have personal knowledge of the following matters of fact, and testify as follows:

1. I am a practicing attorney licensed in the State of Ohio. I have never been sanctioned or disciplined for my professional conduct.
2. Upon graduating from The University of Dayton School of Law in 2013 and passing the Ohio bar examination, I obtained a job with the law firm of Kisling Nestico and Redick ("KNR"), working as an attorney in the law firm's Columbus, Ohio office.
3. Shortly upon joining the firm in November of 2013, I retained a caseload of approximately 400 active cases at any given time. The firm imposed quotas on its attorneys, setting a goal for each attorney to bring in \$100,000 in attorneys' fees to the firm each month. Given the relatively low-damage cases that came into the Columbus office, I was required to settle approximately 60 to 70 cases each month to make this number. One month, I settled 89 cases on behalf of KNR clients.
4. During my time working at KNR, it was firm policy to direct clients to treat with certain health-care providers, including Dr. Sam Ghoubrial, and various chiropractors who



Amanda J. Lantz

maintained mutual referral relationships with the law firm.

5. The decision as to whether to refer a client to Dr. Ghoumbrial depended on the level of property damage the client sustained in the car accident at issue. If the property damage was above a certain minimal level, we were encouraged by our KNR supervisors to direct the client to see Dr. Ghoumbrial to obtain "trigger point" injections of certain medication, including pain-blocking and anti-inflammatory medication. Dr. Ghoumbrial would often administer multiple injections to the client, to different parts of the spine, in the same appointment, charging between \$880 to \$1280 for each injection. He would travel to Columbus on certain days to treat groups of KNR clients on the same day.

6. During my time working at KNR, in or around October of 2014, I became aware that an attorney in the Columbus office, Kelly Phillips, sent an email to the firm's managing partner Alberto R. ("Rob") Nestico and the managing partner of the Columbus office, Paul Steele, in which Phillips expressed concerns about the firm's relationship with Dr. Ghoumbrial and stated that this relationship was improper. I understood that Mr. Phillips communicated in this email that KNR attorneys could not legitimately claim to be acting in our clients' best interests by sending the clients to treat with Ghoumbrial, knowing that the insurance companies viewed his treatment with skepticism, and knowing that the clients could have obtained the same treatment for a substantially lower cost elsewhere. I recall specifically that Mr. Phillips was especially concerned about the fact that Nestico would ensure that Ghoumbrial was paid substantial amounts out of client settlements even when the Defendants' insurance company representatives told KNR attorneys that they were not crediting or paying for Ghoumbrial's treatment in settling the case. I knew that Nestico was upset about this email, and sent an angry response to Phillips. This exchange was a topic of conversation and controversy around the office in the time period after it was sent. To my knowledge, the firm did not change its

Page 2 of 6



Attorney Peter G. Pattakos
Resident Summit County
Notary Public, State of Ohio
My Commission Has No Expiration Date
Sec 147.03 RC

Amanda Lantz

policies regarding Dr. Ghoubrial in response to this email or at any other time.

7. The attorneys in the firm were also instructed by our supervisors to send our clients to a chiropractor as soon as possible. We (attorneys and paralegals) were directed to set up reminders, including through the firm's computer system, Needles, to ensure that the client had treated with a chiropractor within 10 days of contacting the firm, and also to ensure that the client had treated with the chiropractor at least 3 times within a certain period of time.

8. It was understood that the chiropractors would send us referrals in exchange for us doing the same. The chiropractor to whom we sent the most referrals from the Columbus office, and who referred our office the most cases, was Nasreen Khan of Town and Country chiropractic. Dr. Khan, and other chiropractors with whom we worked, employed telemarketers who contacted car accident victims using information contained in publicly available crash reports to solicit them for chiropractic services. When these car-accident victims arrived at the chiropractor's office, they were provided with a KNR fee agreement directly by a representative of the chiropractor, or greeted by a so-called "investigator" from KNR who would obtain the car-accident victim's signature on the KNR fee agreement. Town and Country often would not treat the client until they signed the KNR fee agreement and a form "letter of protection" authorizing the law firm to pay the chiropractic bills out of the client's settlement.

9. On several occasions when I asked my clients how they came to treat at Town and Country, they informed me that a representative of their insurance company called them to instruct them to treat there. I knew that this was not the case, and that Town and Country's telemarketers misrepresented themselves as representatives of the client's insurance company to induce the clients to treat there. Either my supervisor or another attorney at KNR informed me that a telemarketer who was known as "Will" (which was not his real name) worked out of

Page 3 of 6



Attorney Peter G. Pattakos
Resident Summit County
Notary Public, State of Ohio
My Commission Has No Expiration Date
Sec 147.03 RC

*Amanda
Lamb*

the basement of Dr. Khan's home, and that he did not get paid on a given case unless the client he solicited treated with Town and Country at least three times. I also became aware, during my time working at KNR, that Dr. Khan would retaliate against the firm if she believed the firm was not honoring the quid pro quo relationship, and withhold referrals if she learned that a patient she referred to the firm began treating with another chiropractor.

10. When a potential client communicated with the firm, it was KNR office policy to send an "investigator" to sign that client to a fee agreement within 24 hours. The chiropractic offices followed this policy as well would directly request that a KNR "investigator" come to the offices out to sign patients to KNR fee agreements. On rare occasions involving exceptionally high-valued cases, the attorneys were required meet the client within 24 hours to obtain the signature on the fee agreement and establish the attorney-client relationship. We constantly received emails from KNR management pressuring us to sign-up potential clients within 24 hours, who had communicated with the firm. Our supervisors made it clear to us that the purpose of sending these investigators was to avoid losing the potential client to another law firm and secure the attorney-client relationship.

11. It was also office policy to charge an "investigation fee" on almost every case. This fee was charged as a matter of firm policy whether an "investigator" ever met with a client or not. I settled approximately 1,300 cases on behalf of KNR clients during my time with the firm, and an investigation fee between \$50 to \$200 was charged on approximately 95% of these cases, with the exact amount of the fee depending on the mileage the investigator had to travel. In all of these cases, I never became aware of an investigator doing anything at all for the client apart from obtaining the client's signature on the KNR fee agreement.

12. My immediate supervisor at KNR's Columbus office was Paul Steele, Esq. His father, Wes Steele, was the primary "investigator" who signed up clients for the Columbus office.



Attorney Peter G. Pattakos
Resident Summit County
Notary Public, State of Ohio
My Commission Has No Expiration Date
Sec 147.03 RC

Amanda Jantz

13. During my time working at KNR, it was also office policy to recommend to clients that they obtain loans, including from a company called Liberty Capital funding. We were instructed by our KNR supervisors, including Paul Steele, to offer our clients loans whenever they became upset or threatened to terminate the firm, to placate them with the promise of quick cash. The manager at Town & Country also made potential clients aware that KNR attorneys could get cash advances for their clients. On more than one occasion, new clients or potential clients told me that they heard our law firm could get them fast money and asked me to do so for them. During a period of my employment at KNR, we were instructed to send our clients exclusively to Liberty Capital whenever they requested a loan or settlement advance.

14. After approximately one year working there, I no longer wanted to be associated with the KNR firm and began to seek employment elsewhere. In or around March of 2015 I took personal time off to attend a series of job interviews with a local legal recruiting company to obtain a position as a legal recruiter. I no longer wanted to practice law. On the day of my final interview with this company, I returned to the office and was called to meet with Paul Steele, who informed me that my employment with KNR was being terminated because I "wasn't a long-term fit." I was never given any warnings by KNR that my employment status was in jeopardy and was never made aware of any issues that would justify my termination or any reasons why I wasn't a long-term fit. In fact, I had recently been recognized as one of the top performing attorneys in the firm and was rewarded by an invitation to attend a trip with Rob Nestico and other top performing KNR attorneys to Punta Cana in the Dominican Republic that January, less than three months before I was terminated. At the time of my termination, I was exclusively using a mobile phone that was issued by the firm. I believe that KNR was monitoring my communications and/or e-mails on that phone and terminated my



Attorney Peter G. Pattakos
Resident Summit County
Notary Public, State of Ohio
My Commission Has No Expiration Date
Sec 147.03 RC

Angela
Sanchez

employment upon learning, by monitoring my communications, that I was seeking employment elsewhere.

I affirm the above to be true and accurate to the best of my knowledge under penalty of perjury.

Amenda Lantz 9.28.18
Signature of Affiant Date

Sworn to and subscribed before me on 9.28.18 at Springfield, Ohio.

Peter G. Pattakos
Notary Public, State of Ohio



Attorney Peter G. Pattakos
Resident Summit County
Notary Public, State of Ohio
My Commission Has No Expiration Date
Sec 147.03 RC

Amenda
Lantz

10/20/2017

Sign Ups

Sign Ups

Holly Tusko

Sent: Tuesday, June 10, 2014 10:26 AM

To: Wes Steele; Paul Hillenbrand; Tom [tfish878@InsightLrr.com]; David French; Gary Monto; JUDANJUDO@aol.com; James Smith; Dennis Rees; Gary Krebs; Glenn Jones; Aaron Czetti; Mike Simpson; Chuck DeRemer

Cc: Prellt Attorney; Brandy Brewer; Rob Nestico

Importance: High

Good Morning KNR Investigators. In an effort to get everyone on the same page please and to ensure that we are servicing our clients to be best of our ability please see the below criteria for doing sign ups. Please note that if this criteria is not met you will not be paid. When doing a sign up the following steps need to be taken...

- 1.) The subject line of your email should always contain the client(s) name
- 2.) The contingency fee agreement, patient authorization and proof of representation forms needs to be signed and dated as well as a discharge letter, if applicable. Keep in mind that we do have 1/3 and ¼ fee agreements as well as 1/3 and ¼ Spanish fee agreements. Should you need any of these emailed to you please let me know. The attorney will always advise you if we need ¼ fee agreements signed, otherwise it will always be 1/3
- 3.) Photo(s) of insurance cards
- 4.) Photo of client (from the chest up)
- 5.) Photo(s) of ANY visible injuries (cuts, red marks, bruises, scratches, stitches, braces, casts, etc)
- 6.) Photo(s) of the vehicle
- 7.) Photo of police report (we send out direct mailers so a lot of the time the client will have the police report there with them).

You can use the above numeric format to add to the body of your email when sending the forms. If for any reason these items are not available then just note it accordingly in the body of your email. Again, this must be done by all investigators for all sign ups.

Please contact me with any questions / concerns.

Best Regards,

**Holly Tusko**

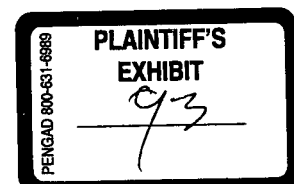
Kisling, Nestico & Redick

Intake Manager

3412 W. Market St., Akron, Ohio 44333

Main: 330-869-9007 | Fax: 330-869-9008 | Outside Ohio: 800-978-9007

Locations: Akron, Canton, Cleveland, Cincinnati, Columbus, Dayton, Toledo & Youngstown

**EXHIBIT 29**

<https://mail.knrlegal.com/owa/?ae=Item&t=IPM.Note&id=AMB.RgAAAC1gQINHGETS5FQw2OnVXIbWdIM3ZJQPJuQrw7XILHI9mEAAAAIUzeAADt...> 1/1

KNR03226

IN THE COURT OF COMMON PLEAS
SUMMIT COUNTY, OHIO

| | |
|---|-------------------------------------|
| MEMBER WILLIAMS, et al., | |
| Plaintiffs, | Case No. CV-2016-09-3928 |
| vs. | Judge James A. Brogan |
| KISLING, NESTICO & REDICK, LLC, et al., | Affidavit of Member Williams |
| Defendants. | |

I, Member Williams, having been duly sworn, have personal knowledge of the following matters of fact, and testify as follows:

1. I was represented by the Akron, Ohio law firm of Kisling, Nestico & Redick, LLC ("KNR") in connection with a car accident in which I suffered injuries on September 13, 2013. A true and accurate copy of the fee agreement I signed is attached as **Exhibit A**.
2. At no time did I consent to incur separate charges for the firm performing basic administrative tasks. Nor did any person at KNR discuss with me the existence of the investigator fee, the purpose of the investigators, that an investigator fee would be deducted from my settlement, or why, or the administrative nature of the work for which the MRS Investigations was paid the fee.
3. When my case settled in August 2015, I received \$5,868.54 of the \$9,965.30 that KNR recovered in connection with my accident after the deduction of all fees and expenses incurred at KNR's direction. Before seeing the settlement memorandum that KNR presented to me, I was not aware that KNR would deduct an investigator fee for MRS Investigations. A true and accurate copy of the settlement memorandum I signed is attached as **Exhibit B**.
4. When KNR presented me with the settlement memorandum reflected in **Exhibit B**, I asked the KNR representative who presented me with the memo what the \$50 fee to MRS Investigations



Rachel Hazelet
Attorney Rachel L. Hazelet
Notary Public, State of Ohio
My Commission
Has No Expiration Date
Sec 147.03 RC

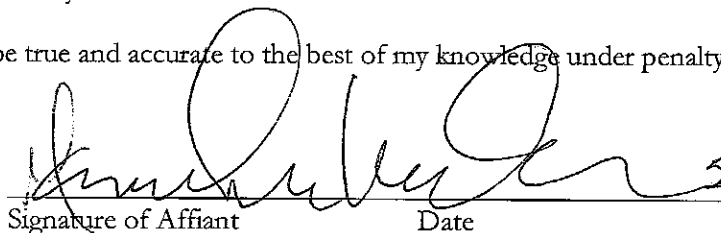
[Signature]

EXHIBIT 30

was for. I was told, in response, that it was for obtaining police reports. I did not push the issue any further because it was only \$50 and I assumed that my KNR lawyers would not charge me illegitimate fees. This was the extent of my communications with any KNR representatives about the fee until I spoke with Rob Horton months later, after he was no longer employed by the firm.

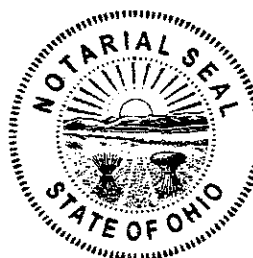
5. I have never otherwise become aware of any work, investigative or otherwise, performed by MRS Investigations in relation to my case with KNR.

I affirm the above to be true and accurate to the best of my knowledge under penalty of perjury.

 5/9/19
Signature of Affiant Date

Sworn to and subscribed before me on 5/9/19 at Fairlawn, Ohio.


Notary Public, State of Ohio



Attorney Rachel L. Hazelt
Notary Public, State of Ohio
My Commission
Has No Expiration Date
Sec 147.03 RC

Kisling, Nestico & Redick, LLC
Attorneys at Law

CONTINGENCY FEE AGREEMENT

Member Williams, hereinafter called Client, request and authorize Kisling, Nestico & Redick, LLC, hereinafter called Attorneys, to represent me for all purposes in connection with clients injuries and damages arising out of an incident which occurred on the 13th day of September, 2013 in Summit County, Ohio, on the following conditions:

1) Attorneys will devote their full professional abilities to Clients case and Client agrees to fully cooperate with Attorneys. In the event of an appeal, an additional agreement for services shall be made by the parties hereto. No appeal will be made without both parties agreeing thereto. I understand that my case may be handled by any one or more of the members of the firm of Kisling, Nestico & Redick, LLC and different members may handle the case at different times. Client understands and agrees that Attorneys are not representing Client for any Workers Compensation, medical malpractice, disability, or employment related claims arising from this incident, injuries or damages, unless separate written contingency fee agreements have been signed for such claims.

2) The Attorneys shall receive as a fee for their services, one-third (1/3) of the total gross amount of recovery of any and all amounts recovered, and Client hereby assigns said amount to Attorneys and authorizes Attorneys to deduct said amount from the proceeds recovered. Attorney shall have a charging lien upon the proceeds of any insurance proceeds, settlement, judgment, verdict award or property obtained on your behalf. IN THE EVENT OF NO RECOVERY, CLIENT SHALL OWE ATTORNEYS NOTHING FOR SERVICES RENDERED.

3) Client agrees and authorizes Attorneys to deduct, from any proceeds recovered, any expenses which may have been advanced by Attorneys in preparation for settlement and/or trial of Clients case. IN THE EVENT OF NO RECOVERY, CLIENT SHALL OWE ATTORNEYS NOTHING FOR SUCH ADVANCED EXPENSES.

Client authorizes and directs Attorneys to deduct from Clients share of proceeds and pay, directly to any doctor, hospital, expert or other medical creditor, any unpaid balance due them for Clients care and treatment.

4) Client agrees that Attorneys have made no promises or guarantees regarding the outcome of Clients claim. Client understands Attorneys will investigate Clients claim and then Attorneys shall have the right to withdraw from representation.

Signed this 17 day of September, 2013

CLIENT

ATTORNEY

EXHIBIT A

KNR00462

233588 / Member Williams

Settlement MemorandumRecovery:

REC State Farm Insurance \$ 9,965.30

\$ 9,965.30DEDUCT AND RETAIN TO PAY:

| | |
|--|----------|
| Kisling, Nestico & Redick, LLC | |
| MRS Investigations, Inc.; | \$ 50.00 |
| Selson Clinics Neurology; /bd | \$ 43.44 |
| Selson Clinics Neurology; /bd | \$ 15.32 |
| Summa Wadsworth-Rittman Hospital; /bd | \$ 5.00 |
| UHMP; 2128/bc | \$ 42.78 |
| IOD Incorporated (Crystal Clinic); 28447554/bc | \$ 33.56 |

Total Due \$ 190.10DEDUCT AND RETAIN TO PAY TO OTHERS:

| | |
|----------------------------------|----------------------|
| Kisling, Nestico & Redick, LLC | \$ 3,321.76 |
| Selson Clinics Neurology | <u>MLL</u> \$ 121.10 |
| Summa Wadsworth-Rittman Hospital | \$ 463.80 |

Total Due Others \$ 3,906.66

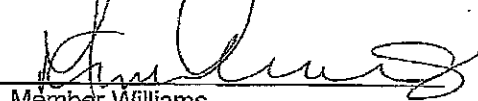
| | |
|---------------------------------|--------------------|
| Total Deductions | \$ 4,096.76 |
| Total Amount Due to Client | \$ 5,868.54 |
| Less Previously Paid to Client | \$ 0.00 |
| Amount to be paid by Client | \$ 121.10 |
| Net Amount Due to Client | \$ 5,989.64 |

I hereby approve the above settlement and distribution of proceeds. I have reviewed the above information and I acknowledge that it accurately reflects all outstanding expenses associated with my injury claim. I further understand that the itemized bills listed above will be deducted and paid from the gross amount of my settlement except as otherwise indicated. Finally, I understand that any bills not listed above, including but not limited to Health Insurance or Medical Payments Subrogation and/or those initiated by me to indicate that they are not being paid from the settlement are my responsibility and not the responsibility of Kisling, Nestico & Redick, LLC.

Date:

8/7/15

Name:


Member Williams

Firm:

Kisling, Nestico & Redick, LLC**EXHIBIT B**

KNR00026

EXHIBIT 31

*Over 100 years combined Experience
of Getting Proven Results*



KISLING, NESTICO & REDICK

Protecting your rights* If you have been in an accident, or a family member has been injured or killed in a crash or some other incident, you have important decisions to make. We believe it is important for you to consider the following:

1. Make and keep records – If your situation is a motor vehicle crash, regardless of who may be at fault, it is helpful to obtain a copy of the police report, learn the identity of any witnesses, and obtain photographs of the scene, vehicles and any visible injuries. Keep copies of your receipts of all your expenses and medical bills related to the incident.
2. You do not have to sign anything – You may not want to give an interview or recorded statement without first consulting with an attorney, because the statement can be used against you. If you may be at fault or have been charged with a traffic violation or offense, it may be advisable to consult an attorney right away. However, if you have insurance, your insurance policy probably requires you to cooperate with your insurance company and provide a statement to the company. If you fail to cooperate with your insurance company, you may void your coverage.
3. Your interest versus interest of insurance company – Your interests and those of the other person's insurance company are in conflict. Your interests may also be in conflict with your own insurance company. Even if you are not sure who is at fault, you should contact your own insurance company and advise the company of the incident to protect your insurance coverage.
4. There is a time limit to file an insurance claim – Legal rights, including filing a lawsuit, are subject to time limits. You should ask what time limits apply to your claim and you need to act immediately to protect your rights.
5. Get it in writing – You may want to request that any offer of settlement from anyone be put in writing, including a written explanation of the type of damages, which they are willing to cover.
6. Legal assistance may be appropriate. You may consult with an attorney before you sign any document or release of claims. A release may cut off all future rights against others, obligate you to repay past medical bills or disability benefits, or jeopardize future benefits. If your interests conflict with your own insurance company, you may wish to check with relatives, friends, neighbors, or co-workers who may be able to recommend an attorney. Your local bar association may have a lawyer referral service that can be found in the Yellow Pages.
7. How to find an attorney – If you need professional advice about a legal problem but do not know an attorney, you may wish to check with relatives, friends, neighbors, or co-workers who may be able to recommend an attorney. Your local bar association may have a lawyer referral service that can be found in the Yellow Pages.
8. Check a lawyer's qualifications – Before hiring a lawyer you have the right to know the lawyer's background, experience in dealing with cases similar to yours, and how much will it cost. In deciding whether to hire a particular lawyer, you should discuss, and the lawyer's written fee agreement should reflect: a. How is the lawyer to be paid? If you already have a settlement offer, how will these costs be advanced by the lawyer or charged to you as they are incurred? Since you are obligated to pay a contingent fee arrangement? b. How are the expenses involved in your case, such as telephone calls, deposition costs, and fees for expert witnesses, to be paid? Will these costs be advanced by the lawyer or charged to you as they are incurred? Since you are obligated to pay a contingent fee arrangement? c. Who will handle your case? If the case goes to trial, who will be the trial attorney? This information is not intended as a complete description of your legal rights, but as a check list of some of the important questions you should consider.
9. How much will it cost – In deciding whether to hire a particular lawyer, you should discuss, and the lawyer's written fee agreement should reflect: a. How is the lawyer to be paid? If you already have a settlement offer, how will these costs be advanced by the lawyer or charged to you as they are incurred? Since you are obligated to pay a contingent fee arrangement? b. How are the expenses involved in your case, such as telephone calls, deposition costs, and fees for expert witnesses, to be paid? Will these costs be advanced by the lawyer or charged to you as they are incurred? Since you are obligated to pay a contingent fee arrangement? c. Who will handle your case? If the case goes to trial, who will be the trial attorney? This information is not intended as a complete description of your legal rights, but as a check list of some of the important questions you should consider.

*THE SUPREME COURT OF OHIO, WHICH GOVERNS THE CONDUCT OF LAWYERS IN THE STATE OF OHIO, NEITHER PROMOTES NOR PROHIBITS THE DIRECT SOLICITATION OF PERSONAL INJURY VICTIMS. THE COURT DOES REQUIRE THAT IF SUCH A SOLICITATION IS MADE, IT MUST INCLUDE THE ABOVE DISCLOSURE.

← **FREE MAGNET**

CALL NOW FOR A FREE CONSULTATION
IF YOU CAN'T COME TO US, WE'LL COME TO YOU.

**1-800
HURT
NOW**

INJURED?

CALL 24 HOURS 7 DAYS A WEEK

Visit www.KNRLEGAL.com to submit your case for a FREE consultation.

WWW.KNRLEGAL.COM