

FILED
JAMES BONINI
CLERK
In the United States District Court
For the Southern District of Ohio, Eastern Division
NOV -1 PM 3:29

King Lincoln Bronzeville
Neighborhood Association et al.,

Plaintiffs,

vs.

Jennifer Bruner, et. Al.,

Case No. 2:06-ev-745

Judge Marbley

Magistrate Judge Kemp

Defendants

Motion to Quash Subpoena To Produce Documents, Information, or Objects

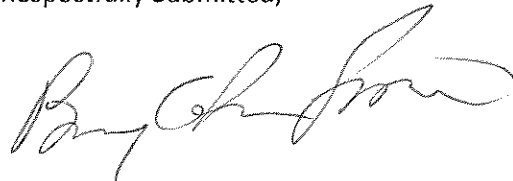
Comes now Partnership for Ohio's Future, the Ohio Chamber of Commerce, the Ohio Chamber of Commerce Educational Foundation, Linda Woggon, and Andrew Doehrel ("movants"), by and through their attorney, and moves the Court to Quash Subpoena To Produce Documents, Information, or Objects served upon it on the 1st of November 2010.

As grounds therefore, Movants respectfully show the Court in the attached Memorandum that:

1. The Subpoena was issued in violation of this Court's Order Granting Motion to Stay issued April 6, 2007, and Order of September 19, 2008, lifting the stay for the sole purpose of deposing Michael Connell;
2. The information sought from these non-party witnesses is not relevant to this matter, nor reasonably intended to lead to the production of admissible evidence;
3. The request is unreasonable, in that it was served on these non-party witnesses at approximately 11:45 a.m. on November 1, 2010, with a demand that documents be produced by 2:00 p.m. on November 1, 2010.
4. Proper Service has not been had on individual defendants Linda Woggon and Andrew Doehrel.

WHEREFORE, Movants request that this Court issue an order Quashing the Subpoenas and release movants from all obligations thereto; and further order reimbursement of attorney's fees in connection with the preparation of this motion and accompanying memorandum.

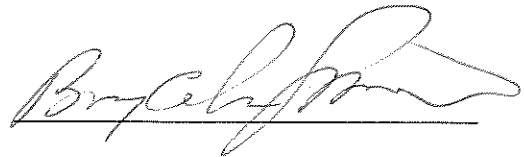
Respectfully Submitted,



Bradley Alan Smith, Counsel for Movants
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CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing was served upon counsel of record Clifford O. Arnebeck, Jr., 1021 E. Broad St., Columbus, OH 43205, and on Richard Coglianese, trial attorney for Secretary of State Jennifer Brunner, at 30 E. Broad St., Columbus, OH, by Hand Delivery this 1st Day of November, 2010.



Bradley Alan Smith

MEMORANDUM IN SUPPORT OF MOTION TO QUASH

On October 28, 2010, Clifford Arnebeck, Jr., in his personal capacity, filed a complaint with the Ohio Elections Commission alleging that the Partnership for Ohio's Future had violated various provisions of Chapter 35 of the Ohio Revised Code. A copy of the complaint is attached as Exhibit 1. At a Probable Cause hearing on November 1, 2010, the Elections Commission dismissed that complaint with a finding of "No Probable Cause." OEC Case 2010E-122, Arnebeck, Jr. v. Partnership for Ohio's Future.

At 11:45 a.m. on November 1 Arnebeck, now acting in his capacity as counsel to the plaintiffs in this action, came to the offices of Ohio Chamber of Commerce which also house the offices of the Ohio Chamber of Commerce Educational Foundation and the Partnership for Ohio's Future. When Assistant Sherry Heffner was sent to meet him at the front desk, Arnebeck purported to serve Subpoenas on the Partnership for Ohio's Future, the Ohio Chamber of Commerce, the Ohio Chamber of Commerce Educational Foundation, Inc., and, in their personal capacities, Linda Woggon and Andrew Doehrel, demanding that the movants here produce various documents by 2:00 p.m. this same day. The subpoenas seek substantially the same information he had earlier requested from the Ohio Elections Commission.

1. The subpoena was issued in in violation of this Court's Order Granting Motion to Stay issued April 6, 2007, and Order of September 19, 2008, lifting the stay for the sole purpose of deposing Michael Connell.

On April 6, 2007, this Court issued a stay in all proceedings in this action. On September 19, 2008, this Court lifted that stay for the sole purpose of "permitting the plaintiffs to take the deposition of Michael Connell and any other witness whose testimony, in the judgment of these parties, may be warranted based on the deposition of Michael Connell." Here, Mr. Arnebeck has served document requests, not deposition requests, on these four non-party witnesses. Further, there has been no agreement by the

other parties to this action that such discovery is warranted by Mr. Connell's deposition. See Exhibit 2, Affidavit of Bradley A. Smith. Thus these subpoenas are issued without authority and are null and void.

2. The information sought from these non-party witnesses is not relevant to this matter, nor reasonably intended to lead to the production of admissible evidence.

As non-parties to this suit, none of the targets of these subpoenas are familiar with all the details of the litigation. The litigation appears to result from various actions taken by parties in connection with the 2006 presidential and other elections in Ohio. Mr. Arnebeck has not explained why information pertaining to lawful election related efforts of the Partnership for Ohio's Future, the Ohio Chamber of Commerce, and the Ohio Chamber of Commerce Educational Foundation, Inc., to their sources and amounts of funding, and to their activities in 2010 is relevant to this action or likely to lead to the discovery of admissible evidence.

It appears that Mr. Arnebeck is abusing this lawsuit to burden movants with responding to lengthy discovery requests so that he may pursue other interests. As Mr. Arnebeck notes in his complaint to the OEC, for more than three years now he has threatened movant Partnership for Ohio's Future, and the Ohio Chamber of Commerce with a RICO suit over their alleged election-related activities. As Mr. Arnebeck notes in that complaint, when counsel for the Partnership for Ohio's Future sought to end Mr. Arnebeck's "hold document" request because the statute of limitations had passed, Mr. Arnebeck voiced his view that each new election constituted a new "predicate act," allowing him to hold over the movant's head indefinitely the threat of a RICO suit for activities stemming from as far back as 2000. Yet still unwilling to bring that suit, he now seeks to use this lawsuit, in violation of the stay order, to harass these non-parties.

3. The request is unreasonable, in that it was served on these non-party witnesses at approximately 11:45 a.m. on November 1, 2010, with a demand that documents be produced by 2:00 p.m. on November 1, 2010.

Although Mr. Arnebeck has been well aware of movant's election related activity for some time (the Partnership has been advertising in connection with these elections for over two months) he has waited to file this request until November 1, and then demanded production barely two hours later. It should be noted that Mr. Doehrel is out of town.

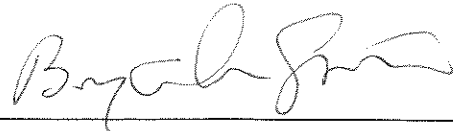
4. Proper Service has not been had.

Mr. Arnebeck appeared at the Chamber offices without announcing his purpose. Assistant Sherry Heffner was sent to meet Mr. Arnebeck at the front desk, whereupon he served these subpoenas. Ms. Heffner does not have the authority to accept Service for the Ohio Chamber of Commerce, the Ohio Chamber of Commerce Educational Foundation or the Partnership for Ohio's Future. Even assuming, without conceding, that Ms. Heffner might properly receive service for the Partnership for Ohio's Future, the Ohio Chamber of Commerce, and the Ohio Chamber of Commerce Educational Foundation, Ms. Heffner is clearly not authorized to accept service for either Ms. Woggon or Mr. Doehrel.

5. Mr. Arnebeck should be required to pay attorney's fees incurred in filing this motion and memorandum of law.

Mr. Arnebeck's filing of these subpoenas in violation of the Stay of April 2007, and the frivolous nature of this request, merit an award of attorneys fees to these non-party movants. The time involved in this order – again, the unreasonable two hour request of Mr. Arnebeck – have made it impossible for these non-parties to seek to negotiate with Mr. Arnebeck in good faith, particularly in light of Mr. Arnebeck's claim this morning at the Ohio Elections Commission that the information was needed by this afternoon to prevent "a coup" against the U.S. government. Sanctions, including an award of attorneys fees under Rule 37 or under this Court's inherent authority to police its procedures and the behavior of litigants appearing before it, are fully warranted in light of the frivolous and intentionally harassing nature of these subpoenas.

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "Bradley Smith", written in black ink.

Bradley Alan Smith

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