

TAVIA GALONSKI  
IN THE COURT OF COMMON PLEAS  
COUNTY OF SUMMIT  
2024 MAR -4 PM 3: 29

MEMBER WILLIAMS, et al.	)	CASE NO.: CV-2016-09-3928
	SUMMIT COUNTY )	
Plaintiffs	CLERK OF COURTS )	JUDGE JAMES A. BROGAN
-vs-	)	
	)	
KISLING NESTICO & REDICK	)	<b><u>ORDER</u></b>
LLC, et al.	)	
	)	
Defendants		

- - -

On February 22, 2024, counsel for the Plaintiffs, Peter Pattakos, filed a Motion for Clarification of this Court’s nunc pro tunc Sealing Order entered on February 21, 2024. This Court had initially filed a Sealing Order on February 12, 2024 of Julie Ghoumbrial’s deposition given in a separate divorce proceeding. That Order was meant to apply to all members of the public, including counsel for the parties.

Unfortunately, the Clerk of Courts did not think it applied to counsel, and Mr. Pattakos was able to access the deposition. He then distributed copies of the deposition to opposing counsel with hopes of settling the underlying litigation. On February 15, 2024, this Court conducted a telephone hearing on the record with all counsel, and this Court stated that the Clerk should not have released the deposition to counsel, and the Court considered the online release to be an “inadvertent disclosure.”

The next day on February 15, 2024, Mr. Pattakos sent this Court a letter which he copied all counsel arguing that the proposed “nunc pro tunc order” would be an unconstitutional “gag order.” He also indicated that if he sent copies of the deposition to the press, they could not be restrained from publishing the contents of the deposition because it would be a prior restraint prohibited in the famous *Pentagon Papers* case.

Mr. Pattakos also argued that Julie Ghoumbrial's deposition was not covered by the spousal privilege because they were "separated" at the time of the deposition. State v. Mowery, 1 Ohio St. 3d 192.

On February 19, 2024, Mr. Pattakos filed a Motion in Opposition to the Defendants' proposed nunc pro tunc entry again referring to such order as a "gag order." In the motion, Mr. Pattakos made extensive references to Julie Ghoumbrial's deposition knowing that this Court considered that testimony to be confidential.

On February 20, 2024, this Court's nunc pro tunc order stated that all counsel refrain from distributing any copies of the deposition transcript of Julie Ghoumbrial to any person or entity. Counsel were also directed to destroy all copies of the deposition transcript currently in their possession and were directed to submit affidavits of compliance by February 21, 2024 by 3:00 p.m.

On February 20, 2024, because this Judge was so upset that Mr. Pattakos would refer to portions of the confidential deposition in a pleading, I called Bradley Barmen who represents Defendant Samuel Ghoumbrial to arrange another on the record telephone conference. I suggested 3:00 p.m. that day would be an appropriate time for me.

I contacted Mr. Pattakos to see if the 3:00 p.m. phone conference would fit his schedule, and he indicated he would not participate because he intended to appeal the Court's order to destroy the Ghoumbrial deposition copies.


I told Mr. Pattakos how upset I was that he would refer extensivley to the contents of Julie Ghoumbrial's deposition in the February 19, 2024 pleading. I also indicated that his reference to State v. Mowery was misplaced because it involved privileged communication in a criminal case and involved an interpretation of R.C. 2945.42 regarding a communication during

coverture. I also told him the appropriate privilege statute is R.C 2317.02(D) and the rule foreclosing communication applies even if the marital relation has ceased to exist.

I never told Mr. Pattakos that the Court's February 20, 2024 destruction order was not intended to bar him from speaking about the contents of Julie Ghoubril's deposition testimony. I told him "prior restraint" issues generally involve freedom of the press only. In fact, I told him he was obligated to obey this Court's order unless it was "patently unconstitutional." Walker v. City of Birmingham, 383 U.S. 307 (1967)

I hope that this "clarifies" this Court's February 21, 2024 Sealing Order.

IT IS SO ORDERED.

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

CC: Counsel of Record