

IN THE COURT OF COMMON PLEAS
SUMMIT COUNTY, OHIO

KISLING, NESTICO & REDICK, LLC

Plaintiff,

vs.

ROBERT PAUL HORTON

Defendant.

Case No. CV-2017-03-1236

Judge Alison Breaux

Affidavit of Robert Paul Horton, Esq.

Now comes affiant, Robert Paul Horton, Esq., after first being duly sworn according to law, and states the following to be true:

1. I am over 18 years old, of sound mind, a Defendant in the above-captioned action, and a licensed attorney in good standing with the State of Ohio, registration number 0084321.

2. I have personal knowledge of the statements made in this Affidavit, and all statements are made to the best of my knowledge.

3. Kisling Legal Group, LLC dba Kisling, Nestico & Redick, LLC, hired me as an employee on February 20, 2012. My position was as an "associate attorney" in the pre-litigation group, where I primarily represented claimants in personal injury actions prior to the filing of a lawsuit (hereinafter referred to as "claimants" or "clients").

4. At the time of my hire, I signed a Confidentiality Agreement, a true and accurate copy of which is attached as Exhibit "A".

5. My employment with Kisling Legal Group, LLC dba Kisling, Nestico & Redick, LLC terminated on March 17, 2015.



6. Prior to the termination of my employment, I did not report or threaten to report Kisling Legal Group, LLC, dba Kisling, Nestico & Redick, LLC or any of its owners, stockholders, partners, associates, employees, or other agents or representatives (hereinafter collectively referred to as "KNR") to any governmental, professional, or other authority for any reason, including but not limited to any violations of law, violations of the Ohio Rules of Professional Conduct, ethical violations, fraud, or other legal wrongdoing.

7. During my employment with KNR, I did not violate the Ohio Rules of Professional Conduct.

8. During my employment with KNR, I did not personally observe any violations of the Ohio Rules of Professional Conduct, including in the Member Williams case.

9. During my employment with KNR, I did not report or threaten to report KNR to any governmental, professional, or other authority for any reason, including violations of the Ohio Rules of Professional Conduct, ethical violations, or fraud.

10. The pleadings in the case of Member Williams, et al. v. Kisling, Nestico & Redick, LLC action, Case No. CV-2016-09-3928, refer to me as a "whistleblower." I do not consider myself a "whistleblower" under Ohio law or federal law.

11. On September 13, 2013, Member Williams was involved in a motor vehicle accident (hereinafter referred to as the "Accident").

12. I represented Member Williams through my employment with KNR to obtain compensation for her for the injuries she suffered in the Accident.

13. I contacted Chuck DeRemar, who I understood to work for third-party vendor MRS Investigations. When I contacted this Chuck DeRemar, and I knew that Kisling, Nestico & Redick, LLC would pay MRS Investigations.

14. On September 17, 2013, Member Williams signed a Contingency Fee Agreement for her representation by me and Kisling, Nestico & Redick, LLC.

15. I represented Member Williams under the terms and conditions of this Williams Contingency Fee Agreement and pursuant to my duties and responsibilities under the Ohio Rules of Professional Conduct.

16. I believe the Williams Contingency Fee Agreement was proper under the Ohio Rules of Professional Conduct.

17. I represented Member Williams until my departure from KNR on March 17, 2015, performing legal services on her behalf.

18. During my representation of Member Williams, and to the best of my knowledge:

- a. Neither KNR nor I requested Member Williams treat with any chiropractor as a result of the Accident;
- b. Neither KNR nor I requested or obtained a medical report on Member Williams' behalf from any chiropractor as a result of the Accident;
- c. I was not aware of KNR fronting any expenses for a chiropractor report for Member Williams;
- d. I complied with the Ohio Rules of Professional Conduct in my representation of Member Williams;
- e. I was not aware of payments made by any medical providers to KNR as a result of their treatment of Member Williams or as a result of their payment for reports related to Member Williams' case;
- f. I was not aware of any payments made by MRS Investigations, Inc. or any person associated with MRS Investigations, Inc. to KNR as a result of Member Williams' case;
- g. I did not take, witness, or become aware of any "kickbacks" by any individual or entity to KNR, Robert Nestico, Robert Redick, or any other person or entity as a result of the Accident, KNR's representation of Member Williams, or the settlement of Member Williams' claim;

- h. Member Williams was not advised by me to take any loan, including any loan with Liberty Capital or any other loan company in which the loan would be guaranteed by the prospective proceeds of the settlement of her claim;
- i. I was not aware of anyone at KNR advising Member Williams to take any such loan;
- j. I was not aware of any loan that Member Williams entered into guaranteed by the prospective proceeds of the settlement of her claim.

19. I believe that the intake department at KNR sent me a copy of the accident report / police report from the Stow Police Department in Member Williams' case. I do not know how the intake department obtained the accident report / police report.

20. Following my departure from KNR, I sent a text message to Brandy Gobrogge at KNR recommending that KNR call Member Williams.

21. Before I texted with Brandy Gobrogge, I talked with Member Williams. During my conversation with Member Williams, I did not advise her that any fraud or ethical violations had occurred with her case and I was not aware of any fraud or ethical violations that had occurred with her case.

22. During my employment with KNR, I represented over 1000 other claimants for which I negotiated settlements for personal injuries.

23. In representing the claimants mentioned in the preceding paragraph, claimants were not always treated by a chiropractor. I did not force a claimant to ever use a specific chiropractor.

24. When discussing the distribution of settlement proceeds with my and KNR's clients, I obtained client approval before deducting those fees or costs from the settlement proceeds.

25. I only asked my and KNR's clients to sign the Settlement Memorandum if I believed the fees, expenses, and payments to the client were fair and reasonable and the client agreed to them.

26. During my representation of claimants as an attorney with KNR, I was not aware of any payments made by MRS Investigations, Inc. or any other third party vendor or individual to KNR, Robert Nestico, or Robert Redick that could be considered a "kickback." I am not aware of payments of any kind made by MRS Investigations, Inc. or any other third party vendor or individual to KNR, Robert Nestico, or Robert Redick.

27. During my representation of claimants as an attorney with KNR, I was never aware of KNR requesting reimbursement from a client for a case-related expense that was not paid by KNR.

28. Third party vendors, such as MRS Investigations, Inc. and other independent contractors, would at times perform the following functions: obtaining the accident report, periodically taking photographs of the vehicles involved in the accident, periodically taking photographs of injured claimants, or other activities. The amount of work performed by the investigator, investigative firm, or third party vendor depended on the individual case.

29. On the cases that I handled and all cases of which I am aware during my employment with KNR, third party vendors were paid by KNR, and then listed as an expense to the client, but the client was not immediately responsible for repaying the expense.

30. I was never aware of an "upcharge" or "surcharge" on any expenses charged to clients. All expenses were simply pass-through expenses that KNR had incurred, and only the actual cost was charged to the client, to the best of my knowledge.

31. If the client did not recover on the client's personal injury claim, KNR did not seek reimbursement of the investigator expense or any other fees or expenses.

32. I never became aware of any case in which the client did not agree to the fee but KNR charged the investigator fee anyway. I am not aware of a circumstance in which a claimant objected to the investigator fee.

33. To the best of my memory, KNR voluntarily discounted their fees in the vast majority of cases that I settled while working at KNR.

34. I am not aware of any "quid pro quo" relationship between Liberty Capital Funding, LLC and KNR, its owners, or its employees. I discouraged KNR clients to obtain such loans.

35. I never demanded any clients borrow from Liberty Capital Funding, LLC (hereinafter "Liberty Capital"). While some of my clients borrowed from Liberty Capital, such transaction was only completed after I counseled the client against entering into the loan agreement.

36. I am not aware of any "kickback" or other payments made by Liberty Capital to KNR or any of its owners or employees in return for KNR directing clients to borrow from Liberty Capital. In fact, I am not aware of any payments of any kind being made by Liberty Capital Funding to KNR or any of its owners or employees.

37. I am not aware of the ownership structure of Liberty Capital nor do I have information to suggest that Rob Nestico, Robert Redick, or anyone at KNR had any financial or ownership interest in Liberty Capital Funding, LLC.

38. During my time with KNR, I did not observe KNR ever forcing or requiring a client to take a loan with Liberty Capital or any other lender.

39. The reports prepared by chiropractors or other health care providers served the purpose of documenting the injury. I sometimes used these reports to support the clients' claims during settlement negotiations with insurance companies.

40. I am not aware of any chiropractor, medical doctor, or other health care provider sending any payments to KNR, its employees, or its owners, for referral of any claimant to the chiropractor, medical doctor, or other health care provider.

41. I am not aware of Akron Square Chiropractics or any other chiropractor, medical doctor, or other health care provider making a payment or "kickback" to KNR, its employees, or its owners.


42. I will return to KNR all documents, electronic mails (emails), electronic information, downloaded information, and all other information obtained from KNR by August 8, 2017.

43. I will provide copies of the items mentioned in the preceding paragraph to the Court and will thereafter destroy all such information in my possession and agree not to disseminate such information in any manner, unless otherwise ordered to do so by a Court of competent jurisdiction.

44. I am not aware of any attorney, owner, or other employee of KNR conspiring with any chiropractors or any other third party vendors to inflate billings.

45. I have reviewed this affidavit with my attorney and voluntarily agree to provide this affidavit, which is truthful to the best of my knowledge.

Further affiant sayeth naught.

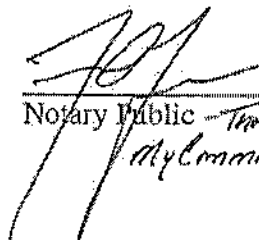

Robert Paul Horton

8-8-17
Date

STATE OF OHIO)

COUNTY OF SUMMIT)

Sworn to before me and subscribed in my presence this 8th day of August 2017.


Notary Public - Thomas A. Skidmore, Esq. (#0038746)
My Commission Has No Expiration

Michael Dick
Witness

X [Signature]
Rob Nestico, on behalf of
KISLING, NESTICO & REDICK, LLC

STATE OF OHIO

COUNTY OF Cuyahoga SS.

On the 10 day of August, 2017, before me personally appeared Rob Nestico to me known to be the person(s) named herein and who executed the foregoing Release and he acknowledged to me that he voluntarily executed the same. My term expires NA.

[Signature]
Notary Public



Michael Dick
Witness

X [Signature]
KISLING, LEGAL GROUP, LLC

STATE OF OHIO

COUNTY OF Cuyahoga SS.

On the 10 day of August, 2017, before me personally appeared Rob Nestico to me known to be the person(s) named herein and who executed the foregoing Release and he acknowledged to me that he voluntarily executed the same. My term expires NA, 2017.

[Signature]
Notary Public



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IN THE COURT OF COMMON PLEAS
SUMMIT COUNTY, OHIO

KISLING, NESTICO & REDICK,) CASE NO. CV-2016-03-1236
LLC, et al.,)
) JUDGE BREAU
Plaintiffs,)
)
versus)
) DEPOSITION OF
ROBERT P. HORTON,)
) ROBERT P. HORTON, ESQ.
Defendant.)

CONFIDENTIAL

Deposition of ROBERT P. HORTON, ESQ., the
Defendant herein, called by the Plaintiffs for
Cross-Examination pursuant to the Ohio Rules of Civil
Procedure, taken by the undersigned, Shannon Roberts,
a Registered Professional Reporter and Notary Public
in and for the State of Ohio, at the offices of Thomas
A. Skidmore Co., LPA, One Cascade Plaza, Suite 1200,
Akron, Ohio, on Tuesday, the 8th day of August, 2017,
at 10:55 a.m.

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1 APPEARANCES:

2

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14 ALSO PRESENT:

15

Calleigh Olson

16

17

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1	I N D E X	
2	EXAMINATION BY	PAGE
3	Mr. Mannion	4
4		
5	PLAINTIFF'S EXHIBITS (Marked)	
6	None	
7		
8	DEFENDANT'S EXHIBITS (Marked)	PAGE
9	A, Confidential Agreement	5
10	B, Affidavit of Robert P. Horton, Esq.	4
11	C, List of Memory Stick Contents	6
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1 WHEREUPON,

2 ROBERT P. HORTON, ESQ.,

3 after being first duly sworn, as hereinafter
4 certified, testified as follows:

5 (Whereupon, Defendant's Exhibits A, B,
6 and C were marked for identification.)

7 CROSS-EXAMINATION

8 BY MR. MANNION:

9 Q. Good morning, Mr. Horton.

10 A. Hello there.

11 Q. Would you please state your full name for the
12 record?

13 A. Robert Paul Horton.

14 Q. And, for the record, my name is Tom Mannion, as
15 you know. I represent Kisling, Nestico, and
16 Redick, LLC.

17 And I'm looking at a document that we
18 have actually marked as Defendant's Deposition
19 Exhibit B. Do you recognize this?

20 A. I do.

21 Q. What is this?

22 A. That is an affidavit of me.

23 Q. And you just signed this a few minutes ago under
24 oath?

25 A. I did.



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1 Q. The signature on the last page, above "Robert Paul
2 Horton," that is yours?

3 A. It is.

4 Q. And the facts in here are true to the best of your
5 knowledge?

6 A. They are.

7 Q. Okay. Have you been coerced in any way to sign
8 this?

9 A. I have not.

10 Q. Did you discuss this over -- without telling us
11 the substance, but you discussed this over with
12 your attorney before signing it?

13 A. At length.

14 Q. And you fully understand it?

15 A. I do.

16 Q. Thank you. Also, I'm going to hand you what has
17 been marked as Exhibit A. Can you tell us what
18 that is?

19 A. A confidentiality agreement.

20 Q. Essentially, what is that?

21 A. It is an agreement executed between myself and
22 somebody -- I don't know who signed for it. It
23 says Kisling, Nestico and Redick, LLC. I don't
24 know who signed it. But it's a confidentiality
25 agreement between myself and Kisling, Nestico, and



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1 Redick, LLC.

2 Q. And that's your signature on the second page?

3 A. It is.

4 Q. Was this executed then -- it says on February 21,
5 2012?

6 A. Yes.

7 Q. Okay.

8 A. I have no reason to dispute the date that's on
9 there.

10 Q. Okay. Now, you have provided to us, through your
11 counsel, a memory stick?

12 A. Yes.

13 Q. And can you tell us -- I'll show you what has been
14 marked as Exhibit C. When we opened that memory
15 stick, this is what we saw is the contents. Does
16 that look familiar to you?

17 A. Yes.

18 Q. Okay. And can you tell us -- just briefly
19 explain, read into the record what they are and
20 explain what they are.

21 A. Default e-mails, backed up 2/11/14; default 2
22 e-mails, main identity not back -- it's dot, dot,
23 dot, but it's not backed up, presumably. E-mails,
24 RE, KNR, from iPad trash, and potentially provided
25 to Chandra firm in E -- dot, dot, dot, and I don't



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1 know what that is.

2 Q. Okay. So let's take these one at a time. First
3 of all, do these documents that are on the memory
4 stick constitute everything that you have in your
5 possession from anything that you have taken from
6 KNR?

7 A. To the best of my knowledge, yes.

8 Q. Do you have any physical copies, other than these
9 electronic copies?

10 A. I do not.

11 Q. Under default e-mails and default 2 e-mails, are
12 these essentially the e-mails that you took off of
13 your Outlook?

14 A. Yeah. What -- so I had my home computer -- as we
15 all did, because we worked all the time -- my
16 Outlook on my home computer synched with the
17 server.

18 Q. Okay.

19 A. And when they just -- they just stayed on the
20 computer. And the difference between default
21 e-mails backed up -- or default e-mails 1 and
22 default 2 e-mails, it's an Outlook thing. I
23 couldn't tell you the difference between the two.
24 But yes, fundamentally, I guess, is the answer to
25 your question.



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1 Q. And then e-mails concerning KNR are e-mails
2 subsequent to your departure from KNR, under your
3 G-mail?

4 A. It could be. It could be. Some could be during,
5 some could be before, and some could be after.
6 But anything that I -- I went through my -- my
7 Google e-mail and searched. That's what -- that's
8 what I came up with.

9 Q. Okay. Then we have "from iPad trash."

10 A. Those are -- because I had an iPad, too, that I
11 had my server -- my e-mail synched to the server
12 to get my e-mails on my iPad. And those are
13 probably duplicative of what's in default 1
14 e-mails, default 2 e-mails. I know it's not as
15 extensive, because I didn't use my iPad as
16 frequently.

17 Q. Right.

18 A. But it's -- whatever is in there is probably the
19 same as what's in other directories.

20 Q. To paraphrase, you wanted to be safe, rather than
21 sorry; you wanted to make sure we had everything?

22 A. Right. Right.

23 Q. But most likely, we'll find that the things in
24 "from iPad trash" are in the default --

25 A. Yes. It's all the same stuff.



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1 Q. Okay. Now, "potentially provided to Chandra,"
2 what are those?

3 A. So, in the subpoena, it wanted to know what -- I
4 believe, anyway, it wanted to know what
5 information I passed along to that law firm. And
6 to the best of my ability, I parsed out what I
7 thought I had given to them.

8 Q. Okay.

9 A. I -- it may not be accurate, but, again, to the
10 best -- because there are 300,000 e-mails, and a
11 lot of them are the same information over and over
12 and look very, very similar.

13 Q. Right.

14 A. So I did the best I could to identify what I --
15 what I had done.

16 Q. Is it safe to say that for me to be sure what you
17 gave Attorney Chandra, I would have to look at the
18 memory stick you gave him?

19 A. Yes.

20 Q. Okay. Is that how you gave it to him, in a memory
21 stick?

22 A. Yes and no.

23 Q. Okay.

24 A. I did provide electronic versions of things that
25 did not need redacted. I provided hard copies of



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1 things that did need redacted.

2 Q. Okay. In the electronic version of items that did
3 not need redacted, that would have been on a
4 memory stick, or some other fashion?

5 A. It would have been on a memory stick.

6 Q. And so for me to be for certain what you gave him
7 on a memory stick, I'd have to look at that memory
8 stick?

9 A. Yes.

10 Q. This -- this particular folder, "potentially
11 provided," is your best estimate of it?

12 A. Of the memory stick and hard copies.

13 Q. Okay. Right.

14 A. That's an estimate of everything.

15 Q. So if I look under the "potentially provided" for
16 those documents that you would have given to
17 Chandra in a hard copy --

18 A. Uh-huh.

19 Q. -- would they still be redacted on here or would
20 they be un-redacted?

21 A. No. They would be un-redacted.

22 Q. But the ones you would have given to Chandra in
23 paper would have -- the confidential information
24 from a client would have been redacted?

25 A. Yes.



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1 Q. Perfect. And for me to know which documents those
2 were, obviously, I'd have to ask Mr. Chandra?

3 A. Yes.

4 Q. Okay. Excellent. So, now, a few other questions.
5 You worked with KNR from approximately when to
6 when?

7 A. February 20, 2012 to March 17, 2015. And my
8 paralegal will tell you it was the worst St.
9 Patrick's Day she has ever had.

10 Q. That's sort of good and bad. It's good she missed
11 you that much.

12 A. Yeah.

13 Q. So during that time, is it fair to say that you
14 represented over a thousand personal injury
15 claimants?

16 A. Yes. I think that's a fair statement.

17 Q. And for many of those, you would have first taken
18 them in as a client with an intake, telephone
19 interview, or how do you --

20 A. The majority of time, we got people by phone call.

21 Q. Okay. Now, were -- you weren't provided a written
22 script of what to say, what questions to ask, how
23 to follow up with those clients during the intake,
24 fair?

25 A. To the best of my recollection, I don't believe



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1 that there was a script.

2 Q. And you certainly didn't use a script when you
3 talked to them, fair?

4 A. Correct.

5 Q. Okay. And you don't know any other lawyers that
6 used a script for that intake, do you?

7 A. You would have -- I don't know. You would have to
8 ask them.

9 Q. You never saw anyone using a script?

10 A. I don't believe so.

11 Q. Okay. Were there times where some of the
12 claimants would take out loans, essentially -- I
13 don't know if their settlement was collateral or
14 how you would refer to it, but a case-related
15 loan?

16 A. Yes.

17 Q. Just briefly give me an idea of what a
18 case-related loan means.

19 A. It's like an assignment of an interest in that.
20 You know, a lot of doctors do an assignment or a
21 letter of protection. It's basically the same, I
22 think, through the lending company. The client
23 signs a document that says, you know, I'm
24 assigning you an interest in my recovery, and when
25 I get my recovery, you'll get paid back --



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1 Q. Okay.

2 A. -- I believe.

3 Q. And you didn't like these loans?

4 A. No.

5 Q. Did you try to discourage these clients from
6 taking loans?

7 A. Yes.

8 Q. Okay. And you did not have a script, did you, of
9 exactly how to question and talk to a client about
10 these loans?

11 A. Not that I can recall, no.

12 Q. You never used a script?

13 A. I never used one, correct.

14 Q. Okay. You never saw a lawyer use a script for
15 this, did you?

16 A. I don't believe so. And, again, if they did,
17 you'd have to --

18 Q. Ask them?

19 A. -- ask them.

20 Q. And your conversation with each client, other than
21 the fact that you discouraged them, the
22 particulars in that conversation with each client
23 would really be dependent on why that client
24 needed the loan, how much they needed, and things
25 of that nature?



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- 1 A. Correct.
- 2 Q. So it would be different with each client?
- 3 A. Yes.
- 4 Q. So for me to look and see how a loan was handled
- 5 for one of your clients, I'd really have to talk
- 6 to that particular client and to you?
- 7 A. How it was handled --
- 8 Q. As far as the questions that you talked about, why
- 9 they needed it, the various particulars of that
- 10 loan.
- 11 A. I would say yes.
- 12 Q. Okay. Some of these clients needed loans like --
- 13 let's say, because they'd be out of work?
- 14 A. Yes.
- 15 Q. Others because they had some bills to pay?
- 16 A. Yes.
- 17 Q. Or their car was damaged in the accident?
- 18 A. And they didn't have the proper coverage or
- 19 something like that, and needed to get around,
- 20 yeah.
- 21 Q. So there are all different reasons of why they
- 22 might need these loans?
- 23 A. Yes.
- 24 Q. And in all different amounts?
- 25 A. Yes.



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1 Q. Do you have personal knowledge of how all the
2 lawyers at KNR handled these loans?

3 A. I do not.

4 Q. And there were more than several different loan
5 companies at any one time?

6 A. There are a lot of them, yes.

7 Q. Okay. You had no personal benefit of having a
8 client take a loan, did you?

9 A. No.

10 Q. Okay. And KNR didn't have a personal benefit or
11 make money off of a client taking a loan, did
12 they?

13 A. I do not know. I can't -- I can't --

14 Q. All right. You didn't know of one?

15 A. I did not know of one. I can't say that there was
16 or wasn't.

17 Q. And, actually, these loans would make it more
18 difficult for you to settle a case?

19 A. Frequently.

20 Q. Okay. Now, at times, you would refer clients to
21 chiropractors?

22 A. Yes.

23 Q. At times, you would refer clients to orthopaedic
24 physicians?

25 A. Yes.



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1 Q. What is the difference? Why sometimes chiro and
2 sometimes ortho?

3 A. It depended on the injury. You know, obviously,
4 you are not going to send somebody with a
5 fractured tibia {sic} to a -- tibia -- pick a
6 fracture.

7 Q. Right.

8 A. You are not going to send somebody with a fracture
9 to a chiropractor, unless they had a soft tissue
10 injury to go with it. That's what chiropractors
11 are trained to treat. So if somebody had a broken
12 bone or a dislocated knee or something like that,
13 you are not going to send them to a chiropractor.
14 You are going to send them to somebody up the
15 chain, like an orthopaedic surgeon or a
16 neurologist.

17 Q. Or you might send them to several different types
18 of physicians?

19 A. Correct. Correct.

20 Q. Okay. And who they were referred to, whether it
21 was a chiropractor, an ortho, or whatever type of
22 physician, would be dependent on their injuries?

23 A. Yes.

24 Q. Each client was different?

25 A. Yes.



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1 Q. And you didn't have a written script, did you, for
2 how to talk to clients about their injuries and
3 who they should be treated by?

4 A. A script?

5 Q. Yes.

6 A. No.

7 Q. You didn't take a written script in with you when
8 you met with clients on any issue, did you?

9 A. No.

10 Q. My statement was correct?

11 A. Yes.

12 Q. I'm sorry. I just asked it bad.

13 And, in fact, some patients came in, and
14 they were already treating with either a family
15 doctor or a chiropractor, and they continued to do
16 that throughout the case?

17 A. Yes.

18 Q. You never forced somebody, if they were with their
19 family doctor, to go see somebody else?

20 A. Not forced, no.

21 Q. And, in fact, at times, you would tell people if
22 you had a -- and by you, I mean KNR -- had a
23 relationship with a certain chiropractor and what
24 benefits it may offer them?

25 A. Can you rephrase that?



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1 Q. I'll just strike that. That was a pretty bad
2 question.

3 I just want to make sure, there was no
4 written script of the questions you asked and how
5 you interacted with a client with how you refer
6 somebody to a chiropractor, fair?

7 A. Yeah, fair. Not that I recall. I didn't use one.

8 Q. Okay. And you didn't see anybody use one?

9 A. Not to my recollection.

10 Q. To establish what treatment any one client would
11 need, we'd have to look at that individual case;
12 ask that individual client about it, ask that
13 individual lawyer about it?

14 A. Correct.

15 Q. Did -- you talked -- did you talk about some of
16 these issues, the loans and the chiropractors,
17 with Attorneys Pattakos and Chandra?

18 A. Probably not Chandra. Probably Pattakos.

19 Q. Did Attorney Pattakos ask you about whether there
20 were written scripts?

21 A. He did not. Not -- well, not that I recall.

22 Q. Okay.

23 A. I can't -- I can't recall.

24 Q. You are not saying with 100 percent, but you don't
25 remember that happening?



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1 A. Correct.

2 Q. Okay. Did you talk to Attorney Pattakos about how
3 loans were used?

4 A. Probably -- yes, probably.

5 Q. Did he ask you any questions about whether there
6 were differences between clients or no differences
7 between clients?

8 A. Not that I recall.

9 Q. Okay. And the same thing with the chiropractors,
10 did Attorney Pattakos ever ask you whether there
11 was a written script that you followed with how to
12 refer to a chiropractor?

13 A. Not that I recall.

14 Q. Did he ever ask you about, you know, how -- what
15 specific set of questions you would ask a client
16 in determining whether to send them to a
17 chiropractor or another physician?

18 A. As it relates to something along the lines of a
19 script, I don't believe so. Is that what you are
20 asking?

21 Q. Yes.

22 A. Okay. Yeah, I don't believe so.

23 Q. Now, on the settlement disbursements -- and by
24 that, I mean, once a claimant -- you know, their
25 case is settled, they are receiving settlement



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1 money. And I think it's referred to as a
2 settlement, what, memorandum?

3 A. Probably.

4 Q. You know what I'm referring to, though?

5 A. I do. I do.

6 Q. And there was some type of a disbursement sheet or
7 settlement memorandum that would list out how much
8 money came in, what third-party vendors were paid,
9 how much the client would get, and what KNR's fees
10 were, fair?

11 A. Yes.

12 Q. And you, obviously -- the client would see that
13 and have to sign that before they got their
14 disbursement?

15 A. Yes.

16 Q. You did not have a written script on how to handle
17 those disbursements, did you?

18 A. Not that I recall. I did not use one.

19 Q. So the disbursements and the chiro referrals and
20 the loan companies and the intake, it was verbal
21 that you did with these folks; it wasn't based off
22 of a written script, fair?

23 A. Fair.

24 Q. And did Attorney Pattakos ask you about a written
25 script as it related to the disbursements?



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1 A. Not that I recall.

2 Q. Or the intake?

3 A. Not that I recall.

4 Q. Now, as far as how the disbursements went, some of
5 these would have involved loans and some would not
6 have, fair?

7 A. Correct.

8 Q. And they would often involve different types of
9 treating physicians who had to be paid?

10 A. Yes.

11 Q. There may have been different liens for one client
12 versus another?

13 A. Correct.

14 Q. And, certainly, the amounts were different?

15 A. Yes.

16 Q. And in the majority of cases, KNR would actually
17 reduce their fees on your cases?

18 A. I would say that, yes.

19 Q. Okay. But to see how that individual disbursement
20 worked for each individual client, we'd really
21 have to ask that client and the lawyer doing it?

22 A. Probably, yes.

23 Q. Did you ever see any other lawyers using a written
24 script for disbursements?

25 A. Not that I recall.



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1 Q. And you didn't?

2 A. I did not.

3 Q. And you, certainly, don't have personal knowledge
4 how each and every lawyer conducted their
5 disbursements?

6 A. I don't.

7 Q. Okay.

8 A. I mean, as I said, I have -- I probably saw them
9 do a handful of them, but I -- you know, after
10 that, I would have no idea.

11 Q. Everybody had their own particular style?

12 A. Correct.

13 Q. And you chose your own style?

14 A. Yes.

15 Q. But even that, it would be different with each
16 client, depending on what was taken out, what the
17 fees were, what the costs were, what the questions
18 the clients asked; each one would be different?

19 A. Yes.

20 Q. Okay. I just lost my question. And I had it,
21 too. One second.

22 Oh, so did you ever talk -- you don't
23 represent Member Williams, correct?

24 A. I do not.

25 Q. Did you ever talk to Member Williams about the



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1 class action?

2 A. No.

3 Q. Do you know whether she was ever told that she may
4 receive some type of reimbursement from being in
5 that class action?

6 A. I do not.

7 Q. How many times do you think that you have talked
8 with Attorney Chandra regarding any of the issues
9 that we talked about today?

10 A. Maybe twice.

11 Q. Short conversations? Long?

12 A. Short conversations.

13 Q. Phone or in person?

14 A. In person once and phone once.

15 Q. Do you know when these were, approximately?

16 A. I don't. I don't recall.

17 Q. What about with Attorney Pattakos, how many times
18 have you talked with him about these issues?

19 A. More frequently. Short conversations
20 periodically. You know, more than ten, less than
21 fifty. I can't give you a specific number, but --

22 Q. Okay.

23 A. Some of them were short conversations, some of
24 them were on the phone, some of them were in
25 person. I can't tell you.



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1 Q. Did you go over the documents with Attorney
2 Pattakos?

3 A. Yes.

4 Q. And with Attorney Chandra?

5 A. No.

6 Q. Other than the issues we talked about today, do
7 you recall any of the other issues you talked
8 about with Attorney Pattakos as it relates to your
9 employment with KNR?

10 A. Outside of --

11 Q. These issues.

12 A. No, I don't.

13 Q. Okay. You -- Attorney Pattakos and Chandra did
14 not represent you when you talked to them about
15 these issues, did they?

16 A. No.

17 Q. And did you ever tell either Attorney Pattakos or
18 Attorney Chandra that there were kickbacks?

19 A. No.

20 Q. Did you ever tell either one of those attorneys
21 that you were a whistleblower?

22 A. So I think that depends on how you define
23 "whistleblower."

24 Q. Okay. Under --

25 A. If you are talking about the -- you know, the



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1 federal statute, you know, did I report anything
2 to anybody before, when I was an employee, did I
3 confront any part of management or anything like
4 that, which I think is part of the whistleblower
5 statute --

6 Q. Right.

7 A. -- then I -- technically, no, I would not --

8 Q. And the same with Ohio law, you didn't -- and you
9 don't consider yourself a whistleblower under Ohio
10 or federal law, correct?

11 A. I don't think that I qualify, no.

12 Q. Okay. Did you ever use that phrase, "I'm a
13 whistleblower," to them?

14 A. You know, maybe -- I don't know.

15 Q. You don't recall doing that?

16 A. I don't recall. Maybe, you know -- I don't know.

17 Q. But you would not have been referring to it in the
18 legal sense under Ohio, federal law?

19 A. Correct. It would have been more in a general
20 sense.

21 Q. Okay. You certainly never told Attorney Pattakos
22 or Chandra that Rob Horton had an ownership
23 interest in any of these loan companies?

24 A. Nestico?

25 Q. Or Nestico. I just said "Horton"?



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1 A. Yeah. I wish I -- I wish I did.

2 Q. Let me re-ask that whole thing. You never told
3 anyone, including Attorneys Pattakos and Chandra,
4 that Rob Nestico had an ownership interest in any
5 of the loan companies, did you?

6 A. No.

7 Q. And you are certainly not aware of one?

8 A. I'm not aware of one, no.

9 MR. MANNION: Okay. I may be done. Let
10 me just take a quick look here.

11 Q. Did you discuss the actual causes of action in the
12 Member Williams case with Attorneys Pattakos and
13 Chandra before the lawsuit was filed?

14 A. Define "causes of action."

15 Q. Okay. That wasn't very good.

16 You -- you, obviously, talked about some
17 of these issues with them, disbursements and chiro
18 referrals and things, right?

19 A. Yes.

20 Q. Did you actually talk to them about, hey, do you
21 think this is a class action?

22 A. You know, I don't recall the specificity of that.

23 Q. It's nothing that comes to mind?

24 A. It's nothing that comes to mind. And that being a
25 class I don't think would be my suggestion, if



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1 that makes any sense.

2 Q. Okay.

3 A. But I don't know too much; so --

4 Q. You never told them, for example, hey, I think
5 this would be a proper class action; you never
6 said that to them?

7 A. As it relates to?

8 Q. The complaint, the Member Williams case.

9 A. The investigator fee thing, I probably thought
10 that might be, because it -- you know, you look at
11 a class action, it's -- you know, Verizon
12 overcharged us all by \$1.50. You know, and that's
13 uniform. I think that is probably the closest
14 thing you can get to it. But everything else, you
15 know, is out of my -- all of it is out of my
16 wheelhouse. But --

17 Q. Okay. You are not giving any opinions as to
18 whether it's proper to be a class action for the
19 investigator fee, the chiro, any of them?

20 A. Yeah, I can't say that. I can't give that
21 opinion.

22 Q. That's just -- you are not a class action lawyer?

23 A. Right.

24 Q. Okay.

25 A. And, you know -- well --



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1 Q. And you never specifically said to Attorneys
2 Pattakos or Chandra that you thought that the
3 chiro referrals or the loans were proper for a
4 class action?

5 A. Correct.

6 Q. Have you -- well, strike that.

7 When is the last time you talked to
8 either Attorney Pattakos or Chandra about any of
9 the allegations in the current case or the Member
10 Williams case?

11 A. I don't know. I can tell you the last time I
12 talked -- the last time I talked to Subodh, again,
13 it's been a very long time, and I -- minimal,
14 minimal contact. I did run into him at a mock
15 trial. I said hi.

16 But I haven't talked to Peter since
17 the -- you know, the first day of May. And I
18 don't recall what the specifics of that
19 conversation were.

20 Q. Right.

21 A. There were some conversations leading up to that
22 particular point, because -- there just were. But
23 it's been a little while.

24 Q. Since you have retained Attorney Skidmore as your
25 attorney, have you had conversations with



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1 Attorneys Pattakos and Chandra regarding the
2 substance of the cases?

3 A. I don't remember what day I retained Tom.

4 Q. Okay.

5 A. I'll tell you this. My phone bill says the last
6 time that I corresponded with Peter was on May --
7 I believe May 2nd, which is within a day or two, I
8 think, of me retaining Tom. So whether it was
9 before or after, I don't know specifically.

10 Q. But since then, there has been none?

11 A. Correct. Correct.

12 MR. MANNION: Okay. I do not have any
13 other questions.

14 MR. SKIDMORE: Okay. If they decide to
15 have it transcribed, we'll read it first.
16 And that's all we have.

17 MR. MANNION: And we will have it
18 transcribed.

19 THE REPORTER: Do you want a copy?

20 MR. SKIDMORE: Yes.

21 - - - - -

22 (Signature was not waived by the Witness.)

23 - - - - -

24 (The deposition was concluded at 11:20 a.m.)

25 - - - - -



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1 W I T N E S S C E R T I F I C A T E

2

3 I, ROBERT P. HORTON, ESQ., do hereby certify that
4 I have read my deposition taken on August 8, 2017, in
5 the case of Kisling, Nestico & Redick, LLC, et al. vs.
6 Robert P. Horton, consisting of 32 pages, and that
7 said deposition is a true and correct transcription of
8 my testimony with changes as noted on the errata
9 sheet.

10

11

ROBERT P. HORTON, ESQ.

12

13 Dated this _____ day of _____, 2017.

14

15

16

Sworn to and subscribed before me this _____

17

18 day of _____, 2017.

19

20

Notary Public

22

My commission expires _____.

23

24

25

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1 ERRATA SHEET

2 Witness Name: Robert P. Horton, Esq.

3 Date of Deposition: August 8, 2017

4 Case: Kisling, Nestico & Redick, LLC, et al. vs.
Robert P. Horton

5

6 Page Line Change and Reason for Change

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C E R T I F I C A T E

STATE OF OHIO,)

) SS:

SUMMIT COUNTY.)

I, Shannon L. Roberts, a Registered Professional Reporter and Notary Public within and for the State of Ohio, duly commissioned and qualified, do hereby certify that the within-named Witness, ROBERT P. HORTON, ESQ., was by me first duly sworn to testify the truth, the whole truth and nothing but the truth in the cause aforesaid; that the testimony so given by him was by me reduced to Stenotype in the presence of said witness; afterwards prepared and produced by means of Computer-Aided Transcription, and that the foregoing is a true and correct transcription of the testimony so given by him as aforesaid.

I do further certify that this deposition was taken at the time and place in the foregoing caption specified.

I further certify that I am not a relative, employee of or attorney for any party or counsel, or otherwise financially interested in this action.

I do further certify that I am not, nor is the court reporting firm with which I am affiliated, under a contract as defined in Civil Rule 28(D).

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office at Akron, Ohio, this 8th day of August, 2017.

Shannon L. Roberts, RPR & Notary Public
My commission expires February 2, 2018



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07/03/2018

Page 1

1 STATE OF OHIO,)
 COUNTY OF SUMMIT.) SS:
2
 IN THE COURT OF COMMON PLEAS
3
 MEMBER WILLIAMS, et al.,)
4)
 Plaintiffs,)
5)
 vs.) JUDGE BREAUX
6) CASE NO. CV-2016-09-3928
 KISLING, NESTICO &)
7 REDICK, LLC, et al.,)
)
8 Defendants.)

9 - - - - -
 THE VIDEOTAPE DEPOSITION OF
10 THERA REID
 TUESDAY, JULY 3, 2018
11 - - - - -

12 The deposition of THERA REID, called by the
13 Defendants for examination pursuant to the Ohio
14 Rules of Civil Procedure, taken before me, the
15 undersigned, Margaret A. Trombetta, RMR and Notary
16 Public within and for the State of Ohio, taken at
17 the offices of Kisling, Nestico & Redick, LLC, 3412
18 W. Market Street, Fairlawn, Ohio, commencing at
19 10:30 a.m., the day and date above set forth.

20

21

22

23

24

25



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1 Q Okay.

2 A But I'm just --

3 Q Do you know if it's unlawful for them to call
4 you?

5 A No, I don't know if it's unlawful. I'm just
6 saying why would they?

7 Q Okay. But see this says the defendants
8 unlawfully solicited you through Akron Square,
9 so it's saying that KNR unlawfully solicited
10 you.

11 What does "unlawfully solicit" mean to
12 you?

13 A I mean, I could have called them. I don't --
14 it's just -- it could have went too many ways,
15 so many other ways instead of having everybody
16 call -- them calling me and Akron Square
17 telling me, you know, "here's our lawyers, talk
18 to them."

19 Q Okay. That's what you mean by "unlawfully
20 solicit"?

21 A Well, it just -- yeah, yes.

22 Q Okay. Then it says "through their associates
23 at Akron Square Chiropractic."

24 What do you mean that Akron Square
25 Chiropractic was associates of KNR?

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1 A I'm in the room talking to the chiropractor and
2 I'm just out of the hospital and I'm getting
3 all kinds of phone calls. I'm confused. I'm
4 forgetting things. I had a concussion. I
5 didn't know what was going on. I get a phone
6 call and I finally ask "Who is this? What do
7 you want? What is it about?" And they tell
8 me.

9 Q And by them, you mean Akron Square?

10 A It was Akron Square. It was somebody from
11 Akron Square. They said "Don't talk to anybody
12 else. We want to help you."

13 Q You're not saying KNR told Akron Square what to
14 tell you on the phone, are you?

15 A I don't know if they told them what to tell me
16 or not, sir.

17 Q Okay. Well, you're not going to make an
18 allegation if you don't know if it's true, are
19 you?

20 A I'm just saying this is what Akron Square told
21 me.

22 Q That's fine. And my question to you is are you
23 claiming that KNR or anybody who worked
24 there --

25 A I'm not claiming --

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1 including the lawyers there, Matt Walker or any
2 of the others, they never pressured you into
3 unwanted medical care, did they?

4 A No.

5 Q They never pressured you into unwanted
6 chiropractic care, did they?

7 A No.

8 Q Okay. So if we look at your answer to
9 Interrogatory Number 29, and before you told me
10 that the conflicted legal representation was
11 your own internal conflict because you were
12 vulnerable or whatever the words are you used,
13 but that's not the answer you gave when you
14 were under oath answering these
15 interrogatories, is it? Would you agree your
16 answer to Interrogatory Number 29 is completely
17 different from what you told me before about
18 conflicted local representation?

19 A Yes.

20 Q And your answer to Interrogatory Number 29, it
21 indicates "pressuring clients into unwanted and
22 unneeded chiropractic care."

23 And you've already told us they didn't do
24 that to you. Do you know anybody they did do
25 that too?

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1 call me.

2 Q You don't have any proof that KNR told them to
3 call you, do you?

4 MR. PATTAKOS: Objection.

5 A I don't have proof.

6 Q Okay.

7 A No, I don't know, okay. It was them telling
8 me, "Here, here's our lawyer."

9 Q No, this is the first phone call, ma'am. They
10 didn't say anything about KNR in that first
11 phone call, did they?

12 A Not in the first one, no.

13 Q Okay.

14 A But after I went there.

15 Q My question is, ma'am, on that phone call to
16 you the day after this accident, did Akron
17 Square --

18 A No.

19 Q -- mention any other lawyer's name, any
20 lawyer's name?

21 A No.

22 Q Any law firm's name?

23 A No.

24 Q The next paragraph, "No person who identified
25 himself or herself as being employed by or

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1 COMMON PLEAS COURT OF THE STATE OF OHIO
2 IN AND FOR THE COUNTY OF SUMMIT
3
4 MEMBER WILLIAMS, et al.,
5 Plaintiffs,
6 vs. JUDGE JAMES A. BROGAN
7 CASE NO. CV-2016-09-3928
8
9 KISLING, NESTICO & REDICK
10 LLC, et al.,
11 Defendants.

12
13 VIDEOTAPED DEPOSITION OF
14 THERA REID, VOLUME II
15 MONDAY, APRIL 22, 2019
16 9:15 A.M.
17 Hilton Akron/Fairlawn Hotel
18 3180 West Market Street
19 Fairlawn, Ohio
20
21
22
23
24

25 REPORTED BY: SARAH DROWN

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1 A No, I'm not.

2 Q Okay. So KNR did not recommend that you take
3 any loan, did they?

4 A No.

5 Q In fact, they advised against it, correct?

6 A Yes.

7 Q They certainly did not recommend to you at any
8 time during your representation that you take a
9 loan with Liberty Capital, true?

10 A True.

11 Q In fact, even when -- you said the name Liberty
12 was never mentioned.

13 Even when you called in asking for Oasis
14 information, they didn't tell you about Liberty
15 Capital's information then, did they?

16 A No.

17 Q They didn't try to push Liberty on you at all,
18 did they? Fair?

19 A They didn't push nobody.

20 Q In fact, the only reason you called about a
21 loan is because you saw an advertisement on TV,
22 separate and apart from KNR, correct?

23 A Yes.

24 Q Can you tell me a little bit about your
25 treatment with Dr. Ghoubrial and how you got to

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1 him and what happened during those treatments?

2 A After the wreck, I was getting phone calls. I
3 answered one.

4 Q Not Akron Square, Dr. Ghoubrial.

5 MR. PATTAKOS: She's answering
6 the question, Tom.

7 Go ahead.

8 A I answered one. And it was somebody telling me
9 that they can put me in touch with a
10 chiropractor and set me up with a ride.

11 Q This is the conversation we talked about at
12 your last deposition, correct?

13 A So I started seeing said chiropractor, who was
14 Floros. Then Floros put me in touch with
15 Dr. Ghoubrial. I think they were in the same
16 office. They in turn put me in touch with some
17 surgeon in the Falls, but that didn't go
18 through. But I seen them for a while and seen
19 Dr. Ghoubrial. He gave me shots, prescription
20 Percocets.

21 Q Now, we already talked at your first deposition
22 about the fact that you had no criticisms of
23 the healthcare you were provided in this case.
24 And that's true, isn't it?

25 A I'm not ...

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1 Q I know you wanted shoulder surgery, but we're
2 talking about -- with Dr. Ghoubrial and
3 Dr. Floros, you testified there was none of the
4 care that you were unsatisfied with, correct?

5 A Financially.

6 Q Well, okay. You made no complaints about the
7 actual care being provided by Dr. Floros and
8 Dr. Ghoubrial, fair? Not the bills, the
9 treatment.

10 A I didn't make any complaints.

11 Q Okay. And, in fact, they were helping you,
12 weren't they?

13 A I thought it was. I don't know about now, to
14 be honest with you, because I'm not seeing
15 anybody and anymore I'm in just so much doggone
16 pain that I can't deal half the time.

17 Q At the time they were helping your pain,
18 weren't they?

19 A To be pumped up on pills and injections, I
20 don't know.

21 Q Ma'am.

22 A I don't know.

23 Q Are you serious?

24 A Serious.

25 Q So you claimed at your last deposition that you

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1 had no unwanted healthcare and you weren't
2 upset about the healthcare you received. Are
3 you changing that?

4 A I'm not changing anything, I'm just saying I
5 don't know.

6 Q Okay. In fact, you recall sending an email to
7 Marty or Matt, one of the two, over at KNR
8 saying that the chiropractic treatment's going
9 okay?

10 A I believe so.

11 Q Okay. In fact, we talked about it at your last
12 deposition, that not only it was helping you,
13 you would not have kept going if it wasn't
14 helpful, true?

15 A True.

16 Q I mean, from spending time with you at a
17 deposition and reading your emails and that, I
18 mean, you're not afraid to voice your opinion
19 if you're upset about something, are you?

20 A No.

21 Q I mean you've threatened to get congressmen
22 involved, true?

23 A True.

24 Q You got, in your words, bitchy with KNR and
25 apologized the next day because you were in a

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1 A I was in a lot of pain for a long while. It
2 was broke three places up here and -- fractured
3 my arm.

4 Q So even though the chiropractic care might have
5 given you some relief, there was still a lot of
6 pain and you needed more than just the
7 chiropractic?

8 A Yes.

9 Q That's why you and Dr. Floros talked about
10 seeing Dr. Ghoubrial, true?

11 A Yes.

12 Q What did Dr. Floros tell you about
13 Dr. Ghoubrial?

14 A That he would help with injections and pain med
15 and something about referral to a surgeon.

16 Q An orthopaedic surgeon?

17 A I believe so, yes.

18 Q Okay. So you talked to Dr. Floros. You asked
19 a lot of questions.

20 Did you ask him, "What do you mean by
21 'injections'?"

22 A Yes.

23 Q What did he tell you, do you remember?

24 A Vaguely, but it was something about tens
25 injections, I believe it was. Something for

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1 with Dr. Ghoubrial?

2 A We just talked the first time.

3 Q Now, I noticed from looking at the notes -- I
4 didn't even see that you called up and told KNR
5 that you were going to go see Dr. Ghoubrial.
6 You didn't talk about that with them until
7 later. I'm not criticizing you, I'm just
8 saying.

9 Do you remember differently than that?

10 A No.

11 Q Your decision to go to Dr. Ghoubrial was based
12 on Dr. Floros' recommendation, true?

13 A True.

14 Q I mean KNR didn't tell you to go to
15 Dr. Ghoubrial, did they?

16 A No.

17 Q When you went and saw Dr. Ghoubrial, you then
18 had a discussion with him about what your
19 symptoms were, fair?

20 A Yes.

21 Q You told him you were in a lot of pain?

22 A Well, yeah. It was pretty obvious. You could
23 see it. My whole arm was black and purple.

24 Q Dr. Ghoubrial talked to you about different
25 options for treatment, fair?

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1 A Yeah. I guess so. As far as I can remember,
2 yes.

3 Q Okay. Well, what do you remember about that
4 first visit?

5 A I mean we sat and we talked about what -- I
6 don't really remember. I mean we talked.

7 Q He didn't sneak up on you and just jab you with
8 a needle without talking about it, did he?

9 A No.

10 Q He wasn't smoking in the room, was he?

11 A No.

12 He didn't grope me.

13 Q Okay. So what do you remember your discussion
14 being with him?

15 A It would probably be about the medication that
16 I was taking and what was wrong with me.

17 Q What do you mean by that?

18 A X-rays.

19 What I was already on. My medication
20 that I was already on.

21 Q Okay.

22 A And what was already wrong with me. So as to
23 not mess me all up, I don't know.

24 Q You told him about the accident?

25 A Yeah.

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1 Q You told him that your pain was basically 10
2 out of 10?

3 A At that time it was like a 50 out of 10, but
4 yes.

5 Q You knew you were going there in part to talk
6 potentially about injections, true?

7 A I don't know, to be honest.

8 Q Well, I thought you just said when you
9 talked --

10 A Well --

11 Q -- to Dr. Floros he mentioned that.

12 A He may have. I don't know.

13 Q Okay. Did you do any research about injections
14 before you went, just out of your own
15 curiosity?

16 A No.

17 Q Had you ever heard of them before?

18 A No.

19 Q Did they refer to them as cortisone injections?
20 Or how was it referred to? Or do you not
21 recall?

22 A I don't recall.

23 Q Okay. Do you recall discussing that issue of
24 trigger point injections with Dr. Ghoubrial?

25 A No.

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1 Q So let me make sure I have this right.

2 You're not saying you did not talk about
3 trigger point injections, you're saying you
4 don't recall the specifics?

5 A I'm not saying I didn't talk to him about it.

6 I'm not saying that at all. I'm saying --

7 Q You're saying you don't remember the specifics?

8 A -- I don't remember the specifics about it.

9 Q Obviously you agreed to get the trigger point
10 injections, correct?

11 A Correct.

12 Q You wouldn't have done that unless you were
13 satisfied in your own mind that you knew what
14 was in the medication and what it did to you,
15 true?

16 A Right.

17 Q You may not remember the conversation, but you
18 know you would make sure you had that
19 information, true?

20 A Right.

21 Q In fact, they helped, didn't they?

22 A I guess so.

23 Q I'm looking at your second visit there where it
24 says "She said she had tremendous relief after
25 the trigger point injections in her lower

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1 back."

2 Do recall that?

3 A "tremendous relief."

4 Q "after the trigger point injections in her
5 lower back."

6 A I don't know about tremendous relief. I may
7 have had some relief.

8 Q You went back for more, true?

9 A Well, yeah.

10 Q You wouldn't have done that if you didn't think
11 they were working, would you?

12 A I don't think so, no.

13 Q You never complained to anybody that they
14 weren't working, did you?

15 A No, but I wasn't sure. I mean between that and
16 the Percocets, I didn't know if, you know,
17 which one, if both of them, you know. And if
18 the pills were helping the shots or the shots
19 were helping the pills, you know.

20 Q Well, let me ask you this: Do you deny saying
21 that you had tremendous relief after the
22 trigger point injections in your lower back?
23 Are you denying that you said that?

24 A I don't know if I said that or not.

25 Q Okay.

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1 A I don't remember saying "tremendous relief."

2 Q Okay.

3 A I don't use that word.

4 Q Do you at least remember telling him that you
5 had relief after the trigger point injections?

6 A I may have told him I had relief.

7 Q Okay. And then you went back a third time for
8 more trigger point injections --

9 MR. PATTAKOS: Objection.

10 Q -- correct?

11 A I guess, yes.

12 Q Again, you wouldn't have done that if they
13 weren't working, would you?

14 MR. PATTAKOS: Objection.

15 A No.

16 Q You also didn't complain about those, did you?

17 A No.

18 Q Now, I see where you were referred to chronic
19 pain management.

20 Do you recall who that was?

21 A Chronic pain management.

22 Q Yeah. It says "I will refer her to chronic
23 pain management."

24 Do you remember talking with

25 Dr. Ghoubrial about that?

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1 A I was referred to a couple people. Possibly.

2 Aye yi yi. I'm not sure.

3 Q Okay. But you understood that Dr. Ghoubrial
4 would only treat you so long for the pain, he
5 wasn't going to treat you long-term or
6 chronically, true?

7 A Oh, that's what -- yes. I -- I got that,
8 uh-huh. Yes.

9 Q That's why he was referring you out, true?

10 A Right.

11 Q Okay. He also referred you to Dr. Chonko for
12 your shoulder surgery?

13 A Yes.

14 Q Okay. I know there was some problems.

15 Dr. Chonko referred you then to a
16 Dr. Nice?

17 A Yes, because Dr. Chonko doesn't do shoulders,
18 he does hips. And Dr. Nice does shoulders, but
19 he was going to Oregon for a year and --

20 Q You wanted continuity of care?

21 A Didn't want to do my shoulder and leave me
22 hanging.

23 Q Okay.

24 A So ...

25 Q Did he refer you to the Crystal Clinic?

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1 A True.

2 Q Did you two discuss a TENS unit at all?

3 A I believe so.

4 Q Do you know what a TENS unit is?

5 A Vaguely.

6 Q Do you recall what he said about it?

7 A Not really, no.

8 Q He didn't push a TENS unit on you, did he?

9 A We talked, discussed it. No. I don't ...

10 Q It wasn't appropriate for your injuries? Or do

11 you recall the exact conversation?

12 A No.

13 Q Okay. But you two decided a TENS unit wasn't

14 going to help you, fair?

15 A Yeah.

16 Q Well, do you recall anything about the

17 conversation?

18 A No. It's been a while.

19 Q We know you did not get a TENS unit, right? Or

20 did you?

21 A I just -- I don't know. I guess I just got the

22 shots.

23 Q Okay. So after discussing it with

24 Dr. Ghoubrial, you and he decided together that

25 a TENS unit would not be necessary for your

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1 paperwork.

2 MR. MANNION: 29.

3 - - - - -

4 (Defendants' Exhibit 29 was marked.)

5 - - - - -

6 Q I'm showing you some of Dr. Ghoubrial's
7 records.

8 Do you remember when you went in and he
9 asked you what happened and asked you about the
10 accident and your pain? Do you recall that?

11 A Yes.

12 Q It says here on 29, "Thera is a 37-year-old
13 very pleasant woman who had a motorcycle
14 accident on April 20, 2016."

15 That's information you would have
16 provided to him?

17 A Well, I don't know if I provided that I'm very
18 pleasant, but --

19 Q Okay. True.

20 A Okay.

21 Q That's how he described you, but the rest of
22 the information you would have provided to him?

23 A Okay. Yes.

24 Q It's accurate, true?

25 A Yes.

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1 Q "She was the passenger on the back of a
2 motorcycle when the motorcycle approached an
3 intersection and a SUV ran a stop sign."

4 Did I read that correctly?

5 A Yes.

6 Q Also information you would have provided to
7 him, correct?

8 A Yes.

9 Q "The motorcycle driver slammed on the brakes
10 and Thera went flying off the back of the
11 motorcycle and broke her right humerus."

12 Was that correct?

13 A Yes.

14 Q "She went to the emergency room at Akron City
15 Hospital by ambulance, where she was treated
16 and released."

17 Was that correct?

18 A Yes.

19 Q You provided him that information?

20 A Yes.

21 Q Do you need to take a break because of your
22 shoulder?

23 A Nope. I'm good.

24 Q Okay. It says "She" -- referring to you -- "is
25 unfortunately in severe pain in her shoulder,

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1 neck, and back."

2 That was true information, correct?

3 A Yes.

4 Q He would have got that from both examining you
5 and talking to you, correct?

6 A Yes.

7 Q "On a scale of 1 to 10, her pain is 10 out of
8 10 in severity."

9 We already talked about I think you said
10 it was a 50.

11 A Anyway.

12 Q "She has significant pain and discomfort."

13 That's accurate, correct?

14 A Yes.

15 Q "She is going to be seeing the orthopaedic
16 surgeon."

17 That was true as well, correct?

18 A Yes.

19 Q So you talked about all of those things with
20 the doctor?

21 A Eventually.

22 Q Well, I mean you talked about that with him
23 when you went in and saw him for the first
24 time, correct?

25 A I believe so.

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1 Q Okay. Well, when you say "eventually," the
2 first thing he did with you was ask you what
3 happened and how you're feeling basically,
4 correct?

5 A Yeah.

6 Q This was the information you two went over,
7 fair?

8 A Yes.

9 Q He did an exam of you, didn't he?

10 A Yes.

11 Q He examined your -- that "HEENT" means head,
12 ears, eyes, nose, and throat. I don't know if
13 you know that.

14 But he looked at your ears, he looked at
15 your eyes, he looked down your throat. He did
16 that all, didn't he?

17 A Yes.

18 Q He also palpated. That means he touched your
19 neck like this.

20 Did he, ma'am? He touched your neck to
21 check it out?

22 A I believe so.

23 Q Okay. He looked at your spine and your back,
24 correct?

25 A Yes.

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1 Q It says here that "She has severe pain and
2 tenderness at the cervical and upper thoracic
3 spine."

4 Would you agree that you essentially had
5 pain throughout your entire back?

6 A Oh, yeah.

7 Q It says "reproducible pain." Meaning, I
8 believe, that if he touches it, it was even
9 more painful, but -- was it?

10 A Yes.

11 Q Okay.

12 A A lot.

13 Q Then it says "guarding," which means you sort
14 of flinch if you think someone's going to touch
15 it.

16 Is that how you were?

17 A Yes.

18 Q Spasms. Do you know what those are?

19 A Yes.

20 Q You had those, true, right?

21 A Yes. Still do.

22 Q It says significant tenderness of your lower
23 back. It says "lumbar spine."

24 That was true as well?

25 A Yes.

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1 Q Now, do you remember that it was greater on the
2 right -- or greater on the left than the right,
3 or do you not remember that detail?

4 A I really don't remember that detail particular,
5 I just remember it hurt like heck all over.

6 Q He also checked your grasp and manipulation,
7 correct?

8 A Yes.

9 Q By the way, up above, where it says past
10 medical history of nystagmus, migraines, and
11 hypothyroidism, he would have got that from
12 you?

13 A Yes.

14 Q Okay.

15 A That's where I was telling you that we went
16 over the past meds and everything I was on.

17 Q You didn't give him any of the past about
18 depression and that or?

19 A I don't believe so.

20 Q Okay.

21 A If I did, it would have been on there.

22 Q Right. It's okay.

23 Past surgical history. You talked to him
24 about four different things that you had done
25 in the past?

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1 A Uh-huh. Yes.

2 Q He asked you obviously about drug use and
3 tobacco use and things like that. Correct?

4 A Yes.

5 Q He also asked you the medications you were on,
6 true?

7 A Yes.

8 Q You told him about the Paxil and the other
9 medications?

10 A Well, see, Paxil's right there. So why he
11 didn't have depression up there is beyond me.

12 Q Well, you don't recall telling him depression
13 other than saying you're on Paxil, right?

14 A Well ...

15 Q He wasn't there to treat your depression, true?

16 A I know. No. But, I mean, it goes hand in
17 hand.

18 Q Well, my point is that all of these medications
19 are medications you told him you were on.

20 A Yes.

21 Q The "oxycodone from the emergency room." You
22 told him about that?

23 A Yes.

24 Q Do you have any drug allergies?

25 A Codeine.

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1 Q Oh. Okay.

2 Do you know why it says none on drug
3 allergies?

4 A No.

5 Q Okay. You don't remember talking to him about
6 codeine?

7 A I tell every doctor codeine.

8 Q Okay. So now if we go down, further down in
9 the physical exam, after he talked to you, he
10 then examined you, true?

11 A After, yeah.

12 Q And then it says "Grasp/Manipulation."

13 He actually checked how you could grasp
14 and manipulate your fingers too, correct?

15 A I believe so.

16 Q He checked your arms, your upper extremities,
17 true?

18 A Yeah.

19 Q It says the "right upper extremity is
20 immobilized."

21 That was true, right?

22 A The right upper is immobilized.

23 Q In a sling.

24 A Yes.

25 Q "She has a 40 by 60 centimeter bruise in the

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1 right biceps and right upper shoulder region."

2 That was true, right?

3 A Yes.

4 Q "Severe pain on palpation," meaning when he
5 touches it in those areas, true?

6 A Yes.

7 Q "No range of motion of the right shoulder."
8 True?

9 A True.

10 Q So these are all of the things that he was
11 talking to you about, examining you, and
12 evaluating you, true?

13 A Yes.

14 Q We don't have to go through them all, but he
15 also did the lower extremities,
16 musculoskeletal, neurological, true?

17 A Yeah.

18 Q And then you and him talked about what your
19 diagnoses were and what the potential
20 treatments were, true?

21 A I guess so, yes.

22 Q Okay. When you talked about the trigger
23 points -- because you had already talked to
24 Dr. Floros about those, from what you've told
25 me, right?

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1 A Yeah.

2 Q Now, when you talked to him about the trigger
3 points, you obviously agreed that you would get
4 some injections at trigger points, true?

5 A Yes.

6 Q Can you tell me what you remember about that
7 conversation, or is that just something that
8 doesn't stick in your memory?

9 A It doesn't really stick.

10 Q Okay. Can you recall how it is that those were
11 administered? Did he do it? Did the nurse do
12 it?

13 A He did.

14 Q Did he have to -- did you already have your
15 shirt removed?

16 A No.

17 Q Okay. Do you know how he did that?

18 A Just lift my shirt up.

19 Q Okay. He had to prep it with alcohol right?

20 A Yes.

21 Q I mean you knew he was giving you these,
22 correct?

23 A Yes.

24 Q There was no secret about it, was there?

25 A No.

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1 Q You then set another appointment for the
2 following week, correct?

3 A Yes.

4 Q How long did that first visit take, to go
5 through all that history, the medications, the
6 social history, the physical exam, the trigger
7 point injections?

8 A It took a while.

9 Q I mean we're talking half hour, 45 minutes?

10 A It seemed like. Maybe a little bit longer. I
11 don't know. It took a while.

12 Q Okay. I saw no comment in there about any
13 discussion of a TENS unit. So you're not sure
14 whether you had that discussion or not?

15 A I'm not sure.

16 Q Okay. And then if we come back, on May 4, your
17 arm was still in a sling, is that correct?

18 A Yes.

19 Q Again, we went over this one about -- but will
20 you agree with me it's in the record here?

21 "She said she had tremendous relief after the
22 trigger point injections in her lower back." I
23 read that correctly?

24 A You read it correctly, but, like I said, I
25 don't use that word. So ...

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1 Q But you had relief?

2 A But I had relief.

3 Q Okay. You still had some discomfort in your
4 neck, though, and still some guarding and
5 tenderness in the right trapezius. So there
6 were some more trigger point injections, but
7 only in the neck, not the lower back, fair?

8 A Right.

9 Q You didn't get the lower back because you no
10 longer needed them, right?

11 A I guess I did. I don't really know.

12 Q Okay. He certainly didn't recommend to you
13 that you get them in the lower back and you say
14 no, true?

15 A Right.

16 Q So you then come back again, and this is where
17 it says "I will refer her to Dr. Chonko."

18 But you come back then in -- six more
19 days you were supposed to come back, but you
20 were a no show for some reason. I don't know
21 what happened. I assume you don't remember
22 that.

23 Do you remember it?

24 A There was a couple times I had to miss.

25 Q Just for whatever reason? Transportation or

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1 Q That's why you and Dr. Ghoubrial talked about
2 trying trigger point injections again in the
3 neck, correct?
4 A Yes.
5 Q You agreed to those, fair?
6 A Yes.
7 Q KNR never told you to get a trigger point
8 injection, did they?
9 A No.
10 Q Okay. You came back for follow-up on June 1.
11 Do you see that?
12 A Yes.
13 Q You talked about the surgery again.
14 It says "The trigger point injections
15 were very beneficial to her neck."
16 Did I read that correctly?
17 A Yes.
18 Q That's how you remember it as well, correct,
19 ma'am?
20 A What, that they were beneficial?
21 Q Yes.
22 A Well, like I said, you know, it helped.
23 Q You wanted them, right?
24 A I wanted it to help.
25 Q When you went there, you wanted the trigger

HARBOUR, RICHARD A.
02/02/2019

Page 1

1 COMMON PLEAS COURT OF THE STATE OF OHIO
2 IN AND FOR THE COUNTY OF SUMMIT
3
4 MEMBER WILLIAMS, et al.,
5 Plaintiffs,
6 vs. JUDGE JAMES A. BROGAN
7 CASE NO. CV-2016-09-3928
8
9 KISLING, NESTICO & REDICK
10 LLC, et al.,
11 Defendants.

12
13 VIDEOTAPED DEPOSITION OF RICHARD A. HARBOUR
14 SATURDAY, FEBRUARY 2, 2019
15 9:47 A.M.
16 DoubleTree by Hilton Hotel
17 3150 West Market Street
18 Fairlawn, Ohio

19
20
21 REPORTED BY:
22 Sarah R. Drown

23
24
25 RPR, Notary Public



HARBOUR, RICHARD A.
02/02/2019

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1 remember the exact conversation, you know.

2 Q And then actually Mr. Redick called Dr. Auck
3 and advised him of what was going on and asked
4 if there was another doctor that Dr. Auck could
5 refer you to. Do you recall that?

6 A I don't know what Mr. Redick did, but that
7 could be correct, yes.

8 Q In fact, you actually called your primary care
9 physician then when you couldn't get in to see
10 Dr. Ghoubrial and he told you he couldn't see
11 you because he didn't want to be involved in a
12 motor vehicle accident case?

13 A Yes.

14 Q You contacted your primary care about that,
15 fair?

16 A I did, yes.

17 Q And then eventually they were able to get you
18 in to see Dr. Ghoubrial. You saw him, fair?

19 A Yes.

20 Q Okay. Do you recall telling KNR -- sending
21 them an email that said that you saw
22 Dr. Ghoubrial, he gave you some shots of
23 cortisone and we shall see if these work and
24 what, if any, relief I'm able to get?

25 Do you recall that?

HARBOUR, RICHARD A.
02/02/2019

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1 Q Well, even in 2011 when you were being
2 represented, you were worried about medical
3 bills then, correct?

4 A I was.

5 Q There was a collection attorney -- maybe not an
6 attorney, but some of the bills went to
7 collection, fair?

8 A They did, yes.

9 Q Some hit your credit report?

10 A Yes, they did.

11 Q But not Dr. Ghoubrial's or Dr. Auck's, fair?

12 A Not that I can recall, correct.

13 Q Because there was a letter of protection in
14 place, true?

15 A Right. I believe the bills would be held off
16 until the case was resolved.

17 Q Okay. And you wanted that, didn't you?

18 A Yes.

19 Q That was in your best interest, wasn't it, sir?

20 A Yes.

21 Q I don't want to talk about any of your
22 treatment for any of your nonaccident-related
23 conditions, injuries, or anything of that
24 nature, but I just want to ask you generally.
25 Is it fair to say that you've treated with

HARBOUR, RICHARD A.
02/02/2019

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1 concerns and my medical care seriously.

2 Q You're not claiming that Dr. Auck was giving
3 kickbacks to KNR, are you?

4 A No, I'm not.

5 Q Well, didn't KNR refer you to Rolling Acres,
6 where he worked?

7 A Yes, they did.

8 Q The fact that they referred you there, don't
9 you infer from that that they're somehow
10 getting a kickback?

11 A No, I do not.

12 Q That's not a reasonable inference, is it?

13 A A reasonable inference as far as they're
14 getting kickbacks? Is that what you're asking
15 me?

16 Q Yes.

17 A I wouldn't assume that just because an attorney
18 refers you to a doctor that they're getting
19 kickbacks. They may refer you there because
20 other patients had success with that doctor.

21 Q Other patient may have had excellent care from
22 that doctor, true?

23 A Correct. Yes.

24 Q That doctor might be willing to execute a
25 letter of protection on the medical bills,

HARBOUR, RICHARD A.
02/02/2019

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1 true?

2 A Yes.

3 Q That's important, isn't it?

4 A Yes, it is.

5 Q What is your understanding of what stage of the

6 case we're in right now in the class action?

7 A That we are taking -- we're in discovery and

8 that the stages of class certification is

9 coming soon.

10 Q Okay. Do you know what has to be proven for

11 the class to be certified?

12 A No, I do not.

13 Q What pleadings have you read other than the

14 complaint?

15 A I've just read the complaint.

16 Q Anything else?

17 A No.

18 Q Do you know what motions have been filed?

19 A No.

20 Q You haven't gone on the docket to look at all

21 of the different motions or anything?

22 A At one point I believe I tried, but some of

23 that stuff was down at the time from the court

24 system when I tried. So I have not been back

25 on since.

HARBOUR, RICHARD A.

02/02/2019

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1 A He suggested them and I agreed to them, yes.

2 Q Because they worked the first time?

3 A I believe they worked the first time, yes.

4 Q Never once did Dr. Goubrial ever give you a
5 trigger point injection that you didn't want,
6 did he?

7 A Are you deeming by force?

8 Q By any way.

9 How did he -- did he give you a trigger
10 point injection that you didn't want?

11 A No.

12 Q Okay. When did he give you a TENS unit the
13 second time?

14 A I was only at his office on the second case for
15 a couple visits, but it was either -- maybe the
16 second or third, if there even was a third.
17 But shortly after -- shortly after treatment
18 began.

19 Q Okay. What was the discussion about the TENS
20 unit?

21 A He just handed me one, told me that I should
22 use this. I advised him I already had another
23 one at home. And he said, "Well, here. You
24 can have another."

25 Q He didn't tell you he was going to charge you?

HARBOUR, RICHARD A.
02/02/2019

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1 a trigger point, true?

2 A That's what you state the medical record shows,
3 yes.

4 Q Okay. So if you have alleged that he would
5 push trigger points and give shots, as opposed
6 to prescribing pills, that wouldn't be true, at
7 least as it relates to you, correct?

8 A In the first two visits, yes.

9 Q I think Mr. Mannion went through that
10 sufficiently.

11 You understood, sir, that if KNR hadn't
12 recovered for you in your cases, you would have
13 been personally responsible to pay
14 Dr. Goubrial's bills for services provided,
15 correct?

16 A Under the agreements I signed, yes.

17 Q You read those agreements before you signed
18 them?

19 A Yes, I did.

20 Q And you authorized those bills to go to KNR,
21 correct?

22 A Yes, I did.

23 Q You authorized voluntarily those amounts be
24 withheld to pay for the bills, right?

25 A Yes, I did.

NORRIS, MONIQUE

01/28/2019

Page 1

1 COMMON PLEAS COURT OF THE STATE OF OHIO

2 IN AND FOR THE COUNTY OF SUMMIT

3

4 MEMBER WILLIAMS, et al.,

5 Plaintiffs,

6 vs.

JUDGE JAMES A. BROGAN

7

CASE NO. CV-2016-09-3928

8

9 KISLING, NESTICO & REDICK

10 LLC, et al.,

11 Defendants.

12

13 VIDEOTAPED DEPOSITION OF MONIQUE NORRIS

14 MONDAY, JANUARY 28, 2019

15 9:52 A.M.

16 DoubleTree by Hilton Hotel

17 3150 West Market Street

18 Fairlawn, Ohio

19

20

21 REPORTED BY:

22 Sarah R. Drown

23

24

25



NORRIS, MONIQUE
01/28/2019

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1 person who was going to talk to you about
2 whether you should be represented by an
3 attorney --

4 A Yes.

5 Q -- and by KNR?

6 A Yes.

7 Q And you didn't make that decision already when
8 you talked to Rob Horton?

9 A No. I hadn't fully made the decision. I had
10 told him that.

11 Q Okay. Why did you agree to have somebody come
12 out, then?

13 A To discuss our accident.

14 Q Okay. So I was going to start somewhere else,
15 but let me just ask you this. I mean, tell me
16 everything you remember about that first
17 conversation with Rob Horton.

18 A As far as what?

19 Q How it came about, who you talked to first,
20 what was said, when it was.

21 A How it came about?

22 Q Sure.

23 A My auntie recommended him to us.

24 Q Who's your aunt?

25 A Carolyn Holsey.

NORRIS, MONIQUE

01/28/2019

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1 Q So you're on your phone with the cousin. And
2 tell me about, you know, what's said and how
3 KNR comes up.

4 A We were talking about different -- looking into
5 talking and calling different attorneys to see
6 who would be best to represent us in our
7 accident, and my aunt recommended us to call
8 KNR.

9 Q Was she on the phone as well?

10 A My auntie?

11 Q Yeah.

12 A Well, she was in the background, but yes.

13 Q The background.

14 A Yes.

15 Q Okay. Did you call KNR together or separate,
16 you and your cousin?

17 A I called, and then -- she was there. I told
18 them she wanted them to represent her as well.

19 Q Okay.

20 A If we decided to go forth with them
21 representing us.

22 Q Okay. Carolyn was with you when you called
23 KNR?

24 A No.

25 Q Okay. I just thought you said that she was

NORRIS, MONIQUE

01/28/2019

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1 MR. MANNION: Okay. Just to
2 clarify, all of the class D claims are against
3 Ghoubrial?

4 MR. PATTAKOS: All of the
5 class --

6 THE WITNESS: That's what I
7 thought --

8 MR. PATTAKOS: -- D are
9 Ghoubrial only. So it's only Harbour that has
10 the overlap between Ghoubrial and KNR.

11 BY MR. MANNION:

12 Q You don't have any part of the injection
13 lawsuit?

14 A No.

15 Q Okay. So I don't need to ask any questions
16 there.

17 Let me ask you this, do you have a
18 fraudulent misrepresentation case against
19 Mr. Nestico and Mr. Redick personally? Did you
20 know that?

21 A What do you mean?

22 Q That you allege that they said things
23 fraudulently, that they misrepresented things
24 to you.

25 MR. PATTAKOS: Objection.

NORRIS, MONIQUE

01/28/2019

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1 and he examines your cousin?

2 A That is correct.

3 Q The doctor did offer you trigger point

4 injections, correct?

5 A Yes.

6 Q And you declined those?

7 A Yes.

8 Q You understood you had a right not to receive

9 any treatment you didn't want, fair?

10 A Yes.

11 Q Okay. He also offered you a TENS unit,

12 correct?

13 A No. He said, "Here. Take this." He didn't

14 offer me. Those were his exact words. "Here.

15 Take this. This will help you."

16 Q You could have refused it, couldn't you have?

17 A Yeah. I don't know what it was. I thought it

18 was -- I assumed it was supposed to help me.

19 Q Well, he offered you trigger point injections

20 because he thought it would help you and you

21 refused --

22 A I don't like needles.

23 Q -- it, correct?

24 A Yes, I did. I don't like needles. So yes.

25 Q And that's fine. I don't either.

CLIENT: Member Williams**INSURANCE CO:** State Farm Insurance***DEFENDANT:** Lacey Christie**ADJUSTER:** Gwen Kirtley**DATE OF LOSS:** 9/13/2013**CLAIM NO:** 353C50651

<u>PHYSICIANS:</u>	<u>MEDICAL SPECIALS</u>	<u>AMOUNT</u>
Internal Medicine Specialists	(9/19/2013 - 7/1/2014)	\$ 1,770.00
Selson Clinics Neurology	(9/23/2013 - 7/16/2014)	\$ 850.00
Crystal Clinic	(6/9/2014 - 11/3/2014)	\$ 3,588.00
 <u>HOSPITALS:</u>		
Wadsworth Rittman Hospital	(9/16/2013)	\$ 3,692.00
EMP of Wadsworth, LTD	(9/16/2013)	\$ 471.80
Wadsworth Imaging, Inc.	(9/16/2013)	\$ 101.50
 TOTAL SPECIALS		 \$ 10 473.30

EXHIBIT**F**

IN THE COURT OF COMMON PLEAS
SUMMIT COUNTY, OHIO

MEMBER WILLIAMS, et al.,

Plaintiffs,

v.

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

Defendants.

Case No. CV-2016-09-3928

Judge James Brogan

Affidavit of Samah N. Ghoubrial, M.D.

I, Dr. Samah Ghoubrial, Affiant, after being first duly sworn according to law, states I am competent to testify to the following as true to the best of my knowledge:

A. General Statements

1. Since 1996, I have been a licensed internal medicine physician in the state of Ohio, and I was so duly licensed at all times relevant herein. 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 A.
2. I treat various patient conditions, including providing pain management. However, I do not specialize in "chronic pain management. Rather, if I determine a patient needs chronic pain management treatment, I refer the patient out to a qualified specialist in chronic pain management.
3. I treat every patient I see based on their individual needs, and consistent with their informed consent, whether I am seeing the patient in my internal medicine practice or in Clearwater Billing, LLC, my personal injury practice.



4. No standard formula or "routinized care" exists for treating patients in my personal injury practice. All care and treatment is based on each patient's individual needs based on their presentation, their subjective complaints, their treatment preferences based on options presented to them, and my objective findings after a thorough history and comprehensive examination during their initial visit.
5. Every patient's treatment is different and is based on their individual presentation and needs. I have never provided unnecessary medical treatment to any patient in my internal medicine practice or my personal injury practice.
6. I have never knowingly provided any contraindicated medical treatment in my internal medicine practice or my personal injury practice. Every time I recommended or administered a trigger point injection, prescribed a TENS Unit, fitted a patient with a back brace, prescribed a medication, or provided any other treatment modality, it was medically warranted based on my professional judgment and the patient's subjective complaints, my objective findings, my discussions with the patient, and my education, training, and experience.
7. Other licensed physicians, including but not limited to Dr. Richard Gunning, have also provided evaluation and treatment of patients in the personal injury practice and, based on my knowledge, experience, interaction with them, and review of the patient files, practice consistent with the statements and standards of care set forth above.
8. I did not recommend trigger point injections, TENS Units, medications, back braces, or any other treatment modality to every patient seen in the personal injury practice, nor did any other physician providing services in the personal injury practice.
9. Trigger point injections were recommended and/or administered to only approximately half the patients I have evaluated and treated in the personal injury practice, including those patients who were also KNR clients since 2010.
10. TENS units have been prescribed and/or provided to only approximately half the patients I have evaluated and treated in the personal injury practice, including those patients who were also KNR clients since 2010.
11. Many patients were referred to chronic pain management physicians, orthopedic physicians, or other specialists based on their individual needs. Even recommendations for patients to obtain or consider mental health counseling have been provided in the proper circumstances.
12. We referred a number of the patients whose records were requested in this case to chronic pain management or other specialties.

13. Neither I nor Clearwater receive any "kickbacks" or any remuneration of any kind for any referrals to or from our practice nor any *quid pro quo*.
14. Every patient seen in the personal injury practice, just like my internal medicine practice, was evaluated and treated using the clinical and professional judgment of the Clearwater Billing, LLC physician provider treating them, based on their unique clinical presentation, the findings on examination and evaluation, the patient's needs and preferences, informed consent discussions, and the circumstances of that particular patient's clinical situation and preferences.
15. I do not have, nor have I ever had, any type of referral agreement with the law firm of Kisling Nestico & Redick (KNR) or any other law firm. The vast majority of referrals to my personal injury practice come from healthcare providers, not law firms.
16. I also do not have any type of referral agreement with any referring health care providers, whether from chiropractors or any other health care discipline. Including but not limited to Dr. Floros or Akron Square Chiropractic.
17. Since I started my personal injury practice I have worked with, and continue to treat patients who are represented by approximately seventy (70) different lawyers / law firms, of which KNR is just one.
18. I am referred patients by a number of different healthcare providers.
19. The charges for the medical services and equipment provided to patients in the personal injury practice are consistent for all patients and are in no way related to, or dictated by, the lawyer or law firm representing the particular patient or the health care provider referring the patient for care.
20. The charges for the medical care provided in the personal injury practice are consistent for all patients and are in no way related to, or dictated by, the lawyer or law firm representing the particular patient or the manner in which the patient was referred to the personal injury practice.
21. All charges for the services provided to patients in the personal injury practice are reasonable and consistent with other providers in the same geographic area, even before reductions to those charges.
22. While invariably some health care providers in the area may charge less at times for certain services or equipment, certain other providers in the area also charge more than Clearwater for certain services or equipment, including initial office visits, follow-up office visits, trigger point injections, corticosteroid medication, TENS Units, back braces, and other services or equipment.

23. With respect to TENS units, I am aware that, during the relevant time period in question, the Cleveland Clinic routinely charged patients nearly \$2,000 for TENS Units. Mr. Carter was prescribed a TENS unit by a chronic pain management specialist, as discussed below, and his cost was \$846.68 for the unit, plus an additional 110.24 for leadwire and electrodes, for a total of 956.92. I have seen multiple companies charge more than \$500 for TENS units. Clearwater's charge is reasonable and customary and was at all times herein.
24. While the charges for the medical services provided were consistent regardless of the referral source or the lawyer or law firm representing the particular patient, the personal injury practice was almost never paid the full amount of the bill for the services provided. None of the 13 patients identified in this matter paid the full price for services or equipment. Rather, several paid \$0 for the services and equipment, and the others had charges reduced from 10% to 76.9%, with an average reduction of 34.5% (not even counting the patients who paid 0%).
25. I provided necessary and reasonably appropriate medical care, consistent with the standard of care, at reasonable prices, to all patients in the personal injury practice knowing there was a risk the practice would receive nothing for the services provided, knowing that even if paid it would be at a significant reduction to the amount billed, and knowing we would have to wait months if not years for payment. Moreover, we knew we would only be paid if there was a recovery in the patient's legal action.
26. In addition to the reductions of the patients identified in this case, the personal injury practice typically takes reductions ranging from 30% to 70% of the amount billed for the medical services provided, with some reductions being close to 97% (not counting cases where \$0 is paid).
27. While Clearwater Billing, LLC has a right to pursue the patient individually for the outstanding fees owed for the medical services provided, we have never pursued a patient to my knowledge when the patient did not obtain recover in a lawsuit. Even when recovery is obtained and the patient does not pay Clearwater Billing, LLC, we rarely pursue payment or partial payment.
28. If a personal injury practice patient does not recover a settlement from the injury-causing event, we do not pursue the patient for the cost of treatment or equipment, even though we have a right to do so. We did not pursue Plaintiff Richard Harbour, Plaintiff Monique Norris, former patient Taijuan Carter (on any of his cases, including the case in which Clearwater was paid \$0), or any other of the identified patients for the remaining balances of their bills.
29. To date, Clearwater Billing, LLC, the personal injury practice, which provided treatment for Plaintiff Richard Harbour and Plaintiff Monique Norris, has written-off well over five million dollars (\$5,000,000) in fees for medical services and equipment provided to KNR

clients. Of the fees collected, the total bills were reduced by over two million dollars (\$2,000,000). As a result, my records indicate that the personal injury practice has provided over seven million dollars (\$7,000,000) in free medical care to KNR clients. In addition, Clearwater Billing, LLC's personal injury practice has considerable expenses associated with providing treatment to patients, including salaries of physicians, nurses, and office/administrative staff, medical supplies, insurance, and many other expenses. Clearwater Billing, LLC has written off many more millions in services and equipment provided to other patients represented by firms other than KNR.

30. Since 2010, I did not personally bill any patient treated in the personal injury practice. Even if payment is mistakenly made out to me personally, I endorse the check to Clearwater Billing, LLC. All bills for medical services provided in the personal injury practice since 2010 were sent by Clearwater Billing, LLC and payments made for the medical services rendered were made to Clearwater Billing, LLC.
30. I have reviewed medical records and other records produced in in this case for the individuals identified in this Affidavit.
31. To the extent any opinions are provided in this affidavit, all such opinions are based on my education, training and experience, my review of medical records and/or personal knowledge, and are provided to a reasonable degree of medical certainty. I spend more than 75% of my time in the active clinical practice of medicine.
33. Identifying the existence and exact location of a trigger point is based upon a number of factors, including the physician's experience and sense of feel on palpation, assisted by patient response, potentially local twitch response, discussions with the patient during the physical examination, and the presentation of symptoms. No laboratory test or imaging technique has been reliably established to diagnose trigger points.
34. Various modes of treatment are utilized to "inactivate" trigger points. Such treatment usually includes a combination of muscle relaxers, application of heat and ice, transcutaneous electrical nerve stimulation (TENS), manipulative therapy, trigger point injections, and/or medications. Treatment depends on the patient's individual circumstances, the clinician's evaluation, and an informed consent discussion between the clinician and patient. As stated by American Family Physician in 2002, "trigger point injections has been shown to be one of the most effective treatment modalities to inactivate trigger points and provide prompt relief of symptoms."
35. Multiple studies exist supporting the use of trigger point injections, with and without steroidal medication such as Kenalog, to treat traumatically-induced soft tissue injuries, including in the acute setting. Multiple studies also exist to support the use of TENS units in the circumstances being discussed.
36. For trigger point injections, it is a widely accepted method of treatment to inject the trigger point with a local anesthetic (such as Marcaine) and a corticosteroid (such as Kenalog /

methylprednisolone). Equipment needed for trigger-point injection is local anesthetic, the corticosteroid medication, appropriate-sized syringe, appropriate-sized needles, rubber gloves, gauze pads, alcohol pads for sterile prep, and adhesive bandages.

37. Once trigger point injection treatment is agreed upon with the patient, the clinician must locate the trigger point, cleanse the overlying skin with alcohol, and isolate the trigger point with a pinch between two fingers. Then, a specific technique is utilized to inject the medication. Trigger point injections cannot be administered by having a nurse ask a patient to "bend over" or "turn around" and then just "stick them" as suggested by Plaintiffs' attorney. That description is preposterous.
38. TENS units are a widely accepted method to treat soft tissue injuries in this patient population. All patients provided TENS units were provided working units and provided instruction on the use of TENS units (or were offered but refused instruction).
39. Patients are offered certain treatment modalities and choose between them based on a discussion with the Clearwater physician provider evaluating them. If a patient requests a certain treatment modality (medication, TENS unit, trigger point injection, back brace, etc.), but the Clearwater physician provider does not believe it is clinically warranted, then it is not provided. If a Clearwater physician provider offers certain treatment modalities but the patient does not consent to same, the patient is never pushed or coerced into receiving the treatment modality.
40. Clearwater physician providers pull and examine the Ohio Automated Prescription (Rx) Reporting System (OARRS) report when required by law and monitor closely to ensure narcotic pain medication is only prescribed if clinically warranted. Other treatment modalities such as trigger point injections help reduced either the need for narcotic pain medications and/or the length of time and frequency in which narcotic pain medication is required.
41. I do not get involved with any disputes between patients and insurance companies, whether their own carrier or the at-fault party's carrier. All patients are properly advised of the Letter of Protection and voluntarily agreed to same, which ensured they were not out of pocket for any expenses for treatment with Clearwater.
42. I do not get involved with the patient's underlying legal matter other than to provide a status update to the law firm if permitted by the patient and almost always only upon requested, providing records and billing statements if requested and properly authorized (often by staff), to discount Clearwater's charges if requested, and to serve as an expert witness for the patient if requested. Neither I nor any other Clearwater physician providers ever seek guidance from KNR or any law firm on treatment modalities, never talk with KNR or any other law firm during a treatment session, and never take any direction from KNR or any other law firm (or any of their attorneys) on proper treatment methods for my patients.

43. At times, Clearwater physician providers review other medical records and/or discuss treatment options with other health care providers, if clinically warranted, to ensure proper treatment of a patient. However, Clearwater physician providers are never directed by a chiropractor or any other health care provider in the manner in which to treat a patient. Rather, Clearwater physician providers exercise their own professional judgment in treating patients, whether KNR clients or any other patients.
44. I have never conspired, and I am not aware of any other Clearwater physician provider who has conspired, with Dr. Floros, KNR or any of its attorneys, or any other health care provider or law firm in any matter whatsoever. We have never attempted to increase medical bills. We treat patients based on everything stated in this affidavit, my deposition testimony, and the medical records.
45. No law firm or anyone else directs the costs charged to a client or the reductions I agree to on behalf of Clearwater.
46. I treat all my patients in the same professional matter regardless of age, sex, ethnicity, method of referral, identify of lawyer representing them or any other factor, other than the patient's actual symptoms, clinical condition, and those type issues.

B. General Statements re: Named Plaintiffs and Others Identified in Discovery

1. I provided personal care and treatment to 2 of the 4 named Plaintiffs, Ms. Thera Reid and Mr. Richard Harbour.
2. I did not provide care and treatment to Monique Norris at any time. On August 2, 2013, the day of her treatment and evaluation by Dr. Gunning, I was in Columbus treating patients.
3. Dr. Gunning treated Ms. Norris on August 2, 2013. He did not administer trigger point injections or prescribe narcotic medication. No one directed his care but him and the patient. He fully evaluated Ms. Norris and provided treatment options, which he agreed to without any attempt to push her into other treatment. He only treated her one time. Dr. Gunning provided her a TENS unit, for which instructions were discussed and documented in the record. Dr. Gunning's care was within all reasonable standard of care.
4. Clearwater discounted its bill 29.5% as full and final payment, which was not received until over 9 months after treatment ended. The charges, even without reduction were reasonable and customary.
5. I did not treat Plaintiff Member Williams or former Plaintiff Matthew Johnson, nor did anyone at Clearwater. I also did not treat a number of other patients identified in discovery.
6. I treated Mr. Harbour on two occasions, once following his 2011 accident and once following his 2012 accident. In 2011, Mr. Harbour treated 5 times. He received trigger

point injections at 2 of 5 visits, with full informed consent. He reported to me in 2011 that he obtained relief from the trigger point injections. He was also provided a TENS unit, which was fully explained to him. All treatment was within the standard of care, and Mr. Harbour expressed relief with treatment and had no complaints. I specifically told Mr. Harbour the risks and benefits of trigger point injections, alternative methods of treatment, the identity of the medications, how the medications worked with both instant relief from Marcaine and more long term relief with cortisone. All care was reasonable and necessary, as were the charges, even before the 35.7% reduction. Mr. Harbour would have had knowledge of my final charges through his settlement.

8. I treated Mr. Harbour again in 2012, following another motor vehicle accident. He was provided a TENS unit. He did not tell me he had a TENS unit at home. My memory is to the contrary and the medical records certainly don't document that, which they would. If he had told me that, I would not have provided him a TENS unit. He already knew about TENS unit from the prior year but we still discussed the unit and he was shown how to use it and shown his TENS unit was functioning. He was aware of trigger point injections, but we still discussed the risks and benefits and he opted, after full informed consent, to proceed. We again discussed the medications and the other necessary issues. Mr. Harbour received injections at two of the three visits, reporting relief. He also testified in 2015 in his case that the trigger point injections were beneficial and that he knew the medications being utilized.
9. Clearwater discounted its bill by 10% but had to wait several years for payment because Mr. Harbour's second case went into litigation. The charges, even before reduction, were reasonable and customary.
10. I treated Plaintiff Thera Reid on April 27, 2016, and, as she testified performed an evaluation that took 45 minutes or more. She was already taking Oxycodone from the hospital but claims it did not help. She was in severe pain, describing it as 10 out of 10 in her shoulder, neck, and back. We discussed seeing an orthopedic surgeon. Ms. Reid was not prescribed narcotic pain medication at this visit or a TENS unit. She had multiple trigger points and agreed to trigger point injections after discussing the same thing I do with all patients, some of which are listed above. She agreed with full informed consent. I discussed with her the importance of her physical therapy.
11. On Ms. Reid's second visit, I referred her to Dr. Chonko, a surgeon. She said she had "tremendous relief after the trigger point injections in her lower back." She still had some tenderness in the cervical region and received trigger point injections in that area. The next visit she did not have trigger point injections. On her fourth visit, we discussed her potential surgery and current pain issues. She had severely limited range of motion. She requested trigger point injections based on the prior results and it was successful again. I referred her to a chronic pain management specialist as well as it appeared her pain was becoming chronic. At her next visit, she stated "The trigger point injections were very beneficial to her neck." She did not receive TPJs that visit. That was her last visit due to referral to chronic pain management.

12. Ms. Reid expressed significant relief with my treatment, which was within all reasonable standards of care. She was not prescribed a TENS unit based on my clinical evaluation of and discussion with her. Ms. Reid's total charges were reduced by 15.6% and we waited approximately 7 months for payment. The charges were reasonable and customary, even before reductions.
13. Pursuant to Plaintiffs' counsel discovery requests, co-Defendant Minas Floros, D.C. and Clearwater Billing, LLC produced health care records relating to certain patients who were also former clients of KNR. Some of those patients' medical records were attached to the Motion to Certify, and some were not. For patients who were not discussed in the Motion to Certify, I will refer to them as Jane Doe or John Doe, without any information to identify them to the public.
14. Neither Clearwater Billing, LLC nor I have attempted to collect any unpaid balances from any of the patients identified in discovery, including the ones who did not pay anything for the care and equipment they were provided.
6. I have reviewed the medical records relating to the treatment provided by me and/or any other physician provider charged by Clearwater Billing, LLC to the individuals identified in discovery in this case. Based on my review of the records and/or my personal knowledge, my education, training and experience, and to a reasonable degree of medical certainty, all Clearwater Billing, LLC physician providers met or exceeded the standard of care, all services and equipment were reasonable and necessary, and all charges were reasonable and necessary.
7. Neither the named Plaintiffs nor the individuals identified in discovery in this case were treated the same. A routinized method of treatment was not provided nor recommended. Rather, all treatment was individualized based on the facts above and the patients' informed consent.
8. Some of the name Plaintiffs received trigger point injections, some did not. Some of the patients identified in discovery received trigger point injections, and some did not. Some trigger points were in multiple different muscle groups depending on the patient and the patient's clinical presentation.
10. Some of the Plaintiffs and patients identified in discovery were prescribed TENS units, and some were not. All were provided instructions on its use if provided one.
11. None of the Plaintiffs were prescribed or recommended a back brace. One former patient (Ms. Perkins) requested a back brace on her own. Only one other patient was recommended and fitted with a back brace. All were fitted and instructed on its use.
12. Some of the Plaintiffs received prescriptions for narcotic pain medication, and some did not. Some of the patients identified in discovery received narcotic pain medication and some did not. It depended on the patient and clinical presentation and evaluation.

14. All of the named Plaintiffs and others former patients identified in discovery were either given a discount on their charges or paid nothing at all. The average discount, not counting the no-pays, was 34.5%.
15. From my review of the records, the initial office visit between a Clearwater physician provider occurred approximately 8 days after the initial injury, depending on the patient's condition and when the referring physician determined treatment with a medical doctor was necessary.
16. Some of the Plaintiffs and former patients were referred to Clearwater Billing, LLC for treatment by Dr. Floros, and some were not. Mr. Harbour was referred by Dr. Auck from Rolling Acres. (It appears Mr. Harbour treated three times with Dr. Auck and once with Chiropractor Frain, on referral from Dr. Auck). Some were referred to Clearwater from other chiropractors. Dr. Floros also treated some of the patients without referral to Clearwater.
17. Some of the named Plaintiffs and other patients identified in discovery were referred to chronic pain management specialist, and some were not.
18. Some of the named Plaintiffs and other patients identified in discovery were referred to an orthopedic specialist and some were not.
19. At least one of the patients identified in discover received a recommendation to obtain mental health counseling, while the others were not.
20. Every treatment method and/or referral was individualized and based on the best interests of the client. Clearwater physician providers treat patients, with the goal of alleviating symptoms and helping them heal. Clearwater physician providers are not attempting to influence patients' lawsuits, but rather we are attempting to provide relief and heal them.
21. Some of the named Plaintiffs were only treated on one occasion, and some were treated on multiple occasions.
22. Other patients identified in discovery either were not treated (never referred to Clearwater), treated only 2 times, or treated more than two times. Everything depended on the patient, the presentation, the individual Clearwater physician provider, informed consent discussions, and the other matters discussed above.

C. Treatment of Patient Sharde Perkins

1. I have reviewed Sharde Perkins' office chart with Clearwater (Ghoubrial 000561 – 000602).
2. Ms. Perkins was evaluated and treated with a Clearwater physician provider on May 5, 2016, and June 2, 2016, for injuries related to an April 27, 2016, motor vehicle accident. I

did not evaluate or treat Ms. Perkins, did not direct such treatment, and had no involvement in the treatment choices involving Ms. Perkins. The Clearwater physician provider who saw Ms. Perkins utilized his own professional judgment in treating her.

3. None of the Defendants referred Ms. Perkins to treat with Clearwater.
4. Ms. Perkins' initial office visit with Clearwater was thorough and lengthy:
 - a. Typical initial office visits can last 30 minutes or longer depending on the patient, and the Clearwater records reflect a full and thorough evaluation.
 - b. Ms. Perkins admitted on deposition the initial visit lasted at least 15-20 minutes. She further testified the Clearwater physician provider discussed her family history and background, performed a physical examination, and discussed treatment options with her.
 - c. The Clearwater physician reviewed prior treatment records from Aultman Hospital, discussed her history, accident facts, injuries and prior treatment with Ms. Perkins, and documented the following from his initial discussions with Ms. Perkins:

Billboard Parking
Trusted Visit 5MG
Dinner - P. meal deal 10.75
Salmon
Orange Soda Pop?
Trans Bus

LOT 363111
Evergreen ISU Laptop ADJUSTABLE
KODAK SAFETY FILM

KODAK SAFETY FILM

Sharde is a 26-year-old female who was involved in a motor vehicle accident on April 27, 2016. She was the restrained driver of a vehicle at an intersection trying to make a left hand turn when two vehicles collided up ahead of her to the right in the intersection. Both vehicles were spinning around and one hit her on the passenger's side of her car, the other car spun around and hit her on the driver's side of her car. The airbags in Sharde's car did not deploy. She did hit the right side of her face on the steering wheel. She did not hit her head or lose consciousness. She did go to Aultman's ER where she was evaluated with a CT scan of the neck that was negative. She was discharged with anti-inflammatory and a muscle relaxer. She has been taking those. Since then, she has been following with her chiropractor, Dr. Peterson. She presents today due to ongoing pain and discomfort. It is localized to her lower back. On a scale of 1 to 10, she rates her pain level as 10 out of 10. She did initially have some numbness and pain in her right lower extremity but that is resolved as time goes on. She has no bowel or bladder issues.

Past Medical History: 1. Scoliosis with chronic back pain. She said her current pain feels like her normal chronic pain except it was worsened by the accident.

Surgical History: 1. Tonsillectomy.

Social History: She denies tobacco, alcohol or drug use.

Family History: Noncontributory.

Medications: None.

Allergies: NKDA

Review of Systems: Low back pain.

- d. The Clearwater physician provider performed a complete physical examination, including neurological tests, as documented in a 2-page dictated office note.

- e. The Clearwater physician identified at least one trigger point and treated it with an injection of a corticosteroid and Marcaine, which is only done after a full informed consent discussion. The patient tolerated it well.
 - f. The Clearwater physician discussed his diagnoses and the treatment options with the patient. The patient asked for a TENS unit and back brace, which were explained to her.
5. The Clearwater physician provider did not "surreptitiously" obtain informed consent for injections. Rather, he discussed the trigger point injections with Ms. Perkins, including the potential side effects, and obtained informed consent. This is not only standard practice, but Ms. Perkins admitted to this discussion at her deposition.
 6. Rather than being given "as many injections as possible", Ms. Perkins received ONE injection at her first visit, no injections at her second office visit, and then was discharged from Clearwater's care due to her improvement.
 7. Ms. Perkins specifically asked the Clearwater physician provider for a TENS unit, which she apparently was still using nearly a year later. Ms. Perkins actually told the receptionist at Canton Injury Center she "needed a TENS unit or some further relief".
 8. Ms. Perkins was not just handed a TENS unit without instructions. Rather, in addition to asking for the device, she was provided instructions on use of the device, as evidenced by the dictated office note of the Clearwater physician and Ms. Perkins' own admission:

SPECIAL NOTE: I provided the patient with an Ultima 3t TENS unit. I gave instructions on its use and recommended the normal mode setting (30 microseconds pulse width and 2 Hz pulse rate) for 30 minutes, two times daily.

Re: TENS Unit Instruction & Confirmation

Sandra Perkins was issued a LUX TENS Unit on 5/14/16 and instructed how to use this device and given a manual on TENS Unit No. 14150. At the time of instruction, I can confirm that the TENS Unit I was instructed on and received was in great working order. I can affirm that this unit was tested in front of me at my visit and that the unit turned on after the battery was placed in the unit with the setting functions properly working during instruction. In addition, I was directed to use my manual to contact the medical office at (330) 331-7207, if you have any questions related to this TENS Unit.

Sandra Perkins
Patient Signature

Sandra Perkins
Patient Signature

Sandra Perkins
Patient Signature

Sandra Perkins
Patient Signature

9. Ms. Perkins also asked the Clearwater physician provider for a back brace, and the Clearwater physician fitted her with a back brace:

SPECIAL NOTE: I fit the patient with an Evergreen back brace.

10. It is my understanding continued to utilize her back brace for relief for at least a year after it was fitted for her.
11. Ms. Perkins was never prescribed narcotic pain medication by any Clearwater physician provider. Rather, she was prescribed Flexeril and Motrin, the same medications prescribed by Aultman Hospital's Emergency Department Physician.
12. Even without the use of a narcotic/opiate, the Clearwater physician provider advised Ms. Perkins at her second office visit to "scale back on the medications" to "see how she does without them." He prescribed Flexeril and Motrin, but with no refills.
13. Given that Ms. Perkins' condition was "much better overall" with the treatment provided and her injuries were "resolving", the Clearwater physician then released Ms. Perkins from Clearwater's care. The Clearwater physician note from this visit reads:

Shirley Perkins June 2, 2016
The patient is here for a follow-up visit. She said that she is doing much better overall. She is having more intermittent pain now in her lower back. She is still taking the Motrin and Flexeril on a near daily basis. She has had no pain really in the past week, but did have some last week. She is still following with her chiropractor. She is hoping to finish within the next week or two.
IMPRESSION: 1. Resolving sprain of ligaments in the lumbar region. 2. Resolving strain of musculature in the lumbar region.
PLAN: I have advised her to scale back on the medications and see how she does without them. I did give her refills of Flexeril 10 mg and Motrin 800 mg each #60, one PO b.i.d. prn, zero refills to have on hand in case she needs them going forward. We will plan on releasing her today as she is much improved. If anything changes, she will let us know.

14. Clearwater charges for Ms. Perkins' treatment, TENS unit, and back brace totaled \$2,890.00. However, Clearwater accepted \$1,500.00 as full and final payment on these charges, which is nearly a 50% reduction. Moreover, payment was not issued to Clearwater Billing Services, LLC until November 15, 2017, more than 17 months after treatment was rendered.
15. In my opinion, based upon my education, training, and experience and to a reasonable degree of medical certainty, the care rendered by the Clearwater physician provider was proper and within the standard of care, the treatment provided was reasonable and necessary, and the Clearwater charges, even before reductions, were reasonable and customary in the industry.

D. Treatment of John Doe 1

1. John Doe 1 was evaluated and treated by me 3 times for injuries related to an accident in 2009. Based on my medical judgment and evaluation of the patient, he was not prescribed a TENS unit or back brace.

2. Based on my education, training and experience, along with my review of the medical records and participation in the treatment of John Doe 1, it is my opinion to a reasonable degree of medical certainty that I met all applicable standards of care in my treatment of John Doe 1.
3. Clearwater Billing, LLC, through me, agreed to accept a 20.5% reduction on his charges as full and final payment, which were reasonable.

E. Treatment of Patient Jane Doe 1

1. Jane Doe 1 ("Jane Doe 1") was represented by KNR to obtain recovery for injuries sustained in two separate motor vehicle accidents.
2. In the first motor vehicle accident, the patient was treated by Dr. Floros, but Dr. Floros apparently determined her clinical condition did not require referral to a medical doctor for pain management or other treatment. Thus, neither I nor anyone else from Clearwater Billing, LLC treated Jane Doe 1 for injuries sustained in the first accident.
3. In the second motor vehicle accident, which occurred in 2017, Jane Doe 1 again treated with Dr. Floros. This time, based on the patient's clinical presentation, Dr. Floros referred the patient to me for adjunctive treatment therapies he was not able to perform as a chiropractor. I treated Jane Doe 1 just two times for her injuries and then released her from my care.
4. Dr. Floros did not refer Jane Doe 1 to Clearwater Billing, LLC during her first or second treatment with him. Dr. Floros' physical examination of Jane Doe 1 at his third treatment session with her, which was approximately three weeks after the accident, revealed continued spasms, hypertonic soft tissues, several trigger points, and other conditions that prompted him to refer her to me for medical care.
6. My first treatment of Jane Doe 1 occurred 21 days after her motor vehicle accident, at which time. I conducted a thorough interview and medical evaluation of Jane Doe 1. We discussed her accident, injuries, prior treatment, and other issues pertinent to evaluation and treatment. We also discussed her past medical history, past surgical history, social history, medications, and allergies.
7. I also performed a complete head-to-physical examination of Jane Doe 1, as documented in the medical records, including examination and evaluation of her HEENT (head eyes ears nose and throat), neck, spine/back, grasp/manipulation, lower and upper extremities, musculoskeletal system, and neurological status. The physical examination revealed spasticity in the muscles and cervical tenderness, including the presence of trigger points. I also performed a straight leg raise test, performed a test to

evaluate for presence of a bowstring sign, observed the patient's movements, performed a Romberg test, and otherwise tested and evaluated the patient's medical status.

8. Following my evaluation, I diagnosed the patient with multiple issues, including but not limited to cervical strain, trapezius muscle strain, inflammation, and trigger points. I discussed my findings and recommendations with Jane Doe 1. I explained she should continue therapy for the soft tissue injuries and prescribed a muscle relaxant and an NSAID to reduce inflammation. We discussed the usage and potential side effects of the medication. I did not prescribe narcotic pain medication. (Of note, Summa Health System Emergency Department records from treatment relating to Jane Doe 1's accident, documented Jane Doe 1 had already taken Percocet on the day of the accident.)
9. Given the diagnoses and the patient's condition, we discussed a potential TENS unit for electrical stimulation at home. Jane Doe 1 indicated she wanted a TENS unit. Accordingly, after first obtaining informed consent, I provided her an Ultima 3t TENS unit, gave instructions on its use, made sure it was working properly, and recommended the normal mode setting (30 microseconds pulse width and 2 Hz pulse rate) for 30 minutes, two times daily.
10. Jane Doe 1 was instructed on the use of the TENS unit. In addition, the TENS unit was tested in front of her. Jane Doe 1 confirmed in writing on instructions and working condition:

Re: Tens Unit Instruction & Confirmation

I, [REDACTED], was issued an Ultima 3t Unit on [REDACTED] and instructed how to use this device and given a manual on a 3t Ultima Lot No. 170228. At the time of instruction, I can confirm that the Tens Unit I was instructed on and received was in great working order. I can affirm that this unit was tested in front of me at my visit and that the unit turned on after the battery was placed in the unit with the setting functions properly working during instruction. In addition, I was directed to use my manual or contact the medical office at (330) 331-7207, if you have any questions related to this Tens Unit.

Patient's Signature

Date

Please print name

Authorized Representative for Clearwater Billing Services, LLC

11. Jane Doe 1 presented for a follow-up visit a week later, which was now a full four weeks after the initial injury. She still had "fairly significant" residual tenderness of the right trapezius complex. My physical examination revealed 4 trigger points (two in the cervical region and two in the thoracic region). After discussing the risks and benefits of trigger point injections, the identity of the medications being utilized and the effect of each, and after obtaining informed consent, I administered four trigger point injections with Kenalog and Marcaine. The patient noted immediate relief and resolution of her pain in those areas. Therefore, I documented "Her symptoms are completely resolved at this time" and released her from my care. Jane Doe 1 also requested more soft touch pads for her TENS unit, in the event her pain returned, and I provided her the additionally requested touch pads.
12. My treatment of Jane Doe 1 was reasonable and within all applicable standards of care. Jane Doe 1 expressed that she wanted such treatment, which was only provided after proper informed consent.
13. Clearwater Billing Services, LLC, on my approval, accepted a reduction of 76.9% for the charges to Jane Doe 1, as full and final payment. The actual cost to Jane Doe 1 for services for the initial office visit, which lasted over 30 minutes, was \$69.45 and the follow up visit approximately \$35. The actual cost for the TENS unit was \$115.75. The

actual cost of the TPIs was \$60.76 (\$57.87 for the injection charge and \$2.89 for the corticosteroid medication charge). The actual cost for the TENS electrodes/touch pads was \$37.05.

14. I am familiar with the reasonable and customary charges in the medical community for the above listed services. The amount of the initial charges and the amount of the charges after reduction were both were reasonable and customary.

F. Treatment of Chetoiri Beasley

1. Ms. Beasley was a restrained front seat passenger when her vehicle was T-boned on the passenger side at 25 mph, causing air bag deployment. She was referred for treatment by Dr. Floros. I evaluated and treated Ms. Beasley four times for injuries related to this accident.
2. My initial examination and evaluation of Ms. Beasley was lengthy, including complete history, physical examination, neurological tests, discussion of diagnoses and treatment options, and administration of treatment following informed consent
3. When she returned for a second visit, she claimed her neck pain was "much better." She also stated the "trigger point injections were beneficial." I did not recommend or administer any additional trigger point injections, however, because she was improving and her clinical condition did not warrant them. As documented in the medical records:

She said the trigger point injections were beneficial.

5. My treatment of Ms. Beasley was reasonable and within all applicable standards of care. Jane Doe 1 expressed that she wanted such treatment, which was only provided after proper informed consent.
6. Clearwater Billing, LLC, through my approval, accepted a 30% reduction on its charges for treatment rendered to Ms. Beasley. All charges, even before reduction, were reasonable and customary.
7. Two years later, Ms. Beasley was involved in another motor vehicle accident. The emergency department provided hydrocodone and Flexeril and advised she follow up with a physician.
8. The initial office visit was again a lengthy evaluation in which all treatment options were discussed and treatment only provided after full informed consent was obtained. The patient indicated she was "treated in a polite and courteous manner" and was "satisfied with the care" she received.

9. At the second office visit, she indicated the trigger point injections from the prior visit helped. The medical records document:

The trigger point injections in her neck have helped.

She is starting to feel better with the cortisone shots.

10. During one visit, I discussed a TENS unit with Ms. Beasley and she wanted one. All informed consent was given and she signed the following TENS Unit Instruction & Confirmation:

Re: Tens Unit Instruction & Confirmation

I, Chetoiri Beasley was issued an Ultima 3t Unit on 11/8/17 and instructed how to use this device and given a manual on a 3t Ultima Lot No. 170323. At the time of instruction, I can confirm that the Tens Unit I was instructed on and received was in great working order. I can affirm that this unit was tested in front of me at my visit and that the unit turned on after the battery was placed in the unit with the setting functions properly working during instruction. In addition, I was directed to use my manual or contact the medical office at (330) 331-7207, if you have any questions related to this Tens Unit.

Chetoiri Beasley 11/8/17
 Patient Signature Date
Chetoiri Beasley
 Patient Signature
Chetoiri Beasley
 Authorized Representative for Clearwater Billing Services, LLC

11. Ultimately, I referred her to Chronic Pain Management:

Addendum: The pharmacy called us back regarding the reason for filling the prescription. Apparently the patient had been exhibiting some very strange drug-seeking behavior. She was very agitated. The pharmacist concluded, along with me, that it is probably not in her best interest and that Pain Management would be more suited for her. She only received one prescription in total from us. Hopefully the trigger point injections will be benefitting her.

12. Clearwater reduced charges 23.9%, which were reasonable, as was the care.

F. Taijuan Carter

1. I have read the medical records relating to Taijuan Carter. Mr. Carter was treated by a physician other than me at Clearwater Billing. Based on the examination and evaluation by the Clearwater physician provider and the informed consent discussion with the patient, treatment modalities included pain medication, a TENS unit, and a back brace. Trigger point injections were not provided.

2. On July 15, 2011, Mr. Carter presented for his last visit with Clearwater. At that time, the Clearwater physician provider determined Mr. Carter was "best suited for Chronic Pain Management." Mr. Carter was referred to a chronic pain specialist and released from the care of Clearwater.
3. Clearwater Billing Services, LLC's total charges for treatment were reduced by 49.2%, which was accepted as full and final payment. These were reasonable charges even without reductions. The chronic pain management specialist prescribed Taijuan Carter a TENS unit by a chronic pain management specialist. He filled the prescription at EMPI, at a cost of \$846.68 for the unit, plus an additional 110.24 for leadwire and electrodes, for a total of 956.92. This was greater than our typical charge but within the industry standard, and I am not aware of EMPI's overhead.
4. Mr. Carter was seen again following a 2013 MVA. As with other patients, he responded differently to different treatment modalities. Mr. Carter specifically ASKED for a TENS unit, which he had experience with from his prior treatment. At his follow up visit, he indicated the TENS unit was working. All treatment and costs, which were discounted over 47.6%, were reasonable and necessary.
5. Mr. Carter was involved in another accident on December 15, 2013, causing injuries to his neck and back. He was represented by another law firm. I also treated Mr. Carter for those injuries. Clearwater was not paid for services.

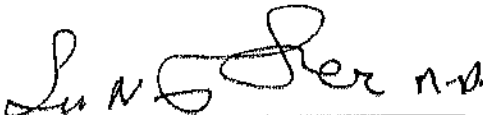
G. Jane Doe

Jane Doe 3 was involved in a MVA on October 26, 2016 and treated at Western Reserve Hospital, where she was prescribed Flexeril and Naprosyn. She then treated at Accident Injury Center of Akron, who referred her to her family practice physician. He recommended she continue with her physical therapy at the chiropractor, prescribed pain medication, an NSAID, and a muscle relaxer, all appropriate. She was subsequently referred to an orthopedic physician

H. Former Plaintiff Matthew Johnson

I reviewed the records produced in discovery and the former deposition of Mr. Johnson. He started treating with physicians before representation with KNR. He tried massage therapy on referral from himself, then Barberton's ED (prescribed muscle relaxers and narcotic pain medication) ED referral to PCP, Dr. Wages. The, Dr. Wages referred him to CNS for a neurology evaluation. The neurologist referred him to a chiropractor. The patient was then referred to a chronic pain management specialist as he had continued pain. The chronic pain management specialist administered a trigger point injection, with Kenalog, and it worked well for Mr. Johnson. Some of the health care providers who were part of his treatment had signed agreements similar to letters of protection.

Further affiant sayeth naught.




Dr. Sam Ghoubrial, M.D.

SWORN TO BEFORE ME and subscribed in my presence this 17 day of June, 2019.



Erin Elefritz
Notary Public
In and For the State of Ohio
My Commission Expires
16 January 2022



NOTARY PUBLIC

1

IN THE COURT OF COMMON PLEASSUMMIT COUNTY, OHIO

MEMBER WILLIAMS, et al.,

Plaintiffs,

-vs-

CASE NO. CV-2016-09-3928KISLING, NESTICO
& REDICK, LLC, et al.,

Defendants.

- - - -
Videotaped deposition of SAM N. GHOUBRIAL, MD,

taken as if upon examination before Brian A.

Kuebler, Chana Margareten, Notary Publics within

and for the State of Ohio, at the Hilton

Akron-Fairlawn Hotel and Suites, 3180 W. Market

Street, Fairlawn, Ohio, at 10:39 a.m. on Tuesday,

April 9, 2019, pursuant to notice and/or

stipulations of counsel, on behalf of the

Plaintiffs.

- - - -

JK COURT REPORTING
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EXHIBIT

H

1 A. That's is correct, sir.

2 Q. Okay. It says here under medical practice that
3 you are the president and owner of Sam N.
4 Ghoubrial M.D. Inc., Wadsworth's largest primary
5 care practice. Is that true?

6 A. To my knowledge, yes.

7 Q. And the address there is 195 Wadsworth Road,
8 Suite 402, Wadsworth, Ohio 44281.

9 A. Yes.

10 Q. Is that a current address?

11 A. Yes, sir.

12 Q. How do you know you're Wadsworth's largest
13 primary care practice?

14 A. Well, there were several practices that had
15 gotten bought up by the hospital and so that left
16 us with the most doctors and the largest patient
17 base by virtue of attrition. And we acquired
18 some other doctors in the area.

19 Q. Does this -- are you taking into account --
20 strike that.

21 Does Sam N. Ghoubrial M.D. Inc encompass both
22 your family practice and the personal injury
23 practice?

24 A. No, sir.

25 Q. What is the personal injury practice named?

1 A. I believe it was '17 or '18.

2 Q. What does it mean to be board certified?

3 A. It means you completed an accredited residency,
4 you took the boards, passed the boards and then
5 ten years later I also passed the recertification
6 part.

7 Q. So why did the board certification expire?

8 A. I just haven't had time to take it.

9 Q. Are you allowed to practice without it?

10 A. Yes.

11 Q. Okay.

12 A. I'm board eligible.

13 Q. How does it impact your practice to have your
14 board certification expire --

15 MR. BARMEN: Objection.

16 Q. -- if at all?

17 MR. BARMEN: Objection. Go ahead.

18 A. It didn't -- it's not uncommon for us to take
19 some time due to circumstances. I just simply
20 didn't have the time to renew it and so they --
21 they allow you a leeway of several years before
22 you can get recertified again. So I remain board
23 eligible.

24 Q. And is your Ohio licensure still current?

25 A. Yes.

1 the internal medicine practice?

2 A. Personal injury clinic, almost all those patients
3 have been involved in some sort of accident
4 whether it be a slip/fall or a motor vehicle
5 accident.

6 The primary care internal medicine practice,
7 that's involved in managing chronic conditions
8 like high blood pressure or diabetes, wellness
9 checks, things like that.

10 Q. What's the purpose of keeping the personal injury
11 clinic separate?

12 MR. BARMEN: Objection.

13 A. I'm sorry?

14 Q. What's the purpose of keeping the personal injury
15 clinic separate from the internal medicine
16 practice?

17 MR. BARMEN: Objection.

18 A. Well, they're two different populations of
19 patients. One population is geared towards
20 conventional, just primary care. The other
21 populat -- group of patients are just almost
22 exclusively related to accidents. So it's a
23 completely different patient population.

24 Q. Well, why would that require two separate
25 clinics?

1 seen. It's an underserved community,
2 predominantly minority, they don't have a lot of
3 health insurance, they can't get in to see a
4 doctor, can you help us out? So I did. And so
5 it was actually Jim Slater who got me involved.

6 Q. Of the Slater & Zurz law firm?

7 A. Yes.

8 Q. You said primarily minority, what do you mean by
9 that?

10 A. Many of them are minority patients and many of
11 them are socioeconomically disadvantaged.

12 Q. You mean minority ethnic groups?

13 A. Some. You know, some Latino, some African
14 American, some from various parts of the world,
15 some from the Middle East. And so these patients
16 have yet to get established, yet to have
17 insurance, yet to establish a primary care.

18 So it's an underserved area where they're
19 looking for doctors to sort of take care of these
20 patients. And it's hard enough for them to
21 receive care in the conventional setting and
22 certainly they can't find it in a setting like
23 the one you're referring to.

24 Q. What's that?

25 A. Personal injury.

1 Q. So how did it develop from there with -- from
2 your conversation with Mr. Slater?

3 MR. BARMEN: Objection. Go ahead.

4 A. Well, eventually started talking to a few
5 chiropractors, they said, yeah, you know, we have
6 a need because these patients can't get seen,
7 they kept having to go back to the ER, back to
8 the ER, the family doctor won't see them. They
9 don't have health insurance, they don't have
10 anybody that will take care of them and they need
11 to be treated. Can you help us out, so I did.

12 Q. Who was the first chiropractor you worked with in
13 this way?

14 A. You know, I don't recall.

15 Q. Who are the chiropractors that you work with in
16 this way?

17 MR. BARMEN: Today?

18 MR. PATTAKOS: Over time.

19 A. Gosh, there's been so many. Some of them have
20 come and gone --

21 Q. Uh-huh.

22 A. -- but there's been quite a few.

23 Q. Who are the ones that send you the most patients?

24 MR. BARMEN: Objection. Go ahead.

25 A. Again, I don't keep track of that, so I don't

1 personal injury practice receive trigger point
2 injections, correct?

3 MR. BARMEN: Objection.

4 A. No.

5 Q. "No"?

6 A. No.

7 Q. Are you sure of that?

8 A. Yes.

9 Q. How are you sure of that?

10 A. I can tell you that not all patients need trigger
11 point injections. Some patients need them, some
12 don't. I can't tell you that the great majority
13 of the patients need them. Because, No. 1, I
14 don't know and, No. 2, to the best of my
15 recollection they don't. They just simply aren't
16 beneficial for everyone. Remember what I was
17 telling you earlier about each patient being
18 individual.

19 Q. Can you describe what a trigger point injection
20 is?

21 A. Yes. You introduce a needle filled with a
22 mixture of Marcaine, which is a local anesthetic,
23 and Kenalog, which is a steroid, directly into
24 the focal area of pain, spasm or discomfort.

25 Q. But you wouldn't just inject any area of pain,

1 Each and every patient is individual.

2 Q. So once a trigger point resolves --

3 A. Uh-huh.

4 Q. -- there is no way you can prove that it once
5 existed, correct?

6 A. No, actually that's great proof that it existed.
7 Once you administer a trigger point and the pain
8 goes away, as I've seen in thousands of cases,
9 then you can be sure that not only did you
10 localize the trigger point, you treated the
11 trigger point with the proper medication, you
12 introduced it into the proper area and got the
13 desired result.

14 Q. How do you know the pain wasn't being caused by
15 something else?

16 MR. BARMEN: Objection.

17 A. Because I examined the patient.

18 Q. Okay. We'll get into that. My question though
19 is different from the one you answered. My
20 question was: A trigger point itself, whether
21 you inject it or not, let's say you don't inject
22 the trigger point, when a trigger point forms in
23 a patient and resolves, there is no way that you
24 can tell -- there's no way that you can prove it
25 once existed after it resolved unless you took an

1 worth injecting?

2 A. Again, based on the subjective and objective
3 findings.

4 Q. Please explain.

5 A. I have.

6 Q. Which part of your testimony answers this
7 question?

8 MR. BARMEN: The last 35 minutes.

9 MR. PATTAKOS: That's good.

10 MR. BARMEN: Objection. Do you
11 understand what he's asking?

12 A. Each patient has a subjective history and they
13 have objective findings. I examine the areas
14 that they complain about in the subjective exam.
15 If I find a focal area, spasm, irritation,
16 guarding, occasional radiation, tightness,
17 discomfort, I deem that a trigger point, and I
18 inject it if there are no contraindications.

19 Q. What are the contraindications?

20 A. Well, for instance, occasionally a patient can be
21 on blood thinner, which is an absolute
22 contraindication. It's a relative one. If the
23 patient is diabetic, then you have to make some
24 adjustments to their insulin. If the diabetes is
25 out of control, I typically don't do it. If, in

1 muscle can induce an active satellite trigger
2 point in another muscle. Inactivation of the key
3 trigger point often also inactivates its
4 satellite trigger point without treatment of the
5 satellite trigger point itself.

6 A. That's exactly what I just said.

7 Q. Okay. That's true, right?

8 A. These articles are helpful. Thank you.

9 Q. Okay. And you of course distinguish between
10 active and latent trigger points in deciding
11 whether to administer an injection, correct?

12 A. Correct.

13 Q. Can you please describe the difference between
14 active and latent trigger points?

15 A. A latent trigger point is typically one that's
16 four to six weeks out, they've had some
17 chiropractic care, they still have myofascial
18 tenderness and they have objective findings
19 there and occasionally, depending on the case,
20 depending on the contraindications,
21 circumstances, how latent it is, I may or may not
22 choose to inject those patients.

23 Q. Do you agree that for an active trigger point --
24 strike that.

25 You wouldn't use an injection on a trigger

1 point that isn't causing pain, correct?

2 A. No.

3 Q. Is that correct?

4 A. Yes.

5 Q. Do you agree that latent trigger points are more
6 commonly found than active trigger points?

7 MR. BARMEN: Objection. Go ahead.

8 A. Not necessarily.

9 Q. If we look at section 2, paragraph 2, of the Wong
10 study, in the middle of the paragraph it says
11 latent trigger points are more commonly seen.

12 A. That's in myofascial pain syndrome, which is
13 fibromyalgia. It doesn't pertain to the acute
14 strains/sprain that I see. When you're referring
15 to myofascial pain syndrome, that's another
16 synonym for the word "fibromyalgia".

17 Q. That's not true, is it, Doctor? You understand
18 that myofascial pain syndrome and fibromyalgia
19 are two separate and distinct diagnoses, correct?

20 MR. BARMEN: Objection. He just
21 testified to what he testified.

22 A. I'm telling you myofascial pain syndrome is a
23 catch basin that includes fibromyalgia. It's a
24 synonymous term, in my mind.

25 Q. Not all patients with myofascial pain syndrome

1 it with a broad brush. Patients who are involved
2 in motor vehicle accidents have acute muscle
3 trauma and they also meet the criteria, on
4 occasion patient-specific depending on case, for
5 a trigger point. So I disagree with that
6 particular statement.

7 Q. Isn't the point, Dr. Ghoubrial, that when a
8 patient suffers acute muscle trauma, it's
9 impossible to tell whether the pain is coming
10 from a trigger point or not, which is why you
11 wait for the acute pain to resolve before
12 you identify a trigger point?

13 MR. BARMEN: Objection. Go ahead.

14 A. That's not the case. I've treated thousands of
15 these patients, I can guarantee you more than the
16 authors of these articles and I've seen the
17 benefits of the trigger point injections and I
18 know when to give them, how to give them, where
19 to give them and when not to give them.

20 Q. Have you ever published a study on trigger point
21 injections?

22 A. I have not.

23 Q. You think that's something you might do one day?

24 MR. BARMEN: Objection.

25 A. I don't know, never gave it any thought.

1 Q. Who else?

2 A. I don't know off the top of my head, but I know
3 when I was in training they said that on occasion
4 they use trigger point injections.

5 Q. Any other reason you disagree with this other
6 than what you've already stated today?

7 A. I've treated thousands of patients with
8 fibromyalgia and typically they respond well to
9 some tricyclics, but on occasion they may need
10 trigger point injections.

11 Q. Well, when you administer trigger point
12 injections, how do you know the patient's pain is
13 related to a trigger point and not the soft
14 tissue trauma or other issues related to their
15 accident?

16 MR. BARMEN: Objection.

17 A. Because they come in after the accident. They
18 were pain free before and now they have pain
19 afterwards. They have subjective and objective
20 findings to support it.

21 Q. But, Doctor, you're also giving them narcotics,
22 you're giving them other pain medication, you're
23 giving them muscle relaxers, they're undertaking
24 chiropractic treatment -- every single one of
25 them is undertaking chiropractic, how do you know

1 of time, as far as narcotics I don't use
2 narcotics on every patient. In fact, that's one
3 of the reasons that I like to use trigger points,
4 when appropriate is to avoid the use of
5 narcotics. Muscle relaxers, again, it's patient
6 specific.

7 I can't emphasize to you enough that there is
8 no class of patients where I just give everything
9 to everyone. Each individual is specific.

10 Q. Dr. Ghoubrial, how do you know that it's not the
11 chiropractic care or other medication that
12 they're taking that's causing the pain to
13 resolve?

14 MR. BARMEN: Objection. Go ahead.

15 A. As I testified to before, these patients get
16 better in a multidisciplinary manner. You treat
17 them with allopathic care. You treat them with
18 chiropractic and physical therapy and
19 occasionally pharmacological care that expedites
20 their treatment. I know that because I've been
21 doing it for ten years on thousands of patients.
22 They wouldn't be seeing me had the chiropractor
23 been sufficient. They would have simply said,
24 I'm doing okay with the chiropractor.

25 Q. So you're saying it's better to provide as much

1 treatment and as many different kinds of
2 treatment as possible and the patient is more
3 likely to get better that way?

4 MR. BARMEN: Objection.

5 MR. BEST: Objection.

6 MR. BARMEN: That's not what he
7 said.

8 A. That's not what I'm saying. I'm saying that
9 patients improve when you take a
10 multidisciplinary approach to their care.

11 Q. What is a multidisciplinary approach?

12 MR. BARMEN: Objection.

13 A. In other words, depending on the patient, like I
14 said it's patient specific, there's no one class
15 of patients here. If a patient comes in -- and
16 I'll use an example. They have cervical pain
17 with guarding, spasm, and they also have a disc
18 injury. So I can treat the cervical strain with
19 some antiinflammatories, possibly with some
20 trigger points. When I find out about the disc,
21 the chiropractor may do some traction. If the
22 disc is significant after the MRI, we may refer
23 them to pain management. They can do some
24 epidurals to try and shrink the disc. If that
25 doesn't work, then they may require surgical

1 MR. MANNION: Objection.

2 Plaintiff's counsel's ignorance as to the
3 medical issues is not a proper method to
4 impeach a witness.

5 MR. BEST: Sustained.

6 BY MR. PATTAKOS:

7 A. As I told you, each patient is different. You're
8 looking for one answer that fits all patients --

9 Q. Any answer that would fit any patient --

10 MR. BEST: Don't interrupt him.

11 A. No, no, no, there's no such thing.

12 MR. MANNION: Objection.

13 Interrupting the witness.

14 A. There's no such thing, Peter. Peter, I wish I
15 could give you the answers you're looking for,
16 but I can only tell you the truth. The truth is
17 each and every one of the patients that I treat
18 is a unique individual by virtue of their age, by
19 virtue of their problems, by virtue of the
20 medications they're on, by virtue of the
21 contraindications, by virtue of when they
22 present, how they present. So there is no
23 uniform answer that I can give you, I can just
24 tell you it's patient specific.

25 Q. Okay.

1 A. Yes, sir.

2 Q. You understand there are many less invasive ways
3 to treat back pain or trigger points, correct?

4 A. Yes.

5 Q. What are some of those ways?

6 A. Sometimes I just simply say, look, I think the
7 best course of treatment for you -- I've done
8 this hundreds of times -- is to just simply go to
9 massage therapy and continue with your
10 chiropractor and I see them for one visit and
11 that's it. Sometimes I say, look, your pain is
12 so significant here that I think you need to go
13 to pain management. I refer them to pain
14 management. When they have a multiple disc issue
15 and they need a fusion, I refer them to
16 neurosurgery.

17 Well, there's many, many ways to treat these
18 patients. No one patient is the same as the
19 second.

20 Q. Do you provide -- I'm sorry, sir. What are other
21 modalities that you would recommend to your
22 patients beside -- other less invasive modalities
23 you would recommend to your personal injury
24 patients besides massage?

25 A. Well --

1 MR. BARMEN: Objection. Other
2 than what he just told you?

3 MR. PATTAKOS: Yes.

4 A. If those patients are already under chiropractic
5 care, if they're not, I recommend physical
6 therapy. I'm not a physical therapist or a
7 chiropractor so I think that's one less invasive.
8 Occasionally TENS units, those are helpful.

9 Q. Anything else?

10 A. Yes. On occasions braces.

11 Q. What about RICE therapy?

12 MR. BARMEN: Objection.

13 A. Never used it.

14 Q. Do you understand what it is?

15 A. No.

16 Q. Rest, ice, compression, elevation.

17 A. Those are modalities that the chiropractor would
18 recommend. By the time they get to me, they're
19 not candidates for that. Or if they are, I send
20 them back to the chiropractor.

21 Q. Do you provide trigger point injections to
22 patients in your family -- I'm sorry, your
23 internal medicine practice?

24 MR. BARMEN: Objection. Go ahead.

25 A. Typically I do joint injections there. Very

1 reflects what we were -- what we actually were
2 paid. But I know on 99.9 percent of the cases,
3 we receive a reduction.

4 Q. Okay.

5 A. But --

6 Q. And you said it's typically about 30 or 40 or
7 50 percent, that reduction?

8 A. I wish it were that good. It varies anywhere
9 from 30 percent to, you know -- I just settled a
10 case now for 75 percent reduction.

11 So what you're seeing here is the paid
12 amount, which represents a reduced figure from
13 what's billed. The only way to find out would be
14 to go through each individual patient and find
15 out what was billed. The software doesn't do
16 that.

17 Q. Okay. I just want to pull these up on my
18 computer, if you give me one moment here.

19 Okay. Here we are. Okay. So, the
20 deductible field on this first exhibit, I'm
21 sorry, it's Exhibit 5?

22 A. Yes.

23 Q. That's essentially meaningless, because that only
24 pertains to insurance, correct?

25 A. Correct.

1 Q. What does "adjunctive treatment" mean?

2 A. Additional treatment modality.

3 Q. And you were using the TENS units to treat for
4 which diagnoses?

5 A. We treat a variety. Some cervical, some
6 thoracic, some lumbar, some unilateral, some
7 bilateral, some trapezius, some periscapular, any
8 number.

9 Q. You're referring to body parts there. What type
10 of injuries? Sprain and strains; is that what
11 you're primarily referring to?

12 A. Lumbar strains, sprain, et cetera.

13 Q. Okay. How does the TENS Unit work to provide
14 relief to the patients?

15 A. There was -- delivers low dose electrical
16 frequency, it stimulates the muscle, and provides
17 some relief.

18 Q. Does it provide relief to patients suffering from
19 myofascial pain syndrome?

20 MR. BARMEN: Objection.

21 A. If you are talking in the context of
22 fibromyalgia, are you talking in the context of
23 the myofascial pain syndrome that we see in the
24 motor vehicle accident setting?

25 Q. Either one.

1 A. It does provide benefits in both settings, in my
2 opinion.

3 Q. You rely on any research or peer-reviewed studies
4 to support your use of TENS units?

5 A. Over the years, I've seen many articles that have
6 pointed to the benefits of utilizing TENS units.
7 And further more, it's another modality that
8 allows us to avoid narcotics, when possible.

9 Q. Could you -- do any articles specifically come to
10 mind, either the author or the specific contents
11 of the articles?

12 A. There's -- I have seen dozens of articles, but
13 none of them come to mind.

14 Q. Do you use the TENS units to treat patients for
15 anything, other than strains or sprains?

16 A. Predominantly, that's it.

17 Q. Does the same go for back braces?

18 A. No. Back braces, I typically use in a patient
19 who not only has lumbar strain, pain on range of
20 motion, and may be engaged in some sort of
21 physical activity or is trying to get to work and
22 needs to be braced in order to give him some
23 additional support.

24 Q. Okay. And that's typically for strains or
25 sprains to the lumbar region?

1 25th, it says she is going to have extensive
2 surgery on her right arm for the fracture to the
3 shoulder. And on June 1st it says, she is going
4 to have surgery of her shoulder, correct?

5 A. Right. And it also says -- let's read the whole
6 thing. The trigger points were very beneficial
7 to her neck. And she needed narcotic analgesics,
8 not only because of the neck, the back, and the
9 fracture.

10 Q. And she received four prescriptions for narcotics
11 from you, correct?

12 A. Correct.

13 Q. And that was on April 27th, May 4th, May 10th,
14 and June 1st, correct?

15 A. That's correct.

16 Q. And no muscle relaxers, no TENS Unit, and no back
17 brace, correct?

18 A. Correct.

19 Q. And this was after her first date of treatment at
20 Akron Square, being April 22nd, 2016. And you
21 could see that from the first page; is that
22 correct?

23 A. Correct.

24 Q. Okay. Dr. Ghoubrial, of these 13 files that we
25 just went over, 13 out of 13 were offered trigger

1 Brad, I'm not here to answer your
2 questions.

3 MR. BARMEN: No, you are just here
4 to misrepresent everything, so you could
5 try and get little sound bites, to salvage
6 your sinking ship. But that's not what
7 he's here for. He is here to answer your
8 questions when they're proper.

9 - - - -

10 (Thereupon, the requested portion of
11 the record was read by the reporter.)

12 - - - -

13 MR. BEST: That's a compound
14 question. I think there are at least three
15 questions in there. Which one do you want
16 him to answer? That's my objection.

17 A. Let's answer the first one. The patient's
18 physician relationship is based on trust,
19 absolutely. The second one is, do I have an
20 ethical responsibility to put the patient's
21 welfare above mine? Yes. And above my own
22 self-interests, yes. And use sound medical
23 judgement, yes. And I have done all those things
24 100 percent of the time in every single patient
25 that I've seen.

The State of Ohio,)

County of Summit.) SS:

IN THE COURT OF COMMON PLEAS

Member Williams, et al.,

Plaintiffs;

vs.

No. CV-2016-09-3928

Judge James Brogan

Kisling, Nestico &
Redick, LLC, et al.,

Defendants.

- - - -

Videotaped deposition of ROBERT PAUL HORTON, one
of the Defendants herein, taken before Mary Lou Mellinger,
a Registered Professional Reporter and Notary Public within
and for the State of Ohio, at the offices of Thomas A.
Skidmore Co., L.P.A., One Cascade Plaza, 12th Floor,
PNC Center Building, Akron, Ohio, commencing at 9:09 A.M.,
Monday, February 25, 2019, pursuant to notice of counsel.

- - - -

Magna Legal Services
866-624-6221
www.MagnaLS.com



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1 others at the firm, if you sent e-mails they'd
2 eventually get in there?

3 A I don't think so at the time. I don't think -- I
4 mean, maybe if you cut and pasted them in there. I
5 have no idea. Now I think it's integrated into the
6 software. I don't know if it was at the time.

7 Q Do you remember Member Williams' case?

8 A Vaguely.

9 Q Okay. And do you recall that she never saw a
10 chiropractor in her care, true?

11 A I don't think so. I don't have a recollection of it.
12 I don't believe so.

13 Q Okay. Why don't you take a look at your affidavit.
14 I think that you addressed that issue in the
15 affidavit.

16 A I think the affidavit says I didn't refer her to one,
17 that's accurate. Yeah, it says "Neither KNR nor I
18 requested Member Williams to treat with any
19 chiropractors as a result of the accident." Yeah, I
20 don't --

21 Q You never referred her to any physician, true?

22 A I don't think so, no. To the best of my knowledge I
23 would say that's true.

24 Q And it wasn't because she was a friend of anyone at
25 the firm, it's because you had to make a decision

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1 with Member Williams on what was best for her and her
2 case, true?

3 A Yes.

4 Q You didn't treat her different than you would have
5 somebody else who came in that you didn't know, true?

6 A True.

7 Q So how would you make the determination on whether
8 you were going to ask somebody if they needed to see
9 a chiropractor if they asked you, or what type of
10 doctor? How would that come about?

11 A Can you say that again?

12 Q Sure. So when you had discussions with the clients,
13 a lot of them -- well, they were all injured, true?

14 A Yes.

15 Q You didn't do only property damage, fair?

16 A We did no property damage.

17 Q You might help them out if they had a PI claim get a
18 rental or --

19 A Yeah, the ancillary stuff.

20 Q But they had to have an injury to represent them?

21 A Yes.

22 Q And would you say that the vast majority of your, if
23 not all of your clients at KNR, also had treatment
24 for their injuries?

25 A Yeah. I mean, they had to have treatment to have an



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1 injury claim I guess.

2 Q How would you decide whether you should recommend a
3 chiropractor to someone or recommend a medical
4 doctor, or, I mean, what process would you go
5 through? For example, would you say "Do you have a
6 primary care physician? Do you have a chiropractor
7 already?" What would you do?

8 A Um --

9 Q And I'm not talking about which one you send them to
10 yet, just how would you make the initial decision?

11 A If they had a soft tissue injury, then we were to
12 send them to a chiropractor. I don't think Member --
13 I think she had a head injury, I vaguely, vaguely
14 remember. I don't know. And if somebody came in and
15 said, you know, "I've got a concussion," you know,
16 I'm not going to send them to see a chiropractor.

17 Q Or broken bones?

18 A Right. Well, I mean, even if you have a broken leg,
19 you can still have, you know --

20 Q True.

21 A -- a neck and back injury and still send them to see
22 a chiropractor, so --

23 Q So did you ever -- strike that.

24 You would make a determination, though, talking
25 with the client, a determination as to what type of

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1 were already treating with either a family doctor or
2 a chiropractor, and they continued to do that
3 throughout the case, true?

4 A True.

5 Q And you never forced somebody, if they were with
6 their family doctor, to go see somebody else, did
7 you?

8 A Never forced, no.

9 Q Some primary care physicians, in fact, many of them
10 didn't like getting involved in motor vehicle
11 accidents, true?

12 A Yes.

13 Q And for that reason, you often had to recommend
14 somebody, true?

15 A Yes.

16 Q Okay. And oftentimes it would be a chiropractor?

17 A Most often.

18 Q What are some of the things when you were at KNR that
19 were important to you with respect to -- well, let me
20 strike that.

21 Would you agree that typically you would use
22 chiropractors at KNR who would agree to letters of
23 protection?

24 A Yes.

25 Q And why was that, do you know?

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1 A Just like you say with your primary care doctor, it's
2 to make sure that they get care, I guess is the best
3 way to describe it. A lot of -- this is one of the
4 most frustrating things about what we do, is a lot of
5 medical providers refuse to see you or want you to
6 pay cash up front if you've been in an accident. Not
7 getting care is not a good option and people don't
8 have the money to pay doctors up front. So most of
9 the chiropractors who actually do personal injury
10 work work on letters of protection, so they'll see
11 your patients or clients and get paid when they're
12 done.

13 Q It's a benefit to the client?

14 A Yes.

15 Q And when you say it's not good for them not to have
16 treatment, you mean that, number one, they need to
17 heal, and number two, if the insurance company sees a
18 gap in treatment, there will be questions?

19 A Yes.

20 Q Okay. Another thing with the chiropractors, some of
21 them provide transportation to their office, true?

22 A Some of them do, yeah.

23 Q That's a benefit to your clients as well, isn't it?

24 A You would have to ask them, but I would assume it is.

25 Q Well, you talked --

1

1 IN THE COURT OF COMMON PLEAS

2 SUMMIT COUNTY, OHIO

3 MEMBER WILLIAMS, et al.,

4 Plaintiffs,

5 -vs-

CASE NO. CV-2016-09-3928
 VOLUME II

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

8 Defendants.

9 - - - -

10
11 Videotaped deposition of GARY PETTI, taken as if
12 upon examination before Brian A. Kuebler, a
13 Notary Public within and for the State of Ohio,
14 at the Pattakos Law Firm, 101 Ghent Road,
15 Fairlawn, Ohio, at 9:33 a.m. on Friday, March 1,
16 2019, pursuant to notice and/or stipulations of
17 counsel, on behalf of the Plaintiffs.

18 - - - -

19 JK COURT REPORTING
20 55 PUBLIC SQUARE
21 SUITE 1332
 CLEVELAND, OHIO 44113
 (216) 664-0541

22 www.jarkub.com

23
24
25 EXHIBIT

J

1 MR. MANNION: Objection as to
2 anything outside this case.

3 A. Yes. When I had a settlement, it was not final
4 until Nestico did the approval of the cut on the
5 medical bills -- on the chiropractic in
6 particular.

7 So I would get an offer from the insurance
8 company, get authority from the client to accept
9 a certain net amount, was the way I did it, net
10 amount in their pocket. And in order to make
11 that work, I would have to adjust the medical
12 bills, reduce doctor whomever, and then I'd write
13 it all up saying, okay, you know, this makes the
14 math work if Dr. Kahn, for example, cuts her bill
15 from 5,500 to four, then the math works, the
16 client gets what they're expecting, we get
17 whatever in a fee, and then you take that file
18 all written up and set it in Nestico's office.
19 And then at some point later, you get it back
20 with an "okay" I think he wrote on it.

21 Q. Or?

22 A. Or no. You know, you've got to get more, we've
23 got to take less or cut somebody else. Further
24 instruction. Most of mine were always okay
25 though, as I recall.

1 doing.

2 THE WITNESS: Oh, okay.

3 A. Zealously representing people within the bounds
4 of the law, whatever that entails, in any
5 particular case.

6 So I don't have a lot to say other than it's
7 easy for him to say, but as a practical matter,
8 I'm not sure again that the treatment from
9 Clearwater added value to the client's case.

10 MR. MANNION: Objection.

11 MR. RUBIN: Objection.

12 Q. And when you talk about insurance companies, to
13 some degree, are always going to be doing their
14 jobs --

15 A. Uh-huh.

16 Q. -- to represent their sides zealously, this isn't
17 just that, is it? What Kelly Phillips is talking
18 about here.

19 MR. RUBIN: Objection.

20 MR. MANNION: I'm going to object
21 again.

22 A. I would say no. It's a -- it's a, you know,
23 perception that these look like manufactured
24 cases. And that certainly is an opinion that I
25 share.

1 all that, created a very, very difficult, what I
2 perceived as an ethical situation for me, because
3 I wanted to tell her the truth, what I believed
4 to be the truth, which is that that's the way
5 this works and you're part of a larger operation.

6 Q. Okay. There were other doctors that the firm
7 could have sent its clients to other than Dr.
8 Ghoubrial, correct?

9 MR. MANNION: Objection, saying
10 the firm sent them to Ghoubrial. You know
11 that's a mischaracterization.

12 MR. RUBIN: Join.

13 A. Certainly. You know, if people have health
14 insurance, they can go anywhere for medical
15 treatment ordinarily, at least in my experience.
16 You know, there are a few -- a few that I've run
17 across over the years. Doctors that is, MDs,
18 that don't want to be involved in auto accident
19 cases. But most of them, I would say in my
20 experience, the overwhelming majority are -- if
21 you have some means to pay, they'll treat you.

22 Q. If you have insurance, they'll accept your
23 insurance, correct?

24 A. Right. Yeah.

25 MR. MANNION: Objection.

IN THE COURT OF COMMON PLEAS
OF SUMMIT COUNTY, OHIO

~~~~~

MEMBER WILLIAMS et al.,

Plaintiffs,

vs. Case No. CV 2016 09 3928

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

Defendants.

~~~~~

DEPOSITION OF
KELLY PHILLIPS III

February 22, 2019
10:07 a.m.

Taken at:
Pattakos Law Firm
101 Ghent Road
Akron, OH

Kurt M. Spencer, Notary Public



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1 involved. Did you ever see those issues?

2 A. Health benefits, no.

3 Q. You've never seen that, at all?

4 A. No, I have not seen it.

5 Q. Okay.

6 A. Again, health benefits,
7 contractually, they have to -- now, they could
8 be subrogated to what they pay.

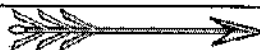
9 Q. True. And, those subrogated
10 interests might be even more difficult to
11 negotiate down than a doctor with a Letter of
12 Protection, correct?

13 A. Oh, certainly.

14 Q. I thought so. And, likewise,
15 primary care physicians often don't want to get
16 involved in motor vehicle accident cases, true?

17 A. I'm sure that there are quite a few
18 doctors that don't want to handle,
19 specifically, auto accident cases, yes.

20 Q. Now, you were asked whether there
21 was a professional duty to obtain the police
22 report in an accident. Well, you have a
23 professional duty to obtain medical records,
24 and other items that you think will help you
25 get the case settled, and maximized to the best



STATE OF NEW YORK)
) SS: AFFIDAVIT
COUNTY OF MONROE)

Now comes Affiant, Dr. Adam Carinci, M.D., first being duly sworn according to law, deposes and states as follows:

1. I, Dr. Adam Carinci, M.D., am over the age of eighteen and I have personal knowledge of the information contained herein.

2. I am a medical doctor licensed in the State of New York specializing in pain management. I am Board certified in anesthesiology with a sub-specialty Board certification in pain management. I currently serve as the Chief of the Division of Pain Management and the Director of the Pain Treatment Center for the University of Rochester Medical Center. I am also an Associate Professor at the University of Rochester School of Medicine and Dentistry. A copy of my Curriculum Vitae is attached hereto as Exhibit "A".

3. As part of my active clinical practice, I have been treating patients suffering with acute back pain and/or traumatically induced muscle pain for over 12 years. Many of these patients' injuries were caused by motor vehicle accidents or other traumatic events.

4. In addition to my active clinical practice, I have published numerous peer-reviewed and non-peer reviewed journal articles, book chapters, monographs, and editorials on the subjects of anesthesia and pain management.

5. As part of my retention in this matter, I have reviewed material, including, but not limited to, treatment records of Dr. Sam Ghoubril, M.D., Dr. Richard Gunning, M.D., billing records of Clearwater Billing, LLC, relevant medical studies, as well as the affidavit of Michael Walls, M.D.

6. Based on my education, training, and experience, it is my opinion, to a reasonable degree of medical certainty, that it is medically appropriate to administer Trigger Point Injections (TPIs) to patients suffering from acute pain, including acute neck and back pain, resulting from trauma, including trauma caused by motor vehicle accidents. This treatment approach is used on a fairly routine basis in the medical profession.

7. Soft tissue injuries, including but not limited to muscle strains, ligament strains, and muscle spasms, are often treated with multiple modalities, including chiropractic care, pain medication, the use of anti-inflammatories, electrical stimulation, muscle relaxers, trigger point injections.

4846-4324-5130.1



8. The use of steroidal and non-steroidal trigger point injections is a widely accepted and appropriate treatment modality for soft tissue injuries. Trigger point injections, whether steroidal or non-steroidal, are not contraindicated for use in treating acute trauma. To the contrary, numerous peer-reviewed and accredited medical studies support the use of TPIs as a treatment modality for acute and sub-acute soft tissue injuries.

8. In my practice I have, and do, treat patients suffering from traumatically-induced acute muscle and back pain with steroidal or non-steroidal TPIs when appropriate based on the patient's presentation, the patient's subjective complaints, my objective findings on physical examination, and my overall clinical assessment of the patient.

9. The use of Marcaine and Kenalog, or similar medications, is standard with TPIs and is medically reasonable.

10. While every patient is different, it has been my experience that this type of treatment has generally proven beneficial to my patients in helping to alleviate their pain and is a reasonable method of treatment. Of course, the level of effectiveness can vary between patients. The level of effectiveness can even vary between muscle groups in the same patient.

11. The use of the CPT coding by Clearwater Billing, LLC was appropriate.

12. Based on my review of the material provided, Dr. Ghoubrial's treatment of his acute trauma patients with steroidal TPIs was reasonably and medically appropriate and not contraindicated or inappropriate in any way.

13. Like TPIs, the use of TENs Units can be an effective modality in treating and helping to alleviate soft tissue injuries, including neck and back pain and spasm. It is simply factually inaccurate to state there is no credible peer-reviewed evidence in literature supporting the use of TENs Units for the treatment of acute low back pain or soft tissue injuries. The use of TENS Units to treat such pain is an accepted method of treatment in the medical community.

14. It is not unusual, and in fact it is relatively standard, to treat patients suffering from traumatically-induced soft-tissue injuries, like those caused by a motor vehicle accident, with a combination of Flexeril, Vicodin/Percocet/Norco or some other similar narcotic or opiate, and Ibuprofen/Motrin/Naprosyn or some other non-steroidal anti-inflammatory (NSAID).

15. Patients with traumatically-induced soft tissue injuries, like those caused in a motor vehicle accident, often heal quicker and have reduced pain when treated with multiple modalities, including a combination of chiropractic care, medication, TENs Units, TPIs, or other treatment modalities. Using multiple treatment modalities is standard in the medical community.

16. The fees charged by Clearwater Billing, LLC for the medical services provided are not "exorbitant" or unreasonable. To the contrary, Clearwater Billing, LLC's charges for TPIs, steroidal medication utilized for the TPIs, initial office visits, follow-up office visits, and TENs Units are reasonable and within the spectrum I would consider to be normal based on my training, education, and experience. In other words, these are reasonable medical expenses. This is true even if the charges are not reduced.

Further affiant sayeth naught.


Dr. Adam Carroll, M.D.

SWORN TO BEFORE ME and subscribed in my presence this 14th
day of June 2019.


Notary Public

My Commission expires:

11-29-2020

CATHERINE E. CLIFF
NOTARY PUBLIC, STATE OF NEW YORK
ID No. 01CL6119545
QUALIFIED IN MONROE COUNTY
MY COMMISSION EXPIRES 11/29/2020

Adam Carinci

**Adam J Carinci, MD
Curriculum Vitae****Date Prepared /** 2/2019**Updated:****Name:** Adam J. Carinci, M.D.**Title:** Chief, Division of Pain Medicine
Director, Pain Treatment Center
Associate Professor
University of Rochester Medical Center
University of Rochester School of Medicine and Dentistry**Office Address:** 601 Elmwood Ave, Box 604
Rochester, New York 14642
Office phone 585-273-5875
Fax 585-276-0144
Cellphone is 845-797-2305**Personal Email:** adam.carinci@gmail.com**Work Email:** adam_carinci@urmc.rochester.edu**Education**

1998	B.S. Suma Cum Laude	Biochemistry	Pace University
2005	M.D.	Medicine	Johns Hopkins School of

Adam Carinci

Medicine

Postdoctoral Training

06/05 – 06/06	Intern	Internal Medicine	Johns Hopkins University/Sinai Hospital
06/06 – 07/09	Resident	Anesthesia and Critical Care	Johns Hopkins Hospital
07/09 – 06/10	Fellow	Pain Medicine	Massachusetts General Hospital

Faculty Academic Appointments

07/10 – 8/16	Instructor	Anesthesia, Critical Care and Pain Medicine	Harvard Medical School
12/17 –	Associate Professor	Anesthesia, Perioperative and Pain Medicine	University of Rochester School of Medicine and Dentistry

Appointments at Hospitals/Affiliated Institutions

07/09 – 8/16	Assistant in Anesthesia	Anesthesia, Critical Care and Pain Medicine	Massachusetts General Hospital
9/16 – 11/17	Staff	Anesthesia / Pain Medicine	Our Lady of the Lake
9/16 – 11/17	Staff	Anesthesia / Pain Medicine	Baton Rouge General
12/17 –	Faculty	Anesthesia / Pain Medicine	University of Rochester Medical Center

Other Professional Positions

2010-	Advisory Board	Pain.com
2010- 2014	Clinical Advisor	Medicom Worldwide, Inc.
2010- 2014	Consultant	Analgesic Solutions
2010- 2013	Physician Reviewer	Medpage Today, LLC.
2012- 2013	Scientific Advisory Board	Covidien Pharmaceuticals
2012- 2012	Scientific Advisory Board	Cubist Pharmaceuticals
2013- 2014	Scientific Advisory Board	Mallinckrodt Pharmaceuticals

Adam Carinci

2014 –	Consultant	Maximus Federal Inc.
2015 –	Consultant	Dane Street, Inc.
2017 –	Consultant	CompPartners, Inc.
2017 –	Consultant	Professional Disability Associates, Inc.
2016 - 2017	Scientific Advisory Board	Collegium Pharmaceuticals, Inc.

Major Administrative Leadership Positions**Local**

2010 – 13	Director, Same-Day Surgery Unit (SDSU) PACU Nurse Lecture Series	Massachusetts General Hospital
2012-14	Physician Lead for MGH Anesthesia Preoperative IT Systems	Massachusetts General Hospital
2012-14	Medical Director PATA Pre-Admission Testing Area	Massachusetts General Hospital
2014-16	Director, Interventional Pain Lecture Series	Massachusetts General Hospital
2014 -16	Director, MGH Pain Center (Boston)	Massachusetts General Hospital
2014 -16	Director, MGH West Pain Center (Waltham)	Massachusetts General Hospital
2014-16	Director, Chronic Pain Inpatient Service	Massachusetts General Hospital
2017 -	Chief, Division of Pain Medicine	University of Rochester Medical Center
2017 -	Director, Pain Treatment Center	University of Rochester Medical Center

Committee Service**Local**

2011-2012	Residency Selection Committee	Massachusetts General Hospital
2011-2012	Pain Fellowship Selection Committee	Massachusetts General Hospital
2011-2012	DACCPM Clinical Research Focus Group	Massachusetts General Hospital
2012-16	Clinical Research Advisory Committee	Massachusetts General Hospital
2012-16	Ortho PATA Redesign Committee	Massachusetts General Hospital

Adam Carinci

	2012-	Committee Chair
2012-16	Scientific Review Committee	Acute Pain Medicine Symposium, Harvard Medical School
	2012-	Committee Chair
2012-16	Executive Perioperative Leadership Committee	Massachusetts General Hospital
2012-16	Quality Assurance Committee	Massachusetts General Hospital
2012-16	PATA Information Technology Platform Selection Committee Meeting	Massachusetts General Hospital
2014 - 16	Medical Education and Safety Committee Subcommittee on Pain and Sedation (Pharmacy and Therapeutics Committee)	Massachusetts General Hospital
2017 -	Pain Improvement Steering Committee	University of Rochester Medical Center
2017 -	Ambulatory Medical Directors Council	University of Rochester Medical Center
2017 -	Executive Committee, Anesthesiology	University of Rochester Medical Center
2018 -	Quality Improvement Committee	University of Rochester Medical Center

Professional Societies

2002 –	American Society of Anesthesiologists	
	2007-2008	Adjunct Committee Member, Committee on Pain Medicine
	2008-2009	Resident Trustee, Board of Trustees, Wood Library – Museum
	2009-2010	Adjunct Committee Member, Committee on Governmental Affairs
	2009-2010	Adjunct Committee Member, Committee on Communications
2008 – 2009	MedChi: Maryland State Medical Society	
	2008 – 2009	Council Member, Legislative Council
2012-	Massachusetts Medical Society	
	2012-	Executive Committee Member; District 6 Alternative Representative
2012-	Massachusetts Biotechnology Education Foundation	Community College Advising Committee
		Pain Medicine Exam Committee, Exam

Adam Carinci

2015 –	American Board of Anesthesiology	Writer
2017 -	North American Neuromodulation Society	Education Committee

Editorial Activities**Ad hoc reviewer:**

1. Pain Medicine
2. Anesthesia and Analgesia
3. The Open Anesthesiology Journal

Honors and Prizes

1994 – 1998	Presidential Scholarship	Pace University	Full Tuition Scholarship
1998	Summa Cum Laude	Pace University	Top 2% of Graduates
2001 – 2005	Francis Turner White Academic Scholarship	Johns Hopkins Medical School	Tuition Scholarship
2002	Dean Research Stipend	Johns Hopkins Medical School	Research Award
2008	Resident Leadership Award	Baxter Healthcare, Inc.	Leadership / Research
2009	ESP Scholarship	Emerging Solutions in Pain	Research Award
2012	CPIP Leadership Program	Partners Healthcare, Inc.	Process Improvement Leadership Program
2012	MGPO Physician Leadership Program	Partners Healthcare, Inc.	Leadership Training Program
2013	DACCPM	MGPO	Career Development Grant
2013	Partners in Excellence Award – Acute Pain	Partners Healthcare, Inc.	Clinical Excellence
2013	Partners in Excellence Award – PATA Redesign	Partners Healthcare, Inc.	Clinical Excellence
2014	Partners in Excellence Award – Anesthesia Clinical Leadership Team	Partners Healthcare, Inc.	Clinical Excellence

Report of Funded and Unfunded Projects

Adam Carinci

Funding Information**Past**

- 2009-2010 A Multicenter, Placebo-Controlled, Double-Blinded, Randomized Study to Compare the Efficacies of Transforaminal Corticosteroid versus Transforaminal Etanercept versus Transforaminal Saline for the treatment of lumbosacral Radicular pain
Industry Sponosred: Johnson and Johnson
Co-Investigator
A multicenter RCT to assess and compare the efficacies of corticosteroid vs. Etanercept Vs Saline in the treatment of lumbar Radicular pain.
- 2011- Lumbar Epidural Steroid Injections for Spinal Stenosis (LESS): a double-blind randomized controlled trial of epidural steroid injections for lumbar spinal stenosis among older adults. Funding for this study is provided by the AHRQ, CHOICE award number A53923
Co-Investigator
LESS is a double-blind RCT of ESI plus local anesthetic injections versus local anesthetic injections for the treatment of pain associated with lumbar spinal stenosis in older adults. The results of this study should provide compelling evidence as to whether or not epidural steroid injections are effective in improving function and pain in the elderly with lumbar spinal stenosis.
- 2012- An Open-label, Multicenter Study of the Safety, Pharmacokinetics, and Efficacy of Buprenorphine Transdermal System (BTDS) in Opioid-naïve and Opioid-experienced Children From 7 to 16 Years of Age, Inclusive, Who Require Continuous Opioid Analgesia for Moderate to Severe Pain.
Industry Sponsored Trial: Purdue Pharma L.P.
Co-Investigator
This open-label study will be investigate the safety, pharmacokinetics and efficacy of Buprenorphine Transdermal System in children ages 7-16.
- 2012- Optimal Method of Pain Management in Patients with Multiple Rib Fractures
Funding Source: Department of Surgery, Division of Trauma, Emergency Surgery and Surgical Critical Care, Massachusetts General Hospital.
Co-Investigator
The ON-Q® Pain Relief System is an FDA-approved antimicrobial catheter, which automatically and continuously delivers local anesthetics to the region of the thoracic intercostal nerves. We hypothesize that trauma patients, with three or more rib fractures, who receive pain management through the ON-Q® Pain Relief System have a shorter hospital length of stay (LOS) when compared with epidural analgesia.
- 2018 – A Prospective, Multi-center, Randomized, Assessor Blind, Controlled Study Comparing Lateral Branch Cooled Radiofrequency Denervation to Conservative Therapy as Treatment for Sacroiliac Joint Pain in a Military and Civilian Population.
Principal Investigator
- 2018 – A Prospective, Multicenter, Randomized, Double-Blinded, Sham-Controlled Study to Evaluate the Efficacy and Safety of Clonidine Micropellets for the Treatment of Pain

Adam Carinci

Associated with Lumbosacral Radiculopathy in Adults.
 Sollis Therapeutics Study STX-015-18-01.
 Principle Investigator

Report of Local Teaching and Training

Teaching of Students in Courses

4/29/2011	Classroom to Clerkship – Clinical Skills Session Third Year Harvard Medical Students	Harvard Medical School 2 Hour Course
7/16/11	New Pathway Pharmacology Course : Mini-case Group Leader /Instructor Second Year Harvard Medical Students	Harvard Medical School Two Week Course

Formal Teaching of Residents, Clinical Fellows and Research Fellows (post-docs)

01/08/07	Opioid Tolerance and Addiction (Faculty, Fellows, Residents)	Johns Hopkins Hospital, Resident Presentations (1 hour lecture)
08/21/07	A Case of Lumbar Spine Pain with Circumferential Lower Extremity Radiation (Faculty, Fellows, Residents)	Johns Hopkins Hospital, Neuromodulation Conference (1 hour lecture)
09/30/09	The Piriformis Syndrome: Clinical Diagnosis, Treatment and Review of the Literature (Faculty, Fellows, Residents)	Massachusetts General Hospital, Interventional Pain Conference (1 hour lecture)
01/13/10	Discography: History, Indications and Literature Review (Faculty, Fellows, Residents)	Massachusetts General Hospital, Interventional Pain Conference (1 hour lecture)
03/22/10	38 Year Old Female with Chronic Refractory Back Pain (Faculty, Fellows, Residents)	Massachusetts General Hospital, Chronic Pain Rounds (1 hour lecture)
03/31/10	Sacroiliac Joint RFL: Technique, Indications and Review of the Literature (Faculty, Fellows, Residents)	Massachusetts General Hospital, Interventional Pain Conference (1 hour lecture)
04/05/10	Chemotherapy Induced Neuropathic Pain: Offending Agents, Prophylactic Strategies and Treatment (Faculty, Fellows, Residents)	Massachusetts General Hospital, Chronic Pain Rounds (1 hour lecture)

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04/21/10, 11/03/10, 10/28/11, 06/08/12	Intra-articular Knee Injections for Osteoarthritis (Faculty, Fellows, Residents)	Massachusetts General Hospital, Interventional Pain Conference (1 hour lecture)
07/20/10, 09/14/10	The Physiologic Effects of Epidural and Spinal Anesthesia (Residents)	Massachusetts General Hospital, Acute Pain Service, Resident Lecture (1 hour lecture)
07/22/10, 08/05/10, 09/16/10, 10/07/10, 02/08/11, 04/19/12, 5/21/13, 8/14/13, 2/11/14	Complications of Epidural and Spinal Anesthesia (Residents)	Massachusetts General Hospital, Acute Pain Service, Resident Lecture (1 hour lecture)
08/03/10, 10/05/10, 01/18/11, 03/22/11, 07/25/11, 05/24/12, 9/4/2012, 6/12/13, 10/4/13, 6/17/14	Neuraxial Pain Management (Residents)	Massachusetts General Hospital, Acute Pain Service, Resident Lecture (1 hour lecture)
10/13/10, 03/03/11, 10/14/11, 03/08/12, 07/13/12, 9/14/2012, 10/5/2012	The Piriformis Syndrome: Clinical Diagnosis, Treatment and Review of the Literature (Residents and Medical Students)	Massachusetts General Hospital, Chronic Pain Service, Resident Lecture Series (1 hour lecture)
10/15/10, 11/16/10, 12/20/10, 02/04/11, 11/16/11, 9/24/2012, 10/1/2012, 5/23/13, 3/4/14, 6/20/14	Post-Operative Pain Management (Residents)	Massachusetts General Hospital, Preoperative Clinic (PATA), Resident Lecture Series (1 hour lecture)

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12/10/10	Neuraxial Pain Management (Residents)	Massachusetts General Hospital, Preoperative Clinic (PATA), Resident Lecture Series (1 hour lecture)
1/14/11	Resident Board Review Series CRPS (Residents)	Massachusetts General Hospital, Resident Board Review (1 hour lecture)
4/12/11, 05/18/12	Chronic Opioid Therapy Risks and Benefits (Fellows, Residents and Medical Students)	Massachusetts General Hospital, Chronic Pain Service, Journal Club (1 hour lecture)
4/15/11	Perioperative Cardiac Evaluation (Residents)	Massachusetts General Hospital, Preoperative Clinic (PATA), Resident Lecture Series (1 hour lecture)
8/05/11, 5/30/12, 7/17/12, 6/14/13, 10/3/13, 8/26/14	Methadone: Pharmacodynamics and Pharmacokinetics (Residents)	Massachusetts General Hospital, Preoperative Clinic (PATA), Resident Lecture Series (1 hour lecture)
10/20/2011	Resident Dinner Lecture Series (Fellowship Options)	Massachusetts General Hospital,
12/14/11, 1/25/12, 2/29/12, 3/14/12, 5/22/12, 6/26/12, 8/29/13, 2/14/14	Methadone and Buprenorphine (Residents)	Preoperative Clinic (PATA), Resident Lecture Series (1 hour lecture)
12/5/11, 1/12/12, 2/24/12, 4/17/12, 6/28/12, 7/19/12, 9/7/12, 9/12/13, 4/18/14	Anticoagulation and Neuraxial Anesthesia (Residents)	Massachusetts General Hospital, Acute Pain Service, Resident Lecture (1 hour lecture)
3/23/11, 6/22/12,	Options for Post-Operative Pain Control (Residents)	Preoperative Clinic (PATA), Resident Lecture Series (1 hour lecture)

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8/24/12,
3/6/14,
4/14/14,
8/29/14

Formally Supervised Trainees

2010 Pankaj Mehta, M.D., Anesthesia Resident, MGH, Served as mentor during pain fellowship application and coauthored a published journal article

2010 Nadya Dhanani, M.D., Anesthesia Resident, MGH, Served as mentor during pain fellowship application and coauthored a published journal article

2011 George Hanna, M.D., Anesthesia Resident, MGH, Served as mentor during pain fellowship application and coauthored a published textbook chapter

2012 Ravi Pathak, M.D., Anesthesia Resident, MGH, Served as mentor during pain fellowship application and coauthored a published journal article.

2012 Mark Young, M.D., Anesthesia Resident, MGH, Served as mentor during pain fellowship application and coauthored a published journal article.

2013 Scott Pritzlaff, M.D., Anesthesia Resident, MGH, Served as mentor during pain fellowship application and coauthored a published journal article.

2014 Adeola Sadik M.D., Anesthesia Resident, MGH, Served as a mentor and co-authored a text book chapter on chronic pain.

Alexander Moore, M.D., Anesthesia Resident, MGH, Served as a mentor and co-authored a text book chapter on chronic pain.

Formal Teaching of Peers (e.g., CME and other continuing education courses)

No presentations below were sponsored by outside entities.

2011	Adductor Canal and US Guided Femoral Nerve Block MGH Ultrasound Guidance in Anesthesia Workshop	4 – Presentations MGH, Boston, MA
2012	Identification of Patients at High Risk for Opioid Abuse CME Online Program	<u>1 Lesson</u> Harvard Medical School
2012	Acute Pain Medicine, Poster and Abstract Session -Session Moderator (9/8/12) Applied Physiology of Pain -Lecturer	2 presentations + served as moderator for 3 sessions + served on the scientific program committee

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Patient Controlled Analgesia
-Lecturer

Session IV: Analgesics – Safe and Effective Use
-Session Moderator

Acute Pain Medicine, Poster and Abstract Session
-Session Moderator (9/9/12)

Acute Pain Medicine, Scientific Program Committee
-Committee Member

Acute Pain Medicine Symposium

Harvard Medical School,
Department of Continuing
Education

2013

Acute Pain Medicine, Poster and Abstract Session
-Session Moderator (9/8/13)

Served on planning committee,
scientific program committee and
moderator for 1 session

Acute Pain Medicine, Scientific Program Committee
-Committee Member

Acute Pain Medicine, Program Planning Committee
-Committee Member

Acute Pain Medicine Symposium

Harvard Medical School,
Department of Continuing
Education

2013

Opioids the Scientific Truth
-Lecturer

1 Presentation

Principles and Practice of Pain Medicine

Harvard Medical School,
Department of Continuing
Education

2014

The Use of Opiates for Chronic Pain Management
-Lecturer (6/12/14)

1 Presentation

Massachusetts General Hospital Internal Medicine Review Course
Harvard Medical School, Department of Continuing Education

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Opioids: The Scientific Proof 1 Presentation, 1 Panel Discussion
-Lecturer (6/24/14)
-Panel Discussion Member (6/24/14)

Principles and Practice of Pain Medicine Harvard Medical School, Department
of Continuing Education

2015 Opioids and Perioperative Risk: The Preoperative Pain Consultation
-Lecture (1/22/15) 1 Presentation, 1 Panel Discussion
Tufts Dental School: Pain Assessment Course Lecture, 25 Students

Responsible Opioid Prescribing in the Era of the Opioid Epidemic
Lynn Community Health Center, North Shore Medical Center

Preoperative Pain Consultation As a Means to Stem the Tide of Opioid Abuse
-Lecture (4/29/15) 1 Presentation
Headache and Facial Pain Interprofessional Grand Rounds, Tufts School of Medicine &
Tufts School of Dental Medicine..

Opioids and Perioperative Risk: The Preoperative Pain Consultation
-Lecture (1/22/15) 1 Presentation,
Preadmission Testing, Nurse Practitioner CME, MGH, PATA, 3/5/15

Healthy Back, Healthy Life
Community Lecture, Cooley Dickenson Hospital, 5/21/15

The Public Health and Clinical Implications of Chronic Opioid Therapy: Stemming the
Tide
Grand Rounds, Cooley Dickenson Hospital 5/22/15

The Public Health and Clinical Implications of Chronic Opioid Therapy: Stemming the Tide 1 Presentation, 1 Panel Discussion

-Lecturer (6/2/15)
-Panel Discussion Member (6/2/15)

Principles and Practice of Pain Medicine Harvard Medical School, Department
of Continuing Education

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The Clinical Implications of Opioids: A Preoperative Consultation Model
Medical Education Clinical Conference, Risk Management Course and CME
Emerson Hospital, Concord MA
Lecture: 9/11/15

The Public Health and Clinical Implications of Chronic Opioid Therapy: Stemming the
Tide
Palliative Care Grand Rounds, MGH 9/30/15
CME

Opioid Therapy: Basic Science and Clinical Management
Pfizer Pain Management Preceptorship
MGH, 9/30/15

2016 Insights on Novel Technology in Pain Management with Abuse-Deterrent Extended
Release Opioids
Baton Rouge General Hospital, Ground Rounds
12/7/16

2017 Identification of Opioid Use Disorder
Our Lady of the Lake Hospital, Grand Rounds
3/6/17

Insights on Novel Technology in Pain Management with Abuse-Deterrent Extended
Release Opioids
2017 Painweekend, New Orleans, LA
6/25/17

2018 UPMC Primary Care Site Medical Directors, Chronic Pain Management 2/7/18

2018 UPMC Primary Care Site Medical Directors, Kyphoplasty 4/4/18

2018 Red Creek Family Medicine, Kyphoplasty 8/22/18

2018 Panorama Internal Medicine, Opioid Tolerance and Addiction 11/20/18

/Report of Clinical Activities and Innovations

Adam Carinci

Current Licensure and Certification

2009	Massachusetts Medical License
2010	American Society of Anesthesiology, Board Certification
2012	American Society of Anesthesiology, Subspecialty, Pain Medicine, Board Certification

Practice Activities

2009 –	OR Anesthesia	Massachusetts General	1 day per week
2016	-inpatient / outpatient	Hospital	
2010 –	Chronic Pain Clinic	Massachusetts General	1 clinic day per week
2016	- outpatient	Hospital	
2010 –	Acute Pain Service	Massachusetts General	8 weeks on service per year
2016	- inpatient	Hospital	
2010 –	Preoperative Clinic	Massachusetts General	1 clinic day per week
2016	- outpatient	Hospital	
2011 –	Chronic Pain Clinic	Massachusetts General	1 clinic day per week
2016	-outpatient	Hospital West Waltham	
2013 –	Pediatric Pain Service	Massachusetts General	6 weeks on service per year
2016	-inpatient	Hospital	
2014 -	Chronic Pain Outpatient	Massachusetts General	3 clinical days per week
2016		Hospital	
2016 –	Outpatient Pain Clinic	Comprehensive Pain	5 clinical days per week
2017		Management, LLC	
2017 -	Outpatient Chronic Pain	University of Rochester	3 clinical days per week
		Medical Center	
2017 -	Inpatient Acute Pain	University of Rochester	6 weeks on service per year
		Medical Center	

Report of Education of Patients and Service to the Community**Activities**

9/15/2011	The Blum Center, September Lecture Series, Pain Awareness Month "Pain Control for Surgery" Invited Lecturer, Sponsored by The Blum Center A two hour evening lecture and question / answer period for MGH patients, families and the general public focused on post-operative pain control sponsored by the Blum Patient and Family Learning Center.
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11/13/2018 To Your Health Lecture Series, Highlands at Pittsford
"Healthy Back, Healthy Life. Invited Lecturer, Sponsored by the University of Rochester. A 1 hour lecture followed by a question and answer period for patients, families and the general public focused on causes, risk factors, diagnoses, treatments and preventative measures for low back pain.

Report of Scholarship

Publications

Peer reviewed publications in print or other media

Journal Articles:

1. Pastor SD, **Carinci A**, Khoury N, Rahni DN. The Synthesis and Conformation of Sterically Congested Seven-Membered Rings Containing Tetracoordinate Germanium(iv): Determination of the Delta g for Ring Inversion. Inorg Chem. 2001 Jul 16;40(15):3830-2.
2. **Carinci AJ**, Christo PJ. Physician Impairment: Is Recovery Feasible? Pain Physician. 2009 May-Jun;12(3):487-91
3. **Carinci AJ**. Careers in Anesthesiology: The Joy of Volunteering. Volume XI. Book Review. Eds. Caton D. and McGoldrick KE. Anesthesiology. 2010 Feb;112(2):503
4. Christo PJ, Christo DK, **Carinci AJ**, Freischlag JA. Single CT-Guided Chemodenservation of the Anterior Scalene Muscle with Botulinum Toxin for Neurogenic Thoracic Outlet Syndrome. Pain Med. 2010 Apr;11(4):504-11.
5. **Carinci AJ**, Mao J. Pain and Opioid Addiction: What Is the Connection? Current Pain and Headache Reports. 2010 February; 14(1):17-21.
6. **Carinci AJ**, Mehta P, Christo, PJ. Chronic Pain in Torture Victims. Current Pain and Headache Reports. 2010 April; 14(2):73-79.
7. Dhanani NM, Caruso TJ, **Carinci AJ**. Complementary and Alternative Medicine for Pain: An Evidence-based Review. Current Pain Headache Reports. 2011 Feb;15(1):39-46.
8. **Carinci AJ**, Rathmell JR. The Essence of Analgesia and Analgesics. Book Review. Eds. Sinatra RS, Jahr JS, Watkins-Pitchford JM. Anesthesia and Analgesia. 2012.
9. **Carinci, AJ**, Pathak R, Young M, Christo PJ. Complementary and alternative treatments for chronic pelvic pain. Curr Pain Headache Rep. 2013 Feb;17(2):316.
10. Pritzlaff S, **Carinci AJ**, Christo PJ. Targeting systemic inflammation in patients with obesity-related pain: Neurogenic thoracic outlet syndrome: an often overlooked but treatable condition. J Fam Pract. 2013 Sep;62(9 Suppl CHPP):S16-21.

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11. **Carinci AJ**, Abbatiello T. Perioperative Methadone in a Patient with Suspected Mu Opioid-Receptor Polymorphism; A Case Report and Literature Review. Pain Medicine. In process.
12. **Carinci AJ**, Kyung J. Complex Regional Pain Syndrome a Literature Review and Clinical Update. Pain Medicine. In process.

Book Chapters:

1. Raja SN, **Carinci A**, Baron R. Sympathetically Maintained Pain in CRPS II: Human Experimentation. In: Schmidt RF, Willis WD, editors. Encyclopedic Reference of Pain, Springer Verlag, Berlin, Heidelberg, New York 2007.
2. **Carinci AJ**, Christo PJ. Cancer Pain and Pharmacotherapies. In: Heitmiller G, eds. The Johns Hopkins Handbook of Anesthesia, Philadelphia: Elsevier, 2009.
3. **Carinci AJ**, Mazloomdoost D, Towsley D, Stonemetz J. Documentation, Economics and Legal Aspects of Anesthesiology. In: Heitmiller G, eds. The Johns Hopkins Handbook of Anesthesia, Philadelphia: Elsevier, 2009.
4. **Carinci AJ**, Christo PJ. All I Had Was a Knee Bursectomy, Do I Now Have RSD? In: Gallagher, Lewis, Schwengel eds. Core Clinical Competencies in Anesthesiology: A Case-based Approach. Cambridge University Press, 1 edition, April 30, 2010.
5. **Carinci AJ**, Kamdar M, Manion S, Mao J. Mechanisms of Spinal Analgesia. In: The Neuroscientific Foundations of Anesthesiology. Oxford University Press, USA, 2010.
6. **Carinci A**, Hanna G, Raja SN. Sympathetically Maintained Pain in CRPS II: Human Experimentation. In: Schmidt RF, Willis WD, editors. Encyclopedic Reference of Pain, Springer Verlag, 2nd Edition, Berlin, Heidelberg, New York 2012.
7. Rathmell JP and **Carinci AJ**. Complications Associated with Radiofrequency Treatment for Chronic Pain. In: Neal JM and Rathmell JP, editors. Complications in Regional Anesthesia and Pain Medicine, 2nd Edition, Saunders Elsevier, Philadelphia, PA 2011.
8. **Carinci AJ**, Sadik, A. Acupuncture and the Treatment of Chronic Pelvic Pain. In: Chen, L, Editor. Acupuncture and Chronic Pain. In Press.
9. **Carinci AJ**, Pritzlaff S, Moore, A. Treatments for Pain in the Older Patient. Recommendations for Classes of Medications in Older Adults. In: Christo PJ and Cordts G, editors. Effective Treatments for Pain in the Older Adult. In Press.

Non-peer reviewed scientific or medical publications/materials in print or other media

Reviews, Chapters, Monographs and Editorials:

Adam Carinci

1. **Carinci AJ.** "Highlights from the American Academy of Pain Medicine's 2009 Annual Meeting." Emerging Solutions in Pain. The Beacon, Vol (3), Issue 4, 3/10/2009.
<http://www.emergingsolutionsinpain.com/index.php?option=com_content&task=view&id=428&Itemid=105>
2. **Carinci AJ.** "Pain Medicine in Paradise: A Review of the 25th Annual Meeting of the AAPM." Pain.com. February 6, 2009.
<<http://www.pain.com/sections/professional/articles/article.cfm?id=98>>
3. **Carinci AJ.** "Pain and Aging: Challenges and Unique Needs." Pain.com. March 3, 2009.
<<http://www.pain.com/sections/professional/articles/article.cfm?id=105>>
4. **Carinci AJ.** "Learning Disabilities and Early Exposure to Anesthesia." Pain.com. April 7, 2009.
<<http://www.pain.com/sections/professional/articles/article.cfm?id=111>>
5. **Carinci AJ.** "Pediatric Anesthesia Highlights." Pain.com. April 17, 2009.
<<http://www.pain.com/sections/professional/articles/article.cfm?id=113>>
6. **Carinci AJ.** "Spinal Cord Stimulation: An Overview." Pain.com. July 20, 2009.
<<http://www.pain.com/sections/professional/articles/article.cfm?id=127>>
7. **Carinci AJ.** "An Overview on Intraspinal Drug Delivery and Implantable Pain Pumps." Pain.com. August 20, 2009. <<http://www.pain.com/sections/professional/articles/article.cfm?id=135>>

Abstracts, Poster Presentations and Exhibits Presented at Professional Meetings

1. Synthesis and characterization of eight-membered organo-germanium compounds. **Carinci, A;** NabiRahni, D.M.A; Pastor, S.D; Huang, V. 35th American Chemical Society-New York Research Symposium, Wagner College, May 3, 1996.
2. Synthesis and characterization of eight-membered organo-germanium compounds. **Carinci, A;** NabiRahni, D.M.A; Pastor, S.D; Huang, V. 211th Annual Meeting of American Chemical Society, New Orleans, LA, April 1996.
3. Inorganic Chemistry and The Synthesis, Characterization, and Conformation of a Sterically Hindered 12H-Dibenzo[d,f][1,3,2]Dioxagermepin. **Carinci, A;** NabiRahni, D.M.A. Pace University Society of Fellows- Annual Undergraduate Research Symposium and Induction Ceremony. New York, NY, 1997.
4. First Synthesis of a new Class of Sterically Hindered Germanium Compounds. **Carinci, A;** Pastore, S.D; NabiRahni, D.M.A. 45th American Chemical Society, Students' Research Symposium, New York, NY, May 1997.
5. Synthesis, Characterization, and Conformation of a Sterically Hindered 12H-Dibenzo[d,f][1,3,2]Dioxagermepin. Pastore, S.D; **Carinci, A;** NabiRahni, D.M.A. Mid-Atlantic Regional Meeting of the American Chemical Society, Pleasantville, NY, 1997.

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6. Synthesis, and Conformational Investigation of Spirocyclic Dioxagermepins and Dioxagermocins. **Carinci, A**; Pastor, S.D; Rahni, D.N. 46th American Chemical Society, Undergraduate Research Symposium, New York University, NY, May 2, 1998.
7. The Conformation of Medium-Sized Rings: Spirocyclic Dibenzo[D,F][1,3,2] Dioxagermepins. **Carinci, A**; Pastor, S.D; Rahni, D.N. 215th American Chemical Society, Annual National Meeting, Dallas, TX, March 29-April 2, 1998.
8. Synthesis and Conformational Analysis of Germanium seven and eight-membered congested Rings. Rahni, D.N; Carinci, A; Khoury, NS; Pastor, S.D. 216th American Chemical Society, Annual National Meeting, Dallas, TX, April 1999.
9. Synthesis and Structural Elucidation of Novel Germanium Heterocyclics. **Carinci, A**; Khoury, NS; Pastor, S.D; Rahni, D.N. 217th American Chemical Society, Annual National Meeting, Inorganic Division, San Francisco, CA April 2000.
10. Measuring the Kinetics of Controlled Release Polymers Within a Rabbit Subarachnoid Hemorrhage Model. Pradilla, G; Wang, P; Frazier, J; **Carinci, A**; Tamargo, RJ. 53rd Annual Meeting of the Congress of Neurological Surgeons, Denver, Colorado, October 18-23, 2003.
11. Treatment With an Anti-CD11/CD18 Monoclonal Antibody Prevents Post-Hemorrhagic Vasospasm in a Rabbit Model of Subarachnoid Hemorrhage. Pradilla, G; Kretzer, R; **Carinci, A**; Wang, P; Frazier, J; Ogata, L; Gebremariam, A; Dietsch, G; Tamargo, RJ. XII European Congress of Neurosurgery, Lisbon, Portugal, September 7-12, 2003.
12. Pharmacokinetics of Controlled Release Polymers in the Subarachnoid Space for the Treatment of Chronic Vasospasm after Subarachnoid Hemorrhage. Pradilla, G; Wang, P; Frazier, J; **Carinci, A**; Legnani, F; Tamargo, RJ. 8th International Vasospasm Meeting, Chicago, Illinois, July 9-12, 2003.
13. Anti-CD11/CD18 Monoclonal Antibody Therapy Prevents Vasospasm After Subarachnoid Hemorrhage in Rabbits. Pradilla, G; Kretzer, R; **Carinci, A**; Wang, P; Frazier, J; Ogata, L; Gebremariam, A; Dietsch, G; Tamargo, RJ. 8th International Vasospasm Meeting, Chicago, Illinois, July 9-12, 2003.
14. Pharmacokinetics of Controlled-Release Polymers in the Subarachnoid Space in the Treatment of Chronic Post-Hemorrhagic Vasospasm. Pradilla, G; Wang, P; Frazier, J; **Carinci, A**; Legnani, F; Tamargo, RJ. Proceedings of the 2003 CNS/AANS Joint Meeting of Neurovascular Surgery, Phoenix, Arizona, February 17, 2003.
15. CT-Guided, Anterior Scalene Botox Injection for Thoracic Outlet Syndrome. Christo, PJ; **Carinci, AJ**; Christo, D; Freischlag, J. Resident Research Forum, 2008 Annual Meeting of the American Society of Anesthesiologists, Orlando, Florida, October 18-22, 2008.
16. Intractable Deafferentation Pain of the Left Orbit: A Case for Mexiletine. **Carinci, AJ**; Raja, SN. Medically Challenging Cases, 2008 Annual Meeting of the American Society of Anesthesiologists, Orlando, Florida, October 18-22, 2008.

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17. CT-Guided, Anterior Scalene Botox Injection for Thoracic Outlet Syndrome. Christo, PJ; **Carinci, AJ**; Christo, D; Freischlag, J. Scientific Abstracts Poster Session, Chronic and Cancer Pain, 2008 Annual Meeting of the American Society of Anesthesiologists, Orlando, Florida, October 18-22, 2008.
18. Botulinum Toxin Injection for the Relief of Thoracic Outlet Syndrome. Christo, PJ; **Carinci, AJ**; Christo, D; Freischlag, J. 10th Annual ACCM Research Day, Department of Anesthesiology and Critical Care Medicine, Johns Hopkins University, School of Medicine, Baltimore, MD, December 8, 2008.
19. CT-Guided, Anterior Scalene Botulinum Toxin Injection for Thoracic Outlet Syndrome. Christo, PJ; **Carinci, AJ**; Christo, D; Freischlag, J. 2009, 25th Annual Meeting of the American Academy of Pain Medicine, Honolulu, Hawaii, January 27-31, 2009.
20. Ultrasound-Guided, Lumbar Epidural Placement for Ccsarean Delivery in an Obese, Scoliotic Parturient. **Carinci, AJ**; Wyman, C. Medically Challenging Cases, 2009 Annual Meeting of the American Society of Anesthesiologists, New Orleans, Louisiana, October 17-21, 2009.
21. Medication Errors and "Look-Alike" Vials: Anesthesiologists Lead FDA Nationwide Vecuronium Recall. **Carinci, AJ**; Towsley, DL; Hurzer, KR; Cover, R; Mark, LJ. Medically Challenging Cases, 2009 Annual Meeting of the American Society of Anesthesiologists, New Orleans, Louisiana, October 17-21, 2009.
22. Brand, E.; McCarty, K.; **Carinci, A.**; Ellbeg, M.; Rathmell, J. *Pre-Procedural Evaluation Redesign*. American Society of Anesthesiologists Annual Meeting. October 15, 2013. San Francisco, CA.
23. McCarty, K.; **Carinci, A.**; Brand, E.; Ellbeg, M.; Rathmell, J. *Improving Effectiveness of a Pre-Operative Assessment Phone Screening Program*. American Society of Anesthesiologists Annual Meeting. October 15, 2013. San Francisco, CA.
24. Wu, K.; Brand, E.; McCarty, K.; **Carinci, A.**; Rathmell, J. *A Comparison of Two Pre-Operative Evaluation Center Models: Patient Satisfaction Evaluation*. Post Graduate Assembly in Anesthesiology Annual Meeting. December 14, 2013. New York, NY.
25. Brand, E. McCarty K., Carinci, A., Wang, B. Wu, K., Rathmell, J. *Redesigning Pre-Procedural Evaluation Testing: Utilizing a Grid to Triage Low-Acuity Patients to a Phone Appointment*. American Society of Anesthesiologists Annual Meeting. October 13, 2014. New Orleans, LA.
26. Manji F., McCarty, K., Brand, E., Rathmell, JR., Carinci A., Agarwala, A. *Measuring and Improving the Quality of Pre-Procedural Assessments*. American Society of Anesthesiologists Annual Meeting. October, 11, 2014. New Orleans, LA.
27. Chaichana KK, Watt L, **Carinci A**, Anderson TA, Scemama De Gialluly P, Gulur P, Leeman MR, Shank E, Wang JP, Edwards DA. "Fentanyl at 750 mcg/hr: pain management of a pediatric patient with Castleman's disease and paraneoplastic pemphigus." American Society of Anesthesiologists Annual Meeting, October, 12, 2014. New Orleans, LA.
28. **Carinci A**, Hanna G, Rao V, McCarty K, Gilligan G, Schwab J, Rathmell, J. *Back Pain care*

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- redesign: The Massachusetts General Hospital Spine Line*. American Society of Regional Anesthesia and Pain Medicine Annual Meeting, November, 13-16, 2014., San Francisco, CA.
29. Hanna G, **Carinci A**, Gilligan G, Rathmell J. *Telemedicine in Pain Management: A Current Model at Massachusetts General Hospital*. American Society of Regional Anesthesia and Pain Medicine Annual Meeting, November, 13-16, 2014., San Francisco, CA.
30. Carinci A. *The Preoperative Opioid Consultation Program: Stemming the Tide. A Novel Care Model at Massachusetts General Hospital*. American Society of Regional Anesthesia and Pain Medicine Annual Meeting, November, 13-16, 2014., San Francisco, CA.
31. Madden M, Smith J, Arnstein P, **Carinci A**. *Improving Nursing Knowledge and Confidence with Intravenous Ketamine Hydrochloride Administration on General Care Units*. National Nurses's Week. American Nurses Association.
32. Carinci AJ. Kyphoplasty for Traumatic Nonosteoporotic Compression Fracture. 2018 Annual Meeting of the American Society of Anesthesiologists, San Francisco, California, October 13 – 17, 2018.
33. Carinci AJ, Abbaticchio T. Perioperative Methadone in a Patient with Suspected Mu Opioid-Receptor Polymorphism; A Case Report and Literature Review. 2018 Annual Meeting of the American Society of Anesthesiologists, San Francisco, California, October 13 – 17, 2018.

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 PATRICIA COSGROVE

AFFIDAVIT OF JOHN LYNETT, JR

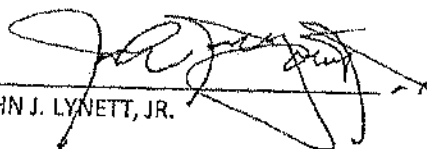
BEFORE ME, the undersigned authority, John Lynett, Jr. personally appeared and declared the following:

1. My name is John Lynett, Jr. I am over 18 years of age, and capable of making this affidavit. I have personal knowledge of the facts stated in this affidavit. The facts stated herein are true and correct.
2. I went to law school at the University of Akron, School of Law and received my law degree with honors and was admitted to the Ohio Bar in 1993. I have practiced continuously since that time.
3. My law practice focuses on claims involving personal injury.
4. Many of my clients receive soft tissue injuries that resulted from the negligence of another person in a motor vehicle crash. Those injuries regularly require treatment and therapy that can last weeks, or even months.
5. Many of my clients do not have personal medical insurance, or the personal means that would allow them to access to the care they needed without my help.
6. To provide the best possible service for my clients, I have recommended to my clients doctors and facilities that will treat them for their injuries, with the understanding that these providers will not try to collect payment for those services from my clients until my clients' claims have been settled or adjudicated.
7. Because these physicians do not have the legal right in Ohio to enforce an Assignment of Benefits on my clients' claims, with my clients' permission I agree to withhold an amount of agreed upon health care services fees from my clients' settlement or judgment and pay those amounts directly to the doctor or healthcare facility. That promise benefits my client because it puts the healthcare provider at ease knowing that if there is a monetary resolution to the claim, the physician will get some portion of their fees paid and allows my client to get the timely medically necessary treatment that is required.



8. I have also been recommended to clients by healthcare providers, like Minas Floros, DC, who are treating individuals that are similarly situated to my clients, in that they did not have personal medical insurance, or the personal means that would allow them to get the care they needed without the assistance of an attorney.
9. Dr. Floros has told me that he recommends patients to me because he believes that I will represent his patient, now my client, well, and with my client's approval, I will pay Dr. Floros' bill or a portion thereof directly from the proceeds of any settlement and judgment.
10. In the normal course of business, I request written narrative reports from Minas Floros, D.C. (and other health providers) once the physician has completed treating one of my clients. I find a narrative report to be useful in negotiating with the claims adjuster. This report explains the causal relationship between the motor vehicle accident in which my client was involved, and the injuries sustained. The plain language used by the health care provider in the narrative report makes it easy for a layperson, to understand what caused the injury, what the injury was, what treatment was administered, and what the patient's prognosis is.
11. The narrative report that I ask Dr. Floros and other health care providers for is obtained for the benefit of my client in negotiating a settlement and/or for use in litigation. It is a cost of preparing the demand package to facilitate a settlement and/or in anticipation of litigation. It is not a part of the health care treatment my client received, and therefore is a separate expense of litigation.
12. Settlement proposals from insurance adjusters are delivered to me as a total amount. When a settlement is reached, the release contains no direction from the insurer how the funds are to be disbursed between the various parts that make up the settlement amount. Language in the release of claims also fails to provide any itemization.
13. In some personal injury claims, the amount obtained in settlement is not adequate to cover payment of the full amount incurred by my client for his or her medical care. Therefore, I must negotiate with the provider for a reduction in the amount the provider will accept as full compensation for the services rendered in order to settle those claims.

Further affiant sayeth naught.


JOHN J. LYNETT, JR.

Before me, a notary public, in the aforesaid county and state, personally appeared the above-named John J. Lynett, Jr. who acknowledged that he did sign the same and that the same was his free act and deed.

Witness my hand this MARCH day of 2018, at AKRON, Ohio on this 22nd day of




NOTARY PUBLIC

1

IN THE COURT OF COMMON PLEAS

STARK COUNTY, OHIO

SHARDE PERKINS, et al.,

Plaintiffs,

-vs-

JUDGE JOHN G. HAAS
CASE NO. 2016-CV-02650

WYATT SMITH,

Defendant.

- - - -

Deposition of SHARDE PERKINS, taken as if
upon cross-examination before Sandra L. Rice, a
Notary Public within and for the State of Ohio,
at the offices of Kisling, Nestico & Redick, 3412
West Market Street, Akron, Ohio, at 9:00 a.m. on
Friday, March 3, 2017, pursuant to notice and/or
stipulations of counsel, on behalf of the
Defendants in this cause.

- - - -

MEHLER & HAGESTROM
Court Reporters

CLEVELAND

780 Skylight Office Tower
1660 West 2nd Street
Cleveland, Ohio 44113
216.241.9000
FAX 621.0050

AKRON

720 Akron Centre
50 South Main Street
Akron, Ohio 44308
330.535.7300
FAX 535.0050

EXHIBIT

N

Sharde Perkins - March 03, 2017
Deposition

9

1 Q. That would be Canton McKinley?

2 A. Yes.

3 Q. What year did you graduate?

4 A. 2008.

5 Q. Any education or training after you graduated
6 from Canton McKinley?

7 A. Yes.

8 Q. What would that be?

9 A. It would be like I took a med deligation class.

10 Q. Took a what?

11 A. Med deligation class to pass meds.

12 Q. To pass medication?

13 A. Yes. Then I did a STNA.

14 Q. Where did you take those classes?

15 A. I took them in Canton.

16 Q. Was it at a specific --

17 A. Yes. It was ACE Academy.

18 Q. Are you currently employed?

19 A. Yes.

20 Q. Who are you employed with?

21 A. RES Care.

22 Q. How long have you been with RES Care?

23 A. Four months now.

24 Q. What do you do for them?

25 A. Direct care, transportation.

**Sharde Perkins - March 03, 2017
Deposition**

46

- - - - .

(Thereupon, the requested portion of
the record was read by the Notary.)

- - - -

A. I had got an attorney but it wasn't nothing with
this case.

Q. You had an attorney but it had nothing to do with
this case?

A. Yeah, it was nothing to do with this case.

Q. Was it more of a criminal case?

A. Yes.

Q. So it's either one way or the other. Did you
have an attorney at Canton Injury Center when you
first treated or did you get one after?

A. After.

Q. For this case?

A. Yes, for this case.

Q. When you went to Canton Injury Center did they
provide with you some attorneys?

MR. CANTU: Objection.

A. No. I provided my own.

Q. So you found your attorney yourself?

A. Yes.

Q. Can you walk me through that first visit at the
chiropractic office? Did they go over your

**Sharde Perkins - March 03, 2017
Deposition**

54

1 place.

2 Q. How would she be able to refer Dr. Jones if she
3 never saw him?

4 A. Well, she never -- the place itself, but she
5 never saw Dr. Jones but I pretty much, you know,
6 heard about the place and I heard about him so
7 that is how I got referred.

8 Q. But how did you hear about him?

9 A. The receptionist.

10 Q. So it wasn't Casandra?

11 A. No. She referred me there but the receptionist
12 told me about him.

13 Q. Do you remember what the receptionist said?

14 A. He's a good doctor. Her name is Sam.

15 Q. Do you recall if Dr. Jones was in there every
16 day?

17 A. He was in there like once every week or two
18 weeks.

19 Q. Did he have his own office there that you would
20 go into?

21 A. He had an office there but I don't know where his
22 actual office is at. I would say, yes, he did
23 have an office.

24 Q. Did he provide you injections?

25 A. Yes. Two.

**Sharde Perkins - March 03, 2017
Deposition**

55

1 Q. Do you remember where they were at?

2 A. My lower back.

3 Q. Do you recall what was in those injections?

4 A. I know that they were muscle relaxers but I'm not
5 for sure what was in it.

6 Q. It looks like he prescribed you a TENS unit. Do
7 you remember that?

8 A. Yes. I have still that.

9 Q. Do you still use it?

10 A. Yes.

11 Q. Did you ask him for a TENS unit?

12 A. Yes.

13 Q. Did he tell you how much a TENS unit cost?

14 A. No.

15 Q. So if I said it was \$500 you would have no idea?

16 A. No.

17 Q. How did you know that there were TENS units to be
18 given away?

19 A. I didn't know that they were given away.

20 Q. You just testified you asked for it --

21 A. I asked for it.

22 Q. -- so how did you know he had it?

23 A. The receptionist.

24 Q. The receptionist said he has a TENS unit that he
25 can give you?

**Sharde Perkins - March 03, 2017
Deposition**

56

1 A. Yes.

2 Q. Did you tell the receptionist you needed a TENS
3 unit or some further relief?

4 A. Yes.

5 Q. Is this the same receptionist that told you about
6 Dr. Jones?

7 A. Yes.

8 Q. Do you recall that receptionist's name?

9 A. Sam.

10 Q. Is Sam a male or female?

11 A. She's a female.

12 Q. Other than the injections and the TENS unit did
13 Dr. Jones give you anything else to assist with
14 the pain?

15 A. It was a back brace.

16 Q. Did you ask for the back brace as well?

17 A. Yes, I did.

18 Q. Did he tell you how much the back brace cost?

19 A. No.

20 Q. If I said that back brace was \$1,500 you wouldn't
21 be aware of that?

22 A. No.

23 Q. Do you use the back brace?

24 A. Yes, every once in a while.

25 Q. By every once in a while is that throughout the

**Sharde Perkins - March 03, 2017
Deposition**

57

1 day or every other day or every other week?

2 A. Every other week.

3 Q. Did it just not work well or what was the
4 reasoning for not wearing it if you asked for it?

5 A. If I'm in the house and I'm doing chores I would
6 use it.

7 Q. But you didn't use it at work or outside the
8 house?

9 A. No.

10 Q. Is there a particular reason for that?

11 A. Because of what I was wearing.

12 Q. Did Sam, the receptionist, tell you about the
13 back brace as well?

14 A. Yeah. Sam told me about the back brace.

15 Q. Do you recall what she said about the back brace?

16 A. That they pretty much help with your back if you
17 have like, you know, pain and stuff like that.
18 That's what she told me. It was nothing major.

19 Q. Do you recall how many times you saw Dr. Jones?

20 A. I only saw him maybe twice or three times.

21 Q. Did you ever miss an appointment with him?

22 A. No.

23 Q. So if his records said that you "no-showed" for a
24 visit that would be accurate?

25 A. He said I no-showed?

**Sharde Perkins - March 03, 2017
Deposition**

58

1 Q. Did not show up for an appointment.

2 A. I was there but we had to reschedule, so, due to
3 me having the appointment.

4 Q. During that first visit with Dr. Jones how long
5 did you spend with him face to face?

6 A. Not even that -- maybe about 15 minutes, 15, 20
7 minutes.

8 Q. Did he go over your family history and your
9 background and all of that stuff or was that
10 something he got from the chiropractor?

11 A. He went over that with me.

12 Q. He went over that with you?

13 A. Yes.

14 Q. Do you remember if he checked your eyes, ears,
15 nose, throat, mouth, all that stuff? Give you a
16 physical?

17 A. Yes.

18 Q. Did he go over the side effects of the injections
19 with you?

20 A. Yes.

21 Q. Do you remember what the side effects were?

22 A. Dizziness, maybe tired a little bit. I mean
23 that's all I remember.

24 Q. Have you ever been hospitalized for more than a
25 day?

Harbour, Mr. Richard
Case #: 214858 ()

Case Type: A
Class: CH

DOI 4/15/2011
Assigned: ROBERT

LimDate: 4/13/2013
Date Opened: 04/18/2011

3/15/2019 01:49 PM

Page 2 of 11

Case Note Text Search Report

Searching For:

4/27/2011 03:02 PM ALYSSA

Client Contact

Client is making progress. Seeing both Doctors.

4/28/2011 03:31 PM ALYSSA

Notes - Misc

Ordered all hospital related bills and recs.

5/11/2011 12:53 PM ALYSSA

Client Contact

Called client to follow up. He is getting better.



KNR04595

WILLIAMS, MEMBER
04/18/2018

Page 1

1 State of Ohio,)
County of Summit.) SS:

2

3 IN THE COURT OF COMMON PLEAS

4

MEMBER WILLIAMS, ET AL.,)

5

Plaintiffs,)

6

vs.) Case No. CV-2016-09-3928

7

KISLING, NESTICO & REDICK)

8

LLC, ET AL.,)

9

Defendants.)

10

11

THE VIDEOTAPE DEPOSITION OF MEMBER WILLIAMS
WEDNESDAY, APRIL 18, 2018

12

13

14 The videotape deposition of MEMBER WILLIAMS,
15 called by the Defendants for examination pursuant
16 to the Ohio Rules of Civil Procedure, taken before
17 me, the undersigned, Aimee N. Szinte, Notary Public
18 within and for the State of Ohio, taken at
19 Sutter O'Connell, 1301 East Ninth Street,
20 3600 Erieview Tower, Cleveland, Ohio, commencing
21 at 10:38 a.m., the day and date above set forth.

22

23

24

25



WILLIAMS, MEMBER
04/18/2018

Page 65

1 retained by KNR have ever gone out and taken
2 pictures of damaged vehicles?

3 A Concerning me or just anybody?

4 Q Concerning anybody.

5 A No.

6 Q Do you know whether they've gone out and taken
7 pictures of clients to be used in the case?

8 A I have no clue.

9 Q Do you know whether they ever go and get
10 statements from witnesses?

11 A I have no idea.

12 Q All right. How did you come to retain KNR in
13 the first place for your initial case right
14 back at the beginning?

15 A Mike Mallis and Rob Horton had worked for
16 Perantinides & Nolan and did my mother's
17 lawsuit. And Jill Gardner worked there, who is
18 my daughter's mother-in-law, and so that's why
19 I went to them. I was in this little car
20 accident. I don't know if you guys want it.
21 It's nothing like my mother's was, but, you
22 know, I asked them.

23 Q All right. So the secretary there, that is
24 your --

25 A Well, she doesn't work there now.

1 IN THE COURT OF COMMON PLEAS

2 SUMMIT COUNTY, OHIO

3 MEMBER WILLIAMS, et al.,

4 Plaintiffs,

5 -vs-

CASE NO. CV-2016-09-3928

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

8 Defendants.

9 - - - -

10
11 Videotaped deposition of MINAS FLOROS, DC, taken
12 as if upon examination before Brian A. Kuebler,
13 Kurt Spencer, Notary Publics within and for the
14 State of Ohio, at the Pattakos Law Firm, 101
15 Ghent Road, Fairlawn, Ohio, at 9:09 a.m. on
16 Friday, March 20, 2019, pursuant to notice and/or
17 stipulations of counsel, on behalf of the
18 Plaintiffs.

19 - - - -

20 JK COURT REPORTING
21 55 PUBLIC SQUARE
22 SUITE 1332
 CLEVELAND, OHIO 44113
 (216) 664-0541

23 www.jarkub.com

24
25 EXHIBIT

tabbles
Q

1 Chetoiri Beasley?

2 A. Yes.

3 Q. Okay. It looks like she also received the
4 typical, the same treatment that Ms. Norris and
5 Ms. Reid received as well, correct?

6 MR. POPSON: Objection.

7 A. It's similar. There's a lot more intersegmental
8 traction that Ms. Beasley received as opposed to
9 Ms. Reid and Ms. Norris.

10 Q. And that's the table?

11 A. Correct. That's the intersegmental traction
12 table.

13 Q. Okay. It doesn't look like any of these five
14 patients that we have these records for were
15 billed for the exercises; is that correct?

16 A. I don't -- I don't see any exercise charges here,
17 no.

18 Q. Okay. I want to go back to how you started
19 working at Akron Square.

20 Who was it that made the decision to hire you
21 at Akron Square?

22 A. I have no idea.

23 MR. KEDIR: Objection.

24 A. I don't know.

25 Q. Who called you and told you -- or who told you

1 that -- who offered you the job?

2 MR. KEDIR: Objection.

3 A. I don't remember specifics. It may have been
4 Melanie, the initial contact person I had.

5 Q. And you don't remember Melanie's last name?

6 A. I don't remember.

7 Q. Do you have a contract with Akron Square?

8 A. I did back 2004.

9 Q. And it expired?

10 A. It's changed. It's just -- there's been no new
11 contract signed, but the parameters of that
12 contract, I think are different. I don't
13 remember the details of the contract.

14 Q. Do you still have it?

15 A. No.

16 Q. What are the terms of your employment?

17 MR. KEDIR: Objection.

18 A. What does that mean?

19 Q. Well, what's your agreement between Akron Square
20 -- what's your agreement with Akron Square?

21 MR. KEDIR: Objection.

22 A. I'm just an employee of Akron Square
23 Chiropractic. I'm required to treat the patients
24 and that's it.

25 Q. How are you paid?

IN THE COURT OF COMMON PLEAS
SUMMIT COUNTY, OHIO

MEMBER WILLIAMS, et al.,)	Case No. CV-2016-09-3928
)	
Plaintiffs,)	Judge James A. Brogan
)	
vs.)	<u>AFFIDAVIT OF</u>
)	<u>MINAS FLOROS</u>
KISLING, NESTICO, & REDICK,)	
LLC, et al.,)	
)	
Defendants.)	

Now comes Affiant, Minas Floros, a Chiropractic Physician, having first been sworn upon his oath, and attests as follows:

- 1) I am of legal age, sound mind, and otherwise competent to testify.
- 2) This affidavit is based on my personal knowledge.
- 3) I am a licensed Chiropractic Physician in the State of Ohio and I am in good standing.
- 4) In the course of my practice, I have treated patients injured in automobile accidents represented by attorneys employed by Kisling, Nestico & Redick and other law firms.
- 5) That all patients, including patients represented by Kisling, Nestico and Redick at Akron Square Chiropractic clinic have their care determined solely by the chiropractor in charge.
- 6) Akron Square Chiropractic currently employs two chiropractors.
- 7) Based upon my professional chiropractic judgment, and only if I determine it is in the best interest of a given patient, I refer a small percentage of my patients to Dr. Sam Ghoubrial or another medical doctor for medical consultation because the services a medical doctor can provide to help the patient heal faster are out of my professional scope of practice.



- 8) The reason for referring patients to Dr. Sam Ghoubril depended solely on the patient's medical conditions and needs.
- 9) At various times, based upon the medical condition of the clients, I would refer patients to one of a multitude of medical providers.
- 10) That the care provided by me, and/or my associates to the Member Williams et al. class members was different for each, to his own medical needs, based upon my education, training, and my professional judgment that such care was in their best interest.

FURTHER AFFIANT SAYETH NAUGHT.


Minas Floros, Chiropractic Physician

STATE OF OHIO)
) SS:
COUNTY OF)

SWORN TO AND SUBSCRIBED in my presence by MINAS FLOROS,
Chiropractic Physician this 12th day of June, 2019.


NOTARY PUBLIC



SHAUN H. KEDIR
Attorney At Law
NOTARY PUBLIC
STATE OF OHIO
My Commission Has
No Expiration Date
Section 147.03 O.R.C.

STATE OF CALIFORNIA

)

) SS: AFFIDAVIT

COUNTY OF SAN MATEO

)

I, Linton A. Mohammed, Ph. D, Affiant, being first duly sworn, have personal and firsthand knowledge of all facts contained herein and am competent to testify to the following:

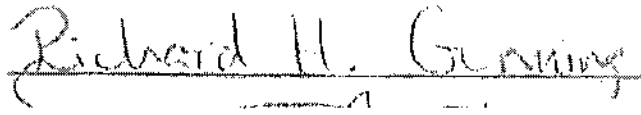
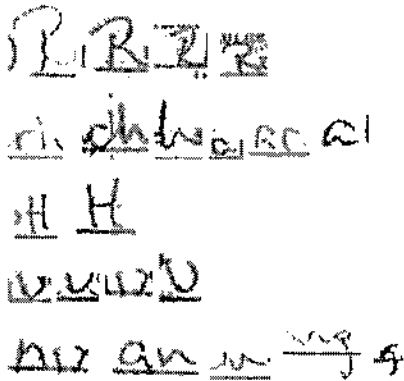
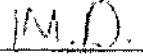
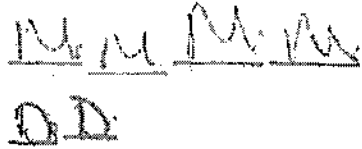
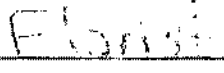
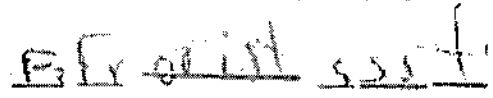
1. I am a trained forensic document examiner with over thirty (30) years of experience in forensic document examination. I am currently employed by Forensic Science Consultants, Inc. based on San Francisco, California. A true and accurate copy of Curriculum Vitae is attached hereto as Exhibit "A".
2. In addition to my work in private practice, I have worked as a forensic document examiner and a senior forensic document examiner for the San Diego County Sheriff's Department Regional Crime Laboratory, and for the Laboratory of the Government Chemist in Teddington, Middlesex, England. I am currently an adjunct assistant professor at Oklahoma State University teaching graduate level courses in forensic document examination. I am a former President of the American Society of Questioned Document Examiners and I am a Fellow of the American Academy of Forensic Sciences Questioned Documents Section and I have published numerous papers on forensic document examination and handwriting kinematics. Exhibit "A".
3. I was retained to review certain documents and to determine, using my education, training, and experience, whether Monique Norris's handwriting appears on the Authorization for Release of Protected Health Information, attached hereto as Exhibit "B".
4. In making this determination, I used established forensic document examination techniques as outlined in the SWGDOC¹ *Standard for Examination of Handwritten Items* (attached as Exhibit "C"), and I compared the handwriting contained on the Authorization for Release of Protected Health Information to other documents that Monique Norris testified under oath did contain her handwriting (designated as Known handwriting).
5. In conducting a forensic document examination of this type, I use the SWGDOC *Standard Terminology for Expressing Conclusions of Forensic Document Examiners*. This 9-point scale is standard and widely accepted in the industry for forensic document examination and is attached hereto as Exhibit "D".

¹ Scientific Working Group for Documents www.swgdoc.org



6. Examination and comparison of the questioned entries with the known handwriting of Monique Norris disclosed a significant combination of similarities in letter formation, letter combinations, relative size, spacing, slant, and baseline alignment. No fundamental differences were found. There was no uppercase letter "G" in the known handwriting for comparison with the letter "G" in the name "Gunning". Table 1 below illustrates the similar letter formations and letter combinations.

Table 1 Similarities between the questioned and known handwriting

QUESTIONED (EXHIBIT B)	KNOWN -MONIQUE NORRIS
	
	
	

7. After conducting the forensic examination of the documents provided and applying my education, training and experience, I have determined that it is very probable that Monique Norris wrote the entries "Richard M. Gunning M.D." and "Florist" on the Authorization for Release of Protected Health Information (Exhibit "B").
8. If a further examination is required, the original of Exhibit B and additional specimen handwriting of Monique Norris should be submitted.
9. Further affiant sayeth naught.



Linton A. Mohammed, Ph.D., D-ABFDE
Forensic Document Examiner

SWORN TO BEFORE ME and subscribed in my presence this 12 day of June, 2019.

SEE ATTACHED FOR

NOTARY PUBLIC

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of the document.

Forensic Science Consultants, Inc.

433 Airport Boulevard, Suite 406
Burlingame, CA 94010-2017

Tel: 650-548-1852
lamqde@gmail.com
www.qdexams.com

Linton A. Mohammed, Ph.D.
Forensic Document Examiner

Diplomate: American Board of Forensic Document Examiners
Diploma in Document Examination - Forensic Science Society (England)
American Society of Questioned Document Examiners
(Member & Past-President)
American Academy of Forensic Sciences (Fellow)

Linton A. Mohammed CURRICULUM VITAE

WORK EXPERIENCE

Forensic Science Consultants, Inc., 01/2012 - present
San Francisco, CA

Duties: Forensic Document Examination, expert testimony; research; management.

**dba Rile, Hicks, & Mohammed, Forensic Document Examiners,
10/2010 – 01/2012**

Long Beach, CA; San Francisco, CA

Duties: Forensic Document Examination, expert testimony; research; management.

dba Associated Document Examiners, 10/1997 – 09/2010

[with approval of San Diego County Sheriff's Department]

San Diego, CA

Duties: Forensic Document Examination, expert testimony; research; management.

San Diego County Sheriff's Department Regional Crime Laboratory, 08/1996 – 10/2010

San Diego, CA

Senior Forensic Document Examiner, (2002 – 2010)

Forensic Document Examiner, (1996 – 2002)

Duties:

Conducted examinations in the most complex cases involving: signatures, handwriting, typewriting, machine printing, commercial printing, photocopies, hand stamps, ink, paper, indented impressions, binding materials; restoration and decipherment of alterations, erasures, and obliterations.

Technical Lead - Questioned Documents Section.

Provided training and mentorship for junior examiners. Principal trainer in Forensic Document Examination for Marie Durina (07/2003- 08/2006) and Brenda Lanners (10/2009- 09/2010).

Provided training for investigators and attorneys.

Provided expert testimony in courts of law.



CURRICULUM VITAE – LINTON A. MOHAMMED

Conducted research, presented results at forensic science conferences, and published in peer-reviewed journals.

Produced and maintained the Questioned Documents Section Quality Manuals.

Oversaw the Questioned Documents Section's ASCLD-LAB accreditation status.

Acted as an Audit Team Captain or part of audit teams as per the Laboratory's ASCLD-LAB accreditation protocols.

Participated in proficiency testing.

Laboratory of the Government Chemist, 07/1993 – 07/1996

Teddington, Middlesex, England

Forensic Document Examiner

Caribbean Institute of Forensic Investigations Ltd., 06/1992 – 07/1993

Forensic Document Examiner

Trinidad, West Indies

Trinidad and Tobago Forensic Science Center, 01/1989 – 06/1992

Forensic Document Examiner; Safety Officer

Trinidad, West Indies

Trinidad and Tobago Forensic Science Center, 12/1986 – 12/1988

Chemist 1

Two-year full-time training program in Document Examination. (December 1986-December 1988) at the Trinidad and Tobago Forensic Science Center, Port of Spain, Trinidad. Mr. Robert Fawcett (Staff Sergeant [retired], Royal Canadian Mounted Police) conducted the training, which included the examination of: signatures, handwriting, typewriting, machine printing, commercial printing, photocopies, hand stamps, ink, paper, indented impressions, binding materials; restoration of alterations, erasures, and obliterations, photography, and court testimony.

EDUCATION**Ph.D. (Human Biosciences)**

La Trobe University, Melbourne, Australia, 2012 Thesis: *"Elucidating spatial and dynamic features to discriminate between signature disguise and signature forgery behavior"*

Supervisors: Assoc. Prof. Doug Rogers and Dr. Bryan Found

Master of Forensic Sciences

National University, San Diego, CA, 2005

Bachelor of Science (General) [Honors]

University of the West Indies, St. Augustine, Trinidad & Tobago, 1984

CURRICULUM VITAE – LINTON A. MOHAMMED

TEACHING EXPERIENCE

Oklahoma State University, 2006 – present:

Adjunct Assistant Professor

Master of Forensic Sciences Administration and Graduate Certificate in Questioned Documents (online programs)

- Graduate course: Historical Aspects of Questioned Documents (4 hours per week during a semester)
- Graduate course: Technical Aspects of Questioned Documents (4 hours per week during a semester).

PROFESSIONAL CERTIFICATIONS

- Certificate of Qualification in Forensic Document Examination (No. 298) *American Board of Forensic Document Examiners, Inc.*, 1998 (re-certified every 5 years since 1998 to present).
- Diploma in Document Examination
Chartered Society of Forensic Sciences, 1996
(re-certified every 5 years since 1996 to present).

TESTIMONY EXPERIENCE

Testified over 100 times as an expert witness in Forensic Document Examination in USA (Federal & State courts, depositions), England (High Court & Magistrates' Court), and the Caribbean (High Court & Magistrates' Court).

AWARDS

2019: **Ordway Hilton Award** – American Academy of Forensic Sciences Questioned Documents Section (In Recognition of Outstanding Contributions to Forensic Document Examination).

2012: **New Horizon Award** – American Board of Forensic Document Examiners, Inc. (In Recognition of Exceptional Contributions in Scientific Research for the Advancement of Forensic Document Examination).

PUBLICATIONS

Book

Caligiuri, M. & Mohammed, L. *The Neuroscience of Handwriting: Applications for Forensic Document Examination*. Taylor & Francis: Boca Raton, 2012.

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Papers

1. Caligiuri, M., Mohammed, L., Lanners, B., Hunter, G. (2018). *Kinematic Validation of FDE Determinations about writership in handwriting examination: A preliminary study*. Journal of the American Society of Questioned Document Examiners, Vol, 21, No. 1.
2. Mohammed, L., Found, B., Caligiuri, M., Rogers, D. (2015). *Dynamic Characteristics of Signatures: Effects of Writer Style on Genuine and Simulated Signatures*. Journal of Forensic Sciences, January 2015, Vol. 60, No.1.
3. Mohammed L.A. (2013). *History of the Forensic Examination of Documents*. In: Siegel JA and Saukko PJ (eds.) Encyclopedia of Forensic Sciences, Second Edition, pp. 386-390. Waltham: Academic Press.
4. Caligiuri, M., Mohammed, L., Found, B., & Rogers, D. (2012). *Nonadherence to the Isochrony Principle in Forged Signatures*. Forensic Science International 223 (2012) 228–232.
5. Mohammed, L., Found, B., Caligiuri, M., Rogers, D. (2011). *The Dynamic Character of Disguise Behavior for Text-Based, Mixed, and Stylized Signatures*. J Forensic Sci, January 2011, Vol. 56, No. S1 pp. S136-141).
6. Mohammed, L., Ostrum, B. (2010). *Using Adobe Photomerge™ for Demonstrative Evidence*, Journal of the American Society of Questioned Document Examiners, Vol. 13, No. 1.
7. Mohammed, L.A. (2009). *Alterations, Erasures, and Obliterations of Documents*, in Wiley Encyclopedia of Forensic Science, Jamieson, A., Moenssens, A. (eds). John Wiley & Sons Ltd., Chichester, UK, pp. 128-134.
8. Mohammed, L., Found, B., Rogers, D. (2008). *Frequency of Signature Styles in San Diego County* – Journal of the American Society of Questioned Document Examiners, Vol. 11 (1).
9. Mohammed, L., Richards, G. (2006). *Thinking Outside the Box* – Journal of the American Society of Questioned Document Examiners, Vol. 9 (2).
10. Mohammed, L., Jenkinson, G. (2002). *Association of counterfeit documents to a printing plate by means of half tone dots* – Journal of the American Society of Questioned Document Examiners, Vol. 5 (1).
11. Mohammed, L. (1999). *Write-On™: A new tool for handwriting comparison* - Journal of the American Society of Questioned Document Examiners, Vol. 2 (2).

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12. Mohammed, L. (1999). *An evaluation of documents produced by a high-speed, high-volume scanning process* - Forensic Science Communications, Vol. 1 (3).
13. Mohammed, L. (1998). *Sequencing writing impressions and laser printing or ink-jet printing using the ESDA* - Journal of the American Society of Questioned Document Examiners, Vol. 1 (1).
14. Mohammed, L. (1993). *Signature disguise in Trinidad and Tobago* - Journal of the Forensic Science Society, Vol. 33 (1).

PRESENTATIONS

Workshops

- *The Forensic Examination of Genuine, Disguised, and Simulated Signatures with an Introduction to the Neuroscience and Kinematics of Handwriting (2 days)*
 - Presented at the Scottish Police Authority, Glasgow, Scotland 2018.
- *The Forensic Examination of Original and Copied Signatures*
 - Presented at The Midwestern Association of Forensic Sciences Conference, Cincinnati, OH 2017.
- *Likelihood Approach and Document Examination: What For?*
 - Co-presented with Liv Cadola and Tobin Tanaka at the 21st Triennial Meeting of the International Association of Forensic Sciences, Toronto, Canada 2017.
- *The Examination of Skillfully Simulated Arabic Signatures*
 - Presented at the 2nd Saudi International Conference on Forensic Medicine and Sciences, Riyadh, Kingdom of Saudi Arabia 2017.
- *The Forensic Examination of Genuine, Disguised, and Simulated Signatures with an Introduction to Kinematics of Handwriting*
 - Presented at the Midwestern Association of Forensic Sciences Conference, Branson, MO 2016.
- *Genuine, Disguised, and Simulated Signatures; Kinematics of Handwriting; Formal and Informal Signatures*
 - Co-presented with Lloyd Cunningham at the Australasian Society of Forensic Document Examiners, Inc., Sydney, Australia 2016.
- *Document Examination in the USA*
 - 2-day seminar presented at the Institute of Forensic Science Seminar, Beijing, China 2015.

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- *Are Fountain Pens Back in Vogue? Characteristics of Fountain Pen Writing and Aqueous Ink Analysis*
 - Co-presented with Lloyd Cunningham, Dr. Valery Aginsky, & William J. Flynn at the 73rd Annual Meeting of the American Society of Questioned Document Examiners, Toronto, Canada 2015.
- *The Forensic Examination of Genuine, Disguised, and Simulated Signatures – with an introduction to the Neuroscience and Kinematics of Handwriting (2 days)*
 - 2-day workshop conducted at the II Brazilian Symposium on Forensic Science, Brazilia, Brazil 2015.
- *The Examination of Skillfully Simulated Signatures*
 - Presented at the 67th Annual Meeting of the American Academy of Forensic Sciences, Orlando, FL 2015.
 - Presented at Canada Border Services Forensic Laboratory, Ottawa, Canada, 2015.
- *Skillful Freehand Signature Simulation* - co-presented with Lloyd Cunningham at the Joint Meeting of the American Society of Questioned Documents Examiners, Inc. & the Australasian Society of Forensic Document Examiners, Inc., Honolulu, HI 2014.
- *Skillfully Simulated Signatures (1/2 day)* – presented at the European Network of Forensic Handwriting Examiners (ENFHEX) meeting, Riga, Latvia, 2013.
- *Signature Examination of Healthy and Impaired Writers (1 day)* - co-presented with Prof. Michael Caligiuri, UCSD, at the American Academy of Forensic Sciences Annual Conference, Washington DC, 2013.
- *Neural Bases and Characteristics of Signature Formation in Writers with Dementia (1/2 day)*
 - Co-presented with Prof. Michael Caligiuri, UCSD, at the 70th Annual General Meeting of the American Society of Questioned Document Examiners, Charleston, SC 2012.
- *Signature Examination - Translating Basic Science into Practice (1 day)*
 - Co-presented with Prof. Michael Caligiuri, UCSD at the American Academy of Forensic Sciences Annual Conference, Seattle, WA 2010.
 - Co-presented with Prof. Michael Caligiuri, UCSD at the American Society of Questioned Document Examiners 68th Annual General Meeting, Victoria, BC, Canada, 2010.

CURRICULUM VITAE – LINTON A. MOHAMMED

- *Genuine, Disguised, and Forged Signatures (1/2 day)*
 - Presented at the 1st Eurasian Congress on Forensic Sciences, Istanbul, Turkey, 2008.
 - Presented at the Victoria Forensic Science Centre, Melbourne, Australia, 2008.
 - Presented at the European Network of Forensic Handwriting Experts (ENFHEX) Meeting, Krakow, Poland, 2009.

Papers

1. Ommen, D., Fuglsby, C., Saunders, C., Caligiuri, M., Mohammed, L., Buscaglia, J. (2019). *Pairwise Comparison Scores for Handwritten Questioned Documents*. Presentation at the American Academy of Forensic Sciences 71st Annual Scientific Meeting. Baltimore, MD.
2. Fuglsby C, Mohammed L, Saunders C, Ommen D, Buscaglia J, Caligiuri M. (2018). *FDE Conclusion Scales Parts 1 & 2: Reverend Bayes or Professor Kirk?* Presented at the 76th Annual Conference of the American Society of Questioned Document Examiners, Park City, UT.
3. Ommen, D., Fuglsby, C., Saunders, C., Caligiuri, M., Mohammed, L., Buscaglia, J. (2018). *Pairwise Scores for Designing Handwritten Document Comparisons*. Poster presented at Forensics @NIST, Gaithersburg, MD.
4. McClary, C., Mohammed, L., Caligiuri, M. (2018). *An Analysis of Forensic Document Examiner (FDE) Aptitude in Determining Velocity Rates of Strokes*. Presented at the American Academy of Forensic Sciences Conference, Seattle, WA.
5. Fuglsby, C., Mohammed, L., Buscaglia, J., Saunders, C. (2018). *Sufficiency and Complexity Factors in Handwriting Examination*. Presented at the Impression, Pattern, & Trace Evidence Symposium, Washington, DC.
6. Caligiuri, M., Mohammed, L. (2018). *Error Rates in Handwriting Examination*. Presented at the CSAFE Error Rates Symposium, Arlington, VA.
7. Caligiuri, M., Mohammed, L., Lanners, B. & Hunter G. (2017). *Kinematic Validation of FDE Determinations About Authorship in Handwriting Examination*. Presented at the 75th Annual Conference of the American Society of Questioned Document Examiners, San Diego, CA.
8. Mohammed, L. (2017). *The Kinematics of Signatures and Handwriting*. Presented at the 2nd Saudi International Conference on Forensic Medicine and Sciences, Riyadh, Kingdom of Saudi Arabia.

CURRICULUM VITAE – LINTON A. MOHAMMED

9. Domitrovich, S. Judge, Seaman Kelly, J., Mohammed, L. (2017). *A Review of the Almeciga V. Center for Investigative Reporting, Inc. Decision: Analysis and Counter-Analysis*. Presented at the American Academy of Forensic Science Conference, New Orleans, LA.
10. Mohammed, L. (2016). *Document Examination – not just handwriting*. Presented to the Young Forensic Scientists Forum, American Academy of Forensic Science Conference, Las Vegas, NV.
11. Mohammed, L. (2014). *Kinematic approach to signature analysis*. Presented at the 3rd. International Workshop on Automated Forensic Handwriting Analysis, Honolulu, HI.
12. Mohammed, L. (2013). *Handwriting stroke kinematics*. Presented at the Measurement Science and Standards in Forensic Handwriting Analysis conference, NIST, Gaithersburg, MD.
13. Mohammed, L., Found, B., Caligiuri, M., Rogers, D. (2012). *Dynamics of stroke direction in genuine and forged signatures*. Presented at the American Academy of Forensic Sciences Conference, Atlanta, GA.
14. Mohammed, L., Found, B., Caligiuri, M., Rogers, D. (2009). *Pen pressure as a discriminating feature between genuine and forged signatures* – Presented at the International Graphonomics Society Conference, Dijon, France.
15. Mohammed, L., Found, B., Caligiuri, M, Rogers, D. (2009). *Can dynamic features be used to discriminate between genuine, auto-Simulated, and simulated signatures?* - Presented at the 61st Annual Conference of the American Academy of Forensic Sciences, Denver, CO.
16. Mohammed, L. (2008). *Judicial challenges to expert witness testimony in the USA: The Daubert Trilogy* -Presented at the 1st. Eurasian Congress on Forensic Sciences, Istanbul, Turkey.
17. Mohammed, L., Found, B., Rogers, D. (2008). *Genuine and disguised signatures – An empirical approach* - Presented at the 60th Annual Conference of the American Academy of Forensic Sciences, Washington, DC.
18. Mohammed, L., Williams, D. (2006). *Preparing demonstrative charts with the use of Adobe Photomerge®* - Poster presentation, American Academy of Forensic Sciences, Seattle, WA.
19. Mohammed, L. (2005). *The Edge of Light™ Scanner* - Presented at the American Academy of Forensic Sciences Conference, New Orleans, LA.
20. Mohammed, L. (2003). *Daubert and documents* – Presented at the California Association of Criminalists Fall Conference, San Diego, CA.

CURRICULUM VITAE – LINTON A. MOHAMMED

21. Mohammed, L. (2003). *A standardized training program for Forensic Document Examiners – A proposal*- Presented at the 61st Annual Conference of the American Society of Questioned Document Examiners, Baltimore, MD.
22. Mohammed, L. (2001). *Demonstrative evidence and multi-media technology* - Presented at the 59th Annual Conference of the American Society of Questioned Document Examiners, Des Moines, IA.
23. Mohammed, L., Buglio, J., Shafer, A. (2000). *The influence of paper on the performance of the VSC-2000 spectrometer* - Presented at the 58th Annual Conference of the American Society of Questioned Document Examiners, Ottawa, Ontario, Canada.
24. Mohammed, L., Buglio, J. (2000). *The Association of Forensic Document Examiners* - Prepared for the 58th Annual Conference of the American Society of Questioned Document Examiners, Ottawa, Ontario, Canada.
25. Mohammed, L. (1992). *Cocaine and handwriting* - presented at the 50th Annual Conference of the American Society of Questioned Document Examiners, Milwaukee, WI.
26. Mohammed, L. (1991). *Signature disguise in Trinidad and Tobago* - presented at the 49th Annual Conference of the American Society of Questioned Document Examiners, Orlando, FL.

PROFESSIONAL AFFILIATIONS

- American Society of Questioned Document Examiners
 - President, 2010 – 2012
 - Vice-President, 2008 – 2010
 - Treasurer, 2006 – 2008
 - Director, 2004 – 2006;
 - Annual Conference Program Chair, 2006 & 2017
 - Chair, Evaluation and Examination Committee, 2002 – 2006
 - Annual Conference Site Chair, 2002
- American Academy of Forensic Sciences
 - Fellow – Questioned Documents Section
 - Chair – Questioned Documents Section, 2016 – 2018
 - Chair – Inter-Disciplinary Symposium 2018
 - Co-Chair – Inter-Disciplinary Symposium 2017
 - Secretary – Questioned Documents Section, 2014 – 2016
- Canadian Society of Forensic Science
- Chartered Society of Forensic Sciences

CURRICULUM VITAE – LINTON A. MOHAMMED

PROFESSIONAL ACTIVITIES

- Member – Academy Standards Board, 2017 –
- Member – Expert Working Group on Human Factors in Handwriting Examination, National Institute of Standards and Technology, 2015 – 2017.
- Member – Physics/Pattern Scientific Area Committee within the National Institute of Standards and Technology Organization of Scientific Area Committees (NIST/OSAC), 2014 –2016.
- Participant in the General Forensics Technology Working Group, National Institute of Justice, 2011
- Participant in Scientific Working Group on Documents (SWGDOC), 2009 – present
- Grant reviewer for the National Institute of Justice and affiliated agencies, 2009 – present
- Editor - Journal of the American Society of Questioned Document Examiners
- Editorial Review Board Member:
 - Journal of Forensic Sciences
 - Forensic Science and Technology (China)
- Guest reviewer:
 - Forensic Science International
 - Science & Justice
 - Australian Journal of Forensic Science
 - Egyptian Journal of Forensic Sciences
 - IEEE Transactions on Cybernetics

CONTINUING EDUCATION

- American Society of Questioned Document Examiners, Park City, UT 2018
 - Write-On 3.0 Workshop
 - The Greatest Forger to Ever Get Caught
- American Society of Questioned Document Examiners, San Diego, CA 2017
 - Forensic Science Research: Your Mission to Propose, Innovate, and Collaborate
 - Preparing a Digital Signature File for Forensic Analysis
 - Chinese Handwriting and Signatures Workshop: Hanzi Through the Eyes of the Forensic Document Examiner
 - Write or Wrong? Bias, Decision-Making, and the Use of Contextual Information in Forensic Document Examination

CURRICULUM VITAE – LINTON A. MOHAMMED

- American Society of Questioned Document Examiners, Pensacola, FL 2016
 - Measuring Frequency Occurrence in Handwriting and Hand Printing Characteristics
 - Sequence of Entries Determination – New Approach to Additional Print
- American Society of Questioned Document Examiners, Toronto, Canada 2016
 - Principles of Forensic Examination of Arabic Signatures
- American Society of Questioned Document Examiners, Honolulu, HI 2014
 - Adobe - Digital Media & Evidence
- American Academy of Forensic Sciences, Seattle, WA 2014
 - Science, Law, and the Inferential Process: The Epistemology of Scientific Conclusions
- National Institute of Standards and Technology (NIST), Gaithersburg, MD 2013.
 - Measurement Science and Standards in Forensic Handwriting Analysis
- American Academy of Forensic Sciences, Atlanta, GA, 2012
 - Paper Fundamentals for Forensic Document Examiners
 - Digital Photography for Forensic Document Examiners
- American Society of Questioned Document Examiners, Philadelphia, PA, 2011
 - Printing Process Identification for Forensic Document Examiners
 - Using Adobe Photoshop in a QD Workflow
- American Society of Questioned Document Examiners, Victoria, BC, Canada, 2010
 - Electronic Recording and Analysis of Handwritten Signatures & Writing
- Cedar Crest College, Allentown, PA, 2010
 - Multivariate Analysis for Forensic Scientists: Statistical Pattern Recognition for Physical Evidence Analysis and Chemometrics
- American Academy of Forensic Sciences, Denver, CO, 2009
 - Estimation of Uncertainty – Is Anyone Certain What This Means?
 - Security Documents before and After the Crime: REAL ID, Physical and Electronic Security Features, Developments in Commercial Printing Technology, and an Introduction to Counterfeit Link Analysis
- American Academy of Forensic Sciences, Washington DC, 2008
 - The Applications of Color Analysis and Light Theory in the Forensic Examination of Documents Workshop
- American Society of Questioned Document Examiners, Portland, OR 2006
 - Fine and Subtle Features of Handwriting Workshop
 - Signature Workshop

CURRICULUM VITAE – LINTON A. MOHAMMED

- Southeastern Association of Forensic Document Examiners, Atlanta, GA, 2006
 - Disguised and Forged Signatures Workshop
- American Academy of Forensic Sciences, New Orleans, LA, 2005
 - State of the Art Infrared and Ultraviolet Examinations of Documents by the Video Spectral Comparator
- California Criminalistics Institute, Sacramento, CA, 2005
 - Technical Writing for Criminalists
- American Board of Forensic Document Examiners, Las Vegas, NV, 2004
 - Daubert Seminar
- American Academy of Forensic Sciences, Chicago, IL, 2002
 - Note Taking for Forensic Document Examiners Workshop
- Rochester Institute of Technology, Rochester, NY, 2002:
 - Printing Process Identification and Image Analysis for Forensic Document Examiners
- Limbic Systems, Inc., Bellingham, WA, 2001:
 - Measurement of Internal Consistencies Software (MICS)
- American Board of Forensic Document Examiners, Norcross, GA, 2000:
 - Canon Photocopier and Facsimile Training Workshop
- California Criminalistics Institute, Sacramento, CA, 2000:
 - Special Topics in Questioned Documents
- Southwestern Association of Forensic Document Examiners, Las Vegas, NV, 1999:
 - Typewriter Examination & Classification Workshop
- American Board of Forensic Document Examiners, Las Vegas, NV, 1998:
 - Examination Techniques in Handwriting & Rubber Stamp Cases Seminar
- Canadian Society of Forensic Science 44th Annual Conference, Regina, Saskatchewan, Canada, 1997:
 - Digital Image Processing Workshop
- California Criminalistics Institute, Sacramento, CA, 1997:
 - Courtroom Presentation of Evidence
- American Society of Questioned Document Examiners 55th Annual Conference, Scottsdale, AZ, 1997:
 - Handwriting Workshop

CURRICULUM VITAE – LINTON A. MOHAMMED

- American Society of Questioned Document Examiners 51st Annual Conference, Ottawa, Canada, 1993:
 - Laser Printer Workshop
 - Miscellaneous Document Examination Workshop
- American Society of Questioned Document Examiners 50th Annual Conference, Milwaukee, WI, 1992:
 - Signature Workshop
- American Society of Questioned Document Examiners 49th Annual Conference, Orlando, FL, 1991:
 - Canon Fax Workshop
 - Deposition Testimony Workshop
 - Expert Witness Workshop
 - Signature Comparison Workshop

February 24, 2019



Sam N. Ghoubrial M.D.
 Richard H. Gunning M.D.
 Joshua M. Jones M.D.



Authorization for Release of Protected Health Information

Patient Information

Name: Alonso Monique M Phone: (330) 690-4552
 Last First Middle

Address: 1362 Doty Drive

City: Akron State: OH Zip: 44306

Sex: ☐ Male ☒ Female Age: 26 Date of Birth: 6/1/87

SSN: 285-81-3232

I hereby authorize Richard H. Gunning M.D.
 to release any and/or all medical records to Fluorist

This consent authorizes the release of the aforementioned requested information regarding my treatment, hospitalization, emergency or ambulatory health care and/or evaluation.

I understand that I may revoke this authorization at any time by putting it in writing and presenting it to the Hanchrist, LLC staff. I understand that the revocation will not apply to information that has already been released in response to this authorization. I understand that the revocation will not apply to my insurance company when the law provides my insurer with the right to consent a claim under my policy.

Unless otherwise revoked, this authorization will expire on the following date, event or condition _____. If a specific expiration date, event or condition is not listed, this consent will expire in three months from the date signed. Further disclosure of the information is prohibited without specific written consent of the person to whom it pertains. I am aware that in some instances, I may be charged a fee for copies and records requested.

I understand this is authorization is voluntary and that I may refuse to sign this authorization. My refusal to sign will not affect my ability to obtain treatment, receive payment, or eligibility for benefits unless allowed by law. I understand that any disclosure of information carries with it a potential for an unauthorized re-disclosure by the recipient and the information may no longer be protected by federal confidentiality or privacy laws/ rules. If I have questions about disclosure of my health information, I can contact the privacy officer.

8/2/13
 Date Signed

X Monique M
 Patient Signature

1134 Brown Street Suite 1A Akron, Ohio 44301
 Phone: (330) 331-7207 Fax: (330) 331-7567



SWGDOC Standard for Examination of Handwritten Items

SWGDOC Standard for Examination of Handwritten Items**1. Scope**

1.1 This standard provides procedures that should be used by forensic document examiners (SWGDOC Standard for Scope of Work of Forensic Document Examiners) for examinations and comparisons involving handwritten items and related procedures.

1.2 These procedures are applicable whether the examination and comparison is of questioned and known items or of exclusively questioned items.

1.3 These procedures include evaluation of the sufficiency of the material (questioned, or known, or both) available for examination.

1.4 The particular methods employed in a given case will depend upon the nature of the material available for examination.

1.5 This standard may not cover all aspects of unusual or uncommon examinations of handwritten items.

1.6 *This standard does not purport to address all of the safety concerns, if any, associated with its use. It is the responsibility of the user of this standard to establish appropriate safety and health practices and determine the applicability of regulatory requirements prior to use.*

2. Referenced Documents**2.1 Standards:**

ASTM E1732 Terminology Relating to Forensic Science

SWGDOC Standard for Scope of Work of Forensic Document Examiners

SWGDOC Terminology for Expressing Conclusions of Forensic Document Examiners

SWGDOC Terminology Relating to the Examination of Questioned Documents

3. Terminology

3.1 For definitions of terms in this standard, refer to Terminologies E1732 and SWGDOC Terminology Relating to the Examination of Questioned Documents.

3.2 Definitions:

3.2.1 *known, n/adj*—of established origin associated with the matter under investigation. E1732

3.2.2 *questioned, n/adj*—associated with the matter under investigation about which there is some question, including, but not limited to, whether the questioned and known items have a common origin. E1732

3.3 Definitions of Terms Specific to This Standard:

3.3.1 *absent character, n*—a character or character combination which is present in one body of writing but is not present (for example, does not have a corresponding character) in another body of writing.

3.3.2 *character, n*—any language symbol (for example, letter, numeral, punctuation mark, or other sign), other symbol, or ornament.

3.3.3 *characteristic, n*—a feature, quality, attribute, or property of writing.

3.3.4 *comparable, n/adj*—pertaining to handwritten items that contain the same type(s) of writing and similar characters, words, and combinations. Contemporaneousness and writing instruments may also be factors.

3.3.5 *distorted writing, n*—writing that does not appear to be, but may be natural. This appearance can be due to either voluntary factors (for example, disguise, simulation) or involuntary factors (for example, physical condition of the writer, writing conditions).

3.3.6 *handwritten item, n*—an item bearing something written by hand (for example, cursive writing, hand printing, signatures).

NOTE 1—As used in this standard “handwriting” and “handwritten” are generic terms. Writing is generally, but not invariably, produced using the hand, and may be the result of some other form of direct manipulation of a writing or marking instrument by an individual.

3.3.7 *individualizing characteristics, n*—marks or properties that serve to uniquely characterize writing.

3.3.7.1 *Discussion*—Both class characteristics (marks or properties that associate individuals as members of a group) and individual characteristics (marks or properties that differentiate the individual members in a group) are individualizing characteristics.

3.3.8 *item, n*—an object or quantity of material on which a set of observations can be made.

3.3.9 *natural writing, n*—any specimen of writing executed without an attempt to control or alter its usual quality of execution.

3.3.10 *range of variation, n*—the accumulation of deviations among repetitions of respective handwriting characteristics that are demonstrated in the writing habits of an individual. (See *variation*, 3.3.15).

3.3.11 *significant difference, n*—an individualizing characteristic that is structurally divergent between handwritten items, that is outside the range of variation of the writer, and that cannot be reasonably explained.

3.3.12 *significant similarity, n*—an individualizing characteristic in common between two or more handwritten items.

3.3.13 *sufficient quantity, n*—that amount of writing required to assess the writer's range of variation, based on the writing examined.

SWGDOC Standard for Examination of Handwritten Items

3.3.14 *type of writing, n*—refers to hand printing, cursive writing, numerals, symbols, or combinations thereof, and signatures.

3.3.15 *variation, n*—those deviations among repetitions of the same handwriting characteristic(s) that are normally demonstrated in the habits of each writer.

Discussion—Since variation is an integral part of natural writing, no two writings of the same material by the same writer are identical in every detail. Within a writer's range of variation, there are handwriting habits and patterns that are repetitive and similar in nature. These repetitive features give handwriting a distinctive individuality for examination purposes. Variation can be influenced by internal factors such as illness, medication, intentional distortion, etc. and external factors such as writing conditions and writing instrument, etc.

4. Significance and Use

4.1 The procedures outlined here are grounded in the generally accepted body of knowledge and experience in the field of forensic document examination. By following these procedures, a forensic document examiner can reliably reach an opinion concerning whether two or more handwritten items were written by the same person(s).

NOTE 2—The phrase "written by the same person(s)" refers to physical generation of the writing, not to intellectual ownership of the content.

5. Interferences

5.1 Items submitted for examination may have inherent limitations that can interfere with the procedures in this Standard. Limitations should be noted and recorded.

5.2 Limitations can be due to submission of non-original documents, limited quantity or comparability, or condition of the items submitted for examination. Other limitations can come from the quantity or comparability of the writing submitted, and include absent characters, dissimilarities, or limited individualizing characteristics. Such features are taken into account in this standard.

5.3 The results of prior storage, handling, testing, or chemical processing (for example, for latent prints) may interfere with the ability of the examiner to see certain characteristics. Whenever possible, document examinations should be conducted prior to any chemical processing. Items should be handled appropriately to avoid compromising subsequent examinations (for example, with clean cloth gloves).

5.4 Consideration should be given to the possibility that various forms of simulations, imitations, and duplications of handwriting can be generated by computer and other means.

6. Equipment and Requirements

6.1 Appropriate light source(s) of sufficient intensity to allow fine detail to be distinguished.

NOTE 3—Natural light, incandescent or fluorescent sources, or fiber optic lighting systems are generally utilized. Transmitted lighting, side lighting, and vertical incident lighting have been found useful in a variety of situations.

6.2 Magnification sufficient to allow fine detail to be distinguished.

6.3 Other apparatus as appropriate.

6.4 Imaging or other equipment for recording observations as required.

6.6 Sufficient time and facilities to complete all applicable procedures.

7. Procedure

7.1 All procedures shall be performed when applicable and noted when appropriate. These procedures need not be performed in the order given.

7.2 Examinations, relevant observations, and results shall be documented.

7.3 At various points in these procedures, a determination that a particular feature is not present or that an item is lacking in quality or comparability may indicate that the examiner should discontinue or limit the procedure(s). It is at the discretion of the examiner to discontinue the procedure at that point and report accordingly or to continue with the applicable procedures to the extent possible. The reasons for such a decision shall be documented.

7.4 Determine whether the examination is a comparison of questioned writing to known writing or a comparison of questioned writing to questioned writing.

7.5 Determine whether the questioned writing is original writing. If it is not original writing, request the original.

NOTE 4—Examination of the original questioned writing is preferable.

7.5.1 If the original is not submitted, evaluate the quality of the best available reproduction to determine whether the significant details of the writing have been reproduced with sufficient clarity for comparison purposes and proceed to the extent possible. If the writing has not been reproduced with sufficient clarity for comparison purposes, discontinue these procedures and report accordingly.

7.6 Determine whether the questioned writing appears to be distorted. If it appears to be distorted, determine whether it is possible to establish that the apparently distorted writing is natural writing.

7.6.1 If it is not natural writing, or if it is not possible to establish whether the apparently distorted writing is natural writing, determine whether the apparently distorted writing is suitable for comparison and proceed to the extent possible. If the available questioned writing is not suitable for comparison, discontinue these procedures and report accordingly.

7.7 Evaluate the questioned writing for the following:

SWGDOC Standard for Examination of Handwritten Items

7.7.1 *Type of Writing*—If there is more than one type of writing within the questioned writing, separate the questioned writing into groups of single types of writing.

7.7.2 *Internal Consistency*—If there are inconsistencies within any one of the groups created in 7.7.1 (for example, suggestive of multiple writers), divide the group(s) into subgroups, each one of which is consistent.

7.7.3 Determine range of variation of the writing for each group or sub-group of the questioned writing created in 7.7.1 and 7.7.2.

7.7.4 Determine presence or absence of individualizing characteristics.

7.7.5 If the examination is a comparison of exclusively questioned writing, go to 7.12.

7.8 Determine whether the known writing is original writing. If it is not original writing, request the original.

NOTE 5—Examination of the original known writing is preferable.

7.8.1 If the original is not submitted, evaluate the quality of the best available reproduction to determine whether the significant details of the writing have been reproduced with sufficient clarity for comparison purposes and proceed to the extent possible. If the writing has not been reproduced with sufficient clarity for comparison purposes, discontinue these procedures and report accordingly.

7.9 Determine whether the known writing appears to be distorted. If it appears to be distorted, determine whether it is possible to establish that the apparently distorted writing is natural writing.

7.9.1 If it is not natural writing, or if it is not possible to establish whether the apparently distorted writing is natural writing, determine whether the apparently distorted writing is suitable for comparison and proceed to the extent possible. It should be determined whether additional known writing would be of assistance, and if so, it should be requested. If the available known writing is not suitable for comparison, discontinue these procedures and report accordingly.

7.10 Evaluate the known writing for the following:

7.10.1 *Type of Writing*—If there is more than one type of writing within the known writing, separate the known writing into groups of single types of writing.

7.10.2 *Internal Consistency*—If there are unresolved inconsistencies within any of the groups created in 7.10.1 (for example, suggestive of multiple writers), contact the submitter for authentication. If any inconsistencies are not resolved to the examiner's satisfaction, discontinue these procedures for the affected group(s), and report accordingly.

7.10.3 Determine range of variation of the writing for each group of the known writing created in 7.10.1 and 7.10.2.

7.10.4 Determine presence or absence of individualizing characteristics.

7.11 Evaluate the comparability of the bodies of writing (questioned writing to known writing or exclusively questioned writing).

7.11.1 If the bodies of writing are not comparable, discontinue comparison and request comparable known writing, if appropriate.

7.11.1.1 If comparable known writing is made available, return to 7.10. If comparable known writing is not made available, discontinue these procedures and report accordingly.

7.12 Conduct a side-by-side comparison of comparable portions of the bodies of writing.

7.12.1 Determine whether there are differences, absent characters, and similarities.

7.12.2 Evaluate their significance individually and in combination.

7.12.3 Determine if there is a sufficient quantity of writing (questioned writing, or known writing, or both).

7.12.3.1 If writing (questioned writing, or known writing, or both) is not sufficient in quantity for an elimination or an identification, continue the comparison to the extent possible. When appropriate, request more known writing. If more known writing is made available, return to 7.10.

7.12.4 Analyze, compare, and evaluate the individualizing characteristics and other potentially significant features present in the comparable portions of the bodies of writing.

NOTE 6—Among the features to be considered are elements of the writing such as abbreviation; alignment; arrangement, formatting, and positioning; capitalization; connectedness and disconnectedness; cross strokes and dots; diacritics and punctuation; direction of strokes; disguise; embellishments; formation; freedom of execution; handedness; legibility; line quality; method of production; pen hold and pen position; overall pressure and patterns of pressure emphasis; proportion; simplification; size; skill; slant or slope; spacing; speed; initial, connecting, and terminal strokes; system; tremor; type of writing; and range of variation.

Other features such as lifts, stops and hesitations of the writing instrument; patching and retouching; slow, drawn quality of the line; unnatural tremor; and standard lines of various forms should be evaluated when present.

Potential limiting factors such as age; illness or injury; medication, drugs or alcohol (intoxication or withdrawal); awkward writing position; cold or heat; fatigue; haste or carelessness; nervousness; nature of the document, use of the unaccustomed hand; deliberate attempt at disguise or auto-forgery should be considered.

For further details, see the referenced texts.

7.12.5 Evaluate the similarities, differences, and limitations. Determine their significance individually and in combination.

7.13 Form a conclusion based on results of the above analyses, comparisons, and evaluations.

SWGDOC Standard for Examination of Handwritten Items

8. Reporting Conclusions

8.1 The conclusion(s) or opinion(s) resulting from the procedures in this standard may be reached once sufficient examinations have been conducted. The number and nature of the necessary examinations is dependent on the question at hand.

8.2 The bases and reasons for the conclusion(s), or opinion(s), should be included in the examiner's documentation and may appear in the report.

8.3 Refer to SWGDOC Terminology for Expressing Conclusions of Forensic Document Examiners for reporting conclusion(s) or opinion(s).

9. Keywords

9.1 forensic sciences; handwriting; questioned documents

REFERENCES

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SWGDOC Standard Terminology for Expressing Conclusions of Forensic Document Examiners

SWGDOC Standard Terminology for Expressing Conclusions of Forensic Document Examiners

1. Scope

1.1 This terminology is intended to assist forensic document examiners in expressing conclusions or opinions based on their examinations.

1.2 The terms in this terminology are based on the report of a committee of the Questioned Document Section of the American Academy of Forensic Science that was adopted as the recommended guidelines in reports and testimony by the Questioned Document Section of the American Academy of Forensic Science and the American Board of Forensic Document Examiners.¹

2. Referenced Documents

2.1 Standards

SWGDOC Standard for Scope of Work of Forensic Document Examiners

3. Significance and Use

3.1 Document examiners begin examinations from a point of neutrality. There are an infinite number of gradations of opinion toward an identification or toward an elimination. It is in those cases wherein the opinion is less than definite that careful attention is especially needed in the choice of language used to convey the weight of the evidence.

3.2 Common sense dictates that we must limit the terminology we use in expressing our degrees of confidence in the evidence to terms that are readily understandable to those who use our services (including investigators, attorneys, judges, and jury members), as well as to other document examiners. The expressions used to differentiate the gradations of opinions should not be considered as strongly defined "categories". These expressions should be guidelines without sharply defined boundaries.

3.3 When a forensic document examiner chooses to use one of the terms defined below, the listener or reader can assume that this is what the examiner intended the term to mean. To avoid the possibility of misinterpretation of a term where the expert is not present to explain the guidelines in this standard, the appropriate definition(s) could be quoted in or appended to reports.

3.4 The examples are given both in the first person and in third person since both methods of reporting are used by document examiners and since both forms meet the main purpose of the standard, that is, to suggest terminology that is readily understandable. These examples should not be regarded as the only ways to utilize probability statements in reports and testimony. In following any guidelines, the examiner should always bear in mind that sometimes the examination will lead into paths that cannot be anticipated and that no guidelines can cover exactly.

3.5 Although the material that follows deals with handwriting, forensic document examiners may apply this terminology to other examinations within the scope of their work, as described in SWGDOC Standard for Scope of Work of Forensic Document Examiners, and it may be used by forensic examiners in other areas, as appropriate.

3.6 *This standard does not purport to address all of the safety concerns, if any, associated with its use. It is the responsibility of the user of this standard to establish appropriate safety and health practices and determine the applicability of regulatory limitations prior to use.*

4. Terminology

4.1 Recommended Terms:

identification (definite conclusion of identity)—this is the highest degree of confidence expressed by document examiners in handwriting comparisons. The examiner has no reservations whatever, and although prohibited from using the word "fact," the examiner is certain, based on evidence contained in the handwriting, that the writer of the known material actually wrote the writing in question.

Examples—It has been concluded that John Doe wrote the questioned material, or it is my opinion [or conclusion] that John Doe of the known material wrote the questioned material.

strong probability (highly probable, very probable)—the evidence is very persuasive, yet some critical feature or quality is missing so that an *identification* is not in order; however, the examiner is virtually certain that the questioned and known writings were written by the same individual.

Examples—There is *strong probability* that the John Doe of the known material wrote the questioned material, or it is my opinion (or conclusion or determination) that the John Doe of the known material *very probably* wrote the questioned material.

DISCUSSION—Some examiners doubt the desirability of differentiating between strong probability and probable, and certainly they may eliminate this terminology. But those examiners who are trying to encompass the entire "gray scale" of degrees of confidence may wish to use this or a similar term.

¹ McAlexander T.V., Beck, J., and Dick, R., "The Standardization of Handwriting Opinion Terminology," *Journal of Forensic Science*, Vol 36, No. 2, March 1991, pp. 311-319.



SWGDOC Standard Terminology for Expressing Conclusions of Forensic Document Examiners

probable—the evidence contained in the handwriting points rather strongly toward the questioned and known writings having been written by the same individual; however, it falls short of the “virtually certain” degree of confidence.

Examples—It has been concluded that the John Doe of the known material probably wrote the questioned material, or it is my opinion (or conclusion or determination) that the John Doe of the known material *probably* wrote the questioned material.

indications (evidence to suggest)—a body of writing has few features which are of significance for handwriting comparison purposes, but those features are in agreement with another body of writing.

Examples—There is evidence which *indicates* (or *suggests*) that the John Doe of the known material may have written the questioned material but the evidence falls far short of that necessary to support a definite conclusion.

DISCUSSION—This is a very weak opinion, and a report may be misinterpreted to be an identification by some readers if the report simply states, “The evidence *indicates* that the John Doe of the known material wrote the questioned material.” There should always be additional limiting words or phrases (such as “may have” or “but the evidence is far from conclusive”) when this opinion is reported, to ensure that the reader understands that the opinion is weak. Some examiners doubt the desirability of reporting an opinion this vague, and certainly they cannot be criticized if they eliminate this terminology. But those examiners who are trying to encompass the entire “gray scale” of degrees of confidence may wish to use this or a similar term.

no conclusion (totally inconclusive, indeterminable)—This is the zero point of the confidence scale. It is used when there are significantly limiting factors, such as disguise in the questioned and/or known writing or a lack of comparable writing, and the examiner does not have even a leaning one way or another. *Examples*—*No conclusion* could be reached as to whether or not the John Doe of the known material wrote the questioned material, or I could not determine whether or not the John Doe of the known material wrote the questioned material.

indications did not—this carries the same weight as the indications term that is, it is a very weak opinion.

Examples—There is very little significant evidence present in the comparable portions of the questioned and known writings, but that evidence suggests that the John Doe of the known material did not write the questioned material, or I found indications that the John Doe of the known material did not write the questioned material but the evidence is far from conclusive.

See Discussion after indications.

probably did not—the evidence points rather strongly against the questioned and known writings having been written by the same individual, but, as in the probable range above, the evidence is not quite up to the “virtually certain” range.

Examples—It has been concluded that the John Doe of the known material probably did not write the questioned material, or it is my opinion (or conclusion or determination) that the John Doe of the known material probably did not write the questioned material.

DISCUSSION—Some examiners prefer to state this opinion: “It is unlikely that the John Doe of the known material wrote the questioned material.” There is no strong objection to this, as “unlikely” is merely the Anglo-Saxon equivalent of “improbable”.

strong probability did not—this carries the same weight as strong probability on the identification side of the scale; that is, the examiner is virtually certain that the questioned and known writings were not written by the same individual.

Examples—There is strong probability that the John Doe of the known material did not write the questioned material, or in my opinion (or conclusion or determination) it is highly probable that the John Doe of the known material did not write the questioned material.

DISCUSSION—Certainly those examiners who choose to use “unlikely” in place of “probably did not” may wish to use “highly unlikely” here.

elimination—this, like the *definite conclusion of identity*, is the highest degree of confidence expressed by the document examiner in handwriting comparisons. By using this expression the examiner denotes no doubt in his opinion that the questioned and known writings were not written by the same individual.

Examples—It has been concluded that the John Doe of the known material did not write the questioned material, or it is my opinion (or conclusion or determination) that the John Doe of the known material did not write the questioned material.

DISCUSSION—This is often a very difficult determination to make in handwriting examinations, especially when only requested exemplars are available, and extreme care should be used in arriving at this conclusion.

4.1.1 When the opinion is less than definite, there is usually a necessity for additional comments, consisting of such things as reasons for qualification (if the available evidence allows that determination), suggestions for remedies (if any are known), and any other comments that will shed more light on the report. The report should stand alone with no extra explanations necessary.

4.2 Deprecated and Discouraged Expressions:

4.2.1 Several expressions occasionally used by document examiners are troublesome because they may be misinterpreted to imply bias, lack of clarity, or fallaciousness and their use is deprecated. Some of the terms are so

SWGDOC Standard Terminology for Expressing Conclusions of Forensic Document Examiners

blatantly inane (such as "make/no make") that they will not be discussed. The use of others is discouraged because they are incomplete or misused. These expressions include:

possible/could have—these terms have no place in expert opinions on handwriting because the examiner's task is to decide to what degree of certainty it can be said that a handwriting sample is by a specific person. If the evidence is so limited or unclear that no definite or qualified opinion can be expressed, then the proper answer is *no conclusion*. To say that the suspect "could have written the material in question" says nothing about probability and is therefore meaningless to the reader or to the court. The examiner should be clear on the different meanings of "possible" and "probable," although they are often used interchangeably in everyday speech.

consistent with—there are times when this expression is perfectly appropriate, such as when "evidence consistent with disguise is present" or "evidence consistent with a simulation or tracing is present, but "the known writing is consistent with the questioned writing" has no intelligible meaning.

could not be identified/cannot identify—these terms are objectionable not only because they are ambiguous but also because they are biased; they imply that the examiner's task is only to identify the suspect, not to decide whether or not the suspect is the writer. If one of these terms is used, it should always be followed by "or eliminate[d]".

similarities were noted/differences as well as similarities—these expressions are meaningless without an explanation as to the extent and significance of the similarities or differences between the known and questioned material. These terms should never be substituted for gradations of opinions.

cannot be associated/cannot be connected—these terms are too vague and may be interpreted as reflecting bias as they have no counterpart suggesting that the writer cannot be eliminated either.

no identification—this expression could be understood to mean anything from a strong probability that the suspect wrote the questioned writing; to a complete elimination. It is not only confusing but also grammatically incorrect when used informally in sentences such as, "I no identified the writer" or "I made a no ident in this case."

inconclusive—this is commonly used synonymously with no conclusion when the examiner is at the zero point on the scale of confidence. A potential problem is that some people understand this term to mean something short of definite (or conclusive), that is, any degree of probability, and the examiner should be aware of this ambiguity.

positive identification—This phrase is inappropriate because it seems to suggest that some identifications are more positive than others.

[strong] reason to believe—there are too many definitions of *believe* and *belief* that lack certitude. It is more appropriate to testify to our conclusion (or determination or expert opinion) than to our belief, so why use that term in a report?

qualified identification—An *identification* is not qualified. However, opinions may be qualified when the evidence falls short of an *identification* or *elimination*.

4734-9-02 Advertising and solicitation.

(A) This rule applies to all forms of chiropractic and acupuncture advertising and solicitation. All advertisements and solicitations shall comply with the provisions of this rule.

(B) Advertising and solicitation means any communication disseminated by any means with the intent, either directly or indirectly, of offering or selling professional services, or offering to perform professional services, or inducing individuals to enter into any obligation relating to professional services or care or goods related thereto. Advertising includes business cards.

(C) No chiropractic physician shall disseminate or cause to be disseminated any advertisement or solicitation that is in any way false, fraudulent, deceptive, or misleading.

(D) Excluding a free consultation, any advertisement or solicitation which offers free or discounted goods or services shall include a disclaimer. The disclaimer shall clearly state specifically what goods or services are discounted or free and what goods or services are not included with the free or discounted services offered. If the advertisement is visual, the disclaimer shall be contained therein. If the advertisement is aural, the disclaimer shall be read. A copy of the disclaimer shall be provided to each patient who responds to an offer prior to the rendering of care and a copy shall be maintained in the patient's file. Additional goods or services that are subject to a charge that are rendered on the same date as free or discounted goods or services are offered shall not be rendered until such charges are disclosed in writing and acknowledged by signature of the patient. A copy of such signed disclosure shall be provided to the patient prior to rendering care and a copy shall be maintained in the patient's file.

(E) All advertisements and solicitations shall include therein the first and last name of a designated chiropractic physician who holds a valid Ohio chiropractic license, who has reviewed and approved the content of the advertisement or solicitation.

(F) All advertisements and solicitations shall clearly reveal that the advertisement and/or solicitation is being made on behalf of a chiropractic physician(s).

(G) All advertisements and solicitations shall contain therein one of these exact terms: chiropractic, chiropractor, doctor of chiropractic or chiropractic physician and in at least ten point font or its equivalent if the advertisement or solicitation is visual.

(H) No chiropractic physician who holds a certificate to practice acupuncture issued under Chapter 4734. of the Revised Code may advertise or represent to the public that he or she is engaged in the practice of oriental medicine or utilize any of the titles in section 4762.08 of the Revised Code.

(I) Any trade or fictitious names utilized in connection with the practice of chiropractic and/or acupuncture shall be duly registered with the Ohio secretary of state.

(J) No chiropractic physician shall advertise that he or she will waive the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers the chiropractor's services, otherwise would be required to pay, unless the waiver is made:

(1) In compliance with the health benefit plan that expressly allows a practice of that nature. Waiver of the deductibles or copayments shall be made only with the full knowledge and consent of the plan purchaser, payer, and third-party administrator. Documentation of the consent shall be made available to the board upon request, or;



(2) For professional services rendered to any other person licensed pursuant to this chapter, to the extent allowed by this chapter and the rules of the board.

(K) All advertisements and solicitations that claim specific physical illnesses, ailments, conditions, or symptoms are alleviated by chiropractic care must be supported by clinical or scientific literature generally recognized by the chiropractic profession.

(L) Chiropractic physicians who solicit via any telecommunication method or device shall maintain a record of the names of the individuals called, their telephone number, and a copy of the exact solicitation script(s) used for six months from the date of last use. Failure to maintain the names of the individuals called, their telephone number, and a copy of the exact solicitation script(s) used for six months from the date of last use constitutes a violation of this rule.

(M) Chiropractic physicians who solicit via any written medium, including but not limited to via the US mail, facsimile, or electronic mail, shall maintain a copy of the written solicitation and a record of the name, address, electronic mail address, or other location where the solicitation was sent, for six months from the last date of use. Failure to maintain a copy of the written solicitation and a record of the name, address, electronic mail address, or other location where the solicitation was sent for six months from the date of last use constitutes a violation of this rule. When the name and information are acquired from public documents, the written solicitation shall clearly state in at least ten point font or its equivalent "This is an advertisement. Your name and information were acquired from public documents. You are under no obligation to respond to this communication."

(N) Chiropractic physicians who solicit via in-person shall maintain a record of the names of the individuals contacted, including their address and telephone number, and copies of any documents or materials provided to the individual for a period of six months. Failure to maintain a record of the names of the individuals contacted, including their address and telephone number and copies of any documents or materials provided to the individual for a period of six months constitutes a violation of this rule.

(O) Each of the following constitutes an act of abusive solicitation and is in violation of this rule:

(1) Use of threats, intimidation, or profane or obscene language;

(2) Contacting an individual repeatedly or continuously, or after being advised that there is no interest in receiving chiropractic and/or acupuncture services;

(3) Contacting an individual when that person has previously stated that he or she does not wish to receive an outbound telephone call or in person solicitation made by or on behalf of the seller whose goods or services are being offered. Every chiropractic physician who solicits via telephone is to maintain a "do not call" list;

(4) Contacting an individual at any time other than between eight a.m. and nine p.m. local time;

(5) Requiring an immediate response from an individual to any offer made during the solicitation or making a one time only offer and/or not permitting the individual to consider the offer and reply at a later time;

(6) Failure to disclose within the first sixty seconds of the solicitation, the solicitor's identity and the identity and practice name of the chiropractic physician on whose behalf the solicitation is being made; the purpose of the solicitation; and a statement of the goods or services being offered;

(7) Failure to provide the practice telephone number of the chiropractic physician on whose behalf the

solicitation is being made;

(8) Misrepresenting an affiliation with, or endorsement by, any government or third-party organization;

(9) Communicating with an individual in a way that invades privacy of the individual, or interferes with an existing doctor/patient relationship;

(10) Leaving a recorded message for the prospect that does not comply with this rule;

(11) Failing to advise the prospect how his or her name and information were acquired and that the prospect is under no obligation to respond to the offer made during the solicitation;

(12) Contacting a minor child under eighteen years of age;

(13) Offering cash, gift cards, gift certificates or cash equivalents to patients or potential patients as a referral fee or as an inducement to enter into or to continue care or offering a promotional item that violates paragraph (I) of rule 4734-9-07 of the Administrative Code.

(14) Blocking or otherwise concealing or disguising the true identification of the origin of the solicitation.

(P) Chiropractic physicians are responsible for the solicitations made by others on his or her behalf.

(Q) A licensee may utilize testimonials if the patient giving the testimonial has given written consent as to the exact wording and proposed use of the testimonial. A copy of such consent and testimonial shall be retained by the chiropractic physician who holds a valid Ohio license for one year from the last date of publication. Testimonials shall be true and shall not be false, fraudulent, deceptive or misleading.

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