

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

MEMBER WILLIAMS, <i>et al.</i> ,  Plaintiffs,  vs.  KISLING, NESTICO & REDICK, LLC, <i>et al.</i> ,  Defendants.	Case No. CV-2016-09-3928  Judge James A. Brogan  <b>Plaintiffs' Motion for Clarification of the Court's February 21, 2024 Sealing Order</b>
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On February 12, 2024, this Court issued an order in this case stating that “The original deposition of Julie A. Ghoubrial, given on the 12th day of October, 2018 in another matter, is hereby ORDERED to be filed by the Summit County Clerk of Courts under seal until further order of this Court should it have any relevance to this litigation.”

On the same day, the referenced transcript of Julie’s deposition was posted to the docket pursuant to the Court’s order, and email notice was sent to all counsel of record by the Court’s electronic filing system. From the link provided in that email notice, counsel for Plaintiffs—among approximately 50 other attorneys, parties, and non-parties (both individuals and corporations)—was able to access and download a copy of the transcript. Plaintiffs’ counsel then reviewed the transcript and naturally formed impressions about same, including as to its relevance to this lawsuit.

On February 16, the Defendants moved for entry of a proposed “nunc pro tunc” order pertaining to Julie’s transcript.

On February 19, Plaintiffs filed a response in opposition to Defendants’ motion.

On February 20, 2024, the Court entered the “nunc pro tunc” order that Defendants requested. This order provided, in part, as follows:

(1) that the transcript be “not available or accessible to anyone, including counsel;”

(2) that “all counsel are directed to refrain from distributing any copy or copies of the deposition transcript of Julie Ghoumbrial to any person or entity;”

(3) that “all counsel are further directed to destroy any and all copies of the deposition transcript currently in their possession, as well as any copies in the possession of their partners, associates, agents, employees, or assigns;”

and (4) that “lead counsel for all Parties are directed to submit an affidavit to Court, no later than 3 pm est. on Wednesday, February 21, 2024, certifying that all copies of the deposition transcript of Julie Ghoumbrial, including all electronic copies, have been destroyed and/or deleted.”

Later that same day, the presiding Judge placed a phone call to the undersigned attorney for Plaintiffs, inquiring as to whether Plaintiffs intended to appeal his destruction order, and informed counsel that if Plaintiffs did not intend to appeal the order that he would like to schedule another conference call with counsel for all parties about same. The undersigned then confirmed Plaintiffs’ intent to immediately appeal the order, which we did yesterday, and in doing so described it to the Judge as a “gag order.” In response to this description, the Judge specifically stated that his February 20 order was not intended to bar Plaintiffs from speaking about the transcript, but that it only barred Plaintiffs and counsel from possessing or disseminating the transcript, which is consistent with the order’s plain language.

Yet despite the plain language of this order and the Judge’s oral confirmation that he had not barred Plaintiffs or counsel from speaking about the transcript, the next day (yesterday, Feb. 21), the Judge issued another order stating that “all references to the deposition transcript of Julie Ghoumbrial,” contained in Plaintiff’s Feb. 19 opposition brief—which notably did not attach any portion of the transcript nor quote from it—and “all representations of the deposition testimony” contained in that brief are “ordered stricken from the record,” and that the Feb. 19 opposition brief

be “placed under seal to ensure compliance” with the Court’s February 12th order which, by its terms, did nothing but order the Clerk to place the transcript on the record under seal in the first place.

Thus, Plaintiffs request clarification of the February 21 sealing Order because, contrary to the plain language of the February 20 “Nunc Pro Tunc” order and contrary to the Judge’s statements to Plaintiff’s counsel on the phone that day, it suggests that the Court does intend to bar Plaintiffs from speaking about the transcript. If Plaintiffs are not barred from speaking about the transcript by any Court order, why would they be barred from having spoken about the transcript as they did in the now-sealed February 19 response brief, which was nothing more and nothing less than public speech about the transcript? And why wouldn’t the public be entitled to hear that speech, including on the public docket of this case, where such speech is most pertinent?

Due to the unresolved nature of these questions and their pertinence to the First Amendment and Due Process rights of Plaintiffs, their attorneys, and the public (including as set forth fully in Plaintiffs’ Feb. 19 response brief and the attached exhibit), Plaintiffs respectfully request clarification from the Court as to same.

Respectfully submitted,

/s/ Peter Pattakos

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### Certificate of Service

The foregoing document was filed on February 22, 2024, using the Court's e-filing system, which will serve copies on all necessary parties.

/s/ Peter Pattakos  
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