

**IN THE COURT OF COMMON PLEAS  
SUMMIT COUNTY, OHIO**

MEMBER WILLIAMS, <i>et al.</i> ,  Plaintiff,  vs.  KISLING, NESTICO & REDICK, LLC, <i>et al.</i> ,  Defendants.	Case No. CV-2016-09-3928  Judge James A. Brogan  <b>Reply in Support of Plaintiffs' Motion for Protective Order to Enforce the Established April 15, 2019 Class-Discovery Deadline</b>
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In reply to Defendants' 05/31/2019 opposition to Plaintiffs' 05/24/2019 Motion for Protective Order, Plaintiffs state as follows:

Plaintiffs disclosed the identity of the five witnesses identified in Defendants' opposition brief as promptly as practicable upon confirming that Plaintiffs would be submitting their testimony.<sup>1</sup> The Defendants have long been on notice of the relevance of the essential subject matter of these affidavits and were free to gather their own evidence on these subjects. Indeed, Defendants have in fact attempted to do so, having filed affidavits from Dr. George Markarian (filed 05/15/2019), Dr. Tony Lababidi (filed 05/13/2019), and Dr. Douglas Chonko (filed 05/10/2019) within days of the class-certification deadline, without having disclosed the identity or intent to submit testimony of any of these witnesses<sup>2</sup> to the Plaintiffs.

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<sup>1</sup> The Defendants cannot credibly suggest that Plaintiffs had any duty to disclose the identity of these witnesses as "witnesses with knowledge" prior to Plaintiffs' determination that they would be submitting their testimony for the Court's consideration. Defs' Opp. at 2. If any such duty existed, it would require Plaintiffs to identify every licensed and/or practicing doctor, chiropractor, personal injury attorney, and auto-insurance adjuster/fraud investigator in the United States, if not the world, who all, presumably, have knowledge that the practices at issue in this case are fraudulent. Additionally, Professor Engstrom's research on high-volume personal-injury firms has been widely published and has at all times been equally accessible to Defendants as it has been to Plaintiffs.

<sup>2</sup> All of these physician witnesses who have submitted affidavits on KNR's behalf have made substantial profits providing medical care to numerous KNR clients. On information and belief, all

At some point, a line has to be drawn between class and merits discovery, and the Court has in fact drawn that line with its April 15 deadline. If the Court, after reviewing the parties' class-certification briefing, believes that any additional discovery is necessary prior to making its ruling, it is within its discretion to order that any such discovery take place at that time.

Respectfully submitted,

/s/ Peter Pattakos

Peter Pattakos (0082884)  
Rachel Hazelet (00097855)  
THE PATTAKOS LAW FIRM LLC  
101 Ghent Road  
Fairlawn, Ohio 44333  
Phone: 330.836.8533  
Fax: 330.836.8536  
peter@pattakoslaw.com  
rhazelet@pattakoslaw.com

Joshua R. Cohen (0032368)  
Ellen Kramer (0055552)  
COHEN ROSENTHAL & KRAMER LLP  
The Hoyt Block Building, Suite 400  
Cleveland, Ohio 44113  
Phone: 216.781.7956  
Fax: 216.781.8061  
jcohen@crklaw.com

*Attorneys for Plaintiffs*

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of these physicians have overcharged the KNR clients for care, like Ghoumbrial, refusing to accept payment from the clients' medical insurance. Similar to Ghoumbrial, Lababidi is believed to have profited from the serial administration of trigger-point injections and TENS units to KNR clients, to whom he also serially administers narcotics prescriptions. Markarian is believed to have profited from the administration of Magnetic Resonance Imaging scans (MRIs) to numerous KNR clients who suffered no more than soft-tissue injuries. And Chonko is an orthopedic surgeon to whom Ghoumbrial refers KNR clients (including Named Plaintiff Thera Reid) for surgery when necessary, because Ghoumbrial knows that Chonko is willing to similarly insist on the clients waiving their health-insurance benefits thus allowing him to be paid directly from the clients' KNR settlements. If the Court finds that Defendants are entitled to discovery from Plaintiffs' additional witnesses prior to class certification, Plaintiffs would insist on similarly obtaining documents and deposition testimony from Defendants' additional physician witnesses, including as to how many KNR clients they treated, what type of treatment was provided, under what terms, and at what cost and profit.

**Certificate of Service**

The foregoing document was filed on June 11, 2019, using the Court's e-filing system, which will serve copies on all necessary parties.

/s/ Peter Pattakos  
*Attorney for Plaintiffs*