

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

MEMBER WILLIAMS, et al.,

Plaintiffs-Appellees,

v.

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

Defendant-Appellants.

Case No.: 2016-09-3928

Judge: James Brogan

**DEFENDANT SAM GHoubRIAL,
M.D.'s MOTION TO STAY PENDING
APPEAL**

Now comes Defendant-Appellant, Sam N. Ghoubrial, M.D., by and through counsel, and hereby moves this Court for an Order staying any further proceedings in this matter pending the appeal of this Court's Order of December 17, 2019, granting Plaintiffs' Motion for Class Certification as it relates to two putative classes of Plaintiffs.

On December 17, 2019, this Court issued an order finding the claims of Plaintiffs Reid, Norris and Harbour against Dr. Ghoubrial related to the cost of the medical care he provided were appropriate for class certification (Class A – the Price Gouging Class). However, pursuant to statute, the granting of a motion for class certification is a final appealable order. R.C. 2505.02(B)(5).

Dr. Goubrial has filed a timely notice of appeal with the clerk of courts as set forth in App.R. 3 and App.R. 4. Pursuant to App.R. 7, a party seeking a stay of proceedings pending appeal is ordinarily required to initially seek such leave from the trial court. As such, Defendant Dr. Ghoubrial respectfully asks this Court to stay any further proceedings in this matter pending the appeal on the issue of class certification. Any further proceedings in the trial court are inherently dependent upon the outcome of the appeal. The scope of any further motion practice, discovery, and/or judicial orders that would need to be completed prior to trial

cannot be determined until the appeal is resolved. In the interest of judicial economy, the Court should not be inclined to engage in ruling on potential discovery issues or further motion practice that would become moot if the appeal is successful. Likewise, the parties should not be required to endure the expense associated with continued proceedings in the trial court which would likely become wholly unnecessary in the event of a successful appeal.

For the reasons stated herein, Defendant Dr. Ghoubril respectfully request that this Court issue an order staying all proceedings in this matter pending the outcome of the appeal on class certification.

Respectfully Submitted,

By: /s/ Bradley J. Barmen

Bradley J. Barmen (0076515)

LEWIS BRISBOIS BISGAARD & SMITH LLP

1375 E. 9th Street, Suite 2250

Cleveland, Ohio 44114

Tel. 216.344.9422

Fax 216.344.9421

Brad.Barmen@lewisbrisbois.com

Counsel for Defendant/Appellant

Sam N. Ghoubril, M.D.

CERTIFICATE OF SERVICE

I hereby certify that on the 9th day of January, 2020, the foregoing Motion to Stay Pending Appeal was electronically filed with Court and will be served upon all parties via the Court's Electronic Filing System.

/s/ Bradley J. Barmen

Bradley J. Barmen (0076515)

LEWIS BRISBOIS BISGAARD & SMITH LLP

Counsel for Defendant/Appellant

Sam N. Ghoubrial, M.D.