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## COURTS AND JUSTICE

## KNR, jet-setting doctor made millions off clients in price-gouging scheme, plaintiffs allege

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

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

CLEVELAND, Ohio – Four former clients suing the Kising, Nestico and Redick law firm have asked a judge in Summit County grant class-action suits that accuses the firm of defrauding its clients through kickback schemes with chiropractors.

If granted, the move could allow thousands of people to join the suit against the prolific personal-injury firm that has offices in 11 Ohio cities.

Lawyers for the plaintiffs said in recent filings that evidence collected since [the suit was filed in 2016](#) shows the firm conspired with several chiropractors across the state to overcharge clients for medical procedures they often didn't need.

One doctor alone, a Wadsworth-based family care physician, earned an average of about \$1 million per year since 2011 treating thousands of KNR clients according to the filings. [Dr. Sameh "Sam" Ghoubril](#) flew on a private plane he co-owned with KNR partner Rob Nestico to doctors' offices around the state to inject KNR clients "en masse" with a pain medication that, in many cases, insurance companies would refuse to cover, the filings say.

The schemes taken together amount to a violation of the state's civil racketeering laws, the plaintiffs said.

The allegations in the motion for class-certification are the culmination of years of pretrial evidence-gathering, and are based on sworn testimony from KNR lawyers, as well as doctors.

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

The case is being heard by [Judge James Brogan](#), a retired Dayton-area judge who most recently served on the 2nd District Court of Appeals, after recusing themselves.

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Lawyers representing KNR, Nestico and Ghoubril have denied any wrongdoing in the past.

James Popson, a lawyer at the Sutter O'Connell firm that represents KNR in the suit, said in an emailed statement that the firm has never had anyone sanctioned for illegal or unethical behavior in the 15 years since it opened.

"All allegations suggesting illegal or unethical behavior by KNR or its attorneys are completely false, and evidently are intended solely to harass attorneys and damage its reputation," Popson said in the statement. "KNR will not let this frivolous and baseless lawsuit detract from its important fighting for vulnerable people who have been harmed as a result of accidents and medical malpractice."

Brad Barmen, a lawyer who represents Ghoubril, called the latest claims in the lawsuit "baseless and defamatory."

"Dr. Ghoubril provides excellent care to his patients and his costs are reasonable and in line with other providers in the area," Barmen said. "The evidence is clear. Plaintiff's counsel just chooses to ignore the evidence because it doesn't fit his false narrative."

### **The new scheme**

KNR is among countless law firms that use a high-volume business model where lawyers handle hundreds of cases at a time, very little of which are won according to the filings. An academic scholar referred to this type of law firm as a "settlement mill" that makes its money by filing thousands of lawsuits and negotiating a settlement.

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These firms need a high number of clients.

The lawsuit alleges that KNR crafted partnerships with clinics, doctor offices and investigators across the state. This created a mutually beneficial relationship where they refer each other clients. For example, if someone comes into a clinic after a car crash, the clinic refers the patient to KNR for legal services. If someone reaches out to KNR first, then KNR refers the client to a chiropractor for medical treatment.

According to the lawsuit, KNR and the doctors profited off of the relationship by getting their clients to sign a form waiving insurance coverage in a case. That waiver lets doctors inflate the cost of medical care they administer instead of the patient's actual out-of-pocket cost, the filings say. To avoid the scrutiny of an insurance company deciding which care is necessary, the filings claim.

Once the settlement is reached, the doctors' offices collect the inflated cost of care from the patient's portion of the settlement, not the portion that would go to attorney's fees, the lawsuit says.

Three former KNR lawyers said the law firm's goal was to submit as many medical expenses to the insurance company representing the other driver on the belief that it would pressure them into a higher settlement, the court filings say. The firm also benefitted by allowing doctors to over-bill clients, kept the doctors loyal to KNR, the filings allege.

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The filings name several chiropractors in cities including Cleveland, Columbus, Dayton, Toledo and Youngstown, who all referred their patients to KNR for treatment, the filings claim.

### **Trigger-point injections**

Trigger-point injections, in which doctors directly inject pain medication into a patient's sore muscle using a syringe, are mentioned in news releases from the law firm's around the country touting settlements in car-accident lawsuits.

A doctor who submitted a sworn affidavit in this lawsuit said that the procedure is often not recommended for use in patients after car accidents because insurance companies often don't cover them for that reason.

Ghoubrial, who runs Wadsworth Medical Center, has partnered with KNR since at least 2011, the filing says.

Ghoubrial used the insurance waivers to bill KNR clients anywhere from \$400 to \$1,000 for a series of injections, according to the filings. The filing says the former Columbus-based KNR attorney said in a deposition that other clinics in that city offered the injections for as little as \$200, and a former KNR doctor said that for patients who went through insurance coverage, he typically would have gotten reimbursed about \$78.

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Ghoubrial confirmed at his deposition that he collected approximately \$8 million from KNR settlements for care, according to court records. The filings say that the majority of that care was trigger-point injections, that Ghoubrial said has given to approximately 6,000 KNR clients.

In order to treat that many clients, Ghoubrial flew to cities around the state on a private plane that he co-owned with KNR president and co-founder.

the suit says.

Ghoubrial formed a private company to manage his share of holdings in the plane, and named the company "TPI Airways," according to records in the secretary of state's office. Ghoubrial in his deposition said he did not know what "TPI" stood for, but denied that it was a reference to trigger-point injections, as court filings say.

### **Racially charged language**

The lawsuit also includes allegations that Ghoubrial and Nestico used racially charged language when discussing the law firm's clientele, which includes a high percentage of low-income and black clients.

One of Ghoubrial's former coworkers said in his deposition that he heard Ghoubrial refer to trigger-point injections as "n---r point injections." But he said Ghoubrial did not use the slur with racist intent because Ghoubrial was born in Egypt and is himself African-American.

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The filings also unearthed an email in which Nestico joked that the law firm should replace a Macaroni Grill gift card they pass out to clients who complete a satisfaction survey with gift cards to Popeye's Chicken. Nestico made the quip after an employee sent an email telling him one of their clients had a gift card at a local pawn shop in Youngstown. Nestico and lawyers for him and KNR vigorously denied any racial motivation to Nestico's comment in the deposition, and said Popeye's was the closest restaurant to the firm's Youngstown location.

KNR and lawyers for Ghoubrial and several other doctors named in the filing will get a chance to respond to the filings before Judge Brogan will decide on the class-action status to the plaintiff's lawsuit.

### **Judge acknowledges public interest**

Judge Brogan, who was assigned to the case in May 2018 after four other judges [stepped off the case](#), acknowledged in an unprompted order last week that she has a public interest in the lawsuit.

In the Thursday order, Brogan questioned a September 2017 order by the first judge to recuse from the case, Summit County Common Pleas Court Judge Breaux.

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Judge Breaux, who stepped off the case after lawyers complained about her acceptance of campaign contributions from Nestico and other KNR lawyer clients, requested by KNR lawyers and ordered some of the evidence, including depositions, to be filed confidentially. That ruling came after [Breux lifted a gag order](#) imposed months earlier that prevented attorneys involved in the case from discussing the lawsuit and ordered the Clerk of Courts not to make case records available online.

Judge Brogan said Breux's September order was imposed "apparently...to minimize pre-trial publicity," and said that parties in the case had used it to

deposition under seal. He said the court has a duty to make public all filings in a lawsuit that do not jeopardize trade secrets, and ordered attorney filings by June 17 explaining why he should not unseal every deposition filed so far in the case.

"By the way," Brogan wrote in the final line of his order, "the public has standing under the circumstances of this case."

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