

# EXHIBIT A

1 IN THE COURT OF COMMON PLEAS

2 OF SUMMIT COUNTY, OHIO

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4  
5 MEMBER WILLIAMS et al.,

6  
7 Plaintiffs,

8  
9 vs.

Case No. CV 2016 09 3928

10  
11 KISLING, NESTICO & REDICK, LLC, et al.,

12  
13 Defendants.

14  
15 ~~~~~

16 DEPOSITION OF

17 KELLY PHILLIPS III

18 February 22, 2019

19 10:07 a.m.

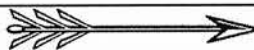
20 Taken at:

21 Pattakos Law Firm

22 101 Ghent Road

Akron, OH

23 Kurt M. Spencer, Notary Public



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1 Q. Insurance companies have a lot more  
2 leeway with how they deal with claimants in  
3 Ohio than some of those judicial hell-holes,  
4 fair?

5 A. **Yeah. Certainly, than some of the**  
6 **really bad counties in southern states, or in**  
7 **Eastern Pennsylvania, certainly, that's fair.**

8 Q. Like Ohio County in West Virginia,  
9 and places like that?

10 A. **Yeah. We didn't do business in**  
11 **West Virginia, but, yes, I'm aware that that's**  
12 **a bad spot.**

13 Q. And, you didn't do business in West  
14 Virginia for a reason, probably.

15 A. **Correct, yes.**

16 Q. And, so, it's important to be able  
17 to protect clients' interests from some of the  
18 insurance companies, wouldn't you agree?

19 A. **As an attorney, certainly.**

20 Q. That's not a bad thing, is it?

21 A. **That is not a bad thing, no, sir.**

22 Q. Who were the primary plaintiffs'  
23 firms you dealt with in Ohio, when you worked  
24 in insurance?

25 A. **There was a ton of them. Just the**

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1 **big ones that come to mind, of course,**  
2 **obviously, since we were very big in Columbus,**  
3 **Schiff, Kurgis, Acciani & Levy, or whatever**  
4 **that is, O'Conner. O'Conner & Levy, sorry.**  
5 **Elk & Elk, Malek & Malek. There's a lot more,**  
6 **but those are the ones that specifically jump**  
7 **out at me, that I saw the most.**

8 Q. And all those firms use  
9 chiropractors on soft tissue injury cases,  
10 didn't they?

11 A. **I would say yes.**

12 Q. You saw injections and TENS units  
13 on multiple patients with multiple different  
14 law firms, true?

15 A. **Yeah.**

16 Q. You have clients now who get  
17 injections for pain, don't you?

18 A. **I do.**

19 Q. And, who use TENS units, correct?

20 A. **I haven't really run into a lot of**  
21 **TENS units. Well, they use them at the**  
22 **chiropractor.**

23 Q. Right.

24 A. **Yeah, the chiropractor utilizes**  
25 **TENS units.**

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1 Q. And they're helpful for the  
2 clients, aren't they?

3 A. **They tell me they are. I used them**  
4 **myself. I find them helpful.**

5 Q. And, same with injections, your  
6 clients tell you those help, as well, right?

7 A. **Some. Most of the time, they say**  
8 **it helps.**

9 Q. Okay. Well, not every treatment is  
10 for everybody, right?

11 A. **Uh-huh. That's fair.**

12 Q. The decision is made between the  
13 physician and the patient, correct?

14 A. **In most circumstances, yes.**

15 Q. You don't tell clients what  
16 treatment to get, do you?

17 A. **I do not.**

18 Q. You've never done that, have you?

19 A. **I have not, no.**

20 Q. Do you know what an average cost of  
21 a TENS unit is?

22 A. **To purchase one?**

23 Q. Yeah.

24 A. **Well, it depends on the level of**  
25 **TENS unit. I mean, if you want the**

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1 **medicine-quality TENS unit, like they use in**  
2 **doctor's offices, you're, probably, looking at**  
3 **\$800 to thousands of dollars --**

4 Q. Okay.

5 A. **-- depending. Or, you can go on**  
6 **Amazon, like I do, and get the little ones for**  
7 **\$50.**

8 Q. But, they are not the same, and  
9 they're not as effective, true?

10 A. **I honestly think they are, but**  
11 **that's neither here nor there. But, I would**  
12 **say, obviously, the ones at the doctor's office**  
13 **are more powerful.**

14 Q. Do you know how much Dr. Ghoubril  
15 charged for his?

16 A. **I have no idea. I can't recall.**

17 Q. If I told you \$500, would that  
18 shock you?

19 A. **For a TENS unit?**

20 Q. Yes.

21 A. **Did he actually sell the TENS**  
22 **units? I don't recall.**

23 Q. If he sold one for \$500, do you  
24 find that is --

25 A. **I've seen them more expensive,**

<p>161</p> <p>1 <b>disbursement, certainly.</b></p> <p>2 Q. Now, were you exercising your own</p> <p>3 independent professional judgment, when you</p> <p>4 handled cases for these clients?</p> <p>5 A. <b>Yes, up until, like, the things I</b></p> <p>6 <b>needed permission on, certainly.</b></p> <p>7 Q. Okay. Certain things you had to</p> <p>8 ask permission on?</p> <p>9 A. <b>Yeah, any reductions.</b></p> <p>10 Q. A reduction in a bill?</p> <p>11 A. <b>Yes.</b></p> <p>12 Q. But, as far as how you handled that</p> <p>13 individual case, each individual case was a</p> <p>14 little different, fair?</p> <p>15 A. <b>Yeah, other than, you know, where I</b></p> <p>16 <b>was required to send people for treatment.</b></p> <p>17 <b>That was directed to me.</b></p> <p>18 Q. I thought you said you didn't</p> <p>19 follow those directions?</p> <p>20 A. <b>Yeah, I didn't follow -- not</b></p> <p>21 <b>towards the end, no, I didn't follow those</b></p> <p>22 <b>directions. I would send people, based on my</b></p> <p>23 <b>discussion with them, what treatment I felt fit</b></p> <p>24 <b>them best.</b></p> <p>25 Q. So, if I was a client of yours in</p>	<p>163</p> <p>1 Q. And, you didn't force them to go to</p> <p>2 a certain chiropractor. You might have</p> <p>3 mentioned some chiropractors, but if they said</p> <p>4 they wouldn't go there, you would find another</p> <p>5 one, fair?</p> <p>6 A. <b>Well, no. I told them, or was</b></p> <p>7 <b>asked to tell them, which is logical, I don't</b></p> <p>8 <b>disagree with it, you know, do you think that</b></p> <p>9 <b>chiropractic treatment would be beneficial for</b></p> <p>10 <b>your injury, if so, I can get you to one.</b></p> <p>11 Q. That's what you do today, isn't it?</p> <p>12 A. <b>Yeah, absolutely.</b></p> <p>13 Q. And, you refer them to certain</p> <p>14 chiropractors, don't you?</p> <p>15 A. <b>I do.</b></p> <p>16 Q. And you do that, because you like</p> <p>17 working with those chiropractors, and they do a</p> <p>18 good job for your clients.</p> <p>19 A. <b>Yeah. I always tell people that</b></p> <p>20 <b>they can treat anywhere they want, but if they</b></p> <p>21 <b>don't have anywhere specific where they want to</b></p> <p>22 <b>go, I have chiropractors that I can refer to</b></p> <p>23 <b>them, or to a physical therapy.</b></p> <p>24 Q. And, you never once at KNR forced</p> <p>25 somebody to go to a chiropractor, did you?</p>
<p>162</p> <p>1 Columbus, when you worked at KNR, and you were</p> <p>2 my attorney --</p> <p>3 A. <b>Uh-huh.</b></p> <p>4 Q. -- you realized you had</p> <p>5 professional duties toward me, as a client,</p> <p>6 true?</p> <p>7 A. <b>Yes.</b></p> <p>8 Q. And, you followed those duties,</p> <p>9 didn't you?</p> <p>10 A. <b>Yeah, I would say.</b></p> <p>11 Q. You had a duty to do what was in</p> <p>12 the client's best interest, correct?</p> <p>13 A. <b>Yes.</b></p> <p>14 Q. And, you did that, didn't you?</p> <p>15 A. <b>If they said they needed treatment,</b></p> <p>16 <b>I would tell them what doctors we had</b></p> <p>17 <b>available, that we knew and dealt with, and if</b></p> <p>18 <b>they were comfortable with that, I would send</b></p> <p>19 <b>them there.</b></p> <p>20 Q. You didn't tell them to get</p> <p>21 treatment, if they weren't hurt, did you?</p> <p>22 A. <b>Oh, never.</b></p> <p>23 Q. Okay. Nobody asked you to do that</p> <p>24 either, did they?</p> <p>25 A. <b>No.</b></p>	<p>164</p> <p>1 A. <b>No.</b></p> <p>2 Q. You wouldn't do that, would you?</p> <p>3 A. <b>No.</b></p> <p>4 Q. And, you never forced anybody at</p> <p>5 KNR to go to Dr. Ghoubrial, did you?</p> <p>6 A. <b>No. I actually had no control over</b></p> <p>7 <b>that, at all.</b></p> <p>8 Q. You never referred a client to</p> <p>9 Dr. Ghoubrial, did you?</p> <p>10 A. <b>Never, no.</b></p> <p>11 Q. They were referred by other</p> <p>12 providers, fair?</p> <p>13 A. <b>Yeah, Naz Khan. That's the only</b></p> <p>14 <b>one I'm aware of in Columbus that, well, not</b></p> <p>15 <b>Naz, but Town &amp; Country Chiropractic. I</b></p> <p>16 <b>apologize.</b></p> <p>17 Q. Okay. And, was that Roz, or who</p> <p>18 was that?</p> <p>19 A. <b>Well, Naz is the, I guess, the</b></p> <p>20 <b>person.</b></p> <p>21 Q. Naz Khan?</p> <p>22 A. <b>Yeah. I never met Naz, so I don't</b></p> <p>23 <b>know. But, I know that she is, essentially,</b></p> <p>24 <b>the contact point.</b></p> <p>25 Q. But, Town &amp; Country referred the</p>

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1 client to Dr. Ghoumbrial, correct?

2 **A. I assumed so, yes. I certainly**

3 **didn't.**

4 **Q.** You never saw anybody at KNR refer

5 a case to Dr. Ghoumbrial, did you?

6 **A. No, not to my knowledge.**

7 **Q.** And, you're not saying that KNR

8 should tell chiropractors who to refer to, are

9 you?

10 **A. I have no knowledge of who referred**

11 **anybody to Ghoumbrial, Dr. Ghoumbrial, excuse me.**

12 **Q.** Okay. But, that's not my question.

13 You're not saying KNR should have told

14 chiropractors what medical doctors they refer

15 to, are you saying that?

16 **A. I don't have any knowledge if that**

17 **was a requirement, no, I never did that.**

18 **Q.** What I'm asking is, you're not

19 saying that KNR should have interjected, and

20 told chiropractors where they should refer

21 clients to, are you? Are you saying that?

22 **A. Oh, no. No. No. That's up to the**

23 **doctor.**

24 **Q.** Exactly, and the patient.

25 **A. Certainly.**

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1 **Q.** A patient treating with Town &

2 Country, for example, they have a discussion

3 with the chiropractor there, true?

4 **A. I'm assuming so, yes.**

5 **Q.** And, if the chiropractor feels like

6 they need medical treatment, the chiropractor

7 can talk about it with the client?

8 **A. I would assume so, yes.**

9 **Q.** The chiropractor doesn't call up

10 KNR, and say, "Is it okay if I send them to Dr.

11 Ghoumbrial," do they?

12 **A. Not to my knowledge.**

13 **Q.** They never did that with you?

14 **A. No, never.**

15 **Q.** You never saw Paul Steele do that?

16 **A. Not that I'm aware of, no.**

17 **Q.** You've never heard of a single KNR

18 attorney get a call from a chiropractor, and

19 say, "Hey, who should I refer this patient to?"

20 You're not aware of that ever happening, are

21 you?

22 **A. It didn't happen to me, no.**

23 **Q.** You're not aware of it ever

24 happening, are you?

25 **A. Not to my knowledge, no.**

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1 **Q.** And you never saw it with Josh

2 Angelotta, did you?

3 **A. No, sir.**

4 **Q.** Not with Rob Horton?

5 **A. Yeah. I barely, I never handled**

6 **any files with Rob.**

7 **Q.** Didn't see it with Paul Steele?

8 **A. No, I never saw it with Paul**

9 **Steele.**

10 **Q.** You didn't see it with Amanda, did

11 you?

12 **A. No. I didn't, no.**

13 **Q.** You didn't see it with anybody?

14 **A. I don't think so, no.**

15 **Q.** Okay. And one of the things you

16 said was that you would try to maximize

17 recovery for your clients.

18 **A. Certainly.**

19 **Q.** Is that a good thing?

20 **A. Yes, I feel that that's my ethical**

21 **responsibility.**

22 **Q.** And that is what your clients

23 wanted, as well?

24 **A. Well, their interests are supposed**

25 **to be paramount, yes.**

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1 **Q.** And, you always kept, even KNR's

2 clients, when you were there, you kept their

3 interest paramount, didn't you?

4 **A. Always.**

5 **Q.** So, you said that you need to know

6 where to press the right buttons, and being

7 inside insurance, you, probably, saw which

8 buttons worked, and which didn't, sometimes.

9 **A. Certainly.**

10 **Q.** Tell us a little bit about that.

11 **A. Well, it's just how you need to**

12 **leverage a particular case. I mean, with all**

13 **due respect, I don't want to give away any**

14 **certain trade secrets. I worked real hard to**

15 **get intimate knowledge. But, I mean, there are**

16 **certain things that you can put in writing to**

17 **force them to dictate a response. Insurance**

18 **adjusters do not like to put things in writing.**

19 **So when Paul would ask my**

20 **assistance, I would tell him what to -- I**

21 **would say, "Put this in a letter. Give them**

22 **this option. Set them up." You always want**

23 **with insurance companies for there to be a**

24 **repercussion for not responding, or not**

25 **responding accordingly. And, so, you're**

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1 different. KNR handled things certain ways,  
2 and, then, Brad Keating handled things certain  
3 ways. And I took from that the good stuff, and  
4 the stuff I didn't like, I don't do.

5 Q. For example, you don't like the  
6 lower level claims?

7 A. Oh, no. I handled all of them. I  
8 mean, those are what keep the lights on.

9 Q. You made a comment that you wanted  
10 to talk to Rob about he could have 20% less  
11 clients, and make 30% more money?

12 A. Yeah. I think if you looked at the  
13 case load, yeah, I don't think there was ever  
14 an examination, and he conceded there was never  
15 really an examination of what cases were coming  
16 in, and what weren't. The only cases I will  
17 turn down, currently, as an attorney, is if  
18 somebody alludes to me that they're not  
19 injured, because I don't represent uninjured  
20 people.

21 Q. Right.

22 A. When they intimate to me they're  
23 just trying to get money, I say find another  
24 lawyer. I'm not that guy.

25 Q. But that was true when you were at

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1 KNR, too, right?

2 A. Yeah, I wouldn't know 'cause my  
3 conversations were over the phone. I never had  
4 anybody tell me they were not injured over the  
5 phone, because they were usually sitting at a  
6 chiropractor, or came in through our 1-800  
7 number that already, you know, they were  
8 reaching out to us for a reason.

9 Q. I don't want to forgot to get back  
10 to some of the issues, but I want to talk about  
11 the referrals again. So, after you left  
12 Keating's office, you developed some  
13 relationships with additional chiropractors,  
14 who referred?

15 A. Yes, sir.

16 Q. There's nothing wrong with that  
17 business relationship, is there?

18 A. No, not at all.

19 Q. As long as there's not a quid pro  
20 quo, right?

21 A. Exactly, and I don't have that with  
22 any of my people that I do business with. In  
23 fact, that's one of the reasons why I wasn't a  
24 big fan of Columbus Spine and Rehab. I think  
25 they were wanting me to promise so many cases,

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1 and I said, "I can't do that." Especially,  
2 when I was first starting out, you know,  
3 because, I mean, heck, I was doing a little bit  
4 of everything, when I first started out.

5 Q. Right.

6 A. I was doing wills, and things of  
7 that nature just to try to keep money coming in  
8 until I established myself.

9 Q. And, you never saw any agreement  
10 that KNR had with somebody that said *for every*  
11 *two you send me, I'll send you one*, or anything  
12 like that?

13 A. No, sir. I never saw that.

14 Q. Okay. You weren't aware of any  
15 quid pro quos at KNR, fair?

16 A. That is fair, yes.

17 Q. And that's true whether it was --  
18 well, I'll just -- that was true with all the  
19 providers that you saw at KNR. You didn't see  
20 any quid pro quo agreements, true?

21 A. No. Nothing between that, any  
22 individual provider, and KNR, no, I did not.

23 Q. Or, any chiropractic firm, when you  
24 said individual provider.

25 A. Yes, correct. That is correct.

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1 Q. Now, you made a comment that  
2 Brandy, the manager, would come down once in a  
3 while, was a non-lawyer managing a lawyer.

4 A. Yes, sir.

5 Q. You didn't let her manage you,  
6 though, did you?

7 A. No, I didn't. But, she certainly  
8 tried.

9 Q. Okay.

10 A. That's when I was cautioned *don't*  
11 *end up on her bad side*. But, I liked Brandy.  
12 I thought she was cool.

13 Q. You knew how to handle her?

14 A. I would say, I think that she -- I  
15 would think it was reciprocated. I think we  
16 both generally liked each other as human  
17 beings, and I think she knew that my pushback  
18 on certain things wasn't personal against her.  
19 It's not like she held it over my head, and  
20 said, "You will do what I tell you to do." It  
21 was just more of, no, I'm sorry. I didn't say  
22 it. But, I was acting like I'm the lawyer.  
23 I'm not going to --

24 Q. Right.

25 A. -- let her tell me how to do that.

<p>185</p> <p>1 Q. And you didn't let her tell you how</p> <p>2 to do it, did you?</p> <p>3 A. <b>No, sir. I did not.</b></p> <p>4 Q. You exercised your own judgment?</p> <p>5 A. <b>Where she was concerned, certainly.</b></p> <p>6 Q. Now, you don't know the reason that</p> <p>7 she would send these e-mails out about</p> <p>8 directing to certain chiropractors, do you?</p> <p>9 A. <b>I have no idea why, no.</b></p> <p>10 Q. Did you know that it was to spread</p> <p>11 the work out so they weren't working just one</p> <p>12 or two people?</p> <p>13 A. <b>I have no idea. Like I said, I was</b></p> <p>14 <b>only told -- my specific instructions, when I</b></p> <p>15 <b>started there were, all cases are to go to</b></p> <p>16 <b>Town &amp; Country, unless otherwise advised.</b></p> <p>17 Q. But that's not how you operated?</p> <p>18 A. <b>Not once I entrenched myself a</b></p> <p>19 <b>little bit, no.</b></p> <p>20 Q. Well, you never sent somebody to</p> <p>21 Town &amp; Country that you thought did not need</p> <p>22 chiropractic treatment, did you?</p> <p>23 A. <b>No. If they did not need</b></p> <p>24 <b>chiropractic treatment, no.</b></p> <p>25 Q. And, you certainly didn't force</p>	<p>187</p> <p>1 Q. Well, one of the problems with</p> <p>2 changing, sometimes, a carrier can look at it,</p> <p>3 and see if you're doctor hopping. That's</p> <p>4 something the carrier takes into consideration</p> <p>5 sometimes?</p> <p>6 A. <b>I think, usually, my client was</b></p> <p>7 <b>commended for going somewhere else, to be quite</b></p> <p>8 <b>honest.</b></p> <p>9 Q. I'm not talking about your clients</p> <p>10 at KNR. I'm saying when you were working in</p> <p>11 insurance, you would look to see if somebody</p> <p>12 was doctor hopping, or doctor shopping,</p> <p>13 wouldn't you?</p> <p>14 A. <b>No. I mean, treatment was</b></p> <p>15 <b>treatment. It was gaps in treatment that I</b></p> <p>16 <b>really concerned myself with.</b></p> <p>17 Q. For example, if the accident is on</p> <p>18 January 1st, and you don't see treatment until</p> <p>19 February 2nd, you start to wonder?</p> <p>20 A. <b>Certainly.</b></p> <p>21 Q. It's important to start treating</p> <p>22 earlier?</p> <p>23 A. <b>That's fair. I think it adds</b></p> <p>24 <b>credence to the injury claim, certainly. Yeah,</b></p> <p>25 <b>I wouldn't disagree with that.</b></p>
<p>186</p> <p>1 someone to go there, if they didn't want to go</p> <p>2 there?</p> <p>3 A. <b>No. I would try to talk them</b></p> <p>4 <b>into -- like, usually, my biggest issue that I</b></p> <p>5 <b>had is that it didn't make sense for me to have</b></p> <p>6 <b>someone ride in a minivan, driven by one of</b></p> <p>7 <b>Town &amp; Country's employees forty-five minutes,</b></p> <p>8 <b>when we had another chiropractor that was</b></p> <p>9 <b>friendly, and did good work, five minutes down</b></p> <p>10 <b>the street from where they lived. It just</b></p> <p>11 <b>wasn't logical.</b></p> <p>12 <b>And, then, also, there were many</b></p> <p>13 <b>clients after clients started complaining to me</b></p> <p>14 <b>about the environment at Town &amp; Country. And</b></p> <p>15 <b>guys, I would welcome -- if you question</b></p> <p>16 <b>anything I have to say, pop in there some time.</b></p> <p>17 <b>That's all I have to say about that. It is</b></p> <p>18 <b>chaotic, and people that were discerning, would</b></p> <p>19 <b>question that treatment, and asked to be -- I</b></p> <p>20 <b>had many of them ask me to move them somewhere</b></p> <p>21 <b>else.</b></p> <p>22 Q. And you did.</p> <p>23 A. <b>You had to come up with a very good</b></p> <p>24 <b>reason, because you had to explain yourself. I</b></p> <p>25 <b>got talked to several times about that.</b></p>	<p>188</p> <p>1 Q. Who were some of the chiropractors</p> <p>2 you developed, you were saying who they were,</p> <p>3 you developed relationships with, after you</p> <p>4 left Keating?</p> <p>5 A. <b>I would say Viers is the most</b></p> <p>6 <b>prominent one. Now, Viers, he is not what you</b></p> <p>7 <b>would call auto accident chiropractor, if you</b></p> <p>8 <b>will, or Workers' Comp chiropractor. He is</b></p> <p>9 <b>actually a chiropractor that doesn't like to</b></p> <p>10 <b>work under letters of protection. In fact, he</b></p> <p>11 <b>refuses to do so. Now, he will with me,</b></p> <p>12 <b>because he knows I get the job done, and that's</b></p> <p>13 <b>really what it comes down to. But, I'm the</b></p> <p>14 <b>only attorney that he does that with, in fact,</b></p> <p>15 <b>I'm the only attorney he does business with.</b></p> <p>16 <b>And, that ended up happening,</b></p> <p>17 <b>because we run around in the same areas. And</b></p> <p>18 <b>everybody kept telling me about how I need to</b></p> <p>19 <b>reach out to Dr. Viers, and everybody kept</b></p> <p>20 <b>telling Dr. Viers that he needs to reach out to</b></p> <p>21 <b>me. And, then, we finally got together, and it</b></p> <p>22 <b>was a love connection. I don't know what else</b></p> <p>23 <b>to say.</b></p> <p>24 Q. But, before you started sending</p> <p>25 clients there, you wanted to see how he ran</p>

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1 A. Yes.

2 Q. So the client was taking

3 responsibility for those?

4 A. Now, I understand what you're

5 asking, if there is no lien present from a

6 medical provider, you can give your client the

7 discretion to be paid that money, and handle it

8 themselves, or you can say, "Do you want me to

9 pay and attempt to negotiate it down for you?"

10 Q. And, those are the types of things

11 you talk about with the client?

12 A. Yeah. And, I would tell you nine

13 times out of ten, a client on their own is

14 going to get a bigger reduction than a lawyer

15 would trying to call one of these hospitals, or

16 medical providers, to try to reduce it.

17 Q. And you're not talking about one of

18 the letters of protection, you mean, someone

19 without a Letter of Protection?

20 A. Correct, and that you did not have

21 a lien on. You know, like, now, most hospitals

22 are affiliated, and have collection groups.

23 But, even when they know there are health

24 benefits will try to *lien* a file, as opposed to

25 turning into health benefits, because they

250

1 think they can get more money that way. And,

2 if you have notice of a lien, then, you have to

3 pay it, or negotiate it down and pay it.

4 Q. In -- have you read the Complaint

5 in this case, or any of the Complaint?

6 A. No, I have not.

7 Q. In your practice, if you filed a

8 complaint, and you found out that one of the

9 allegations in it were not true, what would you

10 do?

11 A. As far as?

12 Q. Would you amend the Complaint?

13 Would you drop the claim?

14 A. Yes. If it was foundationally

15 incorrect, then, yes, I would amend the

16 Complaint.

17 Q. In this particular case, one of the

18 claims has to do with injections that

19 Dr. Ghoumbrial gave. Now, by the way, you

20 mentioned earlier that some client told you

21 that Dr. Ghoumbrial, what, had a -- or she

22 described what type of person? Middle Eastern?

23 A. Yeah. She said he was a smaller

24 Middle Eastern looking man, yes.

25 Q. Who put a cigarette in his mouth,

251

1 and had someone light it?

2 A. No, somebody else lit it, and put

3 the cigarette in his mouth. I just thought it

4 was hysterical.

5 Q. You don't know if there's any --

6 A. She said there was gloves.

7 Q. You don't know if that's true, do

8 you?

9 A. That's just what my client told me.

10 Q. What if I told you that Dr.

11 Ghoumbrial doesn't smoke?

12 A. That's entirely possible.

13 Q. And, this is the client that had

14 someone in prison, her husband?

15 A. That is correct.

16 Q. Now, if you had a client who, well,

17 strike that. One of the claims is that

18 Dr. Ghoumbrial would inject patients, without

19 telling them what it was, unidentified

20 medication. You never had your clients tell

21 you that, did you?

22 A. No. They would just say that they

23 didn't understand why they needed them. And I

24 had some people going, like, "I don't know why

25 I am getting these shots."

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1 Q. That was something they would have

2 discussed with Dr. Ghoumbrial, true?

3 A. Yeah. I would say, "Did you not

4 have that discussion with the doctor?" And

5 they would say, "No, I didn't." They would

6 claim it was improperly explained to them,

7 sure. Not every one of them, but some of them.

8 Q. And, improperly explained how?

9 A. They didn't understand why they

10 were necessary.

11 Q. But, they agreed to them.

12 A. Obviously.

13 Q. I mean, you're not saying there was

14 no informed consent on those, are you?

15 A. I have no knowledge what the

16 conversation was. They just said they didn't

17 understand why they needed them. And didn't

18 feel like they understood why they were getting

19 them. "Well, why did you get them?" That was

20 my response.

21 Q. Right. You didn't tell them to

22 take injections they didn't need, did you?

23 A. I did not, no.

24 Q. And, if they weren't helping, tell

25 them, "Well, don't do them?"

253

1 **A. That is correct.**  
 2 **Q.** And, you weren't told by KNR, or  
 3 anybody, "No, even if it doesn't help, keep  
 4 getting injections." Nobody told you that.  
 5 **A. Nobody told tell me that, no.**  
 6 **Q.** You wouldn't have done that anyway,  
 7 would you?  
 8 **A. I would not have done that.**  
 9 **Q.** So, if there is an allegation that  
 10 Dr. Ghoumbrial gave an injection, or an  
 11 unspecified medication, but the person making  
 12 that claim knew exactly what that medication  
 13 was, Cortisone --  
 14 **A. Uh-huh.**  
 15 **Q.** How do you reconcile those two?  
 16 **A. How so?**  
 17 **Q.** Well, I want you to assume that a  
 18 plaintiff, in this case, had injections from  
 19 Dr. Ghoumbrial over two different cases --  
 20 **A. Uh-huh.**  
 21 **Q.** And, that he wrote an e-mail to KNR  
 22 saying that he was going to give them Cortisone  
 23 injections, right, in one of the cases he was  
 24 actually deposed under oath, described getting  
 25 Cortisone injections --

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1 **A. Uh-huh.**  
 2 **Q.** -- and that they provided relief.  
 3 Is that something you would claim in a  
 4 Complaint is an unspecified medication?  
 5 **A. Well, it sounds like he's being**  
 6 **pretty specific saying he needed Cortisone, and**  
 7 **understood it, so, yeah, I would say, no. That**  
 8 **seems pretty obvious to me.**  
 9 **Q.** And, if you had put that in a  
 10 Complaint, and, then, heard your client's  
 11 testimony, would you amend that Complaint?  
 12 **A. Most likely, yes.**  
 13 **Q.** That wouldn't be a proper claim to  
 14 make -- if you were told what it was, wouldn't  
 15 be proper to claim you didn't, would it?  
 16 **A. I would say that would be up to the**  
 17 **court to decide. But, personally, no, I**  
 18 **wouldn't amend the Complaint.**  
 19 **Q.** You wouldn't operate that way?  
 20 **A. I do not operate that way, no, I do**  
 21 **not.**  
 22 **Q.** And, another individual, who's  
 23 claiming that Dr. Ghoumbrial gave her a TENS  
 24 unit, actually was treated by another doctor,  
 25 whose handwritten notes from that visit are his

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1 own handwriting, who sat right in that chair  
 2 right there, and said, "I treated her." And  
 3 Dr. Ghoumbrial was in Columbus when she was  
 4 treating with the gentleman here, now, if you  
 5 found that out, would you still put in the  
 6 Complaint that the patient treated with  
 7 Dr. Ghoumbrial?  
 8 **A. Not if he -- he never saw her?**  
 9 **Q.** Never saw him.  
 10 **A. Well, then, no, of course not.**  
 11 **Q.** That wouldn't be proper to do,  
 12 would it?  
 13 **A. Not in my opinion, no.**  
 14 **Q.** I didn't think so. So, one of the  
 15 plaintiffs in this case, Member Williams, and,  
 16 by the way, I assume you don't know Member  
 17 Williams?  
 18 **A. I know very little about this**  
 19 **Complaint, at all, other than what was in the**  
 20 **initial article that Paul Steele pointed out to**  
 21 **me.**  
 22 **Q.** Not Naomi Wright?  
 23 **A. No.**  
 24 **Q.** You don't know any of the  
 25 plaintiffs?

256

1 **A. I'm clueless.**  
 2 **Q.** Okay.  
 3 **A. I kept myself that way.**  
 4 **Q.** So, Mr. Popson here, took Member  
 5 Williams' deposition --  
 6 **A. Okay.**  
 7 **Q.** -- and, asked her, "Did you ask any  
 8 questions on the Settlement Memorandum about  
 9 the investigator fee," and she said, "Yeah, I  
 10 asked him what it was, and they told me it was  
 11 to obtain the police report, and other things  
 12 from the accident." So, that's different than  
 13 what you told your clients, correct?  
 14 **A. Yes.**  
 15 **Q.** And, I can't remember who it was,  
 16 what attorney actually handled that, if anyone  
 17 remembers who handled that Settlement  
 18 Memorandum, I can't recall. But, if that's  
 19 what she was told, and if the investigator had  
 20 obtained the police report, and had obtained  
 21 things from the accident, and had done work on  
 22 her case, and that is what she was told, that  
 23 is completely and entirely different than your  
 24 involvement with your clients in those  
 25 investigation reports, true?

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1 of the client, true?

2 **A. Yes. Anything that can benefit**  
3 **your client's case, you would need to get, yes,**  
4 **sure.**

5 **Q.** Now, you said that you relied on  
6 the doctors in determining, whether the  
7 treatment was reasonable and necessary. It is  
8 reasonable for you as a lawyer to rely on a  
9 medical doctor to determine whether care is  
10 reasonable and necessary, true?

11 **A. I would certainly like to think so,**  
12 **yeah.**

13 **Q.** And, you were also asked questions  
14 about trial. Now, do you know how many trials  
15 Mr. Pattakos has had?

16 **A. I have no knowledge, no.**

17 **Q.** Do you know whether he has any  
18 other class action experience, other than this  
19 case?

20 **A. I have no -- I do not know**  
21 **anything, as to his experience, no.**

22 **Q.** Now, are you being critical for the  
23 number of trials that they tried in Columbus?

24 **A. While I was there?**

25 **Q.** Yes.

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1 **A. No. That's just my best guess.**  
2 **No, I'm not being critical. They were**  
3 **constantly gone attending, you know,**  
4 **mediations, and pre-trial conferences, and**  
5 **things like that. But, I'm not aware of that**  
6 **many trials going forward, while I was there.**  
7 **I knew a few that come to mind. But they could**  
8 **have had a whole bunch that I don't know about.**

9 **Q.** A lot of clients don't want to go  
10 to trial, fair?

11 **A. Sure, most don't.**

12 **Q.** Some do.

13 **A. Some do.**

14 **Q.** Different clients have different  
15 tolerances for trial, true?

16 **A. That's a fair statement.**

17 **Q.** Some of them decide to take less  
18 than perhaps the case is worth, because they  
19 don't want to go to trial?

20 **A. Sure.**

21 **Q.** And some of them want to go to  
22 trial, even though you recommend that you  
23 don't?

24 **A. Sure.**

25 **Q.** You would have to look at each

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1 individual case to figure that out.

2 **A. That's a fair statement.**

3 **Q.** Now, Town & Country, how did the  
4 insurance company that you are referring to  
5 determine that somehow Town & Country did not  
6 provide as good of treatment as other  
7 chiropractors? Was that the reason they didn't  
8 like them?

9 **A. There's a multitude. They thought**  
10 **their bills were high. They would question the**  
11 **treatment, whether multiple modalities would**  
12 **work in the same time, whether they are**  
13 **following medical protocol, or just rushing**  
14 **them through the process. They do that with**  
15 **every chiropractor, though, it's not limited to**  
16 **Town & Country.**

17 **Q.** So, you don't think that the  
18 insurance company should be able to dictate who  
19 your clients meet with, do you?

20 **A. Certainly not. They could just**  
21 **dictate what they want to pay for.**

22 **Q.** But, they shouldn't be able to  
23 dictate who your clients treat with, should  
24 they?

25 **A. No.**

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1 **Q.** Now, you said the Columbus office  
2 was to keep Dr. Khan happy. Nobody told you  
3 that, did they?

4 **A. No. That's the way I received it.**

5 **Q.** But, you don't know that, do you?

6 **A. I know what happens when Naz isn't**  
7 **upset, or when she is upset, certainly.**

8 **Q.** Do you see this, I'm showing you, I  
9 don't know if you could see it from there, it's  
10 a gift certificate that one of the KNR lawyers  
11 found at a pawn shop. Do you see that?

12 **A. Yes.**

13 **Q.** So, apparently, some client must  
14 have sold this \$25 gift certificate, or  
15 whatever to a pawn shop. And she sent it  
16 around to the office saying *you got to love our*  
17 *clients*. I don't know if you were around when  
18 that e-mail --

19 **A. I -- no. I don't recall ever**  
20 **seeing that.**

21 **Q.** Now, just by looking at that gift  
22 card, what race, ethnicity, was that client, do  
23 you know?

24 **A. How would I know? Macaroni**  
25 **Grill -- I have zero idea.**