

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

SHEREE SHEPARD,)
on behalf of Herself and All Others)
Similarly Situated,)
Plaintiffs,)
)
v.)
)
DINEEQUITY, INC., et al.,)
)
Defendants.)
_____)

CIVIL ACTION

No. 08-2416-KHV

MEMORANDUM AND ORDER

This matter is before the Court on Defendants' Motion To Retain Doc. No. 109 Under Seal Pending The Court's Ruling On Defendants' Motion To Seal, To Be Filed (Doc. #124) filed September 30, 2009.

On September 30, 2009, the Court overruled Plaintiffs' Motion For Leave To File Under Seal (Doc. #109) filed September 16, 2009. See Memorandum And Order (Doc. #123). Defendants request that the Court retain plaintiffs' motion under seal pending further briefing regarding the confidential nature of these materials. D. Kan. Rule 5.4.6 provides that if a motion for leave to file under seal is denied, the assigned judge will enter an order denying the filing of the documents under seal. The practical effect of the denial is that the proposed pleading (the exhibit attached to the original motion) is not filed and remains under seal.

IT IS THEREFORE ORDERED that Defendants' Motion To Retain Doc. No. 109 Under Seal Pending The Court's Ruling On Defendants' Motion To Seal To Be Filed (Doc. #124) filed September 30, 2009 be and hereby is **OVERRULED** as moot.

Dated this 13th day of October, 2009 at Kansas City, Kansas.

s/ Kathryn H. Vratil

KATHRYN H. VRATIL
United States District Court