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JUSTICE

# Summit County judge grants class-action status to KNR lawsuit

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A Cleveland RTA bus depicting an advertisement for the Kisling, Nestico and Redick law firm.

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By [Cory Shaffer, cleveland.com](#)

CLEVELAND, Ohio -- A judge in Summit County granted class-action status to portions of a lawsuit that accuses the Akron-based law firm Kisling, Nestico and Reddick of charging fraudulent investigation fees and engaging in a price-gouging scheme with a pain doctor.

Judge James Brogan, a retired Dayton-area appellate court judge, said in the 56-page ruling that KNR charged its clients for what was an essentially an “ambulance-chasing fee” and that evidence shows that the doctor “substantially overcharged his patients.”

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The Tuesday ruling is the first step toward allowing tens of thousands of former clients of the prolific personal-injury firm with offices in 11 Ohio cities to join the suit first brought in September 2016.

Jim Popson, an attorney representing KNR, said in a statement Tuesday that the law firm will appeal the decision to the 9th District Court of Appeals.

The plaintiffs -- Member Williams, Richard Harbour, Monique Norris and Thera Reid -- are represented by lawyers Peter Pattakos and Rachel Hazelet of the Fairlawn-based Pattakos Law Firm, and Joshua Cohen and Ellen Kramer of Cohen, Rosenthal and Kramer in Cleveland.

Brogan found that Pattakos and Cohen and their law firms can remain on the case as the lead attorneys.

“We expect that Judge Brogan’s well-reasoned ruling will be upheld on appeal, and that the affected KNR clients will eventually recover the wrongfully charged fees at issue,” Pattakos said in a news release.

The judge granted class-certification to two of the lawsuit’s three claims:

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- that KNR crafted a partnership with Wadsworth-based doctor Sameh “Sam” Ghoubrial who overcharged patients for medical care and then collected money from their settlements to cover the inflated amount
  - that the firm charged its clients an “investigation fee” of usually \$50 for work that was never performed

The judge found the plaintiffs did not come up with enough evidence to support the lawsuit’s claims that KNR wrongly charged patients for “narrative fees” the firm paid to chiropractors in exchange for writing a report about the client’s medical care.

Ghoubrial, who made more than \$8 million from KNR clients he treated by flying a private jet around the state, refused to accept insurance from the firm’s clients and charged them anywhere from \$400 to \$1,000 for a series of pain injections that other clinics offered for far cheaper, the lawsuit says.

Instead, he made his patients pay from future settlements the law firm negotiated on their behalf, and then KNR prepared letters on their client’s behalf on Ghoubrial’s office’s stationery, the order said.

“It is clear that payments made to Dr. Ghoubrial in this manner insured the charges he made would escape scrutiny by the insurance carriers and other government agencies,” Brogan wrote.

Brogan also said it was “at least a jury question” whether Nestico knew that Ghoubrial was overcharging his patients.

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“The firm had been operating since 2005 and made heavy use of Dr. Ghoubrial, who[sic] Nestico referred to as ‘Gubs,’” the ruling says. “Having worked in the field of low-impact automobile accidents, he could not have been unfamiliar with the usual charges for these treatments and devices.”

Brogan also wrote that members of the class who paid the investigation fee -- which is “virtually all KNR clients” -- received no service in return.

“[T]hey are instead paying for a service KNR provides to itself – the service of soliciting new clients and securing their business,” he wrote.


Brogan wrote that if the plaintiffs prove their claims at trial, Ghoubrial would be required to pay the class members the amount of the overcharge, and KNR would be required to disgorge the amount of the contingent fee attributable to the overcharges.

In his statement, Popson pointed out that the plaintiff’s in the case have brought five separate class-certification claims against KNR.

“Three of those five claims have now failed, including today’s ruling on the false allegations of kickbacks to chiropractors,” he wrote. “We believe that Ohio law was misapplied as it relates to the other two classes and will be filing an appeal. Going forward KNR will continue to provide quality representation to all of its clients.”

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Peter Pattakos  13 days ago

KNR's lawyer Jim Popson once again misleads the public about this lawsuit, this time with his statement that "plaintiffs in the case have brought five separate class-certification claims against KNR" and that "three of those five claims have now failed."

The truth is that we've discovered widespread corruption at KNR relating to its relationships with certain doctors, chiropractors, the so-called "investigators," and a now defunct loan company called "Liberty Capital" that Rob Nestico started recommending to all of his firm's clients for high-interest settlement advances within weeks of the company having been formed back in 2012. We believe that all affected clients of the firm are entitled to recover under Ohio law with respect to fraudulent transactions arising from these relationships, but various factors go into whether these claims can be viably pursued in a class action. After conducting preliminary class-action discovery, the plaintiffs ultimately decided to move for class certification on only three sets of claims, and by its ruling yesterday the Court certified two of those three.

As for Mr. Popson's statement that "KNR will continue to provide quality representation to all of its clients," we encourage everyone to review the Court's ruling, which sets forth the evidence in great detail regarding the representation that the firm was providing:

<https://pattakoslaw.com/summit-county-court-certifies-class-action-lawsuit-against-knr-law-firm-and-wadsworth-doctor-re-alleged-price-gouging-and-fraudulent-fees/>