

ORIGINAL

IN THE SUPREME COURT OF OHIO

BETH A. WILHELM KISSINGER,

Appellee,

v.

JEFFREY R. KISSINGER,

Appellant.

Case No. 2010-0992

On Appeal from the Summit
County Court of Appeals, Ninth
Appellate District

Court of Appeals Case No. 25105

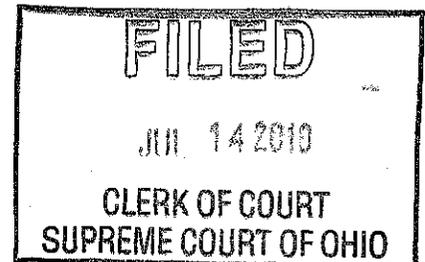
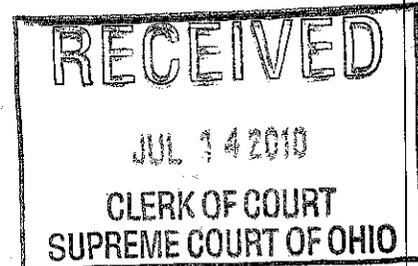
**MOTION TO PLACE DOCUMENTS UNDER SEAL
OF APPELLANT JEFFREY R. KISSINGER**

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Motion to Place Documents Under Seal

Now comes the Appellant, Jeffrey R. Kissinger, by and through counsel, and moves this Honorable Court for an order to place documents filed with this Court under seal.

This is an appeal from an order from the Court of Appeals, Ninth Appellate District, dismissing Appellant's appeal for want of a final, appealable order. Appellant's appeal to the Ninth District was of an order entered by the Summit County Court of Common Pleas, Domestic Relations Division, denying Appellant's motion to disqualify Attorney David H. Ferguson ("Attorney Ferguson"), counsel for Appellee Beth A. Wilhelm-Kissinger. The basis for Appellant's motion to disqualify was that Attorney Ferguson had unlawfully obtained privileged communications between Appellant and his attorneys. In support of the motion to disqualify, Appellant had submitted documents to the trial court on July 20, 2009 (the "Documents"), requesting that they be placed under seal. The Documents represented e-mails that were unlawfully copied from the Appellant's laptop by Appellee at the direction of Attorney Ferguson. Several of the e-mails contain communications between Appellant and his attorneys that are protected by the attorney-client privilege. Appellant requested the Documents be placed under seal to permit the trial court to perform an *in camera* review of the Documents to evaluate the merits of Appellant's motion to disqualify. A description of the Documents is contained in the "Narrative of Explanation of Documents Submitted," which was filed with the trial court and is attached hereto as Exhibit A.

The Documents constitute part of the record on appeal as they represent original papers filed with the trial court. *See* S.Ct. Prac. R. 5.1. The Documents contain

sensitive information, including information protected by the attorney-client privilege, which was obtained through unlawful means. It would be extremely damaging to Appellant to have the Documents disclosed publicly. In fact, it is Attorney Ferguson's possession of this information that forms part of the basis for the motion to disqualify. In order to protect the integrity of this proceeding and the proceedings in the court of appeals and the trial court, it is necessary to protect this information from further disclosure.

For the foregoing reasons, Appellant requests this Court order that the documents submitted to the trial court on July 20, 2009, be placed under seal until further order of this Court.

Respectfully Submitted

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CERTIFICATE OF SERVICE

I, Mark Riemer, certify that the foregoing was sent by ordinary United States mail to David Ferguson, Attorney for Plaintiff, at 57 South Broadway St., Third Floor, Akron, Ohio 44308, on this 13 of July, 2010.



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Attorneys for Appellant Jeffrey Kissinger

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