

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

MEMBER WILLIAMS, et al., Plaintiffs, vs. KISLING, NESTICO & REDICK, LLC, <i>et al.</i> , Defendants.	Case No. CV-2016-09-3928 Judge James A. Brogan Reply re: Notice and Motion re: July 30, 2019 Hearing re: Defendants' Improper Communications with Represented Third Parties
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In response to Plaintiffs' motion to continue the July 30, 2019 hearing, which also provided notice that witness Taijuan Carter has relocated to Tennessee, Defendant Floros has filed an opposition brief in which he reargues the underlying motion and claims that the it should be denied due to Mr. Carter's unavailability to appear personally.

As much as Defendants would prefer to avoid answering for the sanctionable conduct at issue, the fact that Mr. Carter has moved to Tennessee does nothing to excuse it. Nor does it make Mr. Carter's testimony any less credible.

Indeed, Floros does not deny the bulk of the conduct alleged, including that he tried to obtain Carter's signature on a document purporting to affirm a number of false statements that Carter has expressly disclaimed under oath. *See* Plaintiffs' 04/16/2019 Motion, Ex. A (Carter Aff.). Additionally, Floros admits that he called KNR to discuss Mr. Carter, and does not (because he cannot) deny that by the time of Floros's interaction with Carter, KNR had been advised twice, including in writing, that Mr. Carter is represented by Plaintiffs' counsel in connection with this case. *Id.*, Ex. A, Ex. C. Floros claims that KNR did not assist him with drafting the document he tried to get Floros to sign and that KNR otherwise did not influence Floros's communications with Mr. Carter. Not only are these claims facially suspect, they are contradicted by Mr. Carter's affidavit, as

well as by Floros's own admission that he spoke with KNR about Mr. Carter (not to mention Floros's text messages to Mr. Carter reflecting the same). *Id.*, Ex. A. Review of Floros's and the KNR Defendants' phone records would likely cast further doubt on this claim.

As stated in Plaintiffs' motion to continue, there are no means by which Plaintiffs or the Court may compel Mr. Carter's personal appearance at this hearing. Additionally, Mr. Carter's personal appearance is not required for the Court to decide on the instant motion. Nevertheless, because Floros now claims that he cannot "effectively question" Mr. Carter during a telephonic or video appearance, Plaintiffs suggest that the hearing on this motion be postponed until after the Court resolves Plaintiffs' motion for class certification. Mr. Carter has indicated his willingness to be deposed should this case proceed past the class-certification stage. At this deposition, Defendants could also examine Mr. Carter on the improper communications at issue, and this motion could then be heard by the Court with the benefit of that testimony.

Respectfully submitted,

/s/ Peter Pattakos

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Certificate of Service

The foregoing document was filed on July 26, 2019, using the Court's e-filing system, which will serve copies on all necessary parties.

/s/ Peter Pattakos
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