

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

MEMBER WILLIAMS, et al.,

Plaintiffs,

v.

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

Defendant.

Case No.: 2016-09-3928

Judge: James Brogan

NOTICE OF APPEAL

Now comes Sam N. Ghoubrial, M.D., Defendant/Appellant, by and through counsel, and hereby gives notice that he is appealing to the Ninth District Court of Appeals, Summit County, Ohio the Court's January 26, 2024 Decision, which is a final appealable order pursuant to R.C. 2505.02(B)(5) and Ohio. Civ. R. 54(B). A copy of the January 26, 2024 Decision is attached as Exhibit A.

Respectfully Submitted,

By: /s/ Bradley J. Barmen

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CERTIFICATE OF SERVICE

I hereby certify that on the 30th day of January, 2024, the foregoing Notice of Appeal was served was electronically filed with the Court and will be served upon all parties via the Court's Electronic Filing System.

/s/ Bradley J. Barmen

Bradley J. Barmen

Counsel for Defendant

Sam N. Ghoubril, M.D.

TAVIA GALONSKI

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IN THE COURT OF COMMON PLEAS
COUNTY OF SUMMIT

SUMMIT COUNTY
CLERK OF COURTS

MEMBER WILLIAMS, et al.

Plaintiffs

-vs-

KISLING, NESTICO & REDICK,
LLC, et al.

Defendants

CASE NO. CV 2016 09 3928

JUDGE JAMES A. BROGAN
(Sitting by Assignment #18JA1214)DECISION

The Ninth District Court of Appeals remanded this matter to this Court for the second time. The Court of Appeals held that this Court failed to conduct a “rigorous analysis” of the requirements of Civ.R. 23(B) specifically, the predominance and superiority requirements of the Rule.

In Cope v. Metropolitan Life Ins. Co., 82 Ohio St. 3d 426, the Ohio Supreme Court held that a class satisfies the predominance requirement when generalized evidence exists to prove or disprove an element on a simultaneous class wide basis, because such proof obviates the need to examine each class members’ individual positions. The Supreme Court recognized that when a common fraud is perpetuated on a class of persons, those persons should be able to pursue an avenue of proof that is common to all members and involves standardized procedures by the defendants. See Hamilton v. Ohio Savings Bank (1998) 82 Ohio St. 3d 67 at 77.



In this matter, this Court will certify as Class A only those patients and clients of the defendants who were alleged victims of the price gouging scheme who did not receive a reduction of their medical bills or fees and were told not to use their health insurance carriers to avoid scrutiny of these charges and fees. These charges by Ghoubrial were for trigger point injections, TENS units and back braces.

The fact that some of the patients and clients received more of the procedures or devices than others should not prevent them being in the same class in this lawsuit.


Judge Henzel stated in Mozingo v. 2007 Gaslight Ohio, LLC (2016) Ohio 4828 the fact that each of the class members may have a different amount of damages does not automatically make the class unmanageable and not “superior” to other available methods for adjudication of the controversy.

For the purposes of this class action, the “necessity” for the medical injections and devices will be conceded. The Plaintiff will have to prove in the action that the prices for these items would not be covered by the standard health insurance coverages for these individuals.

The defendants have not asserted in their motion to dismiss that any of the clients or patients have attempted to start a parallel action or to intervene in one, and it seems unlikely in light of the relatively small individual recoverys that would be sought.

Thera Reid qualifies as a class representative because she alleged in the complaint that she was charged unreasonable rates for trigger point injections by Dr. Ghoubrial pursuant to the price gouging scheme alleged in the complaint.

IT IS SO ORDERED.



JUDGE JAMES A. BROGAN
Sitting by Assignment #18JA1214
Pursuant to Art. IV, Sec. 6
Ohio Constitution

The Clerk of Courts shall serve all counsel/parties of record.

JAB:lcb

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