

TAVIA GALONSKI

2024 JUN -4 PM 2: 24

IN THE COURT OF COMMON PLEAS
COUNTY OF SUMMIT

MEMBER WILLIAMS, et al.
SUMMIT COUNTY
CLERK OF COURTS
-vs-
Plaintiffs

KISLING NESTICO & REDICK LLC,
et al.

Defendants

) CASE NO.: CV-2016-09-3928
)
) JUDGE JAMES BROGAN
)
)
) **DECISION**
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On April 11, 2024, this Court set a hearing for June 10, 2024 to determine whether Julie Ghoumbrial's deposition testimony is protected by spousal privilege. On May 10, 2024, the Defendants moved this Court to reconsider whether to conduct that hearing because the Plaintiffs cross-appealed this Court's last class action ruling raising issues involving Julie Ghoumbrial's deposition.

This Court has examined the cross-appeal filed by the Plaintiffs, and while it is somewhat difficult to follow, it appears to relate to this Court's most recent class action determination.

The first issue for appeal identified by the Plaintiffs states, "whether the trial court erred in failing to account for evidence demonstrating the appropriateness of the remedy of disgorgement of all fees collected by the Defendants in cases where KNR clients were treated by Defendants Ghoumbrial, Floros and other participants in Defendants' cash kickback scheme." The Defendants argue that the evidence Plaintiffs must be referring to is Julie Ghoumbrial's deposition transcript.

In the cross-appeal, the Plaintiffs appear to be arguing that this Court should have considered evidence in Julie Ghoumbrial's discovery deposition before deciding whether the action should proceed as a class action.

The Plaintiffs argue that the spousal privilege issue of Julie Ghoumbrial's deposition is not being reviewed by the Court of Appeals and the June 10th hearing would not interfere with the Court of Appeals' review of this Court's January 30, 2024 certification order. Defendants argue that their cross-appeal merely asserts that the trial court should not have made the class action determination without deciding whether Julie Ghoumbrial's deposition testimony would be admissible for some purpose on the merits.

It is important to note that this Court retains jurisdiction over issues not inconsistent with the appellate court's jurisdiction to reverse, modify or affirm the judgment appealed from *In re S.J.* 106 Ohio St.3d 11, 2005-Ohio-3215. This Court's ruling on the admissibility of Julie Ghoumbrial's deposition testimony will not interfere with the Ninth District's consideration of this Court's class action rulings. Further, it seems likely that the Ninth District's ruling will be appealed to the Ohio Supreme Court by the losing party.


An examination of the appellate docket in Ninth District Case No. 31007 reveals that no briefs have been filed and any decision by the Ninth District is unlikely until the end of this calendar year.

The Ohio Supreme Court has held that orders enforcing grand jury subpoenas and ordering production of allegedly privileged information are final orders. *In re Grand Jury Proceeding of John Doe*, 150 Ohio St.3d 398, 2016-Ohio-8001.

In the event this Court orders all or portions of Julie Ghoumbrial's deposition revealed to the Plaintiffs, the Defendants may pursue an appeal to the Ninth District at the same time as the class action appeal progresses.

The Defendants' motion to continue the June 10, 2024 hearing is OVERRULED.

IT IS SO ORDERED.



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

CC: ALL COUNSEL OF RECORD