

IN THE COURT OF COMMON PLEAS

COUNTY OF SUMMIT

MEMBER WILLIAMS, ET AL.)	CASE NO. CV-2016-09-3928
)	
Plaintiff)	JUDGE JAMES A. BROGAN
-vs-)	MAGISTRATE PATRICIA A.
)	HIMELRIGH
KISLING NESTICO & REDICK LLC, ET)	
AL.)	
)	<u>MAGISTRATE'S ORDER</u>
Defendant)	
)	
)	

This matter comes before the Court upon several pending motions. Upon review, the Court makes the following Orders:

- (1) Plaintiffs' April 18, 2019 Motion for Protective Order and Sanctions re: Defendants' Improper Communications with Represented Third Parties (and see Defendant Floros' April 29, 2019 Brief in Opposition; KNR Defendants' May 1, 2019 Brief in Opposition; Plaintiffs' May 24, 2019 Reply in Support)

Plaintiffs' Motion, supported by the Affidavit of Taijuan Carter with Exhibits, asserts Defendants Floros and possibly Defendant Nestico attempted to mislead Mr. Carter into signing a false statement to purportedly relieve Defendants from liability in this case. Plaintiffs seek an Order barring Defendants from communicating with represented third parties in any manner and sanctioning Defendant Floros (and any other responsible parties or attorneys) for improper behavior.

Defendant Floros responded in opposition, supported by the Affidavit of Dr. Minas Floros, arguing that Plaintiffs misrepresented the circumstances of the events that took place between Mr. Carter and Defendant Floros and there is no good cause for a protective order or sanctions. Defendant Floros also states he did not seek guidance from Defendant Nestico or anyone else when he drafted an affidavit for Mr. Carter – but he admits that he did call the KNR Defendants to advise them that Mr. Carter may be coming to the KNR office to review his file.

The KNR Defendants opposition states its only involvement in the incident at issue was receiving a call from Defendant Floros regarding his contact with Mr. Carter (and no attorney spoke with Mr. Carter on the day of the incident or thereafter).

The affidavits attached to the motions/briefs present conflicting versions of the events and circumstances between Defendant Floros and Mr. Carter. Upon such record the Court is unable to determine whether sanctions are warranted without holding an evidentiary hearing on the matter. Accordingly, a Motions Hearing is scheduled with the Magistrate on Friday **July 26 at 10:00 a.m.**, in the Visiting Judge's Courtroom on the Second Floor Annex of the Summit County Court of Common Pleas, General Division. Mr. Carter and Defendant Floros shall attend in person in order to testify to the details surrounding the incident at issue.

- (2) Plaintiffs' May 1, 2019 Motion to Compel Discovery on Defendants' Assets and Net Worth (and see Defendant Ghoubrial's May 3, 2019 Motion to Strike, Motion for Sanctions and a Finding of Contempt; Defendant Ghoubrial's May 10, 2019 Brief in Opposition; the KNR Defendants' May 13, 2019 Amended Memorandum in Opposition; and Defendant Floros' Brief in Opposition and separate Motion for Protective Order)

Plaintiffs' Motion to Compel is OVERRULED as premature prior to class certification. Further, the Court does not find good cause to strike any documents filed on this issue, issue any sanction for filing, nor grant any protective order in reference to the issues raised in the Motion and various briefs/memoranda in opposition. Discovery of Defendants' assets and net worth shall be held in abeyance until after the Court rules upon the class certification issue.

IT IS THEREFORE ORDERED that Defendant Floros and Represented Third-Party Taijuan Carter shall appear in person for an evidentiary hearing with the Magistrate on **July 26, 2019 at 10:00 a.m.** in the Visiting Judge's Courtroom, Second Floor Annex of the Summit County Court of Common Pleas.
IT IS SO ORDERED.



MAGISTRATE PATRICIA A. HIMELRIGH

CC: JUDGE JAMES A. BROGAN
ATTORNEY JOSHUA R. COHEN
ATTORNEY ELLEN MAGLICIC KRAMER
ATTORNEY RACHEL HAZELET
ATTORNEY DEAN C. WILLIAMS
ATTORNEY PETER PATTAKOS
ATTORNEY R. ERIC KENNEDY
ATTORNEY DAVID M. BEST
ATTORNEY JONATHAN E. COUGHLAN
ATTORNEY GEORGE D. JONSON
ATTORNEY LAWRENCE A. SUTTER
ATTORNEY THOMAS P. MANNION
ATTORNEY JAMES M. POPSON
ATTORNEY NATHAN F. STUDENY
ATTORNEY SHAUN H. KEDIR
ATTORNEY DAVID M. BEST
ATTORNEY JONATHAN E. COUGHLAN
ATTORNEY GEORGE D. JONSON
ATTORNEY LAWRENCE A. SUTTER
ATTORNEY THOMAS P. MANNION

ATTORNEY JAMES M. POPSON
ATTORNEY NATHAN F. STUDENY
ATTORNEY DAVID M. BEST
ATTORNEY LAWRENCE A. SUTTER
ATTORNEY THOMAS P. MANNION
ATTORNEY JAMES M. POPSON
ATTORNEY NATHAN F. STUDENY
ATTORNEY DAVID M. BEST
ATTORNEY THOMAS A. SKIDMORE
ATTORNEY DAVID M. BEST
ATTORNEY JOHN F. HILL
ATTORNEY SHAUN H. KEDIR
ATTORNEY MELEAH M. KINLOW

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