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Judge lifts gag order in KNR lawsuit, restores access to court records

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A Summit County judge on Monday issued a ruling that lifted a gag order in a lawsuit that accuses personal-injury firm KNR of defrauding clients. (File photo)

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AKRON, Ohio - A Summit County judge on Monday issued a ruling that lifted a gag order and granted access to court records in a lawsuit that accuses the personal-injury firm Kisling, Nestico and Redick of defrauding clients.

KNR lawyers asked for the gag order earlier this year when Subodh Chandra and Peter Pattakos, attorneys for clients who are suing the law firm, attached copies of emails from a former KNR employee to court filings.

The lawsuit claims the emails reveal how KNR engaged in an illegal kickback scheme involving chiropractic firm KNR -- who have said those allegations are false -- argued that the emails improperly disclosed client information.

Summit County Common Pleas Judge Alison Breaux granted the gag order March 29. Breaux directed the clerk to remove records in the case from an online docket, and prohibited attorneys from speaking publicly about the case.

[Lawyers representing cleveland.com filed a petition](#) May 21 that asked an appellate court to lift the gag order. The lawyers argued that the gag order violated the First Amendment and impaired the ability of Advance Ohio, cleveland.com's parent company, to report the news.

Pattakos said Monday that he was pleased with the judge's decision.

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"We're glad the judge saw through the defendants' efforts to restrain our speech and our ability to investigate the case," he said.

Breaux wrote in her decision to lift the gag order that the court issued a protective order Sept. 12 that made the gag order unnecessary. That protective order is a standard order that protects confidential information during the discovery process, Pattakos said.

Rob A. Nestico, a managing partner at KNR, said he also supports the judge's decision to lift the gag order because the protective order will keep client information secure as the discovery process moves forward.

KNR has [filed a counterclaim](#) that says a former employee stole the emails, which contain proprietary information, and turned them to the plaintiffs' attorneys.

"We're obligated, as lawyers, to fight that way," Nestico said. "As long as client information isn't disclosed, that's the main concern."

Pattakos, though, questioned why KNR lawyers opposed the plaintiffs' efforts to have the gag order removed, not withdraw its opposition once the judge granted the protective order.

The Ohio Supreme Court recognizes strict First Amendment standards that prohibit courts from sealing records unless the person requesting them shows "by clear and convincing evidence" that their interest in the information outweighs the public's rights to access records. Advance Ohio's petition said Judge Breaux granted the holding KNR to that burden.

Advance Ohio's petition was filed by Patrick Kabat and Andrew Geronimo, lawyers with the First Amendment Project, a new clinical initiative of the Spangenberg Center for Law, Technology and the Arts at the Case Western Reserve University School of Law.

The lawsuit against KNR says the law firm intentionally deceived and defrauded clients with kickback scheme chiropractors and the now-defunct loan company Liberty Capital Funding. The law firm charged an "investigation" that was never performed, and for basic clerical services that are not legally chargeable to clients, the suit says.

Nestico said Monday that KNR feels the lawsuit is baseless, and that the law firm's lawyers will soon file documents that will dispel "false allegations" made in the lawsuit.

"I'm relieved that the judge lifted the gag order, because the public needs to know the truth," he said.

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